

ADMINISTRATIVE OFFICE OF THE COURTS

July 25, 2021

- **TO:** Judges, Commissioners, County Clerks, Court Administrators, Court Facilitators, Libraries, Attorneys, and the Public
- **FROM:** Ashley Tam, Senior Legal Analyst Administrative Office of the Courts
- **RE:** SUMMARY OF CHANGES FOR GUILTY PLEA FORMS AND MISDEMEANOR JUDGMENT AND SENTENCING FORMS (JULY 2021)

The Washington Pattern Forms Committee updated the misdemeanor judgment and sentencing court pattern forms. We incorporated newly passed legislation, improved form accuracy, addressed user feedback, used more inclusive terms, and increased clarity of information contained in these forms. In addition, we have begun efforts to standardize our forms amongst all our form sets and therefore, you will notice stylistic changes as well. The updated misdemeanor judgment and sentencing forms are located at our List of All Forms webpage at: <a href="http://www.courts.wa.gov/forms/?fa=forms.static&staticID=14#MisJudgment">http://www.courts.wa.gov/forms/?fa=forms.static&staticID=14#MisJudgment</a>.

The Washington Pattern Forms Committee also amended forms contained in the Criminal Rules for Courts of Limited Jurisdiction, CrRLJ 4.2(g) and CrRLJ 4.2(i). The rule, of which the forms are a part, are pending review by the Washington State Supreme Court. We anticipate that new versions of the forms contained in CrRLJ 4.2 will be available on our website in late September 2021.

A high-level overview of the form changes to our misdemeanor judgment and sentencing forms, and the proposed changes to the forms contained in court rule are described below. We have also provided a detailed summary of changes for the misdemeanor judgment and sentencing forms that are effective on July 25, 2021.

Form No.	Form Title and Change Highlights
CrRLJ 4.2(g) (pending Washington State Supreme Court review of proposed changes to CrRLJ 4.2(g))	<ul> <li>Statement of Defendant on Plea of Guilty</li> <li>Incorporated <u>RCW 9.41.280</u> (Possessing dangerous weapons on school facilities—Penalty—Exceptions).</li> <li>Expanded existing language to provide better context without needing to read or consult the statute.</li> </ul>
CrRLJ 4.2(g) DUI Attachment 1 (pending Washington State Supreme Court review of proposed changes to CrRLJ 4.2(g))	<ul> <li>Court DUI Sentencing Grid</li> <li>Updated the "Prior Offenses" section under the Court – DUI Sentencing Grid section to better match statutory language in <u>RCW 46.61.5055(14)(a)</u>.</li> <li>Added II Device paragraph under the Court – DUI Sentencing Grid section related to <u>RCW 46.20.740</u> and <u>RCW 46.20.750</u>.</li> </ul>

WPF CrRLJ 04.1100_new (pending Washington State Supreme Court review of proposed changes to CrRLJ 4.2(i))	<ul> <li>Petition for Deferred Prosecution</li> <li>Incorporated changes from sections effective January 1, 2021 of the Laws of 2019, ch. 263 (<u>E2SHB</u> <u>1517</u>), Domestic Violence—Various Provisions.</li> </ul>
CrRLJ 07.0110	Judgment and Sentence
	<ul> <li>Incorporated <u>RCW 9.41.280</u> (Possessing dangerous weapons on school facilities—Penalty—Exceptions).</li> <li>Updated language to better match <u>RCW 9.41.282</u> (Possessing dangerous weapons on child care premises—Penalty—Exceptions).</li> <li>Updated terminology from "alcohol/drug" to "substance use disorder" as supported by <u>ch. 18.205 RCW</u>.</li> </ul>
CrRLJ 07.0850	<ul> <li>Notice to Department of Licensing Regarding Conviction Resulting in Revocation of Defendant's Concealed Pistol License</li> <li>Incorporated <u>RCW 9.41.280</u> (Possessing dangerous weapons on school facilities—Penalty—Exceptions).</li> <li>Added notice requirements under <u>RCW 9.41.270</u> (Weapons apparently capable of producing bodily harm—Unlawful carrying or handling—Penalty—Exceptions) and <u>RCW 9.41.280</u> (Possessing dangerous weapons on school facilities—Penalty—Exceptions) to the city, town, or county who issued the concealed pistol license.</li> <li>Changed information provided and the form layout as requested by the Washington State Department of Licensing.</li> <li>Due to the extensive changes, we suggest downloading the new version of the form rather than trying to update an existing version.</li> </ul>
CrRLJ 09.0100	<ul> <li>Motion and Declaration for Order Vacating Conviction <ul> <li>Incorporated changes from the Laws of 2021, ch. 237</li> <li>(ESSB 5180), Vacating Convictions—Victims of Certain Crimes, effective July 25, 2021.</li> <li>Updated the "Prior Offenses" section under the Court – DUI Sentencing Grid section to better match statutory language in <u>RCW 46.61.5055(14)(a)</u>.</li> </ul> </li> <li>Due to the extensive changes, we suggest downloading the new version of the form rather than trying to update an existing version.</li> </ul>
CrRLJ 09.0200	<ul> <li>Order on Motion Re: Vacating Conviction <ul> <li>Incorporated changes from the Laws of 2021, ch. 237</li> <li>(ESSB 5180), Vacating Convictions—Victims of Certain Crimes, effective July 25, 2021.</li> <li>Updated the "Prior Offenses" section under the Court – DUI Sentencing Grid section to better match statutory language in <u>RCW 46.61.5055(14)(a)</u>.</li> </ul> </li> <li>Due to the extensive changes, we suggest downloading the new version of the form rather than trying to update an existing version.</li> </ul>

