

Legislative Analysis



EXPAND & CLARIFY ELIGIBILITY FOR SET-ASIDE OF JUVENILE CONVICTIONS

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House Bill 5600

Sponsor: Rep. Joe Haveman

Committee: Judiciary

Complete to 9-26-12

A SUMMARY OF HOUSE BILL 5600 AS INTRODUCED 5-8-12

Under the bill, under certain circumstances, an individual could have more than one adjudication for a juvenile offense set aside.

The bill would amend the Probate Code to revise criteria under which a person may petition to have an adjudication for a juvenile offense to be set aside. Currently, a person may apply to have an adjudication for a juvenile offense set aside if that was the only juvenile adjudication he or she had, and the person had no felony convictions. However, an adjudication for certain offenses cannot be set aside; for example, an offense that if committed by an adult would be a felony for which the maximum punishment is life imprisonment.

House Bill 5600 would delete the above provisions and would instead allow a person to file an application with the adjudicating court for the entry of an order setting aside one or more juvenile adjudications as follows:

- If adjudicated of *not more than two juvenile offenses and no felony convictions*, the person could apply to set aside one or both of the adjudications. For purposes of eligibility, a traffic offense would not count as a misdemeanor except for operating a vehicle while intoxicated as that term is defined in the Michigan Vehicle Code (MCL 257.625).
- If adjudicated of *three or more juvenile offenses as a result of a single court disposition*, a person could apply to have all the adjudications related to that disposition set aside. A person would be ineligible if he or she had been adjudicated or convicted of a misdemeanor or felony offense subsequent to the disposition for which application to set aside had been made. A traffic offense would not count as a misdemeanor except for operating a vehicle while intoxicated as that term is defined in the Michigan Vehicle Code (MCL 257.625). A statement would have to be included in the application to have an adjudication set aside under this provision that the applicant has not been convicted of a misdemeanor or felony criminal offense.

If a petition is denied, a person could not file another petition concerning the same adjudication for at least three years after the denial.

FISCAL IMPACT:

The bill would have an indeterminate fiscal impact on the Judiciary. The bill allows for multiple adjudications to be set aside where current law only allows for setting aside one adjudication. Thus, the total number of applications filed could increase. This would result in an increase in administrative workload for both the local court and Department of State Police, though applicants pay a \$25.00 fee to the State Police to defray these costs. However, courts may also see fewer repeat petitions under this section due to the requirement that repeat petitions be filed at least three years after a previous petition's denial.

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