

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

712A.18k DNA identification profiling; providing samples for chemical testing; assessment; forwarding to department of state police; definitions.

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 an offense that would be a felony if committed by an adult.

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

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

(ii) A violation of section 335a(1) of the Michigan penal code, 1931 PA 328, MCL 750.335a, indecent exposure.

(iii) A violation punishable under section 451(1) or (2) of the Michigan penal code, 1931 PA 328, MCL 750.451, first and second prostitution violations.

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

(3) The samples required to be collected under this section shall be collected by the investigating law enforcement agency and transmitted by the investigating law enforcement agency to the department of state police in the manner prescribed under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, when a petition is filed or the court issues a summons.

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

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

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

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

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

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

(8) The department of human services or a county juvenile agency, investigating law enforcement agency, prosecuting agency, or court that has in its possession a DNA identification profile obtained from a sample of an individual arrested for an offense described in subsection (1) shall forward the DNA identification profile to the department of state police when a petition is filed or the court issues a summons unless the department of state police already has a DNA identification profile of the individual.

(9) As used in this section:

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

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

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

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

History: Add. 1996, Act 507, Imd. Eff. Jan. 9, 1997;—Am. 1998, Act 478, Eff. Jan. 12, 1999;—Am. 2001, Act 91, Eff. Jan. 1, 2002;—Am. 2003, Act 77, Eff. Oct. 1, 2003;—Am. 2014, Act 458, Eff. July 1, 2015.

Popular name: Probate Code

Popular name: Juvenile Code