CrRLJ 09.0300	Instructions for Vacating Misdemeanor and Gross Misdemeanor Convictions	
	<ul> <li>Incorporated changes from the Laws of 2021, ch. 237 (<u>ESSB 5180</u>), Vacating Convictions—Victims of Certain Crimes, effective July 25, 2021.</li> <li>Simplified the instructions.</li> </ul>	
	Due to the extensive changes, we suggest downloading the new version of the form rather than trying to update an existing version	

We have also removed the following form:

Form No.	Form Title and Change Highlights	
CrRLJ 09.120	Prostitution Conviction Attachment	
	The basis of this form was repealed effective July 25, 2021.	
	See Laws of 2021, ch. 237, § 6 (ESSB 5180), Vacating	
	Convictions—Victims of Certain Crimes, RCW 9.96.070 (Vacating	
	records of conviction—Prostitution offenses).	

#### Customizing the Summary of Changes

This Summary of Changes was created using Adobe Acrobat Pro's Compare Tool. Depending on your PDF reader and software version, you may have different options to customize the Summary of Changes.

- 1. Download the Summary of Changes from your web browser. Then, open the file with Adobe Acrobat Reader DC.
- 2. Use the Bookmarks in the left pane (look for the icon) to locate the form changes you would like to review, and then click on the name of the form. After that, click "Go to First Change (page 1)."
- 3. Hover over icons (*e.g.*, a message bubble or white "x" enclosed in red circle) in the document to see changes appear in a pop-up text box, or click on the icons to see a description of the changes in the right pane.
- 4. To filter the types of changes you would like to see:
  - a. Click the filter icon V in the right pane. If you do not see the filter icon, go to View>Tools>Comment>Open.
  - b. Select the type of changes (comments) you would like to see, such as "text replaced" or "text deleted," or "text inserted." Click to "select" or "unselect." Then, click "apply."
  - c. Select "clear all" to reset the filters, as necessary.

To provide feedback about this Summary of Changes or any of our court forms, please complete the online form available at: <a href="http://www.courts.wa.gov/forms/?fa=forms.formsComments">http://www.courts.wa.gov/forms/?fa=forms.formsComments</a>.

Thank you to the Washington Pattern Forms Committee and Courts of Limited Jurisdiction Forms Subcommittee for updating the forms for statewide use. 7/21/2021 3:15:23 PM

**Compare Results** 

Old File:		New File:
CrRLJ 07.0110 Judgment and Ser 2020.pdf	versus	CrRLJ 07.0110 Judgment and Sentence_2021 07.pdf
<b>3 pages (101 KB)</b> 6/30/2020 5:02:56 PM		<b>4 pages (222 KB)</b> 7/21/2021 2:25:12 PM
Total Changes	Content 46 Replacements	Styling and Annotations
()1L		110 Studies

**215** 37 Insertions

22 Deletions

**IU** Styling

0

Annotations

<b>Q</b>	Court of Washington
County of	ଡ଼ଡ଼ଡ଼ଡ଼
	No.
Plaintiff VS.	Judgment and Sentence (JS)
vo.	<sup>oo</sup> Clerk's Action Required: 4
Defendant	
DOB:	

# 1. The defendant pled guilty, or pled not guilty and the verdict of the jury was guilty, or the finding of the court was guilty of:

Count	Crime	RCW or Ordinance (with subsection)	
1.			
2.			
3.			1
4.			ę

**GV** [] In count(s) \_\_\_\_\_, **domestic violence – intimate partner** was pled and proved.

*GV* [] In count(s) \_\_\_\_\_, domestic violence – family or household member was pled and proved.

