
Public Safety Committee

HB 2399

Brief Description: Establishing a certificate of restoration of opportunity.

Sponsors: Representatives Walkinshaw, Goodman, Orwall, Roberts, Jinkins, Tharinger, Ryu, Riccelli, Gregerson, Pettigrew and Pollet.

Brief Summary of Bill

- Creates a process by which a person with a criminal record can be granted a certificate of restoration of opportunity, which removes any professional bar imposed solely as a result of the conviction.

Hearing Date: 1/31/14

Staff: Sarah Koster (786-7303).

Background:

Any state, city, county, or other municipal entity is prohibited from disqualifying a person from employment, or any occupation, trade, vocation, or business for which a state or local license, permit, certificate or registration is required solely because of a prior conviction of a felony. However, a prior conviction may be considered in conjunction with other factors. The following exemptions also apply:

- If the felony is directly related to the employment or profession sought and it has been fewer than 10 years since conviction, the conviction can be the sole reason for a denial.
- If the position is in the county treasurer's office and the felony was for embezzlement or theft, a person may be disqualified from employment even if more than 10 years have passed since the conviction or guilty plea.
- If the position is an education position which requires certification or a position with (or contracted with) a school district or educational service district which requires regularly scheduled unsupervised access to children, conviction of a felony against a child, as specified in RCW 28A.400.322, disqualifies a person even if more than 10 years have passed since the conviction or guilty plea.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Health professions are exempt from the prohibition on disqualification.

Certificate of Discharge.

When an offender has completed all requirements of the sentence, including any and all legal financial obligations (LFOs), the sentencing court, shall provide the offender with a certificate of discharge. The discharge has the effect of restoring all civil rights, with the exception of the right-to-vote, which is automatically provisionally restored upon release from incarceration. An offender's prior record may still be used in determining sentences for later offenses and does not discharge a no-contact or protection order. A certificate of discharge is not based on a finding of rehabilitation.

Summary of Bill:

A certificate of restoration of opportunity may be issued to a person with a criminal record by the sentencing or adjudicating court if the person meets the following eligibility requirements:

1. one year has passed from sentencing for those sentenced by a Washington court to probation, or receiving a deferred sentence or other noncustodial sentencing for a misdemeanor or gross misdemeanor offense or an equivalent juvenile adjudication;
2. 18 months has passed from release from total confinement from a Washington prison or jail or juvenile facility for those sentenced by a Washington court to incarceration for a misdemeanor or gross misdemeanor or an equivalent juvenile adjudication;
3. two years have passed from release from total confinement from a Washington prison or jail or juvenile facility for those sentenced by a Washington court for a class B or C felony or an equivalent juvenile adjudication; or
4. three years have passed from release from total confinement from a Washington prison or jail or juvenile facility for those sentenced by a Washington court for a class A felony or an equivalent juvenile adjudication; and the applicant:
 - a. has completed all sentencing requirements except LFOs and must have a payment plan and substantial compliance for outstanding LFOs;
 - b. was never convicted of a sex offense or a crime with sexual motivation is and is not required to register as a sex offender; and
 - c. has not been arrested for not convicted of a new crime and has no pending criminal charges or known imminent charges.

A reasonable filing fee, not to exceed \$50, may be charged by the clerk of the court.

In determining whether to issue a certificate of restoration of opportunity, a court must:

1. Consider the nature and seriousness of the applicant's criminal history by examining the applicant's judgment and sentence, criminal history and offender score, if applicable, and any certificate of discharge, if obtained by applicant.
2. Consider material evidence of the applicant's restoration, including:
 - a. good conduct in the community or in a correctional facility;
 - b. counseling, psychiatric, or substance abuse treatment; and
 - c. the acquisition of subsequent academic or vocational schooling, employment, or volunteer work.
3. Determine that the applicant is eligible.
4. Find that issuing a certificate assists in the successful reintegration of the offender.
5. Find that issuing a certificate does not pose a substantial risk to public safety.

Restoration must be proven to the court by a preponderance of the evidence.

If a person holds a certificate of rehabilitation of opportunity, no state, county, or municipal department, board, officer, or agency authorized to assess the qualifications of any applicant for a license, certificate of authority, qualification to engage in the practice of a profession or business, or for admission to an examination to qualify for such a license or certificate may disqualify a qualified applicant, solely based on the applicant's criminal history, if the applicant meets all other statutory or regulatory requirements.

An employer or housing provider may, in its sole discretion, determine whether to consider a certificate of restoration of opportunity issued under this chapter in making employment or rental decisions.

Exemptions:

- No finding of abuse, neglect, or misappropriation of property may be removed from the state abuse and neglect registry because of a certificate of restoration of opportunity.
- A certificate of restoration of opportunity does not affect records held by the Washington State Patrol or the Washington Administrative Office of the Courts, except that the certificate must be included together with other relevant records.
- A certificate of restoration of opportunity may not be interpreted as restoring or creating a means to restore any firearms rights or require the removal of a protection order.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.