

# Vacate a misdemeanor conviction

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You can clear (vacate) certain Washington state **misdemeanor** convictions from your record. Learn which 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

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**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.

**Can I get an order to vacate for a misdemeanor conviction?**

Yes, if you meet the requirements. Washington's **New Hope Act** makes it easier to vacate some criminal convictions that happened in Washington state. (The law is at [RCW 9.96.060](#) (<https://app.leg.wa.gov/rcw/default.aspx?cite=9.96.060>)). You can vacate many types of misdemeanor convictions. You can also have multiple misdemeanors vacated all at once, or at different times. There are some types of misdemeanors that you can't vacate.

The law was updated in 2024. Now you **don't** have to wait 3 years after you pay off your Legal Financial Obligations (or "LFOs") to vacate your convictions. You can also ask the court to cancel or reduce some LFOs if you can't afford to pay.

For other types of criminal records, there might be other forms or instructions that you will need.

## 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](https://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=gr&ruleid))
- 
- **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

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### Are there special requirements for vacating a misdemeanor?

**Yes.** You must meet all these requirements:

- There are **no** criminal charges pending against you in **any** state, federal, or tribal court.
- At least **3 years** have passed from whichever of these dates is later:
  - The end of your supervision or probation
  - The end of your total and partial confinement
  - Your sentencing date
- You weren't convicted of any crimes in any state, federal, or tribal court in the **3 years** before you apply to vacate.

- You must not have a current domestic violence protection order, a no-contact order, an antiharassment order, or a civil restraining order against you. You also can't have any violations of such orders during the **5 years** before you apply to vacate.
- You've paid all the legal financial obligations (LFOs) for the offense you want to vacate. (You can ask the court to cancel or reduce some LFOs if you can't afford to pay.)
- The misdemeanor you want to vacate is **not** one of the types that can't be vacated.
- Special types of misdemeanors may have additional requirements or special forms.

## What types of misdemeanors can't be vacated?

Courts will **not** vacate these:

- DUI convictions (RCW 46.61.502  
(<https://app.leg.wa.gov/RCW/default.aspx?cite=46.61.502>))
- Sex offenses (RCW 9A.44  
(<https://app.leg.wa.gov/RCW/default.aspx?cite=9A.44>)). There is one exception. You **can** vacate a conviction for failing to register as a sex offender.
- Convictions involving obscenity and pornography (RCW 9.68  
(<https://app.leg.wa.gov/RCW/default.aspx?cite=9.68>))
- Convictions involving sexual exploitation of children (RCW 9.68A  
(<https://app.leg.wa.gov/RCW/default.aspx?cite=9.68A>))
- Violent offenses or attempts to commit violent offenses (RCW 9.94A.030  
(<https://app.leg.wa.gov/RCW/default.aspx?cite=9.94A.030>))

### 3. Special types of convictions

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#### Can I vacate a misdemeanor for cannabis (marijuana) use?

Yes. There is only one requirement. You must have been at least 21 years old at the time of the offense. [Vacate a cannabis \(marijuana\) misdemeanor conviction](#) has the instructions and forms that you need.

#### Can I vacate a prostitution conviction?

Yes, if all these are true:

- You can prove that you were a victim of trafficking.
- You can prove that the offense you want to have vacated was a result of being trafficked.
- You have no other pending criminal charges anywhere for any crimes besides prostitution.
- If the conviction you want vacated is a misdemeanor, then you must not have been convicted of a new crime in any state, federal, or tribal court in the **3 years** prior to your application to vacate.

It can be difficult to prove the required evidence for this kind of conviction. This might be hard to do on your own. Try to [get legal help](#).



## **I am a member of an Indian tribe in Washington. What if my conviction was for exercising my tribal fishing rights?**

You can have the conviction vacated if both these are true:

- You are a member of a tribe that has treaty Indian fishing rights.
- They have those rights at the location where the offense occurred.

