

SENATE BILL REPORT

ESHB 1002

As of March 13, 2009

Title: An act relating to allowing a certificate of discharge to be issued when an existing order excludes or prohibits an offender from having contact with a specified person or business, or coming within a set distance of any specified location.

Brief Description: Allowing a certificate of discharge to be issued when an existing order excludes or prohibits an offender from having contact with a specified person or business, or coming within a set distance of any specified location.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Appleton and Hasegawa).

Brief History: Passed House: 2/13/09, 95-0.

Committee Activity: Human Services & Corrections: 3/13/09.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Jennifer Strus (786-7316)

Background: A criminal sentence may include a term of incarceration; a term of supervision in the community (community custody); an obligation to pay legal financial obligations; or a combination of incarceration, community custody, and legal financial obligations. When an offender has completed all the requirements of that offender's sentence, including the payment of any and all legal financial obligations, the offender may obtain a certificate of discharge.

A certificate of discharge has the effect of restoring all civil rights lost by operation of law, except the right to bear arms, as the result of conviction. Among the civil rights restored include the right to vote, serve on a jury, and hold public office. The certificate of discharge also terminates the sentencing court's jurisdiction to enforce requirements of the sentence.

Unless otherwise ordered by the court, a certificate of discharge does not terminate the offender's obligation to comply with an order that excludes or prohibits the offender from having contact with a specified person or coming within a set distance of any specified location that was contained in the judgment and sentence.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: Despite the existence of a no-contact order, a certificate of discharge may be issued to an offender who has completed all the requirements of that offender's sentence. For the purposes of issuing a certificate of discharge, a no-contact order is not a requirement of the offender's sentence.

If a no-contact order is only contained in the offender's judgment and sentence, the offender must petition the court to issue a certificate of discharge and a separate no-contact order. The court must issue the separate no-contact order under a new civil cause number. The no-contact order is issued for the remaining term and conditions as the no-contact order contained in the judgment and sentence. The separate no-contact order is not a modification of the offender's sentence. The separately issued no-contact order may be enforced under chapter 26.50 RCW.

An offender whose no-contact order is contained only in the judgment and sentence must pay a filing fee associated with the petition for the separate no-contact order. The filing fee does not apply to an offender seeking a certificate of discharge when the offender has a no-contact order separate from the judgment and sentence.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill will assist offenders to have their civil rights restored while also protecting the subjects of the no contact orders.

OTHER: There are concerns about how the civil no-contact order will work. Under the current language, it is not clear that the protected person will receive notice of the new no-contact order or the method by which that person can enforce it. No-contact orders are generally entered into data systems so that law enforcement knows when a no-contact order exists for enforcement purposes. It is not clear in this bill how that would work under the circumstances presented in the bill.

Persons Testifying: PRO: Gavin Thukinton, Columbia Legal Services; Bob Cooper, Mark Muenster, Washington Defender's Association and Washington Association of Criminal Defense Attorneys.

OTHER: Grace Huang, Washington Coalition Against Domestic Violence.