

HOUSE BILL No. 5561

May 8, 2014, Introduced by Reps. Nathan, Tlaib, Roberts, Lipton, Banks, Robinson and Kesto and referred to the Committee on Criminal Justice.

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," (MCL 760.1 to 777.69) by adding section 23 to chapter XVI.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XVI

SEC. 23. (1) THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS "LAURA'S LAW".

(2) A PERSON OR ENTITY RESPONSIBLE FOR THE PRESERVATION AND STORAGE OF EVIDENCE COLLECTED IN A CRIMINAL CASE ALLEGING THE COMMISSION OF A FELONY SHALL PRESERVE ALL BIOLOGICAL EVIDENCE RELATING TO THAT FELONY AS FOLLOWS:

(A) SUBJECT TO SUBSECTION (3), IF A PERSON IS CONVICTED OF THE FELONY, UNTIL THE EXPIRATION OF THE LATER OF THE FOLLOWING:

- (i) ANY TERM OF IMPRISONMENT IMPOSED FOR THE VIOLATION.
- (ii) ANY TERM OF PROBATION OR PAROLE IMPOSED FOR THE VIOLATION.
- (iii) ANY TERM FOR WHICH THE PERSON IS REQUIRED TO REGISTER

1 UNDER THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.721
2 TO 28.736.

3 (B) IF A PERSON IS NOT CHARGED WITH OR CONVICTED OF THE
4 FELONY, AS FOLLOWS:

5 (i) FOR A FELONY PUNISHABLE BY IMPRISONMENT FOR LIFE OR BY
6 IMPRISONMENT FOR LIFE OR ANY TERM OF YEARS, 55 YEARS OR UNTIL THE
7 EXPIRATION OF THE PERIOD OF LIMITATIONS APPLICABLE TO THAT FELONY,
8 WHICHEVER IS LATER.

9 (ii) EXCEPT AS PROVIDED IN SUBPARAGRAPH (i), FOR A FELONY
10 PUNISHABLE BY IMPRISONMENT FOR 20 YEARS OR MORE, 45 YEARS OR UNTIL
11 THE EXPIRATION OF THE PERIOD OF LIMITATIONS APPLICABLE TO THAT
12 FELONY, WHICHEVER IS LATER.

13 (iii) FOR A FELONY PUNISHABLE BY IMPRISONMENT FOR 10 YEARS OR
14 MORE BUT LESS THAN 20 YEARS, 35 YEARS OR UNTIL THE EXPIRATION OF
15 THE PERIOD OF LIMITATIONS APPLICABLE TO THAT FELONY, WHICHEVER IS
16 LATER.

17 (iv) FOR A FELONY PUNISHABLE BY IMPRISONMENT FOR LESS THAN 10
18 YEARS, 20 YEARS OR UNTIL THE EXPIRATION OF THE PERIOD OF
19 LIMITATIONS APPLICABLE TO THAT FELONY, WHICHEVER IS LATER.

20 (3) NOTWITHSTANDING THE PRESERVATION PERIODS DESCRIBED IN
21 SUBSECTION (2), BUT SUBJECT TO SUBSECTION (4), A PERSON OR ENTITY
22 DESCRIBED IN SUBSECTION (1) MAY IMMEDIATELY DISPOSE OF BIOLOGICAL
23 EVIDENCE IF ALL OF THE FOLLOWING APPLY:

24 (A) A PERSON WAS CONVICTED OF THE FELONY VIOLATION AND THAT
25 PERSON HAS SERVED ALL PERIODS OF INCARCERATION, PROBATION, PAROLE,
26 AND REGISTRATION UNDER THE SEX OFFENDER REGISTRATION ACT, 1994 PA
27 295, MCL 28.721 TO 28.736.

1 (B) THE PERSON OR ENTITY HAS COMPLIED WITH THE NOTIFICATION
2 REQUIREMENTS OF SUBSECTION (4) AND NO PERSON HAS RESPONDED IN
3 WRITING REQUIRING THE CONTINUED RETENTION OF THAT EVIDENCE WITHIN
4 THE PERIOD DESCRIBED IN SUBSECTION (5).

5 (C) THE PERSON OR ENTITY HAS NOT BEEN NOTIFIED IN WRITING THAT
6 THE EVIDENCE IS SUBJECT TO ANY LEGAL CHALLENGE OR THAT IT IS
7 REQUIRED FOR USE IN ANY OTHER CRIMINAL OR CIVIL PROCEEDING.

