POST-CONVICTIO N RIGHTS

VOTING & VACATING CRIMINAL RECORDS

prepared by | The Urban League of Metropolitan Seattle
TABLE OF CONTENTS

1 ...... Introduction

2 ...... Voting Rights Restoration
   Overview
   Who Can Vote?
   How to Register to Vote
   Final Thoughts

5 ...... Vacating Records Process
   Overview
   Vacating Misdemeanors
   Misdemeanor convictions
   Marijuana Convictions
   Gross Misdemeanor/Domestic Violence Misdemeanor
   Prostitution Conviction as a Victim
   Vacating Felonies
   Vacating a drug possession felony ("Blake conviction")
   Preparing for a Hearing

24 .... Further Legal Assistance

25 .... Controlling Washington State Statutes

26 .... Glossary
INTRODUCTION

If you have opened this workbook, it is because you or your loved one has a criminal history that is limiting their opportunities for employment or housing. This workbook is designed to help inform you of your voting rights, no matter your current circumstances. In the past couple of years, Washington state has expanded the right to vote to almost everyone, except to our community inside prison walls. This means if you or someone you know has a felony, is in jail, or on community custody, they can vote. Voting is powerful and, as you will see, has an influence on the entire vacating records process.

This workbook will also provide clarity about what it means to vacate a criminal record and teach you the process of doing so. Our hope is the next time you are applying for employment or housing and are asked the dreaded question of ‘Do you have criminal history?’, you can finally and legally say no. As you read on you will see not everyone qualifies to vacate a criminal record, and there are many barriers to complete the process. However, with this workbook as your guide, you may be able to start the process on your own (as attorneys call pro se) or, if you seek an attorney, you will know all the right information to help navigate the conversation and advocate for your rights.

I want to be clear; this is not a guide to provide legal advice, I am not an attorney. This is a guide that provides all the research someone would need to do to be able to navigate the voting or record vacating process in one place. It is always best to consult with an attorney if you have further questions. I am happy to assist with the connection to one depending on the county.

Before I close, I want to acknowledge my mentor and the one who originally created this workbook, Mr. Mack Murray. As an attorney, he saw the need and created the original Expungement Workshop 101 in 2010. This workbook is merely an update from his version as many laws have changed since then. Thank you, Mr. Murray, for your dedicated work. I am thankful you passed the torch and I will continue to carry on this vital work for our community.

Yours in the Movement,

Maya Manus
Director of Advocacy & Community Engagement
SECTION ONE

Voting Rights Restoration

Overview
Voting rights are dependent on state laws, meaning each state has different qualifications on who can and cannot vote. One qualification that states use to determine who can become a voter is criminal history or imprisonment. Every state except two, Maine and Vermont, has some sort of regulation that disenfranchises individuals who are currently incarcerated or have criminal history. The Washington State Constitution, Article 6, Section 3, explicitly states:

“All persons convicted of infamous crime unless restored to their civil rights and all persons while they are judicially declared mentally incompetent are excluded from the elective franchise.”

The Supreme Court of Washington state has determined that infamous crime is defined as a felony. So, when an individual is convicted of a felony in Washington state, they are stripped of their voting rights— but only while in prison.

As of January 1, 2022, every Washington state citizen with a past felony conviction will have their voting rights restored automatically upon release from prison, and this right cannot be revoked because of not paying legal financial obligations (LFOs).

You can register to vote in the state of Washington if you are:

A U.S. Citizen
At least 18 years old by the time of the General Election
A Washington State resident for more than 30 days by Election Day
Not currently incarcerated with the Department of Corrections

Under Washington state law:

<table>
<thead>
<tr>
<th>In prison?</th>
<th>Cannot register to vote and right is stripped.</th>
</tr>
</thead>
<tbody>
<tr>
<td>In jail?</td>
<td>Can register to vote and participate.</td>
</tr>
<tr>
<td>On community custody?</td>
<td>Can register to vote and participate.</td>
</tr>
<tr>
<td>In community?</td>
<td>Can register to vote and participate.</td>
</tr>
</tbody>
</table>
SECTION ONE

Voting Rights Restoration

How Can You Register to Vote?

Even though voting rights are automatically restored after incarceration, a person still must register to vote to participate in the process.

There are three ways to register to vote: by paper registration, online registration, and in-person at the County Auditor’s or Elections office or a voting center.

