

Vacation of Record of Felony Conviction

Most offenders who have either been discharged after completing the requirements of the sentence or the conditions of probation may apply to the sentencing court for a vacation of the offender's record of felony conviction.

Vacation of a record of felony conviction releases you from all penalties and disabilities resulting from the offense. Once a record of felony 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 record of felony conviction has been vacated may state that he or she has never been convicted of that crime. Vacation of a record of felony conviction, however, does not affect or prevent use of the record of felony conviction in a later criminal prosecution. Vacation of a record of felony conviction does not automatically restore your right to possess a firearm.

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

You may **not** have the record of your felony conviction vacated if any of the following are true:

- There are any criminal charges pending against you in any court of this state or another state, or in any federal court;
- You have been convicted of a new crime in this state, another state, or federal court since the date you were discharged;
- The offense was a violent offense (this includes **all** class A felonies);
- The offense was a crime against persons;
- The offense was a class C felony described in RCW 46.61.502(6) or RCW 46.61.504(2);
- You were convicted of a class B felony and less than ten years have passed since the date you were discharged; or
- You were convicted of a class C felony, other than a class C felony described in RCW 46.61.502(6) or 46.61.504(2), and less than five years have passed since the date you were discharged.

If you committed a felony prior to July 1, 1984, or your conviction is a misdemeanor, you will need to look at laws other than those discussed here.

If you can satisfy each of the above requirements with respect to the record of felony conviction you are asking the court to vacate, your next step is to complete the 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 record of felony 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 judgment and sentence, certificate of discharge, and 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 record of felony 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 record of felony 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 a notice of hearing. 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 Record of Felony Conviction. Keep a copy of the motion and declaration for order vacating record of felony conviction and the notice documents for your information.

The judge will hear your motion for order vacating record of felony 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 the records of your felony 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.