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**SUBSTITUTE HOUSE BILL 1110**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** House Community Safety (originally sponsored by Representatives Ortiz-Self, Goodman, Reed, Simmons, Peterson, and Wylie)

READ FIRST TIME 02/20/25.

1 AN ACT Relating to vacating convictions for driving under the  
2 influence, actual physical control of a motor vehicle while under the  
3 influence, or an offense considered a prior offense to such  
4 convictions; amending RCW 9.96.060; and providing an effective date.

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

6 **Sec. 1.** RCW 9.96.060 and 2024 c 296 s 1 are each amended to read  
7 as follows:

8 (1) When vacating a conviction under this section, the court  
9 effectuates the vacation by: (a)(i) Permitting the applicant to  
10 withdraw the applicant's plea of guilty and to enter a plea of not  
11 guilty; or (ii) if the applicant has been convicted after a plea of  
12 not guilty, the court setting aside the verdict of guilty; and (b)  
13 the court dismissing the information, indictment, complaint, or  
14 citation against the applicant and vacating the judgment and  
15 sentence.

16 (2) Every person convicted of a misdemeanor or gross misdemeanor  
17 offense may apply to the sentencing court for a vacation of the  
18 applicant's record of conviction for the offense. If the court finds  
19 the applicant meets the requirements of this subsection, the court  
20 may in its discretion vacate the record of conviction. Except as  
21 provided in subsections (3), (4), (5), and (6) of this section, an

1 applicant may not have the record of conviction for a misdemeanor or  
2 gross misdemeanor offense vacated if any one of the following is  
3 present:

4 (a) The applicant has not completed all of the terms of the  
5 sentence for the offense, including satisfaction of financial  
6 obligations;

7 (b) There are any criminal charges against the applicant pending  
8 in any court of this state or another state, or in any federal or  
9 tribal court, at the time of application;

10 (c) The offense was a violent offense as defined in RCW 9.94A.030  
11 or an attempt to commit a violent offense;

12 (d) The offense was a violation of RCW (~~(46.61.502 (driving while~~  
13 ~~under the influence), 46.61.504 (actual physical control while under~~  
14 ~~the influence),~~) 9.91.020 (operating a railroad, etc. while  
15 intoxicated) (~~, or the offense is considered a "prior offense" under~~  
16 ~~RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug~~  
17 ~~violation within 10 years of the date of arrest for the prior offense~~  
18 ~~or less than 10 years has elapsed since the date of the arrest for~~  
19 ~~the prior offense));~~

20 (e) The offense was any misdemeanor or gross misdemeanor  
21 violation, including attempt, of chapter 9.68 RCW (obscenity and  
22 pornography), chapter 9.68A RCW (sexual exploitation of children), or  
23 chapter 9A.44 RCW (sex offenses), except for failure to register as a  
24 sex offender under RCW 9A.44.132;

25 (f) The applicant was convicted of a misdemeanor or gross  
26 misdemeanor offense as defined in RCW 10.99.020, or the court  
27 determines after a review of the court file that the offense was  
28 committed by one family or household member against another or by one  
29 intimate partner against another, or the court, after considering the  
30 damage to person or property that resulted in the conviction, any  
31 prior convictions for crimes defined in RCW 10.99.020, or for  
32 comparable offenses in another state or in federal court, and the  
33 totality of the records under review by the court regarding the  
34 conviction being considered for vacation, determines that the offense  
35 involved domestic violence, and any one of the following factors  
36 exist:

37 (i) The applicant has not provided written notification of the  
38 vacation petition to the prosecuting attorney's office that  
39 prosecuted the offense for which vacation is sought, or has not  
40 provided that notification to the court;

1 (ii) The applicant has two or more domestic violence convictions  
2 stemming from different incidents. For purposes of this subsection,  
3 however, if the current application is for more than one conviction  
4 that arose out of a single incident, none of those convictions counts  
5 as a previous conviction;

6 (iii) The applicant has signed an affidavit under penalty of  
7 perjury affirming that the applicant has not previously had a  
8 conviction for a domestic violence offense, and a criminal history  
9 check reveals that the applicant has had such a conviction; or

10 (iv) Less than five years have elapsed since the person completed  
11 the terms of the original conditions of the sentence, including  
12 successful completion of any treatment ordered as a condition of  
13 sentencing, but excluding the payment of financial obligations;

14 (g) The applicant was convicted of violating RCW 46.61.502  
15 (driving while under the influence), 46.61.504 (actual physical  
16 control while under the influence), or an offense considered a "prior  
17 offense" under RCW 46.61.5055, and any of the following factors  
18 exist:

19 (i) The applicant has had a subsequent alcohol or drug-related  
20 traffic conviction in this state, another state, or tribal court  
21 within five years of the date of conviction;