Paper Registration: There is a paper form included in this workbook to complete and mail out to your county’s office. The form needs to be filled out completely and clearly. If you do not have a Washington state ID, this is the form you would need to complete as you can use the last 4 digits of your social security number (SSN) to identify yourself. The signature you provide at the end of the form will need to be the same signature - or very similar - to when you complete your ballot.

Online Registration: Go to votewa.gov to complete your registration. You will need your Washington state ID to complete the form. The signature on your ballot will need to be the same - or very similar - to the one on your Washington state ID.

In-Person: Any person can go to their County Auditor’s office or elections office for questions or to register to vote. Beginning 18 days prior to Election Day, voting centers are open throughout the county and at universities to register to vote and complete a ballot. Please go to the Election/Auditor’s Office Directory for address, phone number, and website for more information.
Final Thoughts
Voting is essential to have a healthy democracy in Washington state.

It is also critical to the Vacating Records process or any post-conviction rights because both are voted on and determined by the State Legislature. If there are issues throughout this workbook, such as a conviction that is not eligible, contact your lawmaker and participate in the election process to expand post-conviction rights.

In Washington state, ballots are mailed out 18 days prior to Election Day and can be mailed back or put in a drop-box by 8:00pm on Election Day. For more information about your right to vote or the voting process, check out our ‘This Person Votes’ campaign by scanning the QR code on this page or by visiting: www.UrbanLeague.org/This-Person-Votes
Vacating Records Process

Overview
There are many words that people use to talk about the vacating records process such as expunge, seal, or vacate. Each word means something different and leads to different outcomes in Washington state courts.

Expunge
Expungement refers to the deletion or destroying of the criminal history record. In Washington state, there are only narrow opportunities to expunge criminal history as it is only limited to data that did not lead to a conviction. It must be two years after the case was in favor of the defendant or three years from the date of arrest or issuance of citation. The criminal agency can refuse to delete the data.

The data that did not lead to a conviction may be deleted if:

- The case was dismissed by the prosecutor
- Acquitted (not guilty verdict from the jury)
- Dismissed after successful completion of a diversion agreement

It will not be deleted if:

- The case resulted in a conviction
- There is subsequent criminal history
- Dismissed by a deferred sentence or vacate order

If you believe that this applies to you, go the legal assistance portion of this guide, or contact an attorney.
SECTION TWO

Vacating Records Process

Seal

The *Sealing process* refers to protecting court documents or conviction records from the public or unauthorized court personnel.

For criminal convictions, it must be vacated or there are compelling privacy or safety concerns that outweigh public interest, and there must be an order to seal the information in the public court. This will limit the information to the public to only include the case number, case type - such as Domestic Violence, the person’s name, and that it is vacated.

The records can be unsealed under certain circumstances such as a new criminal charge or if there is a petition that the person is a sexually violent predator.

Juvenile convictions may also be sealed depending on the circumstances. This happens after a juvenile turns 18 years old, completed probation or released from confinement. This only qualifies if it is not a serious offense or sex offense.

If you are interested in learning more regarding getting your criminal conviction sealed, go to the legal assistance portion of this guide, or contact an attorney.
SECTION TWO

Vacating Records Process

Vacate

This process is what applies to most people with a criminal conviction. Every person with a criminal conviction who has been discharged may apply to the court where they were sentenced for a vacation of their conviction record. The person must be fully discharged, receive a certificate of discharge, and have paid all legal financial obligations (unless it is a controlled substance possession conviction, please see that section for more information).

If the person meets the requirements for the vacating process, which is outlined in the following sections, the court may clear the record of conviction by dismissing the indictment against the person. If the vacating process is successful, this means that the conviction is dismissed, and the person can then state that they do not have a criminal history. This process does not happen automatically but must be a motion with the sentencing court.

A person cannot vacate their criminal record if:

- There are any criminal charges pending in any court in Washington state, another state, or Federal court;
- There is a domestic violence protection order, a no-contact order, an anti-harassment order, or a civil restraining order;
  If there is no active order but a person was previously under an order and violated the order one or more times, it would need to be 5 years to vacate the motion.
- It is a Driving Under the Influence (DUI) conviction;
  If the original charge was DUI but it was plead down to a lesser offense, the lesser offense may be vacated if:
    10 years since date of offense AND
    10 years without any drug/alcohol related convictions AND
    All other standard requirements in misdemeanor vacate statute.
- If the conviction was a serious offense, including a class A felony, crime against a person or child, assault in the 2nd degree, assault in the 3rd degree that is committed against a police officer, and robbery in the 2nd degree. It may be vacated if the conviction did not include a firearm, deadly weapon, or have sexual motivation enhancement. For the full list of serious offenses please review RCW 9.94A.030 and RCW 43.43.830.
SECTION TWO

Vacating Records Process

Vacate
If none of those apply to you or if you have convictions outside of what is stated on the previous page, you may start the vacating criminal records process. Continue reading to learn how to do it yourself or with the guidance of an attorney.

