
HOUSE BILL 3092

State of Washington

60th Legislature

2008 Regular Session

By Representatives Quall, Pedersen, Roberts, Ormsby, Darneille, and Hasegawa

Read first time 01/22/08. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to the restoration of the right to vote for people
2 who were convicted of felonies; amending RCW 29A.04.079, 29A.08.520,
3 29A.68.020, 9.92.066, 9.94A.637, and 10.64.140; reenacting and amending
4 RCW 9.96.050; and repealing RCW 10.64.021.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 29A.04.079 and 2003 c 111 s 114 are each amended to
7 read as follows:

8 An "infamous crime" is a crime punishable by death in the state
9 penitentiary or imprisonment in a state correctional facility. The
10 definition of "infamous crime" does not include juvenile adjudications
11 pursuant to chapter 13.40 RCW or adult convictions for misdemeanors and
12 gross misdemeanors.

13 **Sec. 2.** RCW 29A.08.520 and 2005 c 246 s 15 are each amended to
14 read as follows:

15 ~~(1) ((Upon receiving official notice of a person's conviction of a~~
16 ~~felony in either state or federal court, if the convicted person is a~~
17 ~~registered voter in the county, the county auditor shall cancel the~~
18 ~~defendant's voter registration. Additionally, the secretary of state~~

1 ~~in conjunction with the department of corrections, the Washington state~~
2 ~~patrol, the office of the administrator for the courts, and other~~
3 ~~appropriate state agencies shall arrange for a quarterly comparison of~~
4 ~~a list of known felons with the statewide voter registration list.))~~
5 The right to vote is restored following a felony conviction as long as
6 the person is not in total confinement in the custody of the department
7 of corrections or the federal bureau of prisons, whether serving the
8 original sentence or serving time for a violation of supervision
9 conditions, and the person has demonstrated a commitment in paying his
10 or her restitution. Demonstration of a commitment in paying
11 restitution shall be making regular payments for a period of one year
12 after release from total confinement or release from custody of the
13 department of corrections or the federal bureau of prisons. A person
14 in total confinement in the custody of the department of corrections or
15 the federal bureau of prisons as a result of a felony conviction is
16 ineligible to vote.

17 (2) At least twice a year, the secretary of state shall compare the
18 list of registered voters to a list of felons in total confinement in
19 the custody of the department of corrections. If a ((~~person is found~~
20 ~~on a felon list and the statewide voter registration list)) registered~~
21 voter is in total confinement in the custody of the department of
22 corrections, whether serving the original sentence or serving time for
23 a violation of supervision conditions, the secretary of state or county
24 auditor shall confirm the match through a date of birth comparison and
25 suspend the voter registration from the official state voter
26 registration list. The canceling authority shall send to the person at
27 his or her last known voter registration address and at the department
28 of corrections a notice of the proposed cancellation and an explanation
29 of the requirements for restoring the right to vote ((~~once all terms of~~
30 ~~sentencing have been completed)) and reregistering. If the person does~~
31 not respond within thirty days, the registration must be canceled.

32 ~~((2) The right to vote may be restored by, for each felony~~
33 ~~conviction, one of the following:~~

34 ~~(a) A certificate of discharge issued by the sentencing court, as~~
35 ~~provided in RCW 9.94A.637;~~

36 ~~(b) A court order restoring the right, as provided in RCW 9.92.066;~~

37 ~~(c) A final order of discharge issued by the indeterminate sentence~~
38 ~~review board, as provided in RCW 9.96.050; or~~

1 ~~(d) A certificate of restoration issued by the governor, as~~
2 ~~provided in RCW 9.96.020.))~~

3 **Sec. 3.** RCW 29A.68.020 and 2007 c 374 s 4 are each amended to read
4 as follows:

5 Any of the following causes may be asserted by a registered voter
6 to challenge the right to assume office of a candidate declared elected
7 to that office:

8 (1) For misconduct on the part of any member of any precinct
9 election board involved therein;

10 (2) Because the person whose right is being contested was not, at
11 the time the person was declared elected, eligible to hold that office;

12 ~~(3) ((Because the person whose right is being contested was~~
13 ~~previous to the election convicted of a felony by a court of competent~~
14 ~~jurisdiction, the conviction not having been reversed nor the person's~~
15 ~~civil rights restored after the conviction;~~

16 ~~(4))~~ Because the person whose right is being contested gave a
17 bribe or reward to a voter or to an inspector or judge of election for
18 the purpose of procuring the election, or offered to do so;

19 ~~((5))~~ (4) On account of illegal votes.

