

IS YOUR CRIMINAL RECORD HOLDING YOU BACK?

Tips on How to Expunge Your Criminal Record in Michigan

**Revised and updated in April 2008 by:
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This publication is not intended to replace the advice of an attorney.
Because laws and procedures on expungement can change, and because every individual's situation
is different, Legal Aid of Western Michigan cannot ensure that the information in this manual is current,
nor be responsible for any use to which this information is put.

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WHAT IS AN EXPUNGEMENT?

Expunging your criminal record means that your prior conviction is set aside. If you have a conviction expunged, you are considered not to have been convicted for most purposes. For example, you can honestly tell potential employers that you have a clean criminal record. Your conviction can only be used for very limited purposes, such as increasing your sentence if you are convicted of a new offense. An expunged conviction is not supposed to appear on your rap sheet. If it does, contact an attorney.

Getting your criminal record expunged can make it much easier for you to get a job, housing, or credit. Many employers won't hire you if you have a criminal record. Many landlords won't rent to you. And a criminal record may prevent you from getting subsidized housing or public benefits. If you have a criminal record, you probably already know how much harder it makes many things in life. If you can get your record expunged, the law treats you – in most cases – as if you had never been convicted.

This packet will only help you to expunge a MICHIGAN criminal conviction. If you have a conviction from another state, you must contact an attorney in that state, since every state has different laws about expungement. **If you have a federal conviction, you cannot get an expungement.** However, you can apply for a pardon.

HOW DO I KNOW IF I CAN GET AN EXPUNGEMENT?

Both adult convictions and juvenile cases can be expunged. However, many people cannot get their criminal records expunged. To be eligible for an expungement, you must meet very specific criteria.

To see if you are eligible to expunge an adult conviction or juvenile case in the state of Michigan, take the test below. *If you answer **no** to **all** of the questions, you may be eligible for an expungement.* If you have convictions in another state, or if you have a federal conviction, different rules will apply. If, after taking the test, you are unsure whether you can get an expungement, you should consult an attorney.

1. Do you have more than one adult criminal conviction or more than one juvenile case?

Yes: You *CANNOT* get your criminal record expunged. You *CANNOT* get an expungement if you have two or more felonies. You *CANNOT* get an expungement if you have two or more misdemeanors. You *CANNOT* get an expungement if you have one felony and one or more misdemeanors. You can only have one case total. Out-of-state and federal convictions count towards the total.

No: You *may* be able to get your record expunged. *Go on to question 2.*

Notes: Before you file for an expungement, get a copy of your criminal record and check it carefully to make sure there is only one conviction. You can get a copy of your record using the Internet Criminal History Access Tool (ICHAT):

<http://apps.michigan.gov/ICHAT/home.aspx>. A search costs \$10, or click on “FAQs” for information about how to get your record for free. ICHAT shows only Michigan convictions.

Some very minor offenses, like speeding tickets are not convictions. However, many driving offenses, like driving on a suspended license, are misdemeanors, and therefore count as convictions. Remember, if you have more than one conviction, even if your conviction is very minor, you cannot get an expungement. If you are not sure whether your case counts as a conviction, contact an attorney or the court.

Sometimes people have more than one conviction in the same case. For example, if the cops arrested you for driving on a suspended license and then found pot in your car, you could have convictions both for driving on a suspended license and for possession. Even though you only got arrested once, and only went to court for that one case, if you were convicted on both the suspended license and the possession charges, you have two convictions. Therefore, you cannot get an expungement.

If you have only one adult conviction and also have juvenile cases, or if you have only one juvenile case and also have adult convictions, you should consult an attorney to find out if you can get an expungement.

2. Were you convicted of a felony or an attempt to commit a felony that is punishable by life imprisonment?

Yes: You *CANNOT* get your criminal record expunged.

No: You *may* be able to get your record expunged. *Go on to question 3.*

Notes: It does not matter whether or not you were sentenced to life imprisonment. The question is whether you could **have gotten a life sentence** for your crime. For example, if you received a ten-year sentence, but you *could have* gotten a life sentence, you cannot get an expungement.

If you were tried as a juvenile, the question is whether your crime was one that, if committed by an adult, would carry a maximum life sentence. Even if you were tried as a juvenile, if you could have gotten a life sentence if you had been tried as an adult, then you cannot get your juvenile record expunged. If you do not know what the maximum sentence was for your crime, consult an attorney.

