

1 **SHB 2420 - H AMDS 128 FAILED 2-7-96**

2 By Representative Costa and others

3 On page 5, line 8, after "section))" insert ", any non-
4 felony domestic violence offense enumerated in RCW 10.99.020(3)
5 committed on or after July 1, 1994, or any non-felony harassment
6 offense under RCW 9A.46.020 committed on or after July 1, 1994"

7 On page 7, line 29, strike "))) felony offense" and insert
8 "offense)) criminal offense under RCW 9.41.040(1) that
9 disqualifies a person from possession of a firearm"

10 On page 6, line 5, after "conviction." strike everything
11 through "9.94A.360." on line 18, and insert "((Notwithstanding
12 any other provisions of this section, if a person is prohibited
13 from possession of a firearm under subsection (1) of this section
14 and has not previously been convicted of a sex offense
15 prohibiting firearm ownership under subsection (1) of this
16 section and/or any felony defined under any law as a class A
17 felony or with a maximum sentence of at least twenty years, or
18 both, the individual may petition a court of record to have his
19 or her right to possess a firearm restored:

20 (a) Under RCW 9.41.047; and/or

21 (b) After five or more consecutive years in the community
22 without being convicted or currently charged with any felony,
23 gross misdemeanor, or misdemeanor crimes, if the individual has
24 no prior felony convictions that prohibit the possession of a
25 firearm counted as part of the offender score under RCW
26 9.94A.360.)) A person prohibited from possessing a firearm under
27 subsection (1) because of a criminal conviction may petition a
28 court for restoration of rights under RCW 9.41.047."

29 On page 16, after line 35 insert the following:

30 "(4) A person prohibited from possessing a firearm under RCW
31 9.41.040(1) because of a criminal conviction may petition a court

1 for restoration or rights in accordance with this subsection (4).

2 (a) A person may so petition if:

3 (i)(A) Three years have elapsed since the date of conviction
4 for a misdemeanor or gross misdemeanor;

5 (B) Five years have elapsed since the date of conviction for
6 a class C felony;

7 (C) Ten years have elapsed since the date of conviction for
8 a class B felony; and

9 (ii) The person has not been convicted of any crime during
10 the applicable time period, and has satisfied all legal and
11 financial obligations arising from the conviction.

12 (b) A person petitioning for restoration of the right to
13 possess a firearm shall provide written notice to the court in
14 which the person's conviction was obtained and to the prosecuting
15 attorney's office. The person shall also provide the court in
16 which the petition is filed with a record of the person's current
17 criminal history. The court may refuse to restore the right to
18 possess a firearm if the court finds that the person petitioning
19 is a risk to public safety.

20 (c) A person convicted of a class A felony shall be
21 permanently prohibited from possession of a firearm.

22 (d) The prosecutor may petition the superior court, prior to
23 the expiration of the period prescribed in this subsection
24 (4)(a), to deny restoration of the right to possess a firearm for
25 an additional three years. The person must be given adequate
26 notice to respond to the petition. The court may deny
27 restoration of the right to possess a firearm if it finds by
28 clear and convincing evidence that the person poses a manifest
29 risk to public safety by reason of criminal activity or mental
30 instability.

31 (5) The time limitations of subsection (4)(a) of this
32 section do not apply to a pardon, annulment, certificate of

1 rehabilitation, or other equivalent procedure as provided for in
2 RCW 9.41.040(3)."

EFFECT: Restores domestic violence misdemeanor offenses as disqualifiers, but only if committed after July 1, 1994. Adds the crime of harassment itself (rather than the current law's listing of offenses that may constitute harassment) as a disqualifier, but only if committed after July 1, 1994.

The crime of harassment is a gross misdemeanor for a first offense and consists of placing another in reasonable fear by threatening: bodily injury; damage to property; physical confinement or restraint; or maliciously to do any other act intended to substantially harm another's physical or mental health or safety.

Provides for time periods and procedures for petitioning for the restoration of rights following a conviction for a disqualifying offense. The period is three years for misdemeanors and gross misdemeanors; five years for class C felonies; and ten years for class B felonies. Persons convicted of class A felonies may never petition for restoration. A petitioner must notify the court of conviction and the prosecutor, and must supply the court in which the petition is filed with his or her criminal history. The court may deny the petition if it finds the person "is a risk to public safety." Prior to expiration of the time limits, the prosecutor may petition the court to deny a person the restoration of rights. The court may deny restoration under a prosecutor's petition if it finds "by clear and convincing evidence that the person poses a manifest risk to public safety by reason of criminal activity or mental instability."