

11-22-2021

1 AN ACT Relating to modifying the requirements for vacating
2 conviction records;

3

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

5

6 **Sec. 1.** RCW 9.94A.640 and 2021 c 237 s 2 are each amended to
7 read as follows:

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

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

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

4 (b) The offense was a violent offense as defined in RCW
5 9.94A.030 or crime against persons as defined in RCW 43.43.830,
6 except the following offenses may be vacated if the conviction did
7 not include a firearm, deadly weapon, or sexual motivation
8 enhancement: (i) Assault in the second degree under RCW 9A.36.021;
9 (ii) assault in the third degree under RCW 9A.36.031 when not
10 committed against a law enforcement officer or peace officer; and
11 (iii) robbery in the second degree under RCW 9A.56.210;

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

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

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

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

28 (g) The offense was a felony described in RCW 46.61.502 or
29 46.61.504.

30 (3) If the applicant is a victim of sex trafficking,
31 prostitution, or commercial sexual abuse of a minor; sexual assault;
32 or domestic violence as defined in RCW 9.94A.030, the victim or the
33 prosecutor of the county in which the victim was sentenced may apply
34 to the sentencing court or the sentencing court's successor to

1 vacate the victim's record of conviction for a class B or class C
2 felony offense using the process in RCW 9.94A.648. When preparing or
3 filing the petition, the prosecutor is not deemed to be providing
4 legal advice or legal assistance on behalf of the victim, but is
5 fulfilling an administrative function on behalf of the state in
6 order to further their responsibility to seek to reform and improve
7 the administration of criminal justice. A record of conviction
8 vacated using the process in RCW 9.94A.648 is subject to subsection
9 (4) of this section.

10 (4) (a) Except as otherwise provided, once the court vacates a
11 record of conviction under subsection (1) of this section, the fact
12 that the offender has been convicted of the offense shall not be
13 included in the offender's criminal history for purposes of
14 determining a sentence in any subsequent conviction, and the
15 offender shall be released from all penalties and disabilities
16 resulting from the offense. For all purposes, including responding
17 to questions on employment applications, an offender whose
18 conviction has been vacated may state that the offender has never
19 been convicted of that crime. A conviction that has been vacated
20 under this section may not be disseminated or disclosed by the state
21 patrol or local law enforcement agency to any person, except other
22 criminal justice enforcement agencies. Nothing in this section
23 affects or prevents the use of an offender's prior conviction in a
24 later criminal prosecution, and nothing in this section affects the
25 requirements for restoring a right to possess a firearm under RCW
26 9.41.040.

27 (b) A conviction vacated on or after July 28, 2019, qualifies as
28 a prior conviction for the purpose of charging a present recidivist
29 offense occurring on or after July 28, 2019, and may be used to
30 establish an ongoing pattern of abuse for purposes of RCW 9.94A.535.
31

32 **Sec. 2.** RCW 9.96.060 and 2021 c 237 s 4 are each amended to
33 read as follows:
34

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

9 (2) Every person convicted of a misdemeanor or gross misdemeanor
10 offense may apply to the sentencing court for a vacation of the
11 applicant's record of conviction for the offense. If the court finds
12 the applicant meets the requirements of this subsection, the court
13 (~~may in its discretion~~) shall vacate the record of conviction.
14 Except as provided in subsections (3), (4), and (5) of this section,
15 an applicant may not have the record of conviction for a misdemeanor
16 or gross misdemeanor offense vacated if any one of the following is
17 present:

18 (a) The applicant has not completed all of the terms of the
19 sentence for the offense, including satisfaction of financial
20 obligations;

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

24 (c) The offense was a violent offense as defined in RCW
25 9.94A.030 or an attempt to commit a violent offense;

26 (d) The offense was a violation of RCW 46.61.502 (driving while
27 under the influence), 46.61.504 (actual physical control while under
28 the influence), 9.91.020 (operating a railroad, etc. while
29 intoxicated), or the offense is considered a "prior offense" under
30 RCW 46.61.5055 and the applicant has had a subsequent alcohol or
31 drug violation within ten years of the date of arrest for the prior
32 offense or less than ten years has elapsed since the date of the
33 arrest for the prior offense;

