

A Comprehensive Guide to Michigan's Clean Slate Expungement Laws

Section 1: The "Clean Slate" Revolution: A New Era for Michigan Records

1.1 Overview of the Clean Slate Initiative: Purpose and Impact

In October 2020, Michigan fundamentally reshaped its approach to criminal justice and second chances by enacting a bipartisan package of bills collectively known as the "Clean Slate" initiative.¹ This legislation, which positioned Michigan as a national leader in record-clearing reform, was designed with a clear purpose: to systematically remove the pervasive and long-lasting barriers that a criminal record creates for employment, housing, education, and economic mobility.³ The core philosophy of the Clean Slate laws is that individuals who have remained crime-free should not be perpetually hindered by past mistakes, allowing them to become full participants in their communities and the state's economy.⁴

The impact of this initiative is substantial, with the potential to affect hundreds of thousands of Michigan residents.⁷ The economic benefits are not merely theoretical; a 2020 University of Michigan study found that individuals who received an expungement saw their wages rise by an average of 23 percent within one year, primarily driven by unemployed or underemployed people finding stable work.⁴

The implementation of the Clean Slate package was phased, with two critical effective dates:

- **April 11, 2021:** The laws significantly expanding eligibility for the traditional, petition-based expungement process took effect.¹
- **April 11, 2023:** After a two-year development period, the state launched its first-of-its-kind automatic expungement process, designed to clear certain convictions

without any action required from the individual.¹

1.2 Understanding "Set Aside": What It Means for Your Record

In Michigan, the legal term for expungement is to "set aside" a conviction.¹¹ Understanding the precise meaning of this term is crucial for managing expectations. Setting aside a conviction does not mean the record is permanently destroyed or erased. Instead, the conviction is removed from the public record and becomes

non-public.³

For the vast majority of practical purposes, this has the same effect as a complete erasure. Once a conviction is set aside, it will no longer appear on standard public background checks conducted by most employers, landlords, and educational institutions.³ An individual who has had a conviction set aside can legally state on most applications that they have not been convicted of that crime.⁸

However, the Michigan State Police (MSP) is required by law to maintain a non-public record of the set-aside conviction.¹³ This non-public record is accessible only to a limited and specific list of entities for legally defined purposes. These entities include:

- Law enforcement agencies
- Prosecutors and the Attorney General
- Courts (for instance, when determining a sentence for a new crime)
- The Department of Corrections
- The Governor (when considering a pardon request)
- Certain agencies within the judicial branch for licensing purposes.¹³

This distinction ensures that while the general public cannot see the conviction, the justice system retains necessary information to perform its duties.

1.3 The Two Paths to a Clean Slate: Automatic vs. Petition-Based Expungement

The Clean Slate legislation established a dual-track system for setting aside convictions, creating two distinct pathways for individuals seeking relief.¹ Grasping the difference between

these two paths is the first step in navigating the new legal landscape.

1. **Automatic Expungement:** This is an innovative, automated process managed by the Michigan State Police. Using a sophisticated computer program, the state system automatically identifies and sets aside certain eligible felony and misdemeanor convictions after a set waiting period has passed.¹ This path requires no application, no fees, and no court appearance from the individual. It is designed to provide seamless relief for a specific subset of older, non-violent offenses.
2. **Petition-Based Expungement:** This is the traditional method of clearing a record, which the Clean Slate laws dramatically expanded. Under this process, an individual must formally petition the court where they were convicted, file an application, get fingerprinted, and attend a hearing to ask a judge to set aside their conviction(s).¹¹ While this path requires significant effort from the applicant, it covers a much broader range of offenses and allows for a greater number of convictions to be cleared than the automatic process.

