

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1517

61st Legislature
2009 Regular Session

Passed by the House April 22, 2009
Yeas 52 Nays 44

Speaker of the House of Representatives

Passed by the Senate April 15, 2009
Yeas 29 Nays 19

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1517** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1517

AS AMENDED BY THE SENATE

Passed Legislature - 2009 Regular Session

State of Washington

61st Legislature

2009 Regular Session

By Representatives Darneille, Green, Dickerson, Goodman, Ormsby, Roberts, Flannigan, Pedersen, Appleton, Upthegrove, Simpson, Hasegawa, Chase, Lias, Miloscia, Kagi, Hudgins, Hunt, Santos, Wood, Moeller, Williams, Kenney, Carlyle, Nelson, and Quall

Read first time 01/22/09. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to the restoration of the right to vote for people
2 who were convicted of felonies; amending RCW 29A.08.520, 9.92.066,
3 9.94A.637, 10.64.140, and 9.94A.885; reenacting and amending RCW
4 9.96.050; and repealing RCW 10.64.021.

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

6 **Sec. 1.** RCW 29A.08.520 and 2005 c 246 s 15 are each amended to
7 read as follows:

8 ~~(1) ((Upon receiving official notice of a person's conviction of a~~
9 ~~felony in either state or federal court, if the convicted person is a~~
10 ~~registered voter in the county, the county auditor shall cancel the~~
11 ~~defendant's voter registration. Additionally, the secretary of state~~
12 ~~in conjunction with the department of corrections, the Washington state~~
13 ~~patrol, the office of the administrator for the courts, and other~~
14 ~~appropriate state agencies shall arrange for a quarterly comparison of~~
15 ~~a list of known felons with the statewide voter registration list. If~~
16 ~~a person is found on a felon list and the statewide voter registration~~
17 ~~list)) For a felony conviction in a Washington state court, the right~~
18 ~~to vote is provisionally restored as long as the person is not under~~
19 ~~the authority of the department of corrections. For a felony~~

1 conviction in a federal court or any state court other than a
2 Washington state court, the right to vote is restored as long as the
3 person is no longer incarcerated.

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

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

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

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

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

26 (5) At least twice a year, the secretary of state shall compare the
27 list of registered voters to a list of felons who are not eligible to
28 vote as provided in subsections (1) and (3) of this section. If a
29 registered voter is not eligible to vote as provided in this section,
30 the secretary of state or county auditor shall confirm the match
31 through a date of birth comparison and suspend the voter registration
32 from the official state voter registration list. The ((canceling
33 authority)) secretary of state or county auditor shall send to the
34 person at his or her last known voter registration address and at the
35 department of corrections, if the person is under the authority of the
36 department, a notice of the proposed cancellation and an explanation of
37 the requirements for provisionally and permanently restoring the right
38 to vote ((once all terms of sentencing have been completed)) and

1 reregistering. ((If the person does not respond within thirty days,
2 the registration must be canceled.)) To the extent possible, the
3 secretary of state shall time the comparison required by this
4 subsection to allow notice and cancellation of voting rights for
5 ineligible voters prior to a primary or general election.

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

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

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

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

14 (d) A certificate of restoration issued by the governor, as
15 provided in RCW 9.96.020.

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

18 (a) Serving a sentence of 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 **Sec. 2.** RCW 9.92.066 and 2003 c 66 s 2 are each amended to read as
22 follows:

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

30 (2)(a) Upon termination of a suspended sentence under RCW 9.92.060
31 or 9.95.210, the person may apply to the sentencing court for a
32 vacation of the person's record of conviction under RCW 9.94A.640. The
33 court may, in its discretion, clear the record of conviction if it
34 finds the person has met the equivalent of the tests in RCW
35 9.94A.640(2) as those tests would be applied to a person convicted of
36 a crime committed before July 1, 1984.

1 (b) The clerk of the court in which the vacation order is entered
2 shall immediately transmit the order vacating the conviction to the
3 Washington state patrol identification section and to the local police
4 agency, if any, which holds criminal history information for the person
5 who is the subject of the conviction. The Washington state patrol and
6 any such local police agency shall immediately update their records to
7 reflect the vacation of the conviction, and shall transmit the order
8 vacating the conviction to the federal bureau of investigation. A
9 conviction that has been vacated under this section may not be
10 disseminated or disclosed by the state patrol or local law enforcement
11 agency to any person, except other criminal justice enforcement
12 agencies.

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

15 (1)(a) When an offender has completed all requirements of the
16 sentence, including any and all legal financial obligations, and while
17 under the custody and supervision of the department, the secretary or
18 the secretary's designee shall notify the sentencing court, which shall
19 discharge the offender and provide the offender with a certificate of
20 discharge by issuing the certificate to the offender in person or by
21 mailing the certificate to the offender's last known address.

22 (b)(i) When an offender has reached the end of his or her
23 supervision with the department and has completed all the requirements
24 of the sentence except his or her legal financial obligations, the
25 secretary's designee shall provide the county clerk with a notice that
26 the offender has completed all nonfinancial requirements of the
27 sentence.

