

CONFIDENTIAL

BILL DRAFT SUMMARY

DATE: September 6, 2018
TO: Rep. Hansen
FROM: Kelly Leonard, OPR Counsel
SUBJECT: *Bill Draft - Vacating Convictions [H-0029.1]*

The enclosed bill draft contains the contents of striking amendment LEON 203 to SHB 2890 (2018). Please let me know if you require any additional background information, or if you would like to make any changes to the enclosed bill draft.

SUMMARY

The bill draft [H-0029.1] makes the following changes to current law:

- ❖ Modifies the process for obtaining a certificate of discharge.
 - Modifies notice provisions pertaining to DOC and the county clerk pertaining to completion of sentencing conditions.
 - Creates a process by which offenders may apply directly to the court for a certificate of discharge even where notice of sentencing completion has not been provided by DOC. Specifies that a filing of a sworn declaration creates a rebuttable presumption that certain conditions have been completed.
 - Specifies timelines for the effective dates of certificates of discharge.
- ❖ Expands eligibility criteria for vacating misdemeanor and gross misdemeanor criminal convictions.
 - Removes the restriction against obtaining more than one vacation of a misdemeanor/gross misdemeanor.
 - Modifies the restriction against applying for a vacation when there has been intervening convictions. Allows a person to apply to have a conviction vacated even if he or she has been convicted of a new gross misdemeanor or misdemeanor offense, as long as it has been more than three years since those new convictions occurred.
 - Modifies the restriction against prior restraining/protection orders. Allows a person who has been the subject of an order in the previous five years to apply to have his or her record vacated so long as he or she is not currently subject to an order and he or she did not violate an order in the previous five years.
 - Specifies that a vacated conviction qualifies as a prior conviction for the purpose of charging a present offense where a prior conviction elevates the classification level of the present offense.
- ❖ Expands eligibility criteria for vacating felony criminal convictions.

- Allows a person to apply to vacate Assault in the second degree, Assault in the third degree when not committed against a law enforcement officer or peace officer, or Robbery in the second degree, so long as the conviction does not include an aggravating circumstance under the Sentencing Reform Act.
- Modifies the waiting periods for class B and C felonies. Requires an applicant to wait 10 years for a class B felony or five years for a class C felony since the later of his or her: release from community custody; release from full and partial confinement; or sentencing date. Specifies that the applicant must not have been convicted of a new crime for a specified period of time preceding the application for vacation, specifically 10 years for a class B felony and five years for a class C felony.
- Specifies that a vacated conviction qualifies as a prior conviction for the purpose of charging a present offense where a prior conviction elevates the classification level of the present offense.