

State of Michigan
County of Wayne
33rd District Court

Application to Set Aside Conviction

This packet contains instructions and forms for filing and serving an Application to Set Aside Conviction(s). For additional instructions and an online interview that will help you create and fill out forms, go to michiganlegalhelp.org.

- A. Instructions for Filing and Serving an Application to Set Aside Conviction(s)
 - Form MC 227
- B. Instructions for Filing and Serving an Application to Set Aside Misdemeanor Marihuana Conviction(s)
 - Form MC 227a
- C. Instructions for Filing and Serving an Application for Human Trafficking Victim to Set Aside Conviction(s)
 - Form MC 227b
- D. Order on Application to Set Aside Conviction
 - Form MC 228

A

Instructions for Filing and Serving an Application to Set Aside Conviction(s)

Instructions for Filing and Serving an Application to Set Aside Conviction(s) (Form MC 227)

For additional instructions and an online interview that will help you create forms, go to michiganlegalhelp.org.

1. Determine whether you are eligible to apply to have your conviction set aside according to MCL 780.621 - MCL 780.621d.
2. You must file the application in the court where the conviction occurred. You must use a separate application for each court.
3. If you are asking to have an eligible conviction set aside under MCL 780.621(3) because the offense committed was a direct result of you being a victim of human trafficking, you must use form MC 227b. If you are asking to have a misdemeanor marijuana related conviction set aside under MCL 780.621e, you must use form MC 227a.
4. Find out the exact date of each conviction and each charge from the court. Get a certified copy of each conviction from the clerk of the court in which you were convicted and attach it to your application. There may be a fee to obtain these certified copies.
5. Swear to the truth of the statements in this application and then sign it in the presence of the court clerk or a notary public.
6. Make five copies of all attachments and this application. Take all copies to the court clerk.
7. Depending on local practice, the clerk of the court may set a hearing date at the time of filing. If a hearing date is set at the time of filing, the clerk of the court will complete the Notice of Hearing.
8. Go to the local law enforcement agency for a fingerprint card and get fingerprinted on the applicant card (RI-008). There may be a fee for fingerprinting. Fill out the card completely.
9. Make out a money order or check to the State of Michigan for the application. The application fee is \$50.00. This fee is sent with the application packet to the Michigan State Police for processing.
10. Mail a copy of the application packet, application fee, and the fingerprint card to the Michigan State Police by first-class mail to Michigan State Police, Criminal Justice Information Center - Criminal History, PO Box 30266, Lansing, Michigan 48909.
11. Mail a copy of the application packet to the Attorney General of the State of Michigan by first-class mail to Office of the Attorney General, Criminal Trials and Appeals Division, PO Box 30212, Lansing, Michigan 48909.
12. Mail a copy of the application packet to the correct prosecuting official where the conviction occurred (county, city, or township) by first-class mail. See www.michiganprosecutor.org/about-us-menu/prosecutor-directory for the addresses of county prosecutors.
13. On both remaining copies of the application, fill in the Proof of Service on page 3. After you fill out and sign the Proof of Service, mail or take one of the remaining application packets with the completed Proof of Service to the court. Keep the other copy of the application packet for your records.

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT	APPLICATION TO SET ASIDE CONVICTION(S)	CASE NO. and JUDGE <input type="checkbox"/> This application includes multiple case numbers as listed in item 1.
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ORI _____ Court address _____ Court telephone no. _____
 MI- _____

Police Report No. _____

THE PEOPLE OF

The State of Michigan

v

Defendant's name, address, and telephone no.

CTN/TCN	SID
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Defendant's attorney, bar no., address, and telephone no.

Use note: If you are asking to have an eligible conviction set aside under MCL 780.621(3) because the offense committed was a direct result of you being a victim of human trafficking, you must use form MC 227b.

If you are asking to have a misdemeanor marijuana conviction set aside under MCL 780.621e, you must use form MC 227a.