34

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

6 ~~(f) ((The applicant was convicted of a misdemeanor or gross
7 misdemeanor offense as defined in RCW 10.99.020, or the court
8 determines after a review of the court file that the offense was
9 committed by one family or household member against another or by
10 one intimate partner against another, or the court, after
11 considering the damage to person or property that resulted in the
12 conviction, any prior convictions for crimes defined in RCW
13 10.99.020, or for comparable offenses in another state or in federal
14 court, and the totality of the records under review by the court
15 regarding the conviction being considered for vacation, determines
16 that the offense involved domestic violence, and any one of the
17 following factors exist:~~

18 ~~(i) The applicant has not provided written notification of the
19 vacation petition to the prosecuting attorney's office that
20 prosecuted the offense for which vacation is sought, or has not
21 provided that notification to the court;~~

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

27 ~~(iii) The applicant has signed an affidavit under penalty of
28 perjury affirming that the applicant has not previously had a
29 conviction for a domestic violence offense, and a criminal history
30 check reveals that the applicant has had such a conviction; or~~

31 ~~(iv) Less than five years have elapsed since the person
32 completed the terms of the original conditions of the sentence,
33 including any financial obligations and successful completion of any
34 treatment ordered as a condition of sentencing;~~

1 ~~(g))~~ For any offense other than those described in ~~((f))~~ (h)
2 of this subsection, less than three years have passed since the
3 ~~((person completed the terms of the sentence, including any~~
4 ~~financial obligations))~~ later of: The applicant's release from full
5 and partial confinement; or the applicant's sentencing date;

6 ~~((h))~~ (g) The ~~((offender))~~ applicant has been convicted of a
7 new crime in this state, another state, or federal or tribal court
8 in the three years prior to the vacation application; or

9 ~~((i))~~ (h) The applicant was convicted of a misdemeanor or
10 gross misdemeanor offense as defined in RCW 10.99.020, or the court
11 determines after a review of the court file that the offense was
12 committed by one family or household member against another or by
13 one intimate partner against another, or the court, after
14 considering the damage to person or property that resulted in the
15 conviction, any prior convictions for crimes defined in RCW
16 10.99.020, or for comparable offenses in another state or in federal
17 court, and the totality of the records under review by the court
18 regarding the conviction being considered for vacation, determines
19 that the offense involved domestic violence, and any one of the
20 following factors exist:

21 (i) The applicant has not provided written notification of the
22 vacation petition to the prosecuting attorney's office that
23 prosecuted the offense for which vacation is sought, or has not
24 provided that notification to the court;

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

30 (iii) The applicant has signed an affidavit under penalty of
31 perjury affirming that the applicant has not previously had a
32 conviction for a domestic violence offense, and a criminal history
33 check reveals that the applicant has had such a conviction;

34

1 (iv) Less than five years have elapsed since the later of: The
2 applicant's release from full and partial confinement; or the
3 applicant's sentencing date; or

4 (v) The applicant is currently restrained by a domestic violence
5 protection order, a no-contact order, an antiharassment order, or a
6 civil restraining order which restrains one party from contacting
7 the other party or was previously restrained by such an order and
8 was found to have committed one or more violations of the order in
9 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
15 of RCW 9.96.080. When preparing or filing the petition, the
16 prosecutor is not deemed to be providing legal advice or legal
17 assistance on behalf of the victim, but is fulfilling an
18 administrative function on behalf of the state in order to further
19 their responsibility to seek to reform and improve the
20 administration of criminal justice. A record of conviction vacated
21 using the process in RCW 9.96.080 is subject to subsections (6) and
22 (7) of this section.

