

SENATE BILL REPORT

SHB 1283

As Reported By Senate Committee On:
Judiciary, February 27, 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: 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: 2/25/04, 2/27/04 [DP, DNP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators McCaslin, Chair; Brandland, Hargrove, Haugen, Johnson, Kline and Thibaudeau.

Minority Report: Do not pass.

Signed by Senator Esser, Vice Chair.

Staff: Aldo Melchiori (786-7439)

Background: A person who has been convicted of either a felony under the Sentencing Reform Act (SRA) or a misdemeanor or gross misdemeanor 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 for a subsequent offense. 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. A vacated conviction can, however, be used as an element of a crime in a later prosecution for a limited number of offenses whose classification as a felony requires proof of a prior conviction.

Both the felony and misdemeanor vacation provisions have restrictions and exceptions. Some felonies (such as any class A felony) and some misdemeanors (such as DUI) can never be vacated. 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 Bill: The prohibition against a misdemeanor vacation if the person has ever had another offense vacated is removed.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: We all know people who committed a minor offense in the past. These offenders should not be burdened with their one mistake forever. America is the land of the second chance. This is an issue of fairness. Felons can vacate multiple convictions, but misdemeanor offenders cannot.

Testimony Against: None.

Testified: PRO: Representative Lovick, prime sponsor; Mark Muenster, WACDL.