1. I **request** that the court issue an order to set aside the conviction(s) listed below as provided by law. I consent to use of the nonpublic record created by MCL 780.623 to the extent authorized by MCL 780.623. A certified copy of each conviction is attached. Use additional sheet(s) if more space is necessary.

	CRIME	CHARGE CODE(S) MCL citation/PACC Code	DATE OF CONVICTION	CASE NUMBER
a.				
b.				
c.				
d.				

2. a. I am requesting more than one felony to be set aside. At least seven years have passed since sentence was imposed or discharge from imprisonment, probation, or parole for the convictions, whichever is later. I have not been convicted of any offense during that time.
- b. I am requesting one or more serious misdemeanor(s) to be set aside. At least five years have passed since sentence was imposed or discharge from imprisonment, probation, or parole for the conviction(s), whichever is later. I have not been convicted of any offense during that time.
- c. I am requesting a first violation operating while intoxicated offense to be set aside. At least five years* have passed since sentence was imposed or discharge from imprisonment, probation, or parole for the conviction, whichever is later. I have not been convicted of any offense during that time. I have not previously applied to have and had a first violation operating while intoxicated offense conviction set aside. *Note: the waiting period to set aside a first violation operating while intoxicated offense is three years if the application is filed on or after February 19, 2022 and before March 9, 2022.

Continued next page.

- d. I am requesting only one felony to be set aside. At least five years have passed since sentence was imposed or discharge from imprisonment, probation, or parole for the conviction, whichever is later. I have not been convicted of any offense during that time.
- e. I am requesting one or more misdemeanor(s) to be set aside. None of the misdemeanors are a serious misdemeanor, for an assaultive crime, or for a first violation operating while intoxicated offense. At least three years have passed since sentence was imposed or discharge from imprisonment or probation for the conviction(s), whichever is later. I have not been convicted of any offense during that time.
3. a. No other application has been filed to set aside a conviction listed in item 1.
 b. An application was previously filed to set aside the following conviction(s) listed in item 1:

CRIME	CHARGE CODE(S) MCL citation/PACC Code	DATE OF CONVICTION	CASE NUMBER	DISPOSITION

4. a. No other application has been filed to set aside any other conviction(s).
 b. An application was previously filed to set aside the following conviction(s) not listed in item 1:

CRIME	CHARGE CODE(S) MCL citation/PACC Code	DATE OF CONVICTION	CASE NUMBER	DISPOSITION

5. I have not had any convictions deferred and dismissed. I have had the following conviction(s) deferred and dismissed: _____

6. There are no other criminal charges pending against me.

 Applicant Signature

Subscribed and sworn to before me on _____
 Date

 Deputy clerk/Notary public signature

My commission expires on _____
 Name (type or print)

Notary public, State of Michigan, County of _____ . Acting in the County of _____ .
 This notarial act was performed using an electronic notarization system or a remote electronic notarization platform.

The hearing cannot be held until the court receives the Michigan State Police report required by MCL 780.621(d)(8).

NOTICE OF HEARING

TO: Michigan Attorney General and _____
Prosecuting official

A hearing will be held on the above application to set aside conviction on _____
Date and time

at _____ before _____
Location Judge

PROOF OF SERVICE

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

prosecuting official on _____ by first-class mail addressed to the last-known address.
Date

Attorney General on _____ by first-class mail addressed to the last-known address.
Date

I certify that copies of this application, certified record of conviction, and the fingerprint card, accompanied by the required fee, were served on the Michigan State Police on _____ by first-class mail addressed to the last-known address.
Date

I declare under the penalties of perjury that this proof of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Date

Applicant/Attorney signature

B

Instructions for Filing and Serving an Application to Set Aside Misdemeanor Marihuana Conviction(s)

**Instructions for Filing and Serving an Application to Set Aside Misdemeanor Marihuana Conviction(s)
(Form MC 227a)**

For additional instructions and an online interview that will help you create forms, go to michiganlegalhelp.org.

