

SENATE BILL No. 723

January 28, 2016, Introduced by Senators JOHNSON, JONES, O'BRIEN, GREGORY and KNEZEK and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," (MCL 760.1 to 777.69) by adding section 12 to chapter III.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER III

SEC. 12. (1) IF A PERSON IS CHARGED WITH A MISDEMEANOR OR FELONY VIOLATION OF THE LAWS OF THIS STATE BECAUSE ANOTHER PERSON USED THE IDENTIFYING INFORMATION OF THE CHARGED PERSON OR BECAUSE THE CHARGES WERE ISSUED AS THE RESULT OF MISTAKEN IDENTITY, THE ERRONEOUSLY ISSUED CHARGES SHALL BE DISMISSED. THE PROSECUTOR WHO ISSUED THE CHARGES SHALL REQUEST THE COURT WHERE THE CHARGES ARE PENDING TO DISMISS THE CHARGES AND SHALL PROVIDE THE COURT THE REASON FOR THE DISMISSAL.

(2) UPON RECEIVING A REQUEST FOR DISMISSAL UNDER SUBSECTION

1 (1), THE COURT SHALL DISMISS THE ERRONEOUSLY ISSUED CHARGES AND
2 ORDER THAT ALL OF THE RECORDS, INCLUDING POLICE REPORTS, CONTAINING
3 ENTRIES RELATED TO THE PERSON'S APPREHENSION AND CHARGING BE
4 EXPUNGED.

5 (3) AS USED IN THIS SECTION, "MISTAKEN IDENTITY" MEANS THE
6 ERRONEOUS ARREST OF A PERSON FOR A CRIME BECAUSE OF
7 MISIDENTIFICATION BY A WITNESS OR LAW ENFORCEMENT, CONFUSION ON THE
8 PART OF A WITNESS OR LAW ENFORCEMENT AS TO THE IDENTITY OF THE
9 PERSON WHO COMMITTED THE CRIME, MISINFORMATION PROVIDED TO LAW
10 ENFORCEMENT AS TO THE IDENTITY OF THE PERSON WHO COMMITTED THE
11 CRIME, OR SOME OTHER MISTAKE ON THE PART OF A WITNESS OR LAW
12 ENFORCEMENT AS TO THE IDENTITY OF THE PERSON WHO COMMITTED THE
13 CRIME.