

Legislative Analysis



EXPUNCTION REVISIONS

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Senate Bill 159

Sponsor: Sen. Rick Jones

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 5-11-11

A SUMMARY OF SENATE BILL 159 AS PASSED BY THE SENATE 4-12-11

The bill would allow a person, under certain circumstances, to apply to have a felony or a misdemeanor conviction expunged even if that person also had a conviction for one or two minor offenses.

Michigan law allows a person with only one criminal conviction to apply to have that conviction set aside (expunged), but the person must wait at least five years from the date of sentencing or the completion of imprisonment, whichever is later, before applying for an expunction. Certain crimes, such as murder, rape, and traffic offenses are not eligible to be set aside.

Senate Bill 159 would amend Public Act 213 of 1965, which provides a mechanism by which a person who has only one criminal conviction (a felony or a misdemeanor) can apply to the court for an order setting aside the conviction.

Under the bill, a person who is eligible to file an application to have either a felony or a misdemeanor expunged could do so even if that person also had up to two minor offenses. "Minor offense" would mean a misdemeanor or ordinance violation, but only if the maximum permissible term of imprisonment for the violation is 90 days, the maximum permissible fine does not exceed \$1,000, and the offense was committed when the person was 21 years of age or younger.

Additionally, certain information is currently required to be included in an application for expunction. The bill would revise one of the required pieces of information so as to require a statement that the applicant has not been convicted of an offense other than the conviction sought to be set aside as a result of the application, and not more than 2 minor offenses, if applicable. (Highlighting denotes proposed new language.)

MCL 780.621

BACKGROUND INFORMATION:

Under Public Act 213 of 1965, a conviction cannot be set aside for a felony that is punishable by life imprisonment (or an attempt to commit such a felony), for a conviction

for a violation or attempted violation of the criminal sexual conduct (CSC) statutes (with the exception of CSC in the fourth degree), or for a traffic offense.

The issue of expanding eligibility for expunction of criminal convictions has been discussed for many years. Similar legislation was introduced in the previous four legislative sessions. House Bill 4327 in the 2005-2006 session and House Bill 5493 in the 2003-2004 session were passed by the House but failed to see action in the Senate. House Bill 5213 in the 2006-2007 session and House Bill 4405 from last session were reported from committee but died on the House floor. Earlier this year, House Bill 4106 was introduced to allow a person, under certain circumstances, to apply to have a felony conviction expunged even if that person had also been convicted of one or two misdemeanor offenses, and would allow a person convicted of not more than two misdemeanor offenses to apply for the expunction of either or both misdemeanors. The bill received a hearing but has not been voted on.

FISCAL IMPACT:

House Bill 159 would have no fiscal impact on state or local government.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.