Therefore, the defendant is adjudged guilty and sentenced as follows:

Sentence is s	uspended (sus	sp.)/deferred	(def.) for	_ months/years	s on the followi	ng conditions:
Count 1)	days of jail, su	sp./def	days; and a	fine of \$	with \$	susp./def.
Count 2)	days of jail, su	sp./def	days; and a	fine of <mark>\$</mark>	with \$	susp./def.
Count 3)	days of jail, su	sp./def	days; and a	fine of <mark>\$</mark>	<u>with \$</u>	susp./def.
Count 4)	days of jail, su	sp./def	days; and a	fine of \$	with \$	susp./def.
Serve a tot	al of	days in	jail with crea	dit for	days se	rved, and

I	serve a total of days of days of on to a second	days served	J.	detention/el	ectronic	)
Jail	Jail sentences are concurrent/consecutive with all other commitments					
	This crime is an offense which red the following offenses: assault in degree with sexual motivation, con sexual misconduct in the second prostitute, sexual misconduct with exposure, or violation of a sexual or comparable ordinance. Therefor for purposes of DNA identification that the Washington State Patrol qualifying offense. RCW 43.43.75	the fourth d mmunicatic degree, fai a minor in assault pro ore, the def analysis. T crime labor 4.	egree domestic violence on with a minor for immo- lure to register, harassr the second degree, sta ptection order granted u rendant shall have a bio his paragraph does not ratory already has a sar	e, assault in t oral purposes nent, patroni alking, indeco Inder chapte logical samp apply if it is e	the four s, custo zing a ent r 7.90 F le colle establis	th odial RCW, cted hed
[]	Report to daw enforcement agen	cy)				
	by (date/ time) Failure to give a biological sample		to g	ive a biologic	cal sam	iple.
	The defendant is indigent, as defi					
2.ç	Defendant shall pay to the cl	erk of this				
	fine \$	ted. ••••	<ul> <li>[] criminal conviction f</li> <li>[] criminal traffic fee</li> <li>[] probation/monitoring</li> <li>[] booking fee</li> <li>[] public defender reco</li> <li>[] DPO Assessment fo</li> <li>[] domestic violence a</li> <li>[] DPR fee (RCW 26.5)</li> </ul>	g fee oupment or DV convic issessment	\$ <u>1</u> \$_ \$_ \$_ tion \$ <u>1</u>	<u>43.00</u> 02.50 15.00 00.00 30.75
	restitution to be left open for					
-					tal:	
3.	Financial obligations are du payment schedule.	<mark>e and pay</mark>	able immediately unle	ss the cour	t has s	et a
[]	Pay total financial obligations at \$	<u> </u>	per month start	ing on		·
[]	Pay schedule set by separate or	ler.				
[]	\$ of this total is con	verted to _	hours of com	munity restitu	ution	
	(service) which must be complete	d by	······································	Proof of co	ompleti	on
	shall be provided to the court/p					
[]	The defendant is ordered to reim		e of electronic monitori			for
	the cost of pretrial electronic mon					, 101

## 4. Additional Conditions of Sentence:

- [] No criminal violations of law or alcohol related infractions.
- Do not drive a motor vehicle without a valid license and proof of insurance.
- Probation for \_\_\_\_\_ months. Supervised probation for \_\_\_\_\_ months, with probation department and abide by all rules and regulations of probation department. Pay a \$\_\_\_\_\_ pre-sentence fee and a \$\_\_\_\_\_ monthly probation fee unless the fee is reduced by the probation department.
- [] Supervised probation to end upon completion of [] Certified domestic violence treatment and/or []

 Obtain a [] <u>substance use disorder evaluation</u> from a Washington State-approved agency [] a <u>psycho-sexual evaluation</u> from a state certified provider [] a <u>mental health</u> <u>evaluation</u> from a state licensed mental health provider [] Certified Domestic Violence Program [] Anger Management [] Victim Awareness Education [] Consumer Awareness (theft) [] Other

File a copy of the evaluation within \_\_\_\_\_ days. Begin any recommended treatment or education within \_\_\_\_\_ days and file proof of timely enrollment and completion.