Vacating Misdemeanor Convictions
The process for vacating a misdemeanor is dependent on if it is a misdemeanor, marijuana misdemeanor, a prostitution conviction, or a misdemeanor domestic violence conviction.

This process is the way to do it in every county, but some Public Defender or District Attorney offices have a streamlined process. Review the county’s District Attorney’s or Public Defender’s Office website for more information.

General Misdemeanor Convictions

The following must occur to be able to start the process:
- A person has not been convicted of any new crime in three years;
- Three years have passed since the person completed the terms of the sentence, including any financial obligations.

The following misdemeanor convictions are currently not allowed to get vacated:
- Sex offenses - you may be able to vacate a failure to register
- Obscenity or pornography offenses
- Violent offense RCW 9.94a.030 or attempts to commit violent crimes

If it has been more than three years since you completed your terms of sentence and you have not been convicted of a crime in three years, you can start the process to vacate your misdemeanor. The court may, at its discretion, vacate the conviction.
SECTION TWO

Vacating Records Process

General Misdemeanor Convictions
The process to vacate your misdemeanor is as follows:

1. Receive a copy of your criminal background check with the specifics regarding your conviction. This may occur from contacting Washington State Patrol or the Court Clerk's Office of where the sentence occurred.

2. Complete a Petition and Declaration for Order Vacating Record of Misdemeanor Conviction. This form will allow the court to determine whether you are eligible to have your conviction vacated. Make three copies. If able, type the motion rather than hand write it. If you must hand write, make sure your penmanship is clear and easy to read.

3. Schedule a hearing for the petition for vacating the conviction. To schedule a hearing, contact the Court Clerk's Office of where you were sentenced and ask for a date and time for a hearing. There may be a form the court uses to schedule a hearing, or you can use the Notice of Hearing to Vacate Conviction document to complete and schedule the hearing. Make three copies of the Notice.

4. File the Petition and Declaration for Order Vacating Record and Notice of Hearing to Vacate Conviction document with the Court Clerk's Office where you were sentenced. You may need to file your judgement, sentence, and criminal history with your motion.

5. Send and serve a copy of the Notice of Hearing to Vacate Conviction and the Petition and Declaration for Order Vacating Record to the Prosecuting Attorney's office or City Attorney's office in which you were sentenced.

6. Complete and file the Declaration of Service. This is to state when and what papers you sent to whom from the steps above. Make three copies. File it at the Court Clerk's Office prior to your hearing date.
SECTION TWO

Vacating Records Process

7. Complete Order on Motion Re: Vacating Conviction, except where the prosecutor and judge sign and date.

8. Bring copies of your Petition and Declaration for Order Vacating Record of Misdemeanor Conviction, Notice of Hearing, and Declaration of Service, Order on Motion Re: Vacating Conviction to your hearing date. Bring at least two copies of each to your hearing.

9. The judge will hear your motion for order vacating conviction on the day scheduled for the hearing. You must be present and available to attend the hearing. If the motion is granted, the judge will complete the order vacating your conviction.

10. The Court Clerk’s Office will send a copy of the order to the Washington State Patrol and local law enforcement agency. Make sure you receive a copy.
SECTION TWO

Vacating Records Process

Marijuana Misdemeanor Convictions
The following must occur to be able to start the process to vacate a marijuana-related misdemeanor conviction:

- You were 21 years old or older at the time of the offense
- It is a misdemeanor marijuana conviction,
  - RCW 69.50.4014 7/1/2004 to present
  - RCW 69.50.401(e), 3/21/1979-7/1/2004
  - RCW 65.50.401(d) 5/21/1971-3/21/1979

If both apply, you can vacate your marijuana conviction and a court will approve it. It is not up to the discretion of the judge. The process is as follows:

1. Receive a copy of your criminal background check with the specifics regarding your conviction. This may occur from contacting Washington State Patrol or the Court Clerk’s Office of where the sentence occurred.

