

HOUSE BILL NO. 5916

March 16, 2022, Introduced by Reps. Steven Johnson, LaGrand, Sowerby, Calley, Aiyash, Bolden, Rabhi, Stone, Kuppa, Brixie, Brenda Carter, Ellison, Hood, Hope, Cambensy, Steenland, Breen, Brann and Yancey and referred to the Committee on Judiciary.

A bill to amend 1965 PA 213, entitled

"An act to provide for setting aside the conviction in certain criminal cases; to provide for the effect of such action; to provide for the retention of certain nonpublic records and their use; to prescribe the powers and duties of certain public agencies and officers; and to prescribe penalties,"

by amending section 2 (MCL 780.622), as amended by 2020 PA 193.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) Upon the entry of an order under section 1 or 1e,
2 or upon the automatic setting aside of a conviction under section
3 1g, the applicant, for purposes of the law, is considered not to

1 have been previously convicted, except as provided in this section
2 and section 3. **The department of the attorney general shall provide**
3 **notice to an individual whose conviction was set aside**
4 **automatically under section 1g. The notice required under this**
5 **subsection must be in writing and provided not later than 45 days**
6 **after the conviction is set aside by mail sent to the individual's**
7 **last known mailing address.**

8 (2) The applicant is not entitled to the remission of any
9 fine, costs, or other money paid as a consequence of a conviction
10 that is set aside.

11 (3) If the conviction set aside under section 1(1), 1e, or 1g
12 is for a listed offense as defined in section 2 of the sex
13 offenders registration act, 1994 PA 295, MCL 28.722, the applicant
14 is considered to have been convicted of that offense for purposes
15 of that act.

16 (4) This act does not affect the right of the applicant to
17 rely upon the conviction to bar subsequent proceedings for the same
18 offense.

19 (5) This act does not affect the right of a victim of a crime
20 to prosecute or defend a civil action for damages.

21 (6) This act does not create a right to commence an action for
22 damages for incarceration under the sentence that the applicant
23 served before the conviction is set aside under this act.

24 (7) This act does not relieve any obligation to pay
25 restitution owed to the victim of a crime nor does it affect the
26 jurisdiction of the convicting court or the authority of any court
27 order with regard to enforcing an order for restitution.

28 (8) A conviction, including any records relating to the
29 conviction and any records concerning a collateral action, that has

1 been set aside under this act cannot be used as evidence in an
2 action for negligent hiring, admission, or licensure against any
3 person.

4 (9) A conviction that is set aside under section 1, 1e, or 1g
5 may be considered a prior conviction by court, law enforcement
6 agency, prosecuting attorney, or the attorney general, as
7 applicable, for purposes of charging a crime as a second or
8 subsequent offense or for sentencing under sections 10, 11, and 12
9 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
10 769.10, 769.11, and 769.12.

11 (10) As used in this section, "applicant" includes an
12 individual who has applied under this act to have his or her
13 conviction or convictions set aside and an individual whose
14 conviction or convictions have been set aside without an
15 application under section 1g.