

---

SENATE BILL 5534

---

State of Washington

61st Legislature

2009 Regular Session

By Senators Kohl-Welles, Kline, Fairley, McDermott, Regala, Hargrove, Fraser, and Kauffman

Read first time 01/26/09. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to the restoration of the right to vote for people  
2 who were convicted of felonies; amending RCW 29A.08.520, 9.92.066,  
3 9.94A.637, 10.64.140, and 9.94A.885; reenacting and amending RCW  
4 9.96.050; and repealing RCW 10.64.021.

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

6 **Sec. 1.** RCW 29A.08.520 and 2005 c 246 s 15 are each amended to  
7 read as follows:

8 ~~(1) ((Upon receiving official notice of a person's conviction of a~~  
9 ~~felony in either state or federal court, if the convicted person is a~~  
10 ~~registered voter in the county, the county auditor shall cancel the~~  
11 ~~defendant's voter registration. Additionally, the secretary of state~~  
12 ~~in conjunction with the department of corrections, the Washington state~~  
13 ~~patrol, the office of the administrator for the courts, and other~~  
14 ~~appropriate state agencies shall arrange for a quarterly comparison of~~  
15 ~~a list of known felons with the statewide voter registration list. If~~  
16 ~~a person is found on a felon list and the statewide voter registration~~  
17 ~~list)) For a felony conviction in a Washington state court, the right~~  
18 ~~to vote is restored as long as the person is not under the authority of~~

1 the department of corrections. For a felony conviction in a federal  
2 court or any state court other than a Washington state court, the right  
3 to vote is restored as long as the person is no longer incarcerated.

4 (2) At least twice a year, the secretary of state shall compare the  
5 list of registered voters to a list of felons who are under the  
6 authority of the department of corrections. If a registered voter is  
7 under the authority of the department of corrections, the secretary of  
8 state or county auditor shall confirm the match through a date of birth  
9 comparison and suspend the voter registration from the official state  
10 voter registration list. The ((canceling authority)) secretary of  
11 state or county auditor shall send to the person at his or her last  
12 known voter registration address and at the department of corrections  
13 a notice of the proposed cancellation ((and an explanation of the  
14 requirements for restoring the right to vote once all terms of  
15 sentencing have been completed. If the person does not respond within  
16 thirty days, the registration must be canceled)) of the voter  
17 registration.

18 ~~((2) The right to vote may be restored by, for each felony~~  
19 ~~conviction, one of the following:~~

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

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

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

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

27 (3) For the purposes of this section, a person is under the  
28 authority of the department of corrections if the person is (a) serving  
29 a sentence of confinement in the custody of the department of  
30 corrections, or (b) subject to community custody, community placement,  
31 or community supervision under RCW 9.94A.030.

32 **Sec. 2.** RCW 9.92.066 and 2003 c 66 s 2 are each amended to read as  
33 follows:

34 (1) Upon termination of any suspended sentence under RCW 9.92.060  
35 or 9.95.210, such person may apply to the court for restoration of his  
36 or her civil rights not already restored by RCW 29A.08.520. Thereupon  
37 the court may in its discretion enter an order directing that such

1 defendant shall thereafter be released from all penalties and  
2 disabilities resulting from the offense or crime of which he or she has  
3 been convicted.

4 (2)(a) Upon termination of a suspended sentence under RCW 9.92.060  
5 or 9.95.210, the person may apply to the sentencing court for a  
6 vacation of the person's record of conviction under RCW 9.94A.640. The  
7 court may, in its discretion, clear the record of conviction if it  
8 finds the person has met the equivalent of the tests in RCW  
9 9.94A.640(2) as those tests would be applied to a person convicted of  
10 a crime committed before July 1, 1984.

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

23 **Sec. 3.** RCW 9.94A.637 and 2007 c 171 s 1 are each amended to read  
24 as follows:

25 (1)(a) When an offender has completed all requirements of the  
26 sentence, including any and all legal financial obligations, and while  
27 under the custody and supervision of the department, the secretary or  
28 the secretary's designee shall notify the sentencing court, which shall  
29 discharge the offender and provide the offender with a certificate of  
30 discharge by issuing the certificate to the offender in person or by  
31 mailing the certificate to the offender's last known address.

