

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

712A.18t Automatic expungements; exceptions; notification; nonpublic record; disclosure; violation; misdemeanor; implementation.

Sec. 18t.

(1) Except as otherwise provided in this section, beginning 2 years after the effective date of the amendatory act that added this section, an adjudication is set aside under this section without filing an application under section 18e of this chapter 2 years after the termination of court supervision or when the person becomes 18 years of age, whichever is later.

(2) Subsection (1) does not apply to an adjudication for an offense described under section 2(a)(1)(A) to (I) of this chapter, to a conviction or adjudication as described under section 18e(2) of this chapter, or to a conviction or adjudication for a violation of section 81a, 82, 90, 136b, 321, 322, 397, 411h, 411i, 520d, 520g, or 543k of the Michigan penal code, 1931 PA 328, MCL 750.81a, 750.82, 750.90, 750.136b, 750.321, 750.322, 750.397, 750.411h, 750.411i, 750.520d, 750.520g, and 750.543k.

(3) The attorney general and the prosecuting attorney who prosecuted the offense shall not contest the setting aside of an adjudication without an application under this section.

(4) Upon the setting aside of an adjudication under this section, the person is considered not to have been previously adjudicated, except as provided in subsection (6) and as follows:

(a) The person is not entitled to the remission of any fine, costs, or other money paid as a consequence of an adjudication that is set aside.

(b) This section does not affect the right of the person to rely upon the adjudication to bar subsequent proceedings for the same offense.

(c) This section does not affect the right of a victim of an offense to prosecute or defend a civil action for damages.

(d) This section does not create a right to commence an action for damages for detention under the disposition that the person served before the adjudication is set aside under this section.

(e) Research on the utilization and effectiveness of the set-aside process.

(5) Upon the setting aside of an adjudication under this section, the court shall notify the arresting agency and the department of state police that the adjudication has been set aside.

(6) The department of state police shall retain a nonpublic record of an adjudication for a juvenile offense that is set aside under this section and of the record of the arrest, fingerprints, adjudication, and disposition of the person in the case. Except as provided in subsection (7), this nonpublic record must be made available only to a court of competent jurisdiction, an agency of the judicial branch of state government, a law enforcement agency, a prosecuting attorney, the attorney general, or the governor upon request and only for the following purposes:

(a) Consideration in a licensing function conducted by an agency of the judicial branch of state government.

(b) Consideration by a law enforcement agency if a person whose adjudication has been set aside applies for employment with the law enforcement agency.

(c) The court's consideration in determining the sentence to be imposed upon conviction for a subsequent offense that is punishable as a felony or by imprisonment for more than 1 year.

(d) Consideration by the governor, if a person whose adjudication has been set aside under this section applies for a pardon for another offense.

(7) A copy of the nonpublic record created under subsection (6) must be provided to the person whose adjudication is set aside under this section upon payment of a fee determined and charged by the department of state police in the same manner as the fee prescribed in section 4 of the freedom of information act, 1976 PA 442, MCL 15.234.

(8) The nonpublic record maintained under subsection (6) is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(9) Except as provided in subsection (6), a person, other than the person whose adjudication is set aside under this section or a victim, who knows or should have known that an adjudication was set aside under this section, and who divulges, uses, or publishes information concerning an adjudication set aside under this section is guilty of a misdemeanor. As used in this subsection, "victim" means any individual who suffered direct or threatened physical, financial, or emotional harm as the result of the offense that was committed by the person whose adjudication is set aside under this section.

(10) An adjudication set aside for a traffic offense under this section must not be removed or expunged from the driving record of the person whose adjudication has been set aside maintained by the secretary of state as required under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(11) If the governor determines that the process for setting aside an adjudication without an application under

this section cannot be implemented by the date required under subsection (1) because of technological limitations, the governor may issue a directive delaying the implementation of this section for not more than 180 days. The attorney general, the state court administrator, or the director of the department of state police may recommend a delay of implementation to the governor under this subsection.

History: Add. 2020, Act 361, Eff. July 3, 2021

Popular Name: Probate Code

Popular Name: Juvenile Code