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**SUBSTITUTE HOUSE BILL 1078**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** House State Government & Tribal Relations (originally sponsored by Representatives Simmons, Young, Dolan, Berry, Fitzgibbon, J. Johnson, Wicks, Chopp, Wylie, Bateman, Ramos, Berg, Shewmake, Tharinger, Ramel, Ortiz-Self, Peterson, Gregerson, Walen, Goodman, Senn, Sells, Ryu, Valdez, Callan, Hackney, Morgan, Ormsby, Pollet, Riccelli, Taylor, Springer, Stonier, Lekanoff, Frame, Santos, Jacobsen, Macri, Davis, Bergquist, and Harris-Talley)

READ FIRST TIME 01/26/21.

1 AN ACT Relating to restoring voter eligibility for all persons  
2 convicted of a felony offense who are not in total confinement under  
3 the jurisdiction of the department of corrections; amending RCW  
4 29A.08.520, 29A.08.230, 29A.40.091, 10.64.140, 2.36.010, and  
5 72.09.275; and adding a new section to chapter 29A.04 RCW.

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

7 **Sec. 1.** RCW 29A.08.520 and 2013 c 11 s 19 are each amended to  
8 read as follows:

9 (1) For a felony conviction in a Washington state court, the  
10 right to vote is (~~provisionally~~) automatically restored as long as  
11 the person is not (~~under the authority~~) serving a sentence of total  
12 confinement under the jurisdiction of the department of corrections.  
13 For a felony conviction in a federal court or any state court other  
14 than a Washington state court, the right to vote is automatically  
15 restored as long as the person is no longer incarcerated. A person  
16 who has been convicted of a felony and is either sentenced to a term  
17 of total confinement under the jurisdiction of the department of  
18 corrections or otherwise incarcerated as provided for in this  
19 subsection must reregister to vote prior to voting.

20 (2) (~~(a) Once the right to vote has been provisionally restored,~~  
21 ~~the sentencing court may revoke the provisional restoration of voting~~

1 ~~rights if the sentencing court determines that a person has willfully~~  
2 ~~failed to comply with the terms of his or her order to pay legal~~  
3 ~~financial obligations.~~

4 ~~(b) If the person has failed to make three payments in a twelve-~~  
5 ~~month period and the county clerk or restitution recipient requests,~~  
6 ~~the prosecutor shall seek revocation of the provisional restoration~~  
7 ~~of voting rights from the court.~~

8 ~~(c) To the extent practicable, the prosecutor and county clerk~~  
9 ~~shall inform a restitution recipient of the recipient's right to ask~~  
10 ~~for the revocation of the provisional restoration of voting rights.~~

11 ~~(3) If the court revokes the provisional restoration of voting~~  
12 ~~rights, the revocation shall remain in effect until, upon motion by~~  
13 ~~the person whose provisional voting rights have been revoked, the~~  
14 ~~person shows that he or she has made a good faith effort to pay as~~  
15 ~~defined in RCW 10.82.090.~~

16 ~~(4) The county clerk shall enter into a database maintained by~~  
17 ~~the administrator for the courts the names of all persons whose~~  
18 ~~provisional voting rights have been revoked, and update the database~~  
19 ~~for any person whose voting rights have subsequently been restored~~  
20 ~~pursuant to subsection (6) of this section.~~

21 ~~(5))~~ At least ~~((twice a year))~~ once a month, the secretary of  
22 state shall compare the list of registered voters to a list of  
23 ~~((felons))~~ persons who are not eligible to vote as provided in  
24 subsection ~~((s))~~ (1) ~~((and (3))~~ of this section. If a registered  
25 voter is not eligible to vote as provided in this section, the  
26 secretary of state or county auditor shall confirm the match through  
27 a date of birth comparison and suspend the voter registration from  
28 the official state voter registration list. The secretary of state or  
29 county auditor shall send to the person at his or her last known  
30 voter registration address and at the department of corrections, if  
31 the person is ~~((under the authority))~~ serving a sentence of total  
32 confinement under the jurisdiction of the department, a notice of the  
33 proposed cancellation and an explanation of the requirements for  
34 ~~((provisionally and permanently))~~ restoring the right to vote and  
35 reregistering. To the extent possible, the secretary of state shall  
36 time the comparison required by this subsection to allow notice and  
37 cancellation of voting rights for ineligible voters prior to a  
38 primary or general election.