3. Were you convicted of felony criminal sexual conduct (first, second, or third degree), or assault with intent to commit criminal sexual conduct?

Yes: You *CANNOT* get your criminal record expunged.

No: You *may* be able to get your record expunged. *Go on to question 4.*

Notes: You may be eligible for an expungement if you were convicted of misdemeanor criminal sexual conduct. If you have a juvenile record for criminal sexual conduct, consult an attorney.

4. Were you convicted of or adjudicated for a traffic offense, or a non-traffic offense reportable to the Secretary of State?

Yes: You *CANNOT* get your criminal record expunged.

No: You *may* be able to get your record expunged. *Go on to question 5.*

Notes: In general, “traffic offenses” involve the operation of a motor vehicle and are contained within a special section of the law called the Motor Vehicle Code. If you are unsure whether your conviction is for a “traffic offense,” consult an attorney.

Certain offenses that don’t involve motor vehicles may still be reported to the Secretary of State and can affect your driver’s license. For example, if you are convicted of certain drug offenses, you can have your license suspended. *If your conviction affected your driver’s license, contact an attorney to find out if you can get an expungement.*

5. Has it been less than five years since the date of your conviction or adjudication?

Yes: You *CANNOT* get your criminal record expunged *now*. You must wait until five years have passed from the date of your conviction or from the date of the disposition in your juvenile case. You may be able to get an expungement once the five years are up.

No: You *may* be able to get your record expunged. *Go on to question 6.*

6. If you were imprisoned, has it been less than five years since you were released?

Yes: You *CANNOT* get your criminal record expunged *now*. You must wait until five years have passed from the date of your release from prison or jail. You may be able to get an expungement once the five years are up.

No: You *may* be able to get your record expunged. *Go on to question 7.*

7. If you are applying to set aside a juvenile case, are you under 24?

Yes: You *CANNOT* get your juvenile case expunged now. You must wait until you are at least 24 to apply for an expungement.

No: You *may* be able to get your record expunged. See the instructions below on how to expunge you record.

If you can answer *no* to *all* seven questions above,
you should try to get an expungement (see next page).

If you answered *yes* to *any* of the questions above,
see page 12 (What if I can’t get an expungement?).

HOW DO I GET AN EXPUNGEMENT?

In order to apply for an expungement, you must file an application with the court that decided your case. This usually means that you go back in front of the judge who sentenced you. You can find out what judge is assigned to your case by calling the court.

To file your expungement application, you can either use an attorney, or you can file on your own. The process is fairly simple. If you can follow all the steps outlined in this packet, you may not need an attorney. However, if after reading this packet you think you need assistance, you should contact an attorney. It is also recommended that you hire an attorney if (1) you still owe restitution; (2) your crime was a sex crime or was particularly serious; (3) your offense affected your driver's license; (4) the prosecutor or attorney general or victim files an objection to your expungement request; or (5) the State Police say you are not eligible for an expungement and you think that you are eligible.

A. Finding an Attorney

You should hire an attorney who has experience handling expungement cases in the court where you were convicted. Contact the Michigan State Bar Lawyer Referral Service at 1-800-968-0738 for a referral to an attorney who works in that county.

If you cannot afford an attorney, call the Legal Aid office in the county where you were convicted to see if you are eligible for free legal help. Some, but not all, Legal Aid offices provide help with expungements. To find the Legal Aid office in the county of your conviction, look in your phone book, go to www.michiganlegalaid.org, or call the Counsel and Advocacy Law Line at 1-888-783-8190.

B. Filing for an Expungement on Your Own

If you cannot find an attorney or if you prefer to file an expungement on your own, follow the steps below. Filing for an expungement is not particularly difficult, and it is mostly a matter of getting the proper forms together and sending them to the right people. However, you must make sure that you have done everything correctly. Otherwise, your application will be denied. You will have to pay to get certain required documents. As of 2008, the total cost of applying (without an attorney) was about \$77, though prices vary depending on how much courts charge for documents and where you get your fingerprints taken.

Step 1: Get together all of your documents and the necessary fees.