How do I vacate a criminal conviction related to treaty Indian fishing rights (<https://dev-wlh-drupal.pantheonsite.io/en/vacate-criminal-conviction-related-treaty-indian-fishing-rights>) has the special instructions and forms you need to ask for this unique kind of order to vacate. If you need to ask to vacate a conviction related to your tribal fishing rights, the Native American Unit of the Northwest Justice Project (<https://nwjustice.org/specialized-units#6>) might be able to help you.

## **What if I need to vacate juvenile records?**

Seal, vacate, or destroy juvenile court records has the instructions and forms you need.

## **Can I vacate domestic violence misdemeanors?**

Only if you meet the requirements. You must do all of these:

- Notify the prosecuting attorney's office that prosecuted you that you are filing to vacate these convictions.
- Not have 2 or more domestic violence convictions from different incidents.

- Wait at least **5 years** since you completed the sentence. This includes finishing any treatment that was ordered.

## 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:

- **3 years** before you ask to vacate the conviction

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.

## **I don't need one of the special packets for my conviction. What forms should I use?**

You can use the [forms in this guide](#).

## **4. Before you file**

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### **1. Get a criminal history "WATCH" report.**

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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.

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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

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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 petition to vacate a misdemeanor 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 Petition (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](https://www.courts.wa.gov/court_dir/?fa=court_dir.county)).

Tell the clerk you will be filing a petition to vacate a misdemeanor. 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

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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 misdemeanor conviction.

**Tell the judge you've met all the statutory requirements from RCW 9.96.060** (<https://app.leg.wa.gov/rcw/default.aspx?cite=9.96.060>):

- I haven't been convicted of a new crime in Washington, another state, or federal or tribal court in the three years prior to making this application to vacate.
- I don't have a current domestic violence protection order, a no-contact order, an antiharassment order, or a civil restraining order against me.
- I haven't had any violations of a domestic violence protection order, a no-contact order, an anti-harassment order, or a civil restraining order during the **5 years** prior to this application to vacate.
- There are **no** current criminal charges against me anywhere.
- At least **3 years** have passed since:
  - The end of my supervision or probation,

- The end of my total or partial confinement,
- My sentencing date.
- 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

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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 Petition 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

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### 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

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Form attached:

**Petition and Declaration for Order Vacating Conviction (misdemeanor)**

(CrRLJ 09.0100)

Form attached:

**Order on Petition Re: Vacating Conviction (misdemeanor)** (CrRLJ 09.0200)

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 Petition to Vacate Record of Misdemeanor Conviction (CrRLJ 09.0100)

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

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

## Tips for filling out the Order on Petition to Vacate Record of Misdemeanor Conviction (CrRLJ 09.0200)

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.

**WashingtonLawHelp.org** gives general information. It is not legal advice. Find organizations that provide free legal help on our [Get legal help](#) page.



_____ Court of Washington, County of _____	
_____ Plaintiff	No. _____
vs.	<b>Petition and Declaration for Order Vacating Conviction (PT)</b>
_____ Defendant	

**Petition and Declaration for Order Vacating Conviction**

**I. Petition**

1. Defendant asks the court for an order vacating defendant's conviction/s of misdemeanor or gross misdemeanor offenses. This petition is based on RCW 9.96.060 and RCW 9.96.080, the case record and files, and the declaration of defendant.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Defendant/Defendant's Attorney, WSBA #

\_\_\_\_\_  
Print Name

**II. Declaration of Defendant**

2. I, (name) \_\_\_\_\_, state as follows:

On (date) \_\_\_\_\_ I was convicted of the following offense/s:

Count No: \_\_\_\_ Offense: \_\_\_\_\_

Count No: \_\_\_\_ Offense: \_\_\_\_\_

Count No: \_\_\_\_ Offense: \_\_\_\_\_

**Offense Committed as a Victim of Certain Crimes**

3. ☐ **Conviction as Victim.** I was convicted of a misdemeanor or gross misdemeanor, and the conviction was a result of being a victim of sex trafficking, prostitution, or commercial sexual abuse of a minor; sexual assault; or domestic violence as defined in RCW 9.94A.030. All of the following are true:

- I am providing to the sentencing court, or the sentencing court's successor, my

statement of the specific facts and circumstances below that prove by a preponderance of the evidence (more likely than not) that the offense was committed as a result of being a victim of one of the above offenses:

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☐ I have attached my statement that proves by a preponderance of the evidence (more likely than not) that the offense was committed as a result of being a victim of one of the above offenses.

