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## Public Safety Committee

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### HB 1017

**Brief Description:** Allowing for more than one vacation of a misdemeanor and gross misdemeanor conviction.

**Sponsors:** Representatives Appleton, Orwall and Ormsby.

#### Brief Summary of Bill

- Allows a person to apply to vacate up to four misdemeanor or gross misdemeanor convictions.
- Permits a person to apply to vacate a misdemeanor or gross misdemeanor offense if a person has not been convicted of a new crime in the three years prior to the application and has not been convicted of a felony since the date of conviction.
- Allows for vacation of more than one misdemeanor or gross misdemeanor conviction at one time.

**Hearing Date:** 1/16/15

**Staff:** Cassie Jones (360-786-7303).

#### **Background:**

##### Vacation of Misdemeanors and Gross Misdemeanors.

Every person convicted of a misdemeanor or gross misdemeanor who has completed all terms of the sentence may apply for a vacation of the applicant's record of conviction for the offense. The offender's record cannot be cleared if:

- there are any criminal charges against the applicant pending in any court;
- the offense was a violent offense or an attempt to commit a violent offense;
- the offense was a violation for driving while under the influence, actual physical control while under the influence, or operating a railroad, etc., while intoxicated, and the applicant has had a subsequent alcohol or drug violation within 10 years of the date of arrest;

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- the offense was any misdemeanor or gross misdemeanor violation, including an attempt, of an obscenity or pornography offense, sexual exploitation of children, or a sex offense;
- the applicant was convicted of a misdemeanor or gross misdemeanor domestic violence offense; or the court determines after a review of the court file that the offense was committed by one family member or household member against another; or the court determines that the offense involved domestic violence, and any one of the following factors exist:
  - a. the applicant has not provided written notification of the vacation petition to the prosecuting attorney's office that prosecuted the offense for which vacation is sought or has not provided that notification to the court;
  - b. the applicant has previously had a conviction for domestic violence;
  - c. the applicant has signed an affidavit under penalty of perjury affirming that the applicant has not previously had a conviction for a domestic violence offense and a criminal history check reveals that the applicant has had such a conviction; or
  - d. less than five years have elapsed since the person completed the terms of the original conditions of the sentence, including any financial obligations and successful completion of any treatment ordered as a condition of sentencing.
- less than three years has passed since the person completed the terms of the sentence, including any financial obligations;
- the offender has been convicted of a new crime since the date of conviction;
- the applicant has ever had the record of another conviction vacated; or
- the applicant is currently restrained or has been restrained within five years prior to the vacation application by a domestic violence protection order, a no-contact order, an anti-harassment order, or a civil restraining order.

For a person convicted of prostitution who committed the offense as the result of being a victim of Trafficking, Promoting Prostitution in the first degree, or Promoting Commercial Sexual Abuse of a Minor, he or she may apply to the sentencing court for vacation of the record of conviction, except that the record cannot be cleared if:

- there are any criminal charges against the applicant pending in any court; or
- the offender has been convicted of another crime since the date of conviction.

If the offender meets these tests, the court may clear the record of conviction.

**Summary of Bill:**

If a person is otherwise eligible to vacate a misdemeanor or gross misdemeanor conviction, he or she may apply to the sentencing court to have a misdemeanor or gross misdemeanor conviction vacated regardless if he or she has had the record of three or fewer other convictions vacated. A person otherwise eligible may vacate a record of a misdemeanor or gross misdemeanor conviction regardless if he or she has been convicted of a new crime since the date of conviction, except that a person may not vacate a conviction if he or she has been sentenced to a felony since the date of conviction or if he or she has been convicted of another misdemeanor in the three years prior to the application. More than one conviction may be vacated at a time.

**Appropriation:** None.

**Fiscal Note:** Available.

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