

Forms JC 66 and JC 105

APPLICATION TO SET ASIDE ADJUDICATION AND ORDER

Use this form to ask the court to make a Michigan juvenile adjudication nonpublic.

APPLICATION CHECKLIST

Use the following checklist to make sure you have done all the steps that are needed.

DID YOU . . .

1. Read all the information in the Self-Help Center at http://courts.michigan.gov/scao/selfhelp/family/setaside_help.htm YES
2. Determine your eligibility to have an adjudication made nonpublic? See page 3. YES
3. Get a certified copy of your adjudication? See page 4. YES
4. Get fingerprinted? See page 4. YES
5. Complete the application form? See page 9 for instructions. YES
6. Sign the application form in front of a notary public or clerk of the court? See pages 4 and 5. YES
7. File the application packet with the court? See page 5. YES
8. Mail (serve) a copy of the application packet to the prosecuting official, the Attorney General's office, and the Michigan State Police (with fingerprints)? See page 6. YES
9. Complete and file the proof of service with the clerk's office **after** you mailed the application packets? See page 7. YES
10. Keep one copy of the application packet for yourself? YES

If you cannot answer "yes" to all the above steps, a hearing on your application may be delayed or your application may be dismissed.

By using this form packet you are representing yourself in a court action to try to make your adjudication nonpublic. You must follow the instructions in this packet. If you fail to do even one of the required steps, the order you get from the court may not give you what you want.

If you have questions about any step in the process, refer to pages 3 through 5 of this booklet for details and review the information in the Self-Help Center at http://courts.michigan.gov/scao/selfhelp/family/setaside_help.htm. You may wish to consult an attorney.

INSTRUCTIONS FOR USING FORM JC 66 FILING AND SERVING AN APPLICATION

»» DEFINITION: Setting Aside an Adjudication

Setting aside an adjudication removes a juvenile adjudication under Michigan law from the public record of the Michigan State Police. In terms of criminal law, you are a juvenile until age 17.

»» FILING AN APPLICATION

1. Determine Your Eligibility to Apply

A person who applies to have an adjudication made nonpublic must meet certain conditions. To find out if you are eligible, make sure you read the following and answer the eight questions that follow.

- Although not required, it is highly recommended you get a copy of your criminal record from ICHAT at <http://apps.michigan.gov/ICHAT/home.aspx>. There is a cost for this. You can find out from your criminal record whether you have more than one adjudication and for what offense(s) you were adjudicated.
- A petition can have more than one count or charge on it. If you were adjudicated of more than one charge, you have more than one adjudication. For example, if you were charged with and adjudicated of **Shoplifting** and **Possession of Marijuana** in the same case, you have two adjudications.
- If you were charged with a crime for which judgment of guilt was deferred and the case was dismissed upon you successfully completing probation, there is no conviction for that offense. A record of this is maintained by the Michigan State Police and the courts, but it is nonpublic.

Answer the following eight questions by checking the correct box, yes or no.

1. Do you have a federal conviction? Yes No
2. Do you have a criminal conviction in another state? Yes No
3. Do you have an adult felony criminal conviction in Michigan, excluding those for which judgment of guilt was deferred? Yes No
4. Were you adjudicated for an offense that if committed by an adult would be a felony for which the maximum punishment is life imprisonment? Yes No
5. Were you adjudicated of a specified juvenile violation as defined in MCL 712A.2d(9)? Yes No
6. Is the adjudication you want to have set aside a felony or misdemeanor traffic offense? A traffic offense is an adjudication for violating the Michigan Vehicle Code or a local ordinance substantially corresponding to that act that involves the operation of a vehicle. Yes No
7. Are you less than 24 years of age? Yes No
8. Has it been less than five years since the date of the disposition for your adjudication, or if you were detained, has it been less than five years since you were released? Yes No

If all the above questions are checked **no**, you may be eligible to have your adjudication set aside.

If any box is checked yes, you are not eligible to have your Michigan adjudication set aside. If you are unsure if you are eligible, you should consult an attorney.

