Vacate a felony conviction

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You can clear (vacate) certain Washington state **felony** convictions from your record. Learn which non-violent Class B or C felony convictions you can vacate and how to do it. (Forms and instructions)

We have separate forms and instructions for vacating different types of criminal records.

1. Fast facts

What does it mean to “vacate” convictions?

Vacate is the legal term for “clearing” a conviction from your criminal record. Even though vacating a record cancels the judgement against you, it **does not** make the court record private. If you get a criminal record vacated, you can tell **anyone** who asked that you were **not** convicted of that offense.

You can read the law about vacating felony convictions at RCW 9.94A.640 (https://app.leg.wa.gov/rcw/default.aspx?cite=9.94A.640). Only certain convictions can be vacated. You’ll need to file court forms, serve the prosecutor, and might have to go to a hearing.

> In most situations, you’ll also need a Certificate of Discharge.

You **can't** vacate your old convictions if you have any other criminal charges **currently pending** against you in any court. Wait until the current charges are resolved and a certain amount of time has passed since any other convictions.

> Exception! Certain crime victims might be able to vacate convictions even if you have pending criminal prostitution charges.

Why would I want to vacate a conviction?

It will:

- Give you some protection in background checks.
- Stop the State Patrol from releasing the record to the public.
- Officially "cancel" the conviction. GR 15(b)(8) (https://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=gr&ruleid=gag .
- **You can tell anyone, including someone who might hire you, that you were not convicted of that offense.**

Will I need to go to a hearing?

Maybe not. The prosecutor might agree to a vacate order **if** you meet all legal requirements. Local practices vary. Ask the county prosecutor's office in the county where your conviction occurred if they'll agree to a vacate order. If they agree to the order, you probably won't have to go to a hearing.

> You'll most likely have to go to the court many times even if you don't have a hearing. Prepare for multiple visits to the courthouse over a period of many weeks.

If I vacate my record, will it be totally cleared?

If you're granted an order that vacates a conviction or record, Washington State Patrol (WSP) will remove the vacated conviction from your public criminal history

record. This gives you **some** protection in some background checks.

There may still be a mention of your conviction or record in certain places even if you have the record vacated. But once you have a court order that vacates a conviction, you can show that to prove that the record was vacated any time it does show up.

Will this remove all public information about the conviction?

No. It will not remove it from court records and computerized court indexes to court records, such as:

- JIS.
- SCOMIS.
- The Washington Courts public website (http://www.courts.wa.gov)

> If it was a domestic violence case, these records and indexes will still show the case type.

Even if you have your record vacated, it can still show up in these ways:

- **Information** about the court records **from the case** that led to the conviction **are** still public and accessible on Washington Courts public website (http://www.courts.wa.gov).
- Prosecutors **can** still raise evidence of the vacated conviction during a later criminal prosecution or sexually violent predator commitment proceeding.
- **FBI records and private background check service records** may still have info about a vacated conviction.
- **Employers, landlords, and others doing background checks** might still find out about your conviction from sources including court indexes, law enforcement databases, and/or records collected by private data brokers.

Can I have my conviction expunged?

No. In some states, expungement of a conviction means they delete it from your records entirely. There is no Washington law allowing for the deletion or destruction of an adult conviction record.

Can I get my non-conviction data deleted?

Yes. You can ask Washington State Patrol (WSP) to delete **non-conviction** data. It is hard for information to qualify as non-conviction data under the rules. This could make it hard for you to get the information deleted. RCW 10.97.030(2) (http://apps.leg.wa.gov/rcw/default.aspx?cite=10.97.030) and 10.97.060 (http://apps.leg.wa.gov/rcw/default.aspx?cite=10.97.060) describe which kinds of information can be deleted from your record.

I got a Vacate Order. What if agencies are still reporting that information anyway?

Under state law, law enforcement agencies must report accurate and complete criminal history info. No agency may report criminal history info concerning a conviction without checking with WSP to find out the most current and complete info available. RCW 10.97.040. (https://app.leg.wa.gov/rcw/default.aspx?cite=10.97.040)

You may be able to sue an agency that violates this requirement. This might make sense if, for example, you lost a job opportunity because of their mistake. RCW 10.97.110 (http://apps.leg.wa.gov/RCW/default.aspx?cite=10.97.110). You may be able to get attorney's fees.