23 (4) Every person convicted prior to January 1, 1975, of
24 violating any statute or rule regarding the regulation of fishing
25 activities, including, but not limited to, RCW 75.08.260, 75.12.060,
26 75.12.070, 75.12.160, 77.16.020, 77.16.030, 77.16.040, 77.16.060,
27 and 77.16.240 who claimed to be exercising a treaty Indian fishing
28 right, may apply to the sentencing court for vacation of the
29 applicant's record of the misdemeanor, gross misdemeanor, or felony
30 conviction for the offense. If the person is deceased, a member of
31 the person's family or an official representative of the tribe of
32 which the person was a member may apply to the court on behalf of
33 the deceased person. Notwithstanding the requirements of RCW
34 9.94A.640, the court shall vacate the record of conviction if:

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

4 (b) The state has been enjoined from taking enforcement action
5 of the statute or rule to the extent that it interferes with a
6 treaty Indian fishing right as determined under *United States v.*
7 *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*,
8 302 F. Supp. 899 (D. Oregon 1969), and any posttrial orders of those
9 courts, or any other state supreme court or federal court decision.

10 (5) Every person convicted of a misdemeanor marijuana offense,
11 who was twenty-one years of age or older at the time of the offense,
12 may apply to the sentencing court for a vacation of the applicant's
13 record of conviction for the offense. A misdemeanor marijuana
14 offense includes, but is not limited to: Any offense under RCW
15 69.50.4014, from July 1, 2004, onward, and its predecessor statutes,
16 including RCW 69.50.401(e), from March 21, 1979, to July 1, 2004,
17 and RCW 69.50.401(d), from May 21, 1971, to March 21, 1979, and any
18 offense under an equivalent municipal ordinance. If an applicant
19 qualifies under this subsection, the court shall vacate the record
20 of conviction.

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

26 (7) (a) Except as provided in (c) of this subsection, once the
27 court vacates a record of conviction under this section, the person
28 shall be released from all penalties and disabilities resulting from
29 the offense and the fact that the person has been convicted of the
30 offense shall not be included in the person's criminal history for
31 purposes of determining a sentence in any subsequent conviction. For
32 all purposes, including responding to questions on employment or
33 housing applications, a person whose conviction has been vacated
34 under this section may state that he or she has never been convicted

1 of that crime. However, nothing in this section affects the
2 requirements for restoring a right to possess a firearm under RCW
3 9.41.040. Except as provided in (b) of this subsection, nothing in
4 this section affects or prevents the use of an offender's prior
5 conviction in a later criminal prosecution.

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

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

24 (8) The clerk of the court in which the vacation order is
25 entered shall immediately transmit the order vacating the conviction
26 to the Washington state patrol identification section and to the
27 local police agency, if any, which holds criminal history
28 information for the person who is the subject of the conviction. The
29 Washington state patrol and any such local police agency shall
30 immediately update their records to reflect the vacation of the
31 conviction, and shall transmit the order vacating the conviction to
32 the federal bureau of investigation. A conviction that has been
33 vacated under this section may not be disseminated or disclosed by
34

1 the state patrol or local law enforcement agency to any person,
2 except other criminal justice enforcement agencies.

3

4 **Sec. 3.** RCW 9.96.060 and 2021 c 237 s 4 are each amended to
5 read as follows:

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

14 (2) Every person convicted of a misdemeanor or gross misdemeanor
15 offense may apply to the sentencing court for a vacation of the
16 applicant's record of conviction for the offense. If the court finds
17 the applicant meets the requirements of this subsection, the court
18 (~~may in its discretion~~) shall vacate the record of conviction.
19 Except as provided in subsections (3), (4), and (5) of this section,
20 an applicant may not have the record of conviction for a misdemeanor
21 or gross misdemeanor offense vacated if any one of the following is
22 present:

23 (a) The applicant has not completed all of the terms of the
24 sentence for the offense, including satisfaction of financial
25 obligations;

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

29 (c) The offense was a violent offense as defined in RCW
30 9.94A.030 or an attempt to commit a violent offense;

31 (d) The offense was a violation of RCW 46.61.502 (driving while
32 under the influence), 46.61.504 (actual physical control while under
33 the influence), 9.91.020 (operating a railroad, etc. while
34 intoxicated), or the offense is considered a "prior offense" under

