General info on Michigan’s new Clean Slate Bill

* The new law vastly changes the landscape of expungements, and who is eligible to have convictions set aside
* Under the Clean Slate Bill, there is no limit to how many misdemeanors you can have set aside
* You can also have up to three felonies set aside. If you have more than three felonies on your record, you are not eligible for an expungement
* However, in limited situations, if one is convicted of multiple felonies, but those felonies resulted from a single act, it may be counted as one felony under the “one bad night.” This means that the offenses happened within 24 hours of each other, are not assaultive crimes, does not involve use or possession of a dangerous weapon, or is a crime that is punishable by 10 years or more in prison.
* In addition, you can only have two assaultive crimes set aside in your lifetime, misdemeanor or felony.
* You cannot have more than one felony for the same offense set aside if the possible punishment is 10 years in prison or more
* If you have two convictions for different offenses that carry a punishment of 10 years in prison or more, you may be eligible to set aside those felonies
* Much like the old expungement laws, convictions that were deferred and dismissed under some sort of diversion statute, it still counts as a conviction for purposes of expungement, and must be listed on your application to set aside conviction.

Timeframe to have convictions set aside

* 7 years for multiple felonies
* 5 years for people with 1 felony or one or more “serious” misdemeanors. While you should research what is considered a serious misdemeanor, some include assault or battery, domestic violence, breaking and entering, fourth degree child abuse, stalking. These are just a few that are considered “serious” misdemeanors.
* 3 years for all other misdemeanors
* Much like under the old laws, the time starts on the date of conviction, the date you were released from probation or parole, or when you were released from jail or prison, whichever happened latest.

Convictions that cannot be set aside

* There are certain convictions that are not eligible to be set aside. While we encourage you to research this list of convictions that are not eligible to be set aside, some include the following:
  + Operating While Intoxicated
  + CSC 1, CSC 2, CSC 3, and CSC 4 . However a CSC 4 that happened before 1/12/15 can possibly be set aside if you have no other convictions on your record, except for up to two minor offenses (those that are punishable by up to 90 days in jail, the maximum fine does not exceed $1000, and the person who committed the offense is not older than 21 years old
  + Felonies punishable by up to life in prison
  + Traffic offense that resulted in injury or death
  + A felony conviction for domestic violence when you have a misdemeanor conviction for Domestic Violence.

Possession of marijuana convictions

* Possession of marijuana convictions may be set aside without a waiting period if the offense would not have been a crime on or after December 6th, 2018, which is the date recreational marijuana became legal in Michigan
* If the Prosecutor does not object, the Judge must set aside the conviction
* Prosecution must object within 60 days, and the burden is on the prosecution (using a preponderance of evidence standard) to prove that it was not legal on or after 12/6/2018

Traffic Offenses

* Traffic offenses are now eligible to be set aside
* However, as previously stated, there are some offenses that cannot be set aside, such as OWI convictions and offenses that resulted in injury or death.
* In addition no traffic offenses can be set aside if operating under a CDL license

Automatic Set Aside

* Misdemeanors that are punishable by less than 93 days will be automatically set-aside after 7 years. This includes an unlimited
* For misdemeanors punishable by 93 days or more, they will also be set aside after 7 years. However, you are limited to 4 misdemeanors that can be automatically set aside. You cannot have pending charges, and this does not include assaultive misdemeanors, or those that are considered “serious” misdemeanors, or misdemeanors that involve dishonesty.
* Felonies will automatically be set aside after 10 years from the date of sentence or completion of any department of correction incarceration. This only applies to a maximum of two felonies. However, this does not apply to the following felonies: assaultive felonies, felonies that include dishonesty, felonies punishable by 10n years or more in prison, human trafficking convictions, felony crimes that involve a minor, vulnerable adult, or a felony that resulted in serious impairment or death
* It appears that the automatic set asides wont be implemented until at least 2023. While I am not certain, I assume that those that would be eligible for automatic set asides in 2023 can still be set aside if a proper application is filed by the Petitioner.

Final points

* If you have felonies in different that occurred in different counties, then separate applications will need to be filed to have those felonies set aside
* To be eligible to apply to set aside a conviction, you cannot have any charges pending against you.
* If the Judge denies your application to set aside your conviction, you must now wait 3 years to apply to have that conviction set aside again.
* If the Judge does grant your application to set aside, the Michigan
* If your conviction is not set aside, you may still ask the Governor for a pardon

For more information, Call Attorney Cody Crane to discuss whether you are eligible! Information can also be found by clicking the link below to access the State of Michigan’s website.

https://www.michigan.gov/msp/services/chr/conviction-set-aside-public-information/michigan-clean-slate