1. Determine whether you are eligible to apply to have your misdemeanor marihuana conviction set aside pursuant to MCL 780.621e. Eligible convictions include violation of the following:
 - MCL 333.7403(2)(d) (possession)
 - MCL 333.7404(2)(d) (use)
 - MCL 333.7453 (selling marihuana paraphernalia)
 - Violation of a local ordinance substantially corresponding to one of the above
2. You must file the application in the court where the conviction occurred. You must use a separate application for each court.
3. If you are asking to have an eligible conviction set aside under MCL 780.621(3) because the offense committed was a direct result of you being a victim of human trafficking, you must use form MC 227b. If you are asking to have a non-marihuana related misdemeanor conviction set aside under MCL 780.621, you must use form MC 227.
4. Find out the exact date of each conviction and each charge from the court. Get a certified copy of each conviction from the clerk of the court in which you were convicted and attach it to your application. There may be a fee to obtain these certified copies.
5. Sign and date the application.
6. Make three copies of all attachments and this application. Take all copies to the court clerk for the court where you were convicted. There should be no filing fee for filing the application.
7. Mail a copy of the application packet to the correct prosecuting official where the conviction occurred (county, city, or township) by first-class mail. See www.michiganprosecutor.org/about-us-menu/prosecutor-directory for the addresses of county prosecutors.
8. On both remaining copies of the application, fill in the Certificate of Mailing. After you fill out and sign the Certificate of Mailing, mail or take one of the remaining application packets with the completed Certificate of Mailing to the court. Keep the other copy of the application packet for your records.
9. If an answer is filed by the prosecuting official, the court will set a hearing date and send you notice. If the prosecuting agency files a response in opposition to your application, the court must set the matter for a hearing within 30 days and mail a copy of a notice of the hearing to you. You should appear in court on the date and time set by the court.

If no answer is filed by the prosecuting agency within 60 days of the date of service of the application, the court will enter an order and mail a copy to you, the arresting agency, the prosecuting agency, and the Michigan State Police.

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT	APPLICATION TO SET ASIDE MISDEMEANOR MARIHUANA CONVICTION(S)	CASE NO. and JUDGE <input type="checkbox"/> This application includes multiple case numbers as listed in item 1.
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ORI _____ Court address _____ Court telephone no. _____
 MI- _____
 Police Report No. _____

THE PEOPLE OF
 The State of Michigan

v

Defendant's name, address, and telephone no.

CTN/TCN	SID
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 Defendant's attorney, bar no., address, and telephone no.

Use note: If you are asking to have an eligible conviction set aside under MCL 780.621(3) because the offense committed was a direct result of you being a victim of human trafficking, you must use form MC 227b.

If you are asking to have a non-marihuana related misdemeanor conviction set aside under MCL 780.621, you must use form MC 227.

1. I request that the court issue an order to set aside the following misdemeanor marihuana conviction(s)* as provided by law. Use additional sheet(s) if more space is necessary.

	CRIME	CHARGE CODE(S) MCL citation/PACC Code	DATE OF CONVICTION	CASE NUMBER
a.				
b.				
c.				
d.				

2. A certified copy of each conviction is attached.

 Date Applicant signature

CERTIFICATE OF MAILING

I served a copy of this application and certified record of conviction(s) on the prosecuting official by first-class mail addressed to their last-known address as defined by MCR 2.107(C)(3). I declare under the penalties of perjury that this certificate of mailing has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

 Date Signature

*Use note: Misdemeanor marihuana convictions are defined in MCL 780.621e(7)

C

Instructions for Filing and Serving an Application for Human Trafficking Victim to Set Aside Conviction(s)

**Instructions for Filing and Serving an Application for Human Trafficking Victim to Set Aside Conviction(s)
(Form MC 227b)**

For additional instructions and an online interview that will help you create forms, go to michiganlegalhelp.org.

