

SHB 2612 - H AMD TO H AMD (H-4265.4/12) 1126  
By Representative Klippert

1 Beginning on page 1, line 3 of the amendment, strike all of  
2 sections 1 through 12 and insert the following:

3 "Sec. 1. RCW 9.92.066 and 2009 c 325 s 2 are each amended to read  
4 as follows:

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

12 (2)(a) Upon termination of a suspended sentence under RCW 9.92.060  
13 or 9.95.210, the person may apply to the sentencing court for a  
14 vacation of the person's record of conviction under RCW 9.94A.640. The  
15 court may, in its discretion, clear the record of conviction if it  
16 finds the person has met the equivalent of the tests in RCW  
17 9.94A.640(2) as those tests would be applied to a person convicted of  
18 a crime committed before July 1, 1984.

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

1           **Sec. 2.** RCW 9.94A.885 and 2009 c 325 s 6 and 2009 c 138 s 4 are  
2 each reenacted and amended to read as follows:

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

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

15           (3) The board shall not recommend that the governor grant clemency  
16 under subsection (1) of this section until a public hearing has been  
17 held on the petition. The prosecuting attorney of the county where the  
18 conviction was obtained shall be notified at least thirty days prior to  
19 the scheduled hearing that a petition has been filed and the date and  
20 place at which the hearing on the petition will be held. The board may  
21 waive the thirty-day notice requirement in cases where it determines  
22 that waiver is necessary to permit timely action on the petition. A  
23 copy of the petition shall be sent to the prosecuting attorney. The  
24 prosecuting attorney shall make reasonable efforts to notify victims,  
25 survivors of victims, witnesses, and the law enforcement agency or  
26 agencies that conducted the investigation, of the date and place of the  
27 hearing. Information regarding victims, survivors of victims, or  
28 witnesses receiving this notice are confidential and shall not be  
29 available to the offender. The board shall consider statements  
30 presented as set forth in RCW 7.69.032. This subsection is intended  
31 solely for the guidance of the board. Nothing in this section is  
32 intended or may be relied upon to create a right or benefit,  
33 substantive or procedural, enforceable at law by any person.

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

36           (1)(a) When an offender has completed all requirements of the  
37 sentence, including any and all legal financial obligations, and while

1 under the custody and supervision of the department, the secretary or  
2 the secretary's designee shall notify the sentencing court, which shall  
3 discharge the offender and provide the offender with a certificate of  
4 discharge by issuing the certificate to the offender in person or by  
5 mailing the certificate to the offender's last known address.

6 (b)(i) When an offender has reached the end of his or her  
7 supervision with the department and has completed all the requirements  
8 of the sentence except his or her legal financial obligations, the  
9 secretary's designee shall provide the county clerk with a notice that  
10 the offender has completed all nonfinancial requirements of the  
11 sentence.

12 (ii) When the department has provided the county clerk with notice  
13 that an offender has completed all the requirements of the sentence and  
14 the offender subsequently satisfies all legal financial obligations  
15 under the sentence, the county clerk shall notify the sentencing court,  
16 including the notice from the department, which shall discharge the  
17 offender and provide the offender with a certificate of discharge by  
18 issuing the certificate to the offender in person or by mailing the  
19 certificate to the offender's last known address.

20 (c) When an offender who is subject to requirements of the sentence  
21 in addition to the payment of legal financial obligations either is not  
22 subject to supervision by the department or does not complete the  
23 requirements while under supervision of the department, it is the  
24 offender's responsibility to provide the court with verification of the  
25 completion of the sentence conditions other than the payment of legal  
26 financial obligations. When the offender satisfies all legal financial  
27 obligations under the sentence, the county clerk shall notify the  
28 sentencing court that the legal financial obligations have been  
29 satisfied. When the court has received both notification from the  
30 clerk and adequate verification from the offender that the sentence  
31 requirements have been completed, the court shall discharge the  
32 offender and provide the offender with a certificate of discharge by  
33 issuing the certificate to the offender in person or by mailing the  
34 certificate to the offender's last known address.

35 (2)(a) For purposes of this subsection (2), a no-contact order is  
36 not a requirement of the offender's sentence. An offender who has  
37 completed all requirements of the sentence, including any and all legal  
38 financial obligations, is eligible for a certificate of discharge even

1 if the offender has an existing no-contact order that excludes or  
2 prohibits the offender from having contact with a specified person or  
3 business or coming within a set distance of any specified location.