1 RCW 46.61.5055 and the applicant has had a subsequent alcohol or
2 drug violation within ten years of the date of arrest for the prior
3 offense or less than ten years has elapsed since the date of the
4 arrest for the prior offense;

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

10 ~~(f) ((The applicant was convicted of a misdemeanor or gross
11 misdemeanor offense as defined in RCW 10.99.020, or the court
12 determines after a review of the court file that the offense was
13 committed by one family or household member against another or by
14 one intimate partner against another, or the court, after
15 considering the damage to person or property that resulted in the
16 conviction, any prior convictions for crimes defined in RCW
17 10.99.020, or for comparable offenses in another state or in federal
18 court, and the totality of the records under review by the court
19 regarding the conviction being considered for vacation, determines
20 that the offense involved domestic violence, and any one of the
21 following factors exist:~~

22 ~~(i) The applicant has not provided written notification of the
23 vacation petition to the prosecuting attorney's office that
24 prosecuted the offense for which vacation is sought, or has not
25 provided that notification to the court;~~

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

31 ~~(iii) The applicant has signed an affidavit under penalty of
32 perjury affirming that the applicant has not previously had a
33 conviction for a domestic violence offense, and a criminal history
34 check reveals that the applicant has had such a conviction; or~~

1 ~~(iv) Less than five years have elapsed since the person~~
2 ~~completed the terms of the original conditions of the sentence,~~
3 ~~including any financial obligations and successful completion of any~~
4 ~~treatment ordered as a condition of sentencing;~~

5 ~~(g))~~ For any offense other than those described in ~~((f))~~ (h)
6 of this subsection, less than three years have passed since the
7 ~~((person completed the terms of the sentence, including any~~
8 ~~financial obligations))~~ later of: The applicant's release from full
9 and partial confinement; or the applicant's sentencing date;;

10 ~~((h))~~ (g) The ~~((offender))~~ applicant has been convicted of a
11 new crime in this state, another state, or federal or tribal court
12 in the three years prior to the vacation application; or

13 ~~((i))~~ (h) The applicant was convicted of a misdemeanor or
14 gross misdemeanor offense as defined in RCW 10.99.020, or the court
15 determines after a review of the court file that the offense was
16 committed by one family or household member against another or by
17 one intimate partner against another, or the court, after
18 considering the damage to person or property that resulted in the
19 conviction, any prior convictions for crimes defined in RCW
20 10.99.020, or for comparable offenses in another state or in federal
21 court, and the totality of the records under review by the court
22 regarding the conviction being considered for vacation, determines
23 that the offense involved domestic violence, and any one of the
24 following factors exist:

25 (i) The applicant has not provided written notification of the
26 vacation petition to the prosecuting attorney's office that
27 prosecuted the offense for which vacation is sought, or has not
28 provided that notification to the court;

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

34

1 (iii) The applicant has signed an affidavit under penalty of
2 perjury affirming that the applicant has not previously had a
3 conviction for a domestic violence offense, and a criminal history
4 check reveals that the applicant has had such a conviction;

5 (iv) Less than five years have elapsed since the later of: The
6 applicant's release from full and partial confinement; or the
7 applicant's sentencing date; or

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

14 (3) If the applicant is a victim of sex trafficking,
15 prostitution, or commercial sexual abuse of a minor; sexual assault;
16 or domestic violence as defined in RCW 9.94A.030, or the prosecutor
17 applies on behalf of the state, the sentencing court may vacate the
18 record of conviction if the application satisfies the requirements
19 of RCW 9.96.080. When preparing or filing the petition, the
20 prosecutor is not deemed to be providing legal advice or legal
21 assistance on behalf of the victim, but is fulfilling an
22 administrative function on behalf of the state in order to further
23 their responsibility to seek to reform and improve the
24 administration of criminal justice. A record of conviction vacated
25 using the process in RCW 9.96.080 is subject to subsections (6) and
26 (7) of this section.

