

SHB 1517 - S AMD 251

By Senators Carrell, Hargrove

PULLED 04/15/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 29A.08.520 and 2005 c 246 s 15 are each amended to
4 read as follows:

5 (1) (~~Upon receiving official notice of a person's conviction of a~~
6 ~~felony in either state or federal court, if the convicted person is a~~
7 ~~registered voter in the county, the county auditor shall cancel the~~
8 ~~defendant's voter registration. Additionally, the secretary of state~~
9 ~~in conjunction with the department of corrections, the Washington state~~
10 ~~patrol, the office of the administrator for the courts, and other~~
11 ~~appropriate state agencies shall arrange for a quarterly comparison of~~
12 ~~a list of known felons with the statewide voter registration list. If~~
13 ~~a person is found on a felon list and the statewide voter registration~~
14 ~~list)) For a felony conviction in a Washington state court, the right
15 to vote is provisionally restored as long as the person is not under
16 the authority of the department of corrections. For a felony
17 conviction in a federal court or any state court other than a
18 Washington state court, the right to vote is restored as long as the
19 person is no longer incarcerated.~~

20 (2)(a) Once the right to vote has been provisionally restored, the
21 sentencing court may revoke the provisional restoration of voting
22 rights if the sentencing court determines that a person has willfully
23 failed to comply with the terms of his or her order to pay legal
24 financial obligations.

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

29 (c) To the extent practicable, the prosecutor and county clerk

1 shall inform a restitution recipient of the recipient's right to ask
2 for the revocation of the provisional restoration of voting rights.

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5 person whose provisional voting rights have been revoked, the person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

8 (4) The county clerk shall enter into a database maintained by the
9 administrator for the courts the names of all persons whose provisional
10 voting rights have been revoked, and update the database for any person
11 whose voting rights have subsequently been restored pursuant to
12 subsection (6) of this section.

13 (5) At least twice a year, the secretary of state shall compare the
14 list of registered voters to a list of felons who are not eligible to
15 vote as provided in subsections (1) and (3) of this section. If a
16 registered voter is not eligible to vote as provided in this section,
17 the secretary of state or county auditor shall confirm the match
18 through a date of birth comparison and suspend the voter registration
19 from the official state voter registration list. The ((canceling
20 authority)) secretary of state or county auditor shall send to the
21 person at his or her last known voter registration address and at the
22 department of corrections, if the person is under the authority of the
23 department, a notice of the proposed cancellation and an explanation of
24 the requirements for provisionally and permanently restoring the right
25 to vote ((once all terms of sentencing have been completed)) and
26 reregistering. ((If the person does not respond within thirty days,
27 the registration must be canceled.)) To the extent possible, the
28 secretary of state shall time the comparison required by this
29 subsection to allow notice and cancellation of voting rights for
30 ineligible voters prior to a primary or general election.

31 ((+2)) (6) The right to vote may be permanently restored by((, for
32 each felony conviction,)) one of the following for each felony
33 conviction:

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 (7) For the purposes of this section, a person is under the
4 authority of the department of corrections if the person is:

5 (a) Serving a sentence of confinement in the custody of the
6 department of corrections; or

7 (b) Subject to community custody as defined in RCW 9.94A.030.

8 **Sec. 2.** RCW 9.92.066 and 2003 c 66 s 2 are each amended to read as
9 follows:

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

17 (2)(a) Upon termination of a suspended sentence under RCW 9.92.060
18 or 9.95.210, the person may apply to the sentencing court for a
19 vacation of the person's record of conviction under RCW 9.94A.640. The
20 court may, in its discretion, clear the record of conviction if it
21 finds the person has met the equivalent of the tests in RCW
22 9.94A.640(2) as those tests would be applied to a person convicted of
23 a crime committed before July 1, 1984.

