

SHB 2612 - H AMD 1058

By Representative Taylor

1 Strike everything after the enacting clause and insert the
2 following:

3

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

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

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

20 (b) The clerk of the court in which the vacation order is entered
21 shall immediately transmit the order vacating the conviction to the
22 Washington state patrol identification section and to the local police
23 agency, if any, which holds criminal history information for the
24 person who is the subject of the conviction. The Washington state
25 patrol and any such local police agency shall immediately update their
26 records to reflect the vacation of the conviction, and shall transmit
27 the order vacating the conviction to the federal bureau of

1 investigation. A conviction that has been vacated under this section
2 may not be disseminated or disclosed by the state patrol or local law
3 enforcement agency to any person, except other criminal justice
4 enforcement agencies.

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

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

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

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

1 shall consider statements presented as set forth in RCW 7.69.032.
2 This subsection is intended solely for the guidance of the board.
3 Nothing in this section is intended or may be relied upon to create a
4 right or benefit, substantive or procedural, enforceable at law by any
5 person.

6
7 **Sec. 3.** RCW 9.94A.637 and 2009 c 325 s 3 and 2009 c 288 s 2 are
8 each reenacted and amended to read 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
13 shall discharge the offender and provide the offender with a
14 certificate of discharge by issuing the certificate to the offender in
15 person or by mailing the certificate to the offender's last known
16 address.

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

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

32 (c) When an offender who is subject to requirements of the
33 sentence in addition to the payment of legal financial obligations
34 either is not subject to supervision by the department or does not

1 complete the requirements while under supervision of the department,
2 it is the offender's responsibility to provide the court with
3 verification of the completion of the sentence conditions other than
4 the payment of legal financial obligations. When the offender
5 satisfies all legal financial obligations under the sentence, the
6 county clerk shall notify the sentencing court that the legal
7 financial obligations have been satisfied. When the court has
8 received both notification from the clerk and adequate verification
9 from the offender that the sentence requirements have been completed,
10 the court shall discharge the offender and provide the offender with a
11 certificate of discharge by issuing the certificate to the offender in
12 person or by mailing the certificate to the offender's last known
13 address.

14 (2)(a) For purposes of this subsection (2), a no-contact order is
15 not a requirement of the offender's sentence. An offender who has
16 completed all requirements of the sentence, including any and all
17 legal financial obligations, is eligible for a certificate of
18 discharge even if the offender has an existing no-contact order that
19 excludes or prohibits the offender from having contact with a
20 specified person or business or coming within a set distance of any
21 specified location.

22 (b) In the case of an eligible offender who has a no-contact order
23 as part of the judgment and sentence, the offender may petition the
24 court to issue a certificate of discharge and a separate no-contact
25 order by filing a petition in the sentencing court and paying the
26 appropriate filing fee associated with the petition for the separate
27 no-contact order. This filing fee does not apply to an offender
28 seeking a certificate of discharge when the offender has a no-contact
29 order separate from the judgment and sentence.

30 (i)(A) The court shall issue a certificate of discharge and a
31 separate no-contact order under this subsection (2) if the court
32 determines that the offender has completed all requirements of the
33 sentence, including all legal financial obligations. The court shall
34 reissue the no-contact order separately under a new civil cause number

1 for the remaining term and under the same conditions as contained in
2 the judgment and sentence.

3 (B) The clerk of the court shall send a copy of the new no-contact
4 order to the individuals protected by the no-contact order, along with
5 an explanation of the reason for the change, if there is an address
6 available in the court file. If no address is available, the clerk of
7 the court shall forward a copy of the order to the prosecutor, who
8 shall send a copy of the no-contact order with an explanation of the
9 reason for the change to the last known address of the protected
10 individuals.

11 (ii) Whenever an order under this subsection (2) is issued, the
12 clerk of the court shall forward a copy of the order to the
13 appropriate law enforcement agency specified in the order on or before
14 the next judicial day. The clerk shall also include a cover sheet
15 that indicates the case number of the judgment and sentence that has
16 been discharged. Upon receipt of the copy of the order and cover
17 sheet, the law enforcement agency shall enter the order into any
18 computer-based criminal intelligence information system available in
19 this state used by law enforcement agencies to list outstanding
20 warrants. The order shall remain in this system until it expires.
21 The new order, and case number of the discharged judgment and
22 sentence, shall be linked in the criminal intelligence information
23 system for purposes of enforcing the no-contact order.

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

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

28 (3) Every signed certificate and order of discharge shall be filed
29 with the county clerk of the sentencing county. In addition, the
30 court shall send to the department a copy of every signed certificate
31 and order of discharge for offender sentences under the authority of
32 the department. The county clerk shall enter into a database
33 maintained by the administrator for the courts the names of all felons
34

1 who have been issued certificates of discharge, the date of discharge,
2 and the date of conviction and offense.

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

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

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

26 (7) Upon release from custody, the offender may apply to the
27 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
31 **Sec. 4.** RCW 9.96.050 and 2011 1st sp.s. c 40 s 22 are each
32 amended to read as follows:

33 (1)(a) When an offender on parole has performed all obligations of
34 his or her release, including any and all legal financial obligations,

1 for such time as shall satisfy the indeterminate sentence review board
2 that his or her final release is not incompatible with the best
3 interests of society and the welfare of the paroled individual, the
4 board may make a final order of discharge and issue a certificate of
5 discharge to the offender.

6 (b) The board retains the jurisdiction to issue a certificate of
7 discharge after the expiration of the offender's or parolee's maximum
8 statutory sentence. If not earlier granted and any and all legal
9 financial obligations have been paid, the board shall issue a final
10 order of discharge three years from the date of parole unless the
11 parolee is on suspended or revoked status at the expiration of the
12 three years.

13 (c) The discharge, regardless of when issued, shall have the
14 effect of restoring all civil rights (~~((not already restored by RCW~~
15 ~~29A.08.520))~~ lost by operation of law upon conviction, and the
16 certification of discharge shall so state.

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

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

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

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

28
29 **Sec. 5.** RCW 10.64.140 and 2009 c 325 s 5 are each amended to read
30 as follows:

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

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

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

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

5 ~~—(d) The defendant must reregister before voting;~~

6 ~~—(e) The provisional right to vote may be revoked if the defendant
7 fails to comply with all the terms of his or her legal financial
8 obligations or an agreement for the payment of legal financial
9 obligations;~~

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

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

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

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

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

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

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

24 ~~—(a) Serving a sentence of confinement in the custody of the
25 department of corrections; or~~

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

27
28 NEW SECTION. Sec. 6. A new section is added to chapter 10.64 RCW
29 to read as follows:

30 Within fourteen days of the entry of a judgment of conviction of
31 an individual for a felony, the clerk of the court shall send a notice
32 of the conviction including the full name of the defendant and his or
33 her residential address to the county auditor or custodian of voting
34 records in the county of the defendant's residence.

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

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3 Correct the title.

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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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