

**This is the year of government. Many have prophesized that the people will rise up this year and restore justice.**

## **Expungement Process in Michigan**

*Compiled by Shawndrica Simmons, Esq.*

### **What Does It Mean to "Set Aside a Conviction?"**

Setting aside a conviction removes an adult Michigan criminal conviction from the public record of the Michigan State Police and the court, and is sometimes referred to as an expungement. The law that allows a person to apply to have one conviction set aside provides that the record be made nonpublic so that any criminal record check, made by someone other than the agencies specified in the law, will reveal no conviction.

A Michigan criminal conviction that has been made nonpublic through a court order setting aside that conviction is still available to a court, a law enforcement agency, some licensing agencies, and certain other government agencies specified in the law. Also, if you are convicted of a new crime after a conviction is made nonpublic, the nonpublic record of the conviction can be used to increase your criminal sentence for your new crime.

### **Can I Apply to Get My Conviction Made Nonpublic?**

A person who applies to have a conviction made nonpublic must meet certain conditions. You should first understand three things.

1. You need to know what is actually on your criminal record. Although it is not required, it is highly recommended that you get a copy of your criminal record from [ICHAT](#). There is a cost for this. You can find out from your criminal record whether you have more than one conviction, and for what crime(s) you were convicted. If you don't check your criminal record first and you have more than the allowable convictions, you will find out from the judge at a hearing on your application that you are not eligible, and you will have wasted your time and money.
2. A criminal complaint can have more than one count or charge on it. If you were convicted of more than one charge or count, even if the charges were on the same case, you have more than one conviction. For example, if you were charged with and convicted of **Possession of a Firearm** and **Possession with Intent to Deliver** in the same case, you have two convictions.
3. If you were found guilty and sentenced to probation or Holmes Youthful Trainee status under **one** of the following statutes and successfully completed that probation or Holmes Youthful Trainee status, a nonpublic criminal record of this is maintained by the Michigan State Police and the sentencing court. This is called a "deferred judgment of guilt." The record of a deferred judgment of guilt is not considered a conviction for purposes of determining your eligibility to apply to have a conviction made nonpublic. The Michigan laws that permit deferred judgment of guilt are:

MCL 333.7411 – Controlled Substance Abuse  
MCL 436.1703 – Minor in Possession  
MCL 600.1076 – Drug Treatment Court  
MCL 750.350a – Parental Kidnapping

MCL 750.430 – Licensed Health Professional Practicing Under the Influence  
MCL 762.13 – Holmes Youthful Trainee  
MCL 769.4a – Domestic Violence

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Free half-hour consultation: [legalservices@shawndricasimmons.com](mailto:legalservices@shawndricasimmons.com)

## Expungement Process in Michigan (continued)

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Answer the following seven questions to find out if you are eligible to have your conviction made nonpublic.

1. Do you have a federal conviction?
2. Do you have a criminal conviction in another state?
3. Do you have more than one adult criminal conviction in Michigan, excluding those for which judgment of guilt was deferred and excluding up to two minor offenses as defined in [MCL 780.621\(10\)\(b\)](#)?
4. Were you convicted of a felony or an attempt to commit a felony for which the maximum punishment is life imprisonment?
5. Were you convicted of felony criminal sexual conduct (first, second, or third degree), or assault with intent to commit criminal sexual conduct?
6. Is the conviction you want to have set aside a traffic offense? A traffic offense is a conviction for violating the Michigan Vehicle Code or a local ordinance substantially corresponding to that act, which violation involves the operation of a vehicle.
7. Has it been less than five years since the date of your conviction, or if you were imprisoned, has it been less than five years since you were released?

If you have answered **no** to **all** seven of the above questions, you may be eligible to have your Michigan adult criminal conviction set aside. If you answered **yes** to any of the above questions, you are not eligible to have your Michigan criminal conviction made nonpublic. NOTE: Although a conviction for a nontraffic offense reportable to the Secretary of State may be set aside by the court, as stated in [MCL 257.732\(22\)](#), the court cannot order the removal of the conviction from your driving record.

## Procedure to set aside a conviction for a juvenile

This is a judge-ordered removal of a criminal record (from public to nonpublic) for a juvenile with not more than one juvenile offense and no felony convictions or an adult with one criminal conviction and not more than two minor offenses:

- The criteria to set aside a conviction for a juvenile offense is found within [MCL 712A.18e](#) and the criteria to set aside a conviction for an adult offense is found within [MCL 780.621](#).
- You must receive and complete an application to set aside a conviction or set aside an adjudication from the court where you were convicted and a certified copy of the judgment of sentence, probation order, or register of actions. The proper form for adults is the MC227 and for juveniles is the JC66.
- Go to a Michigan law enforcement agency and ask to be printed on a Michigan Applicant Fingerprint card (RI-8). Complete personal information on the card. Make sure that the place labeled "FBI & State" is marked in block E of the card under "Search Requirements".
- Submit the applicant fingerprint card (RI-8), the application form from the court (MC227 or JC66), a certified copy of the judgment of sentence, probation order, or register of actions, and a \$50.00 (\$25.00 juvenile set aside) processing fee in the form of a money order or check made payable to the State of Michigan.
- Mail the above information to the Michigan State Police, CRD, Identification Section, P.O. Box 30634, Lansing, Michigan 48909.
- No walk-in traffic is allowed, please call for an appointment at the number below under further questions.
- Allow 4 - 6 weeks for processing and mail delivery.

Further questions:

Phone (517) 241-0606

FAX (517) 241-0866

E-Mail: [mssp-crd-crimhelp@michigan.gov](mailto:mssp-crd-crimhelp@michigan.gov)