

STATEMENT OF PURPOSE

RS20495

This bill would modify the class of cases in which courts may exercise their discretion to set aside convictions, or reduce felony convictions to misdemeanors. Idaho Code § 19-2604 now permits persons who have been placed on probation to have their convictions set aside if they have at all times complied with the terms of probation, or if they have graduated from a drug court or mental health court and have complied with all the terms of probation during any subsequent period of probation. The court has discretion to grant this relief or not, and the court can set aside the conviction only if it is convinced that such action is compatible with the public interest. Persons who have been placed on retained jurisdiction and later placed on probation may have their felony convictions reduced to misdemeanors if they satisfy these conditions. Judges have frequently encountered cases where a defendant cannot be granted this relief because of a minor or isolated violation of the terms of probation, often occurring early in the probationary period. These sometimes include cases where the violation was not considered serious enough to warrant the filing of a probation violation charge. This bill would remove the requirement that defendants must at all times comply with the terms of probation to be eligible for relief. It would amend the statute to state that a defendant is eligible for relief if the court did not find, and the defendant did not admit, any violation of the terms of probation in a probation violation proceeding. It would also provide courts the option, where a defendant was placed on probation, of reducing the felony conviction to a misdemeanor. The court could grant relief only upon a finding that such action was compatible with the public interest. Providing a chance for such defendants to have their convictions set aside would give them an added incentive to abide by the terms of probation and live law-abiding lives, and would increase their employment and educational opportunities. As provided under the current statute, sex offenders would not be eligible for relief.

FISCAL NOTE

This bill would have no impact on the general fund.

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