1. Determine whether you are eligible to apply to have your conviction set aside according to MCL 780.621 - MCL 780.621d.
2. You must file the application in the court where the conviction occurred. You must use a separate application for each court.
3. If you are asking to have a misdemeanor marijuana related conviction set aside under MCL 780.621e, you must use form MC 227a. If you are asking to have any other conviction set aside that is not the direct result of you being a victim of a human trafficking violation under MCL 780.621(1), you must use form MC 227.
4. Find out the exact date of each conviction and each charge from the court. Get a certified copy of each conviction from the clerk of the court in which you were convicted and attach it to your application. There may be a fee to obtain these certified copies.
5. Swear to the truth of the statements in this application and then sign it in the presence of the court clerk or a notary public.
6. Make five copies of all attachments and this application. Take all copies to the court clerk.
7. Depending on local practice, the clerk of the court may set a hearing date at the time of filing. If a hearing date is set at the time of filing, the clerk of the court will complete the Notice of Hearing.
8. Go to the local law enforcement agency for a fingerprint card and get fingerprinted on the applicant card (RI-008). There may be a fee for fingerprinting. Fill out the card completely.
9. Make out a money order or check to the State of Michigan for the application. The application fee is \$50.00. This fee is sent with the application packet to the Michigan State Police for processing.
10. Mail a copy of the application packet, application fee, and the fingerprint card to the Michigan State Police by first-class mail to Michigan State Police, Criminal Justice Information Center - Criminal History, PO Box 30266, Lansing, Michigan 48909.
11. Mail a copy of the application packet to the Attorney General of the State of Michigan by first-class mail to Office of the Attorney General, Criminal Trials and Appeals Division, PO Box 30212, Lansing, Michigan 48909.
12. Mail a copy of the application packet to the correct prosecuting official where the conviction occurred (county, city, or township) by first-class mail. See www.michiganprosecutor.org/about-us-menu/prosecutor-directory for the addresses of county prosecutors.
13. On both remaining copies of the application, fill in the Proof of Service on page 3. After you fill out and sign the Proof of Service, mail or take one of the remaining application packets with the completed Proof of Service to the court. Keep the other copy of the application packet for your records.

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT	APPLICATION FOR HUMAN TRAFFICKING VICTIM TO SET ASIDE CONVICTION(S)	CASE NO. and JUDGE <input type="checkbox"/> This application includes multiple case numbers as listed in item 1.
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ORI _____ Court address _____ Court telephone no. _____
 MI- _____
 Police Report No. _____

THE PEOPLE OF

The State of Michigan

v

Defendant's name, address, and telephone no.

CTN/TCN	SID
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Defendant's attorney, bar no., address, and telephone no.

Use note: If you are asking to have a conviction set aside that is not the direct result of you being a victim of a human trafficking violation, you must use MC 227.

If you are asking to have a misdemeanor marijuana related conviction set aside under MCL 780.621e, you must use form MC 227a.

1. I request that the court issue an order to set aside the conviction(s) listed below as provided by law. I consent to use of the nonpublic record created by MCL 780.623 to the extent authorized by MCL 780.623. A certified copy of each conviction is attached. Use additional sheet(s) if more space is necessary.

	CRIME	CHARGE CODE(S) MCL citation/PACC Code	DATE OF CONVICTION	CASE NUMBER
a.				
b.				
c.				
d.				

2. I meet the criteria to have 1 or more convictions set aside under MCL 780.621(3) and the following facts support that the convictions I am seeking to set aside are a direct result of my being a victim of a human trafficking violation:

*A person who is convicted of a violation of MCL 750.448, MCL 750.449, and MCL 750.450, or a local ordinance substantially corresponding to those statutes, may apply to have that conviction set aside if he or she committed the offense as a direct result of his or her being a victim of a human trafficking violation.

