


West's RCWA 9.96.060



West's Revised Code of Washington Annotated [Currentness](#)

Title 9. Crimes and Punishments ([Refs & Annos](#))

 [Chapter 9.96](#). Restoration of Civil Rights ([Refs & Annos](#))

→9.96.060. Misdemeanor offenses--Vacating records

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

(2) An applicant may not have the record of conviction for a misdemeanor or gross misdemeanor offense vacated if any one of the following is present: (a) There are any criminal charges against the applicant pending in any court of this state or another state, or in any federal court; (b) the offense was a violent offense as defined in [RCW 9.94A.030](#) or an attempt to commit a violent offense; (c) the offense was a violation of [RCW 46.61.502](#) (driving while under the influence), [46.61.504](#) (actual physical control while under the influence), or [9.91.020](#) (operating a railroad, etc. while intoxicated); (d) the offense was any misdemeanor or gross misdemeanor violation, including attempt, of chapter 9.68 RCW (obscenity and pornography), chapter 9.68A RCW (sexual exploitation of children), or chapter 9A.44 RCW (sex offenses); (e) the applicant was convicted of a misdemeanor or gross misdemeanor offense as defined in [RCW 10.99.020](#), or the court determines after a review of the court file that the offense was committed by one family member or household member against another, or the court, after considering the damage to person or property that resulted in the conviction, any prior convictions for crimes defined in [RCW 10.99.020](#), or for comparable offenses in another state or in federal court, and the totality of the records under review by the court regarding the conviction being considered for vacation, determines that the offense involved domestic violence, and any one of the following factors exist:

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

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

(iii) The applicant has signed an affidavit under penalty of perjury affirming that the applicant has not previously had a conviction for a domestic violence offense, and a criminal history check reveals that the applicant has had such a conviction; or

(iv) Less than five years have elapsed since the person completed the terms of the original conditions of the

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sentence, including any financial obligations and successful completion of any treatment ordered as a condition of sentencing; (f) for any offense other than those described in (e) of this subsection, less than three years have passed since the person completed the terms of the sentence, including any financial obligations; (g) the offender has been convicted of a new crime in this state, another state, or federal court since the date of conviction; (h) the applicant has ever had the record of another conviction vacated; or (i) the applicant is currently restrained, or has been restrained within five years prior to the vacation application, by a domestic violence protection order, a no-contact order, an antiharassment order, or a civil restraining order which restrains one party from contacting the other party.

(3) Once the court vacates a record of conviction under subsection (1) of this section, the person shall be released from all penalties and disabilities resulting from the offense and the fact that the person has been convicted of the offense shall not be included in the person's criminal history for purposes of determining a sentence in any subsequent conviction. For all purposes, including responding to questions on employment or housing applications, a person whose conviction has been vacated under subsection (1) of this section may state that he or she has never been convicted of that crime. Nothing in this section affects or prevents the use of an offender's prior conviction in a later criminal prosecution.

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


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

CREDIT(S)

[\[2001 c 140 § 1.\]](#)

LIBRARY REFERENCES

2003 Main Volume

Convicts  1.
Westlaw Topic No. 98.
[C.J.S. Convicts § § 2 to 3.](#)

RESEARCH REFERENCES

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2003 Electronic Update

Treatises and Practice Aids

13B Wash. Prac. Series § 4202, Suspended And Deferred Sentences.

13B Wash. Prac. Series § 4206, Vacation Of Conviction.

12 Wash. Prac. Series § 704, Guilty Plea.

13 Wash. Prac. Series § 5205.5, Vacating Misdemeanor Records.

5A Wash. Prac. Series § 609.13, 'S 609.13 Effect Of Pardon, Annulment, Or Rehabilitation'.

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Current through Chapter 1 of 2004 Regular Session

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