- I have no criminal charges pending in any court of this state or another state.
- I have no criminal charges pending in any federal court for any crime other than prostitution.
- I was convicted of a misdemeanor, and I have not been convicted of a new crime in this state, another state, or tribal court in the 3 years prior to the date of this petition being filed. RCW 9.96.060(2)(h).
- I have provided proof that the crime victim penalty assessment (RCW 7.68.035) has been paid in full, except where the conviction being vacated is for the crime of prostitution, prostitution loitering, or stay out of the area of prostitution.
- Restitution owed to any victim, excluding restitution owed to any insurance provider under Title 48 RCW, has been paid in full.
- The offense was not a misdemeanor or gross misdemeanor violation, including attempt, of chapter 9.68 RCW (obscenity and pornography), or chapter 9A.44 RCW (sex offense), except for failure to register as a sex offender under RCW 9A.44.132.
- The offense was not a conviction as described in RCW 46.61.5055.
- The offense was not patronizing a prostitute as described in RCW 9A.88.110.

#### **Other Misdemeanor and Gross Misdemeanor Offenses**

4. **Excluded Offenses:** I know I cannot ask the court to vacate a conviction for the following offenses. RCW 9.96.060(2)(c)-(e):
- A violation of chapter 9A.44 RCW (sex offenses), except for failure to register as a sex offender under RCW 9A.44.132.
  - A violation of chapter 9.68 RCW (obscenity and pornography).
  - A violation of chapter 9.68A RCW (sexual exploitation of children).
  - A violent offense as defined in RCW 9.94A.030, or an attempt to commit a violent offense.
  - Driving while under the influence (“DUI”) (RCW 46.61.502).
  - Actual physical control while under the influence (RCW 46.61.504).
  - Operating a railroad, etc., while intoxicated (RCW 9.91.020).
5. ☐ **Prior Offense:** I was convicted of an offense that is considered a “prior offense” under RCW 46.61.5055 (see below). All of the following are true:
- The prior offense is not a DUI (RCW 46.61.502) or Physical Control (RCW 46.61.504). RCW 9.96.060(2)(d).

- I completed all of the terms of the sentence. All financial obligations for this case are satisfied. RCW 9.96.060(2)(a).
- I have not been convicted of any new crime in this state, another state, or federal or tribal court in the 3 years prior to this vacation application. RCW 9.96.060(2)(h).
- At least 3 years have passed since my release from supervision or probation, from total and partial confinement, or from my sentencing date, whichever is later. RCW 9.96.060(2)(g).
- I have not had a subsequent alcohol or drug violation within 10 years of the date of arrest for the prior offense. RCW 9.96.060(2)(d).
- More than 10 years have passed since the date of the arrest for the prior offense. RCW 9.96.060(2)(d).
- There are no criminal charges pending against me in any court of this state or another state, or in any federal or tribal court as of the date I filed this petition. RCW 9.96.060(2)(b).
- I am not currently restrained by a domestic violence protection order, a no-contact order, an anti-harassment protection order, or a civil restraining order which restrains one party from contacting the other party. I was not previously restrained by such an order and found to have committed 1 or more violations of the order in the last 5 years. RCW 9.96.060(2)(i).