22 (ii) Less than three years have passed since the applicant's  
23 release from supervision or probation for a conviction of RCW  
24 46.61.502 or 46.61.504, or an offense considered a "prior offense"  
25 under RCW 46.61.5055, or less than five years have passed since the  
26 applicant's sentencing date for a conviction of RCW 46.61.502 or  
27 46.61.504, or an offense considered a "prior offense" under RCW  
28 46.61.5055, whichever is later;

29 (iii) The applicant's driver's license is ineligible for  
30 reinstatement due to an unfulfilled administrative requirement of the  
31 department of licensing; or

32 (iv) At the time of the offense, the applicant held a commercial  
33 driver's license, a commercial learner's permit, or was operating a  
34 commercial motor vehicle;

35 (h) For any offense other than those described in (f) and (g) of  
36 this subsection, less than three years have passed since the later of  
37 the applicant's release from supervision or probation; the  
38 applicant's release from total and partial confinement, as defined in  
39 RCW 9.94A.030; or the applicant's sentencing date;

1       (~~(h)~~) (i) The offender has been convicted of a new crime in  
2 this state, another state, or federal or tribal court in the three  
3 years prior to the vacation application; or

4       (~~(i)~~) (j) The applicant is currently restrained by a domestic  
5 violence protection order, a no-contact order, an antiharassment  
6 order, or a civil restraining order which restrains one party from  
7 contacting the other party or was previously restrained by such an  
8 order and was found to have committed one or more violations of the  
9 order in the five years prior to the vacation application.

10       (3) If the applicant is a victim of sex trafficking,  
11 prostitution, or commercial sexual abuse of a minor; sexual assault;  
12 or domestic violence as defined in RCW 9.94A.030, or the prosecutor  
13 applies on behalf of the state, the sentencing court may vacate the  
14 record of conviction if the application satisfies the requirements of  
15 RCW 9.96.080. When preparing or filing the petition, the prosecutor  
16 is not deemed to be providing legal advice or legal assistance on  
17 behalf of the victim, but is fulfilling an administrative function on  
18 behalf of the state in order to further their responsibility to seek  
19 to reform and improve the administration of criminal justice. A  
20 record of conviction vacated using the process in RCW 9.96.080 is  
21 subject to subsections (7) and (8) of this section.

22       (4) Every person convicted prior to January 1, 1975, of violating  
23 any statute or rule regarding the regulation of fishing activities,  
24 including, but not limited to, (~~(former)~~) former RCW 75.08.260,  
25 75.12.060, 75.12.070, 75.12.160, 77.16.020, 77.16.030, 77.16.040,  
26 77.16.060, and 77.16.240 who claimed to be exercising a treaty Indian  
27 fishing right, may apply to the sentencing court for vacation of the  
28 applicant's record of the misdemeanor, gross misdemeanor, or felony  
29 conviction for the offense. If the person is deceased, a member of  
30 the person's family or an official representative of the tribe of  
31 which the person was a member may apply to the court on behalf of the  
32 deceased person. Notwithstanding the requirements of RCW 9.94A.640,  
33 the court shall vacate the record of conviction if:

34       (a) The applicant is a member of a tribe that may exercise treaty  
35 Indian fishing rights at the location where the offense occurred; and

36       (b) The state has been enjoined from taking enforcement action of  
37 the statute or rule to the extent that it interferes with a treaty  
38 Indian fishing right as determined under *United States v. Washington*,  
39 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp.

1 899 (D. Oregon 1969), and any posttrial orders of those courts, or  
2 any other state supreme court or federal court decision.

3 (5) Every person convicted of a misdemeanor cannabis offense, who  
4 was 21 years of age or older at the time of the offense, may apply to  
5 the sentencing court for a vacation of the applicant's record of  
6 conviction for the offense. A misdemeanor cannabis offense includes,  
7 but is not limited to: Any offense under RCW 69.50.4014, from July 1,  
8 2004, onward, and its predecessor statutes, including RCW  
9 69.50.401(e), from March 21, 1979, to July 1, 2004, and RCW  
10 69.50.401(d), from May 21, 1971, to March 21, 1979, and any offense  
11 under an equivalent municipal ordinance. If an applicant qualifies  
12 under this subsection, the court shall vacate the record of  
13 conviction.

14 (6) If a person convicted of violating RCW 69.50.4011(1) (b) or  
15 (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) completes a  
16 substance use disorder program and files proof of completion with the  
17 court, or obtains an assessment from a recovery navigator program  
18 established under RCW 71.24.115, an arrest and jail alternative  
19 program established under RCW 36.28A.450, or a law enforcement  
20 assisted diversion program established under RCW 71.24.589, and has  
21 six months of substantial compliance with recommended treatment or  
22 services and progress toward recovery goals as reflected by a written  
23 status update, upon verification the court must vacate the conviction  
24 or convictions.

