## SUBSTITUTE FOR SENATE BILL NO. 1254

A bill to amend 1965 PA 213, entitled

"An act to provide for setting aside the conviction in certain criminal cases; to provide for the effect of such action; to provide for the retention of certain nonpublic records and their use; to prescribe the powers and duties of certain public agencies and officers; and to prescribe penalties,"

by amending section 1c (MCL 780.621c), as added by 2020 PA 187.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1c. (1) A person shall not apply to have set aside, and a 2 judge shall not set aside, a conviction for any of the following:
- 3 (a) A felony for which the maximum punishment is life
  4 imprisonment or an attempt to commit a felony for which the maximum
  5 punishment is life imprisonment.
  - (b) A violation or attempted violation of section 136b(3),



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- 1 136d(1)(b) or (c), 145c, 145d, 520c, 520d, or 520g of the Michigan
- 2 penal code, 1931 PA 328, MCL 750.136b, 750.136d, 750.145c,
- 3 750.145d, 750.520c, 750.520d, and 750.520g.
- 4 (c) A violation or attempted violation of section 520e of the
- 5 Michigan penal code, 1931 PA 328, MCL 750.520e, if the conviction
- 6 occurred on or after January 12, 2015.
- 7 (d) The following traffic offenses:
- 8 (i)  $\mathbb{A}$ —Subject to subsection (3), a conviction for operating
- 9 while intoxicated committed by any person.
- (ii) Any traffic offense committed by an individual with an
- 11 indorsement on his or her operator's or chauffeur's license to
- 12 operate a commercial motor vehicle that was committed while the
- 13 individual was operating the commercial motor vehicle or was in
- 14 another manner a commercial motor vehicle violation.
- 15 (iii) Any traffic offense that causes injury or death.
- 16 (e) A felony conviction for domestic violence, if the person
- 17 has a previous misdemeanor conviction for domestic violence.
- 18 (f) A violation of former section 462i or 462j or chapter
- 19 LXVIIA or chapter LXXXIII-A of the Michigan penal code, 1931 PA
- 20 328, MCL 750.462a to 750.462h and 750.543a to 750.543z.
- 21 (2) The prohibition on the setting aside of the convictions
- 22 under subsection (1) upon application also applies to the setting
- 23 aside of convictions without application under section 1g.
- 24 (3) The prohibition on setting aside a conviction for
- 25 operating while intoxicated under subsection (2)(d)(i) does not
- 26 apply to a conviction for a first violation operating while
- 27 intoxicated offense. However, a conviction for a first violation
- 28 operating while intoxicated offense that may be set aside upon
- 29 application is not eligible for and shall not be set aside without

- 1 application under section 1g.
- 2 (4)  $\frac{(3)}{}$ An order setting aside a conviction for a traffic
- 3 offense under this act must not require that the conviction be
- 4 removed or expunged from the applicant's driving record maintained
- 5 by the secretary of state as required under the Michigan vehicle
- 6 code, 1949 PA 300, MCL 257.1 to 257.923.
- 7 (5) As used in this section:
- 8 (a) "First violation operating while intoxicated offense"
- 9 means a violation of any of the following committed by an
- 10 individual who at the time of the violation has no prior
- 11 convictions for violating section 625 of the Michigan vehicle code,
- 12 1949 PA 300, MCL 257.625:
- 13 (i) Section 625(1), (2), (3), or (8) of the Michigan vehicle
- 14 code, 1949 PA 300, MCL 257.625.
- 15 (ii) A local ordinance substantially corresponding to a
- 16 violation listed in subparagraph (i).
- 17 (iii) A law of an Indian tribe substantially corresponding to a
- 18 violation listed in subparagraph (i).
- 19 (iv) A law of another state substantially corresponding to a
- 20 violation listed in subparagraph (i).
- 21 (v) A law of the United States substantially corresponding to
- 22 a violation listed in subparagraph (i).
- 23 (b) "Operating while intoxicated" means a violation of any of
- 24 the following that is not a first violation operating while
- 25 intoxicated offense:
- 26 (i) Section 625 or 625m of the Michigan vehicle code, 1949 PA
- 27 300, MCL 257.625 and 257.625m.
- 28 (ii) A local ordinance substantially corresponding to a

- 1 violation listed in subparagraph (i).
- 2 (iii) A law of an Indian tribe substantially corresponding to a
- 3 violation listed in subparagraph (i).
- 4 (iv) A law of another state substantially corresponding to a
- 5 violation listed in subparagraph (i).
- 6 (v) A law of the United States substantially corresponding to
- 7 a violation listed in subparagraph (i).
- 8 Enacting section 1. This amendatory act takes effect April 11,
- **9** 2021.

