

SENATE BILL REPORT

SHB 1292

As Reported by Senate Committee On:
Law & Justice, February 28, 2014

Title: An act relating to vacating prostitution convictions.

Brief Description: Vacating prostitution convictions.

Sponsors: House Committee on Public Safety (originally sponsored by Representatives Orwall, Goodman, Roberts, Appleton, Green, Hope, Kochmar, Moscoso, Jenkins, Upthegrove and Ryu).

Brief History: Passed House: 2/25/13, 91-1; 2/03/14, 94-1.
Committee Activity: Law & Justice: 2/24/14, 2/28/14 [DPA].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Kline, Ranking Member; Darneille, Pearson, Pedersen and Roach.

Staff: Kelly Walsh (786-7755)

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

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

If the applicant is not barred by one of these conditions, the court may vacate the record of conviction. Once the record is vacated, the person is released from all penalties resulting from the offense, and the fact that the person has been convicted of the offense cannot be included in the person's criminal history.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill (Recommended Amendments): A person convicted of prostitution who committed the offense as the result of being a victim of trafficking, promoting prostitution in the first degree, promoting commercial sexual abuse of a minor, or the federal crime of trafficking in persons may apply for a vacation of the prostitution conviction record. The prostitution conviction can be vacated regardless of whether the applicant has criminal charges pending for the crime of prostitution, has been convicted of the crime of prostitution since the date of the conviction that the applicant seeks to vacate, or had the record of another prostitution conviction vacated. The applicant must show by a preponderance of the evidence that the elements of the particular crime the applicant is alleged to be a victim of are met and that the particular prostitution record of conviction sought to be vacated resulted from those criminal acts.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Amendments): The burden of proof upon the applicant is expressly stated. The specific elements of each qualifying crime, which are necessary to show that the applicant qualifies for vacating a prostitution conviction under the provisions of the act, are articulated in the act.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Substitute House Bill: PRO: There has been a lot of great work done focusing on penalties for offenders, but this bill is about helping victims. As victims try to rebuild their lives they are having trouble as a result of these convictions on their record. These convictions are a result of their victimization and continue to victimize them. Victims deserve the chance to provide for their families, attend school, and volunteer without having to explain these charges. This will enhance the protection that we currently provide to survivors. This is a big part of stabilizing the survivor in real life, and criminal history actually may have a tendency to keep them in the cycle of victimization by their traffickers. Survivors need an opportunity to vacate more than one conviction. These convictions arise out of force, fraud, and coercion and continue to prevent the survivor from living a free life. These victims should not have to carry this life-long mark on their criminal history. This is necessary for the healing process and a second chance for these victims. This is a logical and humane way to help them move forward. The bill contains appropriate judicial oversight and the bar of proof is high. Survivors have enough other hurdles to overcome.

Persons Testifying: PRO: Representative Orwall, prime sponsor; Rose Gunderson, WA Engage; Tim Heffer, Justice and Mercy Foundation; Rachel Ballou, Genesis Project; James Graddon, Danielle Goodwin, citizens.