The court file stays open to the public. A background check may still show your conviction if the person doing the background check looks at the court file. If that happens, you can show them the court order that vacated your conviction. That order is supposed to clear your record related to that information. Employers should accept the vacate order as proof that the record was cleared even if the court file information is still public.

> Employees at an agency that keeps reporting your vacated conviction may be criminally liable. RCW 10.97.120 (https://app.leg.wa.gov/rcw/default.aspx?cite=10.97.120).

2. Requirements

To vacate a felony conviction, ALL of these must be true:

- You committed the offense that led to your conviction **on or after July 1, 1984**.

> If your offense was a felony committed **before July 1, 1984**, different laws apply. You might have to file a special kind of petition to ask the Judge to apply the current laws to your situation. You may want to get legal help for this kind of situation.

- There are **no** criminal charges currently pending against you in any state or federal court.

> **Exception!** If your conviction was related to being a victim of a crime, you might be able to ask for your records to be vacated even if you have pending criminal prostitution charges.

- **For a class B felony**, you've had no other criminal convictions **anywhere** in the past **10 years.** At least 10 years have passed since either your release from custody or your sentencing date, whichever was later.
- **For a class C felony,** you've had no other criminal convictions anywhere in the last **5 years**. At least 5 years have passed since either your release from custody or your sentencing date, whichever was later.

AND your conviction can't have been one of these:

- Any class A felony or attempt to commit a class A felony.
- Criminal solicitation of or criminal conspiracy to commit a class A felony.
- Extortion in the first or second degree.
- Drive-by shooting.
- Vehicular homicide.
- Aggravated, first-, or second-degree murder.
- First or second-degree kidnapping.
- Vehicular assault, when you were driving while under the influence OR operating a vehicle in a reckless manner.
- First- -degree assault.

- Second-degree assault including a firearm, deadly weapon, or sexual motivation enhancement.
- Third-degree assault including a firearm, deadly weapon, or sexual motivation enhancement.
- Third-degree assault against a law enforcement officer or peace officer.
- First-, second-, or third-degree assault of a child.
- First-, second-, or third-degree rape.
- First-, second-, or third-degree rape of a child.
- First-degree robbery.
- Second-degree robbery including a firearm, deadly weapon, or sexual motivation enhancement.
- First- or second-degree arson.
- First-degree burglary.
- First or second-degree manslaughter.
- Indecent liberties.
- Incest.
- First-degree promoting prostitution.
- Communication with a minor.
- Unlawful imprisonment.
- Sexual exploitation of minors.
- First- or second-degree criminal mistreatment.
- Endangerment with a controlled substance.
- Child abuse or neglect (see RCW 26.44.020 (http://www.courts.wa.gov/?cite=26.44.020)).
- First- or second-degree custodial interference.
- First- or second-degree custodial sexual misconduct.
- Malicious harassment.
- First-, second-, or third-degree child molestation.
- First- or second-degree sexual misconduct with a minor.
- Patronizing a juvenile prostitute.
- Child abandonment.
- Promoting pornography.
- Selling/distributing erotic material to a minor.
- Custodial assault.
- Violation of child abuse restraining order.
- Child buying or selling.
- Prostitution.
- Felony indecent exposure.
- Criminal abandonment.
- Possibly any conviction for a felony offense in effect at any time before July 1,1976 that is comparable to one of the above felonies.

- Possibly any federal or out-of-state conviction for an offense that under the laws of this state that might count in Washington as one of the above felonies.

3. Crime victims

What if my conviction was related to being a victim of a crime?

It can be easier to vacate your conviction if you can show that you committed the crime because you were the victim of domestic violence, sex trafficking, prostitution, or commercial sex abuse of a minor. In that situation, you can ask to have your records vacated **even if you didn't receive a Certificate of Discharge** .

You might have to show that you paid the crime victim's penalty assessment or paid any restitution not owed to an insurer.

> You might be able to ask for your records to be vacated even if you have pending criminal prostitution charges.

