

AN ACT
TO EASE DISCRIMINATION AGAINST THE WRONGLY CONVICTED

Title of Bill: Informed Decisions Act

1 Preamble: WHEREAS criminal convictions are increasingly revealed to be wrongful, through DNA and
2 other available means, in which the convicted person is found actually innocent, meaning they performed
3 no role in the reported crime;

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5 WHEREAS the appellate process and innocence projects lack sufficient resources to fully process the
6 high volume of compelling cases of actual innocence;

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8 WHEREAS law enforcement and others involved in the adversarial criminal justice process historically
9 made identifiable errors—confirmation bias leading to tunnel vision investigations, eyewitness
10 misidentification, false confessions or admissions, official misconduct like noble cause corruption,
11 unsupported forensic science, jail informant biased testimony, inadequate defense, Brady violations, and
12 other errors—each contributing to the probability of wrongly convicting someone fully innocent of the
13 reported crime;

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15 WHEREAS publicly available conviction records fail to differentiate between unquestioned guilt and
16 compelling claims of innocence yet to be processed for exoneration;

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18 WHEREAS a consumer of public conviction records could decide trustworthiness for themselves if
19 provided more context, such as if the person consistently maintained innocence by asserting a right to
20 trial, was dubiously found guilty by a jury, willingly endured a trial penalty of a lengthier sentence,
21 became a model prisoner, then denied parole for apparent lack of remorse, and since released from prison
22 has remained recidivism free;

23
24 WHEREAS consumer reporting agencies rely on publicly available conviction records to serve their
25 clients’ needs for determining future behavior based upon reliable information about past behavior, who
26 without a full conviction context cannot reliably distinguish between a criminal mindset and a wrongly
27 convicted person’s desirable integrity of maintaining and demonstrating innocence in the face of adversity,
28 and who have little if any input as to the reliability of this overgeneralizing public criminal record;

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30 WHEREAS those wrongly convicted and not yet exonerated who seek employment, housing, education
31 and other opportunities repeatedly endure legally privileged but erroneous discrimination in employment,
32 housing, education and other opportunities due in part to undifferentiated conviction records,

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34 SECTION 1: BE IT ENACTED BY THE MICHIGAN LEGISLATURE this “Informed Decisions Act.”

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36 SECTION 2: For the purposes of this act,

37 SUBSECTION A: “maintained innocence” means the person consistently claims actual
38 innocence in regard to the instant offense, and

39 SUBSECTION B: “demonstrated innocence” means the claimant has not been involved in any
40 other criminal activity since the conviction, and

41 SUBSECTION C: “undifferentiated criminal record” means no difference is accorded between
42 convictions with compelling claims of actual innocence and other criminal convictions of
43 unquestioned guilt.
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45 SECTION 3: Publishing a criminal conviction shall include sufficient context to provide those utilizing
46 such information to make informed decisions, not based narrowly upon court outcomes that erroneously
47 imply to the information consumer that undifferentiated criminal records are basically the same.
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49 SECTION 4: Context for a published criminal conviction shall include, but not necessarily limited to, the
50 following:

- 51 SUBSECTION A: Adjudication type: plea, bench trial, or jury trial.
- 52 SUBSECTION B: Verdict type: guilty, no contest, or not guilty.
- 53 SUBSECTION C: Sentencing per guidelines: lower than guidelines, within guidelines, or over
54 guidelines (i.e., suggesting a trial penalty).
- 55 SUBSECTION D: Incarceration record: number of major misconducts, or any new criminal case.
- 56 SUBSECTION E: Discharge context: paroled, or denied parole for lack of contrition from
57 maintaining innocence.
- 58 SUBSECTION F: Criminal history: no other criminal history, no prior criminal history, no
59 follow-up charges, or no warrants.
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61 SECTION 5: A person claiming actual innocence, or another person or entity entrusted with power of
62 attorney, may petition the government to include in that person’s public criminal record their status of
63 maintaining and demonstrating innocence, in contrast to the majority of convicted felons who do not
64 claim nor demonstrate actual innocence, and to provide any working link of online information available
65 to the public to verify or refute their claim of actual innocence.
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67 SECTION 6: The person claiming actual innocence, or another person or entity entrusted with power of
68 attorney, may petition the government to properly inform the public that they have always maintained and
69 demonstrated innocence, or claimed innocence after recanting an alleged coerced confession and
70 maintained and demonstrated their innocence since recantation. Claims of partial innocence, or of
71 overcharging criminal complicity, or any other claim besides maintaining and demonstrating actual
72 innocence does not fall under this act.
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74 SECTION 7: The initial processing of these requests for accurate public criminal records shall be
75 processed within the executive administrative branch, and remain independent of the adversarial judicial
76 process to avoid any conflicts of interest that could undermine the reliability of the public record.
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78 SECTION 8: The public record will provide the latest scholarly information including any scholarly
79 debate for the estimated incidence of wrongful convictions, and provide the latest scholarly information
80 including any scholarly debate for how frequent or infrequent felons actually claim full innocence.
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82 SECTION 9: This bill shall go into effect 91 days after passage.

Drafted by [Steph Turner](#), MPA