

# SENATE BILL NO. 706

January 08, 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:**

1

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 of the

1 following apply:

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

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

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

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

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

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

23 **(3) If an individual is arrested or detained by a law**  
24 **enforcement agency for any crime and the individual is not charged**  
25 **for a crime as a result of that arrest or detention, both of the**  
26 **following must occur not more than 180 days after the arrest or**  
27 **detention:**

28 (a) **All biometric data and fingerprints collected during the**  
29 **arrest or detention must be returned to the individual.**

1           (b) Any entry concerning the arrest or detention must be  
2 removed from LEIN.