

**SUBSTITUTE FOR
SENATE BILL NO. 1093**

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:

CHAPTER IV

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

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

7 (b) If the prosecutor of the case agrees at any time after the
8 case is dismissed, or if the prosecutor of the case or the judge of



1 the court in which the case was filed does not object within 60
2 days from the date an order of dismissal was entered for cases in
3 which the order of dismissal is entered after ~~the effective date of~~
4 ~~the amendatory act that added this section,~~ **June 12, 2018**, all of
5 the following apply:

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

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

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

15 (c) **Any court document or court record generated in connection**
16 **with the case in the possession of a law enforcement agency must be**
17 **made nonpublic. This subdivision does not apply to a document or**
18 **record generated by a law enforcement agency.**

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

22 (3) **If an individual has been charged with any crime and the**
23 **charge or charges are dismissed before trial, the court shall make**
24 **any court document or court record generated in connection with the**
25 **case nonpublic. This subsection does not apply to a document or**
26 **record generated by a law enforcement agency.**

27 (4) **If subsection (1) applies, the appropriate district court**
28 **or circuit court shall notify the investigating law enforcement**
29 **agency that any court document or court record generated in**



1 connection with the case in the possession of the law enforcement
2 agency must be made nonpublic. A law enforcement agency is not
3 liable for damages or subject to criminal penalties under this
4 section for failing to make a court record or court document
5 nonpublic if the law enforcement agency is not notified by the
6 court as required under this subsection.