2. Complete the Motion and Declaration for Order Vacating Marijuana Conviction. Make three copies. If able, type the motion rather than hand write it. If you must hand write, make sure your penmanship is clear and easy to read.

3. Schedule a hearing for the motion for vacating the conviction. To schedule a hearing, contact the Court Clerk’s Office where you were sentenced and ask for a date and time for a hearing. There may be a form the court uses to schedule a hearing, or you can use the Notice of Hearing to Vacate Conviction document to complete and schedule the hearing. Make three copies of the Notice.

4. File the Motion and Declaration for Order Vacating Marijuana Conviction and Notice of Hearing to Vacate Conviction document with the Court Clerk’s Office where you were sentenced. You may need to file your judgement, sentence, and criminal history with your motion.
SECTION TWO

Vacating Records Process

Marijuana Misdemeanor Convictions
The process to vacate a marijuana-related misdemeanor convictions continues as follows:

5. Send and serve a copy of Motion and Declaration for Order Vacating Marijuana Conviction and Notice of Hearing to the Prosecuting Attorney’s office or City Attorney’s office in which you were sentenced.

6. Complete and file the Declaration of Service. This is to state when and what papers you sent to whom from the steps above. Make three copies. File it at the clerk of the court prior to your hearing date.

7. Complete Order on Motion to Vacate Marijuana Conviction, except where the judge and prosecutor sign and date.

8. Bring copies of your Motion and Declaration for Order Vacating Marijuana Conviction, Notice of Hearing, and Declaration of Service, Order on Motion to Vacate Marijuana Conviction to your hearing date. Bring at least two copies of each to your hearing.

9. The judge will hear your motion for order vacating conviction on the day scheduled for the hearing. You must be present and available to attend the hearing. If the motion is granted, the judge will complete the order vacating your conviction.

10. The clerk of the court will send a copy of the order to the Washington State Patrol and local law enforcement agency. Make sure you receive a copy.
SECTION TWO

Vacating Records Process

Domestic Violence Misdemeanor
The following must occur to start the process of vacating a domestic violence related conviction:

• Provide a written notification for the vacating petition to the prosecuting attorney’s office,
• More than 5 years have passed since the person completed the terms and conditions of the sentence, including legal financial obligations and successful completion of any treatment.

If the following has occurred, then the conviction cannot be vacated:

• The person has two or more domestic violence convictions stemming from different incidents,
• The person signed an affidavit under penalty of perjury affirming that they do not have a conviction of domestic violence, and there is such conviction.

If it has been more than five years since you completed your terms of sentence and you have not been convicted of a crime in five years, you can start the process to vacate your gross misdemeanor or domestic violence misdemeanor. The court may, at its discretion, vacate the conviction. The process is as follows:

1. Receive a copy of your criminal background check with the specifics regarding your conviction. This may occur from contacting Washington State Patrol or the Court Clerk’s Office of where the sentence occurred.

2. Complete a Petition and Declaration for Order Vacating Record of Misdemeanor Conviction. This form will allow the court to determine whether you are eligible to have your conviction vacated. Make three copies. If able, type the petition rather than hand write it. If you must hand write, make sure your penmanship is clear and easy to read.
SECTION TWO

Vacating Records Process

Domestic Violence Misdemeanor

3. Schedule a hearing for the petition for vacating the conviction. To schedule a hearing, contact the Court Clerk’s Office where you were sentenced and ask for a date and time for a hearing. There may be a form the court uses to schedule a hearing, or you can use the Notice of Hearing to Vacate Conviction document to complete and schedule the hearing. Make three copies.

4. File the Petition and Declaration for Order Vacating Record and Notice of Hearing to Vacate Conviction document with the Court Clerk’s Office where you were sentenced. You may need to file your judgement, sentence, and criminal history with your motion.

5. Send and serve a copy of the Notice of Hearing to Vacate Conviction and the Petition and Declaration for Order Vacating Record to the Prosecuting Attorney’s office or City Attorney’s office in which you were sentenced.

6. Complete and file the Declaration of Service. This is to state when and what papers you sent to whom from the above steps. Make three copies. File it at the Court Clerk’s Office prior to your hearing date.

7. Complete Order on Motion Re: Vacating Conviction, except where the prosecutor and judge sign and date.

8. Bring copies of your Petition and Declaration for Order Vacating Record of Misdemeanor Conviction, Notice of Hearing, and Declaration of Service, Order on Motion Re: Vacating Conviction to your hearing date. Bring at least two copies of each to your hearing.