2. Do You Need An Attorney?

In order to apply to make your adjudication nonpublic, you must file an application with the court in which you were adjudicated. You can either hire an attorney or you can represent yourself. If you can follow all the steps outlined in this packet, you may not need an attorney. However, if after reading this packet you think you need assistance, you should call an attorney.

If you decide to represent yourself, complete the checklist on page 2 to make sure you have done everything that is required.

3. What Does it Cost?

This can cost you about \$75.00. It costs about \$10.00 to get your criminal record from ICHAT. Some law enforcement agencies may fingerprint you without a charge, but if not, it could cost from \$10.00 to \$25.00. It costs \$10.00 for a certified copy of your adjudication record from the court, plus \$1.00 for each page of that record. It costs \$25.00 for the application fee to the Michigan State Police. There may be a cost to have your application notarized by a notary public. There may be a cost for the form if you get it from the court instead of the website.

4. Get a Certified Copy of Your Adjudication

If after reviewing your criminal record you determine you are eligible to apply to have your adjudication set aside, order a certified record of that adjudication from the clerk of the court where you were adjudicated. This record can be either a certified copy of the adjudication or a certified copy of the case history ("Register of Actions"). There is a \$10.00 fee for getting a certified copy of a record plus \$1.00 for every page of that record. There is no fee for filing the application with the court.

5. Get Fingerprinted

Go to the local law enforcement agency for a fingerprint card and to get fingerprinted on the applicant card (R 1-8). There may be a fee for fingerprinting. Fill out the card completely. The Michigan State Police will use this fingerprint card to check your records against its files and those of the Federal Bureau of Investigation. Do not make copies of the fingerprint card because only the Michigan State Police need the card.

6. Complete Form JC 66, Application to Set Aside Adjudication

Complete form JC 66, Application to Set Aside Adjudication, using the information from the certified copy of your adjudication to fill in the blanks. Follow the instructions on page 9. Make five copies of the certified copy of your adjudication. You will need these later. Do not sign the form until you are in front of a notary public or the clerk of the court. See item 7 below.

7. Signing the Application Under Oath

Now that the application (form JC 66) is completed, you must sign your application under oath in front of a notary public (you can find one at a bank) or the clerk of the court. You must bring your

photo identification with you when you sign the application. There may be a fee to have your application signed in front of a notary public.

You can either sign one copy of the application form in front of the notary public or the clerk of the court and make five additional copies of the application form later or you can print and bring all six copies of the completed and unsigned application form to sign in front of the notary public or the clerk of the court.

Generally, it is a good idea to file your application in person with the court. That way, if you have forgotten something or need to change something, you can take care of it right away. Because of this, it is more practical to sign your application in front of the clerk of the court. However, if you decide to sign your application in front of a notary public, you can still file your application packet in person with the court.

8. Filing the Application With the Court

File your application with the court where you were adjudicated. **Follow the direction in either 8a or 8b below.** As stated in item 7, it is a good idea to file your application in person with the court. At the time of filing, the clerk of the court will write the name of the judge assigned to your case on all six copies of your application (form JC 66).

After the court returns the five remaining copies of the application to you, individually staple each of the copies to the five copies of the certified record of adjudication that you kept as directed above. You will need three of these remaining five stapled packets for the Attorney General, the prosecuting official, and the Michigan State Police. See page 6 for details on serving the application packets.

Depending on the local practice of the court, the clerk of the court may set a hearing date at the time of filing. If a hearing date is set at the time of filing, the clerk of the court will complete the **Notice of Hearing** section. If no hearing date is set at the time of filing, you should contact the court to schedule a hearing date when you receive the report from the Michigan State Police. Ask the court how notice of the hearing will be given to the Attorney General and the prosecuting official.

8a Filing in Person

If you signed your application (form JC 66) in front of the clerk of the court, you can file it at the same time. If you signed your application in front of a notary public, you can still file it in person with the clerk of the court. Take all six copies of the application form and all six copies of the certified record of adjudication to the clerk of the court. The clerk of the court will keep one copy of the application and the certified record of the adjudication for the court file and return to you the remaining five copies of both the application and the certified record of adjudication.

