

INITIATIVE 399

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 399 to the Legislature is a true and correct copy as it was received by this office.

1 AN ACT Relating to the restoration of voting rights for citizens
2 who were convicted of felonies; amending RCW 29A.08.520, 29A.68.020,
3 9.92.066, 9.94A.637, and 10.64.140; reenacting and amending RCW
4 9.96.050; adding a new section to chapter 29A.08 RCW; creating new
5 sections; and repealing RCW 10.64.021.

6 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** (1) The people of the state of Washington
8 find that:

9 (a) Voting is a fundamental right and civic duty in a democracy.
10 Restoring the right to vote strengthens our democracy by increasing
11 voter participation and helps people who have completed their
12 incarceration to reintegrate into society. Voting is an essential
13 part of reassuming the duties of full citizenship.

14 (b) The state of Washington currently denies the right to vote to
15 all persons who have not fully paid legal financial obligations, even
16 though they have completed all other requirements of their felony
17 sentences. Consequently, low-income persons are unfairly denied the
18 right to vote because of their financial ability.

1 (c) As a result of this extended disenfranchisement, Washington has
2 the twelfth highest disenfranchisement rate in the nation. More than
3 167,316 (3.61%) of Washington's total voting-age population has lost
4 the right to vote because of a felony conviction. Of these, 90.3% are
5 not in prison, either they have been released or their convictions did
6 not result in actual incarceration.

7 (d) Criminal disenfranchisement in Washington has a
8 disproportionate impact on minority communities. The rate of
9 disenfranchisement among African-Americans is 17.23%, five times the
10 statewide rate. Latinos lose the vote at three times the statewide
11 average (10.6%). One in four black men are barred from voting in
12 Washington. By denying so many the right to vote, criminal
13 disenfranchisement laws dilute the political power of entire minority
14 communities.

15 (e) Extending disenfranchisement beyond a person's term of
16 incarceration complicates the process of restoring the right to vote,
17 making it a costly and confusing procedure. Washington's current
18 system requires the involvement of many government agencies in the
19 restoration process. It is complicated for election officials to
20 determine which persons still owe money on a sentence. The department
21 of corrections stops keeping records after persons have completed their
22 terms of custody. Payments are made to a network of local county
23 auditors who find it equally challenging to access and maintain
24 information regarding this process. This measure simplifies
25 restoration by making citizens eligible to vote after they have
26 completed their felony sentences in prison, thereby concentrating in
27 the department of corrections the responsibility for initiating the
28 restoration of voting rights. A streamlined restoration process
29 conserves government resources and saves the taxpayers money.
30 Presently, Washington's department of corrections has the third largest
31 state biennial budget across the nation. It is estimated that the
32 combined local and state cost for Washington's criminal justice system
33 is approximately 2.5 billion dollars a year. That is almost four
34 hundred ten dollars per Washington state resident.

35 (f) Depriving persons convicted of a felony from voting does not
36 reduce crime. However, research does show that among persons who have
37 been arrested, voters are less than half as likely to be rearrested as
38 nonvoters.

1 (g) To deny the vote to citizens convicted of a felony who are
2 expected to pay local, state, and federal taxes is the same as
3 "taxation without representation." Because they pay taxes like other
4 citizens, individuals convicted of a felony should have the right to
5 vote.

6 (2) The purpose of this act is to strengthen democratic
7 institutions by increasing participation in the voting process, help
8 people who have completed prison sentences become productive members of
9 society, and streamline procedures for restoring their right to vote.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 29A.08 RCW
11 to read as follows:

12 (1) A person who has lost the right of suffrage under Article VI,
13 section 3 of the state Constitution because of such person's
14 incarceration upon a felony conviction shall be restored the right to
15 vote when that person is discharged from incarceration.

16 (2) Before accepting a plea of guilty or nolo contendere to a
17 felony, and before imposing a felony sentence after trial, the court
18 shall notify the defendant that conviction will result in loss of the
19 right to vote only if, and for as long as, the person is incarcerated
20 and that voting rights are restored upon discharge.

21 (3) The department of corrections shall act as a voter registration
22 agency in accordance with sections 3 through 8 of this act. In this
23 capacity, and as a part of the release process leading to a person's
24 discharge from a correctional facility, the department of corrections
25 shall notify that person in writing that voting rights will be
26 restored, provide that person with a voter registration form and a
27 declination form, and offer that person assistance in filling out the
28 appropriate form. Unless the registrant refuses to permit it to do so,
29 the department of corrections shall transmit the completed voter
30 registration form to the county auditor where the conviction took place
31 or, if different, the county where the registrant was last known to
32 reside.

