

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1078

Chapter 10, Laws of 2021

67th Legislature
2021 Regular Session

VOTER ELIGIBILITY--PERSONS CONVICTED OF A FELONY OFFENSE

EFFECTIVE DATE: January 1, 2022

Passed by the House February 24, 2021
Yeas 57 Nays 41

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate March 24, 2021
Yeas 27 Nays 22

DENNY HECK

President of the Senate

Approved April 7, 2021 3:36 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1078** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

April 7, 2021

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1078

Passed Legislature - 2021 Regular Session

State of Washington 67th Legislature 2021 Regular Session

By House State Government & Tribal Relations (originally sponsored by Representatives Simmons, Young, Dolan, Berry, Fitzgibbon, J. Johnson, 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)

READ FIRST TIME 01/26/21.

1 AN ACT Relating to restoring voter eligibility for all persons
2 convicted of a felony offense who are not in total confinement under
3 the jurisdiction of the department of corrections; amending RCW
4 29A.08.520, 29A.08.230, 29A.40.091, 10.64.140, 2.36.010, and
5 72.09.275; adding a new section to chapter 29A.04 RCW; and providing
6 an effective date.

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

8 **Sec. 1.** RCW 29A.08.520 and 2013 c 11 s 19 are each amended to
9 read as follows:

10 (1) For a felony conviction in a Washington state court, the
11 right to vote is (~~(provisionally)~~) automatically restored as long as
12 the person is not (~~(under the authority)~~) serving a sentence of total
13 confinement under the jurisdiction of the department of corrections.
14 For a felony conviction in a federal court or any state court other
15 than a Washington state court, the right to vote is automatically
16 restored as long as the person is no longer incarcerated. A person
17 who has been convicted of a felony and is either sentenced to a term
18 of total confinement under the jurisdiction of the department of
19 corrections or otherwise incarcerated as provided for in this
20 subsection must reregister to vote prior to voting.

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

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

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

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

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

23 ~~(5))~~ At least ~~((twice a year))~~ once a month, the secretary of
24 state shall compare the list of registered voters to a list of
25 ~~((felons))~~ persons who are not eligible to vote as provided in
26 subsection~~((s))~~ (1) ~~((and (3))~~ of this section. If a registered
27 voter is not eligible to vote as provided in this section, the
28 secretary of state or county auditor shall confirm the match through
29 a date of birth comparison and suspend the voter registration from
30 the official state voter registration list. The secretary of state or
31 county auditor shall send to the person at his or her last known
32 voter registration address and at the department of corrections, if
33 the person is ~~((under the authority))~~ serving a sentence of total
34 confinement under the jurisdiction of the department, a notice of the
35 proposed cancellation and an explanation of the requirements for
36 ~~((provisionally and permanently))~~ restoring the right to vote and
37 reregistering. To the extent possible, the secretary of state shall
38 time the comparison required by this subsection to allow notice and
39 cancellation of voting rights for ineligible voters prior to a
40 primary or general election.

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

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

5 ~~(b) A court order restoring the right, as provided in RCW~~
6 ~~9.92.066;~~

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

9 ~~(d) A certificate of restoration issued by the governor, as~~
10 ~~provided in RCW 9.96.020.~~

11 ~~(7))~~ (3) For the purposes of this section, ~~((a person is under~~
12 ~~the authority of the department of corrections if the person is:~~

13 ~~(a) Serving))~~ a sentence of total confinement ~~((in the custody of~~
14 ~~the department of corrections; or~~

15 ~~(b) Subject to community custody as defined in RCW 9.94A.030))~~
16 does not include confinement imposed as a sanction for a community
17 custody violation under RCW 9.94A.633(1).

18 **Sec. 2.** RCW 29A.08.230 and 2020 c 208 s 4 are each amended to
19 read as follows:

20 For all voter registrations, the registrant shall sign the
21 following oath:

22 "I declare that the facts on this voter registration form are
23 true. I am a citizen of the United States, I will have lived at this
24 address in Washington for at least thirty days immediately before the
25 next election at which I vote, and I am at least sixteen years
26 old~~((7))~~. I am not disqualified from voting due to a court order, and
27 I am not ~~((under))~~ currently serving a sentence of total confinement
28 under the jurisdiction of the department of corrections
29 ~~((supervision))~~ for a Washington felony conviction, and I am not
30 currently incarcerated for a federal or out-of-state felony
31 conviction."