- Begin the following within \_\_\_\_\_\_ days and complete within \_\_\_\_\_\_ months, and file proof of timely enrollment and completion: [] DUI Victim's Panel [] Substance Use Disorder Information School [] 1-Year Substance Use Disorder Treatment [] 2-Year Substance Use Disorder Treatment [] Substance Use Disorder Treatment for the period of \_\_\_\_\_\_ [] Driver Improvement School.
- [] Use no alcoholic beverages or non-prescribed controlled drugs.
- [] Attend [] Alcoholics Anonymous [] Narcotics Anonymous [] Other self-help program

   (\_\_\_\_\_\_) meetings \_\_\_\_\_ times a week for \_\_\_\_\_ months or as

recommended by treatment provider.

Do not go upon the property of and have no contact with

Other:

[ ] This crime involves a sex offense, or a kidnapping offense involving a minor, as defined in RCW 9A.44.130. The defendant is required to register with the county sheriff as described in the "Offender Registration Attachment."

[] Department of Licensing Notice – CPL Revocation and Surrender.

- [] Count \_\_\_\_\_\_ is a violation of RCW 9.41.270 (unlawful carrying or handling of weapons), a gross misdemeanor for which the penalty includes loss and revocation of the defendant's concealed pistol license, if any.
- [] Count\_\_\_\_\_\_ is a violation of RCW 9.41.280 (possessing a dangerous weapon on school facilities), a gross misdemeanor for which the penalty is revocation of the defendant's concealed pistol license (CPL), if any, for 3 years; and the defendant is not allowed to apply for a concealed pistol license for period of 3 years.
- [] Count \_\_\_\_\_\_ is a violation of RCW 9.41.282 (carrying a firearm at a child care center), a gross misdemeanor for which the penalty is revocation of the defendant's concealed

pistol license (CPL) for 3 years and the immediate surrender of the defendant's CPL, if any. The defendant also is not allowed to apply for a CPL for period of 3 years from the date of conviction.

**NOTICE TO DEFENDANT:** You have been convicted of RCW 9.41.282, which requires immediate surrender of your concealed pistol license(s) (CPL). You are ordered to immediately surrender your CPL, if any, to the court.

**Clerk's Action** – The clerk shall forward a Notice of Revocation of Concealed Pistol License to DOL.

## Department of Licensing Notice – Defendant under age 21 only.

Count \_\_\_\_\_\_\_ is (a) a violation occhapter 69.41 RCW [Legend drug], ch. 69.50 RCW [VUCSA], or ch. 69.52 RCW [Imitation drugs], and the defendant was under 21 years of age at the time of the offense **OR** (b) a violation under RCW 9.41.040 (unlawful possession of firearm), and the defendant was under the age of 18 at the time of the offense **OR** (c) a violation under ch. 66.44 RCW [Alcohol], and the defendant was under the age of 18 at the time of the offense **AND** the court finds that the defendant previously committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of ch. 66.44, 69.41, 69.50, or 69.52 RCW.

**Clerk's Action –** The clerk shall forward an Abstract of Court Record (ACR) to the DOL, which must revoke the Defendant's driver's license. RCW 46.20.265.

[] Return for a review hearing: \_\_\_\_

Bail or Bond is [ ] Exonerated [ ] Forfeited.

# 5. <u>I have read the rights, conditions, and warnings.</u>

Dated:	
	Judge/Commissioner/Pro Tem
Defendant's Signature	Print Name: o
Defendant's Address and Telephone:	
	-
	-
	_
Attorney for the Defendant	Prosecuting Attorney
Print Name:	Print Name:
WSBA No.	<sup>ଡ଼ଙ୍</sup> wsba No
[] Written Waiver of Counsel is filed.	