8b Filing by Mail

If you decide to mail your application to the court, mail to the court all six copies of the application form, the certified record of adjudication, and one self-addressed, postage-paid envelope. Keep the remaining five copies of your certified record of adjudication in a safe place because you will need them later. The clerk of the court will keep one copy of the application and the certified record of adjudication for the court file and return to you the remaining five copies of the application in the self-addressed envelope that you provided.

9. Make Out a Money Order or Check to the State of Michigan for the Application

The application fee is \$25.00, made out to the State of Michigan in the form of a money order or a check. This fee is sent with the application packet to the Michigan State Police for processing.

»» SERVING THE APPLICATION

1. Serve the Application Packet on the Michigan State Police

A copy of the application packet, **application fee** (see item 9), **and the fingerprint card** (see item 5) must be served on (mailed to) the Michigan State Police by first-class mail. The address is:

Michigan State Police
Criminal Justice Information Center
PO Box 30634
Lansing, Michigan 48909

2. Serve the Application Packet on the Attorney General

A copy of the application packet must be served on (mailed to) the Attorney General of the State of Michigan by first-class mail. The address is:

Office of the Attorney General
Corrections Division
PO Box 30217
Lansing, Michigan 48909

3. Serve the Application Packet on the Prosecuting Official

A copy of the application packet must be served on (mailed to) the prosecuting official by first-class mail. Get the address from the court clerk or see www.michiganprosecutor.org.

4. Fill Out the Proof of Service and File With the Court

You should have two copies of the application packet left. One of these copies is for you to keep for your records. The other copy is for filing proof of service with the court where you were adjudicated.

On both copies of the application, fill in the **Proof of Service** at the bottom of the form. Write in the date that you mailed the application packets to the prosecuting official, the Attorney General, and the Michigan State Police. Then date and sign the **Proof of Service**.

After you fill out and sign the **Proof of Service**, mail or take one of the remaining application packets with the completed **Proof of Service** to the court. This shows the court that you mailed copies to the prosecuting official, the Attorney General, and the Michigan State Police.

»» INFORMATION ABOUT THE APPLICATION PROCESS

The Attorney General of the State of Michigan will review your application along with your criminal history report as provided by the Michigan State Police to determine whether you qualify to have your adjudication set aside. The Attorney General is given the opportunity to object to the application at the hearing. The Attorney General may or may not appear at the hearing.

The prosecuting official will review your application and your criminal history record as well and also has the opportunity to object to the application at the hearing. The prosecuting official may or may not appear at the hearing. In addition, the prosecuting official is required to notify the victim of an assaultive crime or serious misdemeanor when an application has been filed to set aside the adjudication of that assaultive crime or serious misdemeanor. The victim has the right to appear at the hearing on the application and to make a written or oral statement.

When the Michigan State Police receives the application, it will prepare a report from its records and the records of the Federal Bureau of Investigation and will send a copy to you and a copy to the court. The report will show: 1) your criminal history, 2) if you have more than one adjudication, 3) if there are any pending charges against you, and 4) whether or not you have previously had an adjudication set aside. **The court cannot hold the hearing on your application until the Michigan State Police has submitted its report to the court.**

»» PREPARING FOR THE HEARING

Most courts will schedule a hearing date at the time you file the application. The hearing cannot be held until the court receives the Michigan State Police report required by MCL 712A.18e(5). Because it can often take several weeks for the Michigan State Police to prepare the report, it is common for the court to schedule the hearing to be held on a date several months after you file the application. Contact the clerk of the court two days before the scheduled hearing date to make sure the Michigan State Police report has been received and that the hearing will proceed as scheduled and to find out whether to go directly to the courtroom or to check in with the clerk first.

If no hearing date was set by the court when you filed your application packet, you should contact the court to schedule a hearing date when you receive the report from the Michigan State Police. Ask the court how notice of the hearing will be given to the Attorney General and the prosecuting official.

