

HOUSE BILL NO. 4098

February 03, 2021, Introduced by Reps. Yancey, Whitsett, Glenn, Whiteford, Calley, Brabec, Kahle, Rendon, Paquette, Bollin, Wozniak, Lasinski, Clemente, Camilleri, Hammoud, Hope, Anthony, Thanedar, Puri, Bolden, Stone, Allor and Jones and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 167 and 520m (MCL 750.167 and 750.520m),
section 167 as amended by 2014 PA 199 and section 520m as amended
by 2014 PA 459.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 167. (1) A person is a disorderly person if the person is
- 2 any of the following:
- 3 (a) A person of sufficient ability who refuses or neglects to

1 support his or her family.

2 (b) A ~~common prostitute~~ **person engaged in commercial sexual**
3 **activity.**

4 (c) A window peeper.

5 (d) A person who engages in an illegal occupation or business.

6 (e) A person who is intoxicated in a public place and who is
7 either endangering directly the safety of another person or of
8 property or is acting in a manner that causes a public disturbance.

9 (f) A person who is engaged in indecent or obscene conduct in
10 a public place.

11 (g) A vagrant.

12 (h) A person found begging in a public place.

13 (i) A person found loitering in a house, ~~of ill fame or~~
14 ~~prostitution or place where prostitution or lewdness~~ **vehicle, or**
15 **other place in which commercial sexual activity** is practiced,
16 encouraged, or allowed.

17 (j) A person who knowingly loiters in or about a place where
18 an illegal occupation or business is being conducted.

19 (k) A person who loiters in or about a police station, police
20 headquarters building, county jail, hospital, court building, or
21 other public building or place for the purpose of soliciting
22 employment of legal services or the services of sureties upon
23 criminal recognizances.

24 (l) A person who is found jostling or roughly crowding people
25 unnecessarily in a public place.

26 (2) If a person who has been convicted of refusing or
27 neglecting to support his or her family under this section is
28 charged with subsequent violations within a period of 2 years, that
29 person ~~shall~~ **must** be prosecuted as a ~~second offender or third and~~

~~subsequent offender~~ **person who was previously convicted** as provided described in section ~~168,~~ **168(2)(b)**, if the family of that person is then receiving public relief or support.

(3) A mother's breastfeeding of a child or expressing breast milk does not constitute indecent or obscene conduct under subsection (1) regardless of whether or not her areola or nipple is visible during or incidental to the breastfeeding or expressing of breast milk.

Sec. 520m. (1) A person shall provide samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and shall provide samples for chemical testing if any of the following apply:

(a) The individual is arrested for committing or attempting to commit a felony offense or an offense that would be a felony if committed by an adult.

(b) The person is convicted of, or found responsible for, 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 167(1)(c), (f), or (i), disorderly person by window peeping, engaging in indecent or obscene conduct in public, or loitering in a house ~~of ill fame or prostitution~~. **or other place resorted to for the purpose of commercial sexual activity.**

(ii) A violation of section 335a(1), indecent exposure.

(iii) A violation punishable under section ~~451(1) or (2), first and second prostitution violations.~~ **451 for detaining a person less than 16 years of age for purposes of commercial sexual activity.**

(iv) A violation of section 454, ~~leasing~~ **renting** a house ~~or~~

1 **other place** for purposes of ~~prostitution~~**commercial sexual**
2 **activity.**

3 (2) Notwithstanding subsection (1), if at the time the person
4 is arrested for, convicted of, or found responsible for the
5 violation the investigating law enforcement agency or the
6 department of state police already has a sample from the person
7 that meets the requirements of the DNA identification profiling
8 system act, 1990 PA 250, MCL 28.171 to 28.176, the person is not
9 required to provide another sample or pay the assessment required
10 under subsection (5).

11 (3) The county sheriff or the investigating law enforcement
12 agency shall collect and transmit the samples in the manner
13 required under the DNA identification profiling system act, 1990 PA
14 250, MCL 28.171 to 28.176.

15 (4) An investigating law enforcement agency, prosecuting
16 agency, or court that has in its possession a DNA identification
17 sample obtained from a person under subsection (1) shall forward
18 the DNA identification sample to the department of state police
19 after the person from whom the sample was taken has been charged
20 with committing or attempting to commit a felony offense or an
21 offense that would be a felony if committed by an adult unless the
22 department of state police already has a DNA identification profile
23 of the person.

24 (5) The court shall order each person found responsible for or
25 convicted of 1 or more crimes listed in subsection (1) to pay an
26 assessment of \$60.00. The assessment required under this subsection
27 is in addition to any fine, costs, or other assessments imposed by
28 the court.

29 (6) An assessment required under subsection (5) ~~shall~~**must** be

1 ordered upon the record, and ~~shall~~**must** be listed separately in the
2 adjudication order, judgment of sentence, or order of probation.

3 (7) After reviewing a verified petition by a person against
4 whom an assessment is imposed under subsection (5), the court may
5 suspend payment of all or part of the assessment if it determines
6 the person is unable to pay the assessment.

7 (8) The court that imposes the assessment prescribed under
8 subsection (5) may retain 10% of all assessments or portions of
9 assessments collected for costs incurred under this section and
10 shall transmit that money to its funding unit. On the last day of
11 each month, the clerk of the court shall transmit the assessments
12 or portions of assessments collected under this section as follows:

13 (a) Twenty-five percent to the county sheriff or other
14 investigating law enforcement agency that collected the DNA sample
15 as designated by the court to defray the costs of collecting DNA
16 samples.

17 (b) Sixty-five percent to the state treasurer for deposit in
18 the justice system fund created in section 181 of the revised
19 judicature act of 1961, 1961 PA 236, MCL 600.181.

20 (9) As used in this section:

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

24 (b) "Investigating law enforcement agency" means the law
25 enforcement agency responsible for the investigation of the offense
26 for which the person is arrested or convicted. Investigating law
27 enforcement agency includes the county sheriff but does not include
28 a probation officer employed by the department of corrections.

29 (c) "Felony" means a violation of a penal law of this state

1 for which the offender may be punished by imprisonment for more
2 than 1 year or an offense expressly designated by law to be a
3 felony.

4 (d) "Sample" means a portion of a person's blood, saliva, or
5 tissue collected from the person.

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

8 Enacting section 2. This amendatory act does not take effect
9 unless Senate Bill No. ____ or House Bill No. 4112 (request no.
10 01304'21) of the 101st Legislature is enacted into law.