
SENATE BILL 6066

State of Washington

63rd Legislature

2014 Regular Session

By Senator Honeyford

Read first time 01/15/14. Referred to Committee on Law & Justice.

1 AN ACT Relating to the restoration of firearms rights; and
2 reenacting and amending RCW 9.96.060.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9.96.060 and 2012 c 183 s 5 and 2012 c 142 s 2 are
5 each reenacted and amended to read as follows:

6 (1) Every person convicted of a misdemeanor or gross misdemeanor
7 offense who has completed all of the terms of the sentence for the
8 misdemeanor or gross misdemeanor offense may apply to the sentencing
9 court for a vacation of the applicant's record of conviction for the
10 offense. If the court finds the applicant meets the tests prescribed
11 in subsection (2) of this section, the court may in its discretion
12 vacate the record of conviction by: (a)(i) Permitting the applicant to
13 withdraw the applicant's plea of guilty and to enter a plea of not
14 guilty; or (ii) if the applicant has been convicted after a plea of not
15 guilty, the court setting aside the verdict of guilty; and (b) the
16 court dismissing the information, indictment, complaint, or citation
17 against the applicant and vacating the judgment and sentence.

18 (2) An applicant may not have the record of conviction for a

1 misdemeanor or gross misdemeanor offense vacated if any one of the
2 following is present:

3 (a) There are any criminal charges against the applicant pending in
4 any court of this state or another state, or in any federal court;

5 (b) The offense was a violent offense as defined in RCW 9.94A.030
6 or an attempt to commit a violent offense;

7 (c) The offense was a violation of RCW 46.61.502 (driving while
8 under the influence), 46.61.504 (actual physical control while under
9 the influence), 9.91.020 (operating a railroad, etc. while
10 intoxicated), or the offense is considered a "prior offense" under RCW
11 46.61.5055 and the applicant has had a subsequent alcohol or drug
12 violation within ten years of the date of arrest for the prior offense;

13 (d) The offense was any misdemeanor or gross misdemeanor violation,
14 including attempt, of chapter 9.68 RCW (obscenity and pornography),
15 chapter 9.68A RCW (sexual exploitation of children), or chapter 9A.44
16 RCW (sex offenses);

17 (e) The applicant was convicted of a misdemeanor or gross
18 misdemeanor offense as defined in RCW 10.99.020, or the court
19 determines after a review of the court file that the offense was
20 committed by one family member or household member against another, or
21 the court, after considering the damage to person or property that
22 resulted in the conviction, any prior convictions for crimes defined in
23 RCW 10.99.020, or for comparable offenses in another state or in
24 federal court, and the totality of the records under review by the
25 court regarding the conviction being considered for vacation,
26 determines that the offense involved domestic violence, and any one of
27 the following factors exist:

28 (i) The applicant has not provided written notification of the
29 vacation petition to the prosecuting attorney's office that prosecuted
30 the offense for which vacation is sought, or has not provided that
31 notification to the court;

32 (ii) The applicant has previously had a conviction for domestic
33 violence. For purposes of this subsection, however, if the current
34 application is for more than one conviction that arose out of a single
35 incident, none of those convictions counts as a previous conviction;

36 (iii) The applicant has signed an affidavit under penalty of
37 perjury affirming that the applicant has not previously had a

1 conviction for a domestic violence offense, and a criminal history
2 check reveals that the applicant has had such a conviction; or

3 (iv) Less than five years have elapsed since the person completed
4 the terms of the original conditions of the sentence, including any
5 financial obligations and successful completion of any treatment
6 ordered as a condition of sentencing;

7 (f) For any offense other than those described in (e) of this
8 subsection, less than three years have passed since the person
9 completed the terms of the sentence, including any financial
10 obligations;

11 (g) The offender has been convicted of a new crime in this state,
12 another state, or federal court since the date of conviction;

13 (h) The applicant has ever had the record of another conviction
14 vacated; or

15 (i) The applicant is currently restrained, or has been restrained
16 within five years prior to the vacation application, by a domestic
17 violence protection order, a no-contact order, an antiharassment order,
18 or a civil restraining order which restrains one party from contacting
19 the other party.

20 (3) Every person convicted of prostitution under RCW 9A.88.030 who
21 committed the offense as a result of being a victim of trafficking, RCW
22 9A.40.100, promoting prostitution in the first degree, RCW 9A.88.070,
23 or trafficking in persons under the trafficking victims protection act
24 of 2000, 22 U.S.C. Sec. 7101 et seq. may apply to the sentencing court
25 for vacation of the applicant's record of conviction for the
26 prostitution offense. An applicant may not have the record of
27 conviction for prostitution vacated if any one of the following is
28 present:

29 (a) There are any criminal charges against the applicant pending in
30 any court of this state or another state, or in any federal court;

31 (b) The offender has been convicted of another crime in this state,
32 another state, or federal court since the date of conviction; or

33 (c) The applicant has ever had the record of another prostitution
34 conviction vacated.

35 (4)(a) Once the court vacates a record of conviction under
36 subsection (1) of this section, the person shall be released from all
37 penalties and disabilities resulting from the offense and the fact that
38 the person has been convicted of the offense shall not be included in

1 the person's criminal history for purposes of determining a sentence in
2 any subsequent conviction. For all purposes, including responding to
3 questions on employment or housing applications, a person whose
4 conviction has been vacated under subsection (1) of this section may
5 state that he or she has never been convicted of that crime. Except as
6 provided in (b) of this subsection, nothing in this section affects or
7 prevents the use of an offender's prior conviction in a later criminal
8 prosecution.

9 (b) When a court vacates a record of domestic violence as defined
10 in RCW 10.99.020 under subsection (1) of this section, the state may
11 not use the vacated conviction in a later criminal prosecution unless
12 the conviction was for: (i) Violating the provisions of a restraining
13 order, no-contact order, or protection order restraining or enjoining
14 the person or restraining the person from going on to the grounds of or
15 entering a residence, workplace, school, or day care, or prohibiting
16 the person from knowingly coming within, or knowingly remaining within,
17 a specified distance of a location (RCW 10.99.040, 10.99.050,
18 26.09.300, 26.10.220, 26.26.138, 26.44.063, 26.44.150, 26.50.060,
19 26.50.070, 26.50.130, 26.52.070, or 74.34.145); or (ii) stalking (RCW
20 9A.46.110).

21 (5) All costs incurred by the court and probation services shall be
22 paid by the person making the motion to vacate the record unless a
23 determination is made pursuant to chapter 10.101 RCW that the person
24 making the motion is indigent, at the time the motion is brought.

25 (6) The clerk of the court in which the vacation order is entered
26 shall immediately transmit the order vacating the conviction to the
27 Washington state patrol identification section and to the local police
28 agency, if any, which holds criminal history information for the person
29 who is the subject of the conviction. The Washington state patrol and
30 any such local police agency shall immediately update their records to
31 reflect the vacation of the conviction, and shall transmit the order
32 vacating the conviction to the federal bureau of investigation. A
33 conviction that has been vacated under this section may not be
34 disseminated or disclosed by the state patrol or local law enforcement
35 agency to any person, except other criminal justice enforcement
36 agencies.

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