

1 and not more than 3 juvenile offenses, of which not more than 1 may
2 be a juvenile offense that would be a felony if committed by an
3 adult and who has no felony convictions may file an application
4 with the adjudicating court or adjudicating courts for the entry of
5 an order setting aside the adjudications. A person may have only 1
6 adjudication for an offense that would be a felony if committed by
7 an adult and not more than 2 adjudications for an offense that
8 would be a misdemeanor if committed by an adult or if there is no
9 adjudication for a felony if committed by an adult, not more than 3
10 adjudications for an offense that would be a misdemeanor if
11 committed by an adult set aside under this section. Multiple
12 adjudications arising out of a series of acts that were in a
13 continuous time sequence of 12 hours or less and that displayed a
14 single intent and goal constitute 1 offense provided that none of
15 the adjudications constitute any of the following:

16 (a) An assaultive crime as that term is defined in subsection
17 (7).

18 (b) An offense involving the use or possession of a weapon.

19 (c) An offense with a maximum penalty of 10 or more years
20 imprisonment.

21 (2) A person shall not apply under this section to have set
22 aside, and a judge shall not under this section set aside, ~~any~~
23 **either** of the following:

24 (a) An adjudication for an offense that if committed by an
25 adult would be a felony for which the maximum punishment is life
26 imprisonment.

27 ~~(b) An adjudication for a traffic offense under the Michigan~~
28 ~~vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a local~~
29 ~~ordinance substantially corresponding to that act, that involves~~

1 ~~the operation of a vehicle and at the time of the violation is a~~
2 ~~felony or misdemeanor.~~

3 **(b)** ~~(e)~~—A conviction under section 2d of this chapter. This
4 subdivision does not prevent a person convicted under section 2d of
5 this chapter from having that conviction set aside as otherwise
6 provided by law.

7 (3) An application under this section shall not be filed until
8 the expiration of 1 year ~~following imposition of the disposition~~
9 ~~for the adjudication that the applicant seeks to set aside, or 1~~
10 ~~year following completion of any term of detention for that~~
11 ~~adjudication, or when the person becomes 18 years of age, whichever~~
12 ~~occurs later.~~ **after the termination of court supervision.**

13 (4) An application under this section is invalid unless it
14 contains the following information and is signed under oath by the
15 person whose adjudication is to be set aside:

16 (a) The full name and current address of the applicant.

17 ~~(b) A certified record of the adjudication that is to be set~~
18 ~~aside.~~

19 **(b)** ~~(e)~~—A statement that the applicant has not been
20 adjudicated of a juvenile offense other than the juvenile offenses
21 sought to be set aside as a result of this application.

22 **(c)** ~~(d)~~—A statement that the applicant has not been convicted
23 of any felony offense.

24 **(d)** ~~(e)~~—A statement as to whether the applicant has previously
25 filed an application to set aside this or any other adjudication
26 and, if so, the disposition of the application.

27 **(e)** ~~(f)~~—A statement as to whether the applicant has any other
28 criminal charge pending against him or her in any court in the
29 United States or in any other country.

1 (f) ~~(g)~~—A consent to the use of the nonpublic record created
2 under subsection (13), to the extent authorized by subsection (13).

3 (5) **Upon application, the adjudicating court or adjudicating**
4 **courts shall locate any court records or documents necessary to**
5 **conduct a hearing under this section.**

6 (6) ~~(5)~~—The applicant shall submit a copy of the application
7 and 2 complete sets of fingerprints to the department of state
8 police. The department of state police shall compare those
9 fingerprints with the records of the department, including the
10 nonpublic record created under subsection (13), and shall forward a
11 complete set of fingerprints to the Federal Bureau of Investigation
12 for a comparison with the records available to that agency. The
13 department of state police shall report to the court in which the
14 application is filed the information contained in the department's
15 records with respect to any pending charges against the applicant,
16 any record of adjudication or conviction of the applicant, and the
17 setting aside of any adjudication or conviction of the applicant
18 and shall report to the court any similar information obtained from
19 the Federal Bureau of Investigation. The court shall not act upon
20 the application until the department of state police reports the
21 information required by this subsection to the court.

