
Public Safety Committee

HB 1015

Brief Description: Allowing for the vacation of certain driving-related convictions under limited circumstances.

Sponsors: Representative Appleton.

<p>Brief Summary of Bill</p> <ul style="list-style-type: none">• Allows a person to vacate a Driving Under the Influence-related offense provided certain conditions are met.
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Hearing Date: 1/16/15

Staff: Yvonne Walker (786-7841).

Background:

A person can commit Driving Under the Influence (DUI) or being in Physical Control (PC) of a motor vehicle under the influence of intoxicating liquor or any drug if the person drives with a blood or breath alcohol concentration (BAC) of 0.08 or higher, under the influence of, or affected by liquor or any drug. Generally, a DUI/PC offense is punishable as a gross misdemeanor offense.

Vacation of Misdemeanors and Gross Misdemeanors.

Every person convicted of a misdemeanor or gross misdemeanor who has completed all terms of the sentence may apply for a vacation of the record of conviction for the offense. The applicant's record cannot be cleared if:

- there are any criminal charges against the applicant pending in any court;
- less than three years has passed since the person completed the terms of the sentence, including any financial obligations;
- the offender has been convicted of a new crime since the date of conviction;
- the applicant has ever had the record of another conviction vacated; or

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- the applicant is currently restrained or has been restrained within five years prior to the vacation application by a domestic violence protection order, a no-contact order, an anti-harassment order, or a civil restraining order.

Additionally, certain misdemeanor offenses may not be vacated or may only be vacated under additional circumstances:

- the following offenses may not be vacated: violent offenses, attempt to commit a violent offense, violations of an obscenity or pornography offense, sexual exploitation of children, or a sex offense;
- a violation of driving while under the influence, actual physical control while under the influence, or operating a railroad, etc., while intoxicated may not be vacated. In addition, an offense may not be vacated if the offense is considered a "prior offense," as defined in statute, and the applicant has had a subsequent alcohol or drug violation within 10 years of the date of arrest for the prior offense; and
- domestic violence offenses, including any offense which the court determines was committed by one family member against another, may not be vacated if the applicant: (a) has not provided written notification of the vacation petition to the prosecuting attorney's office that prosecuted the offense for which vacation is sought or has not provided that notification to the court; (b) the applicant has a previous domestic violence conviction; or (c) less than five years has passed since completing the terms of the original conditions of the sentence.

Once the court vacates a record of conviction, the person is released from all penalties and disabilities resulting from the offense and the fact that the person has been convicted of the offense is not included in the person's criminal history for purposes of determining a sentence in any subsequent conviction. For all purposes, including responding to questions on employment or housing applications, a person whose conviction has been vacated may state that the person has never been convicted of that crime. This does not affect or prevent the use of an offender's prior conviction in a later criminal prosecution.

Summary of Bill:

A person may apply to vacate a DUI, PC, or Operating a Railroad while Intoxicated offense or a conviction for a prior DUI-related offense if:

- more than 10 years have elapsed since the person has completed the terms of the original conditions of the sentence, including any financial obligations;
- the person has successfully completed alcohol or chemical dependency treatment as ordered by the court and has not had any relapse for five years prior to the date of the vacation application; and
- the person has met all other conditions for the vacation of the sentence.

Appropriation: None.

Fiscal Note: Available.

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