A "prior offense" means (RCW 46.61.5055(14)):

**Original Convictions**, including equivalent local ordinances, for:

- Driving Under the Influence (DUI) (RCW 46.61.502) or an equivalent out-of-state conviction.
- Physical Control of a Vehicle under the Influence (Physical Control) (RCW 46.61.504) or an equivalent out-of-state conviction.
- Commercial Vehicle DUI/Physical Control (RCW 46.25.110).
- Watercraft DUI (RCW 79A.60.040(2)).
- Aircraft DUI (RCW 47.68.220).
- Nonhighway vehicle DUI (RCW 46.09.470(2)).
- Snowmobile DUI (RCW 46.10.490(2)).

**Amended Convictions:**

- **Originally charged with** DUI (RCW 46.61.502) or Physical Control (RCW 46.61.504) or an equivalent local ordinance, or Vehicular Homicide (RCW 46.61.520) or Vehicular Assault (RCW 46.61.522); **but convicted of** Negligent Driving 1st (RCW 46.61.5249), Reckless Driving (RCW 46.61.500), or Reckless Endangerment (RCW 9A.36.050) or an equivalent local ordinance. This section also applies for equivalent out-of-state convictions.
- **Originally charged with** Watercraft DUI (RCW 79A.60.040(2)) or an equivalent local ordinance, **but convicted of** Operating a Watercraft in a reckless manner (RCW 79A.60.040(1)) or an equivalent local ordinance.
- **Originally charged with** Aircraft DUI (RCW 47.68.220) or an equivalent local ordinance, **but convicted of** Operating an Aircraft in a careless or reckless manner (RCW 47.68.220) or an equivalent local ordinance.

**Deferred Prosecution Granted for:**

- Driving Under the Influence (DUI) (RCW 46.61.502), including local and out-of-state equivalents.

- Physical Control of a Vehicle under the Influence (Physical Control) (RCW 46.61.504), including local and out-of-state equivalents.
- Negligent Driving 1st (RCW 46.61.5249) or equivalent local ordinance if the charge under which the deferred prosecution was granted was originally filed as a violation of DUI (RCW 46.61.502) or Physical Control (RCW 46.61.504), or an equivalent local ordinance, or Vehicular Homicide (RCW 46.61.520) or Vehicular Assault (RCW 46.61.522).
- An equivalent out-of-state deferred prosecution for DUI or Physical Control, including a substance use disorder treatment program. (RCW 46.61.5055(14)(a)(xvi)).

**Deferred Sentences** for:

Originally charged with DUI (RCW 46.61.502) or Physical Control (RCW 46.61.504) or an equivalent local ordinance, or Vehicular Homicide (RCW 46.61.520) or Vehicular Assault (RCW 46.61.522); but deferred sentence was imposed for Negligent Driving 1st (RCW 46.61.5249), Reckless Driving (RCW 46.61.500), Reckless Endangerment (RCW 9A.36.050), or an equivalent local ordinance.

6. ☐ **Domestic Violence:** I was convicted of an offense involving domestic violence. I have complied with the following conditions (RCW 9.96.060(2)(f)) and all the following statements are true:
- I provided the prosecuting attorney's office that prosecuted the offense with written notice of this petition. RCW 9.96.060(2)(f)(i).
  - I filed the original notice with this court. RCW 9.96.060(2)(f)(i).
  - I have not been convicted of 2 or more domestic violence offenses stemming from different incidents. RCW 9.96.060(2)(f)(ii).
  - I have never signed an affidavit under penalty of perjury where I lied, stating that I have not previously had a conviction for a domestic violence offense, but then a criminal history check revealed that I have had such a conviction. RCW 9.96.060(2)(f)(iii).
  - I completed all of the terms of the sentence. All financial obligations for this case are satisfied. RCW 9.96.060(2)(a).
  - It has been at least 5 years since I completed the terms of the original conditions of the sentence, including successful completion of any treatment ordered, but excluding the payment of financial obligations. RCW 9.96.060(2)(f)(iv).
  - I have not been convicted of any new crime in this state, another state, or federal or tribal court in the 3 years prior to this vacation application. RCW 9.96.060(2)(h).
  - I have no criminal charges pending against me in any court of this state or another state, or in any federal or tribal court as of the date I file this petition. RCW 9.96.060(2)(b).
  - I am not currently restrained by a domestic violence protection order, a no-contact order, an anti-harassment protection order, or a civil restraining order which restrains one party from contacting the other party. I was not previously restrained by such an order and found to have committed 1 or more violations of the order in the last 5 years. RCW 9.96.060(2)(i).
7. ☐ **Offenses not otherwise specified above,** and all the following statements are true:
- I completed all of the terms of the sentence. All financial obligations for this case are satisfied. RCW 9.96.060(2)(a).

