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HOUSE BILL 2729

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State of Washington

57th Legislature

2002 Regular Session

By Representatives Lovick, Cairnes, Dickerson, Hurst, Campbell, Simpson, Edwards and O'Brien

Read first time 01/25/2002. Referred to Committee on Judiciary.

1 AN ACT Relating to vacation of records of conviction for  
2 presentencing reform act felony offenses; and amending RCW 9.95.240 and  
3 9.92.066.

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

5 **Sec. 1.** RCW 9.95.240 and 1957 c 227 s 7 are each amended to read  
6 as follows:

7 (1) Every defendant who has fulfilled the conditions of his or her  
8 probation for the entire period thereof, or who shall have been  
9 discharged from probation prior to the termination of the period  
10 thereof, may at any time (~~prior to the expiration of the maximum~~  
11 ~~period of punishment for the offense for which he has been convicted~~)  
12 be permitted in the discretion of the court to withdraw his or her plea  
13 of guilty and enter a plea of not guilty, or if he or she has been  
14 convicted after a plea of not guilty, the court may in its discretion  
15 set aside the verdict of guilty; and in either case, the court may  
16 thereupon dismiss the information or indictment against such defendant,  
17 who shall thereafter be released from all penalties and disabilities  
18 resulting from the offense or crime of which he or she has been  
19 convicted. (~~The probationer shall be informed of this right in his~~

1 ~~probation papers: PROVIDED, That in any subsequent prosecution, for~~  
2 ~~any other offense, such prior conviction may be pleaded and proved, and~~  
3 ~~shall have the same effect as if probation had not been granted, or the~~  
4 ~~information or indictment dismissed.))~~ The order of dismissal shall  
5 have the effect of restoring all civil rights lost by operation of law  
6 upon conviction, and the order of dismissal shall so state.

7 (2)(a) The court may also, in its discretion, enter an order  
8 vacating the judgment and sentence as provided in RCW 9.94A.640. Once  
9 a court vacates a record of conviction under this section, the fact  
10 that the offender has been convicted of the offense shall not be  
11 included in the offender's criminal history for purposes of determining  
12 a sentence in any subsequent conviction. For all purposes, including  
13 responding to questions on employment applications, an offender whose  
14 conviction has been vacated under this section may state that the  
15 offender has never been convicted of that crime.

16 (b) The clerk of the court in which the vacation order is entered  
17 shall immediately transmit the order vacating the conviction to the  
18 Washington state patrol identification section and to the local police  
19 agency, if any, which holds criminal history information for the person  
20 who is the subject of the conviction. The Washington state patrol and  
21 any such local police agency shall immediately update their records to  
22 reflect the vacation of the conviction, and shall transmit the order  
23 vacating the conviction to the federal bureau of investigation. A  
24 conviction that has been vacated under this section may not be  
25 disseminated or disclosed by the state patrol or local law enforcement  
26 agency to any person, except other criminal justice enforcement  
27 agencies.

28 **Sec. 2.** RCW 9.92.066 and 1971 ex.s. c 188 s 3 are each amended to  
29 read as follows:

30 (1) Upon termination of any suspended sentence under RCW 9.92.060  
31 or 9.95.210, such person may apply to the court for restoration of his  
32 or her civil rights, and an order vacating the judgment and sentence as  
33 provided in RCW 9.94A.640. Once a court vacates a record of conviction  
34 under this section, the fact that the offender has been convicted of  
35 the offense shall not be included in the offender's criminal history  
36 for purposes of determining a sentence in any subsequent conviction.  
37 For all purposes, including responding to questions on employment  
38 applications, an offender whose conviction has been vacated under this

1 section may state that the offender has never been convicted of that  
2 crime. Thereupon the court may in its discretion enter an order  
3 directing that, when such an order vacating the judgment and sentence  
4 is entered, such defendant shall thereafter be released from all  
5 penalties and disabilities resulting from the offense or crime of which  
6 he or she has been convicted.

7 (2) The clerk of the court in which the vacation order is entered  
8 shall immediately transmit the order vacating the conviction to the  
9 Washington state patrol identification section and to the local police  
10 agency, if any, which holds criminal history information for the person  
11 who is the subject of the conviction. The Washington state patrol and  
12 any such local police agency shall immediately update their records to  
13 reflect the vacation of the conviction, and shall transmit the order  
14 vacating the conviction to the federal bureau of investigation. A  
15 conviction that has been vacated under this section may not be  
16 disseminated or disclosed by the state patrol or local law enforcement  
17 agency to any person, except other criminal justice enforcement  
18 agencies.

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