

Vacate a cannabis (marijuana) misdemeanor conviction

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You can clear (vacate) certain Washington state **cannabis** (marijuana) misdemeanor convictions from your record. Learn how to do it and get the forms you need.

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.

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.

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

Yes. There is **only one** requirement. You **won't** have to meet the other requirements for vacating misdemeanors. You must have been at least 21 years old at the time of the offense.

Can I vacate a cannabis (marijuana) felony?

Not using the special rule that only has one requirement. The special rule **only** applies to misdemeanor convictions. Instead, use our felony guide if you need to [vacate a felony cannabis conviction](#).

How can I tell if my conviction was for a misdemeanor or a felony?

You can read your ticket and see if lists the kind of charge. Read any paperwork you have related to the conviction to see if you can find a charge or RCW for the conviction.

Cannabis (marijuana) **misdemeanor** offenses include, but are not limited to:

- Any offense under **RCW 69.50.4014** from July 1, 2004 or after
- **RCW 69.50.401(e)** from March 21, 1979 to July 1, 2004
- **RCW 69.50.401(d)** from May 21, 1971 to March 21, 1979
- Any equivalent misdemeanor ordinance

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>)

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. Before you file

For cannabis misdemeanor convictions, you only need to prove **one thing** to vacate the record. You have to show that you were **21 years old at the time of the offense**.

Gather documents that show:

- Your age with your birthday. Use a copy of your photo ID or birth certificate.
- The date of your offense. This is usually written on your ticket or charging documents.

If you don't have your ticket or charging documents, go the court clerk in the court you were sentenced in. Give them your case number and ask them to look up the date you were charged. You should get a copy of whatever document they have that shows the date of your offense. It will usually be a sheet that lists your charges.

3. Step-by-step

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

1. **Fill out the forms** (except 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 cannabis 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).

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

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.

4. 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 misdemeanor cannabis conviction.

Tell the judge you've met all the statutory requirements from RCW 09.96.060(5) because:

- I was 21 years old (or older) when the misdemeanor cannabis offense happened.
- The date of my misdemeanor cannabis offense was on or after my 21st birthday as shown by the proof I provided.

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.

5. 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 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.

6. 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.

7. Forms

Form attached:

Petition and Declaration for Order to Vacate Cannabis Conviction (CrRLJ 09.0800)

Form attached:

Order on Petition to Vacate Cannabis Conviction (CrRLJ 09.0870)

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 and Declaration for Order to Vacate Cannabis Conviction CrRLJ 09.8100

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 Order on Petition to Vacate Cannabis Conviction CrRLJ 09.0870

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/City of _____	
_____ vs. _____	Plaintiff Defendant
No.	Petition and Declaration for Order to Vacate Cannabis Conviction (PT)

Petition and Declaration for Order to Vacate Cannabis Conviction

1. Defendant asks the court for an order to vacate Defendant's misdemeanor cannabis conviction(s). This petition is based on RCW 9.96.060, the case record and files, and Defendant's declaration.

Dated: _____
Defendant/Defendant's Attorney/WSBA # _____
Print Name _____

2. Defendant's Declaration:

I, (name) _____, state as follows:

On (date) _____, I was convicted of the following cannabis offense(s):

Count No: _____ Offense: _____

Count No: _____ Offense: _____

Count No: _____ Offense: _____

I was 21 years of age or older at the time of each offense.

My birthdate is: _____

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

Signed on (date) _____ at (city or county) _____, Washington.

Defendant's Signature _____ Print Name _____

Street Address or PO Box _____ City _____ State _____ Zip _____

_____ Court of Washington, County/City of _____	
_____ Plaintiff	No. Order on Petition to Vacate Cannabis Conviction ☐ Granted (in full or in part) (ORVCJG) ☐ Denied (ORVCJD) Clerk's Action Required: ☐ 3, ☐ 8
vs. _____ Defendant	

Order on Petition to Vacate Cannabis Conviction

Defendant filed a petition for an order to vacate a misdemeanor cannabis conviction under RCW 9.96.060. The court heard the arguments of the parties and considered the case records and files, and the pleadings submitted on the matter.

The court finds:

1. Adequate notice ☐ was ☐ was not given to the appropriate parties and agencies.
2. ☐ Defendant was 21 years of age or older at the time Defendant committed the offense(s).

The court orders:

3. Based on the petition, the court orders that the following offense(s) is/are:
 Count No: ____ Offense: _____ ☐ Vacated ☐ Not vacated
 Count No: ____ Offense: _____ ☐ Vacated ☐ Not vacated
 Count No: ____ Offense: _____ ☐ Vacated ☐ Not vacated

For the counts in which the court vacated the conviction, the court further orders that:

4. ☐ Defendant's guilty plea for the offense is withdrawn and a not guilty plea is entered.
☐ The guilty verdict for the offense is set aside.
5. The charging document is dismissed, and the judgment and sentence is vacated.
6. Defendant shall be released from all penalties and disabilities resulting from the offense. For all purposes, including responding to questions on employment or housing applications, Defendant may state that they have never been convicted of that offense.

7. The fact that Defendant has been convicted of the offense shall not be included in Defendant's criminal history for purposes of determining a sentence in any subsequent conviction. Although a vacated conviction will not be used for subsequent sentencing purposes, it 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, no-contact order, or protection order restraining or enjoining the person or restraining the person from going onto 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.

8. 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(s) as listed in paragraph 3. The Washington State Patrol shall transmit a copy of this order to the Federal Bureau of Investigation. 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).

Dated: _____

Judge/Commissioner

Submitted by: _____

Approved: _____

Defendant/Attorney for Defendant/WSBA #

Deputy Prosecuting Attorney/WSBA #

Print Name

Print Name

_____ Court of Washington, County of _____

Petitioner / Plaintiff:

And Respondent / Defendant:

No. _____

Notice of Hearing

(No mandatory form)

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: _____

_____ **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:

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