

HOUSE BILL NO. 5844

June 25, 2024, Introduced by Reps. Hill, Breen, Brenda Carter, Hope, Rheingans, Weiss, Koleszar, Glanville, Mentzer, Xiong, Conlin, Pohutsky, Fitzgerald, Steckloff, Byrnes, Rogers, McFall, Witwer and Coffia and referred to the Committee on Judiciary.

A bill to amend 1988 PA 73, entitled
"The juvenile facilities act,"
by amending section 5a (MCL 803.225a), as amended by 2001 PA 90.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5a. (1) A juvenile who is under the supervision of the
2 department or a county juvenile agency under section 18 of chapter
3 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, ~~shall~~
4 **must** not be placed in a community placement of any kind and ~~shall~~
5 **must** not be discharged from wardship until ~~he or she~~ **the juvenile**
6 has provided samples for chemical testing for DNA identification

1 profiling or a determination of the sample's genetic markers and
2 has provided samples for a determination of ~~his or her~~ **the**
3 **juvenile's** secretor status if any of the following apply:

4 (a) The juvenile has been found responsible for a violation of
5 section 83, 91, 316, 317, or 321 of the Michigan penal code, 1931
6 PA 328, MCL 750.83, 750.91, 750.316, 750.317, and 750.321, or a
7 violation or attempted violation of section 349, 520b, 520c, 520d,
8 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.349,
9 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, or a
10 violation of section 167(1)(c) or (f) or 335a of the Michigan penal
11 code, 1931 PA 328, MCL 750.167 and 750.335a, or a local ordinance
12 substantially corresponding to section 167(1)(c) or (f) or 335a of
13 the Michigan penal code, 1931 PA 328, MCL 750.167 and 750.335a.

14 (b) The juvenile has been convicted of a felony or attempted
15 felony, or any of the following misdemeanors, or local ordinances
16 substantially corresponding to the following misdemeanors:

17 (i) A violation of section 145a of the Michigan penal code,
18 1931 PA 328, MCL 750.145a, enticing a child for immoral purposes.

19 (ii) A violation of section 167(1)(c), (f), or (i) of the
20 Michigan penal code, 1931 PA 328, MCL 750.167, disorderly person by
21 window peeping, engaging in indecent or obscene conduct in public,
22 or loitering in a house, ~~of ill fame or prostitution.~~ **vehicle, or**
23 **other place in which commercial sexual activity is practiced,**
24 **encouraged, or allowed.**

25 (iii) A violation of section 335a of the Michigan penal code,
26 1931 PA 328, MCL 750.335a, indecent exposure.

27 (iv) A violation of section 451 of the Michigan penal code,
28 1931 PA 328, MCL 750.451, ~~first and second prostitution~~ **commercial**
29 **sexual activity** violations.

1 (v) A violation of section 454 of the Michigan penal code,
2 1931 PA 328, MCL 750.454, ~~leasing~~**renting** a house, **room, or vehicle**
3 for purposes of ~~prostitution~~**commercial sexual activity**.

4 (vi) A violation of section 462 of the Michigan penal code,
5 1931 PA 328, MCL 750.462, female under ~~the age of~~**17 years of age**
6 in a house, ~~of prostitution~~**vehicle, or other place in which**
7 **commercial sexual activity is practiced, encouraged, or allowed**.

8 (2) Notwithstanding subsection (1), if at the time the
9 juvenile is convicted of or found responsible for the violation the
10 investigating law enforcement agency or the department of state
11 police already has a sample from the juvenile that meets the
12 requirements of the DNA identification profiling system act, 1990
13 PA 250, MCL 28.171 to 28.176, the juvenile is not required to
14 provide another sample or pay the fee required under subsection
15 (6).

16 (3) The samples required to be collected under this section
17 ~~shall~~**must** be collected by the department or county juvenile
18 agency, as applicable, and transmitted by the department or county
19 juvenile agency to the department of state police in the manner
20 prescribed under the DNA identification profiling system act, 1990
21 PA 250, MCL 28.171 to 28.176.

22 (4) The department or county juvenile agency may collect a
23 sample under this section regardless of whether the juvenile
24 consents to the collection. The department or county juvenile
25 agency is not required to give the juvenile an opportunity for a
26 hearing or obtain a court order before collecting the sample.

27 (5) The DNA profiles of DNA samples received under this
28 section ~~shall~~**must** only be disclosed as follows:

29 (a) To a criminal justice agency for law enforcement

1 identification purposes.

2 (b) In a judicial proceeding as authorized or required by a
3 court.

4 (c) To a defendant in a criminal case if the DNA profile is
5 used in conjunction with a charge against the defendant.

6 (d) For an academic, research, statistical analysis, or
7 protocol developmental purpose only if personal identifications are
8 removed.

9 (6) A juvenile found responsible for or convicted of 1 or more
10 crimes listed in subsection (1) shall pay an assessment of \$60.00.
11 The juvenile agency shall transmit the assessments or portions of
12 assessments collected to the department of treasury for the
13 department of state police forensic science division to defray the
14 costs associated with the requirements of DNA profiling and DNA
15 retention prescribed under the DNA identification profiling system
16 act, 1990 PA 250, MCL 28.171 to 28.176.

17 (7) As used in this section:

18 (a) "Felony" means a violation of a penal law of this state
19 for which the offender may be punished by imprisonment for more
20 than 1 year or an offense expressly designated by law to be a
21 felony.

22 (b) "Sample" means a portion of a juvenile's blood, saliva, or
23 tissue collected from the juvenile.

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

26 Enacting section 2. This amendatory act does not take effect
27 unless Senate Bill No. _____ or House Bill No. 5841 (request no.
28 04081'23) of the 102nd Legislature is enacted into law.