

Application to Set Aside a Conviction (Expungement)

Form included in this packet:

1. Application to Set Aside Conviction (MC 227)



Instructions for Application to set aside a Conviction or also Known as an Expungement

Self Help Legal Resource Center
811 Port Street, St. Joseph, MI 49085 • 269.983.7111
1205 N. Front Street, Niles, MI 49120 • 269.684.5274 Ext. 6202

Read the Instructions and complete the Application Checklist – Very Important

You may not apply until 5 years have passed since the date you were sentenced for the conviction if you were not imprisoned, or 5 years have passed since release from a term of imprisonment for the conviction, if you were imprisoned.

You may not have more than 2 other convictions for minor offenses only, committed when you were less than 22 years of age.

“Minor offense” means a misdemeanor or ordinance violation for which the maximum permissible imprisonment does not exceed 90 days, for which the maximum permissible fine does not exceed \$1,000.00, and that is committed by a person who is not more than 21 years of age. (Example are Disturbing the Peace, Minor in Possession, Trespassing).

1. Obtain a Criminal Records Check from the Trial Court Misdemeanor Division or from the County Clerk's Office - Circuit Court Felony Division. (There is a fee of \$11.00)
2. Obtain Fingerprints from the Berrien County Sheriffs Department or any other police department of your choice. (There is a fee from \$5.00 - \$15.00)
3. Money Order or Check for the Michigan State Police in the amount of \$50.00. (Money Order or Check Need to be made out to the **State of Michigan** – See the back of the Application.



AMENDMENTS TO SET ASIDE CONVICTION STATUTES

Self Help Legal Resource Center

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PA 463 of 2014 amends MCL 780.621 and 780.623, affecting applications to set aside convictions. Except for (7), the statutory changes to MCL 780.621 allow a person who was convicted of not more than 1 felony and not more than 2 misdemeanors to set aside the felony or allow a person who was convicted of not more than 2 misdemeanors and no other felony or misdemeanor offenses to have one or both misdemeanors set aside. MCL 780.621(1)(a), (b). Further, the amendments permit victims of human trafficking to have select prostitution offenses set aside if he or she committed the offense because they were a victim of human trafficking. MCL 780.621(4). The amendments require a conviction that was deferred and dismissed to be considered a misdemeanor for purposes of eligibility and expand the list of convictions that cannot be set aside. MCL 780.621(2), (3).

The timeframe for making an application to set aside conviction has also changed. The application may be filed 5 or more years after whichever of the following events occurred last: imposition of sentence, completion of probation, discharge from parole, or completion of a term of imprisonment. MCL 780.621(5). However, in the case of prostitution offenses committed as a result of the applicant being a victim of human trafficking, the application may be filed at any time following the conviction to be set aside. MCL 780.621(7).

If an application is denied, the applicant is prohibited from filing another application for 3 years unless the court specifies an earlier date in the order denying the petition. MCL 780.621 (6).

The application must now include a certified record of each conviction to be set aside and a list of all actions that have been deferred and dismissed. MCL 780.621 (8)(b),(d). The applicant only needs to submit 1 set of fingerprints to the department of state police. MCL 780.621(9).

If the applicant is seeking to have a conviction or convictions set aside pursuant to subsection (4) (victims of human trafficking), the application must include a statement that he or she meets the criteria under that section and a statement of the facts supporting the contention that the conviction was a direct result of being a victim of human trafficking. MCL 780.621 (8)(g). Further, these applicants must prove to the court, by a preponderance of the evidence, that the conviction was a direct result of his or her being a victim of human trafficking. MCL 780.621 (13).

The definition section of 780.621(16) was expanded to define more terms as used within the statute.

MCL 780.623 now includes the department of corrections in the list of entities that may have access to the nonpublic record retained by the department of state police for the specific purposes listed in subsections (2)(a)-(f). MCL 780.623(2).

Additionally, the victim is now exempt from the criminal penalty for disclosing information concerning an expunged conviction. MCL 780.623(5).

Below is a quick reference chart that highlights the changes to the statutes in bold. The first column represents the manner in which convictions were set aside under the former statutes and the second column indicates the manner in which convictions are set aside under the amended statutes.