39 ~~((6) The right to vote may be permanently restored by one of the~~  
40 ~~following for each felony conviction:~~

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

3 ~~(b) A court order restoring the right, as provided in RCW~~  
4 ~~9.92.066;~~

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

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

9 ~~(7)) (3) For the purposes of this section, ((a person is under~~  
10 ~~the authority of the department of corrections if the person is:~~

11 ~~(a) Serving)) a sentence of total confinement ((in the custody of~~  
12 ~~the department of corrections; or~~

13 ~~(b) Subject to community custody as defined in RCW 9.94A.030))~~  
14 does not include confinement imposed as a sanction for a community  
15 custody violation under RCW 9.94A.633(1).

16 **Sec. 2.** RCW 29A.08.230 and 2020 c 208 s 4 are each amended to  
17 read as follows:

18 For all voter registrations, the registrant shall sign the  
19 following oath:

20 "I declare that the facts on this voter registration form are  
21 true. I am a citizen of the United States, I will have lived at this  
22 address in Washington for at least thirty days immediately before the  
23 next election at which I vote, and I am at least sixteen years  
24 old((~~r~~)). I ((~~am not disqualified from voting due to a court order,~~  
25 ~~and)) have not been judicially declared mentally incompetent, I am  
26 not ((~~under~~)) currently serving a sentence of total confinement under  
27 the jurisdiction of the department of corrections ((~~supervision~~)) for  
28 a Washington felony conviction, and I am not currently incarcerated  
29 for a federal or out-of-state felony conviction."~~

30 **Sec. 3.** RCW 29A.40.091 and 2020 c 12 s 1 are each amended to  
31 read as follows:

32 (1) The county auditor shall send each voter a ballot, a security  
33 envelope in which to conceal the ballot after voting, a larger  
34 envelope in which to return the security envelope, a declaration that  
35 the voter must sign, and instructions on how to obtain information  
36 about the election, how to mark the ballot, and how to return the  
37 ballot to the county auditor. The calendar date of the election must

1 be prominently displayed in bold type, twenty-point font or larger,  
2 on the envelope sent to the voter containing the ballot and other  
3 materials listed in this subsection:

4 (a) For all general elections in 2020 and after;

5 (b) For all primary elections in 2021 and after; and

6 (c) For all elections in 2022 and after.

7 (2) (a) The voter must swear under penalty of perjury that he or  
8 she meets the qualifications to vote, and has not voted in any other  
9 jurisdiction at this election. The declaration must clearly inform  
10 the voter that it is illegal to vote if he or she is not a United  
11 States citizen; it is illegal to vote if he or she (~~has been~~  
12 ~~convicted of a felony and has not had his or her voting rights~~  
13 ~~restored~~) is serving a sentence of total confinement under the  
14 jurisdiction of the department of corrections for a felony conviction  
15 or is currently incarcerated for a federal or out-of-state felony  
16 conviction; and it is illegal to cast a ballot or sign a ballot  
17 declaration on behalf of another voter. The ballot materials must  
18 provide space for the voter to sign the declaration, indicate the  
19 date on which the ballot was voted, and include a telephone number.

20 (b) For any election taking place in 2021, including special  
21 elections, primary elections, or general elections, counties that  
22 have printed ballot materials as of the effective date of this  
23 section are not required to reprint or otherwise reorder ballot  
24 materials to reflect the language required in the declaration under  
25 (a) of this subsection. For counties described under this subsection,  
26 the county auditor shall include an insert with the ballot materials  
27 that predominantly displays the declaration as required under (a) of  
28 this subsection and a statement that any voter who signs the  
29 declaration printed on the ballot envelope will not be deemed to have  
30 committed perjury so long as he or she signs the declaration under  
31 penalty of perjury that he or she meets the qualifications to vote  
32 according to the declaration reflected on the insert. The provisions  
33 of this subsection do not apply after December 31, 2021.