Aside from current pending prostitution charges, you also can't have had any new convictions in state, tribal, or federal court for:

• 10 years if you want a Class B felony to be vacated
• 5 years if you want a Class C felony to be vacated

> You'll still have to meet the other requirements (https://app.leg.wa.gov/RCW/default.aspx?cite=9.96.080) to get an order that vacates your record. You may want to talk to a lawyer if you are trying to vacate records related to a conviction that happened because you were a crime victim.

4. Before you file

1. Get a criminal history "WATCH" report.

You can prove you have no new arrests on your record by getting a criminal history (WATCH) report from the Washington State Patrol (https://watch.wsp.wa.gov/). There will be different fees depending on what kind of report you order. You must pay with a credit or debit card.

You may be able to use an "unofficial" copy based on a search of your name and date of birth. Some prosecutors and judges will insist on a "fingerprint based" search, which is more expensive.

> WSP can take a long time to process your request. If you haven't gotten the report after 8 weeks, call them at (360) 705-5100.

2. Gather your documents.

Go to the clerk's office in the court that convicted you. Ask to purchase copies of these documents the court file (you just need regular copies, **not** certified):

- **Certificate and Order of Discharge.** They should have filed this in the criminal case file when you finished all sentencing conditions, including payment of legal financial obligations. Ask the court clerk how to look up your case file. Some courts have online dockets where you can find out when the court entered the Order of Discharge. If there's no Certificate and Order of Discharge in your file, you can file a motion with the sentencing court to get one. RCW 9.94A.637 (http://apps.leg.wa.gov/rcw/default.aspx?cite=9.94A.637). Try to get legal help.
  There may be a delay between when you finished all sentence requirements and when the court entered the Discharge Order.

Starting July 28, 2019, your certificate of discharge is effective on the date you completed all conditions of your sentence. RCW 9.94A.637(1) (https://app.leg.wa.gov/RCW/default.aspx?cite=9.94A.637).

> If you're using the special rules for victims of certain crimes, you won't need a Certificate of Discharge.

- **Judgment and Sentence**

The files with these documents may be in the court archives. You may have to order an archived file. This can take several weeks.

5. Step-by-step

Step-by-step

If you meet the requirements and have gathered your documents, follow these steps:

1. **Fill out the forms** (except for the Proof of Mailing or Hand Delivery).

2. **Contact the prosecutor's office.**

   Before filing your papers or scheduling a court hearing, you should contact the prosecutor's office involved in your case to see if they might agree. This will take some time. When you call, you can say:

   > I'm filing a motion to vacate my Class B or C felony from (year). Which prosecutor in your office handles this issue? What's the

best way for me to send paperwork to you?

Write down the prosecutor's name, then send that person a copy of your Motion (with any attachments) and a proposed Order. Wait a few days, then call that prosecutor to ask if they'll agree to sign an order vacating your conviction.

The prosecutor's office may sign off on an **Agreed Order** if you provide enough proof that you have met the requirements. If they do that, you probably won't have to have a court hearing.

If the prosecutor **doesn't** respond or agree, you can schedule a hearing and ask the judge to decide. You must follow court rules and properly notify the prosecutor of the hearing.

You have the **right** to file your motion and get a decision from a judge.

3. **Make 3 copies of your completed forms (except for the Proof of Service)**.

4. **Call or visit the Superior Court Clerk's Office (https://www.courts.wa.gov/court_dir/?fa=court_dir.county).**

   Tell the clerk you will be filing a motion to vacate your Class B or C felony. Tell the clerk you want to schedule a hearing on your motion 3 or 4 weeks from now.

   Ask the clerk:

   - What day and time can I schedule a hearing on my request to vacate?
   - Which docket or calendar will the hearing be on?
   - What courtroom will the hearing be in? (This may be assigned on the day of the hearing.)
   - Is there an option to appear remotely? (Phone or video.)
   - Do you have a local form I have to use to schedule a hearing?

If the clerk says you must use their local form, ask them where you can get that form. Otherwise, you can use the Notice of Hearing form we give you. Write in the hearing details you got from the clerk.

> In some counties the judge may decide these motions **without a hearing**. If the clerk says you don't need a hearing date, ask when you can expect to get a decision. You still need to follow all the steps below (except preparing for and going to the hearing).

The clerk should **not** charge you a fee to file this motion.

