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SENATE BILL 5860

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State of Washington

55th Legislature

1997 Regular Session

By Senators Roach and Johnson

Read first time 02/17/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to vacation of misdemeanor criminal history  
2 records; and adding a new section to chapter 10.01 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 10.01 RCW  
5 to read as follows:

6 (1) A person convicted of a misdemeanor or gross misdemeanor may  
7 apply to the sentencing court for a vacation of the person's record of  
8 conviction. If the court finds that the person meets the tests  
9 prescribed in subsection (2) of this section, the court shall order  
10 that the record be vacated. Except in cases in which a plea has  
11 already been withdrawn and charges dismissed, the court may: (a)  
12 Permit the defendant to withdraw the defendant's plea of guilty and to  
13 enter a plea of not guilty; or (b) if the defendant has been convicted  
14 after a plea of not guilty, set aside the verdict of guilty; and (c)  
15 dismiss the charges. An order to vacate the record is not effective  
16 until the court transmits a copy of such order to both the agency  
17 initiating the criminal history and to the Washington state patrol.

18 (2) A person may not have his or her record of conviction cleared  
19 if:

1 (a) The imposition of sentence was deferred, or its execution was  
2 suspended, and the court subsequently imposed the sentence or ordered  
3 execution of the sentence, unless more than five years have elapsed  
4 since the completion of the sentence;

5 (b) There are criminal charges against the person pending in a  
6 court of this state, another state, or in a federal court;

7 (c) The person has been convicted of a new crime in this state,  
8 another state, or a federal court since the date of the conviction at  
9 issue; or

10 (d) Less than five years have passed since the date the person was  
11 convicted.

12 (3) If a record of conviction is vacated pursuant to this section,  
13 the effect of such vacation is the same as provided in RCW 9.94A.230  
14 for convictions vacated pursuant to that section. Nothing in this  
15 section affects or prevents the use of a person's prior conviction in  
16 a later criminal prosecution.

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