Former	Current (PA 463 of 2014)
<p>A person who is convicted of not more than 1 offense (and 2 minor offenses) may file an application for the entry of an order setting aside the conviction.</p> <p>MCI 780.621(1)</p>	<p>A person who is convicted of not more than 1 offense may file an application for the entry of an order setting aside 1 or more convictions as follows:</p> <ul style="list-style-type: none"> (a) A person convicted of not more than 1 felony and not more than 2 misdemeanors may petition to set aside the felony. (b) A person convicted of not more than 2 misdemeanor offenses may petition to set aside 1 or both misdemeanors. (c) A person convicted of CSC 4 (MCL 750.520e) before 1/12/15 may petition to set aside the conviction if the individual has not been convicted of another offense, other than 2 minor offenses. <p>MCL 780:621(1)</p>
	<p>A conviction that was deferred and dismissed¹, whether a felony or misdemeanor, will be considered a misdemeanor conviction for purposes of determining whether a person is eligible to have a conviction set aside.</p> <p>MCL 780.621(2)</p>
<p>A judge shall not set aside a conviction for any of the following:</p> <ul style="list-style-type: none"> (a) A felony (or attempted felony) where the maximum punishment is life imprisonment. (b) A violation (or attempt violation) of child sexually abusive activity or material², using a computer to solicit a minor³, CSC 2nd degree⁴, CSC 3rd degree⁵, and assault with intent to commit CSC involving penetration⁶. (c) A traffic offense <p>MCL 780.621(3)</p>	<p>A judge shall not set aside a conviction for any of the following:</p> <ul style="list-style-type: none"> (a) A felony (or attempted felony) where the maximum punishment is life imprisonment. (b) A violation (or attempted violation) of child sexually abusive activity or material, using a computer to solicit a minor, CSC 2nd degree, CSC 3rd degree, assault with intent to commit CSC involving penetration, child abuse in 2nd degree⁷, and child abuse in the presence of another child⁸. (c) A violation for CSC 4th degree⁹ if the conviction occurred after the effective date of the amendment. (d) A traffic offense, including Operating While Intoxicated. (e) A felony conviction for domestic violence, if the person has a previous misdemeanor conviction for domestic violence. (f) A violation for human trafficking¹⁰. <p>MCL 780.621(3)</p>

¹ Under MCI 436.1703 (Minor In Possession); MCL 600.170 (Drug Court); MCL 600.1209 (Veteran Treatment Court); MCL 762.13 (Holmes Youthful Trainee Act); MCL 769.4a (Domestic Violence); MCL 333.7411 (Controlled Substances); MCL 750.350a (Parental Kidnapping); MCL 750.430 (Licensed Health Care Professional); or any other law of this state or political subdivision similar in nature and applicability that provide for the deferral or dismissal of a felony or misdemeanor charge.

² MCL 750.145c

³ MCL 750.145d

⁴ MCL 750.520c

⁵ MCL 750.520d

⁶ MCL 750.520g

⁷ MCL 750.136(b)(3)

⁸ MCL 750.136d(1)(b) or (c)

⁹ MCL 750.520e

¹⁰ MCL 750.462A to 750.462I and 750.543A to 750.543Z

Former	Current (PA 463 of 2014)
	<p>A person who is convicted of a prostitution offense¹¹ may apply to have that conviction or convictions set aside at any time following conviction if he or she committed the offense as a direct result of his or her being a victim of human trafficking.</p> <p>MCL 780.621(4) & (7)</p>
<p>An application shall not be filed until at least 5 years following imposition of the sentence for the conviction that the applicant seeks to set aside or 5 years following completion of any term of imprisonment for that conviction, whichever occurs later. MCL 780.621(3)</p>	<p>An application shall only be filed 5 or more years after whichever of the following events occur last:</p> <ul style="list-style-type: none"> (a) Imposition of the sentence for the conviction that the applicant seeks to set aside. (b) Completion of probation imposed for the conviction that the applicant seeks to set aside. (c) Discharge from prole imposed for the conviction that the applicant seeks to set aside. (d) Completion of any term of imprisonment imposed for the conviction that the applicant seeks to set aside. <p>(MCL 780.621(5))</p>
	<p>If a petition is denied, a person shall not file another petition concerning the same conviction until 3 years after the date the court denies the previous petition, unless the court specifies an earlier date.</p> <p>MCL 780.621(6)</p>
<p>The application is invalid unless it contains the following information and is signed under oath by the person whose conviction is to be set aside:</p> <ul style="list-style-type: none"> (a) The full name and current address of the applicant. (b) A certified record of the conviction that is to be set aside. (c) A statement that the applicant has not been convicted of an offense other than the conviction sought to be set aside as a result of this application, and not more than 2 minor offenses, if applicable. (d) A statement as to whether the applicant has previously filed an application to set aside this or any other conviction and, if so, the disposition of the application. (e) A statement as to whether the applicant has any other criminal charge pending against him or her in any court in the United State or in any other country. (f) A consent to the use of the nonpublic record created under section 3. <p>MCL 780.621(4)</p>	<p>An application is invalid unless it contains the following information and is signed under oath by the person whose conviction or convictions are to be set aside:</p> <ul style="list-style-type: none"> (a) The full name and current address of the applicant. (b) A certified record of the conviction that is to be set aside. (c) A statement that the applicant has not been convicted of an offense other than the conviction(s) sought to be set aside as a result of this application, and any nondisqualifying misdemeanor convictions described in subsection (1)(A). (d) A statement listing all actions enumerated in subsection 2 that were initiated against the applicant and have been dismissed. (e) A statement as to whether the applicant has previously filed an application to set aside this or other convictions and, if so, the disposition of the application. (f) A statement as to whether the applicant has any other criminal charge pending against him or her in any court in the United States or in any other country. (g) If setting aside subsection (4), a statement that the applicant meets the criteria of subsection (4) and a statement of the facts supporting his or her contention that the conviction was a direct result of his or her being a victim of human trafficking.

