

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 244
HOUSE BILL 2480

AN ACT

AMENDING SECTION 13-907, ARIZONA REVISED STATUTES; RELATING TO SENTENCING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-907, Arizona Revised Statutes, is amended to
3 read:

4 13-907. Setting aside judgment of convicted person on
5 discharge; application; release from disabilities;
6 firearm possession; exceptions

7 A. Except as provided in subsection K of this section, every person
8 convicted of a criminal offense, on fulfillment of the conditions of
9 probation or sentence and discharge by the court, may apply to the court
10 to have the judgment of guilt set aside. The convicted person shall be
11 informed of this right at the time of sentencing.

12 B. The person or the person's attorney or probation officer may
13 apply to set aside the judgment. The clerk of the court may not charge a
14 filing fee for an application to have a judgment of guilt set aside.

15 C. The court shall consider the following factors when determining
16 whether to set aside the conviction:

17 1. The nature and circumstances of the offense that the conviction
18 is based on.

19 2. The applicant's compliance with the conditions of probation, the
20 sentence imposed and any state department of corrections' rules or
21 regulations, if applicable.

22 3. Any prior or subsequent convictions.

23 4. The victim's input and the status of victim restitution, if any.

24 5. The length of time that has elapsed since the completion of the
25 applicant's sentence.

26 6. The applicant's age at THE time of the conviction.

27 7. Any other factor that is relevant to the application.

28 D. If the application is granted, the court shall set aside the
29 judgment of guilt, dismiss the complaint, information or indictment and
30 order that the person be released from all penalties and disabilities
31 resulting from the conviction except those imposed by:

32 1. The department of transportation pursuant to section 28-3304,
33 28-3305, 28-3306, 28-3307, 28-3308, 28-3312 or 28-3319.

34 2. The game and fish commission pursuant to section 17-314 or
35 17-340.

36 E. A conviction that is set aside may be:

37 1. Used as a conviction if the conviction would be admissible had
38 it not been set aside.

39 2. Alleged as an element of an offense.

40 3. Used as a prior conviction.

41 4. Pled and proved in any subsequent prosecution of the person
42 by this state or any POLITICAL subdivision of this state for any offense.

43 5. Used by the department of transportation in enforcing section
44 28-3304, 28-3305, 28-3306, 28-3307, 28-3308, 28-3312 or 28-3319 as if the
45 judgment of guilt had not been set aside.

1 F. The clerk of the court must notify the department of public
2 safety if a conviction is set aside. The department of public safety must
3 update the person's criminal history with an annotation that the
4 conviction has been set aside but may not redact or remove any part of the
5 person's record.

6 G. This section does not:

7 1. Require a law enforcement agency to redact or remove a record or
8 information from the record of a person whose conviction is set aside.

9 2. Preclude the department of public safety or the board of
10 fingerprinting from considering a conviction that has been set aside when
11 evaluating an application for a fingerprint clearance card pursuant to
12 section 41-1758.03 or 41-1758.07.

13 H. If the court denies an application to have a judgment of guilt
14 set aside, the court shall state its reasons for the denial in writing and
15 on the record.

16 I. A victim has the right to be present and be heard at any
17 proceeding in which the defendant has filed an application to have a
18 judgment of guilt set aside pursuant to this section. If the victim has
19 made a request for postconviction notice, the attorney for the state shall
20 provide the victim with notice of the defendant's application and of the
21 rights provided to the victim in this section.

22 J. Notwithstanding section 13-905 or 13-906, if a conviction is set
23 aside, the person's right to possess a gun or firearm is restored. This
24 subsection does not apply to a person who was convicted of a serious
25 offense as defined in section 13-706.

26 K. This section does not apply to a person who was convicted of any
27 of the following:

28 1. A dangerous offense.

29 2. An offense for which the person is required or ordered by the
30 court to register pursuant to section 13-3821.

31 3. An offense for which there has been a finding of sexual
32 motivation pursuant to section 13-118.

33 4. ~~Att~~ A FELONY offense in which the victim is a minor under fifteen
34 years of age.

35 5. An offense in violation of section 28-3473, any local ordinance
36 relating to stopping, standing or operation of a vehicle or title 28,
37 chapter 3, except a violation of section 28-693 or any local ordinance
38 relating to the same subject matter as section 28-693.

APPROVED BY THE GOVERNOR MAY 22, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 22, 2019.