4 (b) In the case of an eligible offender who has a no-contact order  
5 as part of the judgment and sentence, the offender may petition the  
6 court to issue a certificate of discharge and a separate no-contact  
7 order by filing a petition in the sentencing court and paying the  
8 appropriate filing fee associated with the petition for the separate  
9 no-contact order. This filing fee does not apply to an offender  
10 seeking a certificate of discharge when the offender has a no-contact  
11 order separate from the judgment and sentence.

12 (i)(A) The court shall issue a certificate of discharge and a  
13 separate no-contact order under this subsection (2) if the court  
14 determines that the offender has completed all requirements of the  
15 sentence, including all legal financial obligations. The court shall  
16 reissue the no-contact order separately under a new civil cause number  
17 for the remaining term and under the same conditions as contained in  
18 the judgment and sentence.

19 (B) The clerk of the court shall send a copy of the new no-contact  
20 order to the individuals protected by the no-contact order, along with  
21 an explanation of the reason for the change, if there is an address  
22 available in the court file. If no address is available, the clerk of  
23 the court shall forward a copy of the order to the prosecutor, who  
24 shall send a copy of the no-contact order with an explanation of the  
25 reason for the change to the last known address of the protected  
26 individuals.

27 (ii) Whenever an order under this subsection (2) is issued, the  
28 clerk of the court shall forward a copy of the order to the appropriate  
29 law enforcement agency specified in the order on or before the next  
30 judicial day. The clerk shall also include a cover sheet that  
31 indicates the case number of the judgment and sentence that has been  
32 discharged. Upon receipt of the copy of the order and cover sheet, the  
33 law enforcement agency shall enter the order into any computer-based  
34 criminal intelligence information system available in this state used  
35 by law enforcement agencies to list outstanding warrants. The order  
36 shall remain in this system until it expires. The new order, and case  
37 number of the discharged judgment and sentence, shall be linked in the

1 criminal intelligence information system for purposes of enforcing the  
2 no-contact order.

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

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

7 (3) Every signed certificate and order of discharge shall be filed  
8 with the county clerk of the sentencing county. In addition, the court  
9 shall send to the department a copy of every signed certificate and  
10 order of discharge for offender sentences under the authority of the  
11 department. The county clerk shall enter into a database maintained by  
12 the administrator for the courts the names of all felons who have been  
13 issued certificates of discharge, the date of discharge, and the date  
14 of conviction and offense.

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

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

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

1 (7) Upon release from custody, the offender may apply to the  
2 department for counseling and help in adjusting to the community. This  
3 voluntary help may be provided for up to one year following the release  
4 from custody.

5 **Sec. 4.** RCW 9.96.050 and 2011 1st sp.s. c 40 s 22 are each amended  
6 to read as follows:

7 (1)(a) When an offender on parole has performed all obligations of  
8 his or her release, including any and all legal financial obligations,  
9 for such time as shall satisfy the indeterminate sentence review board  
10 that his or her final release is not incompatible with the best  
11 interests of society and the welfare of the paroled individual, the  
12 board may make a final order of discharge and issue a certificate of  
13 discharge to the offender.

14 (b) The board retains the jurisdiction to issue a certificate of  
15 discharge after the expiration of the offender's or parolee's maximum  
16 statutory sentence. If not earlier granted and any and all legal  
17 financial obligations have been paid, the board shall issue a final  
18 order of discharge three years from the date of parole unless the  
19 parolee is on suspended or revoked status at the expiration of the  
20 three years.

21 (c) The discharge, regardless of when issued, shall have the effect  
22 of restoring all civil rights (~~((not already restored by RCW~~  
23 ~~29A.08.520))~~ lost by operation of law upon conviction, and the  
24 certification of discharge shall so state.

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

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

29 (2) A copy of every signed certificate of discharge for offender  
30 sentences under the authority of the department of corrections shall be  
31 placed in the department's files.

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

1       **Sec. 5.** RCW 10.64.140 and 2009 c 325 s 5 are each amended to read  
2 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

30       ~~(a) Serving a sentence of confinement in the custody of the~~  
31 ~~department of corrections; or~~

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

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

35       Within fourteen days of the entry of a judgment of conviction of an  
36 individual for a felony, the clerk of the court shall send a notice of

1 the conviction including the full name of the defendant and his or her  
2 residential address to the county auditor or custodian of voting  
3 records in the county of the defendant's residence.

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

EFFECT: Persons convicted of a felony may not have the right to  
vote restored until all legal financial obligations have been paid.

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