9. The judge will hear your motion for order vacating conviction on the day scheduled for the hearing. You must be present and available to attend the hearing. If the motion is granted, the judge will complete the order vacating your conviction.

10. The Court Clerk’s Office will send a copy of the order to the Washington State Patrol and local law enforcement agency. Make sure you receive a copy.
Vacating Records Process

Prostitution Conviction as a Victim
If you are seeking to vacate a prostitution offense that you committed as a result of being a victim of:

- Trafficking,
- Promoting prostitution in the first degree,
- Promoting commercial sexual abuse of a minor

The conviction may be vacated, by the court’s discretion, if:

- You have not been convicted of another crime since the date of the conviction.
- You prove that it is more likely than not the following occurred in your case:

For victims of trafficking, you must prove:

- Someone harbored, transported, provided, obtained, bought, purchased, or received you
- The person acted knowingly or in reckless disregard for the fact that force fraud, or coercion would be used to cause you to engage in a sexually explicit act
- Your prostitution conviction record resulted in that person’s acts

For victims of promoting prostitution, you must prove:

- You were compelled by threat or force to engage in prostitution OR you have a mental incapacity or developmental disability that renders you incapable of consent
- The person knowingly used threat or force to compel you to engage in prostitution
- Your prostitution conviction record resulted from being compelled by threat or force

For victims of promoting commercial sexual abuse of a minor, you must prove:

- You were under the age of 18 at the time of the offense
- Someone did anything that resulted in a sexually explicated act with you
- The person acted knowingly
- Your prostitution conviction resulted from that person’s actions
Vacating Records Process

Prostitution Conviction as a Victim
If the conditions listed on the previous page apply to you, you may start the vacating records process, but it is up to the court’s discretion to approve. To start the process:

1. Receive a copy of your criminal background check with the specifics regarding your conviction. This may occur from contacting Washington State Patrol or the Court Clerk’s Office of where the sentence occurred.

2. Complete Petition and Declaration for Order Vacating Conviction. This form will allow the court to determine whether you are eligible to have your conviction vacated. If able, type the motion rather than hand write it. If you must hand write, make sure your penmanship is clear and easy to read.

3. Complete the statement explaining how the crime you committed was caused by being a victim of either sex-trafficking, prostitution, commercial sexual abuse of a minor, sexual assault, or domestic violence.

4. Schedule a hearing for the petition for vacating the conviction. To schedule a hearing, contact the Court Clerk’s Office where you were sentenced and ask for a date and time for a hearing. There may be a form the court uses to schedule a hearing, or you can use the ‘Notice of Hearing to Vacate Conviction’ document to complete and schedule the hearing. Make three copies.

5. File the Petition and Declaration for Order Vacating Record and Notice of Hearing to Vacate Conviction document with the Court Clerk’s Office where you were sentenced. You may need to file your judgement, sentence, and criminal history with your motion.

6. Send and serve a copy of the Notice of Hearing to Vacate Conviction and the Petition and Declaration for Order Vacating Record to the Prosecuting Attorney’s office or City Attorney’s office in which you were sentenced.
SECTION TWO

Vacating Records Process

Prostitution Conviction as a Victim
The process to vacate a prostitution related misdemeanor convictions continues as follows:

7. **Complete and file the Declaration of Service.** This is to state when and what papers you sent to whom to the steps above. Make three copies. File it at the clerk of the court prior to your hearing date.

8. **Complete Order on Motion Re: Vacating Conviction,** except where the prosecutor and judge sign and date.

9. **Bring copies of your Petition and Declaration for Order Vacating Record of Misdemeanor Conviction, Notice of Hearing, and Declaration of Service, Order on Motion Re: Vacating Conviction to your hearing date.** Bring at least two copies of each to your hearing.

10. **The judge will hear your motion for order vacating conviction on the day scheduled for the hearing.** You must be present and available to attend the hearing. If the motion is granted, the judge will complete the order vacating your conviction.

11. **The Court Clerk’s Office will send a copy of the order to the Washington State Patrol and local law enforcement agency.** Make sure you receive a copy.