33 (4) The department of corrections shall, on or before the fifteenth
34 day of every month, transmit to the secretary of state the following:
35 A list containing the following information about persons convicted of
36 a felony who, during the preceding period, have become ineligible to
37 vote because of their incarceration; a list containing the following
38 information about persons convicted of a felony who, during the

1 preceding period, have become eligible to vote because of their
2 discharge from incarceration:

3 (a) Name;

4 (b) Date of birth;

5 (c) Date of entry of judgment of conviction;

6 (d) Sentence; and

7 (e) The last four digits of the person's social security number or
8 driver's license number, if available.

9 (5) The secretary of state shall ensure that the statewide voter
10 registration database is purged of the names of persons who are
11 ineligible to vote because of their incarceration upon a felony
12 sentence. The secretary of state shall likewise ensure that the names
13 of persons who are eligible and registered to vote following their
14 discharge from incarceration are added to the statewide voter
15 registration database in the same manner as all other names are added
16 to that database.

17 (6) The secretary of state shall ensure that persons who have
18 become eligible to vote because of their discharge from incarceration
19 face no continued barriers to registration or voting resulting from
20 their felony convictions.

21 (7) The secretary of state shall develop and implement a program to
22 educate attorneys, judges, election officials, correctional officials,
23 including parole and probation officers, and members of the public,
24 about the requirements of this section, ensuring that:

25 (a) Judges are informed of their obligation to inform criminal
26 defendants of the potential loss and restoration of their voting
27 rights, in accordance with subsection (2) of this section.

28 (b) The department of corrections is prepared to assist people with
29 registration to vote in anticipation of their discharge from
30 incarceration, including forwarding their completed voter registration
31 forms to state and local election officials where the registrant
32 resides.

33 (c) The language on voter registration forms makes clear that
34 people who have been disqualified from voting because of felony
35 convictions regain the right to vote when they are discharged from
36 incarceration.

37 (d) The department of corrections is prepared to transmit to the
38 secretary of state the information specified in subsection (4) of this
39 section.

1 (e) Probation and parole officers are informed of the change in the
2 law and are prepared to notify probationers and parolees that their
3 right to vote has been restored.

4 (f) Accurate and complete information about the voting rights of
5 people who have been charged with or convicted of crimes, whether
6 disenfranchising or not, is made available through a single publication
7 to government officials and the public.

8 (g) Voting rights shall be restored in accordance with this act to
9 all Washington residents who have been discharged from incarceration or
10 who were never incarcerated following felony convictions, whether they
11 were discharged or sentenced before or after the effective date of this
12 act.

13 **Sec. 3.** RCW 29A.08.520 and 2005 c 246 s 15 are each amended to
14 read as follows:

15 ~~(1) ((Upon receiving official notice of a person's conviction of a~~
16 ~~felony in either state or federal court, if the convicted person is a~~
17 ~~registered voter in the county, the county auditor shall cancel the~~
18 ~~defendant's voter registration. Additionally, the secretary of state~~
19 ~~in conjunction with the department of corrections, the Washington state~~
20 ~~patrol, the office of the administrator for the courts, and other~~
21 ~~appropriate state agencies shall arrange for a quarterly comparison of~~
22 ~~a list of known felons with the statewide voter registration list.))~~ A
23 person in total confinement in the custody of the department of
24 corrections or the federal bureau of prisons as a result of a felony
25 conviction is ineligible to vote. The right to vote is restored
26 following a felony conviction as long as the person is not in total
27 confinement in the custody of the department of corrections or the
28 federal bureau of prisons, whether serving the original sentence or
29 time for a violation of supervision conditions.

30 (2) At least once a month, the secretary of state shall compare the
31 list of registered voters to a list of felons in total confinement in
32 the custody of the department of corrections. If a ((person is found
33 on a felon list and the statewide voter registration list)) registered
34 voter is in the total confinement in the custody of the department of
35 corrections, whether serving the original sentence or serving time for
36 a violation of supervision conditions, the secretary of state or county
37 auditor shall confirm the match through a date of birth comparison and
38 suspend the voter registration from the official state voter

1 registration list. The canceling authority shall send to the person at
2 his or her last known voter registration address and at the department
3 of corrections a notice of the proposed cancellation and an explanation
4 of the requirements for restoring the right to vote (~~(once all terms of~~
5 ~~sentencing have been completed)~~) and reregistering. If the person does
6 not respond within thirty days, the registration must be canceled.

