

Expunging Adult Convictions

<u>MCL 780.621</u> is the relevant statute that sets forth expungement criteria for adult convictions:

- a. Two Amendments to MCL 780.621 occurred in 2011:
- MCL 780.621(1) expanded expungement eligibility with the following language: “A person who is otherwise eligible to file an application under this section is not rendered ineligible by virtue of being convicted of not more than 2 minor offenses in addition to the offense for which the person files an application.”
 - This amendment allows a person with up to 3 offenses to become expungement eligible if at least 2 of those offenses are “minor offenses,” which is defined as “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.” MCL 780.621(10)(b).
 - MCL 780.621(2) expanded the list of non-eligible expungement offenses to include MCL 750.145(c) and (d).

A person is eligible for expungement if <u>all</u> of the following are true:
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- a. A person is convicted of no more than 3 offenses and at least 2 of those offenses are for “minor offenses” as defined above. MCL 780.621(1).
- b. The conviction to be set aside does *not* have a possible maximum punishment of life imprisonment (regardless of the actual sentence). MCL 780.621(2).
- c. The conviction to be set aside was *not* a violation or attempted violation of [MCL 750.145c](#), [750.145d](#), [750.520c](#), [750.520d](#), or [750.520g](#), or a traffic offense. MCL 780.621(2).
- d. At least 5 years has passed from the imposition of the sentence for the conviction to be set aside or 5 years after the completion of any term of imprisonment for that conviction, whichever is later. MCL 780.621(3).

A person can file for expungement by:
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- a. Filing an Application to Set Aside Conviction, with the court clerk. Application found here: <http://courts.michigan.gov/scao/courtforms/generalcriminal/mc227.pdf>
 - The following must be included with your application: (a) a certified copy of either the judgment of sentence, probation or register of actions, (b) a statement that the applicant meets the eligibility criteria, (c) a statement as to whether the applicant has previously filed an application to set aside any conviction, and if so, the outcome of that application, (d) a statement as to whether the applicant has any other criminal charge pending against him or her. MCL 780.621(4)(b-e).

A copy of the application must also be sent to:

- a. The Michigan State Police. Along with two complete sets of fingerprints and a \$50 processing fee (payable to the State of Michigan). Mailed to: Michigan State Police, CRD, Identification Section, PO Box 30634, Lansing, MI 48909.
- b. The Attorney General. Mailed to: Office of the Attorney General, Corrections Division, PO Box 30217, Lansing, Michigan 48909
- c. The office of the county prosecuting attorney who prosecuted the crime.

A couple of things to note:

- a. The Attorney General and county prosecutor will be given an opportunity to contest the application.
- b. If the conviction was for an assaultive crime or serious misdemeanor, the prosecuting attorney is obligated to notify the victim of the application. The victim has the right to appear at the expungement proceeding and to make an oral or written statement. MCL 780.621 (7).
- c. Multiple convictions or counts stemming from one incident or one court case count as multiple convictions.
- d. Even if one meets all of the criteria for expungement, the court still has discretion on whether to grant an expungement.
- e. The MDOC will expunge records if it receives a TRUE COPY of the expungement order. True copies can be sent to: Michigan Department of Corrections Records Administration Attn: Sandy Grant 4000 Cooper Street Jackson, MI 49203 517-780-6874.