

HOUSE BILL NO. 5803

May 20, 2020, Introduced by Reps. Bolden, Filler, Mueller, Berman and Howell and referred to the Committee on Transportation.

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 16a of chapter IX (MCL 769.16a), as amended by 2008 PA 508.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER IX
2 Sec. 16a. (1) Except as otherwise provided in subsection (3),
3 ~~upon~~ **on** final disposition of an original charge against a person of
4 a felony or a misdemeanor for which the maximum possible penalty
5 exceeds 92 days' imprisonment or a local ordinance for which the



1 maximum possible penalty is 93 days' imprisonment and that
2 substantially corresponds to a violation of state law that is a
3 misdemeanor for which the maximum possible penalty is 93 days'
4 imprisonment, or a misdemeanor in a case in which the appropriate
5 court was notified that fingerprints were forwarded to the
6 department of state police, or ~~upon~~**on** final disposition of a
7 charge of criminal contempt under section 2950 or 2950a of the
8 revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and
9 600.2950a, or final disposition of a charge of criminal contempt
10 for violating a foreign protection order that satisfies the
11 conditions for validity provided in section 2950i of the revised
12 judicature act of 1961, 1961 PA 236, MCL 600.2950i, the clerk of
13 the court ~~entering~~**that enters** the disposition shall immediately
14 report to the department of state police the final disposition of
15 the charge on forms approved by the state court administrator and
16 in a manner consistent with section 3 of 1925 PA 289, MCL 28.243.
17 The report to the department of state police ~~shall~~**must** include the
18 finding of the judge or jury, including a finding of guilty, guilty
19 but mentally ill, not guilty, or not guilty by reason of insanity,
20 or the person's plea of guilty, nolo contendere, or guilty but
21 mentally ill; if the person was convicted, the offense of which the
22 person was convicted; and a summary of any sentence imposed. The
23 summary of the sentence ~~shall~~**must** include any probationary term;
24 any minimum, maximum, or alternative term of imprisonment; the
25 total of all fines, costs, and restitution ordered; and any
26 modification of sentence. The report ~~shall~~**must** include the
27 sentence if imposed under any of the following:

28 (a) Section 7411 of the public health code, 1978 PA 368, MCL
29 333.7411.



1 (b) Section 1076(4) of the revised judicature act of 1961,
2 1961 PA 236, MCL 600.1076.

3 (c) Section 350a of the Michigan penal code, 1931 PA 328, MCL
4 750.350a.

5 (d) Section 430 of the Michigan penal code, 1931 PA 328, MCL
6 750.430.

7 (e) Sections 11 to 15 of chapter II.

8 (f) Section 4a of chapter IX.

9 (2) ~~Upon~~ **On** sentencing a person convicted of a misdemeanor or
10 of a violation of a local ordinance, other than a misdemeanor or
11 local ordinance described in subsection (1), the clerk of the court
12 ~~imposing~~ **that imposes the** sentence immediately shall, if ordered by
13 the court, advise the department of state police of the conviction
14 on forms approved by the state court administrator.

15 (3) Except as otherwise provided in ~~subsections (4) and (6),~~
16 **subsection (5)**, the clerk of a court shall not report a conviction
17 of a misdemeanor offense under the Michigan vehicle code, 1949 PA
18 300, MCL 257.1 to 257.923, or a local ordinance **that** substantially
19 ~~corresponding~~ **corresponds** to a provision of that act unless 1 or
20 more of the following apply:

21 (a) The offense is punishable by imprisonment for more than 92
22 days.

23 (b) The offense is an offense that would be punishable by more
24 than 92 days as a second conviction.

25 (c) A judge of the court orders the clerk to report the
26 conviction.

27 ~~(4) Unless ordered by the court, the clerk of a court is not~~
28 ~~required to report a conviction of a misdemeanor offense for a~~
29 ~~violation of section 904(3)(a) of the Michigan vehicle code, 1949~~



1 ~~PA 300, MCL 257.904, or a local ordinance substantially~~
 2 ~~corresponding to section 904(3)(a) of the Michigan vehicle code,~~
 3 ~~1949 PA 300, MCL 257.904.~~

4 (4) ~~(5)~~—As part of the sentence for a conviction of an offense
 5 described in this section, if fingerprints have not already been
 6 taken, the court shall order that the fingerprints of the person
 7 convicted be taken and forwarded to the department of state police.

8 (5) ~~(6)~~—As part of the sentence for a conviction of a listed
 9 offense as defined in section 2 of the sex offenders registration
 10 act, 1994 PA 295, MCL 28.722, the court shall order that the
 11 fingerprints of the person convicted be taken and forwarded as
 12 provided in the sex offenders registration act, 1994 PA 295, MCL
 13 28.721 to 28.736, if fingerprints have not already been taken and
 14 forwarded as provided in that act.

15 (6) ~~(7)~~—Within 21 days after the date a person licensed or
 16 registered under article 15 of the public health code, 1978 PA 368,
 17 MCL 333.16101 to 333.18838, is convicted of a misdemeanor ~~involving~~
 18 **that involves** the illegal delivery, possession, or use of alcohol
 19 or a controlled substance or a felony, the clerk of the court
 20 ~~entering~~**that enters** the conviction shall report the conviction to
 21 the department of ~~community health~~ **and human services** on a form
 22 prescribed and furnished by that department.

23 (7) ~~(8)~~—For any conviction that was reported as provided in
 24 this section, the clerk of the court ~~entering~~**that enters** a
 25 subsequent final disposition in the case shall immediately report
 26 to the department of state police and the department of corrections
 27 if the judgment of conviction is vacated and either the accusatory
 28 instrument is dismissed or ~~upon~~**on** retrial or by court finding,
 29 whether appellate or otherwise, the defendant is determined to be



1 not guilty. The final disposition ~~shall~~**must** be reported on forms
2 approved by the state court administrator. The department of state
3 police and department of corrections shall immediately enter the
4 disposition into each database they maintain ~~concerning~~**that**
5 **concerns** criminal convictions and shall remove all information
6 ~~indicating~~**that indicates** that the person was convicted of the
7 offense from each of those databases that is available to the
8 public.

9 Enacting section 1. This amendatory act does not take effect
10 unless Senate Bill No. ____ or House Bill No. 5802 (request no.
11 04927'19) of the 100th Legislature is enacted into law.