24 (b) The clerk of the court in which the vacation order is entered
25 shall immediately transmit the order vacating the conviction to the
26 Washington state patrol identification section and to the local police
27 agency, if any, which holds criminal history information for the person
28 who is the subject of the conviction. The Washington state patrol and
29 any such local police agency shall immediately update their records to
30 reflect the vacation of the conviction, and shall transmit the order
31 vacating the conviction to the federal bureau of investigation. A
32 conviction that has been vacated under this section may not be
33 disseminated or disclosed by the state patrol or local law enforcement
34 agency to any person, except other criminal justice enforcement
35 agencies.

1 **Sec. 3.** RCW 9.94A.637 and 2007 c 171 s 1 are each amended to read
2 as follows:

3 (1)(a) When an offender has completed all requirements of the
4 sentence, including any and all legal financial obligations, and while
5 under the custody and supervision of the department, the secretary or
6 the secretary's designee shall notify the sentencing court, which shall
7 discharge the offender and provide the offender with a certificate of
8 discharge by issuing the certificate to the offender in person or by
9 mailing the certificate to the offender's last known address.

10 (b)(i) When an offender has reached the end of his or her
11 supervision with the department and has completed all the requirements
12 of the sentence except his or her legal financial obligations, the
13 secretary's designee shall provide the county clerk with a notice that
14 the offender has completed all nonfinancial requirements of the
15 sentence.

16 (ii) When the department has provided the county clerk with notice
17 that an offender has completed all the requirements of the sentence and
18 the offender subsequently satisfies all legal financial obligations
19 under the sentence, the county clerk shall notify the sentencing court,
20 including the notice from the department, which 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 (c) When an offender who is subject to requirements of the sentence
25 in addition to the payment of legal financial obligations either is not
26 subject to supervision by the department or does not complete the
27 requirements while under supervision of the department, it is the
28 offender's responsibility to provide the court with verification of the
29 completion of the sentence conditions other than the payment of legal
30 financial obligations. When the offender satisfies all legal financial
31 obligations under the sentence, the county clerk shall notify the
32 sentencing court that the legal financial obligations have been
33 satisfied. When the court has received both notification from the
34 clerk and adequate verification from the offender that the sentence
35 requirements have been completed, the court shall discharge the
36 offender and provide the offender with a certificate of discharge by
37 issuing the certificate to the offender in person or by mailing the
38 certificate to the offender's last known address.

1 (2) Every signed certificate and order of discharge shall be filed
2 with the county clerk of the sentencing county. In addition, the court
3 shall send to the department a copy of every signed certificate and
4 order of discharge for offender sentences under the authority of the
5 department. The county clerk shall enter into a database maintained by
6 the administrator for the courts the names of all felons who have been
7 issued certificates of discharge, the date of discharge, and the date
8 of conviction and offense.

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

15 (4) Except as provided in subsection (5) of this section, the
16 discharge shall have the effect of restoring all civil rights (~~lost by~~
17 ~~operation of law upon conviction~~) not already restored by RCW
18 29A.08.520, and the certificate of discharge shall so state. Nothing
19 in this section prohibits the use of an offender's prior record for
20 purposes of determining sentences for later offenses as provided in
21 this chapter. Nothing in this section affects or prevents use of the
22 offender's prior conviction in a later criminal prosecution either as
23 an element of an offense or for impeachment purposes. A certificate of
24 discharge is not based on a finding of rehabilitation.

25 (5) Unless otherwise ordered by the sentencing court, a certificate
26 of discharge shall not terminate the offender's obligation to comply
27 with an order issued under chapter 10.99 RCW that excludes or prohibits
28 the offender from having contact with a specified person or coming
29 within a set distance of any specified location that was contained in
30 the judgment and sentence. An offender who violates such an order
31 after a certificate of discharge has been issued shall be subject to
32 prosecution according to the chapter under which the order was
33 originally issued.

34 (6) Upon release from custody, the offender may apply to the
35 department for counseling and help in adjusting to the community. This
36 voluntary help may be provided for up to one year following the release
37 from custody.