5. **File the originals with the Superior Court Clerk.**

   To file in person:

   - Bring your originals and copies to the clerk's office
   - Give the clerk your set of originals to file
   - Ask the clerk to stamp your copies to show the date you filed the originals, OR stamp the copies yourself
   - Take the stamped copies back from the clerk. The clerk keeps the originals

   To file by mail: mail the court clerk your originals plus one set of copies with a postage-paid return envelope addressed to you.

6. **Deliver or mail working copies to the judge if local rules require it.** Ask the clerk where to deliver the judge's working copies. (*Skip this step if local rules don't require it.*)

7. **Deliver or mail a copy to the prosecutor's office right away.** Most counties require service at least **14 days** before a hearing. Ask the clerk if your county's deadline is different.

   You can serve the prosecutor by hand delivery or regular mail.

Hand Delivery means handing a copy to someone who works in the prosecutor's office. Have them stamp the date on your copy of the same papers. Tell them you've scheduled a hearing, and they should give your papers to a prosecutor right away.

Mail: If you're mailing, you must mail your papers **more than 3 days before your deadline**.

- When counting, don't count the day of mailing, weekends, or court holidays (Example: if you mail something on a Monday, it counts as served on Thursday)
- If the third day is on a weekend or holiday, it is not "served" until the next court day

If you send your papers by regular first-class mail, you can have an extra copy sent by certified mail, return receipt requested, for extra proof of mailing. You can staple the green return receipt card to the Proof of Service form. (This is not required.)

> If there were identifiable victims of your crime, write the prosecuting attorney asking them to send each victim notice of the hearing. Include a copy of the **Notice of Hearing** and an envelope with the right amount of postage for each victim.

8. **File your Proof of Mailing or Hand Delivery.** As soon as you have mailed or delivered the delivered the papers to the prosecutor, fill out and sign the Proof of Mailing or Hand Delivery form. Then:

    - Make 3 copies
    - Take the original and copies to the court clerk's office
    - Give the original to the clerk for filing
    - Ask the clerk to stamp the date you filed the original on your copies
    - Bring your copies to the hearing.

9. **Get ready for and go to your court hearing**. Read the next chapters for what to say and do at the hearing.

10. **Get certified copies of the signed order from the clerk.** When the order is available, go to the clerk's office and ask for at least **2 certified copies** of the signed orders. The clerk will charge you for the copies.

    Keep a certified copy of your order with you in case someone, like a prospective employer, gets negative information from some other source.

11. **After the hearing, follow up with the Washington State Patrol (WSP) and other agencies**.

6. What to say in court

Before the hearing, make a short outline of what to say to the court. It should look like this:

Introduction:

- My name is _____. Thank you for letting me be heard. I am bringing a motion to vacate my felony conviction.

Tell the judge you've met all the statutory requirements from RCW 9.94A.640 (https://app.leg.wa.gov/rcw/default.aspx?cite=9.94A.640):

- I committed the offense **on or after July 1, 1984**.
- There are **no** current criminal charges against me anywhere.

> If you're following the special rules for victims of certain crimes, you should say if you have a pending **prostitution** charge.

- [**For a class B felony**] The conviction I want to vacate is a class B felony. I've had no new criminal convictions in any state or federal court in the **last 10 years**. It's been more than **10 years** since the I was sentenced or released from custody (whichever is later).
- [**For a class C felony**] The conviction I want to vacate is a class C felony. I've had no new criminal convictions in any state or federal court in the **last 5**

years. It's been more than **5 years** since the I was sentenced or released from custody (whichever is later).
- The offense was **not** one of the kinds that can't be vacated.
- I've given a copy of my proposed order to the prosecution. May I hand it up to you now?

The judge may ask you questions. If so, answer them to the best of your ability.

Practice what you'll say from your outline **before** you go to court. It's okay to read from your notes when you speak to the judge.

7. Court hearing

Bring your copies of the documents that the clerk's office and prosecutor's office date stamped. Also bring the extra copies of your **Proof of Mailing or Hand Delivery** and **Order on Motion to Vacate**.

If you have children, try to find someone to watch them while you go to court. The judge probably won't let them sit in the courtroom.

