



Senate Fiscal Agency
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Senate Bill 681 (Substitute S-2 as reported)
Senate Bill 682 (as reported without amendment)
Sponsor: Senator Jeff Irwin (S.B. 681)
Senator Peter J. Lucido (S.B. 682)
Committee: Judiciary and Public Safety

CONTENT

Senate Bill 681 (S-2) would amend the juvenile code to do the following:

- Delete a provision prohibiting a person from applying to have set aside, and a judge from setting aside, an adjudication for a traffic offense under the Michigan Vehicle Code, or a local ordinance substantially corresponding to the Vehicle Code, that involves the operation of a vehicle and at the time of the violation is a felony or misdemeanor.
- Modify a provision specifying when an application to set aside an adjudication may be filed.
- Require the adjudicating court to locate, upon application, any court records or documents necessary to conduct a hearing on the application.
- Delete a provision requiring a copy of an application and a \$25 fee to be submitted to the Department of State Police (MSP).
- Specify that if the Attorney General or prosecuting attorney wished to contest an application, he or she would have 35 days after service to do so.
- Require an adjudication to be set aside without filing an application two years after the termination of court supervision or when the individual turned 18 years of age, whichever was later, beginning two years after the bill's effective date.
- Prohibit the Attorney General and the prosecuting attorney from contesting the setting aside of an adjudication without application.
- Specify that, upon the entry of an order to set aside an adjudication, the person would not be considered to have been previously adjudicated, except as otherwise provided.
- Require the MSP to retain a nonpublic record of the order setting aside an adjudication and the record of arrest, fingerprints, adjudication, and disposition of the person in the case to which the order applied.
- Specify that the nonpublic record would have to be made available only to certain government entities for certain specified purposes.
- Specify that a person, other than the applicant or a victim, who knew or should have known that an adjudication was set aside and who divulged, used, or published information concerning an adjudication set aside would be guilty of a misdemeanor.
- Prohibit an order setting aside an adjudication for a traffic offense from requiring that the conviction be removed or expunged from the applicant's driving record maintained by the Secretary of State.
- Allow the Governor to issue a directive delaying the implementation of the provisions pertaining to the process for setting aside an adjudication without an application for not more than 180 days, if he or she determined that implementation could not be implemented within two years of the bill's effective date because of technological limitations.

- Allow the Attorney General, the State Court Administrator, or the Director the MSP to recommend a delay of implementation to the Governor.

Senate Bill 682 would amend the juvenile code to do the following:

- Specify that a provision requiring records of a case brought before the court be open to the general public would apply only until December 31, 2020.
- Specify that, beginning January 1, 2021, records of a case brought before the court would not be open to the general public.
- Modify the definition of "persons having a legitimate interest".

Senate Bill 681 (S-2) would take effect 180 days after its enactment.

MCL 712A.18e et al. (S.B. 681)
712A.28 (S.B. 682)

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

Senate Bill 681 (S-2) would have an indeterminate, though likely negative, fiscal impact on local courts. The bill would add an automatic procedure by which a minor's adjudication or conviction would be set aside two years after the termination of supervision. It is not clear if local courts have systems in place to set aside these adjudications or convictions automatically. Additional costs would be likely if these systems had to be implemented.

An insignificant amount of revenue also would be lost from the removal of the \$25 fee currently required to accompany an application. The bill would remove this fee, which is statutorily dedicated to MSP for the cost of processing an application to set aside a conviction or adjudication. Only \$3,525 in fees were collected in 2019.

Additional costs would be incurred when adjudications or convictions were set aside, as the bill would require copies to be sent to arresting agencies and the MSP.

Additionally, new misdemeanor arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, and jails. However, it is unknown how many people would be prosecuted under the bill's provisions. Any additional revenue from imposed fines would go to local libraries.

Senate Bill 682 likely would have minor costs associated with it as a result of the bill's language. While the bill would restrict access to certain criminal records, the State and local court systems could have to amend or update current record-keeping processes to ensure compliance with the proposed statutory language.

Date Completed: 8-31-20

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