



61st District Court Worksheet

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Grand Rapids MI 49503
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Court Administrator – Tanya Todd
Clerk of the Court – Sarah Breen

MOTION TO SET ASIDE CONVICTIONS¹

You may not apply if:

- The crime is
 - A felony or attempt to commit a felony for which the maximum punishment is life imprisonment.
 - Child abuse or child sexual abuse²
 - The following traffic offenses:
 - Operating a commercial motor vehicle
 - Any traffic offense that causes injury or death
 - A felony for domestic violence if the person has a previous misdemeanor conviction for domestic violence
 - Crimes involving forced labor or acts of terrorism³
- You have 3 or more felonies, and, if less than 3 then none of those felonies can be can be punishable by 10 years or more.
 - There may be an exception if you are a victim of human trafficking.
- You may not have pending charges or have been convicted of a crime within the waiting time period.
- You cannot have more than 2 convictions for assaultive crimes set aside during your lifetime.
- If your felonies/misdemeanors occurred within 24 hours of each other and are from the same transaction, that is considered one offense.
 - But this does not apply if the crime involved an assault, is punishable by 10 years or more, or involved possession of a dangerous weapon.

Eligibility to apply:

- Felonies = 7 years, Misdemeanors (other than serious and assaultive) = 3 years, 1 FY + 1 MISD = 5 years, from the later of:
 - Sentencing date
 - Completion of felony probation
 - Discharge from parole
 - Completion of the term of imprisonment

Reinstatement:

- A conviction that was previously set aside as a matter of law shall be reinstated if:
 - If it was improperly set aside because the conviction was not eligible; the court shall on its own motion reinstate.
 - If a person who is owed restitution files a motion, or on the court's own motion, and the court determines the individual has not made a good-faith effort to pay the ordered restitution.

If your conviction is set aside then:

- You impliedly consent to the creation of a nonpublic record.
- You are not entitled to the return/cancellation of any fine, costs, or other money paid as a consequence of the conviction.
- You are not prevented from relying upon the conviction to bar subsequent proceedings for the same offense⁴.
- It does not prevent a victim from prosecuting or defending a civil action for damages.
- There is no right to commence an action for damages for incarceration under the sentence that you have already served.
- You are not relieved from any obligation to pay restitution owed to a victim; the court can continue to enforce ordered restitution.
- The conviction cannot be used as evidence in an action for negligent hiring, admission, or licensure against any person.
- The conviction may be considered a prior conviction for purposes of charging a crime as a second or subsequent offense.

Set asides will not require the conviction be removed or expunged from the person's SOS driving record.

Effective 04.10.2023:

AUTOMATIC SET ASIDES if:

- Misdemeanor:
 - Seven years have passed since the imposition of sentence.

¹ See <http://michiganlegalhelp.org/self-help-tools/expungement/i-have-adult-criminal-conviction-i-would-set-aside-expunge>.

² Specifically MCL [750.136b](#), [750.136d](#), [750.145c](#), [750.145d](#), [750.520c](#), [750.520d](#), [750.520e](#) (if the conviction occurred on or after 01.12.15)

³ Specifically MCL [750.462a](#), [750.462h](#), and [750.543a](#) through 750.543z.

⁴ Otherwise known as "[double jeopardy](#)."

- Felony:
 - Ten years have passed from whichever of the following occurs last:
 - Imposition of the sentence for the conviction; or
 - Completion of any term of imprisonment with the department of corrections for the conviction.

Limitations on the automatic set aside of convictions:

- Maximum number of convictions that can be set aside are two felonies and four 93 day or more misdemeanors.
 - There is no limit on the number of 92 day or less misdemeanors that can be automatically set aside.
- There can be no pending criminal charges against the applicant.
- During the applicable time period the applicant cannot have had an additional conviction of any criminal offense.