



**House
Legislative
Analysis
Section**

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**SET ASIDE A CONVICTION:
INCREASE FEE**

**Senate Bill 927 with committee
amendment
First Analysis (6-4-02)**

**Sponsor: Sen. Philip E. Hoffman
House Committee: Criminal Justice
Senate Committee: Appropriations**

THE APPARENT PROBLEM:

Under provisions of Public Act 213 of 1965, a person who is convicted of not more than one offense may file an application with the convicting court for the entry of an order setting aside the conviction. This provision does not apply to felonies for which the maximum punishment is life imprisonment, a conviction for a criminal sexual conduct offense, or a conviction of a traffic ticket. Currently, the application fee for such an order is \$25. This fee has not been increased in many years. An application to set aside a conviction requires the Department of State Police to compare the applicant's fingerprints with state and FBI records, and then report the findings to the court, along with other specified information. Further, copies of the application must also be sent to the attorney general and the prosecuting attorney who prosecuted the crime. Since the current fee of \$25 has not been raised in many years, it hasn't kept pace with inflation. For years, this fee has fallen far short of the administrative costs to process such an application.

In light of the inflationary effects through the years and the current economic downturn – which has resulted in a budget shortfall for the near future – it has been recommended that this fee be increased.

THE CONTENT OF THE BILL:

Senate Bill 927 would amend Public Act 213 of 1965, which provides for setting aside certain convictions) to increase in statute from \$25 to \$50 the fee required to be submitted to the Department of State Police for an application to set aside a conviction. (Under Executive Order 2001-9, the fee is \$30 for FY 2001-02.) The bill would take effect October 1, 2002.

MCL 338.822 et. al.

HOUSE COMMITTEE ACTION:

The committee adopted amendments to delete the tie-bar with Senate Bill 425 and to give an effective date of 10-1-02.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, if the current statute were used as the baseline, the \$50 fee specified in the bill would result in an estimated \$25,000 in increased annual revenue for the Department of State Police.

(This fee was increased to \$30 in Executive Order 2001-9, effective for fiscal year 2001-2003 only. The EO included a \$2.8 million general fund reduction for the DSP's Criminal Justice Information Center; restricted revenue generated from this and other background check-related fee increases was intended to offset that reduction. The Executive Recommendation for the 2002-2003 state police budget also assumes \$2.8 million in additional restricted revenue to offset the general fund reduction.) (5-24-02)

ARGUMENTS:

For:

The bill is necessary for two reasons. First of all, the fee for an order setting aside a conviction has not increased in many years, and therefore has not kept up with the effects of inflation. Secondly, the recent economic downturn has resulted in a serious budget deficit. The legislature and governor's office has been faced with tough budget decisions, and the budgets for all state departments, including the operating budget for the state police, has been decreased. Without the fee increase, the state police could not continue to process these applications on a timely basis.

Senate Bill 927 (6-4-02)

POSITIONS:

The Department of State Police supports the bill. (6-3-02)

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.