All the forms mentioned above are available in this workbook and on the Urban League of Metropolitan Seattle website, or the Washington State Courts website.
SECTION TWO

Vacating Records Process

Vacating Felony Convictions
The process for vacating a felony is dependent on receiving a certificate of discharge for the offense, the class of the felony, and how long it has been since the release from community custody or, full or partial confinement. Some counties have a post-conviction unit or team within the Public Defender’s or District Attorney’s office, please check out their website for more information.

The following must occur to start the process:
• Receive a certificate of discharge for the offense
• Paid all their legal financial obligations
• For a class B felony, the person has not been convicted of a new crime in 10 years prior to the application, and 10 years have passed since release from community custody, full or partial confinement, or sentencing date (whichever is the latest date)
• For a class C felony, the person has not been convicted of a new crime in 5 years prior to the application, and 5 years have passed since release from community custody, full or partial confinement, or sentencing date (whichever is the latest date).

Class A felonies are ineligible to vacate, but you may make a clemency/pardon request to the Governor. For more information, please check out the further legal assistance portion of the guide.

If you satisfy the requirements above, you may ask the court to vacate your conviction. This is at the court’s discretion. To start the process:

1. Receive a copy of your criminal background check with the specifics regarding your conviction. This may occur from contacting Washington State Patrol or the Court Clerk's Office of where the sentence occurred.
SECTION TWO

Vacating Records Process

Vacating Felony Convictions

2. Receive a copy of your Certificate and Order of Discharge. This is at the Court Clerk’s Office that sentenced you. The clerk will need to look up your case file. If you believe you are eligible for a COD but the clerk says no, you can request a hearing. You are able to bring proof to the hearing- but if you do not have proof, the court can still, at its own discretion, waive the requirement of proof and find that you have completed the terms and issue a COD.

3. Receive a copy of your Judgement and Sentence. This is at the Court Clerk’s Office as well and there may be a charge associated with receiving a copy, and it may take time to receive it.

4. Complete Motion and Declaration for Order Vacating Record of Felony Conviction. This form will allow the court to determine whether you are eligible to have your conviction vacated. Make three copies. If able, type the petition rather than hand write it. If you must hand write, make sure your penmanship is clear and easy to read.

5. Contact the Prosecutor Attorney’s office prior to scheduling a court hearing. Explain what you are doing and ask who is the prosecutor that handles post-conviction motions. Send the prosecutor the Motion and Declaration, Judgement and Sentence, and the Certificate of discharge. Ask if they will agree to a Vacate Order. The Prosecutor may sign off on an agreed order without a court hearing. They may require a hearing.

6. If they do not agree to the vacate order, schedule a hearing date, and complete a Notice of Hearing. After completing the notice, go to the Court Clerk’s Office of where you were sentenced and file the Notice of Hearing, the Motion and Declaration, Judgement and Sentence, and the Certificate of Discharge. The court may have their own ‘Notice of Hearing’, or you can use the one provided in this workbook. Remember to make three copies of all documents.
SECTION TWO

Vacating Records Process

Vacating Felony Convictions

7. Send and serve the prosecutor’s office the same information you provided to the Court Clerk’s Office, the Notice of Hearing, the Motion and Declaration, Judgement and Sentence, and the Certificate of Discharge.

8. Complete a Declaration of Service. This explains how you sent what papers to whom and when for the steps above. Make four copies. File one with the Court Clerk’s Office and bring the rest of the copies to the hearing.

9. Complete Order on Motion Re: Vacating Record of Felony Conviction except where the judge and prosecutor signs and dates. Make three copies.

10. Bring copies of your Motion and Declaration, Judgement and Sentence, the Certification of Discharge, Declaration of Service, and the Order on Motion Re: Vacating Record of Felony Conviction to your hearing.

11. The judge will hear your motion for order vacating conviction on the day scheduled for the hearing. You must be present and available to attend the hearing. If the motion is granted, the judge will complete the order vacating your conviction.

12. The Court Clerk’s Office will send a copy of the order to the Washington State Patrol and local law enforcement agency. Make sure you receive a copy.
SECTION TWO

Vacating Records Process

Vacating a drug possession felony ("Blake conviction")
On February 25, 2021, the Washington State Supreme Court held that the simple felony possession of controlled substance statute, RCW 69.50.4013, was unconstitutional and void in a case called State v. Blake. This means that convictions under the old law are void and no longer have any legal effect.

To find out if the Blake decision applies to you, answer the following questions:

1. Were you convicted of possession of a controlled substance/drugs? This includes most drugs such as methamphetamine, cocaine, and heroin.
2. Was it a conviction of possession of a controlled substance and another charge such as robbery, burglary, etc.
3. Are you currently incarcerated, on community custody, or have a conviction be cause of possession of a controlled substance?

