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BILL



ANALYSIS

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House Bill 4536 (Substitute H-2 as reported without amendment)
House Bill 4537 (Substitute H-1 as reported without amendment)
House Bill 4538 (Substitute H-2 as reported without amendment)
Sponsor: Representative Peter Lucido
House Committee: Law and Justice
Senate Committee: Judiciary

CONTENT

House Bill 4536 (H-2) would amend the Code of Criminal Procedure to do the following:

- Require an individual's arrest record to be removed from the Internet Criminal History Access Tool (ICHAT) if the charge or charges were dismissed before trial.
- Require an arrest record, biometric data, fingerprints, and DNA samples to be expunged or destroyed, and an entry of a charge to be removed from the Law Enforcement Information Network (LEIN), if the prosecutor agreed, or if the prosecutor or judge did not object within 60 days after an order of dismissal was issued.
- Require the Michigan Department of State Police (MSP) to comply with the bill's requirements after receiving an order from the district or circuit court.

House Bill 4537 (H-1) would amend the C.J.I.S. Policy Council Act to require the Criminal Justice Information Systems Policy Council to establish policy and promulgate rules concerning expunction or destruction of information and data in criminal justice information systems, as required by House Bill 4536 (H-2).

House Bill 4538 (H-2) would amend the fingerprinting law to do the following:

- Require an individual's arrest record to be removed from ICHAT if the charge or charges were dismissed before trial.
- Require an arrest record, biometric data, and fingerprints to be expunged, and an entry of a charge to be removed from LEIN, if the prosecutor agreed, or the prosecutor or judge did not object within 60 days after an order of dismissal was issued.
- Require the MSP to comply with the bill's requirements after receiving an order from the district or circuit court.
- Specify that an existing exception to requirements for the destruction of biometric data and an arrest card for certain individual would apply except as provided under the bill.

The bills are tie-barred to each other and to House Bill 5323. (House Bill 5323 would amend the DNA Identification Profiling System Act to require the State Police Forensics Laboratory to dispose of a DNA sample collected in certain situations if the MSP received a certified copy of a court order entered under the section of the Code of Criminal Procedure that House Bill 4536 (H-2) would enact.)

Proposed MCL 760.26a (H.B. 4536)
MCL 28.214 (H.B. 4537)
MCL 28.243 (H.B. 4538)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bills would likely have a minor fiscal impact on the judiciary, local courts, and the Michigan Department of State Police, depending on how frequently the bills' provisions would be exercised. Administrative costs could include the processing of expungement requests and removal of records from law enforcement record systems, including the Law Enforcement Information Network and the Automated Fingerprint Identification System. While the removal of such records is not an uncommon procedure by law enforcement entities, and current appropriations exist to cover those costs, it cannot be known at this time whether the provisions of these bills would stress these existing resources. In addition, under House Bill 4537 (H-1), the MSP's Criminal Justice Information Systems Policy Council would be required to establish policy and promulgate rules for the expunction and/or destruction of information and data, as the bills would require.

Date Completed: 1-24-18

Fiscal Analyst: Bruce Baker