
State Government & Tribal Relations Committee

HB 1196

Brief Description: Revoking a person's voting rights only when convicted of a state crime punishable by death.

Sponsors: Representatives Simmons, Mena, Ryu, Ormsby and Hill.

Brief Summary of Bill

- Redefines what constitutes an infamous crime, the conviction of which results in a revocation of voting rights, to include only state crimes punishable by death.
- Removes provisions that revoke a person's right to vote upon incarceration in a federal detention facility or out-of-state facility for a conviction of an infamous crime.

Hearing Date: 2/5/25

Staff: Desiree Omli (7105)

Background:

Revocation and Restoration of the Right to Vote.

Under the state Constitution, all individuals convicted of an infamous crime are disqualified from voting unless their civil rights have been restored. An infamous crime is a crime punishable by death in the state penitentiary or imprisonment in a state or federal correctional facility and does not include an adjudication in juvenile court or a conviction for a misdemeanor or gross misdemeanor. Felonies are the only crimes that qualify as an infamous crime.

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.

When an individual is convicted of a felony and sentenced to total confinement under the jurisdiction of the Department of Corrections (DOC), the court must require the individual to sign a statement acknowledging that, among other things, the individual's right to vote has been revoked due to the felony conviction and sentence of total confinement. The individual's right to vote is automatically restored as long as the individual is not serving a sentence of total confinement under the jurisdiction of the DOC and is not incarcerated for a federal felony conviction or out-of-state felony conviction.

Prior to release from the jurisdiction of the DOC, the DOC must notify the person of the process for restoration of voting rights unless they are being released to an out-of-state jurisdiction or federal detention center pursuant to a felony conviction.

Attestations of Voter Qualifications.

An individual registering to vote or submitting a ballot must attest that they, among other things, are not serving a felony sentence of total confinement under the jurisdiction of the DOC and are not incarcerated for a federal felony conviction or out-of-state felony conviction.

Challenge to a Person's Right to Vote.

Registration of an individual as a voter is presumptive evidence of the individual's right to vote. A challenge to a person's right to vote may be based on personal knowledge that, among other things, the individual is serving a felony sentence of total confinement under the jurisdiction of the DOC or is incarcerated for a federal felony conviction or out-of-state felony conviction.

Qualifications of Elected Officials.

A person filing a declaration of candidacy for an office must, at the time of filing, be a registered voter, among other qualifications. A person whose civil rights have been revoked may not register to vote until those rights are restored.

A registered voter may challenge the right of an elected candidate to assume office, the right of a candidate to appear on a general election ballot, or the certification of an election on that basis that, among other things, the candidate was convicted of a felony that had not been reversed or for which they had not had their civil rights restored prior to the election.

Residence of Incarcerated Persons.

For the purpose of registering and voting, a person's residence is the permanent address where they physically reside and maintain their abode. However, a person does not gain or lose residence by reason of their absence or presence while confined in any public prison.

Capital Punishment.

Prior to 2018, an adult convicted of Aggravated Murder in the first degree or Treason received either a sentence of life without the possibility of release or, if sufficient mitigating factors were not present, a death sentence. In 2018 the Washington Supreme Court determined that the death penalty, as applied, is unconstitutional. Legislation was subsequently enacted to repeal statutes allowing for the death penalty for Aggravated Murder in the first degree, and to remove all

statutory procedures related to carrying out the death penalty. The only remaining crime for which the death penalty still applies is Treason.

Summary of Bill:

The definition of "infamous crime" is narrowed to include only a state crime punishable by death. The circumstances under which a person's right to vote may be revoked by reason of a criminal conviction is narrowed to include only convictions in a Washington court of a crime punishable by death. Conforming changes are made throughout the elections code to update provisions relating to attestations and declarations of voter qualifications, challenging a person's right to vote or eligibility to hold office, the form at sentencing acknowledging the revocation of one's right to vote, and the DOC's responsibility to notify a person being released from its custody of the process for restoring their voting rights.

If an individual's right to vote is revoked because of a conviction for an infamous crime under the new definition, the individual's right to vote will be automatically restored as long as the person is not serving a sentence of total confinement under the jurisdiction of the DOC.

The change in circumstances under which a person may be disqualified from the voting franchise also modifies the eligibility requirements to hold state and local office. So long as a person is not convicted of a crime punishable by death, among meeting other statutory requirements, they may qualify for or hold state or local office.

This act may be known as the Free the Vote Act.

Appropriation: None.

Fiscal Note: Available.

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