



## Michigan Supreme Court

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Thomas P. Boyd  
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### MEMORANDUM

DATE: April 3, 2023

TO: JIS Courts – Judges, Court Administrators, and Probate Registers

FROM: Thomas P. Boyd, State Court Administrator

SUBJECT: Implementation of Automatic Clean Slate – JIS Courts

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As we approach the final week of preparation for Automatic Clean Slate implementation, I want to thank you for the work you have done thus far. Additionally, I would like to share with you the following important information explaining the process to complete full implementation, beginning April 11, 2023.

#### **Court Rule Amendments and Additions**

On March 29, 2023, the Michigan Supreme Court entered two orders. The first [Order](#), effective April 11, 2023, adds MCR 6.451 and amends MCR 6.001 and MCR 8.119 to reflect clean slate implementation processes. This amendment requires courts to continue to restrict access to case records involving set aside convictions while providing access to charges not set aside. As you know, we have handled entire cases set aside for years. This amendment to the rules provides guidance and uniformity when less than the entire case is set aside. The language used is similar to how MCL 780.623 restricts access to records maintained by the Michigan State Police. *This process is consistent with the programming and development courts have already undertaken to implement automatic clean slate and restrict access to set aside conviction information.*

Additionally, MCR 6.451 is a new rule that provides procedural guidance on how to reinstate an automatically set aside conviction under MCL 780.621h. It requires courts to provide notice and an opportunity to be heard before reinstating a conviction for failure to make a good faith effort to pay restitution under MCL 780.621h(3). It further requires a reinstatement to be ordered on a SCAO-approved form that advises the individual that he or she may request a hearing if the reinstatement is ordered under MCL 780.621h(2). The SCAO will make these new forms available before April 11, 2023.

The second [Order](#) publishes for comment proposed amendments to MCR 6.110 and MCR 8.119. The proposed amendment would require all case records maintained by the district court to become nonpublic immediately after bindover to the circuit court. This proposal would amend MCR 6.110(G) to expand the types of documents that must be transmitted to the circuit court to ensure appropriate public access in the circuit court. The proposal would consolidate public access in the circuit court case file and would uniformly ensure that information regarding set aside criminal offenses in the circuit court cannot be separately accessed in the district court case file. Comments on both Orders may be submitted by July 1, 2023.

### **MSP CJIC Reporter File Processing Plan**

On April 11, 2023, at 12:00 a.m., the Michigan State Police’s “rules engine” will run for the first time. This will begin the process to automatically set aside convictions in accordance with MCL 780.621g. The rules engine will take several days to set aside all eligible convictions. Each court will receive a daily file from MSP through CJIC Reporter that will identify all set aside convictions. The initial files received during the first week are anticipated to include a large volume of offenses for processing as described below.

### **92 Day or Less Misdemeanor Automatic Set Aside Process**

MCL 780.621g(1) requires each court to notify the arresting law enforcement agency of a misdemeanor conviction punishable by not more than 92 days that has been automatically set aside. The notification of each conviction must occur “on or before the tenth day of each month that is set aside . . . for the preceding month.” *Id.* JIS utilized information from PACC/PAAM and the JDW to generate a report to fulfill the set aside and notification requirement.

While programming to set aside 92 day or less misdemeanors, it became clear that many trial courts use offense codes that SCAO is unable to match to an associated PACC code. Some of these codes may reflect unique ordinance violations. Many are likely input errors—some charge codes referenced multiple offenses or varied by using a combination of improper slashes, parenthesis, or lowercase letters. The SCAO staff manually reviewed and researched over 10,000 individual charge codes from trial courts and successfully mapped many of them to PACC codes. However, we need your assistance in reviewing charge codes from your court that SCAO was unable to verify or map to an associated PACC code.

Your regional administrator recently emailed a file containing all unmapped charge codes for your court with specific instructions on how to properly format the codes. The email also requests that you verify that all local ordinance codes in your court are either mapped to a specific PACC code or to a generic mapping code that indicates whether it is punishable by 92 days or less. This information is necessary to ensure JIS can properly set aside all eligible criminal convictions and should be completed by April 11, 2023.

JIS will simultaneously set aside eligible 92 day or less convictions and all offenses identified each day in the CJIC Reporter. However, the initial update cannot be completed until each court verifies any unknown data and appropriately maps all local ordinances as discussed above.

## Initial Update Period

Due to the sheer volume of initial set asides, JIS can only update the CMS in batches, and we cannot begin until April 11. The initial volume anticipated from MSP, along with the 92 day or less misdemeanors, will take several weeks for us to complete every court's update. Courts that have successfully mapped all charge codes, including local ordinance codes, are not required to do anything for JIS during this period and will be immediately contacted when your court's update is complete. During this transition the following aspects of the CMS will be temporarily impacted to protect set aside information:

- **MiCOURT Case Search:** The [MiCOURT public case search](#) will temporarily only display search results on cases that are *less than 7 years from sentencing*. Cases older than 7 years will not be displayed. Since no cases are eligible for an automatic set aside until 7 years after sentencing, this restriction will ensure that set aside convictions are not improperly displayed. Disclaimer language will be included on the public case search page reflecting this temporary change. Additionally, we will implement a solution that allows authorized individuals under MCR 1.109 to access date of birth information in the public case search via a secured login maintained by SCAO. This will help minimize the number of requests courts receive for date of birth information.

The public case search is unable to display cases older than 7 years until JIS has onboarded your CMS and your court has completed mapping all unknown charge codes and local ordinance codes as described above.

- **Case Management System:** The CMS will not internally flag set aside convictions until JIS has updated your court. Additionally, local ordinance violations and unknown charge codes for 92 day or less misdemeanors will not be flagged as set aside until your court completes the mapping requirement mentioned above.

In the interim, courts must use the CJIC Reporter file to determine whether an offense that is punishable by 93 days or more has been set aside. Checking the daily CJIC Reporter file for your court must be temporarily added as a step in your process for responding to requests to accessing a criminal case file. Additionally, courts will need to temporarily calculate whether a 92 day or less misdemeanor has been set aside by determining whether more than 7 years have passed since the date of sentencing. The 92 day or less misdemeanor convictions are automatically set aside after 7 years. Determining whether 7 years has passed must also be temporarily added as a step in your process for responding to requests to access a criminal case file containing such a conviction.

Working together, we will make this transition period as short as possible, and we greatly appreciate your assistance in the interim.

## Completed Update

Once your court's update is complete, the MiCOURT public case search will again display all publicly available cases and internal flags in the CMS will identify all convictions that have been

set aside. JIS will then automatically update the CMS daily with any new set aside convictions. This will not require any additional action from the court. Until notification of completion, courts should operate pursuant to the guidance provided for the initial update period.

It is also important to note that the ability to pay electronically on cases that have been set aside will not be available since the set aside case will now be nonpublic. This is similar for cases made nonpublic for other reasons, e.g., HYTA, 333.7411 or 769.4a. Those individuals required to continue making restitution payments will need to pay in person or by mail.

### **Additional Resources**

Please review the [Q&A](#) document prepared in response to questions received at the informational sessions held previously as well as other questions received through the regional offices.

### **Previously Provided Resources**

- [MEMO](#): Set Aside Requirements for JDW Reporting – Adult and Juvenile Cases (November 10, 2022)
- [SLIDE DECK](#): Clean Slate Informational Presentation
- [VIDEO RECORDING](#): Clean Slate Informational Presentation

Thank you for your continued dedication to successfully implement these laws. The State Court Administrative Office is grateful for the existing partnership with the courts as we work through any challenges throughout the implementation process.