The creation of this dual-track system, while groundbreaking, introduces a significant layer of complexity. An individual's eligibility is not a simple binary question but depends entirely on which track they qualify for, each with its own intricate set of rules regarding the number of convictions, types of offenses, and waiting periods. A person may be ineligible for the seemingly simple automatic path but still fully eligible for relief through the more involved petition-based path. This complexity underscores the need for clear, accurate guidance, as individuals could easily become discouraged or mistakenly believe they are ineligible if their record is not cleared automatically. The proliferation of county-level "Clean Slate" assistance programs further demonstrates that the system, particularly the petition-based track, is not self-navigating and often requires expert help.⁹

Section 2: Are You Eligible? Navigating the Rules of Expungement

2.1 The Foundation of Eligibility: A Side-by-Side Comparison

To clarify the complex eligibility requirements, the following table provides a high-level comparison of the two expungement pathways. This allows for a quick initial assessment of which process may be applicable to an individual's circumstances.

Feature	Petition-Based Expungement	Automatic Expungement
Felony Limit	Up to 3 felonies in a lifetime.	Up to 2 eligible felonies in a lifetime.
Misdemeanor Limit	Unlimited number of misdemeanors.	Up to 4 "serious misdemeanors" or misdemeanors punishable by 93+ days. Unlimited minor misdemeanors (punishable by 92 days or less).
Waiting Period	3, 5, or 7 years , depending on the offense type.	7 years for misdemeanors; 10 years for felonies.
Assaultive Crimes	Up to 2 assaultive crime convictions may be set aside.	Not eligible. One or more assaultive crime convictions may disqualify other convictions from being automatically set aside.
"Serious Misdemeanors"	Eligible after a 5-year waiting period.	Not eligible.
First-Time OWI/DUI	Eligible after a 5-year waiting period (if no injury/death).	Not eligible.
"Crimes of Dishonesty"	Generally eligible.	Not eligible.
Felonies Punishable by 10+ Years	Eligible, with some restrictions.	Not eligible.
Process Initiation	Individual must file an application with the court.	State automatically processes eligible records.

2.2 Deep Dive: Petition-Based Expungement Eligibility

The petition-based process offers the broadest path to relief under the Clean Slate laws. The eligibility criteria are as follows:

Counting Your Convictions

An individual may petition to set aside up to **three felony convictions** and an **unlimited number of misdemeanor convictions** during their lifetime.⁹ However, a person with four or more felony convictions on their record is categorically barred from petitioning to set aside

any conviction, unless the "One Bad Night" rule can reduce their total number of felony convictions for eligibility purposes.⁹

The "One Bad Night" Provision

This crucial provision allows multiple convictions to be treated as a single conviction if they arose from the same criminal transaction and occurred within a 24-hour period.² For example, if a person was convicted of four separate felonies for actions that all took place during a single incident over a few hours, those four convictions could be bundled and counted as one felony, making the individual eligible to file a petition. However, this rule comes with significant exceptions and

cannot be applied if any of the convictions are for:

- An assaultive crime.¹⁹
- A crime involving the use or possession of a dangerous weapon.⁴
- A crime with a maximum punishment of 10 or more years in prison.¹⁹

Special Limits on Certain Offenses

- **Assaultive Crimes:** An individual can have no more than **two convictions for assaultive crimes** set aside in their lifetime.¹⁹ An assaultive crime is generally defined as one that involves physically harming or threatening another person.²⁰
- **High-Level Felonies:** A person cannot set aside more than **one felony conviction for the same offense** if that offense carries a maximum penalty of more than 10 years' imprisonment.¹⁹ For instance, if an individual has two separate convictions for armed robbery, only one could be set aside.

2.3 Deep Dive: Automatic Expungement Eligibility

The automatic process is more restrictive and is intended to clear older, less severe offenses without court intervention.

Who Qualifies for Automated Clearing?

