SETTING ASIDE CONVICTIONS (EXCERPT)
Act 213 of 1965

780.621 Application for order setting aside conviction; felony or misdemeanor conviction; setting aside of certain convictions prohibited; victim of human trafficking violation; definitions.

Sec. 1.

(1) Except as otherwise provided in this act, a person who is convicted of 1 or more criminal offenses may file an application with the convicting court for the entry of an order setting aside 1 or more convictions as follows:

(a) Except as provided in subdivisions (b) and (c), a person convicted of 1 or more criminal offenses, but not more than a total of 3 felony offenses, in this state, may apply to have all of the applicant's convictions from this state set aside.

(b) An applicant may not have more than a total of 2 convictions for an assaultive crime set aside under this act during the applicant's lifetime.

(c) An applicant may not have more than 1 felony conviction for the same offense set aside under this section if the offense is punishable by more than 10 years imprisonment.

(d) A person who is convicted of a violation or an attempted violation of section 520e of the Michigan penal code, 1931 PA 328, MCL 750.520e, before January 12, 2015 may petition the convicting court to set aside the conviction if the individual has not been convicted of another offense other than not more than 2 minor offenses. As used in this subdivision, "minor offense" means a misdemeanor or ordinance violation to which all of the following apply:

(i) The maximum permissible term of imprisonment does not exceed 90 days.

(ii) The maximum permissible fine is not more than $1,000.00.

(iii) The person who committed the offense is not more than 21 years old.

(2) A conviction that was deferred and dismissed under any of the following, whether a misdemeanor or a felony, is considered a misdemeanor conviction under subsection (1) for purposes of determining whether a person is eligible to have any conviction set aside under this act:

(a) Section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

(b) Section 1070(1)(b)(i) or 1209 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1070 and 600.1209.

(c) Section 13 of chapter II or section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 762.13 and 769.4a.

(d) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411.

(e) Section 350a or 430 of the Michigan penal code, 1931 PA 328, MCL 750.350a and 750.430.

(f) Any other law or laws of this state or of a political subdivision of this state similar in nature and applicability to those listed in this subsection that provide for the deferral and dismissal of a felony or misdemeanor charge.

(3) A person who is convicted of a violation of section 448, 449, or 450 of the Michigan penal code, 1931 PA 328, MCL 750.448, 750.449, and 750.450, or a local ordinance substantially corresponding to section 448, 449, or 450 of the Michigan penal code, 1931 PA 328, MCL 750.448, 750.449, and 750.450, may apply to have that conviction set aside if the person committed the offense as a direct result of the person being a victim of a human trafficking violation.

(4) As used in this act:

(a) "Assaultive crime" includes any of the following:

(i) A violation described in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.9a.

(ii) A violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90g, not otherwise included in subparagraph (i).

(iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b, or 411h(2)(a) of the Michigan penal code, 1931 PA 328, MCL 750.110a, 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, or 750.411h, or any other violent felony.

(iv) A violation of a law of another state or of a political subdivision of this state or of another state that substantially corresponds to a violation described in subparagraph (i), (ii), or (iii).

(b) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(c) "Felony" means either of the following, as applicable:

(i) For purposes of the offense to be set aside, felony means a violation of a penal law of this state that is punishable by imprisonment for more than 1 year or that is designated by law to be a felony.

(ii) For purposes of identifying a prior offense, felony means a violation of a penal law of this state, of another state, or of the United States that is punishable by imprisonment for more than 1 year or is designated by law to be a felony.

(d) "First violation operating while intoxicated offense" means a violation of any of the following committed by an individual who at the time of the violation has no prior convictions for violating section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625:

(i) Section 625(1), (2), (3), (6), or (8) of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(ii) A local ordinance substantially corresponding to a violation listed in subparagraph (i).

(iii) A law of an Indian tribe substantially corresponding to a violation listed in subparagraph (i).

(iv) A law of another state substantially corresponding to a violation listed in subparagraph (i).

(v) A law of the United States substantially corresponding to a violation listed in subparagraph (i).

(e) "Human trafficking violation" means a violation of chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h, or of former section 462i or 462j of that act.

(f) "Indian tribe" means an Indian tribe, Indian band, or Alaskan native village that is recognized by federal law or formally acknowledged by a state.

(g) "Misdemeanor" means a violation of any of the following:

(i) A penal law of this state, another state, an Indian tribe, or the United States that is not a felony.

(ii) An order, rule, or regulation of a state agency that is punishable by imprisonment for not more than 1 year or a fine that is not a civil fine, or both.

(iii) A local ordinance of a political subdivision of this state substantially corresponding to a crime listed in subparagraph (i) or (ii) that is not a felony.

(iv) A violation of the law of another state or political subdivision of another state substantially corresponding to a crime listed under subparagraph (i) or (ii) that is not a felony.

(v) A violation of the law of the United States substantially corresponding to a crime listed under subparagraph (i) or (ii) that is not a felony.

(h) "Operating while intoxicated" means a violation of any of the following that is not a first violation operating while intoxicated offense:

(i) Section 625 or 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m.

(ii) A local ordinance substantially corresponding to a violation listed in subparagraph (i).

(iii) A law of an Indian tribe substantially corresponding to a violation listed in subparagraph (i).

(iv) A law of another state substantially corresponding to a violation listed in subparagraph (i).

(v) A law of the United States substantially corresponding to a violation listed in subparagraph (i).

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

(j) "Victim" means that term as defined in sections 2, 31, and 61 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.752, 780.781, and 780.811.

(k) "Violent felony" means that term as defined in section 36 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

History: 1965, Act 213, Imd. Eff. July 16, 1965 ;-- Am. 1982, Act 495, Eff. Mar. 30, 1983 ;-- Am. 1993, Act 342, Eff. May 1, 1994 ;-- Am. 1996, Act 573, Eff. Apr. 1, 1997 ;-- Am. 2002, Act 472, Eff. Oct. 1, 2002 ;-- Am. 2011, Act 64, Imd. Eff. June 23, 2011 ;-- Am. 2014, Act 335, Eff. Jan. 14, 2015 ;-- Am. 2014, Act 463, Imd. Eff. Jan. 12, 2015 ;-- Am. 2016, Act 336, Eff. Mar. 14, 2017 ;-- Am. 2020, Act 191, Eff. Apr. 11, 2021 ;-- Am. 2021, Act 78, Eff. Feb. 19, 2022 ;-- Am. 2023, Act 205, Eff. Feb. 13, 2024