25 (7) A person who is a family member of a homicide victim may  
26 apply to the sentencing court on the behalf of the victim for  
27 vacation of the victim's record of conviction for prostitution under  
28 RCW 9A.88.030. If an applicant qualifies under this subsection, the  
29 court shall vacate the victim's record of conviction.

30 (8) (a) Except as provided in (c) and (d) of this subsection, once  
31 the court vacates a record of conviction under this section, the  
32 person shall be released from all penalties and disabilities  
33 resulting from the offense and the fact that the person has been  
34 convicted of the offense shall not be included in the person's  
35 criminal history for purposes of determining a sentence in any  
36 subsequent conviction. For all purposes, including responding to  
37 questions on employment or housing applications, a person whose  
38 conviction has been vacated under this section may state that he or  
39 she has never been convicted of that crime. However, nothing in this  
40 section affects the requirements for restoring a right to possess a

1 firearm under RCW 9.41.041. Except as provided in (b) of this  
2 subsection, nothing in this section affects or prevents the use of an  
3 offender's prior conviction in a later criminal prosecution.

4 (b) When a court vacates a record of domestic violence as defined  
5 in RCW 10.99.020 under this section, the state may not use the  
6 vacated conviction in a later criminal prosecution unless the  
7 conviction was for: (i) Violating the provisions of a restraining  
8 order, no-contact order, or protection order restraining or enjoining  
9 the person or restraining the person from going on to the grounds of  
10 or entering a residence, workplace, school, or day care, or  
11 prohibiting the person from knowingly coming within, or knowingly  
12 remaining within, a specified distance of a location, a protected  
13 party's person, or a protected party's vehicle (RCW 10.99.040,  
14 10.99.050, 26.09.300, 26.26B.050, 26.44.063, 26.44.150, or 26.52.070,  
15 or any of the former RCW 26.50.060, 26.50.070, 26.50.130, and  
16 74.34.145); (ii) stalking (RCW 9A.46.110); or (iii) a domestic  
17 violence protection order or vulnerable adult protection order  
18 entered under chapter 7.105 RCW. A vacated conviction under this  
19 section is not considered a conviction of such an offense for the  
20 purposes of 27 C.F.R. 478.11.

21 (c) A conviction vacated on or after July 28, 2019, qualifies as  
22 a prior conviction for the purpose of charging a present recidivist  
23 offense as defined in RCW 9.94A.030 occurring on or after July 28,  
24 2019.

25 (d) (i) When a court vacates a record of conviction specified  
26 under subsection (2)(g) of this section, the vacated conviction  
27 qualifies as a "prior offense" under RCW 46.61.502(6), 46.61.504(6),  
28 and 46.61.5055 in a later criminal prosecution of RCW 46.61.502  
29 (driving while under the influence) or RCW 46.61.504 (actual physical  
30 control while under the influence) if the later prosecution is within  
31 15 years of the date of the conviction for the vacated conviction. If  
32 a subsequent conviction of RCW 46.61.502 or 46.61.504 is within 15  
33 years of the date of the conviction for the vacated conviction, the  
34 court may use the vacated conviction in determining a sentence or  
35 determining whether the subsequent conviction qualifies as a felony  
36 under RCW 46.61.5055.

37 (ii) A vacated conviction of RCW 46.61.502, 46.61.504, or an  
38 offense considered a "prior offense" under RCW 46.61.5055 pursuant to  
39 this section qualifies as a prior conviction in determining a  
40 sentence for a conviction under RCW 46.61.520 if the vehicular

1 homicide occurred while the driver was under the influence of  
2 intoxicating liquor or any drug.

3 (iii) The department of licensing may consider a vacated  
4 conviction of RCW 46.61.502, 46.61.504, or an offense considered a  
5 "prior offense" under RCW 46.61.5055 when determining a future  
6 administrative requirement for a subsequent conviction of RCW  
7 46.61.502, 46.61.504, or an offense considered a "prior offense"  
8 under RCW 46.61.5055.

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

21 (b) Upon notice to the department of licensing of vacation of a  
22 conviction of RCW 46.61.502, 46.61.504, or an offense considered a  
23 "prior offense" under RCW 46.61.5055, the department must remove the  
24 conviction from the person's driving record if all administrative  
25 requirements have been met.

26 (10) For the purposes of this section, "cannabis" has the meaning  
27 provided in RCW 69.50.101.

28 NEW SECTION. Sec. 2. This act takes effect July 1, 2026.

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