8 (D) NO OTHER LAW REQUIRES THE CONTINUED RETENTION OF THAT
9 EVIDENCE.

10 (4) BEFORE DISPOSING OF BIOLOGICAL EVIDENCE UNDER SUBSECTION
11 (3), THE PERSON OR ENTITY DESCRIBED IN SUBSECTION (1) SHALL NOTIFY
12 ALL OF THE FOLLOWING INDIVIDUALS IN WRITING SENT BY FIRST-CLASS
13 MAIL, RETURN RECEIPT REQUESTED, THAT THE PERSON OR ENTITY INTENDS
14 TO DISPOSE OF THE EVIDENCE:

15 (A) THE PERSON CONVICTED OF THE FELONY.

16 (B) EACH ATTORNEY OF RECORD IN THE CRIMINAL CASE THAT RESULTED
17 IN THE FELONY CONVICTION.

18 (C) THE STATE ATTORNEY GENERAL.

19 (5) A PERSON WHO IS NOTIFIED UNDER SUBSECTION (4) THAT A
20 PERSON OR ENTITY DESCRIBED IN SUBSECTION (1) INTENDS TO DISPOSE OF
21 ANY BIOLOGICAL EVIDENCE MAY REQUIRE THAT ENTITY IN WRITING BY
22 FIRST-CLASS MAIL, RETURN RECEIPT REQUESTED, TO CONTINUE TO RETAIN
23 THAT BIOLOGICAL EVIDENCE UNDER THIS SECTION. THE NOTIFICATION TO
24 REQUIRE RETENTION OF THE EVIDENCE SHALL BE PROVIDED TO THE PERSON
25 OR ENTITY DESCRIBED IN SUBSECTION (1) WITHIN 90 DAYS AFTER THE
26 PERSON IS NOTIFIED UNDER SUBSECTION (4).

27 (6) ALL BIOLOGICAL EVIDENCE SHALL BE RETAINED IN A MANNER THAT

1 WILL ALLOW FOR RELIABLE DNA TESTING UNDER SECTION 16 OF CHAPTER X.

2 (7) AS USED IN THIS SECTION:

3 (A) "BIOLOGICAL EVIDENCE" MEANS BOTH OF THE FOLLOWING:

4 (i) ANY ITEM OR MATERIAL THAT IS COLLECTED AS EVIDENCE
5 REGARDING THE COMMISSION OF A FELONY THAT IS BIOLOGICAL MATERIAL OR
6 THAT IS BELIEVED TO CONTAIN BIOLOGICAL MATERIAL.

7 (ii) ANY CONTAINER, SLIDE, SWAB, OR OTHER ITEM OR MATERIAL USED
8 TO COLLECT, CONTAIN, OR ANALYZE EVIDENCE DESCRIBED IN SUBPARAGRAPH
9 (i), IF THAT CONTAINER, SLIDE, SWAB, OR OTHER EQUIPMENT MAY CONTAIN
10 BIOLOGICAL MATERIAL TRANSFERRED FROM THAT EVIDENCE.

11 (B) "BIOLOGICAL MATERIAL" MEANS ANY ITEM OR MATERIAL THAT
12 CONTAINS DNA, INCLUDING ALL OF THE FOLLOWING:

13 (i) THE CONTENTS OF A SEXUAL ASSAULT EVIDENCE KIT AS DEFINED IN
14 SECTION 21527 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
15 333.21527.

16 (ii) BLOOD, SEMEN, AND OTHER BODY FLUIDS.

17 (iii) HAIR, SKIN TISSUE, FINGERNAIL SCRAPINGS, AND OTHER BODY
18 PARTS.

19 (iv) CLOTHING, TOOLS, WEAPONS, AND OTHER ITEMS IDENTIFIED AS
20 HAVING BEEN IN CONTACT WITH MATERIAL DESCRIBED IN SUBPARAGRAPH (ii)
21 OR (iii).

22 (C) "DNA" MEANS DEOXYRIBONUCLEIC ACID.

23 (D) "FELONY" MEANS A VIOLATION OF A LAW OF THIS STATE THAT IS
24 DESIGNATED BY LAW TO BE A FELONY OR THAT IS PUNISHABLE BY
25 IMPRISONMENT FOR MORE THAN 1 YEAR, INCLUDING AN OFFENSE COMMITTED
26 BY A JUVENILE.