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HOUSE BILL 1030

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State of Washington

62nd Legislature

2011 Regular Session

**By** Representatives Armstrong, Bailey, Johnson, Nealey, Fagan, Haler, Alexander, Taylor, Angel, Rodne, Warnick, Orcutt, Pearson, McCune, Schmick, Shea, Parker, Ross, Klippert, Short, Dammeier, Hope, Kretz, Kristiansen, Anderson, Smith, Chandler, and Hurst

Prefiled 12/14/10. Read first time 01/10/11. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to requiring felons to pay court-ordered financial  
2 obligations before restoration of voting rights; amending RCW 9.92.066,  
3 9.96.050, and 10.64.140; reenacting and amending RCW 9.94A.637 and  
4 9.94A.885; adding a new section to chapter 10.64 RCW; and repealing  
5 2009 c 325 s 1.

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

7 **Sec. 1.** RCW 9.92.066 and 2009 c 325 s 2 are each amended to read  
8 as follows:

9 (1) Upon termination of any suspended sentence under RCW 9.92.060  
10 or 9.95.210, such person may apply to the court for restoration of his  
11 or her civil rights (~~(not already restored by RCW 29A.08.520)~~).  
12 Thereupon the court may in its discretion enter an order directing that  
13 such defendant shall thereafter be released from all penalties and  
14 disabilities resulting from the offense or crime of which he or she has  
15 been convicted.

16 (2)(a) Upon termination of a suspended sentence under RCW 9.92.060  
17 or 9.95.210, the person may apply to the sentencing court for a  
18 vacation of the person's record of conviction under RCW 9.94A.640. The  
19 court may, in its discretion, clear the record of conviction if it

1 finds the person has met the equivalent of the tests in RCW  
2 9.94A.640(2) as those tests would be applied to a person convicted of  
3 a crime committed before July 1, 1984.

4 (b) The clerk of the court in which the vacation order is entered  
5 shall immediately transmit the order vacating the conviction to the  
6 Washington state patrol identification section and to the local police  
7 agency, if any, which holds criminal history information for the person  
8 who is the subject of the conviction. The Washington state patrol and  
9 any such local police agency shall immediately update their records to  
10 reflect the vacation of the conviction, and shall transmit the order  
11 vacating the conviction to the federal bureau of investigation. A  
12 conviction that has been vacated under this section may not be  
13 disseminated or disclosed by the state patrol or local law enforcement  
14 agency to any person, except other criminal justice enforcement  
15 agencies.

16 **Sec. 2.** RCW 9.94A.637 and 2009 c 325 s 3 and 2009 c 288 s 2 are  
17 each reenacted and amended to read as follows:

18 (1)(a) When an offender has completed all requirements of the  
19 sentence, including any and all legal financial obligations, and while  
20 under the custody and supervision of the department, the secretary or  
21 the secretary's designee shall notify the sentencing court, which shall  
22 discharge the offender and provide the offender with a certificate of  
23 discharge by issuing the certificate to the offender in person or by  
24 mailing the certificate to the offender's last known address.

25 (b)(i) When an offender has reached the end of his or her  
26 supervision with the department and has completed all the requirements  
27 of the sentence except his or her legal financial obligations, the  
28 secretary's designee shall provide the county clerk with a notice that  
29 the offender has completed all nonfinancial requirements of the  
30 sentence.

31 (ii) When the department has provided the county clerk with notice  
32 that an offender has completed all the requirements of the sentence and  
33 the offender subsequently satisfies all legal financial obligations  
34 under the sentence, the county clerk shall notify the sentencing court,  
35 including the notice from the department, which shall discharge the  
36 offender and provide the offender with a certificate of discharge by

1 issuing the certificate to the offender in person or by mailing the  
2 certificate to the offender's last known address.

3 (c) When an offender who is subject to requirements of the sentence  
4 in addition to the payment of legal financial obligations either is not  
5 subject to supervision by the department or does not complete the  
6 requirements while under supervision of the department, it is the  
7 offender's responsibility to provide the court with verification of the  
8 completion of the sentence conditions other than the payment of legal  
9 financial obligations. When the offender satisfies all legal financial  
10 obligations under the sentence, the county clerk shall notify the  
11 sentencing court that the legal financial obligations have been  
12 satisfied. When the court has received both notification from the  
13 clerk and adequate verification from the offender that the sentence  
14 requirements have been completed, the court shall discharge the  
15 offender and provide the offender with a certificate of discharge by  
16 issuing the certificate to the offender in person or by mailing the  
17 certificate to the offender's last known address.

18 (2)(a) For purposes of this subsection (2), a no-contact order is  
19 not a requirement of the offender's sentence. An offender who has  
20 completed all requirements of the sentence, including any and all legal  
21 financial obligations, is eligible for a certificate of discharge even  
22 if the offender has an existing no-contact order that excludes or  
23 prohibits the offender from having contact with a specified person or  
24 business or coming within a set distance of any specified location.

