

SENATE BILL No. 1347

October 17, 2012, 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

1 section 83, 91, 316, 317, or 321 of the Michigan penal code, 1931
2 PA 328, MCL 750.83, 750.91, 750.316, 750.317, and 750.321, or a
3 violation or attempted violation of section 349, 520b, 520c, 520d,
4 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.349,
5 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, or a
6 violation of section 167(1)(c) or (f) or 335a of the Michigan penal
7 code, 1931 PA 328, MCL 750.167 and 750.335a, or a local ordinance
8 substantially corresponding to section 167(1)(c) or (f) or 335a of
9 the Michigan penal code, 1931 PA 328, MCL 750.167 and 750.335a.

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

13 (i) A violation of section 145a of the Michigan penal code,
14 1931 PA 328, MCL 750.145a, enticing a child for immoral purposes.

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

19 (iii) A violation of section 335a of the Michigan penal code,
20 1931 PA 328, MCL 750.335a, indecent exposure.

21 (iv) A violation of section 451 of the Michigan penal code,
22 1931 PA 328, MCL 750.451, first and second prostitution violations.

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

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

1 prostitution.

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

10 (3) The samples required to be collected under this section
11 shall be collected by the investigating law enforcement agency and
12 transmitted by the investigating law enforcement agency to the
13 department of state police in the manner prescribed under the DNA
14 identification profiling system act, 1990 PA 250, MCL 28.171 to
15 28.176.

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

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

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

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

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

11 (b) ~~Until October 1, 2003, 65%~~ **SIXTY-FIVE PERCENT** to the
12 department of treasury for the department of state police forensic
13 science division to defray the costs associated with the
14 requirements of DNA profiling and DNA retention prescribed under
15 the DNA identification profiling system act, 1990 PA 250, MCL
16 28.171 to 28.176.

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

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

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

1 (b) The house of representatives appropriations subcommittee
2 on state police and military affairs.

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

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

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

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

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

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

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

26 (11) As used in this section:

27 (a) "DNA identification profile" and "DNA identification

1 profiling" mean those terms as defined in section 2 of the DNA
2 identification profiling system act, 1990 PA 250, MCL 28.172.

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

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

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