
HOUSE BILL 1234

State of Washington 59th Legislature 2005 Regular Session

By Representatives O'Brien, Pearson, Lantz, Lovick, Williams, Kenney,
Campbell, Chase and Wallace

Read first time 01/19/2005. Referred to Committee on Judiciary.

1 AN ACT Relating to prohibiting the record of a conviction for a sex
2 offense from being vacated; and amending RCW 9.94A.640.

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

4 **Sec. 1.** RCW 9.94A.640 and 1987 c 486 s 7 are each amended to read
5 as follows:

6 (1) Every offender who has been discharged under RCW 9.94A.637 may
7 apply to the sentencing court for a vacation of the offender's record
8 of conviction. If the court finds the offender meets the tests
9 prescribed in subsection (2) of this section, the court may clear the
10 record of conviction by: (a) Permitting the offender to withdraw the
11 offender's plea of guilty and to enter a plea of not guilty; or (b) if
12 the offender has been convicted after a plea of not guilty, by the
13 court setting aside the verdict of guilty; and (c) by the court
14 dismissing the information or indictment against the offender.

15 (2) An offender may not have the record of conviction cleared if:
16 (a) There are any criminal charges against the offender pending in any
17 court of this state or another state, or in any federal court; (b) the
18 offense was a violent offense as defined in RCW 9.94A.030; (c) the
19 offense was a crime against persons as defined in RCW 43.43.830; (d)

1 the offense was a sex offense as defined in RCW 9.94A.030; (e) the
2 offender has been convicted of a new crime in this state, another
3 state, or federal court since the date of the offender's discharge
4 under RCW 9.94A.637; (~~(e)~~) (f) the offense is a class B felony and
5 less than ten years have passed since the date the applicant was
6 discharged under RCW 9.94A.637; and (~~(f)~~) (g) the offense was a class
7 C felony and less than five years have passed since the date the
8 applicant was discharged under RCW 9.94A.637.

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

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