The number of convictions that can be automatically set aside is limited to:

- Up to **two eligible felonies**.¹⁷
- Up to **four misdemeanors punishable by 93 days or more** (this category includes "serious misdemeanors").¹⁷
- An **unlimited number of misdemeanors punishable by 92 days or less**.⁸

The "Intervening Conviction" Rule: A Common Barrier

A critical requirement for automatic expungement is that the individual must remain conviction-free during the entire 7- or 10-year waiting period associated with the original offense.¹ If a person is convicted of any new crime—even a minor misdemeanor—during this "lookback" period, the original, older conviction is blocked from being automatically expunged.⁴

This rule represents a significant barrier to relief for many. The law's intent is to promote economic opportunity and reduce recidivism.⁴ However, many minor offenses that can occur during a waiting period, such as driving on a suspended license or minor retail fraud, are often directly linked to the financial instability and lack of opportunity that the Clean Slate laws aim

to remedy. The "intervening conviction" rule can therefore create a counterproductive cycle: a person struggling due to an old record may commit a minor offense born of economic hardship, which in turn prevents the automatic relief that could help them escape that hardship. This strict requirement marks a departure from the pre-Clean Slate era, where judges had the discretion to grant a petition-based expungement even if a subsequent offense had occurred, weighing all factors in their decision.⁴ The inclusion of this rigid rule in the automatic process reflects a legislative balance between providing broad relief and demanding a strict, blemish-free record, but its practical effect can be punitive.

2.4 Offenses That Can Never Be Expunged: A Definitive List

Michigan law specifies certain serious offenses that are categorically ineligible for expungement through either the automatic or petition-based process. It is vital to identify these early to manage expectations. Ineligible offenses include:

- Any felony for which the maximum punishment is **life in prison** (or an attempt to commit such a felony).³
- Most **Criminal Sexual Conduct (CSC)** offenses, including first, second, and third-degree CSC, and fourth-degree CSC if committed on or after January 12, 2015.³
- **Child abuse** in the first or second degree.¹⁹
- **Human trafficking** offenses.⁸
- Any **traffic offense that results in injury or death**.⁹
- Any traffic offense committed by an individual operating a commercial vehicle with a **Commercial Driver's License (CDL)**.⁹
- A **felony domestic violence** conviction if the person has a prior misdemeanor domestic violence conviction.¹⁹
- **Federal convictions** and **out-of-state convictions**. These must be addressed in the jurisdictions where they occurred.³

Section 3: Calculating Your Timeline: The Waiting Periods Explained

3.1 When Does the Clock Start? The Most Important Calculation

One of the most frequent points of confusion in the expungement process is determining when the mandatory waiting period begins. The law is very specific: the clock starts from the date of the **latest** of the following events for the conviction being set aside:

- The date the sentence was imposed.
- The date the individual completed their term of probation.
- The date the individual was discharged from parole.
- The date the individual was released from incarceration (jail or prison).

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For example, if a person was sentenced on January 1, 2015, released from prison on January 1, 2017, and discharged from parole on January 1, 2018, the waiting period would begin on January 1, 2018, the last date of justice system supervision.

3.2 Waiting Periods for Petition-Based Expungement

The waiting period to file a petition varies based on the severity and number of convictions the applicant is seeking to set aside.

If you are applying to set aside...	You must wait...
One or more non-serious misdemeanors	3 years
One felony, OR one or more "serious misdemeanors," OR a first-time OWI	5 years
More than one felony	7 years

"Serious misdemeanors" are a specific category of offenses defined by statute and include crimes like assault and battery, domestic violence, and certain driving offenses.²³

3.3 Waiting Periods for Automatic Expungement

The waiting periods for the automatic process are longer and less complex than for the petition-based path.

- **Misdemeanors:** The waiting period is **7 years** from the date of sentencing.¹
- **Felonies:** The waiting period is **10 years** from the date the sentence was imposed OR the date the individual completed their term of imprisonment, whichever occurred later.¹

Section 4: The Application Pathway: A Step-by-Step Guide to Petitioning the Court

For convictions that are not eligible for automatic expungement, or for individuals who wish to clear their record sooner than the automatic timeline allows, the petition-based process is the required path. This process is detailed and requires careful adherence to procedural rules.

Step 1: Gathering Your Records

The first step is to get a complete and accurate picture of one's criminal history.

- **ICHAT Report:** An individual should begin by obtaining their public criminal history from the MSP's **Internet Criminal History Access Tool (ICHAT)**. This provides a comprehensive list of Michigan convictions for a \$10 fee and is essential for determining eligibility.²⁹
- **Certified Records of Conviction:** For each specific conviction an individual wishes to set aside, they must obtain a *certified* copy of the judgment of sentence or register of actions from the clerk of the court where the conviction occurred. This document is a mandatory attachment for the application, and courts typically charge a fee for it.¹⁸

Step 2: Completing the Correct Application

The State Court Administrative Office (SCAO) provides official forms for the application process. It is critical to use the correct one.