34 (3) For overseas and service voters, the signed declaration  
35 constitutes the equivalent of a voter registration. Return envelopes  
36 for overseas and service voters must enable the ballot to be returned  
37 postage free if mailed through the United States postal service,  
38 United States armed forces postal service, or the postal service of a  
39 United States foreign embassy under 39 U.S.C. 3406.

1 (4) The voter must be instructed to either return the ballot to  
2 the county auditor no later than 8:00 p.m. the day of the election or  
3 primary, or mail the ballot to the county auditor with a postmark no  
4 later than the day of the election or primary. Return envelopes for  
5 all election ballots must include prepaid postage. Service and  
6 overseas voters must be provided with instructions and a privacy  
7 sheet for returning the ballot and signed declaration by fax or  
8 email. A voted ballot and signed declaration returned by fax or email  
9 must be received by 8:00 p.m. on the day of the election or primary.

10 (5) The county auditor's name may not appear on the security  
11 envelope, the return envelope, or on any voting instructions or  
12 materials included with the ballot if he or she is a candidate for  
13 office during the same year.

14 (6) For purposes of this section, "prepaid postage" means any  
15 method of return postage paid by the county or state.

16 NEW SECTION. **Sec. 4.** A new section is added to chapter 29A.04  
17 RCW to read as follows:

18 "Total confinement" has the same meaning as in RCW 9.94A.030, but  
19 a sentence of total confinement does not include confinement imposed  
20 as a sanction for a community custody violation under RCW  
21 9.94A.633(1).

22 **Sec. 5.** RCW 10.64.140 and 2009 c 325 s 5 are each amended to  
23 read as follows:

24 (1) When a person is convicted of a felony and sentenced to a  
25 term of total confinement under the jurisdiction of the department of  
26 corrections, the court shall require the defendant to sign a  
27 statement acknowledging that:

28 (a) The defendant's right to vote has been lost due to the felony  
29 conviction and sentence to a term of total confinement;

30 (b) If the defendant is registered to vote, the voter  
31 registration will be canceled;

32 (c) The right to vote is (~~provisionally~~) automatically restored  
33 as long as the defendant is not (~~under the authority~~) serving a  
34 sentence of total confinement under the jurisdiction of the  
35 department of corrections;

36 (d) The defendant must reregister before voting; and

37 (e) (~~The provisional right to vote may be revoked if the~~  
38 ~~defendant fails to comply with all the terms of his or her legal~~

1 ~~financial obligations or an agreement for the payment of legal~~  
2 ~~financial obligations;~~

3 ~~(f) The right to vote may be permanently restored by one of the~~  
4 ~~following for each felony conviction:~~

5 ~~(i) A certificate of discharge issued by the sentencing court, as~~  
6 ~~provided in RCW 9.94A.637;~~

7 ~~(ii) A court order issued by the sentencing court restoring the~~  
8 ~~right, as provided in RCW 9.92.066;~~

9 ~~(iii) A final order of discharge issued by the indeterminate~~  
10 ~~sentence review board, as provided in RCW 9.96.050; or~~

11 ~~(iv) A certificate of restoration issued by the governor, as~~  
12 ~~provided in RCW 9.96.020; and~~

13 ~~(g))~~ Voting before the right is restored is a class C felony  
14 under RCW 29A.84.660.

15 (2) For the purposes of this section(~~, a person is under the~~  
16 ~~authority of the department of corrections if the person is:~~

17 ~~(a) Serving a~~);

18 (a) A sentence of total confinement ((in the custody of the  
19 department of corrections; or

20 ~~(b) Subject to community custody as defined in RCW 9.94A.030))~~  
21 does not include confinement imposed as a sanction for a community  
22 custody violation under RCW 9.94A.633(1).

23 (b) "Total confinement" has the same meaning as in RCW 9.94A.030.