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

3 (1)(a) When an offender on parole has performed all obligations of
4 his or her release, including any and all legal financial obligations,
5 for such time as shall satisfy the indeterminate sentence review board
6 that his or her final release is not incompatible with the best
7 interests of society and the welfare of the paroled individual, the
8 board may make a final order of discharge and issue a certificate of
9 discharge to the offender.

10 (b) The board retains the jurisdiction to issue a certificate of
11 discharge after the expiration of the offender's or parolee's maximum
12 statutory sentence. If not earlier granted and any and all legal
13 financial obligations have been paid, the board shall issue a final
14 order of discharge three years from the date of parole unless the
15 parolee is on suspended or revoked status at the expiration of the
16 three years.

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

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

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

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

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

32 **Sec. 5.** RCW 10.64.140 and 2005 c 246 s 1 are each amended to read
33 as follows:

34 (1) When a person is convicted of a felony, the court shall require
35 the defendant to sign a statement acknowledging that:

36 (~~(+1)~~) (a) The defendant's right to vote has been lost due to the
37 felony conviction;

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

3 ~~((3))~~ (c) The right to vote is provisionally restored as long as
4 the defendant is not under the authority of the department of
5 corrections;

6 (d) The defendant must reregister before voting;

7 (e) The provisional right to vote may be revoked if the defendant
8 fails to comply with all the terms of his or her legal financial
9 obligations or an agreement for the payment of legal financial
10 obligations;

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

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

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

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

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

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

23 (2) For the purposes of this section, a person is under the
24 authority of the department of corrections if the person is:

25 (a) Serving a sentence of confinement in the custody of the
26 department of corrections; or

27 (b) Subject to community custody as defined in RCW 9.94A.030.

28 **Sec. 6.** RCW 9.94A.885 and 1999 c 323 s 3 are each amended to read
29 as follows:

30 (1) The clemency and pardons board shall receive petitions from
31 individuals, organizations, and the department for review and
32 commutation of sentences and pardoning of offenders in extraordinary
33 cases, and shall make recommendations thereon to the governor.

34 (2) The board shall receive petitions from individuals or
35 organizations for the restoration of civil rights lost by operation of
36 state law as a result of convictions for federal offenses or out-of-
37 state felonies. The board may issue certificates of restoration

1 limited to (~~the elective rights to vote and to engage~~) engaging in
2 political office. Any certifications granted by the board must be
3 filed with the secretary of state to be effective. In all other cases,
4 the board shall make recommendations to the governor.

5 (3) The board shall not recommend that the governor grant clemency
6 under subsection (1) of this section until a public hearing has been
7 held on the petition. The prosecuting attorney of the county where the
8 conviction was obtained shall be notified at least thirty days prior to
9 the scheduled hearing that a petition has been filed and the date and
10 place at which the hearing on the petition will be held. The board may
11 waive the thirty-day notice requirement in cases where it determines
12 that waiver is necessary to permit timely action on the petition. A
13 copy of the petition shall be sent to the prosecuting attorney. The
14 prosecuting attorney shall make reasonable efforts to notify victims,
15 survivors of victims, witnesses, and the law enforcement agency or
16 agencies that conducted the investigation, of the date and place of the
17 hearing. Information regarding victims, survivors of victims, or
18 witnesses receiving this notice are confidential and shall not be
19 available to the offender. The board shall consider written, oral,
20 audio, or videotaped statements regarding the petition received,
21 personally or by representation, from the individuals who receive
22 notice pursuant to this section. This subsection is intended solely
23 for the guidance of the board. Nothing in this section is intended or
24 may be relied upon to create a right or benefit, substantive or
25 procedural, enforceable at law by any person.

26 NEW SECTION. **Sec. 7.** RCW 10.64.021 (Notice of conviction) and
27 1994 c 57 s 1 are each repealed."

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28 On page 1, line 2 of the title, after "felonies;" strike the
29 remainder of the title and insert "amending RCW 29A.08.520, 9.92.066,

1 9.94A.637, 10.64.140, and 9.94A.885; reenacting and amending RCW
2 9.96.050; and repealing RCW 10.64.021."

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