

HOUSE BILL REPORT

SSB 5998

As Passed House:
February 27, 2024

Title: An act relating to timing of eligibility for vacation of nonfelony convictions.

Brief Description: Timing of eligibility for vacation of nonfelony convictions.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Hansen, Billig, Dhingra, Nguyen and Saldaña).

Brief History:

Committee Activity:

Community Safety, Justice, & Reentry: 2/15/24, 2/20/24 [DP].

Floor Activity:

Passed House: 2/27/24, 58-36.

Brief Summary of Substitute Bill

- Requires a person to satisfy all financial obligations before a court may vacate the person's conviction for a misdemeanor or gross misdemeanor.
- Removes the requirement for a person to complete payment of financial obligations before the specified waiting period that determines the person's eligibility to vacate an applicable misdemeanor or gross misdemeanor may commence.

HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

Majority Report: Do pass. Signed by 6 members: Representatives Goodman, Chair; Simmons, Vice Chair; Davis, Farivar, Fosse and Ramos.

Minority Report: Without recommendation. Signed by 3 members: Representatives Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Graham.

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

Staff: Michelle Rusk (786-7153).

Background:

Vacation of Convictions Generally.

Under certain conditions, a person's record of conviction may be vacated by a sentencing court. If the court vacates the record of conviction, the offense is no longer included in the person's criminal history and the person may state that he or she has never been convicted of that crime, including when responding to questions pertaining to licensing, employment, and housing applications.

Vacation of Misdemeanor Convictions.

Any person convicted of a qualifying misdemeanor or gross misdemeanor may apply to the sentencing court for vacation of the conviction upon meeting certain criteria. A person's qualifying conviction may not be vacated if, for example, any of the following exist:

- the person has not completed all terms of the sentence;
- the conviction is for a qualifying domestic violence offense and less than five years have passed since the person completed the terms of the sentence, including any financial obligations; or
- less than three years have passed since the person completed the terms of sentence, including any financial obligations.

Summary of Bill:

Vacating Misdemeanor or Gross Misdemeanor Convictions.

The five-year waiting period for applying to vacate a qualifying domestic violence misdemeanor or gross misdemeanor conviction commences upon an individual's completion of the terms of the sentence, including completion of ordered treatment, but excluding the payment of financial obligations.

The three-year waiting period to apply for vacating a qualifying misdemeanor or gross misdemeanor commences upon the later of: (1) release from supervision or probation, (2) release from total and partial confinement; or (3) the sentencing date. It is not a requirement that more than three years have passed since an applicant completed financial obligations.

However, a person must still complete other sentencing conditions prior to applying to vacate a misdemeanor or gross misdemeanor, including payment of legal financial obligations.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill is a follow up to the New Hope Act. Members of the Legislature worked for two years to clean up the statutes that clear criminal convictions, and the New Hope Act made changes to vacating felony convictions. The New Hope Act required people to pay off legal financial obligations (LFOs) before vacating a felony, but allowed the crime-free waiting period to start while a person is still paying off LFOs. That bill was unanimously voted out of its policy committee and off the House floor, which is unusual for a criminal justice bill.

Changes to the vacation waiting periods were made for felonies but not for misdemeanors, so under current law, the felony waiting period starts running while paying off LFOs but the misdemeanor waiting period does not. Making the eligibility criteria identical remedies this injustice, delivers relief, and restores rights.

Under this current bill, vacation of a misdemeanor or gross misdemeanor cannot occur until LFOs are paid off. This bill just relates to starting the crime-free waiting period for vacating nonfelony convictions, and aligning it with how those time periods start for felonies. The New Hope Act has allowed so many people to achieve professional careers and that should be extended to individuals with misdemeanor convictions. There are systemic barriers that prevent individuals who are involved in the criminal justice system from getting a second chance. More people deserve a second chance, and remedying this discrepancy in vacation procedures can make a large impact.

(Opposed) None.

(Other) The committee should revisit the requirement to pay all LFOs, which is not a requirement included in the felony statute. Individuals who are indigent can seek relief from payment of LFOs when trying to vacate a felony conviction, but that option for relief does not exist for misdemeanors. There is no path under this current bill for LFOs to be waived for indigency in the misdemeanor context.

There is also some confusing language in the provisions of the bill addressing the three-year and five-year waiting periods. These provisions use language different from each other, and they should mirror one another. Additionally, some of the language in these provisions makes reference to "discharge" and "release" from supervision, which is generally in relation to Department of Corrections supervision and is not appropriate in this nonfelony context. Referring to probation would be more appropriate.

Persons Testifying: (In support) Senator Drew Hansen, prime sponsor; Quinton Baker; Oscar Aguirre, King County Bar Association, Records Project; Prachi Dave, Civil Survival

Project; and Lisa Gardner, Spokane National Association for the Advancement of Colored People.

(Other) Kari Reardon, Washington Defender Association and Washington Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: None.