Don't bring a weapon, or something that could be mistaken for a weapon (like a pocketknife), to the courthouse.

Try to be in the courtroom at least 15 minutes before you were told to be there. Give yourself time to find parking, or the right transit stop, or to wait in line to get into the courthouse.

> If your hearing is online, follow these tips for phone and video hearings .

When you get to the courtroom:

- Check in with the courtroom clerk. Usually, they are sitting at a desk close to the judge. **Tell the courtroom clerk your name because they need to know that you are there**.

- Find the prosecutor and introduce yourself. Go over any last-minute details with them before the hearing, like an agreed order.
- When the judge calls your case, walk up to the table or podium for lawyers in front of the judge. Wait for them to tell you that it is your turn to speak. **Follow your outline.**
- During the hearing, speak only to the judge. Speak only when it is your turn. **Don't interrupt** the judge or speak to the prosecutor, even if they interrupt or speak to you.
- Be polite, reasonable, and calm. If you're confused or don't understand something, politely tell the judge so and ask for clarification. If the judge asks you any questions, answer the best you can. If you don't know the answer to the judge's question, don't guess. Tell the judge you don't know the answer. If you need time to think, just tell the court you need a moment. Take your time.
- If the judge agrees with you and signs your order, ask the judge or courtroom clerk when the order will be available at the clerk's office.

8. Follow up

Check with Washington State Patrol & other agencies

About a month after the judge signs your vacate order, call WSP at (360) 534-2000. Ask WSP if they got your vacate order from the court and are working on processing it. (The clerk should have sent it.) If they don't yet have it, call the court clerk's office and ask them to send a copy to WSP.

About 3 months after you called the WSP to make sure they got your vacate order, you should check if your criminal history record with WSP is up-to-date and correct. Do this by ordering a new official and/or unofficial copy of your criminal history report.

Your criminal history info may have found its way into **other databases**. Contact the FBI, local law enforcement, Department of Corrections, Department of Licensing, and other agencies to ask them to remove their records about this info from public dissemination. You may need to send them a certified copy of the vacate order.

A **private data company** may have your conviction record. Ask the agencies to tell any private company that has gotten the record from them in the past to update their records and stop disseminating it because of the vacate order. You may need to send them a certified copy of your order.

> Try to keep at least 1 certified copy of your order in case someone, like a prospective employer, gets negative info from some other source.

9. Forms

Form attached:
Motion and Declaration for Order Vacating Record of Felony Conviction (CR 08.0900)

Form attached:
Order on Motion to Vacate Record of Felony Conviction (CR 08.0920)

Form attached:
Notice of Hearing (general civil) (NJP General 008)

Form attached:
Proof of Mailing or Hand Delivery (general civil) (NJP General 002)

Follow the general rules to format and fill out court documents.

> Any documents you file with the court may remain public.

Tips for filling out the Motion and Declaration for Order Vacating Record of Felony Conviction (CR 08.0900)

Fill out the **motion** form to explain what you want the judge to do and why they should do it.

Attach to your Motion any documents you gathered that prove you meet the requirements.

Tips for filling out the Order on Motion to Vacate Record of Felony Conviction (CR 08.0920)

Fill out the **order** form the way you want the judge to sign it. This is a **proposed order** you'll ask the judge to sign at the hearing. If you're not sure about something in the order, leave it blank for the judge to complete.

Tips for filling out the Notice of Hearing (NJP General 008)

Fill out the **Notice of Hearing** with details from the court clerk. You can try to get that information over the phone, or in-person when you file your papers. When choosing a date, leave yourself enough time to have the other party served.

> **Many counties require you to use their own form.** Ask the clerk if they use a special Notice of Hearing form. If not, use ours.

Tips for filling out the Proof of Mailing or Hand Delivery (NJP General 002)

Fill out this form after serving the other party. Whoever served the other party must sign it. Follow the rules for service after a case starts.

Check to be sure your server filled out the date of service, who the papers were delivered to, and how they were delivered. Also be sure the form lists all documents that were served. If your server leaves out a form, you won't have proof it was served.