- At least 3 years have passed since my release from supervision or probation, from total and partial confinement, or from my sentencing date, whichever is later. RCW 9.96.060(2)(g).
- I have not been convicted of any new crime in this state, another state, or federal or tribal court in the 3 years prior to this vacation application. RCW 9.96.060(2)(h).
- There are no criminal charges pending against me in any court of this state or another state, or in any federal or tribal court as of the date I file this petition. RCW 9.96.060(2)(b).
- I am not currently restrained by a domestic violence protection order, a no-contact order, an anti-harassment protection order, or a civil restraining order which restrains one party from contacting the other party. I was not previously restrained by such an order and found to have committed 1 or more violations of the order in the last 5 years. RCW 9.96.060(2)(i).

I declare under penalty of perjury, under the laws of the state of Washington, that the foregoing and any attachments are, to the best of my knowledge, true and correct.

Signed at (*city or county*) \_\_\_\_\_, Washington on (*date*) \_\_\_\_\_.

\_\_\_\_\_  
Defendant's Signature

\_\_\_\_\_  
Print Name

Mailing Address, unless confidential:

\_\_\_\_\_  
*Street Address or PO Box* *City* *State* *Zip*

_____ Court of Washington, County/City of _____	
_____ <div style="text-align: right;">Plaintiff</div>	No. _____ <b>Order on Petition Re: Vacating Conviction</b> <input type="checkbox"/> <b>Granted</b> (in full or in part) (ORVCJG) <input type="checkbox"/> <b>Denied</b> (ORVCJD)
vs.  _____ <div style="text-align: right;">Defendant</div>	<b>Clerk's action required: <input type="checkbox"/> 8</b>

### Order on Petition Re: Vacating Conviction

#### I. Basis

1. This matter comes before the court on the defendant's petition for an order vacating misdemeanor or gross misdemeanor conviction/s under RCW 9.96.060 and RCW 9.96.080. The court heard the arguments of the parties and considered the case records, files, and pleadings submitted on the matter.

#### II. Findings

2. Adequate notice ☐ was ☐ was not given to the appropriate parties and agencies.

#### Offense Committed as a Victim of Certain Crimes

3. ☐ **Conviction as Victim.** The offense for which the defendant was convicted was a misdemeanor or gross misdemeanor, and the conviction was a result of being a victim of sex trafficking, prostitution, or commercial sexual abuse of a minor; sexual assault; or domestic violence as defined in RCW 9.94A.030, and the following are true:
  - ☐ The defendant provided to the sentencing court or the sentencing court's successor, the defendant's statement of the specific facts and circumstances that prove by a preponderance of the evidence that the offense was committed as a result of being a victim of one of the above offenses by affidavit.
  - ☐ The defendant has no criminal charges pending in any court of this state or another state, or in any federal court for any crime other than prostitution.
  - ☐ The offense for which the defendant was convicted was a misdemeanor, and the defendant has not been convicted of a new crime in this state, another state, or tribal court in the 3 years prior to date of the filing of this petition.
  - ☐ The defendant provided proof that the crime victim penalty assessment (RCW 7.68.035) has been paid in full, except where the conviction being vacated is for the crime of prostitution, prostitution loitering, or stay out of the area of

- prostitution.
- ☐ Restitution owed to any victim, excluding restitution owed to any insurance provider under Title 48 RCW, has been paid in full by the defendant.
  - ☐ The offense was not any misdemeanor or gross misdemeanor violation, including attempt, of chapter 9.68 RCW (obscenity and pornography), or chapter 9A.44 RCW (sex offense), except for failure to register as a sex offender under RCW 9A.44.132.
  - ☐ The offense was not a conviction as described in RCW 46.61.5055.
  - ☐ The offense was not patronizing a prostitute as described in RCW 9A.88.110.