7 ~~((2) The right to vote may be restored by, for each felony~~
8 ~~conviction, one of the following:~~

9 ~~—— (a) A certificate of discharge issued by the sentencing court, as~~
10 ~~provided in RCW 9.94A.637;~~

11 ~~—— (b) A court order restoring the right, as provided in RCW 9.92.066;~~

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

14 ~~—— (d) A certificate of restoration issued by the governor, as~~
15 ~~provided in RCW 9.96.020.)~~

16 **Sec. 4.** RCW 29A.68.020 and 2007 c 374 s 4 are each amended to read
17 as follows:

18 Any of the following causes may be asserted by a registered voter
19 to challenge the right to assume office of a candidate declared elected
20 to that office:

21 (1) For misconduct on the part of any member of any precinct
22 election board involved therein;

23 (2) Because the person whose right is being contested was not, at
24 the time the person was declared elected, eligible to hold that office;

25 ~~(3) ((Because the person whose right is being contested was~~
26 ~~previous to the election convicted of a felony by a court of competent~~
27 ~~jurisdiction, the conviction not having been reversed nor the person's~~
28 ~~civil rights restored after the conviction;~~

29 ~~——(4))~~ Because the person whose right is being contested gave a
30 bribe or reward to a voter or to an inspector or judge of election for
31 the purpose of procuring the election, or offered to do so;

32 ~~((5))~~ (4) On account of illegal votes.

33 (a) Illegal votes include but are not limited to the following:

34 (i) More than one vote cast by a single voter;

35 (ii) A vote cast by a person disqualified under Article VI, section
36 3 of the state Constitution.

1 (b) Illegal votes do not include votes cast by improperly
2 registered voters who were not properly challenged under RCW 29A.08.810
3 and 29A.08.820.

4 All election contests must proceed under RCW 29A.68.011.

5 **Sec. 5.** RCW 9.92.066 and 2003 c 66 s 2 are each amended to read as
6 follows:

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

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

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

33 **Sec. 6.** RCW 9.94A.637 and 2007 c 171 s 1 are each amended to read
34 as follows:

35 (1) (a) When an offender has completed all requirements of the
36 sentence, including any and all legal financial obligations, and while
37 under the custody and supervision of the department, the secretary or

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

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

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

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

34 (2) Every signed certificate and order of discharge shall be filed
35 with the county clerk of the sentencing county. In addition, the court
36 shall send to the department a copy of every signed certificate and
37 order of discharge for offender sentences under the authority of the
38 department. The county clerk shall enter into a database maintained by
39 the administrator for the courts the names of all felons who have been

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

3 (3) 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 prior
6 to the completion of community supervision, provided that the offender
7 has completed at least one-half of the term of community supervision
8 and has met all other sentence requirements.

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

19 (5) Unless otherwise ordered by the sentencing court, a certificate
20 of discharge shall not terminate the offender's obligation to comply
21 with an order issued under chapter 10.99 RCW that excludes or prohibits
22 the offender from having contact with a specified person or coming
23 within a set distance of any specified location that was contained in
24 the judgment and sentence. An offender who violates such an order
25 after a certificate of discharge has been issued shall be subject to
26 prosecution according to the chapter under which the order was
27 originally issued.

28 (6) Upon release from custody, the offender may apply to the
29 department for counseling and help in adjusting to the community. This
30 voluntary help may be provided for up to one year following the release
31 from custody.

32 **Sec. 7.** RCW 9.96.050 and 2007 c 363 s 4 and 2007 c 171 s 2 are
33 each reenacted and amended to read as follows:

34 (1) (a) When an offender on parole has performed all obligations of
35 his or her release, including any and all legal financial obligations,
36 for such time as shall satisfy the indeterminate sentence review board
37 that his or her final release is not incompatible with the best
38 interests of society and the welfare of the paroled individual, the

1 board may make a final order of discharge and issue a certificate of
2 discharge to the offender.

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

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

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

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

18 (2) The board shall send to the department of corrections a copy of
19 every signed certificate of discharge for offender sentences under the
20 authority of the department of corrections.

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

25 **Sec. 8.** RCW 10.64.140 and 2005 c 246 s 1 are each amended to read
26 as follows:

27 When a person is convicted of a felony, the court shall require the
28 defendant to sign a statement acknowledging that:

29 (1) The defendant's right to vote has been lost due to the felony
30 conviction and the right is restored as long as the defendant is not in
31 total confinement in the custody of the department of corrections,
32 whether serving the original sentence or serving time for a violation
33 of supervision conditions; and

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

36 ~~(3) The right to vote may be restored by:~~

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

1 ~~— (b) A court order issued by the sentencing court restoring the~~
2 ~~right, as provided in RCW 9.92.066;~~
3 ~~— (c) A final order of discharge issued by the indeterminate sentence~~
4 ~~review board, as provided in RCW 9.96.050; or~~
5 ~~— (d) A certificate of restoration issued by the governor, as~~
6 ~~provided in RCW 9.96.020; and~~
7 ~~— (4))~~ Voting before the right is restored is a class C felony under
8 RCW 29A.84.660.

9 NEW SECTION. **Sec. 9.** RCW 10.64.021 (Notice of conviction) and
10 1994 c 57 s 1 are each repealed.

11 NEW SECTION. **Sec. 10.** The provisions of this act may be construed
12 to effectuate the intent, policies, and purposes of this act.

13 NEW SECTION. **Sec. 11.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

17 NEW SECTION. **Sec. 12.** This act shall be known and cited as the
18 "Washington state restoration of voting rights act."

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