7/21/2021 3:17:58 PM

**Compare Results** 

Old File:		New File:
CrRLJ 07.0850 Notice to DOL Revocation of CPL 06 2020.pdf	vers	US CrRLJ 07.0850 Notice to DOL Revocation of CPL_2021 07.pdf
<b>2 pages (200 KB)</b> 7/21/2021 2:54:13 PM		<b>1 page (198 KB)</b> 7/21/2021 2:26:27 PM

**Total Changes** 

Content



9 Replacements 13

Insertions

19 Deletions Styling and Annotations

16 Styling

2 Annotations

	<sup>9</sup> Court of Washington
County of	
	No.
Plaintiff %/s.	Notice to Department of Licensing Regarding Conviction Resulting in Revocation of Defendant's Concealed Pistol License (NTDOL)
Point       DOB:	Clerk's Action Required: 2, [ ] 3 Court ORI #
Driver's License/ID No.:	38
<ul> <li>gross misdemeanor, and the Departmen concealed pistol license shall be revoked</li> <li>[] RCW 9.41.270(1): Unlawful carrying of producing bodily harm. [] RCW 9.41.282 facilities. [] RCW 9.41.282(1): The date carrying a firearm at a childcare center.</li> <li>2. A copy of this notice will be provided to t Business &amp; Professions Firearms Unit, P firearms@dol.wa.gov.</li> </ul>	on has been convicted of the following offense, a t of Licensing is notified that the defendant's as follows: or handling of weapons apparently capable of 0(1): Possessing dangerous weapons on school of conviction is: for the defendant and the pepartment of Licensing, O Box 9649, Olympia, WA 98507-9649 or ed to the city, town, or county which issued the
Dated	Judge/Commissioner/Pro Tem
Defendant Signature Defendant's Name (Last, First, Middle) _ <u>e</u>	
Residential Street Address	
CitySta	ite Zip 8
Gender Weight Height Height	Eye Color
(07/2021) in Revoca	Conviction tion of CPL of

7/21/2021 3:19:35 PM

# **Compare Results**

versus

Old File:

CrRLJ 09\_0100\_MotDecVacateConviction\_2019 12.pdf

> **3 pages (91 KB)** 1/6/2020 10:56:22 AM

New File:

CrRLJ 09.0100 MotDecVacateConviction\_2021 07.pdf 5 pages (149 KB)

7/21/2021 2:36:21 PM



	Ç County of	Court of Was	hington
<mark>0</mark> /S.	Plaintiff Defendant	No. Motion and Declara for Order Vacating (MTAF)	
	I. Mo	tion	
gross ch. 23	ndant asks the court for an order vacating d misdemeanor offenses. This motion is bas 37, the case record and files, and the decla d:	ed on RCW 9.96.060 c ration of defendant.	
		Print Name	
	II. Declaration	of Defendant	
<mark>I,</mark> (nai			, state as follows:
1.	On <i>(date)</i>		e following offense(s):
	Count No: Offense:		
	Count No: Offense:		
	Count No: Offense:		
2.	[ ] Conviction as Victim. The offense for gross misdemeanor, and the conviction trafficking, prostitution, or commercial domestic violence as defined in RCW	on was a result of being sexual abuse of a min	g a victim of sex or; sexual assault; or
	<ul> <li>I am providing to the sentencing of statement of the specific facts and</li> </ul>		
Laws (07/20	of 2021, ch. 237 for Order Vaca	Declaration ting Conviction of <b>5</b>	

preponderance of the evidence that the offense was committed as a result of being a victim of one of the above offenses:

[] See attached. I have no criminal charges pending in any court of this or another state, or in any federal court for any crime other than prostitution; The offense for which I was convicted was 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 date of the filing of this motion. 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 any misdemeanor or gross misdemeanor violation, including • attempt, of chapter 9.68 RCW (obscenity and pornography), 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. **Excluded Offenses:** Understand that unless I was convicted as a victim as described in Section 2, I cannot 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). [] **Prior Offense**: The offense for which I was convicted is considered a "prior offense" under RCW 46.61.5055 (see below), and 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 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).

3.

4.

- At least 3 years have passed since I completed the terms and conditions of the sentence, including restitution/legal financial obligations. 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 file this motion. RCW 9.96.060(2)(b).
- I am not currently restrained by a domestic violence protection order, a nocontact 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-ofstate 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 46.61.5249), or an equivalent local ordinance.

Reckless Endangerment (RCW 9A.36.050), or an equivalent local ordinance.

5.