Superior Court of Washington, County of_____

State of Washington, Plaintiff, vs. _____, Defendant. DOB PCN: SID:	**No**. _____ **Motion and Declaration for Order Vacating Record of Felony Conviction** (**MTAF)**

I. Motion

☐ **Defendant** ☐ **Prosecutor** asks the court for an order vacating the record of the defendant's conviction of a felony offense the defendant committed on or after July 1, 1984. This motion is based on RCW 9.94A.640, the case record and files, and the declaration of the defendant or prosecutor.

Dated: _____

_____
Signature WSBA No.

_____
Print Name

II. Declaration of Defendant

I, _____, declare as follows:

1. I am seeking to vacate the following convictions:

Count: _____ Offense (include degree): _____ RCW_____

Count: _____ Offense (include degree): _____ RCW_____

Count: _____ Offense (include degree): _____ RCW_____

Count: _____ Offense (include degree): _____ RCW_____

2. Prohibited Offenses

I am **not** applying to vacate any of the following offenses:

- A class A felony;
- A violent offense as defined in RCW 9.94A.030;
- Driving under the influence (RCW 46.61.592);

- Physical control of vehicle while under the influence (RCW 46.61.504);
- A crime against a person as defined in RCW 43.43.830; or
- I am asking to vacate a violent offense or a crime against a person but it is one of the following crimes and it did **not** include a firearm, deadly weapon, or sexual motivation enhancement:
    - Assault in the second degree (RCW 9A.36.021)
    - Assault in the third degree (RCW 9A.36.031) when not committed against a law enforcement officer or peace officer
    - Robbery in the second degree (RCW 9A.56.210)

3. I ☐ was ☐ was not discharged under RCW 9.94A.637, for the offenses listed in section **1** (RCW 9.94A.640).

4. Criminal Charges Pending

☐ There are no criminal charges pending against me in any state court or federal court (RCW 9.94A.640(2)(a)).

☐ The only criminal charge pending against me in any court is for prostitution and I am applying as a victim of certain crimes.

5. No New Convictions

☐ I committed a class B felony and have not been convicted of any new crime in any state or federal court in the last 10 years. (RCW 9.94A.640(2)(c), .648).

Or

☐ I committed a class C felony and have not been convicted of any new crime in any state or federal court in the last 5 years. (RCW 9.94A.640(2)(d), .648).

6. Time Since Conviction or Release

☐ **Class B Felony:** At least 10 years have passed since the later of my: a) release from community custody; b) release from full and partial confinement; or c) sentencing date (RCW 9.94A.640(2)(e)).

Or

☐ **Class C Felony:** At least 5 years have passed since the later of my: a) release from community custody; b) release from full and partial confinement; or c) sentencing date (RCW 9.94A.640(2)(f)).

Or

☐ **Victim of certain crimes.** I am trying to vacate an offense that is not the offense of promoting prostitution as described in RCW 9A88.070 and 9A.88.080. I committed this offense because I am a victim of domestic violence, sex trafficking, prostitution, commercial sexual abuse of a minor, or sexual assault.

- I have paid my crime victim penalty assessment in full.
- I have paid any restitution owed to a victim that is not an insurance provider in full.
- The facts that show I am a victim of domestic violence, sex trafficking, prostitution, commercial sexual abuse of a minor, or sexual assault are:

_____

_____

_____

_____

7. Rehabilitation and Mitigation

☐ The following facts are evidence of my rehabilitation since my conviction: _____

_____

_____

_____

☐ The following is mitigating evidence related to this case: _____

_____

_____

_____

8. I served this *Motion and Declaration for Order Vacating Record of Felony Conviction* and the ☐ *Notice of Hearing* on the prosecuting attorney in the county I was convicted in on *(date)* _____.

I declare, under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct.

Signed on _____ (*date*) at _____, Washington.

_____ _____

Defendant Print Name

Address: _____

Email: _____

Attach the following documents:

- **Copy of judgment and sentence**
- **Copy of certificate of discharge, or other document showing completion of all conditions of sentence as required under the statute**
- **Copy of current criminal history**

Superior Court of Washington, County of_____

State of Washington, Plaintiff, vs. _____, Defendant. DOB PCN: SID:	**No**. _____ **Order on Motion to Vacate Record of Felony Conviction** ☐ **Granted (ORVCJG)** ☐ **Denied (ORDYMT)** **Clerk's Action Required: 15**

This matter comes before the court on Defendant's motion for an order vacating record of felony conviction pursuant to RCW 9.94A.640. The court heard argument of the parties and considered the case records and files, and the pleadings submitted on the matter.