25 (b) In the case of an eligible offender who has a no-contact order  
26 as part of the judgment and sentence, the offender may petition the  
27 court to issue a certificate of discharge and a separate no-contact  
28 order by filing a petition in the sentencing court and paying the  
29 appropriate filing fee associated with the petition for the separate  
30 no-contact order. This filing fee does not apply to an offender  
31 seeking a certificate of discharge when the offender has a no-contact  
32 order separate from the judgment and sentence.

33 (i)(A) The court shall issue a certificate of discharge and a  
34 separate no-contact order under this subsection (2) if the court  
35 determines that the offender has completed all requirements of the  
36 sentence, including all legal financial obligations. The court shall  
37 reissue the no-contact order separately under a new civil cause number

1 for the remaining term and under the same conditions as contained in  
2 the judgment and sentence.

3 (B) The clerk of the court shall send a copy of the new no-contact  
4 order to the individuals protected by the no-contact order, along with  
5 an explanation of the reason for the change, if there is an address  
6 available in the court file. If no address is available, the clerk of  
7 the court shall forward a copy of the order to the prosecutor, who  
8 shall send a copy of the no-contact order with an explanation of the  
9 reason for the change to the last known address of the protected  
10 individuals.

11 (ii) Whenever an order under this subsection (2) is issued, the  
12 clerk of the court shall forward a copy of the order to the appropriate  
13 law enforcement agency specified in the order on or before the next  
14 judicial day. The clerk shall also include a cover sheet that  
15 indicates the case number of the judgment and sentence that has been  
16 discharged. Upon receipt of the copy of the order and cover sheet, the  
17 law enforcement agency shall enter the order into any computer-based  
18 criminal intelligence information system available in this state used  
19 by law enforcement agencies to list outstanding warrants. The order  
20 shall remain in this system until it expires. The new order, and case  
21 number of the discharged judgment and sentence, shall be linked in the  
22 criminal intelligence information system for purposes of enforcing the  
23 no-contact order.

24 (iii) A separately issued no-contact order may be enforced under  
25 chapter 26.50 RCW.

26 (iv) A separate no-contact order issued under this subsection (2)  
27 is not a modification of the offender's sentence.

28 (3) Every signed certificate and order of discharge shall be filed  
29 with the county clerk of the sentencing county. In addition, the court  
30 shall send to the department a copy of every signed certificate and  
31 order of discharge for offender sentences under the authority of the  
32 department. The county clerk shall enter into a database maintained by  
33 the administrator for the courts the names of all felons who have been  
34 issued certificates of discharge, the date of discharge, and the date  
35 of conviction and offense.

36 (4) An offender who is not convicted of a violent offense or a sex  
37 offense and is sentenced to a term involving community supervision may  
38 be considered for a discharge of sentence by the sentencing court prior

1 to the completion of community supervision, provided that the offender  
2 has completed at least one-half of the term of community supervision  
3 and has met all other sentence requirements.

4 (5) The discharge shall have the effect of restoring all civil  
5 rights (~~((not already restored by RCW 29A.08.520))~~) lost by operation of  
6 law upon conviction, and the certificate of discharge shall so state.  
7 Nothing in this section prohibits the use of an offender's prior record  
8 for purposes of determining sentences for later offenses as provided in  
9 this chapter. Nothing in this section affects or prevents use of the  
10 offender's prior conviction in a later criminal prosecution either as  
11 an element of an offense or for impeachment purposes. A certificate of  
12 discharge is not based on a finding of rehabilitation.

13 (6) Unless otherwise ordered by the sentencing court, a certificate  
14 of discharge shall not terminate the offender's obligation to comply  
15 with an order that excludes or prohibits the offender from having  
16 contact with a specified person or coming within a set distance of any  
17 specified location that was contained in the judgment and sentence. An  
18 offender who violates such an order after a certificate of discharge  
19 has been issued shall be subject to prosecution according to the  
20 chapter under which the order was originally issued.

21 (7) Upon release from custody, the offender may apply to the  
22 department for counseling and help in adjusting to the community. This  
23 voluntary help may be provided for up to one year following the release  
24 from custody.

25 **Sec. 3.** RCW 9.96.050 and 2009 c 325 s 4 are each amended to read  
26 as follows:

27 (1)(a) When an offender on parole has performed all obligations of  
28 his or her release, including any and all legal financial obligations,  
29 for such time as shall satisfy the indeterminate sentence review board  
30 that his or her final release is not incompatible with the best  
31 interests of society and the welfare of the paroled individual, the  
32 board may make a final order of discharge and issue a certificate of  
33 discharge to the offender.

