

# HOUSE BILL NO. 6236

December 04, 2024, Introduced by Reps. Wilson and Filler and referred to the Committee on Criminal Justice.

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 amended by 2021 PA 79.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1       Sec. 1c. (1) ~~A person~~**An individual** shall not apply to have
- 2       set aside, and a judge shall not set aside, a conviction for any of
- 3       the following:

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

4 (b) A violation or attempted violation of section 136b(3),  
5 136d(1)(b) or (c), 145c, 145d, 520c, 520d, or 520g of the Michigan  
6 penal code, 1931 PA 328, MCL 750.136b, 750.136d, 750.145c,  
7 750.145d, 750.520c, 750.520d, and 750.520g.

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

11 (d) The following traffic offenses:

12 (i) Subject to subsections (3) and (4), a conviction for  
13 operating while intoxicated committed by any ~~person~~**individual**.

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

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

21 (e) A ~~felony~~ conviction for domestic violence. ~~, if the person~~  
22 ~~has a previous misdemeanor conviction for domestic violence.~~

23 (f) A violation of former section 462i or 462j or chapter  
24 LXVIIIA or chapter LXXXIII-A of the Michigan penal code, 1931 PA  
25 328, MCL 750.462a to 750.462h and 750.543a to 750.543z.

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

29 (3) The prohibition on setting aside a conviction for

1 operating while intoxicated under subsection (1) (d) (i) does not  
2 apply to a conviction for a first violation operating while  
3 intoxicated offense if the ~~person~~**individual** applying to have the  
4 first violation operating while intoxicated offense conviction set  
5 aside has not previously applied to have and had a first violation  
6 operating while intoxicated offense conviction set aside under this  
7 act. However, a conviction for a first violation operating while  
8 intoxicated offense that may be set aside ~~upon~~**on** application is  
9 not eligible for and shall not be set aside without application  
10 under section 1g.

11 (4) In making a determination whether to grant the petition to  
12 set aside a first violation operating while intoxicated offense  
13 conviction the reviewing court may consider whether or not the  
14 petitioner has benefited from rehabilitative or educational  
15 programs, if any were ordered by the sentencing court, or whether  
16 such steps were taken by the petitioner before sentencing for the  
17 first violation operating while intoxicated offense ~~conviction he~~  
18 ~~or she~~**the petitioner** is seeking to set aside. The reviewing court  
19 is not constrained by the record made at sentencing. The reviewing  
20 court may deny the petition if it is not convinced that the  
21 petitioner has either availed ~~himself or herself~~**the petitioner's**  
22 **self** of rehabilitative or educational programming or benefited from  
23 rehabilitative or educational programming ~~he or she~~**the petitioner**  
24 has completed.

25 (5) An order setting aside a conviction for a traffic offense  
26 under this act must not require that the conviction be removed or  
27 expunged from the ~~applicant's~~**individual's** driving record  
28 maintained by the secretary of state as required under the Michigan  
29 vehicle code, 1949 PA 300, MCL 257.1 to 257.923.