

**KITSAP COUNTY DISTRICT COURT  
STATE OF WASHINGTON**

STATE OF WASHINGTON,  <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> _____,  <p style="text-align: center;">Defendant.</p>	No. _____  <b>PETITION AND DECLARATION TO VACATE CONVICTION</b>  ___ <b>AMENDED</b>
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**1. PETITION**

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, the case record and files, and the declaration of defendant.

DATED – \_\_\_\_\_

\_\_\_\_\_  
*/s/ Signed Electronically*

[Note – By typing your name, you intend to sign electronically and agree your electronic signature is the same as a handwritten signature for the purpose of validity, enforceability, and admissibility.]

**2. DECLARATION OF DEFENDANT**

I, (*name*) \_\_\_\_\_ state as follows –

2.1 **Conviction(s)**. On (*date*) \_\_\_\_\_, I was convicted of the following offense(s) in this case –

Count No. 1 Offense – \_\_\_\_\_

Count No. 2 Offense – \_\_\_\_\_

Count No. 3 Offense – \_\_\_\_\_

Count No. 4 Offense – \_\_\_\_\_

Count No. 5 Offense – \_\_\_\_\_

2.2 **Excluded Offenses.** I understand that the Court cannot vacate a conviction for the following offenses (RCW 9.96.060(2)(c) – (e)) –

- **DUI.** Driving while under the influence (RCW 46.61.502).
- **Physical Control.** Actual physical control while under the influence (RCW 46.61.504).
- **Sex Offenses.** A violation of chapter 9A.44 RCW (sex offenses), except for failure to register as a sex offender under RCW 9A.44.132.
- **Obscenity And Pornography.** A violation of chapter 9.68 RCW.
- **Sexual Exploitation Of Children.** A violation of chapter 9.68A RCW.
- **Violent Offense.** A violent offense as defined in RCW 9.94A.030, or an attempt to commit a violent offense.
- **Operating Railroad While Intoxicated.** Operating a railroad, etc., while intoxicated (RCW 9.91.020).

2.3 **All Must Be True.** I understand that the Court cannot vacate a conviction unless all of the following statements are true –

- **At Least 3 Years Since Sentence Completed.** 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).
- **No New Convictions Within 3 Years.** 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).
- **No Pending Charges.** 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).
- **Not Restrained By Current Protection/No Contact Order.** 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.
  - **No Violations Within 5 Years.** 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).

2.4 \_\_\_\_\_ **Conviction A “Prior Offense”.** The offense for which I was convicted is considered a “prior offense” under RCW 46.61.5055 (see the end of this petition for a definition of “prior offense”).

All of the following are true (all must be true or the Court cannot vacate the conviction) –

- **Not DUI/Physical.** The prior offense is not a DUI (RCW 46.61.502) or Physical Control (RCW 46.61.504). RCW 9.96.060(2)(d).
- **No New Alcohol/Drug Violations Within 10 Years Of Arrest.** 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 Since Arrest.** More than 10 years have passed since the date of the arrest for the prior offense. RCW 9.96.060(2)(d).

2.5 \_\_\_\_\_ **Domestic Violence Conviction.** The offense for which I was convicted involves domestic violence and I have complied with the following conditions (RCW 9.96.060(2)(f)).

All of the following statements are true (all must be true or the Court cannot vacate the conviction) –

- **Notice To Prosecutor.** I provided the prosecuting attorney’s office that prosecuted the offense with written notice of this petition. RCW 9.96.060(2)(f)(i).
- **Filed Notice.** I filed the original notice with this court. RCW 9.96.060(2)(f)(i).
- **Prior DV Convictions.** I have not been convicted of 2 or more domestic violence offenses stemming from different incidents. RCW 9.96.060(2)(f)(ii).
- **False Affidavit.** 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).
- **At Least 5 Years Since Sentence Completed.** 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 certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct, and that I am the person whose name I typed (or wrote) below.

SIGNED at (city) \_\_\_\_\_, (state) \_\_\_\_\_ on (date) \_\_\_\_\_.

/s/ Signed Electronically  
\_\_\_\_\_

[Note – By typing your name, you intend to sign electronically and agree your electronic signature is the same as a handwritten signature for the purpose of validity, enforceability, and admissibility.]

**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 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.