

## **THE FORENSIC LABORATORY FUNDING ACT**

### **Act 35 of 1994**

AN ACT to create the state forensic laboratory fund; to authorize local forensic laboratory funds; to provide for assessments against certain criminal defendants; to provide for expenditures from the forensic laboratories funds; to make certain appropriations; and to prescribe the powers and duties of certain departments and agencies and local units of government.

**History:** 1994, Act 35, Eff. June 6, 1994;—Am. 1998, Act 98, Imd. Eff. May 15, 1998.

*The People of the State of Michigan enact:*

#### **12.201 Short title.**

Sec. 1. This act shall be known and may be cited as “the forensic laboratory funding act”.

**History:** 1994, Act 35, Eff. June 6, 1994.

#### **12.202 Definitions.**

Sec. 2. As used in this act:

(a) “CSC offense” means a violation or attempted violation of section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(b) “Forensic laboratory” means a laboratory maintained by the department of state police or a municipality that meets all of the following criteria:

(i) Has at least 1 regularly employed forensic scientist who conducts analyses of controlled substances or androgenic anabolic steroids for criminal justice agencies in criminal matters, and provides testimony with respect to those analyses.

(ii) Is registered as an analytical laboratory with the drug enforcement administration of the United States department of justice for possessing all scheduled controlled substances.

(iii) Has at least 1 regularly employed forensic scientist who conducts forensic tests other than those described in subparagraph (i) and provides testimony with respect to those forensic tests.

(c) “Forensic test” means a drug analysis, toxicology analysis, or other forensic analysis or examination in areas including, but not limited to, latent prints, microchemistry, serology, firearms, toolmarks, or questioned documents. Forensic test does not include an analysis of the alcohol content of an individual's breath.

(d) “Municipality” means a county, township, city, or village.

**History:** 1994, Act 35, Eff. June 6, 1994;—Am. 1998, Act 98, Imd. Eff. May 15, 1998.

#### **12.203 State forensic laboratory fund; creation as separate fund; money and earnings credited to fund.**

Sec. 3. The state forensic laboratory fund is created as a separate fund in the state treasury. The state treasurer shall credit to the fund all amounts received under sections 6 and 9. Money in the fund credited to the department of state police pursuant to section 7 that is not appropriated in a fiscal year shall be credited to the fund to the credit of the department of state police and shall not revert to the general fund. Earnings from the fund shall be credited to the fund.

**History:** 1994, Act 35, Eff. June 6, 1994.

#### **12.204 Forensic laboratory fund; establishment within office of municipal treasurer.**

Sec. 4. A municipality that maintains a forensic laboratory may establish a forensic laboratory fund within the office of the treasurer of the municipality.

**History:** 1994, Act 35, Eff. June 6, 1994.

#### **12.205 Conduct of forensic test; advising prosecuting attorney.**

Sec. 5. The investigating officer of each criminal case being adjudicated shall advise the prosecuting attorney if a forensic laboratory has conducted a forensic test in the case.

**History:** 1994, Act 35, Eff. June 6, 1994;—Am. 2003, Act 99, Eff. Oct. 1, 2003.

#### **12.206 Assessments.**

Sec. 6. (1) The court shall order each person convicted and sentenced before October 1, 2003 of 1 or more crimes in the case to pay an assessment of \$150.00 if 1 or more of the following apply:

(a) The court is notified pursuant to section 5 that a forensic laboratory has conducted a forensic test in the investigation of the case.

(b) The person is convicted of a CSC offense.

(2) The assessment required under subsection (1) is in addition to any fine, costs, or other assessments imposed by the court. An assessment required under subsection (1) shall be ordered upon the record, and shall be listed separately in the judgment of sentence or order of probation.

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

(4) The court, prosecuting attorney, and originating investigating law enforcement agency may each retain 5% of all assessments or portions of assessments collected for costs incurred pursuant to this section and shall transmit that money to their respective funding units. On the last day of each month, the clerk of the court shall transmit the remainder of assessments or portions of assessments collected under this section as follows:

(a) Assessments ordered and collected before October 1, 2003 shall be transmitted to the department of treasury for deposit in the state forensic laboratory fund created in section 3.

(b) Assessments ordered before October 1, 2003, but collected on or after October 1, 2003, shall be transmitted to the state treasurer for deposit in the justice system fund created in section 181 of the revised judiciary act of 1961, 1961 PA 236, MCL 600.181.

**History:** 1994, Act 35, Eff. June 6, 1994;—Am. 1998, Act 98, Imd. Eff. May 15, 1998;—Am. 2003, Act 99, Eff. Oct. 1, 2003.

