

SENATE BILL REPORT

SB 6228

As Reported by Senate Committee On:
State Government, Tribal Relations & Elections, January 24, 2020

Title: An act relating to restoring voter eligibility for all persons convicted of a felony offense who are not in total confinement under the jurisdiction of the department of corrections.

Brief Description: Restoring voter eligibility for all persons convicted of a felony offense who are not in total confinement under the jurisdiction of the department of corrections.

Sponsors: Senators Kuderer, Darneille, Saldaña, Pedersen, Nguyen, Hasegawa, Carlyle, Lovelett, Cleveland, Billig, Keiser, McCoy, Liias, Hunt, Wilson, C., Randall, Mullet, Takko, Das, Dhingra and Stanford.

Brief History:

Committee Activity: State Government, Tribal Relations & Elections: 1/22/20, 1/24/20 [DPS, w/oRec].

Brief Summary of First Substitute Bill

- Automatically restores voting rights for persons as soon as a sentence of total confinement under the jurisdiction of the Department of Corrections (DOC) is ended.
- Requires the Secretary of State to compare the voter rolls to a list of persons serving sentences of total confinement under DOC jurisdiction at least once a month.
- Makes conforming changes regarding the voter oath, jury pool, and DOC notification of voting rights.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

Majority Report: That Substitute Senate Bill No. 6228 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Hasegawa and Takko.

Minority Report: That it be referred without recommendation.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Signed by Senators Zeiger, Ranking Member; Muzzall, Assistant Ranking Member.

Staff: Samuel Brown (786-7470)

Background: Voter Registration. Persons who are age 18 or older, are United States citizens, have lived in the state, county, and precinct for 30 days immediately preceding an election, and have not been convicted of an infamous crime are entitled to vote under the Washington State Constitution. A person with a felony conviction may have their voting rights provisionally restored upon completion of their sentence in a DOC facility and, if applicable, completion of a period of community custody.

At least twice a year, the Secretary of State must compare lists of persons who have lost voting rights due to incarceration and who have had a provisional restoration of rights revoked against the list of registered voters. If a person appears to be ineligible to vote, the Secretary of State must confirm that person's identity by matching the dates of birth on each list prior to suspending that person from the list of registered voters.

A person may have their voting rights permanently restored after serving a sentence for a felony conviction by:

- a certificate of discharge issued by the sentencing court;
- a court order restoring voting rights;
- a final order of discharge issued by the Indeterminate Sentence Review Board; or
- a certificate of restoration issued by the Governor.

Community Custody. Certain felony offenses require the offender to serve a period of community custody after completing their sentence in a DOC facility, with periodic reporting to DOC and certain court-imposed conditions. These offenses include:

- persons convicted of sex offenses or serious violent offenses must serve 36 months of community custody;
- persons convicted of other violent offenses must serve 18 months of community custody; and
- persons convicted of crimes against persons, gang members or associates convicted of unlawful possession of a firearm, persons convicted of controlled substance violations, and persons committing a first failure to register must serve 12 months of community custody.

Any person who violates a condition or requirement of a term of community custody may be sentenced by a court to up to 60 days of additional confinement or by DOC to up to 30 days of additional confinement for each violation.

Legal Financial Obligations. When a defendant is convicted of a crime, the court may impose various legal financial obligations as part of the judgment and sentence. The requirement that an offender pay a monthly sum toward a legal financial obligation is a condition of the sentence, and an offender is subject to penalties for noncompliance. A provisional restoration of voting rights may be revoked if the person fails to comply with legal financial obligations.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (First Substitute): Voter Registration. A person with a felony conviction is automatically eligible to register to vote if the person is not serving a sentence of total confinement under DOC jurisdiction. Persons whose rights are automatically restored after a sentence of total confinement must re-register to vote. The person need not have completed community custody or fulfilled all legal financial obligations to register to vote. A sanction for a community custody violation which does not result in a sentence of total confinement does not result in a loss of the right to vote. Provisional voter registration is replaced with permanent voter registration.