#### **Other Misdemeanor and Gross Misdemeanor Offenses**

4. ☐ **Excluded Offenses:** The defendant is ineligible to vacate the offense because it is one of the following offenses below.

RCW 9.96.060(2)(c)-(e):

- A violation of chapter 9A.44 RCW (sex offenses), except for failure to register as a sex offender under RCW 9A.44.132.
- A violation of chapter 9.68 RCW (obscenity and pornography).
- A violation of chapter 9.68A RCW (sexual exploitation of children).
- A violent offense as defined in RCW 9.94A.030, or an attempt to commit a violent offense.
- Driving while under the influence ("DUI") (RCW 46.61.502).
- Actual physical control while under the influence (RCW 46.61.504).
- Operating a railroad, etc. while intoxicated (RCW 9.91.020).

5. ☐ **Prior Offense:** The offense for which the defendant was convicted is considered a "prior offense" under RCW 46.61.5055 (see below), and the following are true:

- ☐ The prior offense is not a DUI (RCW 46.61.502) or Physical Control (RCW 46.61.504). Even if the conviction was originally filed as a DUI or Physical Control, the defendant was ultimately convicted of a different charge. RCW 9.96.060(2)(d).
- ☐ The defendant completed all the terms of the sentence. All financial obligations for this case have been satisfied. RCW 9.96.060(2)(a).
- ☐ The defendant has not been convicted of any new crimes in this state, another state, or federal or tribal court in the 3 years prior to the vacation application. RCW 9.96.060(2)(h).
- ☐ At least 3 years have passed since the defendant was released from supervision or probation, from total and partial confinement, or since the defendant's sentencing date, whichever is later. RCW 9.96.060(2)(g).
- ☐ The defendant has not had a subsequent alcohol or drug violation within 10 years of the date of arrest for the prior offense. RCW 9.96.060(2)(d).
- ☐ More than 10 years has elapsed since the date of the arrest for the prior offense. RCW 9.96.060(2)(d).
- ☐ There are no criminal charges pending against the defendant in any court of this state or another state, or in any federal or tribal court as of the date the defendant filed the petition. RCW 9.96.060(2)(b).
- ☐ The defendant is not currently restrained by a domestic violence protection order, a no-contact order, an anti-harassment protection order, or a civil restraining order which restrains one party from contacting the other party. The defendant was not previously restrained by such an order and found to have committed 1 or more violations of the order in the last 5 years. RCW 9.96.060(2)(i).

A “prior offense” means (RCW 46.61.5055(14)):

**Original Convictions**, including equivalent local ordinances, for:

- Driving Under the Influence (DUI) (RCW 46.61.502) or an equivalent out-of-state conviction.
- Physical Control of a Vehicle under the Influence (Physical Control) (RCW 46.61.504) or an equivalent out-of-state conviction.
- Commercial Vehicle DUI/Physical Control (RCW 46.25.110).
- Watercraft DUI (RCW 79A.60.040(2)).
- Aircraft DUI (RCW 47.68.220).
- Nonhighway vehicle DUI (RCW 46.09.470(2)).
- Snowmobile DUI (RCW 46.10.490(2)).

