

Safe & Just Michigan

Testimony of Safe & Just Michigan in Support of H.B. 5957

*House Criminal Justice Committee, December 10, 2024; 9:00am
Room 519, House Office Building; Lansing, MI 48933*

Good morning. My name is John S. Cooper. I am the Executive Director of Safe & Just Michigan, a non-partisan criminal justice policy and research organization based in Lansing. I am joined here by Kamau Sandiford, SJM's Clean Slate Program Manager.

We are here to testify in support of House Bills 5957, which would remove overbroad and unnecessary restrictions on when an old criminal record can be sealed to better implement the policy goals of the Clean Slate law. The specific change being proposed is to eliminate what I call the “intervening conviction disqualification rule,” which provides that *any* conviction during the statutory waiting period blocks the original conviction from being sealed.

The Expungement Court Petition Process

The court petition expungement process was created in the 1960s, but the “intervening conviction disqualification rule” (“the Rule”) was not added until the 2021 Clean Slate package. My recollection is that the proposed automatic process had such a requirement and it was added to the petition process to align the two. However, experience has shown this was a mistake:

1. Judicial Discretion. Judges always had the discretion to consider a subsequent conviction when ruling on the petition. So adding the Rule *removed judges' discretion to grant the petition* in spite of the new conviction, *but not the other way around*. This is directly contrary to the remedial purpose of the expungement law.
2. Harsh in Application. The effect of the Rule has been to block the original conviction from being sealed, *regardless of how minor the new one is and regardless of the harshness of doing so*. Because most new convictions are low-level misdemeanors, the rule is *usually* harsh in application and routinely allows low-level misdemeanors to prevent more serious old convictions from being sealed. This is inconsistent with the purpose of the expungement law and undermines the remedial purpose of expungement.
3. Led to Inconsistent Judicial Rulings: Difficulties in applying the Rule have led to inconsistent judicial decisions, with some courts adopting a more rigid interpretation of the law leading to permanent ineligibility. Other courts have been more flexible in their interpretation and have allowed a “restart of the clock/wait period” from the most recent intervening conviction. Eliminating the Rule will eliminate this inconsistency and lead to more predictable outcomes that align with the policy goals of the statute.

For all of these reasons, SJM urges the Legislature to pass HB 5957 and correct expungement law going forward.

Safe & Just Michigan

Thank you. We would be happy to answer questions from the Committee.

Respectfully submitted,

John S. Cooper /s/

John S. Cooper, J.D., M.A.

Executive Director

Safe & Just Michigan (SJM)

119 Pere Marquette Ave., Ste. 2A

Lansing, Michigan 48912

john@safeandjustmi.org

D: [517.258.1134](tel:517.258.1134)

O: [517.482.7753](tel:517.482.7753)

www.safeandjustmi.org

Kamau Sandiford /s/

Kamau Sandiford

Clean Slate Program Manager

Safe & Just Michigan (SJM)

521 Seymour Avenue

Lansing, Michigan 48933

kaumau@safeandjustmi.org

D: [517.273.9561](tel:517.273.9561)

O: [517.482.7753](tel:517.482.7753)

www.safeandjustmi.org