

HOUSE BILL REPORT

HB 1174

As Reported by House Committee On:
State Government & Tribal Relations

Title: An act relating to improving access and removing barriers to jail-based voting.

Brief Description: Improving access and removing barriers to jail-based voting.

Sponsors: Representatives Simmons, Farivar, Reed, Street, Bateman, Ramel, Macri, Reeves, Lekanoff, Davis and Ormsby.

Brief History:

Committee Activity:

State Government & Tribal Relations: 1/13/23, 1/31/23 [DPS].

Brief Summary of Substitute Bill

- Requires county auditors to create a Jail Voting Plan (Plan) for each jail, including details about how the jail will help people who are incarcerated register to vote and access and complete a ballot.
- Requires jails to implement their Plans and provide voter registration information, ballot-related information, and ballots to people who are incarcerated.
- Requires jails to document voting-related requests and complaints and collect related data.
- Requires the Secretary of State to contract with the University of Washington Evans School of Public Policy and Governance to identify challenges and make recommendations related to voter registration and voting access for people who are incarcerated in jail.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.

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

Signed by 5 members: Representatives Ramos, Chair; Stearns, Vice Chair; Gregerson, Low and Mena.

Minority Report: Do not pass. Signed by 2 members: Representatives Abbarno, Ranking Minority Member; Christian, Assistant Ranking Minority Member.

Staff: Jason Zolle (786-7124).

Background:

Voter Registration. To register to vote in Washington, a person may:

- submit an application electronically or by mail, if the applicant has a Washington driver's license or state identification card;
- register in person at the county auditor's office or a voting center; or
- register to vote using forms provided when receiving services at certain state agencies, such as the Department of Licensing or Department of Social and Health Services.

Applicants registering to vote must provide their name, residential address, and date of birth, and they must check a box confirming their United States citizenship. The applicant must also sign the application to attest to the truth of the information provided.

Voting. All voters in Washington are issued a ballot by mail, which they may return by mail or by depositing into a ballot box. A person may also visit a voting center to pick up a ballot in person.

Eligibility to Vote. Under the state Constitution, all persons convicted of felonies lose their right to vote, unless their civil rights have been restored. A person's right to vote is provisionally restored once a person is no longer under the authority of the Department of Corrections, i.e., serving a sentence of confinement or subject to community custody. A person's right to vote is permanently restored by any of the following:

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

Summary of Substitute Bill:

Each county auditor must create a Jail Voting Plan (Plan) for each county and city jail, with assistance of the Office of the Secretary of State (OSOS) and a jail employee who has been designated as the Jail Voting Coordinator. The Plan must include details about how the jail will help people who are incarcerated to:

- register to vote or update their voter registration;

- access proof of their identification or residency in order to register to vote;
- access information about, and materials necessary for, eligibility for voting and voting rights restoration;
- access nonpartisan information about candidates, including voters' pamphlets and other nongovernmental voter education materials;
- access materials necessary to fill out ballots; and
- complete their ballots in private.

The Plan must also include details about how the jail will:

- provide visible information in the jail about registering to vote and accessing a ballot;
- ensure that all people who are incarcerated are made aware of key dates surrounding registration and ballot return;
- establish a process by which voter registration and ballot return data is collected;
- establish a process by which voting-related requests and complaints are documented and properly considered;
- accommodate people with disabilities to register to vote and fill out ballots; and
- provide equal access to candidates who request to campaign in the jails.

The initial Plan must be adopted by January 1, 2024, and Plans must be reviewed and readopted at least every two years. Jails must provide people who are incarcerated with voter registration and ballot-related information in accordance with their Plan. Ballots must be made accessible starting at least 18 days before a primary or general election. Jails must treat election-related materials sent or delivered by mail as high priority mail.

Jails must permit election officials from the county auditor's office and the OSOS to enter the jail at least 30 days in advance of each primary and general election for voter registration outreach and education. Jails must document all voting-related requests and complaints, and they, along with the county auditor, must collect data related to voter registration and ballot return from people who are incarcerated. That data must be reported to the relevant county auditor and the OSOS.

Jails must provide information about and materials necessary for registering to vote to all people who are released from their custody.

The OSOS must enter into an agreement with the University of Washington Evans School of Public Policy and Governance (Evans School) to examine the processes associated with providing voter registration, voting materials, and voting assistance to people who are incarcerated in jail. The study must identify challenges and make recommendations. A final report is due to the Governor, the OSOS, and the Legislature by June 30, 2024.

Substitute Bill Compared to Original Bill:

The substitute bill sets a deadline of January 1, 2024, for the initial Plan, and requires readoption every two years. Additionally, Plans must now explain how jails will provide

equal access to candidates who request to campaign in jails and inmate access to nongovernmental voter education materials. The substitute bill clarifies that election officials who enter jails for voter outreach and education are still subject to standard local jail clearance processes. Jails must treat election-related materials sent or delivered by mail as high priority mail.

Tribal jails are removed from the scope of the bill.

The OSOS must enter into an agreement with the Evans School to examine voting-related processes for people who are incarcerated in jail, subject to appropriation.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is designed to make sure that people in jail have access to their right to vote. People must know how to exercise their rights for them to be meaningful, and people in jails are affected by the decisions of elected officials. People in jail may not have access to the internet or a printer, and their ballot may be sent to their house while they are incarcerated. This bill does not create any new rights. The bill creates a necessary link between the county auditor and the jail. Last year a budget proviso created a grant program for counties to work with jails and partner with organizations to increase voting access. Four counties took advantage of the program, and ten counties made sure that access was provided even without the grant. The people who provided voter education were formerly incarcerated and helped connect with people in the jail to ensure a successful reentry. When access to voting in jail is neglected, it effectively disenfranchises people of color.

(Opposed) The state recently passed a bill restoring voting eligibility for felons, but this goes one step further by requiring correctional staff to make it easier for people to vote, even helping people fill out their ballot. It is a violation of the Equal Protection Clause to use taxpayer money to help some voters but not others. This bill allows taxpayer money to support biased voter education. There is no public oversight to make sure it is nonbiased. The resource expenditure for responding to inmate complaints alone will put a burden on an already stressed system. There is a reason people are in jail. We must be careful about giving voting rights away as if they were candy.

(Other) The fact that someone is incarcerated doesn't strip away their constitutional right to vote. Corrections officers are committed to the right to vote. Staff familiar with jail

operations and safety considerations will suggest adjustments to the bill language to address their logistical and safety concerns.

Persons Testifying: (In support) Representative Tarra Simmons, prime sponsor; Anthony Blankenship; Julian Saucier; Jude Ahmed, Urban League of Metropolitan Seattle; Carol Sullivan, League of Women Voters of Washington; Julie Wise, King County Elections; Cindy Black, Fix Democracy First; Gicola Lane, Campaign Legal Center; and David Elliott and Connor Linse, Office of the Secretary of State.

(Opposed) Julie Barrett and Jeneen Breshears, Conservative Ladies of Washington; and Laurie Layne.

(Other) Taylor Gardner, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: None.