

SENATE BILL NO. 576

June 5, 1997, Introduced by Senators SCHUETTE and SHUGARS
and referred to the Committee on Gaming and Casino
Oversight.

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 pro-
vide for the retention of certain nonpublic records and their
use; to prescribe the powers and duties of certain public agen-
cies and officers; and to prescribe penalties,"

by amending section 3 (MCL 780.623), as amended by 1994 PA 294.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) Upon the entry of an order pursuant to section
2 1, the court shall send a copy of the order to the arresting
3 agency and the department of state police.

4 (2) The department of state police shall retain a nonpublic
5 record of the order setting aside a conviction and of the record
6 of the arrest, fingerprints, conviction, and sentence of the
7 applicant in the case to which the order applies. Except as
8 provided in ~~subsection~~ SUBSECTIONS (3) AND (4), this nonpublic
9 record shall be made available only to a court of competent

1 jurisdiction, an agency of the judicial branch of state
2 government, a law enforcement agency, a prosecuting attorney, the
3 attorney general, or the governor upon request and only for the
4 following purposes:

5 (a) Consideration in a licensing function conducted by an
6 agency of the judicial branch of state government.

7 (b) To show that a person who has filed an application to
8 set aside a conviction has previously had a conviction set aside
9 pursuant to this act.

10 (c) The court's consideration in determining the sentence to
11 be imposed upon conviction for a subsequent offense that is pun-
12 ishable as a felony or by imprisonment for more than 1 year.

13 (d) Consideration by the governor if a person whose convic-
14 tion has been set aside applies for a pardon for another
15 offense.

16 (e) Consideration by a law enforcement agency if a person
17 whose conviction has been set aside applies for employment with
18 the law enforcement agency.

19 (f) Consideration by a court, law enforcement agency, prose-
20 cuting attorney, or the attorney general in determining whether
21 an individual required to be registered under the sex offenders
22 registration act has violated that act, or for use in a prosecu-
23 tion for violating that act.

24 (3) A copy of the nonpublic record created under subsection
25 (2) shall be provided to the person whose conviction is set aside
26 under this act upon payment of a fee determined and charged by
27 the department of state police in the same manner as the fee

1 prescribed in section 4 of the freedom of information act, ~~Act~~
2 ~~No. 442 of the Public Acts of 1976, being section 15.234 of the~~
3 ~~Michigan Compiled Laws~~ 1976 PA 442, MCL 15.234.

4 (4) A COPY OF THE NONPUBLIC RECORD CREATED UNDER SUBSECTION
5 (2) SHALL BE PROVIDED TO THE MICHIGAN GAMING CONTROL BOARD FOR
6 CONSIDERATION BY THE BOARD IF A PERSON WHOSE CONVICTION HAS BEEN
7 SET ASIDE APPLIES FOR A LICENSE UNDER THE MICHIGAN GAMING CONTROL
8 AND REVENUE ACT, THE INITIATED LAW OF 1996, MCL 432.201 TO
9 432.216.

10 (5) ~~(4)~~ The nonpublic record maintained under subsection
11 (2) is exempt from disclosure under the freedom of information
12 act, ~~Act No. 442 of the Public Acts of 1976, being sections~~
13 ~~15.231 to 15.246 of the Michigan Compiled Laws~~ 1976 PA 442, MCL
14 15.231 TO 15.246.

15 (6) ~~(5)~~ Except as provided in subsection (2), a person,
16 other than the applicant, who knows or should have known that a
17 conviction was set aside under this section and who divulges,
18 uses, or publishes information concerning a conviction set aside
19 under this section is guilty of a misdemeanor punishable by
20 imprisonment for not more than 90 days or a fine of not more than
21 \$500.00, or both.