20 (a) Illegal votes include but are not limited to the following:

21 (i) More than one vote cast by a single voter;

22 (ii) A vote cast by a person disqualified under Article VI, section
23 3 of the state Constitution.

24 (b) Illegal votes do not include votes cast by improperly
25 registered voters who were not properly challenged under RCW 29A.08.810
26 and 29A.08.820.

27 All election contests must proceed under RCW 29A.68.011.

28 **Sec. 4.** RCW 9.92.066 and 2003 c 66 s 2 are each amended to read as
29 follows:

30 (1) Upon termination of any suspended sentence under RCW 9.92.060
31 or 9.95.210, such person may apply to the court for restoration of his
32 or her civil rights not already restored by RCW 29A.08.520. Thereupon
33 the court may in its discretion enter an order directing that such
34 defendant shall thereafter be released from all penalties and
35 disabilities resulting from the offense or crime of which he or she has
36 been convicted.

1 (2)(a) Upon termination of a suspended sentence under RCW 9.92.060
2 or 9.95.210, the person may apply to the sentencing court for a
3 vacation of the person's record of conviction under RCW 9.94A.640. The
4 court may, in its discretion, clear the record of conviction if it
5 finds the person has met the equivalent of the tests in RCW
6 9.94A.640(2) as those tests would be applied to a person convicted of
7 a crime committed before July 1, 1984.

8 (b) The clerk of the court in which the vacation order is entered
9 shall immediately transmit the order vacating the conviction to the
10 Washington state patrol identification section and to the local police
11 agency, if any, which holds criminal history information for the person
12 who is the subject of the conviction. The Washington state patrol and
13 any such local police agency shall immediately update their records to
14 reflect the vacation of the conviction, and shall transmit the order
15 vacating the conviction to the federal bureau of investigation. A
16 conviction that has been vacated under this section may not be
17 disseminated or disclosed by the state patrol or local law enforcement
18 agency to any person, except other criminal justice enforcement
19 agencies.

20 **Sec. 5.** RCW 9.94A.637 and 2007 c 171 s 1 are each amended to read
21 as follows:

22 (1)(a) When an offender has completed all requirements of the
23 sentence, (~~including any and all legal~~) and has demonstrated a
24 commitment to pay financial obligations pursuant to RCW 29A.08.520, and
25 while under the custody and supervision of the department, the
26 secretary or the secretary's designee shall notify the sentencing
27 court, which shall discharge the offender and provide the offender with
28 a certificate of discharge by issuing the certificate to the offender
29 in person or by mailing the certificate to the offender's last known
30 address.

31 (b)(i) When an offender has reached the end of his or her
32 supervision with the department and has completed all the requirements
33 of the sentence except his or her legal financial obligations, the
34 secretary's designee shall provide the county clerk with a notice that
35 the offender has completed all nonfinancial requirements of the
36 sentence.

1 (ii) When the department has provided the county clerk with notice
2 that an offender has completed all the requirements of the sentence and
3 the offender subsequently ~~((satisfies))~~ has demonstrated a commitment
4 to pay all legal financial obligations under the sentence, the county
5 clerk shall notify the sentencing court, including the notice from the
6 department, which shall discharge the offender and provide the offender
7 with a certificate of discharge by issuing the certificate to the
8 offender in person or by mailing the certificate to the offender's last
9 known address.

10 (c) When an offender who is subject to requirements of the sentence
11 in addition to the payment of legal financial obligations either is not
12 subject to supervision by the department or does not complete the
13 requirements while under supervision of the department, it is the
14 offender's responsibility to provide the court with verification of the
15 completion of the sentence conditions other than the ~~((payment of~~
16 ~~legal))~~ demonstration of a commitment to pay financial obligations.
17 When the offender ~~((satisfies all legal))~~ demonstrates a commitment to
18 pay financial obligations under the sentence, the county clerk shall
19 notify the sentencing court that the ~~((legal))~~ commitment to pay
20 financial obligations ~~((have been satisfied))~~ has been demonstrated.
21 When the court has received both notification from the clerk and
22 adequate verification from the offender that the sentence requirements
23 have been completed, the court shall discharge the offender and provide
24 the offender with a certificate of discharge by issuing the certificate
25 to the offender in person or by mailing the certificate to the
26 offender's last known address.

27 (2) Every signed certificate and order of discharge shall be filed
28 with the county clerk of the sentencing county. In addition, the court
29 shall send to the department a copy of every signed certificate and
30 order of discharge for offender sentences under the authority of the
31 department. The county clerk shall enter into a database maintained by
32 the administrator for the courts the names of all felons who have been
33 issued certificates of discharge, the date of discharge, and the date
34 of conviction and offense.

