
HOUSE BILL 1815

State of Washington

69th Legislature

2025 Regular Session

By Representatives Peterson, Cortes, and Goodman

Read first time 02/04/25. Referred to Committee on Early Learning & Human Services.

1 AN ACT Relating to prison riot offenses; amending RCW 9.94.049
2 and 9.94A.640; adding a new section to chapter 9.94A RCW; adding a
3 new section to chapter 13.40 RCW; and creating a new section.

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

5 **Sec. 1.** RCW 9.94.049 and 2021 c 243 s 5 are each amended to read
6 as follows:

7 (1) (a) For the purposes of this chapter, except for RCW 9.94.010,
8 the term "correctional institution" means any place designated by law
9 for the keeping of persons held in custody under process of law, or
10 under lawful arrest, including state prisons, county and local jails,
11 juvenile detention centers, and other facilities operated by the
12 department of corrections, department of children, youth, and
13 families, or local governmental units primarily for the purposes of
14 punishment, correction, or rehabilitation following conviction or
15 adjudication of a criminal offense.

16 (b) For the purposes of RCW 9.94.010, the term "correctional
17 institution" means any place designated by law for the keeping of
18 persons held in custody under process of law, or under lawful arrest,
19 including state prisons, county and local jails, juvenile detention
20 centers, and other facilities operated by the department of
21 corrections, or local governmental units primarily for the purposes

1 of punishment, correction, or rehabilitation following conviction or
2 adjudication of a criminal offense. For the purposes of RCW 9.94.010,
3 the term "correctional institution" does not include facilities
4 operated by the department of children, youth, and families.

5 (2) For the purposes of RCW 9.94.043 and 9.94.045, "state
6 correctional institution" means all state correctional facilities
7 under the supervision of the secretary of the department of
8 corrections used solely for the purpose of confinement of convicted
9 felons.

10 **Sec. 2.** RCW 9.94A.640 and 2021 c 237 s 2 are each amended to
11 read as follows:

12 (1) (~~Every~~) Except as provided in subsection (5) of this
13 section, every offender who has been discharged under RCW 9.94A.637
14 may apply to the sentencing court for a vacation of the offender's
15 record of conviction. If the court finds the offender meets the tests
16 prescribed in subsection (2) of this section, the court may clear the
17 record of conviction by: (a) Permitting the offender to withdraw the
18 offender's plea of guilty and to enter a plea of not guilty; or (b)
19 if the offender has been convicted after a plea of not guilty, by the
20 court setting aside the verdict of guilty; and (c) by the court
21 dismissing the information or indictment against the offender.

22 (2) An offender may not have the record of conviction cleared if:

23 (a) There are any criminal charges against the offender pending
24 in any court of this state or another state, or in any federal court;

25 (b) The offense was a violent offense as defined in RCW 9.94A.030
26 or crime against persons as defined in RCW 43.43.830, except the
27 following offenses may be vacated if the conviction did not include a
28 firearm, deadly weapon, or sexual motivation enhancement: (i) Assault
29 in the second degree under RCW 9A.36.021; (ii) assault in the third
30 degree under RCW 9A.36.031 when not committed against a law
31 enforcement officer or peace officer; and (iii) robbery in the second
32 degree under RCW 9A.56.210;

33 (c) The offense is a class B felony and the offender has been
34 convicted of a new crime in this state, another state, or federal
35 court in the ten years prior to the application for vacation;

36 (d) The offense is a class C felony and the offender has been
37 convicted of a new crime in this state, another state, or federal
38 court in the five years prior to the application for vacation;

1 (e) The offense is a class B felony and less than ten years have
2 passed since the later of: (i) The applicant's release from community
3 custody; (ii) the applicant's release from full and partial
4 confinement; or (iii) the applicant's sentencing date;

5 (f) The offense was a class C felony, other than a class C felony
6 described in RCW 46.61.502(6) or 46.61.504(6), and less than five
7 years have passed since the later of: (i) The applicant's release
8 from community custody; (ii) the applicant's release from full and
9 partial confinement; or (iii) the applicant's sentencing date; or

10 (g) The offense was a felony described in RCW 46.61.502 or
11 46.61.504.