3. a. No other application has been filed to set aside a conviction listed in item 1.
 b. An application was previously filed to set aside the following conviction(s) listed in item 1:

CRIME	CHARGE CODE(S) MCL citation/PACC Code	DATE OF CONVICTION	CASE NUMBER	DISPOSITION

4. a. No other application has been filed to set aside any other conviction(s).
 b. An application was previously filed to set aside the following conviction(s) not listed in item 1:

CRIME	CHARGE CODE(S) MCL citation/PACC Code	DATE OF CONVICTION	CASE NUMBER	DISPOSITION

5. I have not had any convictions deferred and dismissed. I have had the following conviction(s) deferred
 and dismissed: _____

6. There are no other criminal charges pending against me.

 Applicant Signature

Subscribed and sworn to before me on _____
 Date

 Deputy clerk/Notary public signature

My commission expires on _____
 Name (type or print)

Notary public, State of Michigan, County of _____ . Acting in the County of _____ .
 This notarial act was performed using an electronic notarization system or a remote electronic notarization platform.

The hearing cannot be held until the court receives the Michigan State Police report required by MCL 780.621(d)(8).

NOTICE OF HEARING

TO: Michigan Attorney General and _____
Prosecuting official

A hearing will be held on the above application to set aside conviction on _____
Date and time

at _____ before _____
Location Judge

PROOF OF SERVICE

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

prosecuting official on _____ by first-class mail addressed to the last-known address.
Date

Attorney General on _____ by first-class mail addressed to the last-known address.
Date

I certify that copies of this application, certified record of conviction, and the fingerprint card, accompanied by the required fee, were served on the Michigan State Police on _____ by first-class mail addressed to the last-known address.
Date

I declare under the penalties of perjury that this proof of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Date

Applicant/Attorney signature

D

Order on Application to
Set Aside Conviction(s)

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT	ORDER ON APPLICATION TO SET ASIDE CONVICTION(S)	CASE NO. and JUDGE <input type="checkbox"/> This application includes multiple case numbers as listed in item 1.
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ORI	Court address	Court telephone no.
MI-		
Police Report No.		

THE PEOPLE OF

The State of Michigan

v

Defendant's name, address, and telephone no.

CTN/TCN	SID	DOB

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. See page 3 for a list of offenses in MCL 780.621c that may not be set aside.

This order should not be used with applications to set aside a conviction under MCL 780.621(3), involving victims of human trafficking, or under MCL 780.621e, misdemeanor marijuana offenses.

1. An application to set aside the following conviction(s) was filed on _____ .
Date

	CRIME	CHARGE CODE(S) MCL citation/PACC Code	DATE OF CONVICTION	CASE NUMBER
a.				
b.				
c.				
d.				

THE COURT FINDS:

2. The Michigan State Police has reported the required information from its records to the court.
3. The applicant has has not been convicted of more than three felonies.
4. The applicant has had no _____ convictions for an assaultive crime set aside under MCL 780.621 during their lifetime.
5. There are are not criminal charges pending against the applicant.
6. The applicant has has not been convicted of any criminal offense during the applicable time period required under MCL 780.621.
7. The applicant is requesting that a felony offense punishable by more than 10 years imprisonment be set aside. The applicant has has not previously had a felony conviction for the same offense set aside under MCL 780.621.
8. The applicant is requesting that a first violation operating while intoxicated offense be set aside. The applicant has has not previously applied to have and had a first violation operating while intoxicated offense conviction set aside.

- 9. The time period required by MCL 780.621d for the conviction(s) listed in item 1 **has** passed for
 - a. all convictions.
 - b. the following convictions: _____
- 10. The time period required by MCL 780.621d for the conviction(s) listed in item 1 **has not** passed for
 - a. all convictions.
 - b. the following convictions: _____
- 11. The following convictions listed in item 1 occurred within 24 hours and arose from the same transaction pursuant to MCL 780.621b: _____
- 12. An opportunity has been given to the Attorney General and prosecuting official to contest the application.
- 13. Circumstances and behavior of the applicant from the date of the applicant's convictions(s) to the filing of the application warrant setting aside the conviction(s), and it is consistent with the public welfare.