On the hearing date, any of the following may happen:

- The prosecuting official and/or a representative from the Attorney General's office may attend the hearing to object to the application. In that case, the court will hear what each has to say before making its decision.
- If neither the prosecuting official nor a representative of the Attorney General attends the hearing to object to the application, the court will make its decision based on the report from the Michigan State Police and the court's own records, as well as any response that may have been filed on behalf of the Attorney General or the prosecuting official.
- If the charge for which you were adjudicated was an assaultive crime or a serious misdemeanor, and the victim of that crime attends the hearing and/or provides an oral or a written statement, the court will consider that statement before making its decision.
- You will have the opportunity to speak to the court at the hearing. If you do not appear, your application may be dismissed.
- You may be asked to prove to the judge that you deserve to have your adjudication set aside and that you have been rehabilitated. Therefore, you may want to gather evidence to present to the court at the hearing to show that you are a good person and that you have

changed since you committed your offense. This evidence might be your work history, drug or alcohol treatment, educational achievements, or other successes you have had since your adjudication. Examples of evidence may include resumes, letters of recommendation, certificates of award, school transcripts, and witness affidavits. You may also bring witnesses to court to testify on your behalf.

Bring your copy of the application packet, any evidence you have gathered, and form JC 105 (Order on Application to Set Aside Adjudication) when you go to the court for the hearing.

»» INFORMATION ABOUT ATTENDING THE HEARING

The hearing will usually take place at the court where the application was filed. Read the notice of hearing to see the date and place of the hearing. It is important for you to arrive at the court on time; if you file an application and are not in court when your case is called, the application may be denied. **Bring the Order on Application to Set Aside Adjudication (form JC 105) with you to the hearing.** Also bring your application packet and any witnesses who are willing to testify.

1. If you are representing yourself, you are expected to conduct yourself as an attorney and to follow the same general rules as an attorney.
2. Make a list of information you think is important for the judge to know. You can use this list as a reminder to bring up the points you think are important.
3. Go to the court on the scheduled day and time. Dress neatly. Arrive 10 or 15 minutes early. Be prepared to spend half a day in court. Bring any witnesses with you.
4. Go to the clerk and tell him/her your name and that you are there for a hearing. Follow the clerk's directions and do not interrupt any hearing in progress.
5. The court will call the case and you will have the opportunity to explain your request to the judge. Be prepared to tell the judge why you think it is in the public's interest to set aside the adjudication.
6. When your case is called, go to the front of the courtroom and follow the directions of the judge. Answer the judge's questions clearly and directly. If the judge wants to hear from the witnesses, ask them to tell the court what they know about you.
7. The judge will ask the prosecuting official and the representative from the Attorney General's Office, if present, to state any objections.
8. If the judge determines that your circumstances and behavior since the date of your adjudication warrant setting aside the adjudication, and that setting aside the adjudication is consistent with the public welfare, the court may enter an order setting aside your adjudication.

»» GETTING YOUR ORDER

The court prepares and signs the Order on Application to Set Aside Adjudication, form JC 105, after the hearing. The court will provide you with a copy of the order. Normally, the court will send a copy to the arresting agency and the Michigan State Police. However, you should check with the court clerk to make sure of this. If the court agreed to make your adjudication nonpublic, the Michigan State Police will receive a copy of the order setting aside an adjudication and your record will be maintained as nonpublic. If the court denied your request to set aside your adjudication, the record will remain public.

INSTRUCTIONS FOR COMPLETING "APPLICATION TO SET ASIDE ADJUDICATION"

Please print neatly.

Items A through J must be completed before your application can be filed with the court. Please read the instructions for each item. Fill in the correct information for that item on the form.

