

DNA SAMPLES & IDENTIFICATION PROFILES

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House Bill 5323 as introduced
Sponsor: Rep. Peter J. Lucido
Committee: Law and Justice
Complete to 12-9-17

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5323, which is a companion bill to House Bills 4536, 4537, and 4538, would add another circumstance under which the Department of State Police would have to dispose of an individual's DNA sample or DNA identification profile.

The DNA Identification Profiling System Act, among other things, establishes the protocols and procedures for collecting, retaining, and disposing of DNA samples and DNA identification profiles obtained when persons are arrested for committing or attempting to commit a felony offense or an offense that would be a felony if committed by an adult, or when an individual is convicted of or found responsible for a felony, attempted felony, or certain misdemeanors. Generally speaking, if not otherwise required by law, a DNA identification profile must not be permanently retained by the Department of State Police (MSP), but retained only as long as it is needed for a criminal investigation or criminal prosecution. Under certain circumstances, the Act also requires the State Police Forensic Laboratory to dispose of a DNA sample collected under the situations described above or a DNA identification profile. These include:

- If the MSP receives a written request for disposal from the investigating police agency or prosecutor indicating that the sample or profile is no longer necessary for a criminal investigation or prosecution.
- If the MSP receives both a written request for disposal and a certified copy of a final court order establishing that the charge for which the sample had been obtained was dismissed or resulted in an acquittal or that a charge was not filed within the applicable time period.

House Bill 5323 would amend the Act to require that the sample or profile also be disposed of if the MSP receives a certified copy of a court order entered under Section 26a of Chapter IV of the Code of Criminal Procedure—a section proposed to be added by House Bill 4536 (substitute H-2). Under that bill, if an individual were arrested for any crime and the charges were dismissed before trial, Section 26a would require that the individual's arrest record be removed from the public criminal record database and also require—if the prosecutor agrees or the prosecutor or judge does not object within 60 days of an order of dismissal—that the arrest record, all biometric data, and fingerprints be expunged or destroyed; that the charge be removed from the nonpublic criminal database used by law enforcement; and that the DNA sample or profile obtained from the individual be expunged or destroyed, unless its retention by the MSP is allowed or required by law.

House Bill 5323 is tie-barred to House Bills 4536, 4537, and 4538, meaning that all of those bills would also have to be enacted for House Bill 5323 to become law. House Bills 4536, 4537, and 4538 were amended on the House floor before passage and currently await Senate committee action.

HB 5323 would take effect 90 days after being enacted.

MCL 28.176

FISCAL IMPACT:

The bill would have no fiscal implications for state or local law enforcement or for the judiciary.

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