

SENATE BILL REPORT

SB 5076

As Reported by Senate Committee On:
State Government, Tribal Relations & Elections, February 1, 2019

Title: An act relating to allowing persons complying with conditions of community custody to be registered to vote.

Brief Description: Allowing persons complying with conditions of community custody to be registered to vote. [**Revised for 1st Substitute:** Concerning voter eligibility for persons who have been convicted of a felony offense and are not in custody of the department of corrections.]

Sponsors: Senators Kuderer, Palumbo, Wellman, Hunt, Darneille, Hasegawa, Nguyen, Saldaña and Pedersen.

Brief History:

Committee Activity: State Government, Tribal Relations & Elections: 1/30/19, 2/01/19 [DPS, w/oRec, DNP].

Brief Summary of First Substitute Bill

- Allows any person who is no longer confined in a Department of Corrections facility to register to vote.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

Majority Report: That Substitute Senate Bill No. 5076 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Hasegawa and Takko.

Minority Report: That it be referred without recommendation.

Signed by Senator Zeiger, Ranking Member.

Minority Report: Do not pass.

Signed by Senator Bailey.

Staff: Samuel Brown (786-7470)

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.

Background: Voter Registration. Persons who are age 18 or older, are United States citizens, have lived in the state, county, and precinct for 30 days immediately preceding an election, and have not been convicted of an infamous crime are entitled to vote under the Washington State Constitution. A person with a felony conviction may have their voting rights provisionally restored upon completion of their sentence in a Department of Corrections (DOC) facility and, if applicable, completion of a period of community custody.

At least twice a year, the Secretary of State must compare lists of persons who have lost voting rights due to incarceration and who have had a provisional restoration of rights revoked against the list of registered voters. If a person appears to be ineligible to vote, the Secretary of State must confirm that person's identity by matching the dates of birth on each list prior to suspending that person from the list of registered voters.

A person may have their voting rights permanently restored after serving a sentence for a felony conviction by:

- a certificate of discharge issued by the sentencing court;
- a court order restoring voting rights;
- a final order of discharge issued by the Indeterminate Sentence Review Board; or
- a certificate of restoration issued by the Governor.

Community Custody. Certain felony offenses require the offender to serve a period of community custody after completing their sentence in a DOC facility, with periodic reporting to DOC and certain court-imposed conditions. These offenses include:

- persons convicted of sex offenses or serious violent offenses must serve 36 months of community custody;
- persons convicted of other violent offenses must serve 18 months of community custody; and
- persons convicted of crimes against persons, gang members or associates convicted of unlawful possession of a firearm, persons convicted of controlled substance violations, and persons committing a first failure to register must serve 12 months of community custody.

Legal Financial Obligations. When a defendant is convicted of a crime, the court may impose various legal financial obligations as part of the judgment and sentence. The requirement that an offender pay a monthly sum toward a legal financial obligation is a condition of the sentence, and an offender is subject to penalties for noncompliance. A provisional restoration of voting rights may be revoked if the person fails to comply with legal financial obligations.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (First Substitute): Voter Registration. Any person who is no longer confined in a DOC facility may be permanently registered to vote so long as the person complies with any applicable community custody conditions. The person need not have completed community custody or fulfilled all legal financial obligations to register to vote. Provisional voter registration is replaced with permanent voter registration.

The statement a person convicted of a felony must sign acknowledging the loss of the right to vote is modified to reflect the restoration of the right to vote upon release from DOC custody.

List Maintenance. Comparison of the voter rolls to the list of persons whose voting rights have been suspended due to incarceration must occur at least monthly. The person's last known address and county, driver's license number, and last four digits of a Social Security Number may also be used to confirm the person's identity prior to suspension from the list of registered voters.

EFFECT OF CHANGES MADE BY STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS COMMITTEE (First Substitute): Comparison of the voter rolls to the list of persons whose voting rights have been suspended due to incarceration must occur at least monthly. The person's last known address and county, driver's license number, and last four digits of a Social Security Number may be used to confirm the person's identity prior to suspension from the list of registered voters.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Proposed Substitute: *The committee recommended a different version of the bill than what was heard.* PRO: There is no logic between connecting commission of a crime with losing the right to vote. The denial of the right to vote on community custody is rooted in Jim Crow laws and racially discriminatory on its face. This moves toward a justice-oriented philosophy and expands access to democracy. The people this bill will directly help are cooperating with the courts. This clarifies the process and makes it easy for a person leaving custody to understand their rights. When we treat people indefinitely as outcasts, their behavior often mirrors that. Bringing people closer to civic engagement increases public safety. The right to vote should only be tied to age and citizenship status, not the ability to pay fines. Disenfranchisement laws impact communities of color disproportionately—black Washingtonians are likely to be banned from voting at four times the rate of other racial groups. Legal financial obligations are no longer a prerequisite for restoration of civil rights.

Many incarcerated persons are taxpayers and veterans who serve to protect our right to vote. Depriving the formally imprisoned of voting rights is entirely punitive and accomplished nothing to reintegrate the person back into society. We frequently encounter people who mistakenly believe they are not eligible to vote—these laws cause de facto disenfranchisement. This bill will help people understand their rights and reflects a cultural shift in who gets to participate. While on community custody, I have found a connection to my community through civic engagement, but I still feel unrepresented because I am unable to vote. Civic engagement lowers recidivism rates. We have a scarlet letter and stand outside the system because of our decisions, but we are still constituents who want to have a voice. These laws also disenfranchise the children of people on community custody because their

parents have no voice. How long is enough for us to be punished? Minority communities bear the burden of having their voices blunted. This bill promotes civic resurrection.

Persons Testifying: PRO: Senator Patty Kuderer, Prime Sponsor; Jay Jennings and Walter Smit, Office of Secretary of State; Christopher Poulos, Washington Statewide Reentry Council; Julie Wise, King County Director of Elections; Eric Gonzalez Alfaro, American Civil Liberties Union of Washington; Tom Ewell, Quaker Voice; Alison Eisinger, Seattle/King County Coalition on Homelessness; Ramon Hernandez and Louis Ihrig, Civil Survival; Salvador Salazar Cano, Progreso Latino Progress.

Persons Signed In To Testify But Not Testifying: No one.