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**SUBSTITUTE SENATE BILL 5339**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senators Franklin, Regala, Hewitt, Brown, McCaslin, Fairley, Zarelli, Weinstein, Stevens, Kline, Hargrove and Kohl-Welles)

READ FIRST TIME 02/22/05.

1       AN ACT Relating to recidivism reduction through discharge of  
2 convicted felons; amending RCW 9.94A.637; adding new sections to  
3 chapter 43.131 RCW; and creating a new section.

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

5       NEW SECTION. **Sec. 1.** The legislature finds that:

6       (1) Record numbers of our citizens have been sentenced to prison  
7 over the past two decades, more than ninety percent of whom will be  
8 reentering society.

9       (2) The successful reentry and reintegration of previously  
10 incarcerated men and women is important to the public safety of the  
11 state of Washington, to the health of our communities, and to the  
12 reduction of the growing costs of the criminal justice system.

13       (3) A comprehensive reentry program, including the removal of  
14 unreasonable barriers to reentry, offers the best opportunity for  
15 released persons to become productive citizens.

16       (4) Receipt of a certificate of discharge is critical to a released  
17 person's ultimate reintegration into society and avoidance of  
18 recidivism, including better employability, housing, and the exercise  
19 of civil rights.

1 (5) It is in the public interest that a person who has satisfied  
2 all incarceration and supervision requirements of his or her sentence  
3 receive a certificate of discharge if he or she has made a good faith  
4 effort to satisfy all legal financial obligations, according to his or  
5 her means, and the legal financial obligations remain enforceable by  
6 all parties as a civil judgment.

7 **Sec. 2.** RCW 9.94A.637 and 2004 c 121 s 2 are each amended to read  
8 as follows:

9 (1)(a) When an offender has completed all requirements of the  
10 sentence, including any and all legal financial obligations, and while  
11 under the custody and supervision of the department, the secretary or  
12 the secretary's designee shall notify the sentencing court, which shall  
13 discharge the offender and provide the offender with a certificate of  
14 discharge by issuing the certificate to the offender in person or by  
15 mailing the certificate to the offender's last known address.

16 (b)(i) When an offender has reached the end of his or her  
17 supervision with the department and has completed all the requirements  
18 of the sentence except his or her legal financial obligations, the  
19 secretary's designee shall provide the county clerk with a notice that  
20 the offender has completed all nonfinancial requirements of the  
21 sentence.

22 (ii) When the department has provided the county clerk with notice  
23 that an offender has completed all the requirements of the sentence and  
24 the offender subsequently satisfies all legal financial obligations  
25 under the sentence, the county clerk shall notify the sentencing court,  
26 including the notice from the department, which shall discharge the  
27 offender and provide the offender with a certificate of discharge by  
28 issuing the certificate to the offender in person or by mailing the  
29 certificate to the offender's last known address.

30 (c) When an offender who is subject to requirements of the sentence  
31 in addition to the payment of legal financial obligations either is not  
32 subject to supervision by the department or does not complete the  
33 requirements while under supervision of the department, it is the  
34 offender's responsibility to provide the court with verification of the  
35 completion of the sentence conditions other than the payment of legal  
36 financial obligations. When the offender satisfies all legal financial  
37 obligations under the sentence, the county clerk shall notify the

1 sentencing court that the legal financial obligations have been  
2 satisfied. When the court has received both notification from the  
3 clerk and adequate verification from the offender that the sentence  
4 requirements have been completed, the court shall discharge the  
5 offender and provide the offender with a certificate of discharge by  
6 issuing the certificate to the offender in person or by mailing the  
7 certificate to the offender's last known address.

8 (2) The court shall send a copy of every signed certificate of  
9 discharge to the auditor for the county in which the court resides and  
10 to the department. The department shall create and maintain a data  
11 base containing the names of all felons who have been issued  
12 certificates of discharge, the date of discharge, and the date of  
13 conviction and offense.

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

20 (4)(a) A sentencing court may, on motion by the offender, discharge  
21 the offender's sentence prior to the offender completing the payment of  
22 legal financial obligations where the offender has made and continues  
23 to make a good faith effort to satisfy the legal financial obligations  
24 in accordance with his or her ability to pay and the repayment schedule  
25 adopted by the court, the department of corrections, or the county  
26 clerk. The offender must show that he or she has personally made a  
27 good faith effort to pay and that he or she will continue to make  
28 payments.

29 (b) For purposes of this section, "good faith effort" means that  
30 the offender has either: (i) Paid the principal amount in full; or  
31 (ii) made twenty-four consecutive monthly payments, excluding any  
32 payments mandatorily deducted by the department of corrections, on his  
33 or her legal financial obligations under his or her payment agreement  
34 with the court.

35 (c) A discharge of the offender's sentence under this subsection  
36 has no effect on the offender's liability to pay his or her legal  
37 financial obligations, which remain enforceable under this chapter. In  
38 addition, nothing in this subsection limits the jurisdiction of the

1 court over the offender for the purpose of enforcing the offender's  
2 compliance with the payment of legal financial obligations or the  
3 authority of the county clerk to collect unpaid legal financial  
4 obligations as otherwise provided by statute.

5 (d) This subsection applies to persons convicted as adults or in  
6 juvenile court.

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

17 ~~((+5+))~~ (6) Unless otherwise ordered by the sentencing court, a  
18 certificate of discharge shall not terminate the offender's obligation  
19 to comply with an order issued under chapter 10.99 RCW that excludes or  
20 prohibits the offender from having contact with a specified person or  
21 coming within a set distance of any specified location that was  
22 contained in the judgment and sentence. An offender who violates such  
23 an order after a certificate of discharge has been issued shall be  
24 subject to prosecution according to the chapter under which the order  
25 was originally issued.

26 ~~((+6+))~~ (7) Upon release from custody, the offender may apply to  
27 the department for counseling and help in adjusting to the community.  
28 This voluntary help may be provided for up to one year following the  
29 release from custody.

30 NEW SECTION. Sec. 3. A new section is added to chapter 43.131 RCW  
31 to read as follows:

32 The recidivism reduction program created by chapter . . . , Laws of  
33 2005 (this act) shall be reviewed under this chapter and shall be  
34 terminated on June 30, 2012. The Washington state institute for public  
35 policy shall be the lead entity.

1        NEW SECTION.   **Sec. 4.**   A new section is added to chapter 43.131 RCW  
2   to read as follows:

3        The following acts or parts of acts, as now existing or hereafter  
4   amended, are each repealed, effective June 30, 2013.

5        (1) Section 1 of this act; and

6        (2) The amendment of RCW 9.94A.637 by 2005 c . . . s 2 (section 2  
7   of this act).

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