22 ~~(6) The copy of the application submitted to the department of~~
23 ~~state police under subsection (5) shall be accompanied by a fee of~~
24 ~~\$25.00 payable to the state of Michigan. The department of state~~
25 ~~police shall use the fee to defray the expenses incurred in~~
26 ~~processing the application.~~

27 (7) A copy of the application shall ~~shall~~ **must** be served upon the
28 attorney general and, if applicable, upon the office of the
29 prosecuting attorney who prosecuted the offense. The attorney

1 general and the prosecuting attorney shall have an opportunity to
2 contest the application. **If the attorney general or prosecuting**
3 **attorney wishes to contest an application, the attorney general or**
4 **prosecuting attorney must do so not later than 35 days after**
5 **service or the application is completed.** If the adjudication was
6 for an offense that if committed by an adult would be an assaultive
7 crime or serious misdemeanor, and if the name of the victim is
8 known to the prosecuting attorney, the prosecuting attorney shall
9 give the victim of that offense written notice of the application
10 and forward a copy of the application to the victim under section
11 46a of the William Van Regenmorter crime victim's rights act, 1985
12 PA 87, MCL 780.796a. The notice ~~shall~~**must** be sent by first-class
13 mail to the victim's last known address. The victim has the right
14 to appear at any proceeding under this section concerning that
15 adjudication and to make a written or oral statement. As used in
16 this subsection:

17 (a) "Assaultive crime" means that term as defined in section
18 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL
19 770.9a.

20 (b) "Serious misdemeanor" means that term as defined in
21 section 61 of the William Van Regenmorter crime victim's rights
22 act, 1985 PA 87, MCL 780.811.

23 (c) "Victim" means that term as defined in section 31 of the
24 William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL
25 780.781.

26 (8) Upon the hearing of the application, the court may require
27 the filing of affidavits and the taking of proofs as it considers
28 proper.

29 (9) Except as provided in this subsection and subsection (10),

1 if the court determines that the circumstances and behavior of the
2 applicant from the date of the applicant's adjudication to the
3 filing of the application warrant setting aside the 1 adjudication
4 for a juvenile offense that would be a felony if committed by an
5 adult and not more than 2 adjudications for a juvenile offense that
6 would be a misdemeanor if committed by an adult or if there is no
7 adjudication for a felony if committed by an adult, not more than 3
8 adjudications for an offense that would be a misdemeanor if
9 committed by an adult and that setting aside the adjudication or
10 adjudications is consistent with the public welfare, the court may
11 enter an order setting aside the adjudication. If the applicant
12 submits to the court a certificate of completion from the Michigan
13 youth challenge academy showing that the applicant has completed
14 that program, the court shall determine that the applicant's
15 circumstances and behavior warrant setting aside the adjudication.
16 If the court also determines that setting aside the adjudication or
17 adjudications is consistent with the public welfare, the court may
18 enter an order setting aside the adjudication as provided in this
19 subsection. Except as provided in subsection (10), the setting
20 aside of an adjudication under this section is a privilege and
21 conditional, and is not a right.

22 (10) If the person files an application with the court and he
23 or she otherwise meets all the requirements, notwithstanding
24 subsection (9), the court shall set aside the adjudication of a
25 person as follows:

26 (a) The person was adjudicated for an offense that if
27 committed by an adult would be a violation or an attempted
28 violation of section 413 of the Michigan penal code, 1931 PA 328,
29 MCL 750.413.

1 (b) The person was adjudicated for an offense that if
2 committed by an adult would be a violation or an attempted
3 violation of section 448, 449, or 450 of the Michigan penal code,
4 1931 PA 328, MCL 750.448, 750.449, and 750.450, or a local
5 ordinance substantially corresponding to section 448, 449, or 450
6 of the Michigan penal code, 1931 PA 328, MCL 750.448, 750.449, and
7 750.450, and he or she committed the offense as a direct result of
8 his or her being a victim of a human trafficking violation.

9 (11) Upon the entry of an order under this section, the
10 applicant is considered not to have been previously adjudicated,
11 except as provided in subsection (13) and as follows:

12 (a) The applicant is not entitled to the remission of any
13 fine, costs, or other money paid as a consequence of an
14 adjudication that is set aside.

15 (b) This section does not affect the right of the applicant to
16 rely upon the adjudication to bar subsequent proceedings for the
17 same offense.

18 (c) This section does not affect the right of a victim of an
19 offense to prosecute or defend a civil action for damages.

20 (d) This section does not create a right to commence an action
21 for damages for detention under the disposition that the applicant
22 served before the adjudication is set aside under this section.

23 (12) Upon the entry of an order under this section, the court
24 shall send a copy of the order to the arresting agency and the
25 department of state police.

26 (13) The department of state police shall retain a nonpublic
27 record of the order setting aside an adjudication for a juvenile
28 offense that would be a felony if committed by an adult and not
29 more than 2 juvenile offenses that would be misdemeanors if

1 committed by an adult or if there is no adjudication for a felony
2 if committed by an adult, not more than 3 adjudications for an
3 offense that would be a misdemeanor if committed by an adult and of
4 the record of the arrest, fingerprints, adjudication, and
5 disposition of the applicant in the case to which the order
6 applies. Except as provided in subsection (14), this nonpublic
7 record ~~shall~~**must** be made available only to a court of competent
8 jurisdiction, an agency of the judicial branch of state government,
9 a law enforcement agency, a prosecuting attorney, the attorney
10 general, or the governor upon request and only for the following
11 purposes:

12 (a) Consideration in a licensing function conducted by an
13 agency of the judicial branch of state government.

