

HOUSE BILL NO. 4109

February 03, 2021, Introduced by Reps. Calley, Glenn, Whitsett, Whiteford, Kahle, Brabec, Rendon, Paquette, Bollin, Wozniak, Clemente, Lasinski, Camilleri, Hammoud, Hope, Anthony, Puri, Stone, Thanedar, Bolden, Allor, Jones and Yancey and referred to the Committee on Judiciary.

A bill to amend 1988 PA 73, entitled
"The juvenile facilities act,"
by amending section 5a (MCL 803.225a), as amended by 2001 PA 90.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5a. (1) A juvenile who is under the supervision of the
2 department or a county juvenile agency under section 18 of chapter
3 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, ~~shall~~
4 **must** not be placed in a community placement of any kind and ~~shall~~
5 **must** not be discharged from wardship until he or she has provided

1 samples for chemical testing for DNA identification profiling or a
 2 determination of the sample's genetic markers and has provided
 3 samples for a determination of his or her secretor status if any of
 4 the following apply:

5 (a) The juvenile has been found responsible for a violation of
 6 section 83, 91, 316, 317, or 321 of the Michigan penal code, 1931
 7 PA 328, MCL 750.83, 750.91, 750.316, 750.317, and 750.321, or a
 8 violation or attempted violation of section 349, 520b, 520c, 520d,
 9 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.349,
 10 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, or a
 11 violation of section 167(1)(c) or (f) or 335a of the Michigan penal
 12 code, 1931 PA 328, MCL 750.167 and 750.335a, or a local ordinance
 13 substantially corresponding to section 167(1)(c) or (f) or 335a of
 14 the Michigan penal code, 1931 PA 328, MCL 750.167 and 750.335a.

15 (b) The juvenile has been convicted of a felony or attempted
 16 felony, or any of the following misdemeanors, or local ordinances
 17 substantially corresponding to the following misdemeanors:

18 (i) A violation of section 145a of the Michigan penal code,
 19 1931 PA 328, MCL 750.145a, enticing a child for immoral purposes.

20 (ii) A violation of section 167(1)(c), (f), or (i) of the
 21 Michigan penal code, 1931 PA 328, MCL 750.167, disorderly person by
 22 window peeping, engaging in indecent or obscene conduct in public,
 23 or loitering in a house of ill fame or ~~prostitution~~ **a house in**
 24 **which commercial sexual activity is practiced, encouraged, or**
 25 **allowed.**

26 (iii) A violation of section 335a of the Michigan penal code,
 27 1931 PA 328, MCL 750.335a, indecent exposure.

28 (iv) A violation of section 451 of the Michigan penal code,
 29 1931 PA 328, MCL 750.451, first and second ~~prostitution~~ **commercial**

1 **sexual activity** violations.

2 (v) A violation of section 454 of the Michigan penal code,
3 1931 PA 328, MCL 750.454, leasing a house for purposes of
4 ~~prostitution.~~**commercial sexual activity.**

5 (vi) A violation of section 462 of the Michigan penal code,
6 1931 PA 328, MCL 750.462, female under the age of 17 in a house ~~of~~
7 ~~prostitution.~~**in which commercial sexual activity is practiced,**
8 **encouraged, or allowed.**

9 (2) Notwithstanding subsection (1), if at the time the
10 juvenile is convicted of or found responsible for the violation the
11 investigating law enforcement agency or the department of state
12 police already has a sample from the juvenile that meets the
13 requirements of the DNA identification profiling system act, 1990
14 PA 250, MCL 28.171 to 28.176, the juvenile is not required to
15 provide another sample or pay the fee required under subsection
16 (6).

17 (3) The samples required to be collected under this section
18 ~~shall~~**must** be collected by the department or county juvenile
19 agency, as applicable, and transmitted by the department or county
20 juvenile agency to the department of state police in the manner
21 prescribed under the DNA identification profiling system act, 1990
22 PA 250, MCL 28.171 to 28.176.

23 (4) The department or county juvenile agency may collect a
24 sample under this section regardless of whether the juvenile
25 consents to the collection. The department or county juvenile
26 agency is not required to give the juvenile an opportunity for a
27 hearing or obtain a court order before collecting the sample.

28 (5) The DNA profiles of DNA samples received under this
29 section ~~shall~~**must** only be disclosed as follows:

1 (a) To a criminal justice agency for law enforcement
2 identification purposes.

3 (b) In a judicial proceeding as authorized or required by a
4 court.

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

7 (d) For an academic, research, statistical analysis, or
8 protocol developmental purpose only if personal identifications are
9 removed.

10 (6) A juvenile found responsible for or convicted of 1 or more
11 crimes listed in subsection (1) shall pay an assessment of \$60.00.
12 The juvenile agency shall transmit the assessments or portions of
13 assessments collected to the department of treasury for the
14 department of state police forensic science division to defray the
15 costs associated with the requirements of DNA profiling and DNA
16 retention prescribed under the DNA identification profiling system
17 act, 1990 PA 250, MCL 28.171 to 28.176.

18 (7) As used in this section:

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

23 (b) "Sample" means a portion of a juvenile's blood, saliva, or
24 tissue collected from the juvenile.

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

27 Enacting section 2. This amendatory act does not take effect
28 unless all of the following bills of the 101st Legislature are
29 enacted into law:

1 (a) Senate Bill No. _____ or House Bill No. 4098 (request no.
2 01282'21).

3 (b) Senate Bill No. _____ or House Bill No. 4112 (request no.
4 01304'21).