34 (b) The board retains the jurisdiction to issue a certificate of  
35 discharge after the expiration of the offender's or parolee's maximum  
36 statutory sentence. If not earlier granted and any and all legal  
37 financial obligations have been paid, the board shall issue a final

1 order of discharge three years from the date of parole unless the  
2 parolee is on suspended or revoked status at the expiration of the  
3 three years.

4 (c) The discharge, regardless of when issued, shall have the effect  
5 of restoring all civil rights (~~((not already restored by RCW~~  
6 ~~29A.08.520))~~ lost by operation of law upon conviction, and the  
7 certification of discharge shall so state.

8 (d) This restoration of civil rights shall not restore the right to  
9 receive, possess, own, or transport firearms.

10 (e) The board shall issue a certificate of discharge to the  
11 offender in person or by mail to the offender's last known address.

12 (2) The board shall send to the department of corrections a copy of  
13 every signed certificate of discharge for offender sentences under the  
14 authority of the department of corrections.

15 (3) The discharge provided for in this section shall be considered  
16 as a part of the sentence of the convicted person and shall not in any  
17 manner be construed as affecting the powers of the governor to pardon  
18 any such person.

19 **Sec. 4.** RCW 10.64.140 and 2009 c 325 s 5 are each amended to read  
20 as follows:

21 ~~((1))~~ When a person is convicted of a felony, the court shall  
22 require the defendant to sign a statement acknowledging that:

23 ~~((a))~~ (1) The defendant's right to vote has been lost due to the  
24 felony conviction;

25 ~~((b))~~ (2) If the defendant is registered to vote, the voter  
26 registration will be canceled;

27 ~~((c) The right to vote is provisionally restored as long as the~~  
28 ~~defendant is not under the authority of the department of corrections;~~

29 ~~(d) The defendant must reregister before voting;~~

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

34 ~~(f))~~ (3) The right to vote may be ~~((permanently))~~ restored by  
35 ~~((one of the following for each felony conviction)):~~

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

1        ~~((+ii))~~ (b) A court order issued by the sentencing court restoring  
2 the right, as provided in RCW 9.92.066;

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

5        ~~((+iv))~~ (d) A certificate of restoration issued by the governor,  
6 as provided in RCW 9.96.020; and

7        ~~((+g))~~ (4) Voting before the right is restored is a class C felony  
8 under RCW 29A.84.660.

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

11        ~~(a) Serving a sentence of confinement in the custody of the  
12 department of corrections; or~~

13        ~~(b) Subject to community custody as defined in RCW 9.94A.030.)~~

14        **Sec. 5.** RCW 9.94A.885 and 2009 c 325 s 6 and 2009 c 138 s 4 are  
15 each reenacted and amended to read as follows:

16        (1) The clemency and pardons board shall receive petitions from  
17 individuals, organizations, and the department for review and  
18 commutation of sentences and pardoning of offenders in extraordinary  
19 cases, and shall make recommendations thereon to the governor.

20        (2) The board shall receive petitions from individuals or  
21 organizations for the restoration of civil rights lost by operation of  
22 state law as a result of convictions for federal offenses or out-of-  
23 state felonies. The board may issue certificates of restoration  
24 limited to ~~((engaging))~~ the elective rights to vote and to engage in  
25 political office. Any certifications granted by the board must be  
26 filed with the secretary of state to be effective. In all other cases,  
27 the board shall make recommendations to the governor.

28        (3) The board shall not recommend that the governor grant clemency  
29 under subsection (1) of this section until a public hearing has been  
30 held on the petition. The prosecuting attorney of the county where the  
31 conviction was obtained shall be notified at least thirty days prior to  
32 the scheduled hearing that a petition has been filed and the date and  
33 place at which the hearing on the petition will be held. The board may  
34 waive the thirty-day notice requirement in cases where it determines  
35 that waiver is necessary to permit timely action on the petition. A  
36 copy of the petition shall be sent to the prosecuting attorney. The  
37 prosecuting attorney shall make reasonable efforts to notify victims,

1 survivors of victims, witnesses, and the law enforcement agency or  
2 agencies that conducted the investigation, of the date and place of the  
3 hearing. Information regarding victims, survivors of victims, or  
4 witnesses receiving this notice are confidential and shall not be  
5 available to the offender. The board shall consider statements  
6 presented as set forth in RCW 7.69.032. This subsection is intended  
7 solely for the guidance of the board. Nothing in this section is  
8 intended or may be relied upon to create a right or benefit,  
9 substantive or procedural, enforceable at law by any person.

10 NEW SECTION. **Sec. 6.** A new section is added to chapter 10.64 RCW  
11 to read as follows:

12 Within fourteen days of the entry of a judgment of conviction of an  
13 individual for a felony, the clerk of the court shall send a notice of  
14 the conviction including the full name of the defendant and his or her  
15 residential address to the county auditor or custodian of voting  
16 records in the county of the defendant's residence.

17 NEW SECTION. **Sec. 7.** 2009 c 325 s 1 is repealed.

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