
SUBSTITUTE SENATE BILL 5167

State of Washington

61st Legislature

2009 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Regala, Kline, and Hargrove)

READ FIRST TIME 02/12/09.

1 AN ACT Relating to allowing a certificate of discharge to be issued
2 when an existing order excludes or prohibits an offender from having
3 contact with a specified person or business, or coming within a set
4 distance of any specified location; amending RCW 9.94A.637 and
5 26.50.110; creating a new section; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that restoration of
8 the right to vote and serve on a jury, for individuals who have
9 satisfied every other obligation of their sentence, best serves to
10 reintegrate them into society, even if a no-contact order exists.
11 Therefore, the legislature further finds clarification of the existing
12 statute is desirable to provide clarity to the courts that a
13 certificate of discharge shall be issued, while the no-contact order
14 remains in effect, once other obligations are completed.

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

17 (1)(a) When an offender has completed all requirements of the
18 sentence, including any and all legal financial obligations, and while

1 under the custody and supervision of the department, the secretary or
2 the secretary's designee shall notify the sentencing court, which shall
3 discharge the offender and provide the offender with a certificate of
4 discharge by issuing the certificate to the offender in person or by
5 mailing the certificate to the offender's last known address.

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

12 (ii) When the department has provided the county clerk with notice
13 that an offender has completed all the requirements of the sentence and
14 the offender subsequently satisfies all legal financial obligations
15 under the sentence, the county clerk shall notify the sentencing court,
16 including the notice from the department, which shall discharge the
17 offender and provide the offender with a certificate of discharge by
18 issuing the certificate to the offender in person or by mailing the
19 certificate to the offender's last known address.

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

35 (2)(a) For purposes of this subsection (2), a no-contact order is
36 not a requirement of the offender's sentence. An offender who has
37 completed all requirements of the sentence, including any and all legal
38 financial obligations, is eligible for a certificate of discharge even

1 if the offender has an existing no-contact order that excludes or
2 prohibits the offender from having contact with a specified person or
3 business or coming within a set distance of any specified location.

4 (b) In the case of an eligible offender who has a no-contact order
5 as part of the judgment and sentence, the offender may petition the
6 court to issue a certificate of discharge and a separate no-contact
7 order by filing a petition in the sentencing court and paying the
8 appropriate filing fee associated with the petition for the separate
9 no-contact order. This filing fee does not apply to an offender
10 seeking a certificate of discharge when the offender has a no-contact
11 order separate from the judgment and sentence.

12 (i) The court shall issue a certificate of discharge and a separate
13 no-contact order under this subsection (2) if the court determines that
14 the offender has completed all requirements of the sentence, including
15 all legal financial obligations. The court shall reissue the no-
16 contact order separately under a new civil cause number for the
17 remaining term and under the same conditions as contained in the
18 judgment and sentence.

19 (ii) A separately issued no-contact order may be enforced under
20 chapter 26.50 RCW.

21 (iii) A separate no-contact order issued under this subsection (2)
22 is not a modification of the offender's sentence.

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

31 ~~((+3))~~ (4) An offender who is not convicted of a violent offense
32 or a sex offense and is sentenced to a term involving community
33 supervision may be considered for a discharge of sentence by the
34 sentencing court prior to the completion of community supervision,
35 provided that the offender has completed at least one-half of the term
36 of community supervision and has met all other sentence requirements.

37 ~~((+4) Except as provided in subsection (5) of this section,)~~ (5)
38 The discharge shall have the effect of restoring all civil rights lost

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

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

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

22 **Sec. 3.** RCW 26.50.110 and 2007 c 173 s 2 are each amended to read
23 as follows:

24 (1)(a) Whenever an order is granted under this chapter, chapter
25 7.90, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a
26 valid foreign protection order as defined in RCW 26.52.020, and the
27 respondent or person to be restrained knows of the order, a violation
28 of any of the following provisions of the order is a gross misdemeanor,
29 except as provided in subsections (4) and (5) of this section:

30 (i) The restraint provisions prohibiting acts or threats of
31 violence against, or stalking of, a protected party, or restraint
32 provisions prohibiting contact with a protected party;

33 (ii) A provision excluding the person from a residence, workplace,
34 school, or day care;

35 (iii) A provision prohibiting a person from knowingly coming
36 within, or knowingly remaining within, a specified distance of a
37 location; or

1 (iv) A provision of a foreign protection order specifically
2 indicating that a violation will be a crime.

3 (b) Upon conviction, and in addition to any other penalties
4 provided by law, the court may require that the respondent submit to
5 electronic monitoring. The court shall specify who shall provide the
6 electronic monitoring services, and the terms under which the
7 monitoring shall be performed. The order also may include a
8 requirement that the respondent pay the costs of the monitoring. The
9 court shall consider the ability of the convicted person to pay for
10 electronic monitoring.

11 (2) A peace officer shall arrest without a warrant and take into
12 custody a person whom the peace officer has probable cause to believe
13 has violated an order issued under this chapter, chapter 7.90, 9.94A,
14 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection
15 order as defined in RCW 26.52.020, that restrains the person or
16 excludes the person from a residence, workplace, school, or day care,
17 or prohibits the person from knowingly coming within, or knowingly
18 remaining within, a specified distance of a location, if the person
19 restrained knows of the order. Presence of the order in the law
20 enforcement computer-based criminal intelligence information system is
21 not the only means of establishing knowledge of the order.

22 (3) A violation of an order issued under this chapter, chapter
23 7.90, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid
24 foreign protection order as defined in RCW 26.52.020, shall also
25 constitute contempt of court, and is subject to the penalties
26 prescribed by law.

27 (4) Any assault that is a violation of an order issued under this
28 chapter, chapter 7.90, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW,
29 or of a valid foreign protection order as defined in RCW 26.52.020, and
30 that does not amount to assault in the first or second degree under RCW
31 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in
32 violation of such an order that is reckless and creates a substantial
33 risk of death or serious physical injury to another person is a class
34 C felony.

35 (5) A violation of a court order issued under this chapter, chapter
36 7.90, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid
37 foreign protection order as defined in RCW 26.52.020, is a class C
38 felony if the offender has at least two previous convictions for

1 violating the provisions of an order issued under this chapter, chapter
2 7.90, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid
3 foreign protection order as defined in RCW 26.52.020. The previous
4 convictions may involve the same victim or other victims specifically
5 protected by the orders the offender violated.

6 (6) Upon the filing of an affidavit by the petitioner or any peace
7 officer alleging that the respondent has violated an order granted
8 under this chapter, chapter 7.90, 9.94A, 10.99, 26.09, 26.10, 26.26, or
9 74.34 RCW, or a valid foreign protection order as defined in RCW
10 26.52.020, the court may issue an order to the respondent, requiring
11 the respondent to appear and show cause within fourteen days why the
12 respondent should not be found in contempt of court and punished
13 accordingly. The hearing may be held in the court of any county or
14 municipality in which the petitioner or respondent temporarily or
15 permanently resides at the time of the alleged violation.

16 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
17 preservation of the public peace, health, or safety, or support of the
18 state government and its existing public institutions, and takes effect
19 immediately.

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