

# SENATE BILL NO. 1093

September 09, 2020, Introduced by Senator LUCIDO and referred to the Committee on Judiciary and Public Safety.

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:**

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CHAPTER IV

2

Sec. 26a. (1) If an individual is arrested for any crime and

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the charge or charges are dismissed before trial, ~~both~~**all** of the

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following apply:

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

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

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

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

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

19 **(c) Any court document or record generated in connection with**  
20 **the case in the possession of a law enforcement agency must be made**  
21 **nonpublic.**

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

25 **(3) If an individual has been charged with any crime and the**  
26 **charge or charges are dismissed before trial, the court shall make**  
27 **any court document or record generated in connection with the case**  
28 **nonpublic.**