24 **Sec. 6.** RCW 2.36.010 and 2019 c 41 s 1 are each amended to read  
25 as follows:

26 Unless the context clearly requires otherwise, the definitions in  
27 this section apply throughout this chapter.

28 (1) A jury is a body of persons temporarily selected from the  
29 qualified inhabitants of a particular district, and invested with  
30 power—

31 (a) To present or indict a person for a public offense.

32 (b) To try a question of fact.

33 (2) "Court" when used without further qualification means any  
34 superior court or court of limited jurisdiction in the state of  
35 Washington.

36 (3) "Judge" means every judicial officer authorized to hold or  
37 preside over a court. For purposes of this chapter "judge" does not  
38 include court commissioners or referees.

1 (4) "Juror" means any person summoned for service on a petit  
2 jury, grand jury, or jury of inquest as defined in this chapter.

3 (5) "Grand jury" means those twelve persons impaneled by a  
4 superior court to hear, examine, and investigate evidence concerning  
5 criminal activity and corruption.

6 (6) "Petit jury" means a body of persons twelve or less in number  
7 in the superior court and six in number in courts of limited  
8 jurisdiction, drawn by lot from the jurors in attendance upon the  
9 court at a particular session, and sworn to try and determine a  
10 question of fact.

11 (7) "Jury of inquest" means a body of persons six or fewer in  
12 number, but not fewer than four persons, summoned before the coroner  
13 or other ministerial officer, to inquire of particular facts.

14 (8) "Jury source list" means the list of all registered voters  
15 for any county, merged with a list of licensed drivers and identicard  
16 holders who reside in the county. The list shall specify each  
17 person's name and residence address and conform to the methodology  
18 and standards set pursuant to the provisions of RCW 2.36.054 or by  
19 supreme court rule. The list shall be filed with the superior court  
20 by the county auditor.

21 (9) "Master jury list" means the list of prospective jurors from  
22 which jurors summoned to serve will be randomly selected. The master  
23 jury list shall be either randomly selected from the jury source list  
24 or may be an exact duplicate of the jury source list.

25 (10) "Jury term" means a period of time of one or more days, not  
26 exceeding two weeks for counties with a jury source list that has at  
27 least seventy thousand names and one month for counties with a jury  
28 source list of less than seventy thousand names, during which  
29 summoned jurors must be available to report for juror service.

30 (11) "Juror service" means the period of time a juror is required  
31 to be present at the court facility. This period of time may not  
32 extend beyond the end of the jury term, and may not exceed one week  
33 for counties with a jury source list that has at least seventy  
34 thousand names, and two weeks for counties with a jury source list of  
35 less than seventy thousand names, except to complete a trial to which  
36 the juror was assigned during the service period.

37 (12) "Jury panel" means those persons randomly selected for jury  
38 service for a particular jury term.

1 (13) "Civil rights restored" means a person's right to vote has  
2 been (~~(provisionally or permanently)~~) automatically restored prior to  
3 reporting for jury service.

4 **Sec. 7.** RCW 72.09.275 and 2019 c 43 s 1 are each amended to read  
5 as follows:

6 (1) The department shall notify ((an inmate)) a person, in  
7 writing, of the process for ((provisional and permanent)) restoration  
8 of voting rights, as described in RCW 29A.08.520, prior to the  
9 ((termination of authority of the department over the inmate))  
10 release from, or transfer to partial confinement from, total  
11 confinement under the jurisdiction of the department of corrections  
12 unless a person is being released from a department of corrections  
13 facility to an out-of-state jurisdiction or federal detention center,  
14 pursuant to a felony conviction. The department shall also provide  
15 the ((inmate)) person with:

16 ((+1)) (a) A voter registration form and written instructions  
17 for returning the form by mail; and

18 ((+2)) (b) Written information regarding registering to vote in  
19 person and electronically.

20 (2) For purposes of this section:

21 (a) A sentence of total confinement does not include confinement  
22 imposed as a sanction for a community custody violation under RCW  
23 9.94A.633(1).

24 (b) "Total confinement" has the same meaning as in RCW 9.94A.030.

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