- A** Before you fill in the Case No. and Petition No., get the court papers of your adjudication and copy the Case No. and Petition No. from those court papers onto this form.
- B** Use your court papers to write in the ORI and Police Report Number, if available.
- C** Use your court papers to fill in the boxes. Copy the names from these court papers onto this form.
- D** Use your court papers to write in the date of your adjudication and the offense for which you were adjudicated. If you were not detained for this offense, check the first box. If you were detained for this offense, check the second box and write in the date you completed your term of detention.
- E** Check the first box if this is the only application you have filed to get an adjudication set aside. Check the second box if you have previously filed an application to get an adjudication set aside, and then check the box to indicate whether it was for this same adjudication or another adjudication. If it was for another adjudication, write in the offense for that adjudication and the result (granted, denied, dismissed, withdrawn, etc.).
- F** Make sure this statement is true. If it is true, you can apply to have your adjudication set aside.
- G** Make sure that these statements are true. If they are true, you are eligible to apply to have your adjudication set aside.
- H** Make sure that you agree with this statement.
- I** **DO NOT SIGN YOUR NAME** until you are standing in front of a notary or the clerk of the court.
- J** **DO NOT WRITE IN THIS SECTION.** The notary public or clerk of the court will complete this section.
- K** File your application with the court. The clerk of the court will complete the Notice of Hearing. See page 5 of this packet for details.
- L** Read page 6 of this packet for details on mailing this form to the prosecuting official, Michigan State Police, and Attorney General. Then write in the dates you mailed the application packets to the prosecuting official, the Michigan State Police, and the Attorney General.
- M** On the date you mail the copies, write in the date and sign your name on the remaining two copies. Mail or take one copy to the clerk of the court. See page 6 of this packet for details.

You must read this booklet for directions on the legal process. Statutes and court rules and information about following up after an order is entered is available on the Self-Help Center at http://courts.michigan.gov/scao/selfhelp/family/setaside_help.htm.

STATE OF MICHIGAN
JUDICIAL CIRCUIT - FAMILY DIVISION
COUNTY

APPLICATION TO
SET ASIDE ADJUDICATION

(A) CASE NO.
PETITION NO.

ORI Court address **Court telephone no.**

(B) MI- Police Report No. CTN/TCN SID DOB

(C) 1. In the matter of name(s), alias(es)

(D) 2. On _____, a disposition hearing was held because I was adjudicated, as a juvenile delinquent, of the following offense: _____ . A certified record of this adjudication is attached.
 I was not detained for this offense. I completed the term of detention for this offense on _____ .
Date

(E) 3. No other application has been filed to set aside this or any other adjudication. **OR**
 An application was filed to set aside this adjudication. an adjudication for _____ .
 The application was disposed of as follows: _____ .

(F) 4. I am 24 years of age or older.

(G) 5. At least five years have passed since the disposition was entered on my adjudication or since I was released from detention for the adjudication. No criminal charges are pending against me. I have not been adjudicated of any other offense. I do not have an adult felony conviction.

(H) 6. **I request** that the court issue an order to set aside the above adjudication as provided by law. I consent to the use of the nonpublic record created by MCL 712A.18e(13) to the extent authorized by MCL 780.623.

(I) Applicant signature _____ Address _____
Date City, state, zip Telephone no.

(J) Subscribed and sworn to before me on _____, _____ County, Michigan.
Date

My commission expires: _____ Signature: _____
Date Deputy clerk/Notary public

Notary public, State of Michigan, County of _____

NOTICE OF HEARING

The hearing cannot be held until the court receives the Michigan State Police report required under MCL 712A.18e(5).

TO: Michigan Attorney General and _____
Prosecuting official

A hearing will be held on the above application to set aside adjudication on _____ at _____
Date Time

at _____ before _____
Location Bar no.

PROOF OF SERVICE

(L) I certify that copies of this application, certified record of adjudication, and notice of hearing were served on the
 prosecuting official on _____ by first-class mail addressed to the last-known address.
Date

Attorney General on _____ by first-class mail addressed to the last-known address.
Date

I certify that copies of this application, certified record of adjudication, and the fingerprint card, accompanied by the required fee, were served on the Michigan State Police on _____ by first-class mail addressed to the last-known address.
Date

(M) _____
Date Applicant/Attorney signature