

HOUSE BILL No. 4439

March 23, 1999, Introduced by Reps. Julian, Stamas, Gosselin, Sheltroun, Howell, Pappageorge, Ehardt, Faunce, Van Woerkom, Gilbert, Tabor, Toy, Law and Vear and referred to the Committee on Criminal Law and Corrections.

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 1998 PA 478.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER XIIA

2

Sec. 18k. (1) An individual convicted of or found responsi-

3 ble for a violation of section 91, 316, or 317 of the Michigan

4 penal code, 1931 PA 328, MCL 750.91, 750.316, and 750.317, or a

5 violation or attempted violation of section 349, 520b, 520c,

6 520d, 520e, or 520g of that act, MCL 750.349, 750.520b, 750.520c,

7 750.520d, 750.520e, and 750.520g, shall provide samples for chem-

8 ical testing for DNA identification profiling or a determination

9 of the sample's genetic markers and shall provide samples for

1 chemical testing for a determination of his or her secretor
2 status. ~~However, if~~

3 (2) WHEN A PERSON IS CONVICTED OF OR FOUND RESPONSIBLE FOR A
4 FELONY OTHER THAN A FELONY LISTED IN SUBSECTION (1), THE COURT
5 MAY REQUIRE THE PERSON TO PROVIDE SAMPLES FOR CHEMICAL TESTING AS
6 DESCRIBED IN SUBSECTION (1).

7 (3) IF, at the time the individual is convicted of or found
8 responsible for the violation the investigating law enforcement
9 agency, the department of state police, the family independence
10 agency, or the county juvenile agency already has a sample FOR
11 CHEMICAL TESTING from the individual that meets the requirements
12 of the rules promulgated under the DNA identification profiling
13 system act, 1990 PA 250, MCL 28.171 to 28.176, the individual is
14 not required to provide another sample OF THE TYPE ALREADY
15 OBTAINED BY THE LAW ENFORCEMENT AGENCY, DEPARTMENT OF STATE
16 POLICE, OR FAMILY INDEPENDENCE AGENCY.

17 (4) ~~(2)~~ The investigating law enforcement agency shall
18 provide for collecting the samples FOR CHEMICAL TESTING required
19 to be provided under subsection (1) OR (2) in a medically
20 approved manner by qualified persons using supplies provided by
21 the department of state police. ~~and~~ THE INVESTIGATING LAW
22 ENFORCEMENT AGENCY shall forward those samples and any samples
23 described in subsection (1) OR (2) that were already in the
24 agency's possession to the department of state police. The col-
25 lecting and forwarding of samples FOR CHEMICAL TESTING shall be
26 done in the manner required under the rules promulgated under the

1 DNA identification profiling system act, 1990 PA 250, MCL 28.171
2 to 28.176.

3 (5) ~~(3)~~ The family independence agency or a county juve-
4 nile agency, investigating law enforcement agency, prosecuting
5 agency, or court that has in its possession a DNA identification
6 profile obtained from a sample of an individual convicted of or
7 found responsible for an offense described in subsection (1) OR
8 AN OFFENSE DESCRIBED IN SUBSECTION (2) FOR WHICH THE COURT
9 REQUIRES A SAMPLE FOR CHEMICAL TESTING shall forward the DNA
10 identification profile to the department of state police at or
11 before the time the court imposes sentence or enters an order of
12 disposition upon that conviction or finding of responsibility
13 unless the department of state police already has a DNA identifi-
14 cation profile of the individual.

15 (6) ~~(4)~~ As used in this section:

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

19 (b) "Investigating law enforcement agency" means the law
20 enforcement agency responsible for the investigation of the
21 offense for which the individual is convicted or found
22 responsible.

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

25 Enacting section 1. This amendatory act does not take
26 effect unless all of the following bills of the 90th Legislature
27 are enacted into law:

- 1 (a) Senate Bill No. _____ or House Bill No. _____
- 2 (request no. 01276'99).
- 3 (b) Senate Bill No. _____ or House Bill No. _____
- 4 (request no. 01276'99 b).