- The primary form for most cases is **MC 227, Application to Set Aside Conviction(s)**.¹⁸
- Specialized forms exist for specific circumstances:

- **MC 227a, Application to Set Aside Misdemeanor Marihuana Conviction(s).**¹⁸
- **MC 227b, Application for Human Trafficking Victim to Set Aside Conviction(s).**¹⁸
- The application must be filled out completely and accurately. Resources like Michigan Legal Help offer free "Do-It-Yourself" online tools that can guide individuals through completing the forms.³¹ The application must then be signed in the presence of a notary public or a court clerk.¹⁸

Step 3: Obtaining Your Fingerprints

The applicant must be fingerprinted on a specific law enforcement card.

- The required form is the Michigan Applicant Fingerprint Card, **RI-008**.¹⁸
- Fingerprinting services are available at local police departments or MSP posts, usually for a small fee.³⁴ This original fingerprint card must be submitted as part of the application packet.

Step 4: Filing, Serving, and Notifying the Required Agencies

Once the application is complete and notarized, and the fingerprints and certified records are obtained, the packet must be distributed to several government agencies.

1. **File with the Court:** The original application and certified conviction records are filed with the clerk of the court where the conviction occurred.²⁹
2. **Serve the Michigan State Police (MSP):** A copy of the application, a copy of the certified records, and the **original RI-008 fingerprint card** must be mailed to the MSP. This mailing must include a **\$50 processing fee**, payable by check or money order to the "State of Michigan".²⁹
3. **Serve the Attorney General:** A copy of the application and certified records must be mailed to the Michigan Attorney General's Office.¹⁸
4. **Serve the Prosecutor:** A copy of the application and certified records must be mailed to the office of the prosecuting attorney that handled the original case (this could be a county prosecutor or a city attorney).¹⁸
5. **Complete Proof of Service:** The applicant must fill out the "Proof of Service" section on the application form, certifying that they have mailed the required copies to all agencies, and file this with the court.¹⁸

Step 5: Preparing for Your Court Hearing

After the application is filed and served, the court will schedule a hearing.¹⁸ At this hearing, the applicant bears the burden of proving to the judge two key things:

1. That their circumstances and behavior since the date of the conviction warrant setting it aside.
2. That setting aside the conviction is consistent with the public welfare.

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To meet this burden, applicants should prepare evidence demonstrating their rehabilitation and positive life changes. This can include:

- **Letters of support** from employers, family members, friends, and community or religious leaders.³⁰
- **Proof of accomplishments**, such as educational degrees, vocational certificates, or completion of rehabilitation programs.²⁹
- A **personal statement** explaining how their life has changed and how a clean record will help them achieve future goals in employment, housing, or education.²⁹

Step 6: After the Judge's Decision

- **If Granted:** The judge will sign an Order on Application to Set Aside Conviction (e.g., Form MC 228). The conviction officially becomes non-public. The court clerk is responsible for sending a copy of the order to the MSP and the original arresting agency so they can update their records.¹⁸
- **If Denied:** An applicant must typically wait **three years** from the date of the denial before they can apply again. However, the judge has the discretion to state in the denial order that the applicant may reapply sooner.¹¹ An applicant also has the right to file a motion for rehearing or to appeal the decision to a higher court.³⁰

Section 5: The Automatic Pathway: How It Works and

How to Verify Your Status

5.1 The Automated Process: How the State Clears Records

The automatic expungement process, which began on April 11, 2023, is driven by technology managed by the Michigan State Police. The MSP, in collaboration with the Department of Technology, Management, and Budget, developed an automated program—sometimes called the "Rules Engine"—that scans the state's central Criminal History Record (CHR) database on a daily basis.¹