28 (ii) When the department has provided the county clerk with notice
29 that an offender has completed all the requirements of the sentence and
30 the offender subsequently satisfies all legal financial obligations
31 under the sentence, the county clerk shall notify the sentencing court,
32 including the notice from the department, which shall discharge the
33 offender and provide the offender with a certificate of discharge by
34 issuing the certificate to the offender in person or by mailing the
35 certificate to the offender's last known address.

36 (c) When an offender who is subject to requirements of the sentence
37 in addition to the payment of legal financial obligations either is not

1 subject to supervision by the department or does not complete the
2 requirements while under supervision of the department, it is the
3 offender's responsibility to provide the court with verification of the
4 completion of the sentence conditions other than the payment of legal
5 financial obligations. When the offender satisfies all legal financial
6 obligations under the sentence, the county clerk shall notify the
7 sentencing court that the legal financial obligations have been
8 satisfied. When the court has received both notification from the
9 clerk and adequate verification from the offender that the sentence
10 requirements have been completed, the court shall discharge the
11 offender and provide the offender with a certificate of discharge by
12 issuing the certificate to the offender in person or by mailing the
13 certificate to the offender's last known address.

14 (2) Every signed certificate and order of discharge shall be filed
15 with the county clerk of the sentencing county. In addition, the court
16 shall send to the department a copy of every signed certificate and
17 order of discharge for offender sentences under the authority of the
18 department. The county clerk shall enter into a database maintained by
19 the administrator for the courts the names of all felons who have been
20 issued certificates of discharge, the date of discharge, and the date
21 of conviction and offense.

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

28 (4) Except as provided in subsection (5) of this section, the
29 discharge shall have the effect of restoring all civil rights (~~lost by~~
30 ~~operation of law upon conviction~~) not already restored by RCW
31 29A.08.520, and the certificate of discharge shall so state. Nothing
32 in this section prohibits the use of an offender's prior record for
33 purposes of determining sentences for later offenses as provided in
34 this chapter. Nothing in this section affects or prevents use of the
35 offender's prior conviction in a later criminal prosecution either as
36 an element of an offense or for impeachment purposes. A certificate of
37 discharge is not based on a finding of rehabilitation.

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

10 (6) Upon release from custody, the offender may apply to the
11 department for counseling and help in adjusting to the community. This
12 voluntary help may be provided for up to one year following the release
13 from custody.

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

16 (1)(a) When an offender on parole has performed all obligations of
17 his or her release, including any and all legal financial obligations,
18 for such time as shall satisfy the indeterminate sentence review board
19 that his or her final release is not incompatible with the best
20 interests of society and the welfare of the paroled individual, the
21 board may make a final order of discharge and issue a certificate of
22 discharge to the offender.

23 (b) The board retains the jurisdiction to issue a certificate of
24 discharge after the expiration of the offender's or parolee's maximum
25 statutory sentence. If not earlier granted and any and all legal
26 financial obligations have been paid, the board shall issue a final
27 order of discharge three years from the date of parole unless the
28 parolee is on suspended or revoked status at the expiration of the
29 three years.

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

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

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

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

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

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

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

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

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

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

19 (d) The defendant must reregister before voting;

20 (e) The provisional right to vote may be revoked if the defendant
21 fails to comply with all the terms of his or her legal financial
22 obligations or an agreement for the payment of legal financial
23 obligations;

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

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

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

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

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

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

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

1 (a) Serving a sentence of confinement in the custody of the
2 department of corrections; or

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

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

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

10 (2) The board shall receive petitions from individuals or
11 organizations for the restoration of civil rights lost by operation of
12 state law as a result of convictions for federal offenses or out-of-
13 state felonies. The board may issue certificates of restoration
14 limited to (~~the elective rights to vote and to engage~~) engaging in
15 political office. Any certifications granted by the board must be
16 filed with the secretary of state to be effective. In all other cases,
17 the board shall make recommendations to the governor.

18 (3) The board shall not recommend that the governor grant clemency
19 under subsection (1) of this section until a public hearing has been
20 held on the petition. The prosecuting attorney of the county where the
21 conviction was obtained shall be notified at least thirty days prior to
22 the scheduled hearing that a petition has been filed and the date and
23 place at which the hearing on the petition will be held. The board may
24 waive the thirty-day notice requirement in cases where it determines
25 that waiver is necessary to permit timely action on the petition. A
26 copy of the petition shall be sent to the prosecuting attorney. The
27 prosecuting attorney shall make reasonable efforts to notify victims,
28 survivors of victims, witnesses, and the law enforcement agency or
29 agencies that conducted the investigation, of the date and place of the
30 hearing. Information regarding victims, survivors of victims, or
31 witnesses receiving this notice are confidential and shall not be
32 available to the offender. The board shall consider written, oral,
33 audio, or videotaped statements regarding the petition received,
34 personally or by representation, from the individuals who receive
35 notice pursuant to this section. This subsection is intended solely
36 for the guidance of the board. Nothing in this section is intended or

1 may be relied upon to create a right or benefit, substantive or
2 procedural, enforceable at law by any person.

3 NEW SECTION. **Sec. 7.** RCW 10.64.021 (Notice of conviction) and
4 1994 c 57 s 1 are each repealed.

--- END ---