Resources

Washington Courts:
http://www.courts.wa.gov/index.cfm
This site includes a statewide directory of courts, court rules, the most current version of this brochure, forms,
and information about legal research and the State Law Library. The Administrative Office of the Courts may
be contacted at (360) 357-2130, but ***agency personnel cannot provide legal advice.***

Washington State Legislature:
http://apps.leg.wa.gov/rcw/ and **http://apps.leg.wa.gov/wac/**
These sites contain the Revised Code of Washington (RCW)
and the Washington Administrative Code (WAC).
Copies of the RCW and the WAC are also available at local libraries.

Washington State Patrol:
http://www.wsp.wa.gov/crime/crimhist.htm
This site provides information about criminal history records. Call (360) 534-2000 for assistance from a State Patrol customer service representative.

Washington State Bar Association:
http://www.wsba.org/atj/contact/lawref.htm
This site offers contact information about lawyer referral services. The Service Center may be reached at
1-800-945 -9722 or (206) 443-9722.

A Guide to Sealing and Destroying Court Records, Vacating Convictions, and Deleting Criminal History Records

State of Washington

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This brochure provides information about sealing and destroying court records, vacating convictions, and deleting criminal history records.

Courts and law enforcement agencies maintain records of those who are detained, arrested, charged, and convicted or acquitted of crimes. You have the right to inspect court records and criminal history records that pertain to you.

For information about a court record, contact the city or county court where the case was filed. This may be a municipal, district, juvenile, or superior court.

For information about a criminal history record, contact the law enforcement agency responsible for the case. This may be a city police department, county sheriff's office, the Washington State Patrol, or another agency with police powers.

The authority to seal or destroy records and to vacate convictions is established by laws enacted by the Legislature and by rules adopted by the Washington State Supreme Court. State laws concerning court records and criminal history records change frequently, so you may wish to seek legal advice about your specific circumstances. You should consult an attorney to determine if sealing or destroying your record or vacating your conviction could affect your immigration status or your right to possess a firearm.

COURT RECORDS

A court record includes documents, information, and exhibits that are maintained by the court in connection with a judicial proceeding. If a defendant is convicted, the record contains a disposition order or judgment and sentence specifying the crime(s) committed and the punishment imposed. If a defendant is acquitted or the court determines charges should not go forward, the record shows the action has been dismissed.

Court records are maintained by the clerk of each court. Court records, like court hearings, are generally open to the public. Requests to access or review documents in a court file need to be addressed to the Clerk's Office or the Court Administrator for the court where your case is filed. A court can only address requests about cases filed in that court. If you have cases in more than one court, you must make a separate inquiry to each court.

Whether a court record may be sealed and whether a conviction may be vacated depends on the type of crime involved (misdemeanor or felony) and the court where conviction is obtained (juvenile or adult). A decision whether to seal or vacate a criminal case can only be made by a judge in the court where the case was filed.

Sealing or destroying a court record or vacating a conviction does not necessarily affect the records maintained by law enforcement agencies, other government agencies, or private concerns. Requests about records maintained by other agencies must be made to those agencies.

Juvenile Court Records

Sealing

The courts shall hold regularly scheduled sealing hearings to administratively seal individuals' juvenile offender court records pursuant to RCW 13.50.260. At the juvenile offender's disposition hearing, the court shall schedule the sealing for the first regularly scheduled sealing hearing date after the latest of the following events take place:

- Juvenile offender's eighteenth birthday;
- Anticipated completion of probation if ordered; or
- Anticipated release from confinement at the juvenile rehabilitation administration, or the completion of parole, if the respondent is transferred to the juvenile rehabilitation administration.

Statutes, Rules, and Regulations

The following statutes, rules, and regulations concern court records and criminal history records:

Revised Code of Washington (RCW)

9.92.066	**Termination of Suspended Sentence - Vacation of Conviction**
9.94A.640	**Vacation of Offender's Record of Conviction**
9.95.240	**Dismissal - Vacation of Conviction**
9.96.060	**Misdemeanor Offenses - Vacating Records**
10.97.060	**Deletion of Certain Information, Conditions**
13.40.127	**Deferred Disposition**
13.50.050	**Records of Juvenile Offenses**
43.43.730	**Criminal History Records**

General Rules (GR)

Rule 15	**Destruction, Sealing, and Redaction of Court Records**
Rule 31	**Access to Court Records**

Washington Administrative Code (WAC)

446-16-025	**Deletion of Arrest Records**
446-16-030	**Inspection by the Subject of Their Record** (Courts may also have local rules governing access to court records.)