When this program identifies a conviction that meets all the strict eligibility criteria (offense type, number of prior convictions, completion of the waiting period, no intervening convictions), it automatically changes the status of that conviction in the MSP database from public to non-public.¹⁴ Following this action, the MSP system generates a secure daily file that is transmitted to the court where the conviction originated, notifying the court to also make its record of the conviction non-public.¹

5.2 "My Record Was Supposed to Be Cleared, What Happened?" (Troubleshooting)

While the term "automatic" suggests a seamless and effortless process, the reality is more complex. The system's effectiveness is entirely dependent on the accuracy and completeness of decades of data from various courts and law enforcement agencies across the state. Consequently, an automated system is not infallible and can be hampered by data integrity issues and systemic blockages that prevent otherwise eligible convictions from being cleared. The promise of automated relief is sometimes broken by the realities of bureaucratic data management, leading to backlogs and delays.¹⁷

Advocacy groups and legal aid organizations have identified several common reasons why an eligible conviction might not be automatically expunged:

- **The Intervening Conviction Rule:** As detailed earlier, a new conviction during the waiting period is the most common statutory reason for disqualification.⁴
- **"Hanging Charges":** Thousands of cases across the state remain technically "open" in court databases due to clerical errors, such as a failure to formally record a dismissal or

sentence completion. The automated system sees an open case and will not process any convictions for that individual, effectively blocking them from relief.⁴

- **Pending Charges or Warrants:** Any active criminal case or outstanding arrest warrant will halt the automatic expungement process for all of an individual's prior convictions.⁹
- **Ineligibility of the Offense:** The conviction may be for an offense that is excluded from the automatic process, such as an assaultive crime, a serious misdemeanor, or a crime of dishonesty, even if it might be eligible through the petition process.³
- **Maximum Limits Reached:** The system will stop clearing records for an individual once they have reached the maximum limit of two felonies and four serious misdemeanors.²³

5.3 How to Confirm Your Record Is Clean: No Automatic Notification

A critical aspect of the automatic expungement law is that **the state does not notify individuals** when their records have been set aside.⁴ This creates a situation where hundreds of thousands of Michiganders may have received a clean slate but are unaware of it, potentially continuing to disclose a criminal record on job or housing applications unnecessarily.⁴ Therefore, it is incumbent upon the individual to verify their own record status.

There are three primary methods to do so:

1. **Method 1 (Public Record Check):** The quickest way to check is to run a name-based search on the MSP's **ICHAT** website for a \$10 fee. If a conviction that was previously on the record no longer appears in the search results, it has likely been set aside and made non-public.¹⁷
2. **Method 2 (Full Record Check):** For definitive confirmation, an individual can request a **Personal Records Check** from the MSP. This process is more involved, requiring fingerprints and a \$30 fee. The resulting report is comprehensive and will show both public convictions and any non-public, set-aside convictions, providing a complete and official picture of one's record.¹³
3. **Method 3 (Court Inquiry):** An individual can contact the clerk of the convicting court directly and ask if the record of their conviction is still public. It is worth noting that court records may take longer to be updated than the central MSP database.¹⁸

If an individual believes their record was eligible but was not cleared, they can contact the MSP directly at their designated email address, **MSP-CRD-CSAAUTOMATIC@michigan.gov**, or seek assistance from legal aid organizations or at a local expungement fair.¹³

Section 6: Special Cases: Marijuana, OWI, and Human Trafficking

The Clean Slate laws created special rules and streamlined processes for certain types of offenses, recognizing unique circumstances surrounding their criminalization.

