

[No. 85]

(HB 4633)

AN ACT to amend 1974 PA 150, entitled "An act to provide for the acceptance, care, and discharge of youths committed as public wards; to prescribe the liability for the cost of services for public wards; to prescribe procedures for the return of public wards who absent themselves without permission; to provide a penalty for the violation of this act; and to repeal acts and parts of acts," by amending section 7a (MCL 803.307a), as amended by 1998 PA 517.

The People of the State of Michigan enact:

803.307a Chemical testing for DNA identification; samples provided by public ward; collection; transmission to department of state police; manner; consent, hearing, or court hearing not required; disclosure; assessments; "felony" and "sample" defined.

Sec. 7a. (1) A public ward under a youth agency's jurisdiction shall not be placed in a community placement of any kind and shall not be discharged from wardship until he or she has provided samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and has provided samples for a determination of his or her secretor status if any of the following apply:

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

(b) The public ward has been convicted of a felony or attempted felony, or any of the following misdemeanors, or local ordinances that are substantially corresponding to the following misdemeanors:

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

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

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

(iv) A violation of section 451 of the Michigan penal code, 1931 PA 328, MCL 750.451, first and second prostitution violations.

(v) A violation of section 454 of the Michigan penal code, 1931 PA 328, MCL 750.454, leasing a house for purposes of prostitution.

(vi) A violation of section 462 of the Michigan penal code, 1931 PA 328, MCL 750.462, female under the age of 17 in a house of prostitution.

(2) Notwithstanding subsection (1), if at the time the public ward is convicted of or found responsible for the violation the investigating law enforcement agency or the department of state police already has a sample from the public ward that meets the

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requirements of the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, the public ward is not required to provide another sample or pay the fee required under subsection (6).

(3) The samples required to be collected under this section shall be collected by the youth agency and transmitted to the department of state police in the manner prescribed under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(4) The youth agency may collect a sample under this section regardless of whether the public ward consents to the collection. The youth agency is not required to give the public ward an opportunity for a hearing or obtain a court order before collecting the sample.

(5) The DNA profiles of DNA samples received under this section shall only be disclosed as follows:

(a) To a criminal justice agency for law enforcement identification purposes.

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

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

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

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

(7) As used in this section:

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

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

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 389.

(b) Senate Bill No. 393.

(c) Senate Bill No. 394.

(d) House Bill No. 4610.

(e) House Bill No. 4611.

(f) House Bill No. 4612.

(g) House Bill No. 4613.

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This act is ordered to take immediate effect.

Approved July 26, 2001.

Filed with Secretary of State July 26, 2001.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:

Senate Bill No. 389 was filed with the Secretary of State July 26, 2001, and became P.A. 2001, No. 87, Eff. Jan. 1, 2002.

Senate Bill No. 393 was filed with the Secretary of State July 26, 2001, and became P.A. 2001, No. 90, Eff. Jan. 1, 2002.

Senate Bill No. 394 was filed with the Secretary of State July 26, 2001, and became P.A. 2001, No. 84, Eff. Jan. 1, 2002.

House Bill No. 4610 was filed with the Secretary of State July 26, 2001, and became P.A. 2001, No. 88, Eff. Jan. 1, 2002.

House Bill No. 4611 was filed with the Secretary of State July 26, 2001, and became P.A. 2001, No. 91, Eff. Jan. 1, 2002.

House Bill No. 4612 was filed with the Secretary of State July 26, 2001, and became P.A. 2001, No. 86, Eff. Jan. 1, 2002.

House Bill No. 4613 was filed with the Secretary of State July 26, 2001, and became P.A. 2001, No. 89, Eff. Jan. 1, 2002.
