

# HOUSE BILL No. 6243

June 21, 2006, Introduced by Rep. Waters and referred to the Committee on Judiciary.

A bill to allow the issuance of good conduct certificates to certain persons who were convicted of felonies; to require certain fees; and to provide for certain powers and duties of certain state officers and agencies.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. As used in this act:

2       (a) "Offender" means a person who was convicted of a felony in  
3 a court of this state.

4       (b) "Victim" means that term as defined in section 2 of the  
5 crime victim's rights act, 1985 PA 87, MCL 780.752.

6       Sec. 2. (1) An offender may apply to receive a certificate of  
7 good conduct as provided in this act. The offender shall submit the  
8 application to the clerk of the circuit court in the county in

1 which the offender resides.

2 (2) An offender must wait to file an application under this  
3 section until 3 years have elapsed from the date of the offender's  
4 discharge from parole or probation or release from a state  
5 correctional facility, county jail, or other correctional facility,  
6 whichever is later.

7 (3) The offender is responsible for providing to the court a  
8 certified copy of the entry of judgment and any other documentation  
9 of the sentence given for the offense for which the offender was  
10 convicted, as well as documentation of the date of discharge from  
11 supervision or release from a jail or correctional facility,  
12 whichever is applicable. If the offender is seeking a certificate  
13 of good conduct covering more than 1 offense, then the offender is  
14 responsible for providing sentencing and release documentation on  
15 all offenses. In cases in which the offender is applying for a  
16 certificate on more than 1 offense, the proper period for filing  
17 the application is the latest of the relevant periods listed in  
18 subsection (2).

19 (4) The fee for filing an application under this section is  
20 \$150.00. This fee shall be paid to the clerk of the court and shall  
21 be applied to any processing of the application, including, but not  
22 limited to, the costs associated with investigating the  
23 application, notifying relevant parties, scheduling hearings,  
24 printing the certificates, and recording and reporting the court's  
25 determination.

26 (5) An offender whose application for a certificate of good  
27 conduct is denied may reapply after a period of 12 months has

1 elapsed from the date of the denial or earlier as determined by the  
2 court at the time of the denial. On reapplication, the offender  
3 must meet the criteria for eligibility in this section and must  
4 meet the burden of proof in section 3.

5 (6) An offender whose application for a certificate of good  
6 conduct is granted may, under this section, after a period of 3  
7 years, apply to the court to renew the certificate of good conduct  
8 for the period between the date of the certificate's issuance and  
9 the date of the application.

10 Sec. 3. An offender who applies for a certificate of good  
11 conduct must demonstrate in the application that each of the  
12 following conditions, to the extent that each applies to the  
13 particular circumstances, has been satisfied since the date of  
14 release from all correctional supervision:

15 (a) The offender has paid all financial obligations levied  
16 pursuant to his or her conviction.

17 (b) The offender has not been convicted of a new criminal  
18 offense, other than a minor misdemeanor traffic offense.

19 (c) The offender's operator's or chauffeur's license has not  
20 been suspended by a court.

21 (d) The offender has maintained financial responsibility for  
22 any motor vehicle as required by law.

23 (e) The offender has met any child and spousal support  
24 obligation, as required by law.

25 (f) The offender has paid all due state, federal, and local  
26 income taxes and has timely filed all associated income tax  
27 returns, as required by law.

1       Sec. 4. In determining whether to grant an application for a  
2 certificate of good conduct from an eligible offender, the court  
3 may consider any other evidence of the offender's good conduct and  
4 good citizenship during the period specified in section 2,  
5 including, but not limited to, all of the following:

6       (a) Maintaining a residence for a substantial period.

7       (b) Maintaining gainful employment; or, if the offender was  
8 not in the labor force at any time during the relevant period and  
9 the offender's employment was not necessary to meet the financial  
10 needs of the offender or his or her dependents, demonstrating other  
11 acceptable means of support, such as pensions, disability payments,  
12 spousal or child support, or scholarships or grants.

13       (c) Evidence that the offender has adequately addressed any  
14 drug or alcohol abuse or addiction, if previously assessed or  
15 ordered into treatment by a judicial or correctional authority.

16       (d) Letters of reference.

17       (e) Documentation of the offender's service to the community  
18 or to specific individuals in need.

19       Sec. 5. (1) Upon receiving an application under this act, the  
20 court shall set a date for a hearing. The hearing shall be set  
21 within 90 days of the date of the filing, but may be continued for  
22 good cause shown.

23       (2) After the hearing date is set, the court shall forward the  
24 application and its supporting documentation to its probation  
25 department or other appropriate agency to investigate the  
26 application. The agency shall file a written report to the court  
27 within 30 days of receiving the case file from the court.

1           (3) Upon receiving the written report on the application from  
2 the court's investigative agency, the court shall notify the  
3 prosecutor of the application and the hearing date. In its  
4 notification, the court shall forward a copy of the application,  
5 the supporting documentation, and the written report of the  
6 investigative agency within 30 days of the date of the hearing.

7           (4) Upon receiving notice from the court, the prosecutor shall  
8 notify the victim of any offense for which the application is being  
9 made. The victim may submit to the prosecutor a statement that is  
10 limited to describing the offender's conduct during the relevant  
11 period for the application or reapplication for, or a renewal of, a  
12 certificate of good conduct.

13           (5) If the prosecutor wishes to file an objection to the  
14 application, the objection shall specify the reasons the  
15 application should be denied and shall be filed with the court  
16 within 7 days after the hearing date. The prosecutor shall  
17 incorporate in any objection to the application only information  
18 that pertains to the offender's conduct during the 3-year filing  
19 period specified in section 2. The prosecutor shall also forward a  
20 copy of the objection to the offender or offender's attorney not  
21 later than 7 days before the date of the hearing. The prosecutor's  
22 objection and the reasons for that objection shall be limited to  
23 the offender's conduct during the relevant period specified in  
24 section 2.

