HOUSE BILL REPORT
HB 1146

As Reported by House Committee On:
State Government & Tribal Relations

Title: An act relating to improving access and removing barriers to voting in jails and state hospitals.

Brief Description: Improving access and removing barriers to voting in jails and state hospitals.

Sponsors: Representatives Simmons, Farivar, Ryu, Mena, Macri, Obras, Doglio, Gregerson, Pollet, Ormsby and Hill; by request of Secretary of State.

Brief History:
Committee Activity:
State Government & Tribal Relations: 1/15/25, 2/7/25 [DPS].

Brief Summary of Substitute Bill

- Requires county auditors to create a Voting Plan (Plan) for each jail and state hospital within the county, including details about how the jail or hospital will help people who are incarcerated register to vote and access and complete a ballot.
- Requires jails and state hospitals to implement their Plans and provide voter registration information, ballot-related information, and ballots to people who are incarcerated.
- Authorizes the Office of the Attorney General (AGO) to investigate and bring an action against a county, jail, or state hospital for a violation of this act and authorizes the court to award $25,000 per violation to the AGO for remittance to the Office of the Secretary of State to use towards increasing accessibility for voters in jails and state hospitals.
- Requires the Secretary of State to contract with the University of Washington Evans School of Public Policy and Governance to identify challenges and make recommendations related to voter registration and voting access for people who are incarcerated in jail or patients in a state

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

hospital.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Mena, Chair; Stearns, Vice Chair; Doglio and Farivar.

Minority Report: Do not pass. Signed by 3 members: Representatives Waters, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Chase.

Staff: Desiree Omli (786-7105).

Background:

Voter Registration. To register to vote in Washington, a person may:

- submit an application electronically or by mail, if the applicant has a Washington driver's license or state identification card;
- register in person at the county auditor's office or a voting center; or
- register to vote using forms provided when receiving services at certain state agencies, such as the Department of Licensing or Department of Social and Health Services.

Applicants registering to vote must provide their name, residential address, and date of birth, and they must check a box confirming their United States citizenship. The applicant must also sign the application to attest to the truth of the information provided.

Voting. All voters in Washington are issued a ballot by mail, which they may return by mail or by depositing into a ballot box. A person may also visit a voting center to pick up a ballot in person.

Jails and State Hospitals. A jail includes a holding, detention, special detention, or correctional facility operated by a city or county. A holding facility is a facility operated by a city or county used for the housing, for no more than 30 days, of adult persons charged with a criminal offense prior to and after trial or sentencing. A detention facility is operated by a city or county for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the housing of adult persons serving a sentence of not more than 90 days. A special detention facility is a minimum security facility operated by a city or county which houses special populations of sentenced persons who do not require the level of security normally provided in detention and correctional facilities. A correctional facility is a facility operated by a city or county used to house adult persons serving a sentence of less than one year. A person convicted of a crime does not lose their

right to vote unless they are convicted of a felony. A person convicted of a felony has their voting rights automatically restored if they are not serving a sentence of total confinement under the supervision of the Department of Corrections.

A state hospital includes any hospital and child study and treatment center operated and maintained by the state for the care of individuals with mental illness. A person is considered an individual with mental illness if, as a result of a mental disorder, they present a likelihood of serious harm to others or themself or is gravely disabled. A person may lose their right to vote if, by court order, they are declared mentally incompetent.

Summary of Substitute Bill:

Each county auditor must create a Voting Plan (Plan) for each jail and state hospital within the county, with assistance of the Office of the Secretary of State (OSOS), a jail employee at each jail within the county who has been designated as the Jail Voting Coordinator, and a state hospital employee at each state hospital within the county who has been designated as the State Hospital Voting Coordinator. Each Plan must be jointly adopted by the county auditor, jail, and state hospital and include details about how the jail and state hospital will help people who are incarcerated or hospitalized:

- register to vote or update their voter registration and notify registrants that any address provided on the application is subject to public disclosure laws;
- access proof of their identification or residency in order to register to vote;
- access information about, and materials necessary for, eligibility for voting and voting rights restoration;
- access nonpartisan information about candidates, including voters' pamphlets and other nongovernmental voter education materials;
- access materials necessary to fill out ballots; and
- complete their ballots in private.

The Plan must also include details about how the jail or state hospital and county auditor will:

- provide visible information within jails and state hospitals about registering to vote and accessing a ballot;
- ensure that all people who are incarcerated are made aware of key dates surrounding registration and ballot return;
- establish a process by which voter registration and ballot return data is collected, as allowable by state and federal privacy laws;
- establish a process by which voting-related requests and complaints are documented and properly considered;
- accommodate people with disabilities to register to vote and fill out ballots; and
- provide training and resources to help jail and hospital employees understand how to support individuals with disabilities cast an independent vote.

Jails have the exclusive discretion when setting reasonable limits on duration, time, and permitted days for election officials to access the facility and may exclude access for election officials to certain areas of the jail.

Plans must be jointly adopted by the county auditor, jail, and state hospital. The initial Plan must be adopted by January 1, 2026, and Plans must be reviewed and readopted at least every two years. If a Plan cannot be jointly adopted within 90 days of a primary, the Secretary of State must assign a temporary Plan until a joint plan is adopted.

Jails and state hospitals must provide people in their care with voter registration information, state and local voters' pamphlet information, and ballots in accordance with their Plan. Ballots must be made accessible starting at least eight days before a primary or general election. Jails and state hospitals must treat election-related materials sent or delivered by mail as legal mail which must receive all associated protections.

