

HOUSE BILL NO. 6256

September 23, 2020, Introduced by Reps. Bolden, Calley and Sabo and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 26a of chapter IV (MCL 764.26a), as added by
2018 PA 65.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER IV

2 Sec. 26a. (1) If an individual is arrested for any crime and
3 the charge or charges are dismissed before trial, both of the
4 following apply:

5 (a) The arrest record ~~shall~~**must** be removed from the internet



1 criminal history access tool (ICHAT).

2 (b) If the prosecutor of the case agrees at any time after the
3 case is dismissed, or if the prosecutor of the case or the judge of
4 the court in which the case was filed does not object within 60
5 days from the date an order of dismissal was entered for cases in
6 which the order of dismissal is entered after the effective date of
7 the amendatory act that added this section, all of the following
8 apply:

9 (i) The arrest record, all biometric data, and fingerprints
10 ~~shall~~**must** be expunged or destroyed, or both, as appropriate.

11 (ii) Any entry concerning the charge ~~shall~~**must** be removed from
12 LEIN.

13 (iii) Unless a DNA sample or profile, or both, is allowed or
14 required to be retained by the department of state police under
15 section 6 of the DNA identification profiling system act, 1990 PA
16 250, MCL 28.176, the DNA sample or profile, or both, obtained from
17 the individual ~~shall~~**must** be expunged or destroyed.

18 (2) If an individual is arrested for any crime and is
19 acquitted on the charge or charges after a trial is held, both of
20 the following apply:

21 (a) The arrest record must be removed from the internet
22 criminal history access tool (ICHAT).

23 (b) Any other document or record generated in connection with
24 the charge or charges in the possession of a law enforcement agency
25 must be made nonpublic.

26 (3) If an individual is arrested for any crime and is not
27 charged with a crime as a result of the arrest before the
28 expiration of the applicable period of limitation under section 24
29 of chapter VII, both of the following apply:

1 (a) The arrest record must be removed from the internet
2 criminal history access tool (ICHAT).

3 (b) Any other document or record generated in connection with
4 the charge or charges in the possession of a law enforcement agency
5 must be made nonpublic.

6 (4) ~~(2)~~—The department of state police shall comply with the
7 requirements listed in subsection (1) or (2), as applicable, upon
8 receipt of an appropriate order of the district court or the
9 circuit court.

10 Enacting section 1. This amendatory act does not take effect
11 unless Senate Bill No. _____ or House Bill No. 6255 (request no.
12 07595'20 a) of the 100th Legislature is enacted into law.