

Frequently Asked Questions

Michigan's Clean Slate Legislation

Disclaimer: Safe & Just Michigan does not provide legal services, and the information provided below is not legal advice. If you have specific legal questions about the new law and how it applies to a particular criminal record, we recommend that you contact an attorney.

Q: What is an expungement or “set-aside” under Michigan law?

A: An expungement refers to the removal of a criminal conviction from an individual's public record. An expungement is sometimes referred to as “record-sealing” or a “set-aside.” While most private employers, landlords, and the public in general, will not be able access the expunged conviction, law enforcement, courts, and certain state agencies retain a non-public record of the conviction.

Q: How can I expunge my criminal record under the new Clean Slate Act?

A: Under the Clean Slate Act, an individual may seek to expunge a conviction either through the Expungement by Application process (applying with the convicting court to have a conviction expunged) or through the Automatic Expungement Program that will be implemented by the state of Michigan.

Q: Has automatic expungement already been implemented by the state?

A: No, the program is slated to get up and running by April of 2023. Once the program goes into effect, individuals may have up to two non-violent felony convictions and four misdemeanors automatically expunged if they meet the other requirements under the law. Please note that not all offenses will be eligible for automatic expungement, even when the program goes into effect.

Q: How will I know if my record has been automatically expunged?

A: Because the automatic process will go forward without any involvement of the individuals whose records are being sealed, it is possible that a person may have their record sealed but not realize it. Safe & Just Michigan will be working with the state of Michigan, local governments and many partner organizations to do outreach related to the Clean Slate law to make sure people know about its impact and effective date, and to provide resources that assist people in determining whether their records have been cleared. However, at this time, these resources are still in development.

Questions? Contact Safe & Just Michigan at 517.258.1134 or info@safeandjustmi.org

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Q: What type of offenses CANNOT be automatically expunged?

A: The following offenses CANNOT be automatically expunged:

- [Assaultive crimes](#) (see definition at bit.ly/mics-assaultive)
- [Serious misdemeanors](#) (see list at bit.ly/mics-serious)
- [Crimes of dishonesty](#) (see definition at bit.ly/mics-dishonesty on page 2)
- Any conviction punishable by 10 years or more

*Please note that even though these offenses will not be eligible for automatic expungement, you may still be eligible for expungement of these types of offenses through the **expungement by application** process.*

Q: Are there any offenses that are not eligible for automatic expungement or expungement by application?

A: Yes, the following offenses CANNOT be automatically expunged or expunged by application

- Certain DUI offenses ****Please note that effective February 19, 2022, first-time DUI offenses may be eligible for expungement.***
- [Any offense punishable by life](#) (see list at bit.ly/mics-life)
- Any traffic offenses committed by a person with a commercial driver's license (CDL) while operating a commercial vehicle.
- Any traffic offenses causing injury or death.
- Felony domestic violence if the individual has a prior misdemeanor domestic violence conviction.
- Criminal Sexual Conduct (CSC) 1st-, 2nd- and 3rd-degree.
- CSC 4th-degree if committed on or after Jan. 12, 2015.
- Out-of-state convictions
- Federal convictions

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Q: In what ways does the new law expand eligibility requirements when applying for an expungement?

A: Prior to the Clean Slate Act going into effect, Michigan law only allowed an applicant with no more than one felony and two misdemeanors to be eligible to apply for an expungement. The new Clean Slate Act has significantly altered those requirements by expanding eligibility in the following ways:

1. It expanded eligibility to up to three felony convictions and an unlimited number of misdemeanors. However, no more than two assaultive convictions can be set aside, and multiple convictions for the same crime are ineligible if they have a maximum penalty of more than 10 years in prison.
2. It counts multiple convictions that arose out of the same event and occurred within a 24-hour period of each other as one conviction. As long as the offenses: (a) are not assaultive, (b) do not involve use of a dangerous weapon, and (c) are not punishable by more than 10 years in prison.
3. It reduces the waiting period to three years for non-serious misdemeanors, and permits applications for multiple felonies after seven years.
4. It makes most traffic offenses — which are 50 percent of all criminal cases in Michigan — potentially eligible for expungement. DUIs or traffic offenses causing injury or death are excluded. ***Please note that beginning Feb. 19, 2022, first-time DUI offenses may be eligible for expungement.***
5. It creates a special process for people with misdemeanor marijuana convictions to apply for expungement if the conduct at issue would be legal under current law.

Q: How do I know if I am eligible to apply for an expungement of my conviction(s)?

A: Given the complexity of the new Clean Slate Act, you may not be able to determine your eligibility on your own. In light of this, we would encourage you to get screened by an attorney or utilize one of a number of expungement resources that are available in and around the state of Michigan. A list of expungement resources can be found at the bottom of this FAQ.