List Maintenance. Comparison of the voter rolls to the list of persons whose voting rights have been suspended due to incarceration must occur at least monthly. The person's last known address and county, driver's license number, and last four digits of a Social Security Number may also be used to confirm the person's identity prior to suspension from the list of registered voters.

Other Provisions. Conforming changes are made to the voter registration oath and statutory eligibility for the jury service pool. The statement a person convicted of a felony must sign acknowledging the loss of the right to vote is modified to reflect the restoration of the right to vote upon release from DOC custody.

EFFECT OF CHANGES MADE BY STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS COMMITTEE (First Substitute): Conforming changes are made to the ballot declaration to inform the voter it is illegal to vote if currently incarcerated for a federal or out-of-state felony conviction. The effective date of the bill is changed to January 1, 2021.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 1, 2021.

Staff Summary of Public Testimony on Proposed Substitute: *The committee recommended a different version of the bill than what was heard.* PRO: Community custody gives people a second chance at life—they can maintain employment, pay taxes, and live in the community with family and friends, but they cannot vote. Restoring voter rights is an important tool to reduce the chances of re-offending. African Americans and Native Americans are over-represented in the criminal justice system, and by restoring voting rights, our political representation will be more accurate. There is no criminological basis for eliminating the right to vote when someone is out of DOC custody. By simplifying voter eligibility criteria, we reduce the risk that a state employee will mistakenly inform someone that they are ineligible to vote. This bill is consistent with DOC's mission, vision, and values.

I found a connection to my community through civic engagement, but it is difficult when I feel unrepresented because I am unable to vote. I have complied with all my conditions of supervision and want to have a positive influence on my community; my transition has been a great lesson and restoring my right to vote would be a great blessing. Denial of the right to

vote is constructively denying full reintegration into society. After release from federal prison, the federal government says I can vote, but I am unable to because I am on state supervision. It is very confusing. Being involved in my community helps me not go back to my former way of life. We have completed our debts to society and we do have a voice. Allowing people to vote stops otherizing people—you get known as "the felon" when you can not participate in a voter registration drive and you know you are not like the rest of the group.

Voting is a fundamental right, and disenfranchisement is uncondusive to successful re-entry. I received a ballot while in prison in a state allowing that and it made me feel connected to the community. Despite outreach, we routinely hear from impacted individuals who are denied voter registration. Bar associations support this proposal. Washington is falling behind the growing consensus of states that allow automatic restoration of rights after release. Data from professionals in the field affirm the personal stories that this provides a pathway to becoming a successful member of society.

This would restore voting rights to about 10,000 people on community custody. Felony disenfranchisement is historically related to systematic racism and Jim Crow laws. This would provide merciful and smart justice. This is a small, but deeply meaningful change to eligibility that will make people in the communities we reach resources to build trust in the system rather than sowing cynicism. County auditors support this proposal from an administration standpoint. This rule could not be clearer—I just have to ask "when you go to bed tonight, who's locking the door?" If it is DOC, you can not register to vote; if it is anyone else, you can register.

OTHER: This proposal is defensible constitutionally, creates a clear bright line for election administrators, and can be implemented securely and transparently. We leave the law and justice questions to legislators.

Persons Testifying: PRO: Senator Patty Kuderer, Prime Sponsor; Louis Ihrig, Civil Survival; Samuel Merrill, Quaker Voice on Washington Public Policy; Russell Brown, Washington Association of Prosecuting Attorneys; Stephen Sinclair, Secretary, Department of Corrections; Autumn Witten, Department of Corrections; Sahar Fathi, Washington State Attorney General's Office; Lavonnie McManus, Jeff Beaulac, LeTaxione, I Did The Time; Paddy McGuire, Mason County Auditor; Christopher Poulos, Washington State Reentry Council; Jaime Hawk, ACLU of Washington; Kamau Chege, Washington Census Alliance; Ashley Sutton, Washington Voting Justice Coalition.

OTHER: Jay Jennings, Office of Secretary of State.

Persons Signed In To Testify But Not Testifying: No one.