[ ] **Domestic Violence:** The offense for which I was convicted involves domestic violence and I have complied with the following conditions (RCW 9.96.060(2)(f)) and all the following are true:

- I provided the prosecuting attorney's office that prosecuted the offense with written notice of this motion. 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 affirming that I have not previously had a conviction for a domestic violence offense, and a criminal history check reveals that I have had such a conviction, RCW 9.96.060(2)(f)(iii);
- It has been at least 5 years since I completed the terms and conditions of the sentence, including restitution/legal financial obligations and successful completion of any treatment ordered. 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).
- 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 motion. RCW 9.96.060(2)(b).
- I am not currently restrained by a domestic violence protection order, a nocontact 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).
- 6. [] Offenses not otherwise specified above, and all the following are true:
  - At least 3 years have passed since I completed the terms and conditions of the sentence, including restitution/legal financial obligations. 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 motion. RCW 9.96.060(2)(b).
  - I am not currently restrained by a domestic violence protection order, a nocontact 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 one 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 on (date) \_\_\_\_\_,
at (city or county) \_\_\_\_\_, Washington.

Defendant

Mailing Address, unless confidential

7/21/2021 3:20:31 PM

# **Compare Results**

versus

Old File:

CrRLJ 09\_0200\_OrdMotVacateConviction\_2019 12.pdf

**5 pages (99 KB)** 1/6/2020 11:18:09 AM New File:

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**5 pages (153 KB)** 7/21/2021 2:37:02 PM

**161**<sup>43</sup><sub>23</sub>

Total Changes

Content

43 Replacements

3 Insertions

14 Deletions

Styling and Annotations

 $81 \hspace{0.1in} {\rm Styling}$ 

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Annotations



### I. Basis

This matter comes before the court on defendant's motion for order vacating misdemeanor or gross misdemeanor conviction(s) under to RCW 9.96.060 or Laws of 2021, ch. 237. The court heard the arguments of the parties and considered the case records, files, and pleadings submitted on the matter.

# II. Findings

1. QAdequate notice [] was [] was not given to the appropriate parties and agencies.

# Defendant satisfied the following requirements:

- 2. [] 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 below 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 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 motion.
  - [] 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), 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.
- 3. [] **Excluded Offenses:** The defendant is ineligible to vacate the offense because it is one of the following offenses below and the defendant is not seeking to vacate an offense in Section 2 above.

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).
- 4. [] **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). RCW 9.96.060(2)(d).
  - [] 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 completed the terms and conditions of the sentence, including restitution/legal financial obligations. 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.
  - [] More than 10 years has elapsed since the date of the arrest for the prior offense.
  - [] 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 motion. 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-ofstate 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.

- Domestic Violence: The offense for which the defendant was convicted <u>does</u> 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 motion. 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).
- [] It has been at least 5 years since the defendant completed the terms and conditions of the sentence, including restitution/legal financial obligations and successful completion of any treatment ordered, 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 motion. 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).

#### 6. [] Offenses not otherwise specified above, and the following are true.

- [] At least 3 years have passed since the defendant completed the terms and conditions of the sentence, including restitution/legal financial obligations. 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 motion. 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

- 7. Based on the above findings, it is ordered:
  - [] The motion for order vacating conviction records of the following offense(s) is granted.

Count No:	Offense:	
Count No:	Offense:	
Count No:	Offense:	

#### IT IS FURTHER ORDERED 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 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; or (ii) stalking.

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 docal 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 or 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).

8. [] The motion for order vacating conviction records of the following offense(s) is denied.

	Count No:	Offense:	
	Count No:	Offense:	
	Count No:	Offense:	
Dated:			
			JUDGE/COMMISSIONER
Submitted by:			Approved:
Defendant/Attorney for Defendant/WSBA #			Deputy Prosecuting Attorney/WSBA #
Print Name			Print Name

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# **Compare Results**

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 CrRLJ 09.0300

 09\_0300\_InstructVacateMisdConvictions\_2019
 versus

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 2 pages (251 KB)

 1/6/2020 10:56:46 AM
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**Total Changes** 

Content

76

25	Replacements
10	Insertions

11 Deletions

# Styling and Annotations

 $30 \ {\rm Styling}$ 

0 Annotations

### INSTRUCTIONS FOR VACATING MISDEMEANOR AND GROSS MISDEMEANOR CONVICTIONS

#### 1. BACKGROUND INFORMATION

Washington law permits the vacation of some misdemeanor or gross misdemeanor convictions. Vacation of a conviction releases you from all penalties and disabilities resulting from the offense. For all purposes, including responding to questions on employment or housing applications, a person whose conviction has been vacated may state that they have never been convicted of that crime.

