

HOUSE BILL NO. 5913

March 16, 2022, Introduced by Reps. Calley, LaGrand, Sowerby, Steven Johnson, Aiyash, Bolden, Rabhi, Stone, Kuppa, Brixie, Brenda Carter, Ellison, Hood, Hope, Cambensy, Steenland, Breen, Brann and Yancey 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:~~

~~(a) The arrest record shall be removed from the internet criminal history access tool (ICHAT).~~

~~(b) If **and if** the prosecutor of the case agrees at any time after the case is dismissed, or if the prosecutor of the case or the judge of the court in which the case was filed does not object within 60 days from the date an order of dismissal was entered for cases in which the order of dismissal is entered after the effective date of the amendatory act that added this section, **June 12, 2018**, all of the following apply:~~

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

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

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

~~(2) The department of state police shall comply with the requirements listed in subsection (1) upon receipt of an appropriate order of the district court or the circuit court.~~

~~Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 101st Legislature are enacted into law:~~

~~(a) Senate Bill No. ____ or House Bill No. 5917 (request no. 04851'21).~~

~~(b) Senate Bill No. ____ or House Bill No. 5919 (request no. 04851'21 b).~~