12 (3) If the applicant is a victim of sex trafficking,
13 prostitution, or commercial sexual abuse of a minor; sexual assault;
14 or domestic violence as defined in RCW 9.94A.030, the victim or the
15 prosecutor of the county in which the victim was sentenced may apply
16 to the sentencing court or the sentencing court's successor to vacate
17 the victim's record of conviction for a class B or class C felony
18 offense using the process in RCW 9.94A.648. When preparing or filing
19 the petition, the prosecutor is not deemed to be providing legal
20 advice or legal assistance on behalf of the victim, but is fulfilling
21 an administrative function on behalf of the state in order to further
22 their responsibility to seek to reform and improve the administration
23 of criminal justice. A record of conviction vacated using the process
24 in RCW 9.94A.648 is subject to subsection (4) of this section.

25 (4)(a) Except as otherwise provided, once the court vacates a
26 record of conviction under subsection (1) of this section, the fact
27 that the offender has been convicted of the offense shall not be
28 included in the offender's criminal history for purposes of
29 determining a sentence in any subsequent conviction, and the offender
30 shall be released from all penalties and disabilities resulting from
31 the offense. For all purposes, including responding to questions on
32 employment applications, an offender whose conviction has been
33 vacated may state that the offender has never been convicted of that
34 crime. A conviction that has been vacated under this section may not
35 be disseminated or disclosed by the state patrol or local law
36 enforcement agency to any person, except other criminal justice
37 enforcement agencies. Nothing in this section affects or prevents the
38 use of an offender's prior conviction in a later criminal
39 prosecution, and nothing in this section affects the requirements for
40 restoring a right to possess a firearm under RCW 9.41.040.

1 (b) A conviction vacated on or after July 28, 2019, qualifies as
2 a prior conviction for the purpose of charging a present recidivist
3 offense occurring on or after July 28, 2019, and may be used to
4 establish an ongoing pattern of abuse for purposes of RCW 9.94A.535.

5 (5) Every person convicted of a prison riot offense under RCW
6 9.94.010 who was incarcerated in a facility operated by the
7 department of children, youth, and families at the time of the
8 offense may apply to the sentencing court for a vacation of the
9 applicant's record of adjudication or conviction for the offense. If
10 an applicant qualifies under this subsection, the court shall vacate
11 the record of conviction or adjudication.

12 NEW SECTION. Sec. 3. A new section is added to chapter 9.94A
13 RCW to read as follows:

14 (1) In any criminal case where an offender has been sentenced for
15 an offense where a conviction or adjudication for a prison riot
16 offense that occurred in a facility operated by the department of
17 children, youth, and families was used as a basis for the offender's
18 sentence, the prosecuting attorney shall, or the offender may, make a
19 motion for relief from sentence to the original sentencing court.

20 (2) The sentencing court shall grant the motion for relief from
21 sentence established in this section if it finds that a current or
22 past conviction or adjudication for a prison riot offense that
23 occurred in a facility operated by the department of children, youth,
24 and families was used as a basis for the offender's sentence and
25 shall immediately set an expedited date for resentencing. At
26 resentencing, the court shall sentence the offender as if the current
27 or past conviction for a prison riot offense that occurred in a
28 facility operated by the department of children, youth, and families
29 did not occur.

30 NEW SECTION. Sec. 4. A new section is added to chapter 13.40
31 RCW to read as follows:

32 (1) In any juvenile offender case where an offender has been
33 sentenced for an offense where an adjudication for a prison riot
34 offense that occurred in a facility operated by the department of
35 children, youth, and families was used as a basis for the offender's
36 sentence or disposition, the prosecuting attorney shall, or the
37 offender may, make a motion for relief from disposition to the
38 original court that imposed the disposition.

1 (2) The court that imposed the disposition shall grant the motion
2 for relief from disposition established in this section if it finds
3 that a current or past adjudication for a prison riot offense that
4 occurred in a facility operated by the department of children, youth,
5 and families was used as a basis for the offender's disposition and
6 shall immediately set an expedited date for resentencing. At
7 resentencing, the court shall impose a disposition as if the current
8 or past adjudication for a prison riot offense that occurred in a
9 facility operated by the department of children, youth, and families
10 did not occur.

11 NEW SECTION. **Sec. 5.** Section 1 of this act applies
12 retroactively to all prison riot convictions or adjudications and
13 prison riot offenses that have been charged.

--- END ---