



MICHIGAN CENTER *for* YOUTH JUSTICE

Michigan Juvenile Set-Aside Legislation

In Michigan, Under Current Law (712A.18e)

- There is an extensive process to applying for a set-aside, including fingerprinting for the FBI, submitting different forms and records, and paying a \$25 fee.
- Before the youth can apply for a set-aside, they must wait one year following the imposition of the dispositions or any term of detention, or when the youth turns 18, whichever occurs later. The current law does not align with the juvenile court process.
- Certain traffic offenses are not eligible to be set-aside.
- Youth records are not automatically set-aside when a youth turns 18. These records are still publicly available.
- Colleges, employers, and landlords can ask about juvenile records, limiting the chances for success of youth with a record.

Under the Proposed Bill (SB681)

- There will be no fee for applying for a set-aside.
- An application can be filed one year following the termination of court supervision.
 - The responsibility of collecting the records for a hearing falls to the adjudicating court(s).
- Prosecuting attorneys or the attorney general will have 35 days to contest the application.
- A process for the automatic setting aside of certain juvenile records is outlined, as follows:
 - Two years following the termination of court supervision or when the child turns 18, whichever is late.
 - There is no opportunity for contest by the prosecutor.
 - The youth is not released from any responsibility for paying fines or restitution.
 - The department of state police will keep a non-public record of the adjudication, only available in specific circumstance, such as consideration for licensure regulated by the state or an agency of the judicial branch.
- Some records are **never** able to be set-aside, such as felonies that would have maximum life sentences or if the youth is tried as an adult.
- Records are not physically destroyed but are set-aside and unavailable to the public.

Michigan Juvenile Record Confidentiality Legislation

In Michigan, Under Current Law (712A.28)

- Michigan is one of only nine states that still allows for complete public access for most juvenile records.
- In some Michigan counties, a simple Google search allows anyone interested to access a Michigan juvenile court docket including a youth's name, case number, type of hearing, and time and location information for their court appearance.
- Most juvenile records are publicly available. Some of these youth records are even available online through a simple search or request to the court.
- In the case of an informal hearing, records are available to "persons having a legitimate interest" which is defined only as a member of a local foster care review board.

Under the Proposed Bill (SB682)

- Beginning on January 1, 2021 juvenile records will no longer be publicly available, either online or by request.
- "Persons having a legitimate interest" has been redefined and specified to be the youth, the youth's parent(s) or guardian(s), legal counsel for the youth, law enforcement, a prosecutor, and the courts.