

HOUSE BILL NO. 4217

February 11, 2021, Introduced by Reps. LaGrand and Mueller 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 XIIA (MCL 712A.18k), as amended
by 2014 PA 458.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XIIA
2 Sec. 18k. (1) An individual shall provide samples for chemical
3 testing for DNA identification profiling or a determination of the
4 sample's genetic markers and shall provide samples for chemical

1 testing for a determination of his or her secretor status if any of
2 the following apply:

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

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

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

13 (ii) A violation of section 335a(1) of the Michigan penal code,
14 1931 PA 328, MCL 750.335a, indecent exposure.

15 (iii) A violation punishable under section 451(1), ~~or (2)~~, **(9)**,
16 **(10), or (11)** of the Michigan penal code, 1931 PA 328, MCL 750.451.
17 ~~, first and second prostitution violations.~~

18 (2) Notwithstanding subsection (1), if at the time the
19 individual is arrested for the offense the investigating law
20 enforcement agency or the department of state police already has a
21 sample from the individual that meets the requirements of the DNA
22 identification profiling system act, 1990 PA 250, MCL 28.171 to
23 28.176, the individual is not required to provide another sample or
24 pay the assessment required under subsection (4).

25 (3) The samples required to be collected under this section
26 ~~shall~~ **must** be collected by the investigating law enforcement agency
27 and transmitted by the investigating law enforcement agency to the
28 department of state police in the manner prescribed under the DNA
29 identification profiling system act, 1990 PA 250, MCL 28.171 to

1 28.176, when a petition is filed or the court issues a summons.

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

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

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

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

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

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

27 (8) The department of **health and** human services or a county
28 juvenile agency, investigating law enforcement agency, prosecuting
29 agency, or court that has in its possession a DNA identification

1 profile obtained from a sample of an individual arrested for an
2 offense described in subsection (1) shall forward the DNA
3 identification profile to the department of state police when a
4 petition is filed or the court issues a summons unless the
5 department of state police already has a DNA identification profile
6 of the individual.

7 (9) As used in this section:

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

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

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

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

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

24 Enacting section 2. This amendatory act does not take effect
25 unless Senate Bill No. ____ or House Bill No. 4215 (request no.
26 01497'21) of the 101st Legislature is enacted into law.