6.1 Expunging Misdemeanor Marijuana Convictions

The law establishes a special, expedited process for individuals with misdemeanor marijuana convictions for acts that would not have been a crime after recreational marijuana was legalized in Michigan on December 6, 2018.³ This process has several key advantages:

- There is **no waiting period** to apply.⁴⁶
- An individual's eligibility is not affected by any other felony or misdemeanor convictions on their record.⁴⁶
- The process uses a dedicated form, **MC 227a**.³¹
- The law creates a "rebuttable presumption" that the conviction should be set aside. This shifts the burden of proof to the prosecutor, who has 60 days to object and prove why the expungement should be denied. If the prosecutor does not object, the judge must grant the expungement without a hearing.⁴⁵

6.2 Setting Aside a First-Time OWI/DUI Conviction

Effective February 19, 2022, Michigan law for the first time allows for the expungement of certain first-offense convictions for Operating While Intoxicated (OWI), commonly known as DUI.² The eligibility requirements are strict:

- It must be the individual's **first and only OWI conviction** in their lifetime. A person with more than one OWI is ineligible to expunge any of them.¹⁹
- There is a **five-year waiting period** after the completion of the sentence.²⁰
- The offense **cannot have caused injury or death** to another person.¹⁹
- Only one OWI conviction can be set aside in a person's lifetime.⁴⁶

6.3 Special Relief for Victims of Human Trafficking

The law provides a specific path to relief for individuals who were victims of human trafficking and were convicted of certain offenses, such as prostitution, as a direct result of being trafficked.¹⁸ This process uses a dedicated form,

MC 227b, and importantly, has **no waiting period**, allowing victims to clear their records and move forward with their lives more quickly.

Section 7: Life After Expungement: The Benefits and Limitations

7.1 The Impact on Employment, Housing, and Licensing Background Checks

The primary and most life-changing benefit of an expungement is its effect on background checks. Once a conviction is set aside, it becomes non-public and will not be visible to most employers, landlords, volunteer organizations, or schools conducting a standard criminal background check.³ This allows individuals to compete for opportunities on a more level playing field.

Legally, an individual can answer "no" to questions on most applications asking if they have ever been convicted of a crime, with respect to the expunged offense.⁸ This removal of the stigma associated with a criminal record is a powerful tool for social and economic reintegration, leading to demonstrably better outcomes in wages and employability.⁴

7.2 Who Can Still See Your Record? Understanding Non-Public Access

While an expungement seals a record from public view, it is not erased entirely. As noted previously, the MSP maintains a non-public record that is accessible to a limited group of governmental and judicial entities for specific, legally defined purposes.¹³ This is to ensure that while an individual receives a fresh start in their public life, the justice system can still function effectively. For example, a judge can view a non-public record when determining an appropriate sentence for a new felony conviction, or a law enforcement agency can access it when screening an applicant for a job.¹³

7.3 Important Limitations: What Expungement Does NOT Do

It is essential to understand the limitations of a Michigan expungement to avoid potential legal issues in the future.

- **Immigration:** Federal immigration authorities, including U.S. Citizenship and Immigration Services (USCIS), **do not recognize state-level expungements**. A set-aside conviction is still considered a conviction for all federal immigration purposes. Applicants for visas, green cards, or citizenship must disclose all arrests and convictions, even those that have been expunged, and provide certified court records.¹³
- **Driving Records:** Setting aside a traffic-related conviction, such as a first-offense OWI, **does not remove it from an individual's official driving record** maintained by the Michigan Secretary of State.¹³
- **Restitution:** An individual's legal obligation to pay any court-ordered restitution to the victim(s) of a crime **survives the expungement**. Failure to make a good-faith effort to pay restitution can even be grounds for a court to reverse an automatic expungement.¹³
- **Firearm Rights:** While expunging a felony conviction may be a necessary first step toward restoring state and federal firearm rights, it **does not automatically restore them**. A separate legal process is often required.¹⁶

7.4 The Tangible Benefits of a Clean Record: Economic and Personal Restoration

The Clean Slate laws represent a monumental shift in Michigan's approach to criminal justice, moving from a philosophy of perpetual punishment to one that embraces rehabilitation and second chances. By clearing the path to better jobs, stable housing, and further education, expungement offers a tangible route out of the cycle of poverty and recidivism that a criminal record often perpetuates.⁵ Beyond the clear economic advantages, the restoration of a clean

record provides profound personal benefits, allowing individuals to shed the stigma of a past mistake and fully reintegrate into society. Michigan's Clean Slate initiative provides a powerful and accessible legal tool for hundreds of thousands of residents to build a better future for themselves, their families, and their communities.

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