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. A suspended sentence is considered adverse to the defendant.

VACATE: To set aside a conviction.

A contested hearing will be scheduled no sooner than 18 days after notice of hearing and the opportunity to object is sent to the juvenile, the juvenile's attorney, and the victim. Following a contested sealing hearing, the court shall enter an order sealing the juvenile offender's court record unless the court determines the sealing is not appropriate. The social file may still be available to any juvenile justice or care agency with an investigation or open case involving the juvenile.

The court shall enter an order sealing a juvenile offender's court record if:

- At the time of the offense it was not:
  - A most serious offense as defined in RCW 9.94A.030;
  - A sex offense under chapter 94.44 RCW;
  - A drug offense as defined in RCW 9.94A.030; and
- The juvenile offender has completed the terms and conditions of disposition, including affirmative conditions, and has paid restitution to the victim named in the restitution order, excluding what is owed to any insurance provider authorized under Title 48 RCW.

Alternative Sealing Process

If a juvenile offender court record was not subject to the process described above, and the information was filed pursuant to RCW 13.40.100 or a complaint was filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the juvenile may file a motion with the court to vacate the order and findings and to seal the official juvenile court file, the social file, and records of the court and of any other agency in the case. Reasonable notice shall be given to the prosecution and to any person or agency whose records are sought to be sealed.

The court shall grant any motion to seal records for class A offenses if:

- Since the last date of release from confinement, including full-time residential treatment, or entry of disposition, the person spent five consecutive years in the community without committing any offense or crime resulting in an adjudication or conviction;
- No proceeding is pending against the moving party that seeks the conviction of a juvenile offense or a criminal offense;
- No proceeding is pending that seeks the formation of a diversion agreement with that person;
- The person is no longer required to register as a sex offender under RCW 94.44.130 or is relieved of the duty to register under RCW 94.44.143 if the person was convicted of a sex offense;
- The person was not convicted of rape in the first or second degree, or of indecent liberties that was actually committed with forcible compulsion; and

- The person paid restitution to the victim named in the order, excluding any owed ot an insurance provider authorized under Title 48 RCW.

The court shall grant a motion to seal records for class B, class C, gross misdemeanor, and misdemeanor offenses and diversions if:

- Since the date of last release from confinement, including full-time residential treatment, or entry of disposition, or completion of the diversion agreement, the person spent two consecutive years in the community without being convicted of any offense or crime;
- No proceeding is pending against the moving party that seeks the conviction of a juvenile offense or a criminal offense;
- No proceeding is pending that seeks the formation of a diversion agreement with that person;
- The person is no longer required to register as a sex offender under RCW 94.44.130 or is relieved of the duty to register under RCW 94.44.143 if the person was convicted of a sex offense; and
- The person paid restitution to the victim named in the order, excluding any owed to an insurance provider authorized under Title 48 RCW.

The court shall grant any motion to seal records of any deferred disposition vacated under RCW 13.40.127(9) prior to June 7, 2012, if restitution is paid and the person is eighteen or older at the time of the motion.

The court shall immediately seal an official juvenile court record upon the acquittal after a fact finding or upon dismissal of charges. If the subject of the juvenile records receives a full and unconditional pardon, the proceedings shall be treated as if they never occurred.

Effect of Sealing

When a motion to seal records is granted, the order shall seal the official juvenile court record, the social file, and other records relating to the case as named in the order. The proceedings in the case are to be treated as if they never occurred. However, identifying information held by the Washington State Patrol in accordance with chapter 43.43 RCW is not subject to destruction or sealing described above. Subsequent adjudication of a juvenile offense or a crime voids a sealing order and the case will be publicly accessible. However the court may order the juvenile court record resealed upon disposition of the subsequent matter if the case meets the sealing criteria described above and the court record was not previously resealed. Any charging of an adult felony after the sealing voids the sealing order.

Glossary

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 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 (district or municipal courts) or superior court.

- The person has not been arrested for or charged with another crime during the intervening period.

