

SETTING ASIDE CONVICTIONS (EXCERPT)
Act 213 of 1965

***** 780.621g.added THIS ADDED SECTION IS EFFECTIVE APRIL 11, 2021 *****

780.621g.added Setting aside certain convictions without application; requirements; exceptions; implementation date; reinstatement; "crime of dishonesty" defined.

Sec. 1g. (1) Beginning 2 years after the effective date of the amendatory act that added this section and subject to any necessary appropriation, a misdemeanor conviction for an offense for which the maximum punishment is imprisonment for not more than 92 days is set aside under this section without the filing of an application under section 1 if 7 years have passed from the imposition of the sentence. Each court shall notify the arresting law enforcement agency of each conviction on or before the tenth day of each month that is set aside under this subsection for the preceding month. Each law enforcement agency need not retain and shall make nonpublic the notification that the conviction has been set aside, and the record of the arrest, fingerprinting, conviction, and sentence of the person in the case to which the notification applies.

(2) Beginning 2 years after the effective date of the amendatory act that added this section and subject to any necessary appropriation and subsections (5), (6), (7), and (10), a felony conviction that is recorded and maintained in the department of state police database is set aside under this section without the filing of an application under section 1 if both of the following apply:

(a) Ten years have passed from whichever of the following events occurs last:

(i) Imposition of the sentence for the conviction.

(ii) Completion of any term of imprisonment with the department of corrections for the conviction.

(b) The conviction or convictions are otherwise eligible to be set aside under section 1.

(3) Beginning 2 years after the effective date of the amendatory act that added this section and subject to any necessary appropriation and subsection (10), a conviction for a misdemeanor offense for which the maximum punishment is imprisonment for not more than 92 days that is recorded and maintained in the department of state police database is set aside under this section without the filing of an application under section 1 if 7 years have passed from the imposition of the sentence.

(4) Beginning 2 years after the effective date of the amendatory act that added this section and subject to any necessary appropriation and subsections (5), (6), (7), and (10), a conviction for a misdemeanor offense for which the maximum punishment is imprisonment for 93 days or more that is recorded and maintained in the department of state police database is set aside under this section without the filing of an application under section 1 if 7 years have passed from the imposition of the sentence.

(5) Except as otherwise provided in this subsection, not more than 2 felony convictions and 4 misdemeanor convictions total that are recorded and maintained in the department of state police database may be set aside under this section during the lifetime of an individual. The limit on the number of misdemeanor convictions that may be set aside under this subsection does not apply to the setting aside of convictions described under subsection (1) or (3).

(6) A conviction is not set aside under subsection (2) or (4) unless all of the following apply:

(a) The applicable time period required under subsection (2) or (4) has elapsed.

(b) There are no criminal charges pending in the department of state police database against the applicant.

(c) The applicant has not been convicted of any criminal offense that is recorded and maintained in the department of state police database during the applicable time period required under subsection (2) or (4).

(7) Subsections (2) and (4) do not apply to an individual who has more than 1 conviction for an assaultive crime or an attempt to commit an assaultive crime that is recorded and maintained in the department of state police database.

(8) If the governor determines that the process for setting aside a conviction without an application under this section cannot be implemented by the date required under subsections (1), (2), (3), and (4) because of technological limitations, the governor may issue a directive delaying the implementation of this section for not more than 180 days. The attorney general, the state court administrator, or the director of the department of state police may recommend a delay of implementation to the governor under this subsection.

(9) An individual whose conviction is set aside under this section impliedly consents to the creation of the nonpublic record under section 3.

(10) Subsections (2) and (4) do not apply to a conviction recorded and maintained in the department of state police database for the commission of or attempted commission of any of the following:

(a) An assaultive crime.

(b) A serious misdemeanor.

(c) A crime of dishonesty.

(d) Any other offense, not otherwise listed under this subsection, that is punishable by 10 or more years' imprisonment.

(e) A violation of the laws of this state listed under chapter XVII of the code of criminal procedure, 1927 PA 175, MCL 777.1 to 777.69, the elements of which involve a minor, vulnerable adult, injury or serious impairment, or death.

(f) Any violation related to human trafficking.

(11) The department of technology, management, and budget shall develop and maintain a computer-based program for the setting aside of convictions under this section. In fulfilling its duty under this subsection, the department of technology, management, and budget may contract with a private technical consultant as needed.

(12) The setting aside of a conviction without an application under this section is subject to reinstatement under section 1h.

(13) The department of state police shall create and maintain an electronically accessible record of each conviction recorded and maintained in the department of state police database that was set aside under this section that must be provided to or accessible by each court in this state. An electronic record created as required under this section may only be used as authorized under section 3 and by a court for purposes of updating locally maintained court records.

(14) The implementation of the section is subject to appropriation. The department of state police and the department of technology, management, and budget shall begin work to implement the section immediately upon appropriation.

(15) As used in this section, "crime of dishonesty" includes a felony violation of chapters XXVA and XLI, felony violations of sections 174, 174a, 175, 176, 180, and 181 of the Michigan penal code, 1931 PA 328, MCL 750.159f to 750.159x, 750.248 to 750.265a, 750.174, 750.174a, 750.175, 750.176, 750.180, and 750.181, and a violation of 1979 PA 53, MCL 752.791 to 752.797.

History: Add. 2020, Act 193, Eff. Apr. 11, 2021.