32 **Sec. 3.** RCW 29A.40.091 and 2020 c 12 s 1 are each amended to
33 read as follows:

34 (1) The county auditor shall send each voter a ballot, a security
35 envelope in which to conceal the ballot after voting, a larger
36 envelope in which to return the security envelope, a declaration that
37 the voter must sign, and instructions on how to obtain information

1 about the election, how to mark the ballot, and how to return the
2 ballot to the county auditor. The calendar date of the election must
3 be prominently displayed in bold type, twenty-point font or larger,
4 on the envelope sent to the voter containing the ballot and other
5 materials listed in this subsection:

6 (a) For all general elections in 2020 and after;

7 (b) For all primary elections in 2021 and after; and

8 (c) For all elections in 2022 and after.

9 (2) The voter must swear under penalty of perjury that he or she
10 meets the qualifications to vote, and has not voted in any other
11 jurisdiction at this election. The declaration must clearly inform
12 the voter that it is illegal to vote if he or she is not a United
13 States citizen; it is illegal to vote if he or she (~~has been~~
14 ~~convicted of a felony and has not had his or her voting rights~~
15 ~~restored~~) is serving a sentence of total confinement under the
16 jurisdiction of the department of corrections for a felony conviction
17 or is currently incarcerated for a federal or out-of-state felony
18 conviction; and it is illegal to cast a ballot or sign a ballot
19 declaration on behalf of another voter. The ballot materials must
20 provide space for the voter to sign the declaration, indicate the
21 date on which the ballot was voted, and include a telephone number.

22 (3) For overseas and service voters, the signed declaration
23 constitutes the equivalent of a voter registration. Return envelopes
24 for overseas and service voters must enable the ballot to be returned
25 postage free if mailed through the United States postal service,
26 United States armed forces postal service, or the postal service of a
27 United States foreign embassy under 39 U.S.C. 3406.

28 (4) The voter must be instructed to either return the ballot to
29 the county auditor no later than 8:00 p.m. the day of the election or
30 primary, or mail the ballot to the county auditor with a postmark no
31 later than the day of the election or primary. Return envelopes for
32 all election ballots must include prepaid postage. Service and
33 overseas voters must be provided with instructions and a privacy
34 sheet for returning the ballot and signed declaration by fax or
35 email. A voted ballot and signed declaration returned by fax or email
36 must be received by 8:00 p.m. on the day of the election or primary.

37 (5) The county auditor's name may not appear on the security
38 envelope, the return envelope, or on any voting instructions or
39 materials included with the ballot if he or she is a candidate for
40 office during the same year.

1 (6) For purposes of this section, "prepaid postage" means any
2 method of return postage paid by the county or state.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 29A.04
4 RCW to read as follows:

5 "Total confinement" has the same meaning as in RCW 9.94A.030, but
6 a sentence of total confinement does not include confinement imposed
7 as a sanction for a community custody violation under RCW
8 9.94A.633(1).

9 **Sec. 5.** RCW 10.64.140 and 2009 c 325 s 5 are each amended to
10 read as follows:

11 (1) When a person is convicted of a felony and sentenced to a
12 term of total confinement under the jurisdiction of the department of
13 corrections, the court shall require the defendant to sign a
14 statement acknowledging that:

15 (a) The defendant's right to vote has been lost due to the felony
16 conviction and sentence to a term of total confinement;

17 (b) If the defendant is registered to vote, the voter
18 registration will be canceled;

19 (c) The right to vote is (~~provisionally~~) automatically restored
20 as long as the defendant is not (~~under the authority~~) serving a
21 sentence of total confinement under the jurisdiction of the
22 department of corrections;

23 (d) The defendant must reregister before voting; and

24 (e) (~~The provisional right to vote may be revoked if the~~
25 ~~defendant fails to comply with all the terms of his or her legal~~
26 ~~financial obligations or an agreement for the payment of legal~~
27 ~~financial obligations~~;

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

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

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

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

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

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

3 (2) For the purposes of this section(~~(, a person is under the~~
4 ~~authority of the department of corrections if the person is:~~

5 ~~(a) Serving a))~~;

6 (a) A sentence of total confinement ((in the custody of the
7 ~~department of corrections; or~~

8 ~~(b) Subject to community custody as defined in RCW 9.94A.030))~~
9 does not include confinement imposed as a sanction for a community
10 custody violation under RCW 9.94A.633(1).

