

SENATE BILL No. 85

February 1, 2017, Introduced by Senator JOHNSON and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
(MCL 760.1 to 777.69) by adding section 12 to chapter III.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER III

SEC. 12. (1) IF A PERSON IS CHARGED WITH A MISDEMEANOR OR
FELONY VIOLATION OF THE LAWS OF THIS STATE BECAUSE ANOTHER PERSON
USED THE IDENTIFYING INFORMATION OF THE CHARGED PERSON OR BECAUSE
THE CHARGES WERE ISSUED AS THE RESULT OF MISTAKEN IDENTITY, THE
ERRONEOUSLY ISSUED CHARGES MUST BE DISMISSED. THE PROSECUTOR WHO
ISSUED THE CHARGES SHALL REQUEST THE COURT WHERE THE CHARGES ARE
PENDING TO DISMISS THE CHARGES AND SHALL PROVIDE THE COURT THE
REASON FOR THE DISMISSAL.

(2) UPON RECEIVING A REQUEST FOR DISMISSAL UNDER SUBSECTION

1 (1), THE COURT SHALL DISMISS THE ERRONEOUSLY ISSUED CHARGES AND
2 ORDER THAT ALL OF THE RECORDS, INCLUDING POLICE REPORTS, CONTAINING
3 ENTRIES RELATED TO THE PERSON'S APPREHENSION AND CHARGING BE
4 EXPUNGED.

5 (3) AS USED IN THIS SECTION, "MISTAKEN IDENTITY" MEANS THE
6 ERRONEOUS ARREST OF A PERSON FOR A CRIME BECAUSE OF
7 MISIDENTIFICATION BY A WITNESS OR LAW ENFORCEMENT, CONFUSION ON THE
8 PART OF A WITNESS OR LAW ENFORCEMENT AS TO THE IDENTITY OF THE
9 PERSON WHO COMMITTED THE CRIME, MISINFORMATION PROVIDED TO LAW
10 ENFORCEMENT AS TO THE IDENTITY OF THE PERSON WHO COMMITTED THE
11 CRIME, OR SOME OTHER MISTAKE ON THE PART OF A WITNESS OR LAW
12 ENFORCEMENT AS TO THE IDENTITY OF THE PERSON WHO COMMITTED THE
13 CRIME.

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