

HOUSE BILL No. 6532

September 14, 2006, Introduced by Reps. Condino, Kolb, Lipsey, Zelenko, Bieda, Gleason, Plakas, Alma Smith, Tobocman, Leland and Dillon and referred to the Committee on Judiciary.

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 2005 PA 106.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1
2
3
4
5
6
7
8

CHAPTER IX

Sec. 16a. (1) Except as otherwise provided in subsection (3), upon final disposition of an original charge against a person of a felony or a misdemeanor for which the maximum possible penalty exceeds 92 days' imprisonment or a local ordinance for which the maximum possible penalty is 93 days' imprisonment and that substantially corresponds to a violation of state law that is a misdemeanor for which the maximum possible penalty is 93 days'

1 imprisonment, or a misdemeanor in a case in which the appropriate
2 court was notified that fingerprints were forwarded to the
3 department of state police, or upon final disposition of a charge
4 of criminal contempt under section 2950 or 2950a of the revised
5 judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or
6 final disposition of a charge of criminal contempt for violating a
7 foreign protection order that satisfies the conditions for validity
8 provided in section 2950i of the revised judicature act of 1961,
9 1961 PA 236, MCL 600.2950i, the clerk of the court entering the
10 disposition shall immediately report to the department of state
11 police the final disposition of the charge on forms approved by the
12 state court administrator and in a manner consistent with section 3
13 of 1925 PA 289, MCL 28.243. The report to the department of state
14 police shall include the finding of the judge or jury, including a
15 finding of guilty, guilty but mentally ill, not guilty, or not
16 guilty by reason of insanity, or the person's plea of guilty, nolo
17 contendere, or guilty but mentally ill; if the person was
18 convicted, the offense of which the person was convicted; and a
19 summary of any sentence imposed. The summary of the sentence shall
20 include any probationary term; any minimum, maximum, or alternative
21 term of imprisonment; the total of all fines, costs, and
22 restitution ordered; and any modification of sentence. The report
23 shall include the sentence if imposed under any of the following:
24 (a) Section 7411 of the public health code, 1978 PA 368, MCL
25 333.7411.
26 (b) Section 1076(4) of the revised judicature act of 1961,
27 1961 PA 236, MCL 600.1076.

1 (c) Section 350a of the Michigan penal code, 1931 PA 328, MCL
2 750.350a.

3 (d) Section 430 of the Michigan penal code, 1931 PA 328, MCL
4 750.430.

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

6 (f) Section 4a of chapter IX.

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

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

18 (a) The offense is punishable by imprisonment for more than 92
19 days.

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

22 (c) A judge of the court orders the clerk to report the
23 conviction.

24 (4) Unless ordered by the court, the clerk of a court is not
25 required to report a conviction of a misdemeanor offense for a
26 violation of section 904(3)(a) of the Michigan vehicle code, 1949
27 PA 300, MCL 257.904, or a local ordinance substantially

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

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

7 (6) As part of the sentence for a conviction of a listed
8 offense as defined in section 2 of the sex offenders registration
9 act, 1994 PA 295, MCL 28.722, the court shall order that the
10 fingerprints of the person convicted be taken and forwarded as
11 provided in the sex offenders registration act, 1994 PA 295, MCL
12 28.721 to ~~28.732~~ **28.736**, if fingerprints have not already been
13 taken and forwarded as provided in that act.

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

22 **(8) IF A CONVICTION THAT WAS REPORTED AS PROVIDED IN THIS**
23 **SECTION IS FINALLY OVERTURNED BASED ON DNA EVIDENCE, EITHER UPON**
24 **APPEAL OR FOLLOWING THE GRANT OF A NEW TRIAL, THE CLERK OF THE**
25 **COURT ENTERING THE DISPOSITION SHALL IMMEDIATELY REPORT TO THE**
26 **DEPARTMENT OF STATE POLICE AND THE DEPARTMENT OF CORRECTIONS THE**
27 **FINAL DISPOSITION ON FORMS APPROVED BY THE STATE COURT**

1 ADMINISTRATOR. THE DEPARTMENT OF STATE POLICE AND DEPARTMENT OF
2 CORRECTIONS SHALL IMMEDIATELY ENTER THE DISPOSITION INTO EACH
3 DATABASE THEY MAINTAIN CONCERNING CRIMINAL CONVICTIONS AND SHALL
4 REMOVE ALL INFORMATION INDICATING THAT THE PERSON WAS CONVICTED OF
5 THE OFFENSE FROM THOSE DATABASES.