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Q: How do I apply for expungement if I am eligible?

A: If you do meet the statutory requirements under the Clean Slate Act, you may apply to have your conviction(s) expunged using [Form MC 227](#) (see bit.ly/MISC-Form), which the state courts created to guide applicants through the process. You can also find more information on this process on the Michigan Attorney General's website.

Q: How long does the expungement process take?

A: Processing times vary from court to court, but it is not uncommon for the expungement by application process to take six months or more to complete. Many courts schedule the hearing on the application three months or more after the filing date to allow the Michigan State Police and Michigan Attorney General's office to complete the required background check and statutory eligibility analysis. If these steps are not completed before the scheduled hearing date, the hearing will need to be rescheduled. Furthermore, processing times may also be impacted by hearing backlogs that have accumulated in many courts during the COVID-19 pandemic. Please contact the relevant court or a local legal services provider with specific questions about processing times.

Q: Am I guaranteed to have my conviction expunged if I am eligible?

A: No, even if you meet the eligibility requirements under the Clean Slate Act, there is no guarantee that a court will grant your application. In addition to verifying your eligibility under the law, the court will look at whether your post-conviction behavior justifies the expungement and whether granting your request for an expungement would be consistent with the public welfare.

Q: If my application is denied, can I reapply right away?

A: It depends —the Clean Slate Act gives the court the power to impose a three-year wait period before refile. In some cases, the court may elect to waive the three-year wait period for refile, but there is no guarantee that this will occur. This is why we stress the importance for applicants to ensure that they meet the statutory requirements before filing their expungement application.

Q: Was Clean Slate amended to allow for expungement of first-time DUI offenses?

A: Yes, assuming the individual meets the other requirements under the law, he or she may be eligible for expungement of their first-time DUI offense beginning Feb. 19, 2022

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Q: Am I able to expunge misdemeanor marijuana offenses under Clean Slate?

A: Yes, the Clean Slate Act established a [separate application process available at bit.ly/mics-mjform](https://bit.ly/mics-mjform) for those seeking to expunge misdemeanor marijuana offenses such as:

- Use of Marijuana
- Possession of Marijuana
- Possession of Drug Paraphernalia

For more information on this process, you can review the [Misdemeanor Marijuana Checklist](https://bit.ly/mics-mjcheck) provided by the Attorney General's Office at bit.ly/mics-mjcheck.

Q: Will I ever be eligible for an expungement if I don't qualify for one now ?

A: At Safe & Just Michigan, we believe that every person who has remained crime-free for the statutory waiting period should be eligible for public record clearance. This position is strongly supported by the existing research on record clearance and recidivism, and — consistent with that — we will always advocate for the broadest possible expungement policy. However, many legislators and other stakeholders may not necessarily share this view. So while we believe that the passage of the Clean Slate Act was a step in the right direction, we will continue to fight for broader record clearance in the future.

Q: How can I find out about what convictions are on my criminal record?

A. The Michigan State Police offers online access to its criminal history database for a fee through its Internet Criminal History Access tool (ICHAT), which is available here: apps.michigan.gov/. Additional information about ICHAT is available here: bit.ly/mics-ichat. Information regarding a criminal conviction can also be obtained from the conviction court. A certified copy of the conviction record is required to file a petition for expungement.

Q: I've heard people say this bill package makes Michigan a national leader in criminal record-sealing policy. In what ways is that true?

A: This is true in multiple ways:

1. Michigan is the first state in the nation to pass a retroactive automatic expungement that makes many felonies eligible for automatic expungement.
2. Eligibility for the automatic expungement is not conditional on whether the applicant has unpaid criminal justice debt. However, there is a provision that permits the expungement to be rescinded if the person does not make a good faith effort to pay restitution.
3. The expansions to eligibility for the petition process also position Michigan as a national leader in criminal record sealing policy.

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Q: What are some of the reasons the new law will have such a large impact?

A: There are several reasons:

1. The existing expungement process has never served a large number of people — uptake is estimated at 6.5 percent of eligible people, which translates to 2,000 to 3,000 people annually — even though hundreds of thousands are eligible to apply.
2. Traffic offenses are half of all criminal cases in Michigan, and no traffic offenses were eligible for expungement before this law was signed.
3. The new law makes all misdemeanors for marijuana possession and use that would not be illegal under current law eligible for expungement (irrespective of when the conviction occurred or what other convictions the person has on their record). This impacts an estimated 240,000 people.
4. The law expands eligibility to many people who were not previously eligible. Before this law passed, most people with records were not eligible to apply because they had more than one felony or two misdemeanors on their record.

Q: Where can I learn more?