Information about deleting nonconviction criminal record information from the State Patrol repository files may be obtained online at **http://www.wsp.wa.gov/crime/crimhist.htm** or by calling the Criminal History Support Unit at (360) 534 -2000. A separate request must be made to the local (arresting) police agency, in accordance with that agency's procedure, to seek deletion of records in its possession.

Deletion of criminal history records is not available for cases that result in convictions or other dispositions adverse to the defendant, unless the criminal justice agency has been ordered by a court to delete the criminal history record.

Challenges to Criminal History Records

A person who is the subject of a criminal history record may challenge the accuracy or completeness of that record. Challenges must be made in writing. Under RCW 43.43.730, a State Patrol decision declining a request to modify a record may be appealed.

The record of an employee is not admissible in an action for liability against the employer based on the former juvenile offender's conduct to show that the employer knew or should have known of the juvenile record of the employee. The record may be admissible if a background check conducted or authorized by the employer contained information in the sealed record.

Destroying

Juvenile records, including those maintained by any court, the prosecutor's office or law enforcement agency are eligible for destruction when:

- The person who is the subject of the information or complaint is at least 18 years old;
- The person's criminal history consists entirely of one juvenile diversion agreement or counsel and release entered on or after June 12, 2008;
- Two years have passed since completion of the juvenile diversion agreement or counsel and release;
- No proceeding is pending that seeks conviction of the person for a criminal offense; and
- There is no restitution owing in the case.

State and local governments and their officers and employees are not liable for civil damages for failure to destroy records.

All records maintained by any court, prosecutor's office or law enforcement agency shall be automatically destroyed within thirty days of being notified by the governor's office that the person received a full and unconditional pardon.

A person 23 years of age or older whose criminal history consists only of referrals for juvenile diversion may request that the court order destruction of those case records. Reasonable notice of the motion must be given to the prosecuting attorney and to any agency whose record are sought to be destroyed. The request is granted if the court finds that all diversion agreements have been successfully completed and no proceeding is pending that seeks conviction of the person for a criminal offense. Identifying information described in RCW 13.50.050(13) is not subject to destruction or sealing.

A person 18 years of age or older whose criminal history consists only of one juvenile diversion agreement or counsel and release entered prior to June 12, 2008, may request that the court order destruction of the case records. Reasonable notice of the motion must be given to the prosecuting attorney and to any agency whose records are sought to be destroyed. The request is granted if the court finds that two years have elapsed since the completion of the agreement or counsel and release.

Identifying information described in RCW 13.50.050(13) is not subject to destruction or sealing.

Deferred Disposition

If a juvenile is granted a deferral of disposition under RCW 13.40.127, the court may dismiss the deferred disposition and vacate the conviction if:

- The deferred disposition was not previously revoked;
- The terms of supervision were completed;
- There are no pending motions concerning lack of compliance; and
- Restitution was paid in full or there was a good faith effort to pay the full amount of restitution during the period of supervision.

A conviction under RCW 16.52.205 (first degree animal cruelty) shall not be vacated. If a case is dismissed with restitution still owing, the court shall enter a restitution order for any unpaid restitution.

If the court vacates a conviction as described above, the case shall be sealed if:

- The deferred disposition was vacated after June 7, 2012;
- The juvenile is eighteen years of age or older; and
- The full amount of restitution owing the victim (other than any insurance provider authorized under Title 48 RCW) is paid.

If the juvenile is not eighteen years or older, but the deferred disposition was vacated after June 7, 2012, and full restitution was paid, the court shall schedule an administrative hearing to take place within thirty days after the juvenile's eighteenth birthday and enter a written order sealing the case. Juveniles can petition the court to seal records under RCW 13.50.050 for deferred dispositions vacated prior to June 7, 2012.

Adult Court Records

Sealing and Destroying

Criminal Cases: Under General Rule 15, sealing or redacting a court record may be ordered when a conviction has been vacated or when the court finds that compelling privacy or safety concerns outweigh the public interest in access to the record. **Current law does not allow for destroying the court record of a criminal action against an adult that results in a conviction or some adverse findings.**

Civil Cases: General Rule 15 allows for sealing or redacting of court records if the action is justified by compelling privacy or safety concerns

CRIMINAL HISTORY RECORDS

Criminal history record information includes descriptions and notations of detentions, arrests, indictments, informations or other formal criminal charges, and any dispositions. "Criminal history records" are maintained by law enforcement and other criminal justice agencies and should not be confused with "court records," which are maintained by the courts. You have the right to inspect your criminal history record on file with a local police agency or with the Washington State Patrol.

