

SENATE BILL REPORT

SB 5998

As of January 15, 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: Senators Hansen, Billig, Dhingra, Nguyen and Saldaña.

Brief History:

Committee Activity: Law & Justice: 1/16/24.

Brief Summary of Bill

- Removes requirement to toll the three-year or five-year waiting period for vacation of a gross misdemeanor or misdemeanor conviction until payment of legal financial obligations.
- Requires that legal financial obligations be paid before vacation of a gross misdemeanor or misdemeanor conviction.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Kevin Black (786-7747)

Background: Vacation of Criminal Convictions. Vacation is a means of undoing a criminal conviction which occurs when a court sets aside a guilty verdict or allows a person to withdraw their guilty plea and then dismisses the charge. A court may vacate a conviction only if the charge is eligible for vacation; no new criminal charges are pending against the person; the person has completed all terms of sentence, including payment of legal financial obligations; and a waiting period has elapsed which varies depending on the nature of the charge.

Charges Which Are Not Eligible for Vacation. No violent felony offense except assault 2

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and robbery 2, and no violent felony offense involving a firearm, deadly weapon, or sexual motivation, is eligible for vacation. Felony driving under the influence and felony physical control of a vehicle offenses are not eligible for vacation. Gross misdemeanor or misdemeanor sex offenses, pornography offenses, and obscenity offenses are not eligible for vacation.

Waiting Period for Vacation. The waiting period to be eligible for vacation of a criminal offense is as follows:

- for a class B felony, ten years since release from confinement, community custody, and sentencing, and ten years since the person's last criminal conviction;
- for a class C felony, five years since release from confinement, community custody, and sentencing, and five years since the person's last criminal conviction;
- for a gross misdemeanor or misdemeanor offense, three years from completion of sentence including payment of legal financial obligations;
- for a gross misdemeanor or misdemeanor offense which is a domestic violence offense, five years from completion of sentence including successful completion of treatment and payment of legal financial obligations; and
- for a gross misdemeanor or misdemeanor driving under the influence or physical control of a vehicle offense, ten years since arrest for the offense without subsequent alcohol, or drug violations within the ten-year period.

Other Requirements Which Apply to Vacation of Gross Misdemeanor and Misdemeanor Domestic Violence Offenses. For a gross misdemeanor or misdemeanor domestic violence offense, the court may only grant vacation if the person has provided written notification of the vacation petition to the prosecutor's office which prosecuted the offense; does not have a second domestic violence conviction stemming from a different incident; and has not signed an affidavit affirming they do not have a conviction for domestic violence and a criminal history check reveals they have such a conviction.

Summary of Bill: The period of time for which a person with a misdemeanor or gross misdemeanor conviction must wait before a court may grant a petition to vacate the conviction is no longer tolled until the person has paid all legal financial obligations. The person must must pay the legal financial obligations before the court may vacate the sentence.

With this change, a court may vacate a misdemeanor or gross misdemeanor offense if a petitioner who meets other requirements has completed all of the original terms of sentence including payment of legal financial obligations, and three years have passed since the later of the petitioner's release from supervision, release from total and partial confinement, or sentencing date. The waiting period is five years if the offense is classified as a domestic violence offense or the court makes a finding that the offense was committed against a family member, household member, or intimate partner.

Appropriation: None.

Fiscal Note: Requested on January 9, 2024.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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