35 (3) An offender who is not convicted of a violent offense or a sex
36 offense and is sentenced to a term involving community supervision may
37 be considered for a discharge of sentence by the sentencing court prior

1 to the completion of community supervision, provided that the offender
2 has completed at least one-half of the term of community supervision
3 and has met all other sentence requirements.

4 (4) Except as provided in subsection (5) of this section, the
5 discharge shall have the effect of restoring all civil rights (~~lost by~~
6 ~~operation of law upon conviction~~) not already restored by RCW
7 29A.08.520, and the certificate of discharge shall so state. Nothing
8 in this section prohibits the use of an offender's prior record for
9 purposes of determining sentences for later offenses as provided in
10 this chapter. Nothing in this section affects or prevents use of the
11 offender's prior conviction in a later criminal prosecution either as
12 an element of an offense or for impeachment purposes. A certificate of
13 discharge is not based on a finding of rehabilitation.

14 (5) Unless otherwise ordered by the sentencing court, a certificate
15 of discharge shall not terminate the offender's obligation to comply
16 with an order issued under chapter 10.99 RCW that excludes or prohibits
17 the offender from having contact with a specified person or coming
18 within a set distance of any specified location that was contained in
19 the judgment and sentence. An offender who violates such an order
20 after a certificate of discharge has been issued shall be subject to
21 prosecution according to the chapter under which the order was
22 originally issued.

23 (6) Upon release from custody, the offender may apply to the
24 department for counseling and help in adjusting to the community. This
25 voluntary help may be provided for up to one year following the release
26 from custody.

27 **Sec. 6.** RCW 9.96.050 and 2007 c 363 s 4 and 2007 c 171 s 2 are
28 each reenacted and amended to read as follows:

29 (1)(a) When an offender on parole has performed all obligations of
30 his or her release, including any and all legal financial obligations,
31 for such time as shall satisfy the indeterminate sentence review board
32 that his or her final release is not incompatible with the best
33 interests of society and the welfare of the paroled individual, the
34 board may make a final order of discharge and issue a certificate of
35 discharge to the offender.

36 (b) The board retains the jurisdiction to issue a certificate of
37 discharge after the expiration of the offender's or parolee's maximum

1 statutory sentence. If not earlier granted and any and all legal
2 financial obligations have been paid, the board shall issue a final
3 order of discharge three years from the date of parole unless the
4 parolee is on suspended or revoked status at the expiration of the
5 three years.

6 (c) The discharge, regardless of when issued, shall have the effect
7 of restoring all civil rights (~~lost by operation of law upon~~
8 ~~conviction~~) not already restored by RCW 29A.08.520, and the
9 certification of discharge shall so state.

10 (d) This restoration of civil rights shall not restore the right to
11 receive, possess, own, or transport firearms.

12 (e) The board shall issue a certificate of discharge to the
13 offender in person or by mail to the offender's last known address.

14 (2) The board shall send to the department of corrections a copy of
15 every signed certificate of discharge for offender sentences under the
16 authority of the department of corrections.

17 (3) The discharge provided for in this section shall be considered
18 as a part of the sentence of the convicted person and shall not in any
19 manner be construed as affecting the powers of the governor to pardon
20 any such person.

21 **Sec. 7.** RCW 10.64.140 and 2005 c 246 s 1 are each amended to read
22 as follows:

23 When a person is convicted of a felony, the court shall require the
24 defendant to sign a statement acknowledging that:

25 (1) The defendant's right to vote has been lost due to the felony
26 conviction and the right is restored as long as the defendant is not in
27 total confinement in the custody of the department of corrections,
28 whether serving the original sentence or serving time for a violation
29 of supervision conditions, and has demonstrated a commitment to payment
30 of legal financial obligations pursuant to RCW 29A.08.520; and

31 (2) (~~If the defendant is registered to vote, the voter~~
32 ~~registration will be canceled;~~

33 ~~(3) The right to vote may be restored by:~~

34 ~~(a) A certificate of discharge issued by the sentencing court, as~~
35 ~~provided in RCW 9.94A.637;~~

36 ~~(b) A court order issued by the sentencing court restoring the~~
37 ~~right, as provided in RCW 9.92.066;~~

1 ~~(c) A final order of discharge issued by the indeterminate sentence~~
2 ~~review board, as provided in RCW 9.96.050; or~~

3 ~~(d) A certificate of restoration issued by the governor, as~~
4 ~~provided in RCW 9.96.020; and~~

5 (4)) Voting before the right is restored is a class C felony under
6 RCW 29A.84.660.

7 NEW SECTION. **Sec. 8.** RCW 10.64.021 (Notice of conviction) and
8 1994 c 57 s 1 are each repealed.

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