The Court makes the following findings:

1. Notice ☐ was ☐ was not given to the appropriate parties and agencies.

2. On (*date*) _____Defendant was convicted of the following offense(s):

Count: ____ Offense (include degree): _____ RCW_____

Count: ____ Offense (include degree): _____ RCW_____

Count: ____ Offense (include degree): _____ RCW_____

Count: ____ Offense (include degree): _____ RCW_____

3. Prohibited Offenses

The defendant was **not** convicted of one of the following offenses:

- A class A felony;
- A violent offense as defined in RCW 9.94A.030;
- Driving under the influence (RCW 46.61.592);
- Physical control of vehicle while under the influence (RCW 46.61.504);
- A crime against a person as defined in RCW 43.43.830; or
- The defendant did commit a violent offense or a crime against a person but itwas one of the following crimes that did **not** include a firearm, deadly weapon, or sexual motivation enhancement:
    - Assault in the second degree (RCW 9A.36.021)

- Assault in the third degree (RCW 9A.36.031) when not committed against a law enforcement officer or peace officer
- Robbery in the second degree (RCW 9A.56.210)

4. Defendant ☐ was ☐ was not discharged under RCW 9.94A.637, effective (*date*) _____ for the offenses listed in section **2**.

5. Current Criminal Charges

☐ There are no criminal charges pending against the defendant in any court of this state or another state, or in any federal court (RCW 9.94A.640(2)(a)).

☐ The only criminal charge pending against the defendant is for prostitution.

6. Criminal History Check

☐ The defendant committed a class B felony and ☐ has ☐ has not been convicted of any new crime in this state, another state, or federal court in the last 10 years (RCW 9.94A.640(2)(c)).

☐ The defendant committed a class C felony and ☐ has ☐ has not been convicted of any new crime in this state, another state, or federal court in the last 5 years (RCW 9.94A.640(2)(d)).

The following records were used in the criminal history check:

☐ Washington State Crime Information Center (WACIC), RCW 43.43.500 et seq.;

☐ National Crime Information Center (NCIC), including the Interstate Identification Index (Triple I), 28 U.S.C. Section 534;

☐ Judicial Information System (JIS), RCW 2.68 et seq. and JISCR.

☐ Other: _____.

7. Time Since Conviction or Release

☐ The defendant was convicted of a class B felony and it has been at least 10 years since the later of the defendant's: a) release from community custody; b) release from full and partial confinement; or c) sentencing date (RCW 9.94A.640(2)(e)).

☐ The defendant was convicted of a class C felony and it has been at least 5 years since the later of the defendant's: a) release from community custody; b) release from full and partial confinement; or c) sentencing date (RCW 9.94A.640(2)(f)).

☐ The defendant is a victim of domestic violence, sex trafficking, prostitution, commercial sexual abuse of a minor, or sexual assault. The offense the defendant is trying to vacate is not the offense of promoting prostitution as described in RCW 9A.88.070 and 9A.88.080

8. Mitigation and Release

☐ The defendant's mitigating evidence or evidence of rehabilitation was

☐ persuasive ☐ not persuasive because _____

_____.

☐ The defendant presented no mitigating evidence or evidence of rehabilitation.

The Court Orders:

9. The motion for order vacating conviction records of the following offense is ☐ granted ☐ denied.

Count: ____ Offense (include degree): _____ RCW_____

Count: ____ Offense (include degree): _____ RCW_____

Count: ____ Offense (include degree): _____ RCW_____

Count: ____ Offense (include degree): _____ RCW_____

If granted, the court further orders that:

10. ☐ The defendant's guilty plea for every offense listed in section **9** is withdrawn and a not guilty plea is entered.

Or

☐ The guilty verdict for every offense listed in section **9** is set aside.

