

HOUSE BILL NO. 5641

March 12, 2020, Introduced by Reps. Yancey, Whiteford, Clemente, Hope, Anthony, Pohutsky, Glenn, Shannon, Lasinski, Kahle, Hammoud, Afendoulis, Whitsett, Crawford, Alexander, Cambensy, Calley and Jones and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 167 and 520m (MCL 750.167 and 750.520m),
section 167 as amended by 2014 PA 199 and section 520m as amended
by 2014 PA 459.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 167. (1) A person is a disorderly person if the person is
2 any of the following:

3 (a) A person of sufficient ability who refuses or neglects to
4 support his or her family.



1 (b) A ~~common prostitute~~**person engaged in commercial sexual**
2 **activity.**

3 (c) A window peeper.

4 (d) A person who engages in an illegal occupation or business.

5 (e) A person who is intoxicated in a public place and who is
6 either endangering directly the safety of another person or of
7 property or is acting in a manner that causes a public disturbance.

8 (f) A person who is engaged in indecent or obscene conduct in
9 a public place.

10 (g) A vagrant.

11 (h) A person found begging in a public place.

12 (i) A person found loitering in a house, ~~of ill fame or~~
13 ~~prostitution or place where prostitution or lewdness~~**vehicle, or**
14 **other place in which commercial sexual activity** is practiced,
15 encouraged, or allowed.

16 (j) A person who knowingly loiters in or about a place where
17 an illegal occupation or business is being conducted.

18 (k) A person who loiters in or about a police station, police
19 headquarters building, county jail, hospital, court building, or
20 other public building or place for the purpose of soliciting
21 employment of legal services or the services of sureties upon
22 criminal recognizances.

23 (l) A person who is found jostling or roughly crowding people
24 unnecessarily in a public place.

25 (2) If a person who has been convicted of refusing or
26 neglecting to support his or her family under this section is
27 charged with subsequent violations within a period of 2 years, that
28 person ~~shall~~**must** be prosecuted as a ~~second offender or third and~~
29 ~~subsequent offender~~**person who was previously convicted** as provided



1 **described** in section ~~168~~, **168 (2) (b)**, if the family of that person
2 is then receiving public relief or support.

3 (3) A mother's breastfeeding of a child or expressing breast
4 milk does not constitute indecent or obscene conduct under
5 subsection (1) regardless of whether or not her areola or nipple is
6 visible during or incidental to the breastfeeding or expressing of
7 breast milk.

8 Sec. 520m. (1) A person shall provide samples for chemical
9 testing for DNA identification profiling or a determination of the
10 sample's genetic markers and shall provide samples for chemical
11 testing if any of the following apply:

12 (a) The individual is arrested for committing or attempting to
13 commit a felony offense or an offense that would be a felony if
14 committed by an adult.

15 (b) The person is convicted of, or found responsible for, a
16 felony or attempted felony, or any of the following misdemeanors or
17 local ordinances that are substantially corresponding to the
18 following misdemeanors:

19 (i) A violation of section 167(1)(c), (f), or (i), disorderly
20 person by window peeping, engaging in indecent or obscene conduct
21 in public, or loitering in a house ~~of ill fame or prostitution~~.
22 **other place resorted to for the purpose of commercial sexual**
23 **activity.**

24 (ii) A violation of section 335a(1), indecent exposure.

25 (iii) A violation punishable under section ~~451(1) or (2)~~, ~~first~~
26 ~~and second prostitution violations~~. **451 for detaining a person less**
27 **than 16 years of age for purposes of commercial sexual activity.**

28 (iv) A violation of section 454, ~~leasing~~ **renting** a house **or**
29 **other place** for purposes of ~~prostitution~~. **commercial sexual**



1 **activity.**

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

10 (3) The county sheriff or the investigating law enforcement
11 agency shall collect and transmit the samples in the manner
12 required under the DNA identification profiling system act, 1990 PA
13 250, MCL 28.171 to 28.176.

14 (4) An investigating law enforcement agency, prosecuting
15 agency, or court that has in its possession a DNA identification
16 sample obtained from a person under subsection (1) shall forward
17 the DNA identification sample to the department of state police
18 after the person from whom the sample was taken has been charged
19 with committing or attempting to commit a felony offense or an
20 offense that would be a felony if committed by an adult unless the
21 department of state police already has a DNA identification profile
22 of the person.

23 (5) The court shall order each person found responsible for or
24 convicted of 1 or more crimes listed in subsection (1) to pay an
25 assessment of \$60.00. The assessment required under this subsection
26 is in addition to any fine, costs, or other assessments imposed by
27 the court.

28 (6) An assessment required under subsection (5) ~~shall~~**must** be
29 ordered upon the record, and ~~shall~~**must** be listed separately in the



1 adjudication order, judgment of sentence, or order of probation.

2 (7) After reviewing a verified petition by a person against
3 whom an assessment is imposed under subsection (5), the court may
4 suspend payment of all or part of the assessment if it determines
5 the person is unable to pay the assessment.

6 (8) The court that imposes the assessment prescribed under
7 subsection (5) may retain 10% of all assessments or portions of
8 assessments collected for costs incurred under this section and
9 shall transmit that money to its funding unit. On the last day of
10 each month, the clerk of the court shall transmit the assessments
11 or portions of assessments collected under this section as follows:

12 (a) Twenty-five percent to the county sheriff or other
13 investigating law enforcement agency that collected the DNA sample
14 as designated by the court to defray the costs of collecting DNA
15 samples.

16 (b) Sixty-five percent to the state treasurer for deposit in
17 the justice system fund created in section 181 of the revised
18 judicature act of 1961, 1961 PA 236, MCL 600.181.

19 (9) As used in this section:

20 (a) "DNA identification profile" and "DNA identification
21 profiling" mean those terms as defined in section 2 of the DNA
22 identification profiling system act, 1990 PA 250, MCL 28.172.

23 (b) "Investigating law enforcement agency" means the law
24 enforcement agency responsible for the investigation of the offense
25 for which the person is arrested or convicted. Investigating law
26 enforcement agency includes the county sheriff but does not include
27 a probation officer employed by the department of corrections.

28 (c) "Felony" means a violation of a penal law of this state
29 for which the offender may be punished by imprisonment for more



1 than 1 year or an offense expressly designated by law to be a
2 felony.

3 (d) "Sample" means a portion of a person's blood, saliva, or
4 tissue collected from the person.

5 Enacting section 1. This amendatory act takes effect 90 days
6 after the date it is enacted into law.

7 Enacting section 2. This amendatory act does not take effect
8 unless Senate Bill No. _____ or House Bill No. 5655 (request no.
9 05968'20) of the 100th Legislature is enacted into law.

