

HOUSE BILL NO. 4220

February 11, 2021, Introduced by Reps. Bellino, Yancey, Filler, Sabo, Steckloff and Cavanagh and referred to the Committee on Judiciary.

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 provide for the retention of certain nonpublic records and their use; to prescribe the powers and duties of certain public agencies and officers; and to prescribe penalties,"

by amending section 1c (MCL 780.621c), as added by 2020 PA 187.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1c. (1) A person shall not apply to have set aside, and a
- 2 judge shall not set aside, a conviction for any of the following:
- 3 (a) A felony for which the maximum punishment is life

1 imprisonment or an attempt to commit a felony for which the maximum
2 punishment is life imprisonment.

3 (b) A violation or attempted violation of section 136b(3),
4 136d(1)(b) or (c), 145c, 145d, 520c, 520d, or 520g of the Michigan
5 penal code, 1931 PA 328, MCL 750.136b, 750.136d, 750.145c,
6 750.145d, 750.520c, 750.520d, and 750.520g.

7 (c) A violation or attempted violation of section 520e of the
8 Michigan penal code, 1931 PA 328, MCL 750.520e, if the conviction
9 occurred on or after January 12, 2015.

10 (d) The following traffic offenses:

11 (i) ~~A~~**Subject to subsection (3), a** conviction for operating
12 while intoxicated **committed** by any person.

13 (ii) Any traffic offense committed by an individual with an
14 indorsement on his or her operator's or chauffeur's license to
15 operate a commercial motor vehicle that was committed while the
16 individual was operating the commercial motor vehicle or was in
17 another manner a commercial motor vehicle violation.

18 (iii) Any traffic offense that causes injury or death.

19 (e) A felony conviction for domestic violence, if the person
20 has a previous misdemeanor conviction for domestic violence.

21 (f) A violation of former section 462i or 462j or chapter
22 LXVIIIA or chapter LXXXIII-A of the Michigan penal code, 1931 PA
23 328, MCL 750.462a to 750.462h and 750.543a to 750.543z.

24 (2) The prohibition on the setting aside of the convictions
25 under subsection (1) upon application also applies to the setting
26 aside of convictions without application under section 1g.

27 **(3) The prohibition on setting aside a conviction for**
28 **operating while intoxicated under subsection (1)(d)(i) does not**
29 **apply to a conviction for a first violation operating while**

1 intoxicated offense. However, a conviction for a first violation
2 operating while intoxicated offense that may be set aside upon
3 application is not eligible for and shall not be set aside without
4 application under section 1g.

5 (4) ~~(3)~~—An order setting aside a conviction for a traffic
6 offense under this act must not require that the conviction be
7 removed or expunged from the applicant's driving record maintained
8 by the secretary of state as required under the Michigan vehicle
9 code, 1949 PA 300, MCL 257.1 to 257.923.

10 Enacting section 1. This amendatory act takes effect April 11,
11 2021.

12 Enacting section 2. This amendatory act does not take effect
13 unless Senate Bill No. ____ or House Bill No. 4219 (request no.
14 01987'21) of the 101st Legislature is enacted into law.