#### **12.207 Distributions from state laboratory fund; expenses incurred by municipality; application for reimbursement; reports; number of investigations; distribution and proceeds to municipality; determination of amount; appropriation and use of money.**

Sec. 7. (1) Beginning October 1, 2003, the department of treasury, each month, shall distribute proceeds of the state laboratory fund that are received from the justice system fund under section 181 of the revised judiciary act of 1961, 1961 PA 236, MCL 600.181, as follows:

(a) For the state fiscal year beginning October 1, 2003, 19% to the department of state police to defray the cost of complying with the requirements of DNA profiling and DNA retention under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, with the balance of the fund being available for distribution under subsections (2) to (5).

(b) For the state fiscal year beginning October 1, 2004 and subsequent state fiscal years, 45% to the department of state police to defray the cost of complying with the requirements of DNA profiling and DNA retention under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, with the balance of the fund being available for distribution under subsections (2) to (5).

(2) A municipality that maintains a forensic laboratory and that incurred expenses for a forensic test by that laboratory may apply for reimbursement of those expenses on a form provided by the department of treasury.

(3) A municipality applying under subsection (2) shall report to the department of treasury the number of criminal investigations in the preceding year for which the municipality's forensic laboratory performed 1 or more forensic tests. The department of state police shall report to the department of treasury in the manner prescribed by that department the number of criminal investigations in the preceding year for which the department of state police performed 1 or more forensic tests, whether the investigation was conducted by the department of state police or by the law enforcement agency of a municipality. The department of state police shall also report the number of DNA identification profilings performed pursuant to the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(4) The number of investigations reported pursuant to subsection (3) shall exclude any investigation reported in a previous year.

(5) After the distributions under subsection (1) are made, the department of treasury shall distribute proceeds of the state forensic laboratory fund annually to a municipality applying under this section in an amount determined by multiplying the remaining amount in the fund for that period by a fraction, the numerator of which is the total of investigations reported pursuant to subsection (3) by that municipality for that period and the denominator of which is the total of investigations and DNA identification profilings reported pursuant to subsection (3) for that period. The balance of the fund for that period after distributions under subsection (1) and this subsection shall be credited to the department of state police.

(6) The legislature shall appropriate money in the state forensic laboratory fund credited to the department of state police to that department exclusively for forensic science services. The use of money appropriated pursuant to this section may include, but is not limited to, any of the following:

(a) Costs incurred in providing forensic tests in connection with criminal investigations conducted within this state.

(b) Purchasing or maintaining equipment used in performing forensic tests.

(c) Providing for the continuing education, training, and professional development of regularly employed

laboratory personnel.

(d) Payment of expenses for implementing and performing procedures for DNA identification profiling under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(7) Money appropriated from the state forensic laboratory fund to the division of the department of state police concerned with forensic sciences shall be in addition to any allocations made pursuant to existing law and is intended to enhance appropriations from the general fund and not to replace or supplant those appropriations.

**History:** 1994, Act 35, Eff. June 6, 1994;—Am. 2003, Act 99, Eff. Oct. 1, 2003.

#### **12.208 Forensic laboratory maintained by municipality; appropriation and use of money.**

Sec. 8. (1) A municipality shall appropriate fees deposited in a forensic laboratory fund established pursuant to section 4 to the forensic laboratory maintained by the municipality.

(2) Money appropriated pursuant to this section shall be for the exclusive use of the forensic laboratory maintained by the municipality for the same purposes described in section 7(5)(a) to (c) and shall be in addition to any allocations made pursuant to existing law.

**History:** 1994, Act 35, Eff. June 6, 1994.

#### **12.209 Acceptance of gifts and grants.**

Sec. 9. The department of state police may accept for deposit in the state forensic laboratory fund by the state treasurer gifts and grants of money from individuals, federal or state governmental agencies, corporations, partnerships, associations, foundations, organizations, societies, or other legal entities.

**History:** 1994, Act 35, Eff. June 6, 1994.

#### **12.210 Report.**

Sec. 10. The department of state police or the department of treasury, as applicable, shall report annually to the governor and to the house and senate appropriations committees the amount received and appropriated in the fiscal year pursuant to this act, the amount expended pursuant to appropriations, and the balance in the state forensic laboratory fund.

**History:** 1994, Act 35, Eff. June 6, 1994.

#### **12.211 Effective date; applicability of assessment.**

Sec. 11. This act shall take effect upon the expiration of 90 days after the date of its enactment. The assessment required by this act shall apply to criminal prosecutions for offenses committed on or after the effective date of this act.

**History:** 1994, Act 35, Eff. June 6, 1994.

#### **12.212 Repealed. 1998, Act 98, Imd. Eff. May 15, 1998.**

**Compiler's note:** The repealed section pertained to repeal of the act.