In order to get an expungement, you will need to get the following:

- a. **A set of fingerprints.** You can get your fingerprints taken by the police. Explain that you are applying for an expungement so that the police officer uses the right card. You will need to bring I.D. As of January 2008, you could get your fingerprints taken for free

at most Michigan State Police posts, while most local police stations charged fees (about \$17) for fingerprinting.

b. A certified copy of your judgment of sentence or order of disposition.

In an adult criminal case, you will need a certified copy of the Judgment of Sentence. If your conviction is very old, there might not be a judgment of sentence. However, you will still need to get a document from the court showing your conviction. Some courts produce a Certification of Conviction, which gives the same information that a judgment of sentence would have. Explain to the court clerk why you need the judgment of sentence, and the clerk will get you the document you need.

In a juvenile case, you need a certified copy of the Order of Disposition. You can get this document from the court that tried your juvenile case.

If you live out-of-state or far from the court, you can call the court clerk and get information on how to get the required documents by mail. However, once the hearing is held in your case, you will have to go to court in person.

c. A money order made out to the Michigan State Police for the appropriate fee. The state police use this money to run a national criminal background check and make sure you have only one conviction. As of January 2008, the fee for an application to set aside an adult conviction was \$50. The fee for an application to set aside a juvenile case was \$30. These fees are subject to change. You should check with the Michigan State Police Criminal Records Division at 1-517-322-5531 to determine the current fee.

If you cannot afford the fee, you may want to check with your local church, mosque, synagogue, or social service agency to see if they have funds to help get your expungement. If you are receiving public assistance or are in a job placement program, ask your FIA or Michigan Works caseworker whether they have funds to help pay for your expungement. While Legal Aid offices may be able to provide a free lawyer, most Legal Aid offices cannot provide funding for the cost of the expungement itself.

d. Resume, letters of recommendations, transcripts and certificates of awards.

In order to prove to the judge that you deserve an expungement, you need to show you have been rehabilitated. In other words, you want to present evidence that you are a good person and that you have changed since you committed your crime.

Although it is not required, it is a good idea for your application to include evidence of your work history, drug or alcohol treatment, educational achievements, or other successes you have had since your conviction. Whether the judge will consider this information depends a lot on how that judge handles expungements. While some judges don't ask for proof of rehabilitation, it is better to be prepared.

Think about what you can use to convince the judge that you aren't the same person you were when you were convicted, and that you deserve a second chance. The following list includes some examples of this type of information.

- What jobs have you held? Does your employer think highly of you? You may want to include a resume, especially if you've worked in the same place for a long time. Or include letters of recommendation from past or current employers.
- Did you earn a diploma or vocational certificate? Can you get letters of appreciation for volunteering at your church, children's school, or kids' soccer team?
- If you used to have a substance abuse problem, can you provide evidence that you've completed treatment, or proof that you've been free from drugs or alcohol?
- Letters of support can be helpful, especially if they are from people like ministers, counselors, teachers, or others professionals. But if you don't have professional references, get letters from friends.
- Do you need an expungement for a specific reason, like getting a job, being accepted into an educational program, or finding housing? If yes, include proof of that.

Step 2: Fill out the Application to Set Aside Conviction or the Application to Set Aside Adjudication.

If you are applying to **set aside an adult conviction**, use the form called "Application to Set Aside Conviction" located in the form sections at the end of this packet. This is form MC 227.

If you are applying to **set aside a juvenile case**, use the form called "Application to Set Aside Adjudication and Order" located in the form sections at the end of this packet. This is form JC 66. If you were a juvenile who was tried as an adult, you need to use the "Application to Set Aside Conviction" form.

You can also get copies of these forms from the court.

a. Filling out the Application to Set Aside Conviction

Look at your certified copy of the judgment of sentence. The information on the top of the judgment is the same information that you will fill out at the top of Application to Set Aside Conviction. Make sure to include your case number. Answer **questions 1 and 2** on the form, and make sure all the information in questions 1-4 is true.

You must sign the form in front of a notary. You can find a notary at a bank or at the courthouse. You will need to bring I.D. when you go to the notary.

b. Filling out the Application to Set Aside Adjudication

Look at your certified copy of the Order of Disposition. The information on the top of the order is the same information that you will fill out at the top of Application to Set Aside Adjudication. Make sure to include your case number. Answer **questions 1 - 2 and 5 -7** on the form, and make sure all the information in questions 1-9 is true.