Local police agencies submit criminal history record information to the State Patrol, which maintains the information in a statewide repository. Whether information contained in a law enforcement agency's files may be modified, sealed, or deleted depends on the outcome of the case (acquittal or conviction) and on the court that heard the case (juvenile or adult). Modifying or deleting criminal history records (law enforcement records) does not necessarily change the records maintained by the courts (court records).

A request to modify, seal, or destroy a court record must be directed to the court in which that record is filed.

Juvenile Criminal History Records

A court order to seal a juvenile record results in the removal of references to his or her arrest and disposition from the records maintained by the State Patrol. Identifying information such as photographs, fingerprints, and any other data that identifies a person by name, birthdate, address, or physical characteristics, are not subject to sealing or destruction.

Deletion of Criminal History Records

Under RCW 10.97.060, a criminal history record on file with a law enforcement agency is to be deleted at the request of the person who is the subject of the record if:

- The file consists of only nonconviction data;
- At least two years have elapsed since the record became nonconviction data as the result of entry of a disposition favorable to the defendant, or at least three years have elapsed from the date of arrest or issuance of a citation or warrant for which a conviction was not obtained (unless the defendant is a fugitive or the case is under active prosecution);
- The disposition was not a deferred prosecution or similar diversion of the alleged offender;
- The person has not had a prior conviction for a felony or gross misdemeanor; and

http://www.courts.wa.gov/forms/, or from the Administrative Office of the Courts at (360) 705.5328.

Vacating Felonies

RCW 9.94A.640 provides for vacating some felony convictions. An offender who has been discharged may request, by motion, that the sentencing court vacate the conviction. But the record of conviction may not be cleared if:

- Criminal charges are pending against the offender in any state or federal court;
- The conviction was for a violent offense as defined in RCW 9.94A.030 or a crime against persons as defined in RCW 43.43.830;
- The offender has been convicted of a new crime in any state or federal court since discharge;
- The offense is a class B felony and less than ten years have passed since discharge;
- The offense is a class C felony described in RCW 46.61.502(6) or RCW 46.61.504(6);
- The offense is any class C felony, other than those described in RCW 46.61.502(6) or RCW 46.61.504(6), and less than five years have passed since discharge.

Forms to request that a felony conviction be vacated may be obtained from the courts, online at **http://www.courts.wa.gov/forms/**, or from the Administrative Office of the Courts at (360) 705-5328.

Effect of Vacating Conviction

An offender whose conviction has been vacated may state for all purposes that he or she has not been convicted of that crime. When a conviction is vacated, however, the court file is not destroyed and, unless it is sealed, the court file is still accessible to the public. The conviction may be used in a later criminal prosecution.

Deferred Sentence

If an offender receives a deferred sentence and successfully completes probation, he or she may need to file a motion for dismissal with the court.

that outweigh public interest in accessing the record. A party may request a hearing to destroy court records in a civil case only if there is express statutory authority to permit it.

Vacating Misdemeanors

RCW 9.96.060 authorizes a sentencing court to vacate a conviction for a misdemeanor or a gross misdemeanor if:

- For any offense other than those described in RCW 9.96.060(2)(e), the offender has completed all the terms of his or her sentence, including financial obligations, and more than three years have passed since completion;
- The offender has no criminal charges pending or has not been convicted of a new crime in any state or federal court;
- The offender does not have another conviction vacated; or
- The offender has not been restrained within the last five years by a domestic violence protection order, a no-contact order, an anti-harassment order, or a civil restraining order.

In addition, the offense must not be:

- A violence offense, as defined in RCW 9.94A.030, or an attempt to commit a violent offense;
- A violation of RCW 46.61.502 (driving under the influence), RCW 46.61.504 (physical control of a vehicle while under the influence), RCW 9.91.020 (operating a railroad, steamboat, or vehicle while intoxicated), or the offense is considered a "prior offense" under RCW 46.61.5055 and there is a subsequent alcohol or drug violation within ten years of the date of arrest for the prior offense;
- A violation, including attempt, of chapter 9.68 RCW (obscenity and pornography), chapter 9.68A RCW (sexual exploitation of children), or chapter 9A.44 RCW (sex offenses); or
- An offense involving domestic violence in some circumstances and as described in RCW 9.96.060(2)(e).

