

ALLOW EXPUNGEMENT OF CONVICTION DESPITE ANOTHER CONVICTION DURING WAITING PERIOD

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<http://www.house.mi.gov/hfa>

House Bill 5957 as introduced
Sponsor: Rep. Kara Hope

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5958 as introduced
Sponsor: Rep. Graham Filler

Committee: Criminal Justice
Complete to 11-11-24

SUMMARY:

House Bills 5957 and 5958 would each amend 1965 PA 213, which provides procedures and parameters for expunging (setting aside) certain criminal convictions.¹ Generally speaking, some convictions are expunged automatically after a certain period of time specified in the act. In other cases, eligible convictions can be expunged upon application (petition), but a specified period of time must elapse before an application can be filed. These periods of time are known as the “waiting period.” Waiting periods are generally based on offense type and, for applications, the number of convictions sought to be expunged.

In addition to other requirements under the act, a conviction cannot be set aside if the individual has been convicted of a criminal offense during the waiting period. In other words, a person who is convicted of another offense during the waiting period is disqualified from expunging the prior conviction (the one the waiting period pertains to).

The bills would eliminate the disqualification described above. House Bill 5958 would eliminate it for automatic expungements, and House Bill 5957 would eliminate it and related requirements for expungements by application.

In addition, the act now provides that, for purposes of setting aside a conviction by application, more than one felony offense or more than one misdemeanor offense must be treated as a single felony or misdemeanor conviction if the felony or misdemeanor convictions were contemporaneous such that all of the felony or misdemeanor offenses occurred within 24 hours and arose from the same transaction. However, these provisions do not apply if any of the *offenses* constitute an assaultive crime, a crime that if committed in this state would be an assaultive crime, a crime involving the use or possession of a dangerous weapon, or a crime with a maximum penalty of 10 or more years of imprisonment.

House Bill 5957 would revise this provision to instead provide that more than one conviction must be treated as a single conviction if the convictions were contemporaneous such that all of the conduct underlying the convictions occurred within 24 hours and arose from the same transaction. However, these provisions do not apply if any of the *convictions constitute an assaultive crime*, a crime that if committed in this state would be an assaultive crime a crime

¹ Convictions for some offenses are ineligible for expungement, and many requirements, limitations, and procedures apply to expungement that are not generally relevant here. For an overview of Michigan’s expungement laws and procedures, see <https://www.michigan.gov/ag/initiatives/expungement-assistance>

involving the use or possession of a dangerous weapon, or a crime with a maximum penalty of 10 or more years of imprisonment.

MCL 780.621b, 780.621d, and 780.621e (HB 5957)

MCL 780.621g (HB 5958)

FISCAL IMPACT:

House Bills 5957 and 5958 would have an indeterminate fiscal impact on local courts. Under provisions of the bills, individuals seeking expungement would file a single application for all eligible convictions instead of filing multiple applications. This would affect court caseloads, including related administrative costs.

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