You must sign the form in front of a notary. You can find a notary at a bank or at the courthouse. You will need to bring I.D. when you go to the notary.

Step 3: Assemble your application. Put the application form on top. Attach the certified copy of your Judgment of Sentence (for an adult conviction) or the Certified Order of Disposition (for a juvenile case). Behind that put all of your supporting documents, like your resume, letters of recommendation, vocational certificates, etc. Together these documents are your application packet.

Make five additional copies of the whole application packet. You should now have six copies total.

Do not do anything right now with the fingerprints or money order for the state police.

Step 4: Mail or deliver the *original application packet (including the original certified copy of the Judgment of Sentence or Order of Disposition, and original letters of recommendation, educational certificates, etc.)*, plus five copies of the application packet, to the court clerk in the court in which you were convicted or your juvenile case was tried.

- The court clerk will fill in the Notice of Hearing Section of your Application, and return **five copies** of your Application to you. The Notice of Hearing is the date on which the court will hear your request to have your record expunged. You must appear in court on that date.
- Generally, it is a good idea to file your application packet in person. That way, if you have forgotten something, or if you need to change the court date, you can take care of that right away.

Step 5: Once you have gotten your five extra copies of the application packet back from the court, you must mail out copies as follows:

a. Send these items to the Michigan State Police:

- The fingerprint card
- The application fee
- A copy of your application packet

The address is: Michigan State Police
Criminal Justice Information Center
7150 Harris Drive
Lansing, MI 48913

The Michigan State Police will conduct a criminal record check. The police will then report to the court what your criminal record is, if you have more than one conviction or juvenile case, if you have pending criminal charges, and whether or not you have previously had a conviction or juvenile disposition set aside.

The police should send you a copy of the same report that they sent to the court. If the report says that you cannot get an expungement and you do not understand why, talk to an attorney.

b. Send a copy of your application packet to the Attorney General’s Office:

The address is: Attorney General’s Office
Criminal Division
PO Box 30218
East Lansing, MI 48823

c. Send a copy of the application packet to the Prosecutor’s Office in the county where you were prosecuted:

If you are unsure of the address of your local Prosecutor’s Office, ask the court clerk. You should know that if you committed an assaultive crime or serious misdemeanor, the prosecutor will notify the victim in your case. The victim has the right to make a written statement or appear in court.

Step 6: Fill out the Proof of Service and Send it back to the Court.

At this point you should have **two copies** of the application packet left. One of these copies is for you to keep for your records.

On the **other copy** of the application, fill in the section entitled “Proof of Service.” Write in the date that you mailed copies to the Michigan State Police, the Attorney General, and the Prosecutor’s Office.

On the Application to Set Aside Conviction, the “Proof of Service” section is at the bottom of the first page. On the Application to Set Aside Adjudication, the “Proof of Service” section is at the bottom of the second page.

After you fill out and sign the “Proof of Service” section, **make another copy for your records**. Then, mail the “Proof of Service” section back to the court. By sending in the “Proof of Service” section, you show the court that you mailed copies to the Police, the Attorney General, and the Prosecutor’s Office.

Step 7: For adult convictions only: Fill out the Draft Order on Application to Set Aside Conviction and Make Copies

Attached to this packet you will find a blank Order on Application to Set Aside Conviction in the forms section. This is form MC 228. Fill out the information on the top of the order, using the same information that is on your Judgment of Sentence and on your Application to Set Aside Conviction. Make a few copies, and bring them to court with you. This is the document the judge will sign.

If you are filing to set aside a juvenile adjudication, the order is already on the same page as your Application to Set Aside Adjudication. This is form JC 66. Make a few extra copies of the Application, and bring them to court with you.

Step 8 : On your court date, go to court and answer any questions the judge has.

Different judges handle expungement hearings differently. Some judges will grant expungements in almost all cases where the applicant meets the legal criteria for an expungement. Other judges may want to hear what you have done to rehabilitate yourself. Some judges are very strict, and will not grant an expungement unless you can prove that you have led a model life since your conviction. This is why we suggest you send in letters of recommendation, etc. The judge's reaction may depend on whether the Prosecutor or Attorney General's office objects to the expungement. **Remember to dress appropriately for court.** This shows respect for the judge. **Make yourself notes in advance about what you want to say.** Also remember, this is not the time to say you were innocent or to complain about how unfair the system is. Your job is to convince the judge that you have accepted responsibility for your crime and moved on with your life.

