
SENATE BILL 5530

State of Washington 60th Legislature 2007 Regular Session

By Senators Kohl-Welles, Kline, Fairley, Oemig and Regala

Read first time 01/23/2007. Referred to Committee on Government Operations & Elections.

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, 9.96.050, and 10.64.140; and repealing
4 RCW 10.64.021 and 29A.08.660.

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, or in partial
8 confinement in the custody of the department of corrections in a
9 department of corrections work release facility, whether serving the
10 original sentence or serving time for a violation of supervision
11 conditions. A person in total confinement in the custody of the
12 department of corrections or the federal bureau of prisons or in
13 partial confinement in the custody of the department of corrections in
14 a department of corrections work release facility as a result of a
15 felony conviction is ineligible to vote.

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

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

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

37 ~~(b) A court order restoring the 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.)~~

5 **Sec. 3.** RCW 29A.68.020 and 2003 c 111 s 1702 are each amended to
6 read as follows:

7 Any registered voter may contest the right of any person declared
8 elected to an office to be issued a certificate of election for any of
9 the following causes:

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

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

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

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

21 ~~((5))~~ (4) On account of illegal votes.

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

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

24 (ii) A vote cast by a person disqualified under Article VI, section
25 3 of the state Constitution.

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

29 All election contests must proceed under RCW ~~((29A.68.010))~~
30 29A.68.011.

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

33 (1) Upon termination of any suspended sentence under RCW 9.92.060
34 or 9.95.210, such person may apply to the court for restoration of his
35 or her civil rights not already restored by RCW 29A.08.520. Thereupon
36 the court may in its discretion enter an order directing that such

1 defendant shall thereafter be released from all penalties and
2 disabilities resulting from the offense or crime of which he or she has
3 been convicted.

4 (2)(a) Upon termination of a suspended sentence under RCW 9.92.060
5 or 9.95.210, the person may apply to the sentencing court for a
6 vacation of the person's record of conviction under RCW 9.94A.640. The
7 court may, in its discretion, clear the record of conviction if it
8 finds the person has met the equivalent of the tests in RCW
9 9.94A.640(2) as those tests would be applied to a person convicted of
10 a crime committed before July 1, 1984.

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

23 **Sec. 5.** RCW 9.94A.637 and 2004 c 121 s 2 are each amended to read
24 as follows:

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

32 (b)(i) When an offender has reached the end of his or her
33 supervision with the department and has completed all the requirements
34 of the sentence except his or her legal financial obligations, the
35 secretary's designee shall provide the county clerk with a notice that
36 the offender has completed all nonfinancial requirements of the
37 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 all legal financial obligations
4 under the sentence, the county clerk shall notify the sentencing court,
5 including the notice from the department, which shall discharge the
6 offender and provide the offender with a certificate of discharge by
7 issuing the certificate to the offender in person or by mailing the
8 certificate to the offender's last known address.

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

24 (2) The court shall send a copy of every signed certificate of
25 discharge to the auditor for the county in which the court resides and
26 to the department. The department shall create and maintain a data
27 base containing the names of all felons who have been issued
28 certificates of discharge, the date of discharge, and the date of
29 conviction and offense.

30 (3) An offender who is not convicted of a violent offense or a sex
31 offense and is sentenced to a term involving community supervision may
32 be considered for a discharge of sentence by the sentencing court prior
33 to the completion of community supervision, provided that the offender
34 has completed at least one-half of the term of community supervision
35 and has met all other sentence requirements.

36 (4) Except as provided in subsection (5) of this section, the
37 discharge shall have the effect of restoring all civil rights (~~lost by~~
38 ~~operation of law upon conviction~~) not already restored by RCW

1 29A.08.520, and the certificate of discharge shall so state. Nothing
2 in this section prohibits the use of an offender's prior record for
3 purposes of determining sentences for later offenses as provided in
4 this chapter. Nothing in this section affects or prevents use of the
5 offender's prior conviction in a later criminal prosecution either as
6 an element of an offense or for impeachment purposes. A certificate of
7 discharge is not based on a finding of rehabilitation.

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

17 (6) Upon release from custody, the offender may apply to the
18 department for counseling and help in adjusting to the community. This
19 voluntary help may be provided for up to one year following the release
20 from custody.

21 **Sec. 6.** RCW 9.96.050 and 2002 c 16 s 3 are each amended to read as
22 follows:

23 When a prisoner on parole has performed all obligations of his or
24 her release, including any and all legal financial obligations, for
25 such time as shall satisfy the indeterminate sentence review board that
26 his or her final release is not incompatible with the best interests of
27 society and the welfare of the paroled individual, the board may make
28 a final order of discharge and issue a certificate of discharge to the
29 prisoner. The certificate of discharge shall be issued to the offender
30 in person or by mail to the prisoner's last known address.

31 The board shall send a copy of every signed certificate of
32 discharge (~~to the auditor for the county in which the offender was~~
33 ~~sentenced and~~) to the department of corrections. The department shall
34 create and maintain a data base containing the names of all felons who
35 have been issued certificates of discharge, the date of discharge, and
36 the date of conviction and offense.

1 The board retains the jurisdiction to issue a certificate of
2 discharge after the expiration of the prisoner's or parolee's maximum
3 statutory sentence. If not earlier granted, the board shall make a
4 final order of discharge three years from the date of parole unless the
5 parolee is on suspended or revoked status at the expiration of the
6 three years. Such discharge, regardless of when issued, shall have the
7 effect 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. This restoration of civil
10 rights shall not restore the right to receive, possess, own, or
11 transport firearms.

12 The discharge provided for in this section shall be considered as
13 a part of the sentence of the convicted person and shall not in any
14 manner be construed as affecting the powers of the governor to pardon
15 any such person.

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

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

20 (1) The defendant's right to vote has been lost due to the felony
21 conviction and the right is restored as long as the defendant is not in
22 total confinement in the custody of the department of corrections or in
23 partial confinement in the custody of the department of corrections in
24 a department of corrections work release facility, whether serving the
25 original sentence or serving time for a violation of supervision
26 conditions; and

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

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

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

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

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

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

1 ~~(4)~~) Voting before the right is restored is a class C felony under
2 RCW 29A.84.660.

3 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each
4 repealed:

5 (1) RCW 10.64.021 (Notice of conviction) and 1994 c 57 s 1; and

6 (2) RCW 29A.08.660 (Felony offender--Completion of sentence) and
7 2005 c 246 s 12.

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