A: Please feel free to check out the Clean Slate resources page on the Safe & Just Michigan website at www.safeandjustmi.org/our-work/clean-slate-for-michigan/ or contact us directly at info@safeandjustmi.org.

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Q: If I have legal questions about my eligibility for an expungement, what resources are available to help?

A: There are a number of free resources available for people who need a lawyer or legal advice. We recommend the free resources produced by Michigan Legal Help and the free legal services provided by Legal Aid (generally for people whose income is less than 200 percent of the federal poverty line). Michigan Legal Help also offers a lawyer referral service for those who may not qualify for assistance from Legal Aid.

Contact information:

Michigan Legal Help (michiganlegalhelp.org/)

- **Expungement resources (including online eligibility tool):** michiganlegalhelp.org/self-help-tools/crime-traffic-and-id/i-have-adult-criminal-conviction-i-would-set-aside-expunge
- **Online intake for Legal Aid via Michigan Legal Help:** michiganlegalhelp.org/call_intake_intro
- **Legal Services of South Central Michigan Expungement Intake Form:** michiganlegalhelp.org/lsscm-expungement-intake
- **Phone:** Phone intake is available through the Counsel and Advocacy Law Line (CALL) at 1-888-783-8190. Operates Monday-Thursday from 9 a.m.-5 p.m., and to 6 p.m. on Wednesdays only; and Fridays from 9 a.m.-1 p.m.

Legal Aid

- Find your local legal aid: www.michbar.org/public_resources/legalaid
- Online intake for Legal Aid via Michigan Legal Help Online: michiganlegalhelp.org/call_intake_intro
- Phone: Phone intake is available through the Counsel and Advocacy Law Line (CALL) at 1-888-783-8190. Operates Monday-Thursday from 9 a.m.-5 p.m., and to 6 p.m. on Wednesdays only; and Fridays from 9 a.m.-1 p.m.

Project Clean Slate (free expungement services for Detroit residents)

- To register online: detroitmi.gov/departments/law-department/project-clean-slate

Other ways to contact:

Project Clean Slate
2 Woodward Avenue, Suite 500 Detroit, MI 48226
(313) 237-3024
Monday - Friday 8:30 a.m.-5 p.m.
projectcleanslate@detroitmi.gov

Michigan Attorney General's Office Expungement Resource Page: bit.ly/agexpunge

(continued)

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Q: If I have legal questions about my eligibility for an expungement, what resources are available to help? *(continued)*

Washtenaw County Conviction Integrity & Expungement Unit (Washtenaw County residents and people convicted in Washtenaw County only):

Online: www.washtenaw.org/3364/Expungements

Email: CIEU@washtenaw.org

Phone: 734.222.6620

REGIONAL MICHIGANWORKS! OFFICES:

- Capital Area MichiganWorks! (Clinton, Eaton & Ingham counties): bit.ly/mics-camw
- Detroit at Work: bit.ly/mics-detroit
- GST MichiganWorks! (Genesee Huron, Lapeer, Sanilac, Shiawassee & Tuscola counties): bit.ly/mics-gst
- Macomb/St. Clair MichiganWorks!: bit.ly/mics-mstc
- MichiganWorks! Berrien• Cass•Van Buren: bit.ly/mics-bcvb
- MichiganWorks! Great Lakes Bay (Bay, Gratiot, Isabella, Midland, & Saginaw counties): bit.ly/mics-glbay
- MichiganWorks! Northeast (Alcona, Alpena, Cheboygan, Crawford, Montmorency, Oscoda, Otsego & Presque Isle counties): bit.ly/mics-mwne
- MichiganWorks! Southeast (Hillsdale, Jackson, Lenawee, Livingston & Washtenaw counties): bit.ly/csmi-mwse
- MichiganWorks! Southwest (Branch, Calhoun, Kalamazoo & St. Joseph counties): bit.ly/mics-mwsw
- MichiganWorks! West Central (Lake, Mason, Mecosta, Newaygo, Oceana & Osceola counties): bit.ly/mics-wc
- Northwest MichiganWorks! (Antrim, Benzie, Charlevoix, Emmet, Grand Traverse, Kalkaska, Leelanau, Manistee, Missaukee, & Wexford counties): bit.ly/mics-nwmw
- Oakland County MichiganWorks!: bit.ly/mics-oakland
- UP MichiganWorks! (entire Upper Peninsula): bit.ly/mics-mwup
- SEMCA MichiganWorks! (Monroe & Wayne counties, excluding Detroit): bit.ly/mics-semca
- West MichiganWorks! (Allegan, Barry, Ionia, Kent, Montcalm, Muskegon & Ottawa counties): bit.ly/mics-west

note: MichiganWorks! Region 7b doesn't currently have a website

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