32 (b)(i) When an offender has reached the end of his or her  
33 supervision with the department and has completed all the requirements  
34 of the sentence except his or her legal financial obligations, the  
35 secretary's designee shall provide the county clerk with a notice that  
36 the offender has completed all nonfinancial requirements of the  
37 sentence.

1 (ii) When the department has provided the county clerk with notice  
2 that an offender has completed all the requirements of the sentence and  
3 the offender subsequently satisfies all legal financial obligations  
4 under the sentence, the county clerk shall notify the sentencing court,  
5 including the notice from the department, which shall discharge the  
6 offender and provide the offender with a certificate of discharge by  
7 issuing the certificate to the offender in person or by mailing the  
8 certificate to the offender's last known address.

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

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

32 (3) An offender who is not convicted of a violent offense or a sex  
33 offense and is sentenced to a term involving community supervision may  
34 be considered for a discharge of sentence by the sentencing court prior  
35 to the completion of community supervision, provided that the offender  
36 has completed at least one-half of the term of community supervision  
37 and has met all other sentence requirements.

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

11 (5) Unless otherwise ordered by the sentencing court, a certificate  
12 of discharge shall not terminate the offender's obligation to comply  
13 with an order issued under chapter 10.99 RCW that excludes or prohibits  
14 the offender from having contact with a specified person or coming  
15 within a set distance of any specified location that was contained in  
16 the judgment and sentence. An offender who violates such an order  
17 after a certificate of discharge has been issued shall be subject to  
18 prosecution according to the chapter under which the order was  
19 originally issued.

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

24 **Sec. 4.** RCW 9.96.050 and 2007 c 363 s 4 and 2007 c 171 s 2 are  
25 each reenacted and amended to read as follows:

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

33 (b) The board retains the jurisdiction to issue a certificate of  
34 discharge after the expiration of the offender's or parolee's maximum  
35 statutory sentence. If not earlier granted and any and all legal  
36 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 (~~lost by operation of law upon~~  
6 ~~conviction~~) not already restored by RCW 29A.08.520, 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. 5.** RCW 10.64.140 and 2005 c 246 s 1 are each amended to read  
20 as follows:

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

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

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

27 ~~((3) The right to vote may be restored by:~~

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

30 ~~(b) A court order issued by the sentencing court restoring the~~  
31 ~~right, as provided in RCW 9.92.066;~~

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

34 ~~(d) A certificate of restoration issued by the governor, as~~  
35 ~~provided in RCW 9.96.020))~~ (c) The right is restored as long as the

36 defendant is not under the authority of the department of corrections;

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

1        ~~((4))~~ (e) 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 (a) serving  
5 a sentence of confinement in the custody of the department of  
6 corrections, or (b) subject to community custody, community placement,  
7 or community supervision under RCW 9.94A.030.

8        **Sec. 6.** RCW 9.94A.885 and 1999 c 323 s 3 are each amended to read  
9 as follows:

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

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

22        (3) The board shall not recommend that the governor grant clemency  
23 under subsection (1) of this section until a public hearing has been  
24 held on the petition. The prosecuting attorney of the county where the  
25 conviction was obtained shall be notified at least thirty days prior to  
26 the scheduled hearing that a petition has been filed and the date and  
27 place at which the hearing on the petition will be held. The board may  
28 waive the thirty-day notice requirement in cases where it determines  
29 that waiver is necessary to permit timely action on the petition. A  
30 copy of the petition shall be sent to the prosecuting attorney. The  
31 prosecuting attorney shall make reasonable efforts to notify victims,  
32 survivors of victims, witnesses, and the law enforcement agency or  
33 agencies that conducted the investigation, of the date and place of the  
34 hearing. Information regarding victims, survivors of victims, or  
35 witnesses receiving this notice are confidential and shall not be  
36 available to the offender. The board shall consider written, oral,  
37 audio, or videotaped statements regarding the petition received,

1 personally or by representation, from the individuals who receive  
2 notice pursuant to this section. This subsection is intended solely  
3 for the guidance of the board. Nothing in this section is intended or  
4 may be relied upon to create a right or benefit, substantive or  
5 procedural, enforceable at law by any person.

6 NEW SECTION. **Sec. 7.** RCW 10.64.021 (Notice of conviction) and  
7 1994 c 57 s 1 are each repealed.

--- END ---