
Public Safety Committee

HB 1292

Brief Description: Vacating prostitution convictions.

Sponsors: Representatives Orwall, Goodman, Roberts, Appleton, Green, Hope, Kochmar, Moscoso, Jinkins, Uptegrove and Ryu.

Brief Summary of Bill

- Allows a victim of trafficking or promoting prostitution in the first degree to vacate the record of a related prostitution conviction regardless of whether:
 - he or she has pending criminal charges for prostitution,
 - he or she has a subsequent conviction for prostitution, or
 - he or she has had the record of another prostitution conviction vacated.

Hearing Date: 1/31/13

Staff: Sarah Koster (786-7303).

Background:

Vacation of Records.

A person convicted of prostitution who committed the offense as the result of being a victim of trafficking or promoting prostitution in the first degree may apply to the sentencing court for vacation of the record of conviction, except that the record cannot be cleared if:

1. there are any criminal charges against the applicant pending in any court of this state or another state, or in any federal court;
2. the applicant has been convicted of a new crime in this state, another state, or federal court since the date of conviction; or
3. the applicant has ever had the record of another prostitution conviction vacated.

If the offender meets these tests, the court may clear the record of conviction by permitting the applicant to withdraw the applicant's plea of guilty and to enter a plea of not guilty; or, if the applicant has been convicted after a plea of not guilty, the court setting aside the verdict of

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guilty; and dismissing the information, indictment, complaint, or citation against the applicant and vacating the judgment and sentence.

Trafficking in the First and Second Degrees.

A person is guilty of Trafficking in the first degree when:

(i) such person:

(a) recruits, harbors, transports, transfers, provides, obtains, or receives by any means another person knowing that force, fraud, or coercion will be used to cause the person to engage in forced labor, involuntary servitude, a sexually explicit act, or a commercial sex act; or

(b) benefits financially or by receiving anything of value from participation in a venture that has engaged in acts described above; and

(ii) the acts or venture:

(a) involve committing or attempting to commit kidnapping;

(b) involve a finding of sexual motivation;

(c) involve the illegal harvesting or sale of human organs; or

(d) result in a death.

Trafficking in the first degree is a class A felony.

A person is guilty of Trafficking in the second degree when such person:

(i) recruits, harbors, transports, transfers, provides, obtains, or receives by any means another person knowing that force, fraud, or coercion will be used to cause the person to engage in forced labor, involuntary servitude, a sexually explicit act, or a commercial sex act; or

(ii) benefits financially or by receiving anything of value from participation in a venture that has engaged in the acts described above.

Trafficking in the second degree is a class A felony.

Promoting Prostitution in the First Degree.

A person is guilty of Promoting Prostitution in the first degree if he or she knowingly advances prostitution:

(a) by compelling a person by threat or force to engage in prostitution or profits from prostitution which results from such threat or force; or

(b) by compelling a person with a mental incapacity or developmental disability that renders the person incapable of consent to engage in prostitution or profits from prostitution that results from such compulsion.

Promoting Prostitution in the first degree is a class B felony.

Summary of Bill:

A person convicted of prostitution and who committed the offense as the result of being a victim of Trafficking or Promoting Prostitution in the first degree may apply for a vacation of the criminal records and may have the record vacated regardless if he or she has had the record of another prostitution conviction vacated, has pending criminal charges for prostitution, or has had the record of another prostitution conviction vacated.

Appropriation: None.

Fiscal Note: Available.

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