¹¹ Under MCL 750.448, MCL 750.449, or MCL 750.450

Former	Current (PA 463 of 2014)
	(h) A consent to the use of the nonpublic record created under section 3. MCL 780.621(8)
<p>Definitions included:</p> <ul style="list-style-type: none"> (a) Assaultive crime (b) Minor offense (c) Serious misdemeanor (d) Victim <p>MCL 780.621(10)</p>	<p>Definitions included:</p> <ul style="list-style-type: none"> (a) Assaultive crime (b) Domestic violence (c) Felony (d) Human Trafficking (e) Indian Tribe (f) Misdemeanor (g) Operating While Intoxicated (h) Serious misdemeanor (i) Victim <p>MCL 780.621(16)</p>
<p>The nonpublic record shall be made available only to a court of competent jurisdiction, an agency of the judicial branch of state government, a law enforcement agency, a prosecuting attorney, the attorney general, or the governor upon request.</p> <p>MCL 780.623(2)</p>	<p>The nonpublic record shall be made available only to a court of competent jurisdiction, an agency of the judicial branch of state government, the department of corrections, a law enforcement agency, a prosecuting attorney, the attorney general, or the governor upon request, for the specific purposes as outlined in (2)(a) through (f).</p> <p>MCL 780.623(2)</p>
<p>Except as provided in subsection (2), a person, other than the applicant, who knows or should have known that a conviction was set aside under this section and who divulges, uses, or publishes information concerning a conviction set aside under this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.</p> <p>MCL 780.623(5)</p>	<p>Except as provided in subsection (2), a person, other than the applicant or a victim¹², who knows or should have known that a conviction was set aside under this section and who divulges, uses, or publishes information concerning a conviction set aside under this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$50000, or both.</p> <p>MCL 780.623(5)</p>

¹² Defined in MCL 780.623(6)

STATE OF MICHIGAN 5TH JUDICIAL DISTRICT 2ND JUDICIAL CIRCUIT BERRIEN COUNTY	APPLICATION TO SET ASIDE CONVICTION	CASE NO.
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ORI	Address	Phone No.
MI-	<input type="checkbox"/> Berrien County Courthouse, 811 Port Street, St. Joseph, MI 49085-1188 (269) 982-8683 <input type="checkbox"/> South County Building, 1205 North Front Street, Niles, MI 49120-1699..... (269) 684-5274	

Police Report No. _____

THE PEOPLE OF The State of Michigan

V

Defendant's name, address, and telephone no.		
CTN/CN	SID	DOB
Defendant's attorney, bar no., address, and telephone no.		

1. On _____ I was convicted of _____. A certified copy of the conviction is attached.
 Date _____ Offense _____
2. **I request** that the court issue an order to set aside the above conviction as provided by law. I consent to the use of the nonpublic record created by MCL 780.623 to the extent authorized by MCL 780.623.
3. No other application has been filed to set aside this conviction. **OR**
 An application was previously filed to set aside this conviction on _____. The application was disposed
 Date _____
 of as follows: _____
4. No other application has been filed to set aside another conviction. **OR**
 An application was previously filed in this court the _____ Court to set aside a
 conviction for _____, in addition to the conviction in item 1. The application was disposed
 of as follows: _____
5. At least five years have passed since sentence was imposed or discharge from imprisonment, probation, or parole for this conviction, whichever is later.
6. I have not had any convictions deferred and dismissed. I have had the following conviction(s) deferred and dismissed:

7. There are no other criminal charges pending against me. There are criminal charges pending against me in the
 _____ Court, case number _____.
8. I have not been convicted of more than one felony and two misdemeanors as defined in MCL 780.621.

Applicant signature

Subscribed and sworn to before me on _____, _____ County, Michigan.
Date

My commission expires: _____ Signature: _____
Date Deputy Clerk/Notary public

Notary public, State of Michigan, County of _____

The hearing cannot be held until the court receives the Michigan State Police report required by MCL 780.621(9).

NOTICE OF HEARING

TO: Michigan Attorney General and _____
Prosecuting official

A hearing will be held on the above application to set aside conviction on _____ at _____
Date Time

at _____ before _____
Location Judge Bar no.