**Amended Convictions:**

- **Originally charged with** DUI (RCW 46.61.502) or Physical Control (RCW 46.61.504) or an equivalent local ordinance, or Vehicular Homicide (RCW 46.61.520) or Vehicular Assault (RCW 46.61.522), **but convicted of** Negligent Driving 1st (RCW 46.61.5249), Reckless Driving (RCW 46.61.500), or Reckless Endangerment (RCW 9A.36.050) or an equivalent local ordinance. This section also applies for equivalent out-of-state convictions.
- **Originally charged with** Watercraft DUI (RCW 79A.60.040(2)) or an equivalent local ordinance, **but convicted of** Operating a Watercraft in a reckless manner (RCW 79A.60.040(1)) or an equivalent local ordinance.
- **Originally charged with** Aircraft DUI (RCW 47.68.220) or an equivalent local ordinance, **but convicted of** Operating an Aircraft in a careless or reckless manner (RCW 47.68.220) or an equivalent local ordinance.

**Deferred Prosecution Granted for:**

- Driving Under the Influence (DUI) (RCW 46.61.502), including local and out-of-state equivalents.
- Physical Control of a Vehicle under the Influence (Physical Control) (RCW 46.61.504), including local and out-of-state equivalents.
- Negligent Driving 1st (RCW 46.61.5249) or equivalent local ordinance if the charge under which the deferred prosecution was granted was originally filed as a violation of DUI (RCW 46.61.502) or Physical Control (RCW 46.61.504), or an equivalent local ordinance, or Vehicular Homicide (RCW 46.61.520) or Vehicular Assault (RCW 46.61.522).
- An equivalent out-of-state deferred prosecution for DUI or Physical Control, including a substance use disorder treatment program. (RCW 46.61.5055(14)(a)(xvi)).

**Deferred Sentences for:**

Originally charged with DUI (RCW 46.61.502) or Physical Control (RCW 46.61.504) or an equivalent local ordinance, or Vehicular Homicide (RCW 46.61.520) or Vehicular Assault (RCW 46.61.522), but deferred sentence was imposed for Negligent Driving 1st (RCW 46.61.5249), Reckless Driving (RCW 46.61.500), Reckless Endangerment (RCW 9A.36.050), or an equivalent local ordinance.

6. [ ] **Domestic Violence:** The offense for which the defendant was convicted does involve domestic violence and the defendant complied with the following conditions (RCW 9.96.060(2)(f)) and the following are true:



- ☐ The defendant provided the prosecuting attorney's office that prosecuted the offense with written notice of defendant's petition. RCW 9.96.060(2)(f)(i).
- ☐ The defendant filed the original notice with this court. RCW 9.96.060(2)(f)(i).
- ☐ The defendant has not been convicted of 2 or more domestic violence offenses stemming from different incidents. RCW 9.96.060(2)(f)(ii).
- ☐ The defendant has never signed an affidavit under penalty of perjury affirming that the applicant has not previously had a conviction for a domestic violence offense, and a criminal history check reveals that the applicant has had such a conviction. RCW 9.96.060(2)(f)(iii).
- ☐ The defendant completed all the terms of the sentence. All financial obligations for this case have been satisfied. RCW 9.96.060(2)(a).
- ☐ It has been at least 5 years since the defendant completed the terms of the original conditions of the sentence, including successful completion of any treatment ordered, but excluding the payment of financial obligations. RCW 9.96.060(2)(f)(iv).
- ☐ The defendant has not been convicted of any new crime in this state, another state, or federal or tribal court in the 3 years prior to this vacation application.
- ☐ There are no criminal charges pending against the defendant in any court of this state or another state, or in any federal or tribal court as of the date the defendant filed the petition. RCW 9.96.060(2)(b).
- ☐ The defendant is not currently restrained by a domestic violence protection order, a no-contact order, an anti-harassment protection order, or a civil restraining order which restrains one party from contacting the other party. The defendant was not previously restrained by such an order and found to have committed 1 or more violations of the order in the last 5 years. RCW 9.96.060(2)(i).

