



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 400 (as introduced 4-28-21)
Sponsor: Senator Ed McBroom
Committee: Judiciary and Public Safety

Date Completed: 4-28-21

CONTENT

The bill would amend Public Act (PA) 213 of 1965, which provides for setting aside convictions in certain criminal cases, to prescribe the time period in which an application to set aside a conviction for a first violation operating while intoxicated (OWI) offense would have to be filed.

Section 1 of PA 213 allows a person who is convicted of one or more criminal offenses to file an application with the convicting court for the entry of an order setting aside one or more certain criminal convictions.

Under the bill, an application under Section 1 to set aside one first violation OWI offense would have to be filed only five or more years after whichever of the following events occurred last:

- Imposition of the sentence for the conviction or convictions that the applicant sought to set aside.
- Completion of probation imposed for the conviction or convictions that the applicant sought to set aside.
- Discharge from parole imposed for the conviction that the applicant sought to set aside, if applicable.
- Completion of any term of imprisonment imposed for the conviction or convictions that the applicant sought to set aside.

The bill is tie-barred to House Bills 4219 and 4220. (Taken together, those bills would allow the setting aside of a conviction for a first violation OWI offense under certain circumstances.) The bill would take effect 180 days after its enactment.

MCL 780.621d

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have an indeterminate, though likely negative, fiscal impact on local courts. Additional costs likely would come from an increase in the number of expungement filings for a first violation OWI offense. The number of increased filings is indeterminate and any additional costs would have to be absorbed by local court systems.

There are several fees associated with the expungement process (\$50 to the Department of State Police (MSP) for a background check, \$10 to \$15 to MSP for fingerprints, and \$10 to the Internet Criminal History Access Tool), but none of these fees go to a Judiciary restricted

fund. Expungement hearings typically do not take very long; however, a large increase in these hearings could increase costs for courts in the form of administrative costs and hearing times.

Fiscal Analyst: Michael Siracuse

SAS\S2122\s400sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.