14 (b) Consideration by a law enforcement agency if a person
15 whose adjudication has been set aside applies for employment with
16 the law enforcement agency.

17 (c) To show that a person who has filed an application to set
18 aside an adjudication has previously had an adjudication set aside
19 under this section.

20 (d) The court's consideration in determining the sentence to
21 be imposed upon conviction for a subsequent offense that is
22 punishable as a felony or by imprisonment for more than 1 year.

23 (e) Consideration by the governor, if a person whose
24 adjudication has been set aside applies for a pardon for another
25 offense.

26 (14) A copy of the nonpublic record created under subsection
27 (13) ~~shall~~**must** be provided to the person whose adjudication is set
28 aside under this section upon payment of a fee determined and
29 charged by the department of state police in the same manner as the

1 fee prescribed in section 4 of the freedom of information act, 1976
2 PA 442, MCL 15.234.

3 (15) The nonpublic record maintained under subsection (13) is
4 exempt from disclosure under the freedom of information act, 1976
5 PA 442, MCL 15.231 to 15.246.

6 (16) Except as provided in subsection (13), a person, other
7 than the applicant, who knows or should have known that an
8 adjudication was set aside under this section, who divulges, uses,
9 or publishes information concerning an adjudication set aside under
10 this section is guilty of a misdemeanor.

11 **Sec. 18t. (1) Except as otherwise provided in this section, an**
12 **adjudication must be set aside under this section without filing an**
13 **application under section 18e 2 years after the termination of**
14 **court supervision or when the person becomes 18 years of age,**
15 **whichever is later.**

16 (2) Subsection (1) does not apply to an adjudication for an
17 offense described under section 18e(2).

18 (3) The attorney general and the prosecuting attorney who
19 prosecuted the offense shall not contest the setting aside of an
20 adjudication without an application under this section.

21 (4) Upon the entry of an order under this section, the person
22 is considered not to have been previously adjudicated, except as
23 provided in subsection (6) and as follows:

24 (a) The person is not entitled to the remission of any fine,
25 costs, or other money paid as a consequence of an adjudication that
26 is set aside.

27 (b) This section does not affect the right of the person to
28 rely upon the adjudication to bar subsequent proceedings for the
29 same offense.

1 (c) This section does not affect the right of a victim of an
2 offense to prosecute or defend a civil action for damages.

3 (d) This section does not create a right to commence an action
4 for damages for detention under the disposition that the person
5 served before the adjudication is set aside under this section.

6 (5) Upon the entry of an order under this section, the court
7 shall send a copy of the order to the arresting agency and the
8 department of state police.

9 (6) The department of state police shall retain a nonpublic
10 record of the order setting aside an adjudication for a juvenile
11 offense under this section and of the record of the arrest,
12 fingerprints, adjudication, and disposition of the person in the
13 case to which the order applies. Except as provided in subsection
14 (7), this nonpublic record must be made available only to a court
15 of competent jurisdiction, an agency of the judicial branch of
16 state government, a law enforcement agency, a prosecuting attorney,
17 the attorney general, or the governor upon request and only for the
18 following purposes:

19 (a) Consideration in a licensing function conducted by an
20 agency of the judicial branch of state government.

21 (b) Consideration by a law enforcement agency if a person
22 whose adjudication has been set aside applies for employment with
23 the law enforcement agency.

24 (c) The court's consideration in determining the sentence to
25 be imposed upon conviction for a subsequent offense that is
26 punishable as a felony or by imprisonment for more than 1 year.

27 (d) Consideration by the governor, if a person whose
28 adjudication has been set aside under this section applies for a
29 pardon for another offense.

1 (7) A copy of the nonpublic record created under subsection
2 (6) must be provided to the person whose adjudication is set aside
3 under this section upon payment of a fee determined and charged by
4 the department of state police in the same manner as the fee
5 prescribed in section 4 of the freedom of information act, 1976 PA
6 442, MCL 15.234.

7 (8) The nonpublic record maintained under subsection (6) is
8 exempt from disclosure under the freedom of information act, 1976
9 PA 442, MCL 15.231 to 15.246.

10 (9) Except as provided in subsection (6), a person, other than
11 the applicant, who knows or should have known that an adjudication
12 was set aside under this section, and who divulges, uses, or
13 publishes information concerning an adjudication set aside under
14 this section is guilty of a misdemeanor.