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TO: COUNCIL MEMBERS

FROM: David Whitaker, Director 
Legislative Policy Division Staff

DATE: June 22, 2020

RE: **RESOLUTION IN SUPPORT OF 2019 HOUSE BILLS 4980 - 4985, & 5120**
(REVISED)

Council member Ayers requested that the Legislative Policy Division (LPD) draft a resolution in support of 2019 HOUSE BILLS 4980 - 4985, & 5120, which provides for setting aside (expunging) a conviction in certain criminal cases in the state of Michigan.

Attached, please find our draft of the aforementioned resolution.

Please contact us if we can be of any further assistance.

RESOLUTION BY COUNCIL MEMBER JANEÉ AYERS

RESOLUTION IN SUPPORT OF 2019 HOUSE BILLS 4980 - 4985, & 5120

WHEREAS, The mission of the Detroit City Council is to promote the economic, cultural and physical welfare of Detroit's citizens through Charter-mandated legislative functions; and

WHEREAS, Currently under the Setting Aside Convictions Act (PA 213 of 1965), a person who has one felony offense and no more than two misdemeanor offenses may petition the convicting court to set aside the felony offense. If the person has no more than two misdemeanor offenses and no felony offenses, he or she may petition to have one or both of the misdemeanor offenses set aside; and

WHEREAS, However, certain offenses may not be set aside, including a felony for which the maximum term of imprisonment is life, criminal sexual conduct violations, and traffic offenses. The act states that the setting aside of a conviction is a privilege and conditional and not a right; and

WHEREAS, The Expungement "Clean Slate" Legislation, was passed in the State House and is currently pending and referred to the Senate Committee on the Judiciary. According to the State Senate Fiscal Agency, each of the bills, **House Bills 4980, 4981, 4982, 4983, 4984, 4985 & 5120**, either amends an existing section of, or adds a new section to, 1965 PA 213, which provides for setting aside (expunging) a conviction in certain criminal cases in the state of Michigan; and

WHEREAS, House Bill 4980: would add Section 1g of PA 213 to do the following:
Prescribe circumstances under which certain convictions would have to be set aside without filing an application under Section 1.
Specify that setting aside a conviction without filing an application would not apply to certain convictions.
Require the Department of Technology, Management, and Budget (DTMB) to develop and maintain a computer-based program for the setting aside of convictions under Section 1g; and

WHEREAS, House Bill 4981: would add Section 1c to the PA 213 to prohibit a person from applying to have set aside, and prohibit a judge from setting aside, certain convictions.

House Bill 4982: beginning January 1, 2020, a person convicted of one or more misdemeanor marijuana offenses in violation of the laws of Michigan or a local ordinance of a political subdivision of Michigan could apply to set aside the conviction or convictions for a misdemeanor marijuana offense; and

WHEREAS, House Bill 4983: would require that an application under Section 1 of PA 213 to set aside more than one felony conviction be filed only seven or more years after whichever of the following events occurred last: - Imposition of the sentence for the convictions that the applicant sought to set aside. - Completion of any term of felony probation imposed for the convictions that the applicant sought to set aside. - Discharge from parole imposed for the convictions that the applicant sought to set aside. - Completion of any term of imprisonment for the convictions that the applicant sought to set aside. An application under Section 1 to set aside one or more serious misdemeanor convictions or one felony conviction could be filed only five or more years after whichever of the following events occurred last: -- Imposition of the sentence for the convictions that the applicant sought to set aside. - Completion of any term of felony probation imposed for the convictions that the applicant sought to set aside. - Discharge from parole imposed for the convictions that the applicant sought to set aside. - Completion of any term of imprisonment for the convictions that the applicant sought to set aside; and

WHEREAS, House Bill 4984: would amend section 1 of the act to revise the number of convictions eligible by application to be set aside, relocate multiple provisions to other sections of the act, revise the definition of “assaultive crime,” and add a definition for “violent felony.”

House Bill 4984: would add Section 1b to PA 213 to require that more than one felony offense or more than one misdemeanor offense be treated as a single felony or misdemeanor conviction if the felony or misdemeanor convictions occurred within 24 hours and arose from the same transaction, provided that none of those felony or misdemeanor offenses constituted certain crimes specified in the bill; and

WHEREAS, House Bill 5120: (Introduced by the late State Representative Isaac Robinson) would require an arresting agency and the Michigan State Police to maintain the nonpublic record created under Section 3 for use as authorized under Section 3 if an application to set aside a conviction or convictions were granted; and

WHEREAS, Through this coordinated effort, passing these seven bills would help to make our state safer by reducing recidivism and ensuring that every returning citizen has a chance to become a productive member of society; **NOW THEREFORE BE IT**

RESOLVED, The Detroit City Council, as an advocate of reducing recidivism and allowing for returning citizens to have a second chance, expresses its strong support of **2019 House Bills 4980 - 4985, & 5120** and for their expeditious passage by both houses of the legislature; **NOW THEREFORE BE IT FINALLY**

RESOLVED, That this resolution be forwarded to the Detroit Delegation in Lansing as well as the Michigan House of Representatives, the Michigan State Senate and Governor Gretchen Whitmer.