Once a conviction is vacated, the fact that you have been convicted of the offense shall not be included in your criminal history for purposes of determining a sentence in any subsequent conviction. 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; or (ii) stalking.

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.

Vacation of a conviction does not automatically restore your right to possess a firearm.

The law does not automatically vacate your conviction. If you want to have a conviction vacated, you must file a motion with the court. The following information will assist you in asking the court to vacate your conviction.

#### 2. CHOOSING THE CORRECT FORM

# a. Marijuana Offen 38880

<sup>14</sup>If you qualify for vacating a marijuana conviction, use form CrRLJ 09.0800, Motion and Declaration for Order Vacating Marijuana Conviction. A court will vacate the conviction(s), if you meet the following criteria for marijuana offenses:

- You were 21 years of age or older at the time of the offense.
- Marijuana offenses eligible to be vacated include, but are not limited to:
  - Any offense under RCW 69.50.4014 from July 1, 2004 onward;
  - o RCW 69.50.401(e), from March 21, 1979 to July 1, 2004;
  - o RCW 69.50.401(d) from May 21, 1971 to March 21, 1979; and
  - o any equivalent misdemeanor ordinance.

See Section 3 to schedule the hearing, file your motion, and notify the prosecutor's office.

## b. Offenses Committed as the Victim of Certain Crimes

If you were the victim of sex-trafficking, prostitution, commercial sexual abuse of a minor, sexual assault, or domestic violence and you committed an offense because you were such a victim, you can file a motion asking the court to vacate the conviction. Use form CrRLJ 09.0100, *Motion and Declaration for Order Vacating Conviction*. Review and fill out Sections 1 and 2. Review each of the requirements listed on the motion to make sure you are eligible. Complete the statement explaining how the crime you committed was caused by being a victim of either sex-

trafficking, prostitution, commercial sexual abuse of a minor, sexual assault, or domestic violence.

# c. All Other Misdemeanor and Gross Misdemeanor Offenses

If you want to vacate an offense other than a marijuana conviction or a conviction which occurred because you were a victim as described in Section 2.b. above, you can file a motion asking the court to vacate the conviction(s) if you have satisfied certain requirements.

To determine if you are eligible, use the form *Motion and Declaration for Order Vacating Conviction*, CrRLJ 09.0100. Review and fill out section 3-6, if applicable. You will fill out different sections of the form depending on if your offense is a DUI-related "prior offense," a domestic violence offense, or an offense not otherwise covered by other sections in the form. Review each of the requirements listed on the appropriate section of the form to ensure you are eligible.

In order to complete the form, you may need to obtain information from the court file or the court docket for the offense(s) you are asking the court to vacate. Some courts may require you to obtain copies of your criminal history records and attach them to your motion. Read the local court rules or contact the clerk of the court where you will file your motion to find out if this requirement or any other local requirement applies to you. Once you have completed and signed the motion and declaration form, make at least 2 copies (one copy for the prosecutor's office and one copy for yourself).

# 3. SCHEDULE THE HEARING, FILE YOUR MOTION, AND PROVIDE A COPY TO THE PROSECUTOR'S OFFICE

The next step is to schedule a hearing for the motion for order vacating conviction. To schedule a hearing, contact the clerk of the court where you were sentenced and ask for the date and time for the hearing. Then, complete the form that the court uses to schedule a hearing. If the court does not require a specific form, you may use CrRLJ 09.0150, *Notice of Hearing to Vacate Conviction*. Make at least 2 copies of the scheduling notice (one copy for the prosecutor's office and one copy for yourself).

File the original motion and declaration for order vacating conviction and the original notice document with the clerk. On the same day that you file those documents with the clerk of the court, you must also provide a copy of each document (the motion and declaration and the scheduling notice) to the prosecuting attorney's office that prosecuted you. Keep a copy of the scheduling notice, the motion and declaration, and any attachments for your information.

The judge will hear your motion for order vacating conviction on the day scheduled for the hearing. You will need to attend the hearing. If the motion is granted, the judge will complete an order vacating your conviction. The clerk of the court will send a copy of the order to the Washington State Patrol and to the local law enforcement agency, if any, which holds criminal history information about you.

# FORM REMOVED FROM THE WASHINGTON COURT FORMS WEBSITE

1. CrRLJ 09.120 Prostitution Conviction Attachment