



HOUSE BILL No. 5997

September 27, 2000, Introduced by Rep. Price and referred to the Committee on Criminal Law and Corrections.

A bill to allow the court to order certain criminal records sealed under certain circumstances; to prescribe the powers and duties of certain state and local governmental officers and entities; and to provide penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "fresh start act".

3 Sec. 2. (1) Except as otherwise provided in this act, a
4 person who was convicted of a crime may, upon the expiration of 5
5 years after the judgment of conviction and fulfillment of all
6 sentencing, probation, and parole obligations arising out of that
7 conviction, petition the court for an order sealing all criminal
8 records for that criminal violation and for all previous criminal
9 violations committed by that person.

1 (2) The petition for an order under this section shall be
2 filed in the court in which the individual was last convicted of
3 a crime, and shall list all crimes for which the order shall
4 apply. The person shall serve notice of the petition on the
5 prosecuting attorney for each criminal violation listed by the
6 person and for which the person seeks an order under this
7 section. The notice shall be served not less than 60 days before
8 a hearing is held on the petition.

9 (3) A prosecuting attorney has the right to contest a peti-
10 tion filed under this section.

11 Sec. 3. A person is not eligible for an order under this
12 act if any of the following circumstances exist:

13 (a) The person was previously convicted of a felony involv-
14 ing the use of physical force or the threat of the use of physi-
15 cal force against another person.

16 (b) The person previously was convicted of a listed
17 offense.

18 (c) The person was previously convicted of more than 2
19 felonies.

20 Sec. 4. The court shall grant a petition for an order that
21 is properly submitted under section 2 if the prosecuting attorney
22 does not contest the petition and the person is not ineligible
23 for an order under this section. If the prosecuting attorney
24 contests the petition, the court shall conduct a hearing on the
25 petition. The court shall grant the petition if the court deter-
26 mines the person is eligible for an order under this section

1 unless the court determines that, in the interests of justice,
2 the petition should be denied.

3 Sec. 5. (1) A person is eligible for an order under section
4 2 only if all of the following apply:

5 (a) The person successfully completes 100 hours of community
6 service approved by the court or a program of self-improvement
7 approved by the court. As used in this subsection, "program of
8 self-improvement" means an educational program that provides job
9 training skills or counseling to address a mental or emotional
10 illness or disorder.

11 (b) The person successfully completes a program of substance
12 abuse treatment and rehabilitation services if the person is
13 determined by the court to be in need of those services.

14 (c) The person obtains a high school diploma or its substan-
15 tial equivalent if the person does not have a high school diploma
16 or its substantial equivalent.

17 (2) The court may approve any program described in subsec-
18 tion (1)(a) that was completed within 1 year immediately preced-
19 ing the date of application or may approve the program for com-
20 pletion after the application is filed.

21 Sec. 6. (1) If the court issues an order sealing a person's
22 records under this act, the court shall promptly provide a copy
23 of the order to all of the following:

24 (a) Each court named in the petition having jurisdiction
25 over a prior conviction.

26 (b) Each law enforcement agency that investigated the prior
27 criminal violation.

1 (c) Each prosecuting attorney who prosecuted the prior
2 criminal violation.

3 (d) The criminal records division of the department of state
4 police.

5 (e) The department of corrections, if the person was placed
6 in the jurisdiction of the department of corrections for the
7 criminal violation.

8 (2) An entity that receives a copy of an order under subsec-
9 tion (1) shall promptly close all records within that entity's
10 possession or control relating to each crime that is set forth in
11 the order and shall not disclose the existence of a record or the
12 contents of a record to any other person except as otherwise pro-
13 vided in this act.

14 Sec. 7. Except as otherwise provided in this act, if a
15 person's records are ordered sealed under this section, the
16 person is considered not to have been convicted of a crime and is
17 not disqualified from any legal occupation. Except as otherwise
18 provided by law, a person whose records are sealed under this
19 section for a prior conviction may deny the existence of that
20 prior conviction.

21 Sec. 8. A person who knows that a record has been ordered
22 sealed under this act who willfully discloses the existence or
23 the contents of that record in violation of this act is guilty of
24 a misdemeanor punishable by a fine of not more than \$1,000.00.
25 This subsection does not apply to any of the following:

1 (a) A person who discloses the existence of a record or the
2 contents of a record to a police officer, prosecutor, or
3 investigator for a prosecutor for law enforcement purposes.

4 (b) A person who discloses the existence of a record or the
5 contents of a record to a county concealed weapon licensing board
6 for determining the person's right to own, carry, or possess a
7 firearm or to engage in the business of selling firearms.

8 (c) A person who discloses the existence of a record or the
9 contents of a record to the person who obtained the order or his
10 or her attorney.

11 Sec. 9. As used in this act:

12 (a) "Felony" means a crime specifically designated to be a
13 felony, or a misdemeanor punishable by imprisonment for more than
14 1 year.

15 (b) "Listed offense" means that term as defined in section 2
16 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

17 (c) "Prosecuting attorney" means the attorney general or a
18 county prosecuting attorney, or the attorney for a city, village,
19 or township who prosecutes criminal ordinance violations on
20 behalf of that city, village, or township.

21 (d) "Substance abuse treatment and rehabilitation services"
22 means that term as defined in section 6107 of the public health
23 code, 1978 PA 368, MCL 333.6107.