PROOF OF SERVICE

I certify that copies of this application, certified record of conviction, and notice of hearing were served on the

prosecuting official on _____ by first-class mail addressed to the last-known address.
Date

Attorney General on _____ by first-class mail addressed to the last-known address.
Date

I certify that copies of this application, certified record of conviction, and the fingerprint card, accompanied by the required fee, were served on the Michigan State Police on _____ by first-class mail
Date
addressed to the last-known address.

Date

Applicant signature

INSTRUCTIONS

For additional instructions and an online interview that will help you create forms, go to michiganlegalhelp.org.

1. Determine whether you are eligible to apply to have your conviction set aside according to MCL 780.621. You must complete a separate application for each conviction if you are applying to have more than one conviction set aside.
2. Find out the exact date of conviction and the charge from the court. Get a certified copy of the adjudication and attach it to your application.
3. Swear to the truth of the statements in this application and then sign it in the presence of the court clerk or a notary public.
4. Make four copies of all attachments and this application. Take all copies to the court clerk.
5. Depending on local practice, the clerk of the court may set a hearing date at the time of filing. If a hearing date is set at the time of filing, the clerk of the court will complete the Notice of Hearing.
6. Go to the local law enforcement agency for a fingerprint card and get fingerprinted on the applicant card (RI-8). There may be a fee for fingerprinting. Fill out the card completely.
7. Make out a money order or check to the State of Michigan for the application. The application fee is \$50.00. This fee is sent with the application packet to the Michigan State Police for processing.
8. Mail a copy of the application packet, application fee, and the fingerprint card to the Michigan State Police by first-class mail to Michigan State Police, Criminal Justice Information Center - Criminal History, PO Box 30266, Lansing, Michigan 48909.
9. Mail a copy of the application packet to the Attorney General of the State of Michigan by first-class mail to Office of the Attorney General, Criminal Appellate Division, PO Box 30217, Lansing, Michigan 48909.
10. Mail a copy of the application packet to the correct prosecuting official where the conviction occurred (county, city, or township) by first-class mail. See www.michiganprosecutor.org/about-us-menu/prosecutor-directory for the addresses of county prosecutors.
11. On both copies of the application, fill in the Proof of Service on the back of the form. After you fill out and sign the Proof of Service, mail or take one of the remaining application packets with the completed Proof of Service to the court. Keep the other copy of the application packet for your records.

The hearing cannot be held until the court receives the Michigan State Police report required by MCL 780.621(9).

NOTICE OF HEARING

TO: Michigan Attorney General and

Prosecuting official

A hearing will be held on the above application to set aside conviction on

at _____
Date _____
Time _____

at _____
Location _____
before _____
Judge _____
Bar no. _____

PROOF OF SERVICE

I certify that copies of this application, certified record of conviction, and notice of hearing were served on the

prosecuting official on _____
Date _____
by first-class mail addressed to the last-known address.

Attorney General on _____
Date _____
by first-class mail addressed to the last-known address.

I certify that copies of this application, certified record of conviction, and the fingerprint card, accompanied by the

required fee, were served on the Michigan State Police on _____
Date _____
by first-class mail

addressed to the last-known address.

INSTRUCTIONS

For additional instructions and an online interview that will help you create forms, go to michiganlegalhelp.org.

1. Determine whether you are eligible to apply to have your conviction set aside according to MCL 780.621. You must complete a separate application for each conviction if you are applying to have more than one conviction set aside.

2. Find out the exact date of conviction and the charge from the court. Get a certified copy of the adjudication and attach it to your application.

3. Swear to the truth of the statements in this application and then sign it in the presence of the court clerk or a notary public.

4. Make four copies of all attachments and this application. Take all copies to the court clerk.

5. Depending on local practice, the clerk of the court may set a hearing date at the time of filing. If a hearing date is set at the time of filing, the clerk of the court will complete the Notice of Hearing.

6. Go to the local law enforcement agency for a fingerprint card and get fingerprinted on the applicant card (RI-8).

There may be a fee for fingerprinting. Fill out the card completely.

7. Make out a money order or check to the State of Michigan for the application. The application fee is \$50.00. This fee is sent with the application packet to the Michigan State Police for processing.

8. Mail a copy of the application packet, application fee, and the fingerprint card to the Michigan State Police by first-class mail to Michigan 48909.

9. Mail a copy of the application packet to the Attorney General of the State of Michigan by first-class mail to Office of the Attorney General, Criminal Appellate Division, PO Box 30217, Lansing, Michigan 48909.

10. Mail a copy of the application packet to the correct prosecuting official where the conviction occurred (county, city, or township) by first-class mail. See www.michiganprosecutor.org/about-us-menu/prosecutor-directory for the addresses of county prosecutors.

11. On both copies of the application, fill in the Proof of Service on the back of the form. After you fill out and sign the Proof of Service, mail or take one of the remaining application packets with the completed Proof of Service to the court. Keep the other copy of the application packet for your records.