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SENATE BILL 5261

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State of Washington                      57th Legislature                      2001 Regular Session

By Senators Kline, Gardner, Costa, Long and Hargrove

Read first time 01/17/2001. Referred to Committee on Judiciary.

1            AN ACT Relating to vacation of an offender's record of conviction;  
2 adding a new section to chapter 3.30 RCW; adding a new section to  
3 chapter 3.50 RCW; and adding a new section to chapter 35.20 RCW.

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

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 3.30 RCW  
6 to read as follows:

7            (1) Every offender who has completed all terms of a suspended or  
8 deferred sentence imposed by a court of limited jurisdiction as defined  
9 under chapter 3.02 RCW may apply to the sentencing court for a vacation  
10 of the offender's record of conviction. If the court finds that the  
11 offender meets the tests prescribed in subsection (2) of this section,  
12 the court may clear the record of conviction by: (a)(i) Permitting the  
13 offender to withdraw the offender's plea of guilty and to enter a plea  
14 of not guilty; or (ii) if the offender has been convicted after a plea  
15 of not guilty, the court setting aside the verdict of guilty; and (b)  
16 the court dismissing the information or indictment against the  
17 offender. Court costs may be waived upon a finding that the offender  
18 is indigent.

1 (2) An offender may have the record of conviction vacated if: (a)  
2 The offender has not previously had a record of conviction vacated; (b)  
3 the offender has not been convicted of a new crime in this state,  
4 another state, or federal court since the date of the offense for which  
5 the offender is seeking vacation; (c) at least seven years have passed  
6 since the date the applicant completed all terms of the court's  
7 suspended or deferred sentence, including proof of payment of all court  
8 costs, fines, and restitution; and (d) the record of conviction is not  
9 for an alcohol-related motor vehicle offense, a domestic violence  
10 offense, or a sex offense.

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

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 3.50 RCW  
22 to read as follows:

23 (1) Every offender who has completed all terms of a suspended or  
24 deferred sentence imposed by a court of limited jurisdiction as defined  
25 under chapter 3.02 RCW may apply to the sentencing court for a vacation  
26 of the offender's record of conviction. If the court finds that the  
27 offender meets the tests prescribed in subsection (2) of this section,  
28 the court may clear the record of conviction by: (a)(i) Permitting the  
29 offender to withdraw the offender's plea of guilty and to enter a plea  
30 of not guilty; or (ii) if the offender has been convicted after a plea  
31 of not guilty, the court setting aside the verdict of guilty; and (b)  
32 the court dismissing the information or indictment against the  
33 offender. Court costs may be waived upon a finding that the offender  
34 is indigent.

35 (2) An offender may have the record of conviction vacated if: (a)  
36 The offender has not previously had a record of conviction vacated; (b)  
37 the offender has not been convicted of a new crime in this state,  
38 another state, or federal court since the date of the offense for which

1 the offender is seeking vacation; (c) at least seven years have passed  
2 since the date the applicant completed all terms of the court's  
3 suspended or deferred sentence, including proof of payment of all court  
4 costs, fines, and restitution; and (d) the record of conviction is not  
5 for an alcohol-related motor vehicle offense, a domestic violence  
6 offense, or a sex offense.

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

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.20 RCW  
18 to read as follows:

19 (1) Every offender who has completed all terms of a suspended or  
20 deferred sentence imposed by a court of limited jurisdiction as defined  
21 under chapter 3.02 RCW may apply to the sentencing court for a vacation  
22 of the offender's record of conviction. If the court finds that the  
23 offender meets the tests prescribed in subsection (2) of this section,  
24 the court may clear the record of conviction by: (a)(i) Permitting the  
25 offender to withdraw the offender's plea of guilty and to enter a plea  
26 of not guilty; or (ii) if the offender has been convicted after a plea  
27 of not guilty, the court setting aside the verdict of guilty; and (b)  
28 the court dismissing the information or indictment against the  
29 offender. Court costs may be waived upon a finding that the offender  
30 is indigent.

31 (2) An offender may have the record of conviction vacated if: (a)  
32 The offender has not previously had a record of conviction vacated; (b)  
33 the offender has not been convicted of a new crime in this state,  
34 another state, or federal court since the date of the offense for which  
35 the offender is seeking vacation; (c) at least seven years have passed  
36 since the date the applicant completed all terms of the court's  
37 suspended or deferred sentence, including proof of payment of all court  
38 costs, fines, and restitution; and (d) the record of conviction is not

1 for an alcohol-related motor vehicle offense, a domestic violence  
2 offense, or a sex offense.

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

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