INSTRUCTIONS FOR VACATING MISDEMEANOR AND GROSS MISDEMEANOR CONVICTIONS

Washington law permits the vacation of some misdemeanor or gross misdemeanor convictions.

Vacation of a conviction releases you from all penalties and disabilities resulting from the offense. Once a conviction is vacated, the fact that you have been convicted of the offense shall not be included in your criminal history for purposes of determining a sentence in any subsequent conviction. For all purposes, including responding to questions on employment or housing applications, a person whose conviction has been vacated may state that he or she has never been convicted of that crime. Vacation of a conviction, however, does not affect or prevent use of the conviction in a later criminal prosecution. Vacation of a conviction does not automatically restore your right to possess a firearm.

The new law does not automatically vacate your conviction. If you want to have a conviction vacated, you must file a motion with the court. The following information will assist you in deciding whether the new law applies to your situation and, if so, how to ask the court to vacate your conviction.

If you meet the following criteria, a court may, in its discretion, vacate the conviction.

- There are no criminal charges pending against you in any court of this state or another state, or in any federal court.
- You have not been convicted of a new crime in this state, another state, or federal court since the date you were sentenced on the crime you wish to have vacated.
- You have never had the record of another conviction vacated.
- You are not currently restrained, and have not been restrained within five years prior to the vacation application, by a domestic violence protection order, a no-contact order, an antiharassment protection order, or a civil restraining order which restrains one party from contacting the other party.
- The conviction you are seeking to have vacated is **not** for one of the following crimes:

Driving while under the influence ("DUI"), RCW 46.61.502
Actual physical control while under the influence, RCW 46.61.504
Operating a railroad, etc., while intoxicated, RCW 9.91.020
A violation of chapter 9A.44 RCW (sex offenses)
A violation of chapter 9.68 RCW (obscenity and pornography)
A violation of chapter 9.68A RCW (sexual exploitation of children)
A violent offense as defined in RCW 9.94A.030 or an attempt to commit a violent offense

- If the crime you are seeking to have vacated involved domestic violence, you must:
  - Provide the prosecuting attorney's office that prosecuted you with timely notice of

your motion and declaration for order vacating conviction and file the original notice with the court.

- ❖ You must not have been convicted of any other domestic violence offense arising out of any other incident. (If the current application is for more than one conviction that arose out of a single incident, none of those convictions counts as a previous conviction.)
- ❖ Five years have elapsed since you 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.

- ❖ If the victim of the crime you are seeking to have vacated did not involve domestic violence, three years must have elapsed since you completed the terms of the original conditions of the sentence, including any financial obligations.

If you can satisfy each of the above requirements with respect to the conviction you are asking the court to vacate, your next step is to complete the form CrRLJ 09.0100, Motion and Declaration for Order Vacating Conviction. This form will allow the court to determine whether you are eligible to have your conviction vacated. You may want to review the court file or the court docket for the offense you are asking the court to vacate to obtain information you need to fill out the form. Some counties may require you to obtain copies of your criminal history records and attach them to your motion. Read the local court rules or contact the clerk of the court where you will file your motion to find out if this requirement, or any other local requirement, applies to you. Once you have completed and signed the motion and declaration form, make at least two copies.

The next step is to schedule a hearing for the motion for order vacating conviction. To schedule a hearing, contact the clerk of the court where you were sentenced and ask for the date and time for the hearing. Then complete the form that court uses to schedule a hearing. Make at least two copies of the notice. File the original motion and declaration for order vacating conviction and notice document. On the same day that you file those documents with the clerk of the court, you must also provide a copy of the documents to the prosecuting attorney's office that prosecuted you. To notify the prosecuting attorney's office of the hearing, you may also use form CrRLJ 09.0150, Notice of Motion for Order Vacating Conviction. If you use this form, file the original with the clerk of the court and provide a copy to the prosecuting attorney's office, with a copy of the Motion and Declaration for Order Vacating Conviction attached. Keep a copy of the motion and declaration for order vacating conviction and the notice documents for your information.

The judge will hear your motion for order vacating conviction on the day scheduled for the hearing. You will need to attend the hearing. If the motion is granted, the judge will complete an order vacating your conviction. The clerk of the court will send a copy of the order to the Washington State Patrol and to the local law enforcement agency, if any, which holds criminal history information about you.