Jails and state hospitals must permit election officials from the county auditor's office and the OSOS to enter their facility at least 30 days in advance of each primary and general election for voter registration outreach and education. Jails and state hospitals must document all voting-related requests and complaints made by individuals in their care, and they, along with the county auditor, must collect data related to voter registration and ballot return. That data must be reported to the relevant county auditor and the OSOS.

Jails and state hospitals must also provide information about and materials necessary for registering to vote to all people who are released from their custody.

Beginning July 31, 2030, the Office of the Attorney General (AGO) may investigate and bring an action against a county, jail, or state hospital for a violation of this act. Should the AGO prevail, it may recover costs and reasonable attorneys' fees. The court must award $25,000 per violation to the AGO if the court finds that the county, jail, or state hospital intentionally violated this act. The award must be remitted to the OSOS to use towards increasing accessibility for voters in jails and state hospitals.

Subject to the availability of amounts appropriated, the OSOS must enter into an agreement with the University of Washington Evans School of Public Policy and Governance to examine the processes associated with providing voter registration, voting materials, and voting assistance to people who are in jails and state hospitals. The study must identify challenges and make recommendations. A final report is due to the Governor, the OSOS, and the Legislature by June 30, 2026.

Substitute Bill Compared to Original Bill:

The substitute bill removes language requiring that the Plan detail how jails and hospitals will provide equal access to candidates who request to campaign in jails or state hospitals and instead specifies that jails have the exclusive direction regarding the permitted days and

duration of access to the facility by election officials and areas of the facility that may be excluded from access. The substitute bill specifies that jails and hospitals must provide incarcerated persons and persons who are hospitalized with state and local voters' pamphlet information rather than ballot-related information. Election-related mail sent to and from the county auditor or the OSOS is treated as legal mail, rather than high priority mail. The effective date of provisions authorizing a cause of action by the AGO is delayed to July 31, 2030.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 7, 2025.

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

Staff Summary of Public Testimony:

(In support) A similar version of this bill was passed out of this committee in 2023. That bill did not make it out of the Appropriations Committee but a study was added to the budget as a proviso that was performed by the University of Washington. Many of the recommendations from that study are included in this bill. There is a real risk of litigation against the state for a violation of the Fourteenth Amendment because some counties are doing a great job at ensuring that incarcerated individuals can exercise their civic right to vote and some are not doing as well in that area. The Spokane Board of Commissioners voted against receiving $2.5 million to increase voter access in jails. This policy will protect against counties like Spokane that are resistant to doing this work. There is de facto vote suppression happening in jails because not everyone has access to exercise their right to vote.

This policy is necessary to provide minimum standards for election access in jails and hospitals, standardize the way counties provide these services across the state, and provide guidance and support to local jurisdictions to enable them to carry out this work. If the state wants better outcomes, it must implement innovative strategies. This policy should also include youth prisons, children centers, and special commitment centers.

This is not an ideological bill. People who are incarcerated do not all vote the same way. In fact, a study by the Marshall Project found that out of the 5,000 incarcerated persons interviewed from across the country, half would have voted for President Trump.

When an incarcerated person has a connection to their community, such as casting a vote in an election, it makes them feel that although they are physically separated from their community, they are still a valued part of it. This feeling of humanity and feeling valued is key to a person's rehabilitation process. Increased participation in the community leads to

reduced recidivism. The people in jails and state hospitals already have the right to vote, so the state must provide them with the resources and education they need to exercise that right.

(Opposed) This is a well-intentioned policy but poses significant financial challenges to the state and local jurisdictions which is likely the reason why some local jurisdictions cannot support voting in their facilities. Counties are already operating on tight budgets and this would strain essential services like law enforcement, public health, and building infrastructure. On the state level, this bill would only increase the state's current deficit.

Advocates for this policy argue that the voices of incarcerated persons should be heard because they are a part of the community. However, children under 18 years old and noncitizens are part of the community but they are not allowed to vote. This policy just makes it easier for people to cheat. This policy fails to address the fundamental problem that a significant percentage of voters in the state do not have confidence in the state's voting system.

(Other) Provisions in the bill authorizing the AGO to bring a cause of action against jails and hospitals needs to be removed. With this being a new program, counties need an opportunity to get it right and troubleshoot before implementing penalties. In addition, jails and hospitals prioritize safety and with the potential to be sued under the bill, jails and hospitals will need to choose between the safety of everyone at the jail or hospital and someone's right to vote. It puts jails and hospitals in a tough position. There are also concerns around patient privacy and sharing records with people outside of the hospital system.

The cost associated with implementing this policy is an additional concern, especially in regards to the smaller counties. Some small counties have only two or three people total in their elections department and the responsibilities in this bill would place a large burden on their workload. The state needs to provide local jurisdictions with resources to implement this policy.

Persons Testifying: (In support) Representative Tarra Simmons, prime sponsor; Anthony Blankenship, Civil Survival Project; Steve Hobbs, Office of Secretary of State; Heather Kelly, League of Women Voters of Washington; Christopher Poulos, Center for Justice and Human Dignity; Kurtis Robinson, Revive Center for Returning Citizens and I Did the Time; Joshua Woods, I Did the Time and Revive Center for Returning Citizens; Jacob Schmitt, Just Us Solutions; Abigail Leong, Washington Voting Justice Coalition; Arthur Longworth, Teamchild; and Joshua Woods, I did the time.

(Opposed) Tim Eyman, Initiative Activist; and Mary Long, Conservative Ladies of Washington.

(Other) Kevin Bovenkamp, DSHS Behavioral Health Administration; James McMahan, WA Assoc Sheriffs & Police Chiefs; and Paul Jewell, Washington State Association of

Counties.

Persons Signed In To Testify But Not Testifying: None.