
Judiciary Committee

HB 1283

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

Brief Description: Adjusting time requirements for vacation of convictions.

Sponsors: Representatives Lovick, Pettigrew, O'Brien, Cooper, Simpson, Kagi, Moeller, Chase, Rockefeller, Lantz and Cairnes.

Brief Summary of Bill

- Removes the once-in-a-lifetime restriction on vacation of records of misdemeanors.
- Allows vacation of a misdemeanor, notwithstanding a more recent conviction for another crime, if at least three years have passed since the completion of the sentence for the newer offense.

Hearing Date: 2/6/03

Staff: Bill Perry (786-7123).

Background:

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

Two restrictions are modified or removed from the provisions allowing the vacation of records of misdemeanor convictions.

The prohibition against a vacation of a misdemeanor if there has been a new offense is modified to allow the vacation if at least three years have passed since the completion of the sentence for the newer offense.

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

Appropriation: None.

Fiscal Note: Requested on January 29, 2003.

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