If you answer yes to all these questions, you may want to contact a public defender with the county that you were sentenced in or an attorney to best assist you with a Blake motion. There is not a statewide streamline process as outlined above. Check out the legal assistance in the following section for further assistance.

Preparing for a Hearing
In some cases, you may not have to schedule a hearing and be able to work with the county prosecutor or city attorney to complete the vacating order process. For many, there will need to be a hearing scheduled and attended to complete the vacating records process. Going to a hearing may be daunting, especially if you are doing this pro se, or representing yourself.

Rest assured; it can be done if you remember these steps below:

1. Prior to the hearing make a brief outline of what you will say to the court. It can be bullet point statements or full sentences on what you want to say. This is a basic outline of what your outline should look like:
Vacating Records Process

Vacating a drug possession felony ("Blake conviction")

a. **Brief introduction** - Introducing yourself, thanking the court for letting you be heard. Explain that you are bringing a motion to vacate your criminal history records.

b. **State that you meet all the statutory requirements, that is the requirements above depending on your conviction.** For example, with a misdemeanor, you have no new criminal convictions in any state or federal court in three years and you have completed your entire sentence including your legal financial obligations.

c. **State that you have a proposed motion and present it to the prosecutor and judge.** This is the Order on Motion that you should have made copies of and completed prior to coming to court.

d. **Ask the court if they have any questions.** If so, answer them to the best of your ability.

2. When you go to the hearing, bring two to three extra copies of everything you filed with the Court Clerk’s Office and your order on motion. This may be requested during your hearing and always better to have it just in case.

3. Be 30 minutes early to your hearing to be able to find the appropriate court room.

4. **Dress as if you were going to a job interview.** Refrain from jeans, hoodies, sneakers, etc. This is a courtroom, so professional attire is preferred.

5. If possible, do not bring your children or family to the hearing.

6. **Check with the clerk of the judge’s courtroom to notify them that you are there and ready.**

7. **Try to find the prosecutor prior to the hearing, introduce yourself, and see if there are any last-minute details they need before the hearing.**

8. When they call your case, walk up to the table for lawyers in front of the judge.
Vacating Records Process

Vacating a drug possession felony ("Blake conviction")

9. Wait for them to tell you it is your turn to speak. Then follow the outline you prepared from the previous pages.

10. Speak only to the judge and only when it is your turn. Do not interrupt the judge or prosecutor. Do not speak to the prosecutor. The judge may interrupt you or the prosecutor may try to speak directly to you. Stay calm, polite, and reasonable. If you are confused or do not understand anything, politely tell the judge, and ask them to clarify.

11. If the judge grants and signs your orders, ask the judge or courtroom clerk to give you the orders. File it at the Court Clerk’s Office and get five copies of the orders. There will be a charge to make copies. Make sure the court’s filed stamp is on the orders or else Washington State Patrol will not accept it.

12. Then send the orders to Washington State Patrol, local law enforcement agencies, and the Department of Corrections with a letter; an example letter is attached in this workbook.

13. Then your record is vacated! I would double check with the agencies that they received your order and processed the request two weeks after you sent the orders to the Washington State Patrol and other law enforcement agencies.

Your history may still be available with private data companies; please inform the law enforcement agencies if this occurs to notify the company that you no longer have criminal record history for the conviction you vacate.
SECTION THREE

Further Legal Assistance

This process can be daunting and you might have a specific issue with your conviction that requires further assistance. Here is a list of vetted resources to find an attorney that may be able to assist you.

1. County Bar Associations
   Each county has a respected bar association that can assist with a referral to an attorney within your budget or host a pop-up clinic to be able to get your questions answered. Look within the county in which you were sentenced. Some fees may apply for an initial consultation and for them to represent you as their attorney.

2. The Office of Public Defense
   Each county also has an office of public defense that may be able to assist you if you cannot afford an attorney. Look at the qualifications needed to be able to get assistance, and they may be able to assist you with the vacating records process. This would need to be within the county in which you were sentenced.

3. Northwest Justice Project
   This is a telephone service for eligible low-income people to obtain free legal assistance. If you are within King County, call 2-1-1; and if you are outside of King County, call 1-888-201-1014. There is also an online application at www.nwjustice.org.

