

# HOUSE BILL NO. 5652

March 12, 2020, Introduced by Reps. Calley, Whitsett, Whiteford, Schroeder, Kahle, Allor, Crawford and Alexander 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       XIHA 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 has provided  
6       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 juvenile 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 juvenile has been convicted of a felony or attempted felony, or any of the following misdemeanors, or local ordinances 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~~ **a house in which commercial sexual activity is practiced, encouraged, or allowed.**

(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~~ **commercial sexual activity** 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.~~**commercial sexual activity.**

(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.~~**in which commercial sexual activity is practiced, encouraged, or allowed.**

(2) Notwithstanding subsection (1), if at the time the juvenile 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 juvenile that meets the requirements of the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, the juvenile 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~~**must** be collected by the department or county juvenile agency, as applicable, and transmitted by the department or county juvenile agency 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 department or county juvenile agency may collect a sample under this section regardless of whether the juvenile consents to the collection. The department or county juvenile agency is not required to give the juvenile 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~~**must** only be disclosed as follows:

(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. 5655 (request no.  
28 05968'20) of the 100th Legislature is enacted into law.

