

# SENATE BILL No. 106

January 29, 2013, Introduced by Senators SCHUITMAKER and JONES and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 18k of chapter XIIIA (MCL 712A.18k), as amended by 2003 PA 77.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

CHAPTER XIIIA

Sec. 18k. (1) An individual shall provide samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and shall provide samples for chemical testing for a determination of his or her secretor status if any of the following apply:

(A) THE INDIVIDUAL IS ARRESTED FOR COMMITTING OR ATTEMPTING TO COMMIT A FELONY OFFENSE.

(B) ~~(a)~~ The individual is found responsible for a violation of section 83, 91, 316, 317, or 321 of the Michigan penal code, 1931

1 PA 328, MCL 750.83, 750.91, 750.316, 750.317, and 750.321, or a  
2 violation or attempted violation of section 349, 520b, 520c, 520d,  
3 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.349,  
4 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, or a  
5 violation of section 167(1)(c) or (f) or 335a of the Michigan penal  
6 code, 1931 PA 328, MCL 750.167 and 750.335a, or a local ordinance  
7 substantially corresponding to section 167(1)(c) or (f) or 335a of  
8 the Michigan penal code, 1931 PA 328, MCL 750.167 and 750.335a.

9 (C) ~~(b)~~—The individual is convicted of a felony or attempted  
10 felony, or any of the following misdemeanors, or local ordinances  
11 that are substantially corresponding to the following misdemeanors:

12 (i) A violation of section 145a of the Michigan penal code,  
13 1931 PA 328, MCL 750.145a, enticing a child for immoral purposes.

14 (ii) A violation of section 167(1)(c), (f), or (i) of the  
15 Michigan penal code, 1931 PA 328, MCL 750.167, disorderly person by  
16 window peeping, engaging in indecent or obscene conduct in public,  
17 or loitering in a house of ill fame or prostitution.

18 (iii) A violation of section 335a of the Michigan penal code,  
19 1931 PA 328, MCL 750.335a, indecent exposure.

20 (iv) A violation of section 451 of the Michigan penal code,  
21 1931 PA 328, MCL 750.451, first and second prostitution violations.

22 (v) A violation of section 454 of the Michigan penal code,  
23 1931 PA 328, MCL 750.454, leasing a house for purposes of  
24 prostitution.

25 (vi) A violation of section 462 of the Michigan penal code,  
26 1931 PA 328, MCL 750.462, female under the age of 17 in a house of  
27 prostitution.

1           (2) Notwithstanding subsection (1), if at the time the  
2 individual is **ARRESTED FOR**, convicted of, or found responsible for  
3 the violation the investigating law enforcement agency or the  
4 department of state police already has a sample from the individual  
5 that meets the requirements of the DNA identification profiling  
6 system act, 1990 PA 250, MCL 28.171 to 28.176, the individual is  
7 not required to provide another sample or pay the fee required  
8 under subsection (4).

9           (3) The samples required to be collected under this section  
10 shall be collected by the investigating law enforcement agency and  
11 transmitted by the investigating law enforcement agency to the  
12 department of state police in the manner prescribed under the DNA  
13 identification profiling system act, 1990 PA 250, MCL 28.171 to  
14 28.176.

15           (4) ~~Until October 1, 2003, the~~ **THE** court shall order each  
16 individual found responsible for or convicted of 1 or more crimes  
17 listed in subsection (1) to pay an assessment of \$60.00. The  
18 assessment required under this subsection is in addition to any  
19 fine, costs, or other assessments imposed by the court.

20           (5) An assessment required under subsection (4) shall be  
21 ordered upon the record, and shall be listed separately in the  
22 adjudication order, judgment of sentence, or order of probation.

23           (6) After reviewing a verified petition by an individual  
24 against whom an assessment is imposed under subsection (4), the  
25 court may suspend payment of all or part of the assessment if it  
26 determines the individual is unable to pay the assessment.

27           (7) The court that imposes the assessment prescribed under

1 subsection (4) may retain 10% of all assessments or portions of  
2 assessments collected for costs incurred under this section and  
3 shall transmit that money to its funding unit. On the last day of  
4 each month, the clerk of the court shall transmit the assessments  
5 or portions of assessments collected under this section as follows:

6 (a) Twenty-five percent to the county sheriff or other  
7 investigating law enforcement agency that collected the DNA sample  
8 as designated by the court to defray the costs of collecting DNA  
9 samples.

10 (b) ~~Until October 1, 2003, 65%~~ **SIXTY-FIVE PERCENT** to the  
11 department of treasury for the department of state police forensic  
12 science division to defray the costs associated with the  
13 requirements of DNA profiling and DNA retention prescribed under  
14 the DNA identification profiling system act, 1990 PA 250, MCL  
15 28.171 to 28.176.

16 ~~Beginning October 1, 2003, 65% to the state treasurer for~~  
17 ~~deposit in the justice system fund created in section 181 of the~~  
18 ~~revised judicature act of 1961, 1961 PA 236, MCL 600.181.~~

19 (8) ~~Beginning December 31, 2002, the~~ **THE** director of the  
20 department of state police shall report by December 31 of each year  
21 concerning the rate of DNA sample collection, DNA identification  
22 profiling, retention and compilation of DNA identification  
23 profiles, and the collection of assessments required under  
24 subsection (4) to all of the following:

25 (a) The standing committees of the senate and house of  
26 representatives concerned with DNA sample collection and retention.

27 (b) The house of representatives appropriations subcommittee

1 on state police and military affairs.

2 (c) The senate appropriations subcommittee on state police.

3 (9) The ~~family independence agency~~ **DEPARTMENT OF HUMAN**  
4 **SERVICES** or a county juvenile agency, investigating law enforcement  
5 agency, prosecuting agency, or court that has in its possession a  
6 DNA identification profile obtained from a sample of an individual  
7 convicted of or found responsible for an offense described in  
8 subsection (1) shall forward the DNA identification profile to the  
9 department of state police at **ARREST** or before the time the court  
10 imposes sentence or enters an order of disposition upon that  
11 conviction or finding of responsibility unless the department of  
12 state police already has a DNA identification profile of the  
13 individual.

14 (10) The DNA profiles of DNA samples received under this  
15 section shall only be disclosed as follows:

16 (a) To a criminal justice agency for law enforcement  
17 identification purposes.

18 (b) In a judicial proceeding as authorized or required by a  
19 court.

20 (c) To a defendant in a criminal case if the DNA profile is  
21 used in conjunction with a charge against the defendant.

22 (d) For an academic, research, statistical analysis, or  
23 protocol developmental purpose only if personal identifications are  
24 removed.

25 (11) As used in this section:

26 (a) "DNA identification profile" and "DNA identification  
27 profiling" mean those terms as defined in section 2 of the DNA

1 identification profiling system act, 1990 PA 250, MCL 28.172.

2 (b) "Felony" means a violation of a penal law of this state  
3 for which the offender may be punished by imprisonment for more  
4 than 1 year or an offense expressly designated by law to be a  
5 felony.

6 (c) "Investigating law enforcement agency" means the law  
7 enforcement agency responsible for the investigation of the offense  
8 for which the individual is **ARRESTED**, convicted, or found  
9 responsible. Investigating law enforcement agency does not include  
10 a probation officer employed by the department of corrections.

11 (d) "Sample" means a portion of an individual's blood, saliva,  
12 or tissue collected from the individual.