

HOUSE BILL REPORT

SHB 1283

As Passed House:

February 12, 2004

Title: An act relating to vacation of records of conviction for misdemeanor and gross misdemeanor offenses.

Brief Description: Allowing for vacation of a record of conviction of a misdemeanor or gross misdemeanor even if the applicant had the record of another conviction vacated.

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives Lovick, Pettigrew, O'Brien, Cooper, G. Simpson, Kagi, Moeller, Chase, Rockefeller, Lantz and Cairnes).

Brief History:

Committee Activity:

Judiciary: 2/6/03, 2/25/03 [DPS].

Floor Activity:

Passed House: 3/12/03, 90-5.

Floor Activity:

Passed House: 2/12/04, 96-0.

Brief Summary of Substitute Bill

- Removes the once-in-a-lifetime restriction on vacation of records of misdemeanors.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Lantz, Chair; Moeller, Vice Chair; Carrell, Ranking Minority Member; McMahan, Assistant Ranking Minority Member; Campbell, Flannigan, Kirby, Lovick and Newhouse.

Staff: Bill Perry (786-7123).

Background:

A person who has been convicted of either a felony under the Sentencing Reform Act

(SRA) or a misdemeanor or gross misdemeanor crime, may be able to get his or her record of conviction "vacated." The effect of a vacation is to release the person from "all penalties and disabilities" that resulted from the conviction. A vacated record no longer counts as criminal history for the purpose of determining the length of a sentence on a subsequent offense. However, the fact of a conviction can be used in a later prosecution of the person even if the record of the conviction has been vacated. Once a record of a conviction has been vacated, the person may respond to housing or employment questions by stating that he or she has not been convicted of that offense.

Both the felony and misdemeanor vacation provisions have restrictions and exceptions. For instance, some felonies (such as any class A felony) and some misdemeanors (such as DUI) can never be vacated.

Some of the restrictions are the same in the case of either a felony or misdemeanor. For instance, under both systems, a conviction for a new crime after the date of the crime for which vacation is sought disqualifies the person for vacation.

The misdemeanor vacation provisions contain at least one restriction that has no counterpart in the felony provisions. A misdemeanor may not be vacated if the person has ever had another offense vacated.

Summary of Substitute Bill:

The prohibition against a misdemeanor vacation if the person has ever had another offense vacated is removed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: Every saint has a past and every sinner has a future. Many people have relatively minor criminal offenses in their past. These misdemeanor convictions should not burden a person forever.

Testimony Against: The misdemeanor vacation provisions should be the same as the SRA felony vacation provisions. This law for misdemeanor vacations was just passed last year and should not be amended in a way that is inconsistent with what the Legislature agreed to then. Multiple vacations at the same time should not be allowed.

Testified: (In support) Representative Lovick, prime sponsor; and Mark Muenster, Washington Association of Criminal Defense Lawyers.

(Opposed) Tom McBride, Washington Association of Prosecuting Attorneys.