Vacating Tribal Fishing Activities

Persons convicted prior to January 1, 1975, of violating any statute or rule regarding the regulation of fishing activities and claimed to be exercising a treaty Indian fishing right, may apply to the sentencing court to vacate the conviction. If the person is deceased, a family member or an official representative of the tribe of which the person was a member, may apply to the court on behalf of the deceased person. The court shall vacate a conviction if:

- The person is a member of a tribe that may exercise treaty Indian fishing rights at the location where the offense occurred; and
- The state is enjoined from taking enforcement action of the statute or rule to the extent that it interferes with a treaty Indian fishing right as determined under case law listed in RCW 9.96.060(4)(b).

Vacating Prostitution Convictions

Persons convicted of prostitution under RCW 9A.88.030 that committed the offense as a result of being a victim of trafficking per RCW 9A.40.100, of promoting prostitution in the first degree per RCW 9A.88.070, promoting commercial sexual abuse of a minor per RCW 9.86A.101, or of trafficking in persons under the Trafficking Victims Protection Act of 2000, 22 U.S.C. Sec. 7101 et seq., may apply to the sentencing court for vacation of the conviction for the prostitution offense. The conviction may not be vacated if:

- The applicant has pending criminal charges in any state or federal court for any crime other than prostitution, or;
- The applicant was convicted of another crime, except prostitution, in any state or federal court since the date of conviction.

In order to vacate a prostitution conviction as a result of being a victim of trafficking per RCW 9A.40.100, the applicant must prove by a preponderance of evidence either:

- The applicant was recruited, harbored, transported, provided, obtained, bought, purchased, or received by another person;
- The person who committed any of the acts previously listed against the applicant acted knowingly or in reckless disregard for the fact that force, fraud, or coercion would be used to cause the applicant to engage in a sexually explicit act or commercial sex act, and
- The applicant's conviction record for prostitution resulted in such acts.

Or:

- The applicant was recruited, harbored, transported, provided, obtained, bought, purchased, or received by another person;
- The person who committed any of the acts previously listed against the applicant acted knowingly or in reckless disregard for the fact that the applicant was not the age of eighteen and would be caused to engage in a sexually explicit act or commercial sex act; and

- The applicant's conviction record for prostitution resulted in such acts.

In order to vacate a prostitution conviction as a result of being a victim of promoting prostitution in the first degree per RCW 9A.88.070, the applicant must prove by a preponderance of evidence either:

- The applicant was compelled by threat or force to engage in prostitution;
- The person who compelled the applicant acted knowingly; and
- The applicant's conviction record for prostitution resulted from the compulsion.

Or:

- The applicant has a mental incapacity or developmental disability that renders the applicant incapable of consent;
- The applicant was compelled to engage in prostitution;
- The person who compelled the applicant acted knowingly; and
- The applicant's conviction record for prostitution resulted from the compulsion.

In order to vacate a prostitution conviction as a result of being a victim of promoting commercial sexual abuse of a minor per RCW 9.68A.101, the applicant must prove by a preponderance of evidence:

- The applicant was not eighteen at the time of the prostitution offense;
- A person advanced commercial sexual abuse or a sexually explicit act, as defined in chapter 9.96 RCW, of the applicant at the time he or she was not eighteen;
- The person who committed these acts to the applicant acted knowingly; and
- The applicant's conviction record for prostitution resulted from the acts.

In order to vacate a prostitution conviction as a result of being a victim of trafficking under the Trafficking Victims Protection Act of 2000, 22 U.S.C. Sec. 7101 et seq., the applicant must prove by a preponderance of evidence:

- The applicant was induced by force, fraud, or coercion to engage in a commercial sex act and the prostitution conviction resulted from the inducement; or
- The applicant was induced to engage in a commercial sex act prior to being eighteen and the prostitution conviction resulted from the inducement.

Forms to request that a misdemeanor or gross misdemeanor conviction be vacated may be obtained from the courts, online at