11 (b) "Total confinement" has the same meaning as in RCW 9.94A.030.

12 **Sec. 6.** RCW 2.36.010 and 2019 c 41 s 1 are each amended to read
13 as follows:

14 Unless the context clearly requires otherwise, the definitions in
15 this section apply throughout this chapter.

16 (1) A jury is a body of persons temporarily selected from the
17 qualified inhabitants of a particular district, and invested with
18 power—

19 (a) To present or indict a person for a public offense.

20 (b) To try a question of fact.

21 (2) "Court" when used without further qualification means any
22 superior court or court of limited jurisdiction in the state of
23 Washington.

24 (3) "Judge" means every judicial officer authorized to hold or
25 preside over a court. For purposes of this chapter "judge" does not
26 include court commissioners or referees.

27 (4) "Juror" means any person summoned for service on a petit
28 jury, grand jury, or jury of inquest as defined in this chapter.

29 (5) "Grand jury" means those twelve persons impaneled by a
30 superior court to hear, examine, and investigate evidence concerning
31 criminal activity and corruption.

32 (6) "Petit jury" means a body of persons twelve or less in number
33 in the superior court and six in number in courts of limited
34 jurisdiction, drawn by lot from the jurors in attendance upon the
35 court at a particular session, and sworn to try and determine a
36 question of fact.

37 (7) "Jury of inquest" means a body of persons six or fewer in
38 number, but not fewer than four persons, summoned before the coroner
39 or other ministerial officer, to inquire of particular facts.

1 (8) "Jury source list" means the list of all registered voters
2 for any county, merged with a list of licensed drivers and identicard
3 holders who reside in the county. The list shall specify each
4 person's name and residence address and conform to the methodology
5 and standards set pursuant to the provisions of RCW 2.36.054 or by
6 supreme court rule. The list shall be filed with the superior court
7 by the county auditor.

8 (9) "Master jury list" means the list of prospective jurors from
9 which jurors summoned to serve will be randomly selected. The master
10 jury list shall be either randomly selected from the jury source list
11 or may be an exact duplicate of the jury source list.

12 (10) "Jury term" means a period of time of one or more days, not
13 exceeding two weeks for counties with a jury source list that has at
14 least seventy thousand names and one month for counties with a jury
15 source list of less than seventy thousand names, during which
16 summoned jurors must be available to report for juror service.

17 (11) "Juror service" means the period of time a juror is required
18 to be present at the court facility. This period of time may not
19 extend beyond the end of the jury term, and may not exceed one week
20 for counties with a jury source list that has at least seventy
21 thousand names, and two weeks for counties with a jury source list of
22 less than seventy thousand names, except to complete a trial to which
23 the juror was assigned during the service period.

24 (12) "Jury panel" means those persons randomly selected for jury
25 service for a particular jury term.

26 (13) "Civil rights restored" means a person's right to vote has
27 been (~~provisionally or permanently~~) automatically restored prior to
28 reporting for jury service.

29 **Sec. 7.** RCW 72.09.275 and 2019 c 43 s 1 are each amended to read
30 as follows:

31 (1) The department shall notify ((an inmate)) a person, in
32 writing, of the process for ((provisional and permanent)) restoration
33 of voting rights, as described in RCW 29A.08.520, prior to the
34 ((termination of authority of the department over the inmate))
35 release from, or transfer to partial confinement from, total
36 confinement under the jurisdiction of the department of corrections
37 unless a person is being released from a department of corrections
38 facility to an out-of-state jurisdiction or federal detention center,

1 pursuant to a felony conviction. The department shall also provide
2 the (~~(inmate)~~) person with:

3 (~~(1)~~) (a) A voter registration form and written instructions
4 for returning the form by mail; and

5 (~~(2)~~) (b) Written information regarding registering to vote in
6 person and electronically.

7 (2) For purposes of this section:

8 (a) A sentence of total confinement does not include confinement
9 imposed as a sanction for a community custody violation under RCW
10 9.94A.633(1).

11 (b) "Total confinement" has the same meaning as in RCW 9.94A.030.

12 NEW SECTION. Sec. 8. This act takes effect January 1, 2022.

Passed by the House February 24, 2021.

Passed by the Senate March 24, 2021.

Approved by the Governor April 7, 2021.

Filed in Office of Secretary of State April 7, 2021.

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