

FINAL BILL REPORT

ESHB 1078

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Synopsis as Enacted

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: House Committee on State Government & Tribal Relations (originally sponsored by Representatives Simmons, Young, Dolan, Berry, Fitzgibbon, Johnson, J., Wicks, Chopp, Wylie, Bateman, Ramos, Berg, Shewmake, Tharinger, Ramel, Ortiz-Self, Peterson, Gregerson, Walen, Goodman, Senn, Sells, Ryu, Valdez, Callan, Hackney, Morgan, Ormsby, Pollet, Riccelli, Taylor, Springer, Stonier, Lekanoff, Frame, Santos, Jacobsen, Macri, Davis, Bergquist and Harris-Talley).

House Committee on State Government & Tribal Relations
Senate Committee on State Government & Elections

Background:

Voting Rights.

Any person who is at least 18 years old, a United States citizen, and has lived in the state, county, and precinct for 30 days preceding an election is entitled to vote, unless that person has been convicted of an infamous crime and their civil rights have not been restored. An "infamous crime" includes any crime classified as a felony.

A person who has been convicted of a felony in an out-of-state or federal court may have their voting rights restored if the person is not incarcerated. A person who has been convicted of a felony in a state court in Washington may have their right to vote provisionally restored if the person is not under the authority of the Department of Corrections (DOC). A person is under the authority of the DOC if the person is: serving a sentence of confinement in the custody of the DOC or subject to community custody.

The person's right to vote may then be permanently restored by any of the following methods for each felony conviction:

- a certificate of discharge issued by the sentencing court;

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- 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.

Any person who is convicted of a felony is required by the court to sign a statement acknowledging that, among other things, the person's right to vote has been lost, the person's voter registration will be canceled, the ways in which the person's right to vote may be restored, and that the person must reregister before voting.

Community Custody.

Community custody is the portion of a person's sentence served in the community subject to conditions imposed by the court and the DOC. Courts must order community custody for persons convicted of certain crimes or in accordance with a sentencing alternative.

Community custody conditions may include: Living in an approved residence; refraining from contacting certain persons; drug and alcohol treatment; and others. If a person violates the conditions of community custody, the person may be subject to a variety of sanctions. Certain violations may result in the person being returned to confinement for specified periods.

Legal Financial Obligations.

When a person is convicted of a crime, the court may impose legal financial obligations (LFOs) as part of the judgment and sentence. Legal financial obligations include: Restitution; crime victims' compensation fees; costs associated with the person's prosecution and sentence; fines; penalties; and assessments. If a person willfully fails to pay their LFOs, the person may be subject to penalties for noncompliance.

A person may have the provisional restoration of their voting rights revoked if a sentencing court determines that a person willfully failed to comply with the terms of the order to pay their LFOs. In addition, if a person fails to make three payments towards the balance of their LFO in a 12-month period and the county clerk or restitution recipient requests, the prosecutor must seek to revoke that person's provisional voting right.

Voter Rolls.

At least twice a year, the Secretary of State (Secretary) must compare the list of registered voters to a list of persons not eligible to vote due to a felony conviction or having their provisional voting rights revoked. If a person is found to not be eligible to vote, the Secretary or the county auditor must send that person a notice of the proposed cancellation of their voter registration and an explanation of the requirements for provisionally and permanently restoring their right to vote.

Notice to Inmates.

Prior to the termination of its authority over a person, the DOC must notify the person in writing of the process to provisionally and permanently restore the person's voting rights.

Summary:

Voting Rights.

The two-step approach of provisional and permanent restoration of a person's voting rights after a felony conviction is removed. Instead, after a felony conviction in a state court, the right to vote is automatically restored if the person is not serving a sentence of total confinement under the jurisdiction of the DOC. As used in the elections code, "total confinement" means 24-hour confinement inside the physical boundaries of a facility or institution operated or used under contract by the state or any other unit of government, but does not include confinement imposed as a sanction for a community custody violation.

For a conviction of a felony offense in a state court in Washington, a person must reregister to vote only if they are sentenced to a term of total confinement under the jurisdiction of the DOC. For convictions in out-of-state and federal courts, a person must reregister only if they were incarcerated.

A defendant who is convicted of a felony is required to sign a statement acknowledging the loss of their voting right only if that person is sentenced to a term of total confinement under the jurisdiction of the DOC. Conforming changes are made to the content of the statement of acknowledgment.

Legal Financial Obligations.

Provisions authorizing revocation of a person's voting right for reason of failure to pay their LFOs are removed.

Voter Rolls.

At least once a month, the Secretary must compare the list of registered voters to a list of persons not eligible to vote due to serving a sentence of total confinement under the jurisdiction of the DOC.

Notice to Inmates.

Conforming changes are made to the DOC's notice requirement to inmates. The DOC must provide the required notice to the inmate prior to release from, or transfer to partial confinement from, total confinement. The DOC is not required to provide the specified voter registration information to persons who are released from the DOC's facility to an out-of-state jurisdiction or to a federal detention center, pursuant to a felony conviction.

Other Provisions.

Conforming changes are made to the voter registration oath, voter declaration enclosed with a ballot, and statutory eligibility to serve as a juror.

Votes on Final Passage:

House 57 41

Senate 27 22

Effective: January 1, 2022