Finally, if you think the judge is going to be strict, you may want to bring friends or family to the courtroom to show that you have a lot of community support. Although most judges are unlikely to listen to testimony during an expungement hearing, you can tell the judge that these people would be willing to testify about your character.

Step 9 : If the Judge Grants Your Request for an Expungement, Make Sure a Copy Goes to the State Police Central Records Division

The court will keep the original copy of the judge's order granting your expungement. Normally, the Court will also send a copy to the State Police Central Records Division. You should check with the court clerk to make sure that they will send the copy. Your record is kept by the State Police Central Records Division, and unless they get a copy of the order, your record will continue to show your conviction. Also make sure that the Prosecutor and the Attorney General get a copy of the judge's order.

If your expungement request was granted, get a copy of your criminal record a month or two after the expungement to make sure that your record is clear. If it is not, contact the Michigan State Police Criminal Records Division at 517-322-5531.

If you are listed on the Department of Corrections' website, known as OTIS (<http://www.state.mi.us/mdoc/asp/otis2.html>), you must also send a copy of the judge's order to the DOC so that your name is removed from OTIS. Send the order to:

Michigan Department of Corrections
206 E. Michigan Ave.
Grandview Plaza
PO Box 30003
Lansing, MI 48909

WHAT IF I STILL OWE RESTITUTION?

It can be difficult to convince a judge to grant an expungement if you still owe restitution of fees. If you can, you should pay off any restitution you owe before applying for an expungement. If you cannot pay off your restitution, you should contact the party to whom restitution is owed and see if you can work out a payment plan. Attach a copy of your payment plan to your expungement application. **A sample payment plan is attached as Form 4.** You may also want to contact an attorney for help if you still owe restitution.

WHAT IF I CAN'T GET AN EXPUNGEMENT?

Even if you can't get an expungement, there are things you can do to make life easier, despite your criminal history.

- **Clean up your rap sheet.** Many rap sheets have errors, or make your criminal history look worse than it is. For advice on how to clean up your rap sheet, get a copy of your rap sheet and show it to an attorney. Self-help information about cleaning up your rap sheet is also available on the Internet at reentry.mplp.org.
- **Show prospective employers or landlords evidence of rehabilitation.** Emphasize the positive, like that you got a GED while in prison, completed drug/alcohol treatment, or haven't been convicted of any new crimes in the last five years.
- **Answering questions regarding your criminal history.** Be careful about answering questions regarding your criminal history so that you don't provide more negative information than necessary. For example, if an employer asks if you've ever been convicted of a felony, and you've only been convicted of misdemeanors, you can honestly answer "no." If you only have a juvenile record, you can say that you do not have any criminal convictions, since juvenile adjudications are not criminal convictions. (But be aware that your juvenile record may show up on a background check, if one is done.) Read and listen to questions carefully. Be honest, because if you lie on a job application, you could get fired, lose unemployment benefits (if you do get fired), or even face criminal penalties.
- **Find out about your rights.** Extensive information about the rights of people with criminal records is available on the internet at reentry.mplp.org. Find out about your rights in employment, housing, public benefits, education, and much, much more.

FORMS

- Form 1:** Application to Set Aside Conviction
- use this form to apply for expungement of an adult conviction.

- Form 2:** Order to Set Aside Conviction
- take this form with you on your hearing date if you are applying to expunge an adult conviction.

- Form 3:** Application to Set Aside Adjudication and Order
- use this form to apply for expungement of a juvenile conviction.

- Form 4:** Sample Restitution Payment Plan
- use this form if you still have restitution to pay off.

**FORM 1: APPLICATION TO SET ASIDE A
CONVICTION**

USE THIS APPLICATION FORM IF YOU ARE APPLYING
TO EXPUNGE AN ADULT CRIMINAL CONVICTION.

Approved, SCAO

STATE OF MICHIGAN
JUDICIAL DISTRICT
JUDICIAL CIRCUIT

**APPLICATION TO
SET ASIDE CONVICTION**

CASE NO.

ORI Court Address Court telephone no.

MI- Police Report No.