11. The information or indictment for every offense listed in section **9** is dismissed.

12. The defendant shall be released from all penalties and disabilities resulting from every offense listed in section **9** and the conviction for those offense(s) shall not be included in the defendant's criminal history for purposes of determining a sentence in any subsequent conviction. However, the conviction may be used in a later criminal prosecution. A conviction vacated on or after July 28, 2019, qualifies as a prior conviction for the purpose of charging a present recidivist offense occurring on or after that date, and may be used to establish an ongoing pattern of abuse for purposes of RCW 9.94A.535.

13. This order does not affect the separate legal requirements for restoring a right to possess a firearm under RCW 9.41.040.

14. For all purposes, including responding to questions on employment applications, the defendant may state that they were never convicted of the offenses listed in section **9.**

15. The clerk shall immediately transmit a copy of this order to Washington State Patrol and to (*local law enforcement agency*) _____ which agencies shall immediately update their records to reflect the vacation of the record of conviction of the offense(s) listed in section **9**. The Washington State Patrol shall transmit a copy of this order to the Federal Bureau of Investigation. The Washington State Patrol or local law enforcement agency may not disseminate or disclose a conviction that has been vacated under RCW 9.94A.640 to any person, except to other criminal justice enforcement agencies.

Dated: _____ _____

Judge

_____ _____

Prosecuting Attorney WSBA No. Defendant/Defendant's Attorney WSBA No.

_____ _____

Print Name Print Name

_____ Court of Washington, County of _____

Petitioner / Plaintiff:	No. _____
_____	Notice of Hearing
	(*No mandatory form*)
And Respondent / Defendant:	Clerk's action required: 1
_____	[ ] Need interpreter (*language*) _____

Notice of Hearing

To the Court Clerk and all parties:

1. A court hearing has been scheduled:

for: _____ at: _____ *(check one)* [ ] a.m. [ ] p.m.
date *time*

at: _____ in _____
court's address *room or department*

_____
docket / calendar or judge / commissioner's name

[ ] Online or phone: _____

2. The purpose of this hearing is (*specify*): _____

as requested by the (*check one*) [ ] Petitioner/Plaintiff [ ] Respondent/Defendant

_____ _____ _____
Person asking for hearing signs here *Print name here (and WSBA #, if lawyer)* *Date*

I agree to accept legal papers for this case at (*check all that apply*):

[ ] the following address (*this does **not** have to be your home address*):

_____
Street or mailing address *city* *state* *zip*

[ ] Email: _____

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_____ Court of Washington, County of _____

Petitioner or Plaintiff: _____ And Respondent or Defendant: _____	No. _____ Proof of Mailing or Hand Delivery (No mandatory form)

Proof of Mailing or Hand Delivery

Server declares:

1. **I am** (*check one*):

☐ the Petitioner or Plaintiff

☐ the Respondent or Defendant

☐ (*name*): _____

and I am competent to be a witness in this case.

2. **Service.** On (*date*): _____, I served copies of court documents to (*name of party or lawyer served*): _____ by:

☐ **mail** (*check all that apply*): ☐ first class ☐ certified ☐ other

_____
Mailing address city state zip

☐ **email** to (*address*): _____
(only if allowed by agreement, order, or your county's Local Court Rule)

☐ **fax to** (*number*): _____
(only if allowed by agreement, order, or your county's Local Court Rule)

☐ **hand delivery** at (*time*): _____ (*check one*) ☐ a.m. ☐ p.m. to this address:

_____
Street address city state zip

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For hand delivery: I left the documents (*check one*):

- ☐ with the party or lawyer named above.
- ☐ at the lawyer's office with the clerk or other person in charge.
- ☐ at the lawyer's office in a conspicuous place because no one was in charge.
- ☐ with (*name*): _____, at the address listed in court documents where the party agreed to receive legal papers for this case.

3. List all documents you served (*check all that apply*)

(The most common documents are listed below. Check only those documents that were served. Use the "Other" box to write in the title of each document you served that is not already listed.)

- ☐ Notice of Hearing (*for date*) _____
- ☐ Motion for _____
- ☐ Declaration of _____
- ☐ Order on/for: _____
- ☐ Other:

_____

_____

_____

_____

_____

4. Other information (if any)

_____

_____

I declare under penalty of perjury under the laws of the state of Washington that the statements on this form are true.

Signed at *(city and state):* _____ Date: _____

▶ _____ _____

Server signs here *Print name*

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