

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1346

Chapter 66, Laws of 2003

58th Legislature
2003 Regular Session

VACATION OF RECORDS OF CONVICTION

EFFECTIVE DATE: 7/27/03

Passed by the House March 13, 2003
Yeas 96 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 9, 2003
Yeas 45 Nays 0

BRAD OWEN

President of the Senate

Approved April 18, 2003.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1346** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER

Chief Clerk

FILED

April 18, 2003 - 3:41 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1346

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Lovick, Cairnes, Rockefeller, Campbell, Moeller, Clibborn, Cooper, Flannigan, Simpson, Kagi, Pettigrew and Chase)

READ FIRST TIME 02/28/03.

1 AN ACT Relating to vacation of records of conviction for pre-
2 sentencing 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 period
11 of punishment for the offense for which he or she has been convicted be
12 permitted in the discretion of the court to withdraw his or her plea of
13 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 or

1 her probation papers: PROVIDED, That in any subsequent prosecution,
2 for any other offense, such prior conviction may be pleaded and proved,
3 and shall have the same effect as if probation had not been granted, or
4 the information or indictment dismissed.

5 (2)(a) After the period of probation has expired, the defendant may
6 apply to the sentencing court for a vacation of the defendant's record
7 of conviction under RCW 9.94A.640. The court may, in its discretion,
8 clear the record of conviction if it finds the defendant has met the
9 equivalent of the tests in RCW 9.94A.640(2) as those tests would be
10 applied to a person convicted of a crime committed before July 1, 1984.

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

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

25 (1) Upon termination of any suspended sentence under RCW 9.92.060
26 or 9.95.210, such person may apply to the court for restoration of his
27 or her civil rights. Thereupon the court may in its discretion enter
28 an order directing that such defendant shall thereafter be released
29 from all penalties and disabilities resulting from the offense or crime
30 of which he or she has been convicted.

31 (2)(a) Upon termination of a suspended sentence under RCW 9.92.060
32 or 9.95.210, the person may apply to the sentencing court for a
33 vacation of the person's record of conviction under RCW 9.94A.640. The
34 court may, in its discretion, clear the record of conviction if it
35 finds the person has met the equivalent of the tests in RCW
36 9.94A.640(2) as those tests would be applied to a person convicted of
37 a crime committed before July 1, 1984.

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

Passed by the House March 13, 2003.

Passed by the Senate April 9, 2003.

Approved by the Governor April 18, 2003.

Filed in Office of Secretary of State April 18, 2003.