The State of Michigan
THE PEOPLE OF

V

Defendant's name, address and telephone no.

CTN	SID	DOB
-----	-----	-----

Before completing this form, please see other side for instructions

- On _____ I was convicted of the following offense: _____
Date
- I was not imprisoned for this offense. I was discharged from imprisonment for this offense on _____
 No other application has been filed to set aside this or any other conviction. **OR** _____ Date
 An application was filed to set aside this conviction a conviction for _____

- The application was disposed of as follows: _____
- At least five years have elapsed since the sentence was imposed or since I was discharged from imprisonment for the conviction. No other criminal charges are pending against me. I have not been convicted of any other offense.
 - I request that the court issue an order to set aside the above conviction as provided by law. I consent to the use of any nonpublic record created by law to the extent authorized.

Date Applicant signature

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

My commission expires on _____ Signature: _____
Date Deputy clerk/notary public

Notary public, State of Michigan, County of _____

NOTICE OF HEARING

The hearing cannot be held until the court receives the Michigan State Police report required under MCL 780.621(5)
 TO: Michigan Attorney General and _____
 Prosecuting official

Take notice that on _____ at _____ m., at the above location, courtroom _____ or
 Date Time

_____,
 a hearing before Judge _____ will be held on the above application to set aside conviction.

PROOF OF SERVICE

I certify that copies of this application and notice of hearing were served on the

prosecuting official on _____ by first-class mail or by leaving it at his/her office.
Date

Attorney General on _____ by first-class mail or by leaving it at his/her office.
Date

I certify that copies of this application and the fingerprint card, accompanied by the required fee, were served on the Michigan State Police on _____ by first-class mail or by leaving them at the department.
Date

Date Applicant/attorney signature

INSTRUCTIONS

To The Applicant:

1. You may not apply to have a conviction set aside for:
 - a) a felony or an attempt to commit a felony punishable by life imprisonment; or
 - b) a violation or attempted violation of criminal sexual conduct under 750.520c, 750.520d, or 750.520g; or
 - c) a traffic offense.

If you have had more than one conviction for any offense, you cannot apply.

Although a conviction for a non-traffic offense reportable to the Secretary of State may be set aside by the court, as stated in MCL 257.732(22), the court cannot order the removal of the conviction from the driving record.

2. You may not apply until:
 - a) 5 years have passed since the date you were sentenced for the conviction if you were not imprisoned, or
 - b) If you were imprisoned, 5 years have passed since release from a term of imprisonment for the conviction.
3. Find out the exact date of conviction and the charge from the court clerk and fill in this application. Obtain a certified copy of the judgment of sentence, probation order, or register of actions and attach it to this application.
4. Swear to the truth of the statements in this application in the presence of the court clerk or a notary public.
5. Present this application with all copies to the court clerk and request a hearing date.
6. The court clerk will complete the notice of hearing on this application and return copies to you.
7. Mail or deliver a copy of this application, with the hearing date filled in, to the Attorney General of the State of Michigan and the prosecuting official of the county or political subdivision who prosecuted the case.
8. Go to the local law enforcement agency for fingerprint card and get fingerprinted on the applicant card (RI-8). Fill out the card completely. **Be sure to ask the local law enforcement agency the amount of the application fee.**
9. Mail or deliver a copy of this application and appropriate attachments, the fingerprint card, and the appropriate fee to the Michigan State Police. The fee, payable to the State of Michigan, must accompany this application.
10. After you have mailed or delivered the copies to the Attorney General, prosecuting official, and Michigan State Police, complete the proof of service on the return copy, and file it with the court clerk.

Attorney General's Office
Corrections Division
PO Box 30217
Lansing, Michigan 48909

Michigan State Police
Criminal Justice Information Center
7150 Harris Drive
Lansing, MI 48913

11. Appear at the hearing.
12. If the name of the victim of an assaultive crime is known by the prosecuting attorney, the prosecuting attorney will give that victim written notice of this application and will forward a copy of this application to the victim.

FORM 2: THE ORDER TO SET ASIDE THE CONVICTION

Take this form with you on the date of the hearing.
The Judge will sign this form and it will be your proof that the
expungement was granted.

Please note that sometimes the prosecutor will prepare this form, and the
judge will use the prosecutor's form, rather than your form.

You do not need this form if you are applying to expunge a juvenile case.

