

Act No. 459
Public Acts of 2014
Approved by the Governor
January 10, 2015
Filed with the Secretary of State
January 12, 2015
EFFECTIVE DATE: July 1, 2015

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2014**

Introduced by Senators Jones and Schuitmaker

ENROLLED SENATE BILL No. 107

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at criminal trials; to provide for liability for damages; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 520m (MCL 750.520m), as amended by 2008 PA 380.

The People of the State of Michigan enact:

Sec. 520m. (1) A person 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 if any of the following apply:

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

(b) The person 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), 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), indecent exposure.

(iii) A violation punishable under section 451(1) or (2), first and second prostitution violations.

(iv) A violation of section 454, leasing a house for purposes of prostitution.

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

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

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

(5) The court shall order each person 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.

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

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

(8) The court that imposes the assessment prescribed under subsection (5) 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.

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

(c) "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.

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

Enacting section 1. This amendatory act takes effect July 1, 2015.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 97th Legislature are enacted into law:

(a) Senate Bill No. 105.

(b) Senate Bill No. 106.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved

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Governor