

Expunging (Setting Aside) a Criminal Conviction in Michigan © **By Tyronda M. Curry, Attorney at Law**

Michigan law allows certain individuals who have been convicted of a criminal offense to expunge (or set aside) a criminal conviction. An expungement allows you to treat a criminal conviction as if it never occurred. In order to expunge your criminal record in Michigan, you must meet certain requirements:

1. You must have been convicted of only ONE offense. This means you can only have ONE criminal offense on your record. If you were convicted of two or more criminal offenses, even though they arose out of the same incident, you are ineligible for an expungement of your criminal record.
2. The offense for which you were convicted cannot be a felony for the which the maximum sentence is life in prison; cannot be an attempt to commit a felony for which the maximum sentence is life in prison; cannot be a sexual assault or an attempted sexual assault; and cannot be a traffic offense, including impaired driving or operating under the influence of liquor.
3. The appropriate amount of time must have passed between your conviction and your request for the conviction to be set aside. In Michigan, the minimum amount of time is five years. If you were not imprisoned for your offense, the time is calculated from the date of your conviction (not the date you were arrested or charged). If you were imprisoned for your offense, the time is calculated five years from the date of your release from prison.

If you meet the above requirements, you can file an Application to Set Aside Conviction with the Court in which you were convicted.

When you file your Application, the Court will schedule a hearing date, usually several months out, to allow enough time for an investigation to occur and for the appropriate parties to be notified about your pending Application. You will have to send two sets of fingerprint cards to the Michigan State Police so that they can investigate your criminal record and report to the Court. The investigation will involve a search of state and FBI records. You will also have to notify the Prosecutor for the County in which you were convicted and the Michigan Attorney General, both of whom will have an opportunity to contest your application. If your conviction was for an assaultive crime or serious misdemeanor, the victim will also be notified regarding the hearing date. The victim has the right to appear at the hearing and make a written or oral statement regarding your application.

On the day of the hearing, plan on arriving at the Courthouse at least 30 minutes early, to allow sufficient time for you pass through security and check in with the court clerk. You should wear business attire and look as clean-cut as possible. It may be helpful to bring witnesses, such as a trusted clergy member, an employer or other close persons who can attest to your character and activities since your conviction. You should also consider bringing school transcripts, achievement certificates, employment letters, notarized affidavits or other documents which evidence your positive activities. When your case is called, put your best foot forward. Explain why your conviction should be set aside and answer any questions the Judge asks you as honestly and completely as possible. It is your burden to prove that an expungement is warranted and is consistent with the public welfare. An expungement is a privilege, not a right.