IT IS ORDERED:

- 14. The application is denied as to the following convictions listed in item 1: _____

Applicant may file another application to have this conviction set aside

- three years after the date of this order. **OR**
- earlier than three years after the date of this order, but no sooner than _____ .
Date

- 15. The application is granted as to the following convictions listed in item 1: _____

The following felony convictions listed in item 1 are considered one conviction pursuant to MCL 780.621b:

Under MCL 780.623 the Michigan State Police shall maintain a **nonpublic record** of the order setting aside conviction and of the arrest, fingerprints, conviction, and sentence of the applicant in each case to which this order applies. If the conviction is for an offense that was reportable to the Secretary of State in accordance with MCL 257.732(22), the driving record shall not be expunged. If the court or arresting agency maintains a record of the arrest, biometric data, conviction or sentence, that record shall be nonpublic and not used for any purpose unless authorized by law.

Judge signature and date

NOTE TO APPLICANT: Under MCL 780.622, if this order sets aside a conviction for a listed offense as defined in MCL 28.722 of the Sex Offenders Registration Act, you are still considered to have been convicted of that offense and you must comply with the registration and reporting requirements of the act.

An order setting aside a conviction does not relieve any obligation by the applicant to pay restitution owed to the victim of a crime nor does it affect the jurisdiction of the convicting court or the authority of any court order with regard to enforcing an order for restitution. The applicant is not entitled to the return of any fine, costs, or other money paid as a consequence of a conviction that is set aside.

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

Convictions that May Not Be Set Aside:

MCL 780.621c prohibits the court from setting aside certain convictions as follows:

- (a) A felony for which the maximum punishment is life imprisonment or an attempt to commit a felony for which the maximum punishment is life imprisonment.
- (b) A violation or attempted violation of section 136b(3), 136d(1)(b) or (c), 145c, 145d, 520c, 520d, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.136d, 750.145c, 750.145d, 750.520c, 750.520d, and 750.520g.
- (c) A violation or attempted violation of section 520e of the Michigan penal code, 1931 PA 328, MCL 750.520e, if the conviction occurred on or after January 12, 2015.
- (d) The following traffic offenses:
 - (i) A conviction for operating while intoxicated by any person, except for a first violation operating while intoxicated offense, as defined in MCL 780.621(4)(d), if the person has not previously applied to have and had a first violation operating while intoxicated offense conviction set aside under the act for setting aside convictions.
 - (ii) Any traffic offense committed by an individual with an indorsement on his or her operator's or chauffeur's license to operate a commercial motor vehicle that was committed while the individual was operating the commercial motor vehicle or was in another manner a commercial motor vehicle violation.
 - (iii) Any traffic offense that causes injury or death.
- (e) A felony conviction for domestic violence, if the person has a previous misdemeanor conviction for domestic violence.
- (f) A violation of former section 462i or 462j or chapter LXVIIA or chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h and 750.543a to 750.543z.

MCL 780.621(4)(d) defines a first violation operating while intoxicated offense as a violation of any of the following committed by an individual who at the time of the violation has no prior convictions for violating section 625 of the Michigan vehicle code, 1949 PA 300, MCL 247.625:

- (i) Section 625(1), (2), (3), (6), or (8) of the Michigan vehicle code, 1949 PA 300, MCL 257.625.
- (ii) A local ordinance substantially corresponding to a violation listed in subparagraph (i).
- (iii) A law of an Indian tribe substantially corresponding to a violation listed in subparagraph (i).
- (iv) A law of another state substantially corresponding to a violation listed in subparagraph (i).
- (v) A law of the United States substantially corresponding to a violation listed in subparagraph (i).