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## Public Safety Committee

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### HB 1260

**Brief Description:** Providing for the vacation of misdemeanor marijuana offense convictions.

**Sponsors:** Representatives Fitzgibbon, Frame, Macri, Tarleton, Pollet, Sawyer, Farrell, Kagi, Cody, Appleton, Ormsby, Senn and McBride.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Requires a court to vacate misdemeanor marijuana possession convictions upon a request of a qualifying applicant.</li></ul>
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**Hearing Date:** 1/23/17

**Staff:** Alex Arkfeld (786-7290) and Kelly Leonard (786-7147).

**Background:**

Misdemeanor Marijuana Possession.

It is a misdemeanor offense to possess 40 grams or less of marijuana, although this is subject to exceptions. In 2012 Washington voters passed Initiative 502, legalizing the recreational use of marijuana and creating a comprehensive regulatory scheme. Today, persons at least 21 years old may legally possess up to one ounce of useable marijuana, 16 ounces of solid marijuana-infused product, 72 ounces of liquid marijuana-infused product, and seven grams of marijuana concentrate. Marijuana remains illegal for persons under 21 years old.

Initiative 502 applied prospectively, meaning it did not retroactively modify or vacate convictions of marijuana offenses that occurred prior to its effective date.

Process for Vacating a Misdemeanor or Gross Misdemeanor Conviction Record.

After completing their sentence, persons convicted of misdemeanors or gross misdemeanors may apply for a vacation of their conviction record. The sentencing court has discretion to vacate the conviction record but may not do so for several reasons, including the following:

- criminal charges against the applicant are pending;

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- less than three years have passed since the person completed the terms of the sentence;
- the offender has been convicted of a new crime since the date of conviction;
- the applicant has had another conviction record vacated; or
- the applicant is currently restrained or has been restrained within the last five years by a court order.

Courts may not vacate violent offenses, attempts to commit violent offenses, sex offenses, and offenses relating to obscenity, pornography, or the sexual exploitation of children. Additionally, courts may only vacate the following offenses under additional circumstances specified in statute: reckless driving; driving under the influence; vehicular homicide; vehicular assault; and domestic violence.

#### Effect of Vacating a Conviction Record.

The vacation of an applicant's conviction record releases the applicant from all penalties and disabilities resulting from the offense, and the applicant may state that they have never been convicted of the offense. The vacated conviction is not included in the applicant's criminal history when calculating an offender score for any subsequent conviction.

#### **Summary of Bill:**

Persons with prior convictions of misdemeanor marijuana possession may apply to the sentencing court for a vacation of their conviction record. The applicant must have been at least 21 years old at the time of the offense. The court must vacate the applicant's conviction record and may not consider the restrictions applicable to vacating other misdemeanor convictions.

**Appropriation:** None.

**Fiscal Note:** Requested on January 18, 2017.

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