

Act No. 508
Public Acts of 2008
Approved by the Governor
January 12, 2009
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**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Reps. Condino, Miller, Constan, Rick Jones, LeBlanc, Bieda, Young, Hood and Rocca

ENROLLED HOUSE BILL No. 4260

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16a of chapter IX (MCL 769.16a), as amended by 2005 PA 106.

The People of the State of Michigan enact:

CHAPTER IX

Sec. 16a. (1) Except as otherwise provided in subsection (3), upon final disposition of an original charge against a person of a felony or a misdemeanor for which the maximum possible penalty exceeds 92 days' imprisonment or a local ordinance for which the maximum possible penalty is 93 days' imprisonment and that substantially corresponds to a violation of state law that is a misdemeanor for which the maximum possible penalty is 93 days' imprisonment, or a misdemeanor in a case in which the appropriate court was notified that fingerprints were forwarded to the department of state police, or upon final disposition of a charge of criminal contempt under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or final disposition of a charge of criminal contempt for violating a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i, the clerk of the court entering the disposition shall immediately report to the department of state police the final disposition of the charge on forms approved by the state court administrator and in a manner consistent with section 3 of 1925 PA 289, MCL 28.243. The report to the department of state police shall include the finding of the judge or jury, including a finding of guilty, guilty but mentally ill, not guilty, or not guilty by reason of insanity, or the person's plea of guilty, nolo contendere, or guilty but mentally ill; if the person was convicted, the offense of which the person was convicted; and a summary of any sentence imposed. The summary of the sentence shall include any probationary term; any minimum, maximum, or alternative term of imprisonment; the

total of all fines, costs, and restitution ordered; and any modification of sentence. The report shall include the sentence if imposed under any of the following:

- (a) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411.
- (b) Section 1076(4) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.
- (c) Section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a.
- (d) Section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.
- (e) Sections 11 to 15 of chapter II.
- (f) Section 4a of chapter IX.

(2) Upon sentencing a person convicted of a misdemeanor or of a violation of a local ordinance, other than a misdemeanor or local ordinance described in subsection (1), the clerk of the court imposing sentence immediately shall, if ordered by the court, advise the department of state police of the conviction on forms approved by the state court administrator.

(3) Except as otherwise provided in subsections (4) and (6), the clerk of a court shall not report a conviction of a misdemeanor offense under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a local ordinance substantially corresponding to a provision of that act unless 1 or more of the following apply:

- (a) The offense is punishable by imprisonment for more than 92 days.
- (b) The offense is an offense that would be punishable by more than 92 days as a second conviction.
- (c) A judge of the court orders the clerk to report the conviction.

(4) Unless ordered by the court, the clerk of a court is not required to report a conviction of a misdemeanor offense for a violation of section 904(3)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.904, or a local ordinance substantially corresponding to section 904(3)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.904.

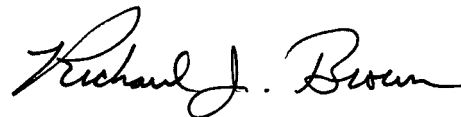
(5) As part of the sentence for a conviction of an offense described in this section, if fingerprints have not already been taken, the court shall order that the fingerprints of the person convicted be taken and forwarded to the department of state police.

(6) As part of the sentence for a conviction of a listed offense as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the court shall order that the fingerprints of the person convicted be taken and forwarded as provided in the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, if fingerprints have not already been taken and forwarded as provided in that act.

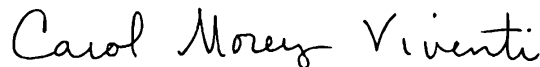
(7) Within 21 days after the date a person licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, is convicted of a misdemeanor involving the illegal delivery, possession, or use of alcohol or a controlled substance or a felony, the clerk of the court entering the conviction shall report the conviction to the department of community health on a form prescribed and furnished by that department.

(8) For any conviction that was reported as provided in this section, the clerk of the court entering a subsequent final disposition in the case shall immediately report to the department of state police and the department of corrections if the judgment of conviction is vacated and either the accusatory instrument is dismissed or upon retrial or by court finding, whether appellate or otherwise, the defendant is determined to be not guilty. The final disposition shall be reported on forms approved by the state court administrator. The department of state police and department of corrections shall immediately enter the disposition into each database they maintain concerning criminal convictions and shall remove all information indicating that the person was convicted of the offense from each of those databases that is available to the public.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

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Governor