4. Urban League of Metropolitan Seattle
   In partnership with the Microsoft Pro Bono team, there may be an opportunity for further assistance with a volunteer attorney through Microsoft. This is available for King County convictions only. Contact the Urban League of Metropolitan Seattle at 206-461-3792 and ask to speak to Maya Manus. You can also always visit the ULMS website via www.UrbanLeague.org for more information.
SECTION THREE

Further Legal Assistance

5. The Way to Justice
A community law firm located in Eastern Washington provides assistance with post-conviction relief such as the vacating records process. This is designed for low-income clients with convictions in Eastern Washington. There is a flat fee of $150 for most cases.

6. Civil Survival Project
Civil Survival organizes people who have been directly impacted by the criminal legal system. They have resources on their website including videos and more on the vacating record process.

SECTION FOUR

Controlling State Statutes

For Voting Rights
Washington State Constitution, Article 6, Section 3 - Excludes those convicted of an infamous crime to participate in elections in Washington state.

RCW 29A.08.520 - Felony Conviction - Restoration of Voting Rights

For Vacating Records Process
Washington Court General Rule 15 - Destruction, Sealing, and Redaction of Court Records (sealing)

RCW 9.92.066 - Termination of Suspended Sentence - Vacation of Conviction

RCW 9.94A.640 - Vacation of offender’s record of conviction (the vacation records process) felonies

RCW 9.95.240 - Dismissal - Vacation of Conviction

RCW 9.96.060 - Misdemeanor Offense - Vacating Records

RCW 9.96.070 - Vacating Records of Convictions - Prostitution Offenses

RCW 10.97.060 - Deletion of certain information, conditions (expungement)

RCW 43.43.730 - Criminal History Records

RCW 9.94A.637 - Certificate of Discharge
Glossary

Here you’ll find a list of terms and definitions to aid in your understanding of topics covered:

**Challenge**
To assert that a criminal history record on file with a law enforcement agency is inaccurate or incomplete.

**Conviction or Other Disposition Adverse to the Defendant**
A disposition of charges other than a decision not to prosecute, a dismissal, or an acquittal.

**Conviction Record**
Criminal history record information relating to an incident that has led to a conviction or other disposition adverse to the subject.

**Criminal History Record Information**
Data contained in records collected by criminal justice agencies other than courts, consisting of descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any dispositions, including sentences, correctional supervision, and release.

**Deferred Sentence**
A sentence that will not be carried out if the defendant meets certain requirements, such as complying with conditions of probation. A deferred sentence is considered adverse to the defendant.

**Delete**
To eliminate existing information.

**Discharge**
An offender’s release from confinement or supervision after completing sentence requirements.

**Dismissal**
The court-ordered termination of a case.

**Disposition**
The formal conclusion of a criminal proceeding.
Expunge
To physically destroy information.

Felony
The offense classification for serious crimes. Felonies are designated class A, class B, and class C, with class A felonies being subject to the longest terms of confinement.

Gross Misdemeanor
An offense punishable by no more than 365 days in jail and $5,000. Gross misdemeanors may be filed in either courts of limited jurisdiction or superior court.

Juvenile Offender
A person under the age of 18 years who has not been transferred to adult court and who has been found to have committed an offense by the juvenile court. Individuals 18 years of age or older over whom jurisdiction has been extended are also juvenile offenders.

Misdemeanor
An offense punishable by no more than 90 days in jail and $1000. May be filed in either courts of limited jurisdiction (district or municipal courts) or superior court.

Modify
To change existing information.

Nonconviction Data
Criminal history record information relating to an incident that has not led to a conviction or other disposition adverse to the individual, and for which proceedings are no longer actively pending.

Seal
To prevent access to a record.

Suspended Sentence
A sentence postponed so the defendant is not required to serve time unless he or she commits another crime or violates a court-imposed condition.

Vacate
To set aside a conviction.
The Urban League of Metropolitan Seattle

With a vision of equity for all, the Urban League of Metropolitan Seattle (ULMS) empowers those we serve by providing programming and services designed to support and encourage self-sufficiency in all aspects of life. Our five areas of focus include advocacy & civic engagement, education, housing, public health and workforce development.

Additional Information:
Main Office
105 14th Ave., Suite 200
Seattle, WA 98122

Resource Center
901 Rainier Avenue S.
Seattle, WA 98144

P | 206.461.3792
E | Maya, via
mmanus@urbanleague.org