**7. ☐ Offenses not otherwise specified above, and the following are true:**

- ☐ The defendant completed all the terms of the sentence. All financial obligations for this case have been satisfied. RCW 9.96.060(2)(a).
- ☐ At least 3 years have passed since the defendant was released from supervision or probation, from total and partial confinement, or since the defendant's sentencing date, whichever is later. RCW 9.96.060(2)(g).
- ☐ The defendant has not been convicted of any new crime in this state, another state, or federal or tribal court in the 3 years prior to the vacation application. RCW 9.96.060(2)(h).
- ☐ There are no criminal charges pending against the defendant in any court of this state or another state, or in any federal or tribal court as of the date the defendant filed the petition. RCW 9.96.060(2)(b).
- ☐ The defendant is not currently restrained by a domestic violence protection order, a no-contact order, an anti-harassment protection order, or a civil restraining order which restrains one party from contacting the other party. The defendant was not previously restrained by such an order and found to have committed 1 or more violations of the order in the last 5 years. RCW 9.96.060(2)(i).

**III. Order**

**8. Based on the above findings, it is ordered:**

- ☐ The petition for order vacating conviction records of the following offense/s is/are granted.

Count No: \_\_\_\_\_ Offense: \_\_\_\_\_

Count No: \_\_\_\_\_ Offense: \_\_\_\_\_

Count No: \_\_\_\_\_ Offense: \_\_\_\_\_

IT IS ORDERED FURTHER that:

The defendant's guilty plea/s for the offense/s is/are withdrawn and a not guilty plea is entered, or the guilty verdict for the offense/s is/are set aside. The charging document is dismissed and the judgment and sentence is vacated for the offense/s listed above.

The defendant shall be released from all penalties and disabilities resulting from the offense/s listed above. For all purposes, including responding to questions on employment or housing applications, the defendant may state that they have never been convicted of that offense.

However, this order does not affect the requirements for restoring the right to possess a firearm under RCW 9.41.040.

The fact that the defendant has been convicted of the offense shall not be included in the defendant's criminal history for purposes of determining a sentence in any subsequent conviction, except that a vacated conviction qualifies as a prior conviction for the purpose of charging a later recidivist offense as defined in RCW 9.94A.030. A vacated conviction may be used for other purposes in a later criminal prosecution with the following exception: when a court vacates a record of domestic violence as defined in RCW 10.99.020, the state may not use the vacated conviction in a later criminal prosecution unless the conviction was for: (i) violating the provisions of a restraining order, a no-contact order, or protection order restraining or enjoining the person or restraining the person from going on to the grounds of or entering a residence, workplace, school, or daycare, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, a protected party's person, or a protected party's vehicle; (ii) stalking; or (iii) domestic violence protection order or vulnerable adult protection order. RCW 9.96.060.

A vacated conviction for domestic violence is not considered a conviction of such an offense for the purposes of 27 C.F.R. § 478.11, regarding reinstatement of firearms or explosives rights.

The clerk of the court shall immediately transmit a certified copy of this order to the Washington State Patrol and to (*local law enforcement agency*) \_\_\_\_\_ which agencies shall immediately update their records to reflect the vacation of the conviction of the offense listed in this section. The Washington State Patrol shall transmit a copy of this order to the Federal Bureau of Investigation (FBI). The Washington State Patrol and local law enforcement agency may not disseminate or disclose a conviction that has been vacated under RCW 9.96.060 to any person, except to other criminal justice enforcement agencies. RCW 9.96.060(8).

9. [ ] The petition for order vacating conviction records of the following offense/s is denied for the following reason/s:

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Dated: \_\_\_\_\_

Submitted by: \_\_\_\_\_

\_\_\_\_\_  
Defendant/Attorney for Defendant/WSBA #

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
**Judge/Commissioner**

Approved: \_\_\_\_\_

\_\_\_\_\_  
Deputy Prosecuting Attorney/WSBA #

\_\_\_\_\_  
Print Name

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

## 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):

\_\_\_\_\_ city state zip  
Street or mailing address

[ ] Email: \_\_\_\_\_

\_\_\_\_\_ **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

**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:

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**4. Other information (if any)**

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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*