STATE OF MICHIGAN

JUDICIAL DISTRICT
JUDICIAL CIRCUIT

ORDER ON APPLICATION TO
SET ASIDE CONVICTION

CASE NO.

ORI Court Address Court telephone no.

MI-
Police Report No.

<input type="checkbox"/> The State of Michigan THE PEOPLE OF <input type="checkbox"/> _____ _____
--

V

Defendant's name, address and telephone no.		
CTN/TCN	SID	DOB
Date of Offense	Charge	

Instructions: An order may not be entered until receipt of the report of the Michigan State Police. Copies of the order must be sent to the Michigan State Police and the prosecuting official.

THE COURT FINDS:

1. The Michigan State Police has reported to the court required information from the department's records.
2. The applicant has has not been convicted of more than one criminal offense.
3. The conviction is is not a traffic offense or a felony for which the maximum punishment is life imprisonment.
4. It has has not been at least five years since the sentence was imposed or since the defendant was discharged from imprisonment for the conviction.
5. An opportunity has has not been given to the Attorney General and prosecuting official to contest the application.
6. Circumstances and behavior of the applicant do do not justify setting aside the conviction, and it is consistent with the public welfare.

IT IS ORDERED:

7. The application is denied.
8. The conviction in this case is set aside. Under MCL 780.623 the court clerk, the arresting agency, and the Michigan State Police shall maintain a **nonpublic record** of the order setting aside conviction and of the arrest, fingerprints, conviction, and sentence in this case. If the conviction is for a non-traffic offense that was reportable to the Secretary of State in accordance with MCL 257.732(20), the driving record shall not be expunged.

Date

Judge Bar no.

Under MCL 769.16a the clerk of the court shall advise the Michigan State Police Criminal Justice Information Center of the disposition.

FORM 3: APPLICATION TO SET ASIDE A JUVENILE ADJUDICATION

**YOU WILL ONLY USE THIS IF YOU ARE EXPUNGING A
JUVENILE CASE. OTHERWISE, YOU WILL NEVER NEED
THIS FORM.**

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	APPLICATION TO SET ASIDE ADJUDICATION AND ORDER	CASE NO. PETITION NO.
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Court address _____ Court telephone no. _____

ORI
MI-

CTN	SID	DOB
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Before completing this form, please see other side for instructions.

1. In the matter of name(s), alias(es)
2. On _____, a disposition hearing was held because I was adjudicated, as a juvenile delinquent, of
Date the following offense: _____ . A certified copy of the order of disposition is attached.
3. I am 24 years of age or older.
4. I have not been adjudicated of any other juvenile offenses nor do I have any adult felony conviction.
5. a. I have never filed an application to set aside an adjudication.
 b. I previously filed an application to set aside an adjudication of _____
and it was disposed of as follows: _____
6. a. I was not detained as a result of this adjudication, and at least five years have elapsed from the date of disposition.
 b. I was detained as a result of this adjudication, and at least five years have elapsed following completion of my term of detention.
7. Other criminal charges are are not pending against me in any court in the United States or in any other country.
8. I consent to the use of the nonpublic record created under MCL 712A.18e(13) to the extent authorized.
9. I **request** that the court issue an order to set aside the above adjudication as provided by law.

Applicant signature _____ Address _____
City, state, zip _____

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

My commission expires on _____ Signature: _____
Date

Notary public, State of Michigan, County of _____

NOTE: The hearing cannot be held until the court receives the Michigan State Police report required under MCL 712A.18e(5).

NOTICE OF HEARING

TO: Michigan Attorney General and _____
Prosecuting official

A hearing will be held on the above application to set aside adjudication on _____ at _____ m.
Date Time
at _____ before _____
Location Judge/Referee

NOTE: You must serve this notice at least 7 days before the hearing. See the other side for instructions and Proof of Service.

ORDER ON APPLICATION TO SET ASIDE ADJUDICATION

1. Specific findings of fact and law regarding this proceeding have been made on the record.

IT IS ORDERED:

- 2. The application is denied.
- 3. The adjudication in this case is set aside. Under MCL 712A.18e(13), the Michigan State Police shall maintain a nonpublic record of the order setting aside adjudication and of the arrest, fingerprints, adjudication, and disposition in this case. A copy of the order shall be sent to the arresting agency and the Michigan State Police.

