

SENATE BILL REPORT

ESHB 1553

As of March 20, 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: Passed House: 3/02/15, 97-0.

Committee Activity: Law & Justice: 3/19/15.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Lindsay Erickson (786-7465)

Background: Under current law, any state, county, city, 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 license, permit, certificate, or registration is required solely because of a prior conviction of a felony. However, the state, county, city, or other municipal entity may consider the fact of any prior conviction.

The following exceptions apply to the above law:

- if the felony prior conviction directly relates to the position of employment sought or to the specific occupation, trade, vocation, or business for which the license, permit, certification, or registration is sought, and the time elapsed since the conviction is less than ten years;
- if the position is in the county treasurer's office, a person may be disqualified from employment because of a prior guilty plea or conviction of a felony involving embezzlement or theft, even if the time elapsed since the guilty plea or conviction is ten years or more;
- if the position is an educational position which requires certification under chapters 28A.405 or 28A.410 RCW, or if the position is with a school district, educational service district, or with their contractors hiring employees who will have regularly scheduled unsupervised access to children, the person may be disqualified because of a prior guilty plea or the conviction of a felony crime against children, as specified

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- under RCW 28A.400.322, even if the time elapsed since the guilty plea or conviction is ten years or more; and
- health professionals are exempt from the prohibition on disqualification.

Summary of 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 and 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 imposed by a court including legal financial obligations, and if out of compliance, good cause must be established with the court;
- has never been 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 charge or known imminent charge.

The following exemptions apply:

- Criminal justice agencies are exempt and may disqualify an individual who holds a CROP based solely on criminal history;

- The Washington State Bar Association is exempt and may disqualify an individual who holds a CROP based solely on criminal history;
- 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. DSHS is immune from suit for damages based on its exercise of this discretion; and
- 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. DOH is immune from suit for damages based on its exercise of this discretion.

A qualified court has jurisdiction to issue a CROP to a qualified applicant. A court must determine, in its discretion, whether the certificate applies to all past criminal history or applies only to the convictions or adjudications in the jurisdiction of the court. The CROP does not apply to any future criminal justice involvement that occurs after the certificate is issued. A CROP has no effect on any other court records, including records in the judicial information system.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: There are a number of employers statewide that may deny a person employment based on that person's criminal history. This bill does not impact an employer's ability to make a choice about hiring, it does not mandate employers to act, and it does not create a cause of action. Rather, this bill removes a barrier and empowers employers by providing them with additional information that will be helpful when making a choice about hiring an individual who has met a set of criteria and is now motivated to seek employment. The employer can see the applicant's criminal record, but can also see that the person is in compliance, as determined by a court. There are between 6000 and 7000 people reentering our society from prison each year, and many of those individuals end up back in prison. Sixty percent of those people released one year ago still do not have jobs. There are over 90 professional licenses that bar people with felonies from applying. This bill could reduce the rate of recidivism and reduce the need to build a new prison. It provides an open and transparent alternative to sealing and increases public safety, reduces cost to the criminal justice system, and avoids harm to future victims. This bill does not give people a free pass – they need to work hard in order to be successful in society. The system will see many downstream savings including an increase in the number tax-paying citizens.

Persons Testifying: PRO: Representative Walkinshaw, prime sponsor; Dan Satterberg, WA Assn. of Prosecuting Attorneys; Merf Ehman, Columbia Legal Services; Brad Finegood,

King Co. Dept. of Community Health Services; Bill Hinkle, Rental Housing Assn.; Liz Mills, YWCA Seattle, King, Snohomish; James McMahan, WA Assn. of Sheriffs and Police Chiefs; Julie Gorton, WA Restaurant Assn.; Bill Keizer, Tonia Morrison, citizens.

Persons Signed in to Testify But Not Testifying: PRO: Nick Federici, Pioneer Human Services.