25           (6) If the court is satisfied, based on the materials  
26 submitted by the offender or the investigative agency and with  
27 reference to the eligibility criteria set forth in section 2 or the

1 guidance factors listed in section 3, that the application should  
2 be denied, then the court may deny the application without a  
3 hearing. The court must provide notice of the denial of the  
4 application to the offender in a timely fashion.

5 (7) If the court is satisfied, based on the materials  
6 submitted by the offender and the investigative agency and with  
7 reference to the eligibility criteria set forth in section 2 and  
8 the guidance factors listed in section 3, that the application  
9 should be granted, then the court may grant the application without  
10 a hearing. If the application is granted, then the court shall  
11 issue a written order attesting to this fact and shall issue a  
12 certificate of good conduct, as specified in section 6, to the  
13 offender in a timely fashion. The court shall not grant an  
14 application for a certificate of good conduct without a hearing if  
15 the prosecution has timely filed an objection under this section.

16 (8) At any hearing on the application for the issuance of a  
17 certificate of good conduct, the eligible offender has the burden  
18 of going forward and of persuading the court by a preponderance of  
19 the evidence that the offender has satisfied the conditions and  
20 guidance factors set forth in section 3. The evidence presented at  
21 the hearing shall be limited to describing the defendant's conduct  
22 during the 3-year filing period specified in section 2. If the  
23 court determines that the offender has met his or her burden, then  
24 the court shall issue a written order attesting to this fact and  
25 shall issue a certificate of good conduct, as specified in section  
26 5. If the court determines that the offender has not met his or her  
27 burden, then the court shall deny the application in a written

1 order.

2 Sec. 6. (1) If an application filed under this section is  
3 approved, the court approving the application shall issue to the  
4 successful offender a certificate of good conduct. The certificate  
5 of good conduct shall contain all of the following information:

6 (a) The name of the court granting the certificate.

7 (b) The name of the successful offender.

8 (c) The period for which the offender's certificate of good  
9 conduct relates, namely from the date specified in section 2 to the  
10 date the certificate was granted, or, if the certificate is being  
11 renewed, from the date of the first granted certificate to the date  
12 the certificate's renewal is granted.

13 (d) A statement, in terms substantially similar to the  
14 following, that the successful offender has done all of the  
15 following:

16 (i) Complied with all terms and conditions of all relevant  
17 sanctions imposed.

18 (ii) Complied with all legal requirements for earning the  
19 certificate during the period from (date) to (date).

20 (e) A statement of the proper uses for the certificate as  
21 provided in subsection (3).

22 (2) A certificate issued under this section does not relieve  
23 the person to whom it is granted of all disabilities arising out of  
24 the conviction or convictions from which it is granted. The  
25 granting of a certificate under this section does not seal the  
26 offender's criminal records. An offender is not relieved of his or  
27 her duty to inform others of his or her criminal past, including

1 his or her duty to register as a sex offender under the sex  
2 offenders registration act, 1994 PA 295, MCL 28.721 to 28.732.

3 (3) A certificate of good conduct shall be considered in any  
4 decision by any government entity regarding the offender's fitness  
5 to receive any benefit, license, employment, civil right, or other  
6 consideration. The certificate may be considered by any other  
7 agency or entity regarding the offender's fitness to receive any  
8 benefit, license, employment, civil right, or other consideration.

9 Sec. 7. (1) The circuit court, when it issues the certificate  
10 of good conduct, shall forward a certified copy of the certificate  
11 to the sentencing court or courts in all cases for which the  
12 application was made. The sentencing court or courts shall maintain  
13 the copy of the offender's certificate of good conduct in the  
14 original case file. The court that issues the certificate of good  
15 conduct shall forward the name of the successful offender, as well  
16 as any other pertinent or requested identifying information, to the  
17 state police criminal justice information center in a timely  
18 fashion.

19 (2) The state police criminal justice information center shall  
20 amend the criminal records of any person who has received a  
21 certificate of good conduct under this section to reflect that  
22 fact. The person's record shall indicate to which offenses the  
23 certificate of good conduct apply and the legal effect of the  
24 certificate on those offenses. The state police criminal justice  
25 information center shall forward the names of those persons who  
26 have received a certificate of good conduct to the office of  
27 attorney general for publishing in accordance with subsection (3).



1           (3) The attorney general shall compile the names of those  
2 persons who have received a certificate of good conduct and shall  
3 publicly publish the names of those persons and the dates the  
4 certificates were granted so that potential employers and other  
5 interested parties may readily access that information. The  
6 information shall be updated and published in a manner determined  
7 reasonable by the attorney general.

8           (4) If a court grants the renewal of a certificate of good  
9 conduct under this section, the court shall transmit that  
10 information as indicated for the initial granting of the  
11 certificate of good conduct listed in subsection (1). The state  
12 police criminal justice information center and the attorney general  
13 shall record and publish the renewal information transmitted by the  
14 granting court as indicated for the initial granting of the  
15 certificate in this section.

16           Sec. 8. If a person has been granted a certificate of good  
17 conduct commits a new criminal offense, other than a minor  
18 misdemeanor traffic offense, the court that sentences the person on  
19 that offense shall forward the information regarding that offense  
20 to the state police criminal justice information center so that it  
21 can update its records and databases concerning the person and the  
22 previously granted certificate of good conduct. The state police  
23 criminal justice information center shall provide the information  
24 to the attorney general so that it may update its records and  
25 databases to include information of the certificate holder's  
26 convicted offense.