

HOUSE BILL REPORT

ESHB 1553

As Passed House:
March 2, 2015

Title: An act relating to certificates of restoration of opportunity.

Brief Description: Encouraging certificates of restoration of opportunity.

Sponsors: House Committee on Public Safety (originally sponsored by Representatives Walkinshaw, MacEwen, Ryu, Appleton, Moscoso, Holy, Gregerson, Zeiger, Peterson, Farrell, Walsh, Reykdal, Orwall, Pettigrew, Tharinger, Fitzgibbon and Kagi).

Brief History:

Committee Activity:

Public Safety: 2/3/15, 2/6/15 [DPS].

Floor Activity:

Passed House: 3/2/15, 97-0.

Brief Summary of Engrossed Substitute 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.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Griffey, Pettigrew and Wilson.

Staff: Cassie Jones (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

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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:

1. 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.
2. 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.
3. 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.
4. Health professions are exempt from the prohibition on disqualification.

Summary of Engrossed Substitute Bill:

If a person holds a certificate of restoration of opportunity (CROP), 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.

A CROP may be granted to a person by a superior court if the person meets the following eligibility requirements:

- 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;
- 18 months have passed from release of total or partial 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;
- two years have passed from sentencing for those sentenced by a Washington court to probation, or receiving a deferred sentence or other non-custodial sentence for a class B or C felony or an equivalent juvenile adjudication;
- two years have passed from release from total or partial 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;
- three years have passed from sentencing for those sentenced by a Washington court to probation, or receiving a deferred sentence or other noncustodial sentencing for a class A felony or an equivalent juvenile adjudication; or
- three years have passed from release from total or partial 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.

All applicants in the above six categories must also meet the following additional requirements:

- is in compliance with, or has completed, all sentencing requirements including legal financial obligations (if the person is out of compliance with his or her payment plan, good cause must be established with the court);
- was never convicted of a sex offense or a crime with sexual motivation and is not required to register as a sex offender; and
- has not been arrested for nor convicted of a new crime and has no pending criminal charges or known imminent charges.

Exemptions:

1. Criminal justice agencies are exempt and may disqualify an individual who holds a CROP based solely on criminal history.
2. The Washington State Bar Association is exempt and may disqualify an individual who holds a CROP based solely on criminal history.
3. The Department of Social and Health Services (DSHS) has discretion to disqualify an individual who holds a CROP based solely on criminal history if the employment involves unsupervised access to vulnerable adults, children, or individuals with mental illness or developmental disabilities. The DSHS is immune from suit for damages based on its exercise of this discretion.
4. The Department of Health (DOH) has discretion to disqualify an individual who holds a CROP based solely on criminal history if practice of the profession involves unsupervised contact with vulnerable adults, children, or individuals with mental illness or developmental disabilities. The DOH is immune from suit for damages based on its exercise of this discretion.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) There is a need to find ways to enable successful re-entry and empower employers to make hiring decisions based on better information. The bill allows the certificates to be granted by the court when the individuals convicted of a crime have met a specific set of objective criteria. The bill attempts to satisfy the needs of employers and protect society. The bill allows individuals who have served time to come back to society and get access to employment and housing. This is an effort to prevent re-offense.

It is not the mission of the criminal justice system to impose lifelong disabilities on people who break the law. There should be a social mission to make sure offenders do not recidivate. Collateral consequences are consequences of conviction that were not a part of the sentence. This trips up offenders on the road to becoming a tax payer. The certificate is a receipt to be earned that shows debt payment to society. Those that search the criminal

history will see both the certificate and the conviction. It is a transparent alternative to sealing a conviction. There is no employer mandate.

This bill is about the spirit of redemption. Studies show that employment reduces recidivism. There are exceptions for individuals with a CROP who would work with youth or vulnerable adults. Offenders getting out of institutions are full of hope and seek to change their lives. They have to have employment in order to do this. Losing hope leads to a loss of care for society. This bill addresses collateral consequences of crime. Judges see the consequences first hand. There are incredible barriers. This bill provides a realistic second chance. This is the right approach to addressing past criminal history rather than other approaches that attempt to hide and conceal things.

This bill creates employment opportunities for individuals with a criminal history. There is a need to address safety of vulnerable people and this bill gives the flexibility to promote that safety. This certificate is only as good as it is fully displayed. Anytime state patrol records are accessed it should be the first thing that is seen. This will increase the effectiveness of the tool.

A felony conviction can be an absolute bar in the helping professions. A trained, experienced individual who acquires a felony conviction may be excluded from employment due to the law. Criminal convictions create a daunting array of roadblocks for a job search. There are financial and emotional impacts on families. It is time to open the economy to individuals convicted of crimes who want to rebuild their lives. One in five Washington adults has a criminal record. Jobs reduce recidivism. There are 90 career paths closed to people with a criminal history. This is a social justice issue because there is disproportionate impact of incarceration and unemployment on people of color. A CROP will improve public safety and strengthen families. The bill strikes an appropriate balance between patient safety and the need to reintegrate offenders into society.

(Opposed) None.

Persons Testifying: Representative Walkinshaw, prime sponsor; Dan Satterberg, King County Prosecuting Attorney's Office; Merf Ehman, Columbia Legal Services; Bill Hinkle, Rental Housing Association; Glenna Awbrey, STAR Project; Elizabeth Martin, Superior Court Judges Association; James McMahan, Washington Association of Sheriffs and Police Chiefs; Jim Vollendroff, King County Department of Human Services; Bill Moss, Department of Social and Health Services; Rowland Thompson, Allied Daily Newspapers; William Keizer; Rolando Avila and Andrian Sherman, Poverty Action Network; Mike Schwartz, YWCA, King-Snohomish County; Nick Federici, Pioneer Human Services; Julia Gorton, Washington Restaurant Association; Kristin Peterson, Department of Health; and Devon Schrum, Department of Corrections.

Persons Signed In To Testify But Not Testifying: None.