Date Judge Bar no.

Instructions to the Court: Complete the order on the original application in the court file. Make 3 copies of the completed order and serve them on the prosecuting official, Michigan State Police, and applicant.

INSTRUCTIONS for processing application and serving notice of hearing

1. If you have had more than one adjudication for any juvenile offense or if you have had an adult felony conviction, you cannot have a juvenile adjudication set aside. To have a juvenile **conviction** set aside, use Form MC 227.
2. You cannot apply to have an adjudication set aside for: a) an offense that if committed by an adult would be a felony for which the maximum punishment is life imprisonment, b) a traffic offense or a substantially corresponding local ordinance that involves the operation of a vehicle and at the time of the violation was a felony or misdemeanor, c) a specified juvenile violation as defined in MCL 712A.2d(9).
3. You may not apply until you have become at least 24 years of age and either
 - a. 5 years have passed since imposition of the disposition for the adjudication if you were not detained as a result of the adjudication.
 - b. 5 years have passed since release from a term of detention if you were detained as a result of the adjudication.

Complete the Application:

1. Find out the exact date of the disposition and the name of the offense from the court clerk and fill in this application. Obtain a certified copy of the order of disposition to attach to this application. Then complete items 1 through 7 on the other side.
2. Take the completed application to either the court or a notary public and swear to the truth of the statements in this application in the presence of the court clerk or notary public. Sign the application and write in your current address. The court clerk or notary public will date and sign the application.
3. Present this application to the court clerk and request a hearing date.
4. The court clerk will complete the notice of hearing on this application, will make 5 copies of both sides of the application and 4 copies of the order of disposition, and will return them to you. The court clerk will keep the original application.
5. Mail or deliver one copy of this application and one copy of the order of disposition to the Attorney General of the State of Michigan and one copy of this application and one copy of the order of disposition to the prosecuting official of the county or political subdivision who prosecuted your case. You must mail or deliver this application at least 7 days before the hearing.
6. Go to the local law enforcement agency for the fingerprint card and get fingerprinted on the applicant card (RI-8). Fill out the card completely. **Be sure to ask the local law enforcement agency the amount of the application fee.** Then mail or deliver one copy of this application, one copy of the order of disposition, the fingerprint card, and the appropriate fee to the Michigan State Police. The fee, payable to the State of Michigan, must accompany this application.
7. After you have mailed or delivered the copies to the Attorney General, prosecuting official, and Michigan State Police, complete the Proof of Service below on the two remaining copies of this application. Take one copy of this application to the court clerk. Keep the remaining copy of this application and the order of disposition for yourself.

Attorney General's Office
Corrections Department
PO Box 30217
East Lansing, Michigan 48909

Michigan State Police
Criminal Justice Information Center
7150 Harris Drive
Lansing, Michigan 48913

8. Appear at the hearing. After the hearing, the court will serve copies of the order as appropriate.
9. If the name of the victim of an assaultive crime is known by the prosecuting attorney, the prosecuting attorney will give that victim written notice of this application and will forward a copy of this application to the victim.

PROOF OF SERVICE

I certify that I served this application and notice of hearing on the

prosecuting official on _____ by first class mail by leaving it at his/her office.
Date

Attorney General on _____ by first class mail by leaving it at his/her office.
Date

I certify that I also served a copy of this application and fingerprint card, accompanied by the required fee, on the

Michigan State Police on _____ by first class mail by leaving it at the department.
Date

Date

Applicant/attorney signature

FORM 4: SAMPLE RESTITUTION PAYMENT PLAN

USE THIS AS A SAMPLE, IF YOU STILL OWE RESTITUTION AND ARE MAKING A PAYMENT AGREEMENT WITH THE PARTY TO WHOM RESTITUTION IS OWED.

PROMISSORY NOTE

I, _____ (your name), hereby acknowledge that as of _____ (date), I owe
_____ (party to whom restitution owed), \$_____ (amount owed) in
outstanding restitution as a result of Criminal Case No. _____.

I agree to make payments of a minimum of \$_____ per month. .

I understand that if I fail to make payments as required by this agreement,
_____ (party to whom restitution owed) may seek a court judgment against me

Date

Your Name

Acknowledged by:

Date

Party to Whom Restitution Is Owed