27 (4) Every person convicted prior to January 1, 1975, of
28 violating any statute or rule regarding the regulation of fishing
29 activities, including, but not limited to, RCW 75.08.260, 75.12.060,
30 75.12.070, 75.12.160, 77.16.020, 77.16.030, 77.16.040, 77.16.060,
31 and 77.16.240 who claimed to be exercising a treaty Indian fishing
32 right, may apply to the sentencing court for vacation of the
33 applicant's record of the misdemeanor, gross misdemeanor, or felony
34 conviction for the offense. If the person is deceased, a member of

1 the person's family or an official representative of the tribe of
2 which the person was a member may apply to the court on behalf of
3 the deceased person. Notwithstanding the requirements of RCW
4 9.94A.640, the court shall vacate the record of conviction if:

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

8 (b) The state has been enjoined from taking enforcement action
9 of the statute or rule to the extent that it interferes with a
10 treaty Indian fishing right as determined under *United States v.*
11 *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*,
12 302 F. Supp. 899 (D. Oregon 1969), and any posttrial orders of those
13 courts, or any other state supreme court or federal court decision.

14 (5) Every person convicted of a misdemeanor marijuana offense,
15 who was twenty-one years of age or older at the time of the offense,
16 may apply to the sentencing court for a vacation of the applicant's
17 record of conviction for the offense. A misdemeanor marijuana
18 offense includes, but is not limited to: Any offense under RCW
19 69.50.4014, from July 1, 2004, onward, and its predecessor statutes,
20 including RCW 69.50.401(e), from March 21, 1979, to July 1, 2004,
21 and RCW 69.50.401(d), from May 21, 1971, to March 21, 1979, and any
22 offense under an equivalent municipal ordinance. If an applicant
23 qualifies under this subsection, the court shall vacate the record
24 of conviction.

25 (6) 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 (7) (a) Except as provided in (c) of this subsection, once the
31 court vacates a record of conviction under this section, the person
32 shall be released from all penalties and disabilities resulting from
33 the offense and the fact that the person has been convicted of the
34 offense shall not be included in the person's criminal history for

1 purposes of determining a sentence in any subsequent conviction. For
2 all purposes, including responding to questions on employment or
3 housing applications, a person whose conviction has been vacated
4 under this section may state that he or she has never been convicted
5 of that crime. However, nothing in this section affects the
6 requirements for restoring a right to possess a firearm under RCW
7 9.41.040. Except as provided in (b) of this subsection, nothing in
8 this section affects or prevents the use of an offender's prior
9 conviction in a later criminal prosecution.

10 (b) When a court vacates a record of domestic violence as
11 defined in RCW 10.99.020 under this section, the state may not use
12 the vacated conviction in a later criminal prosecution unless the
13 conviction was for: (i) Violating the provisions of a restraining
14 order, no-contact order, or protection order restraining or
15 enjoining the person or restraining the person from going on to the
16 grounds of or entering a residence, workplace, school, or day care,
17 or prohibiting the person from knowingly coming within, or knowingly
18 remaining within, a specified distance of a location, a protected
19 party's person, or a protected party's vehicle (RCW 10.99.040,
20 10.99.050, 26.09.300, 26.26B.050, 26.44.063, 26.44.150, or
21 26.52.070, or any of the former RCW 26.50.060, 26.50.070, 26.50.130,
22 and 74.34.145); (ii) stalking (RCW 9A.46.110); or (iii) a domestic
23 violence protection order or vulnerable adult protection order
24 entered under chapter 7.105 RCW. A vacated conviction under this
25 section is not considered a conviction of such an offense for the
26 purposes of 27 C.F.R. 478.11.

27 (c) A conviction vacated on or after July 28, 2019, qualifies as
28 a prior conviction for the purpose of charging a present recidivist
29 offense as defined in RCW 9.94A.030 occurring on or after July 28,
30 2019.

31 (8) The clerk of the court in which the vacation order is
32 entered shall immediately transmit the order vacating the conviction
33 to the Washington state patrol identification section and to the
34 local police agency, if any, which holds criminal history

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

9

10 NEW SECTION. **Sec. 4.** Sections 1 of the act expires July 1, 2022.

11

12 NEW SECTION. **Sec. 5.** Section 2 of the act takes effect July 1,
13 2022.

14

--- END ---