
HOUSE BILL 2399

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By Representatives Walkinshaw, Goodman, Orwall, Roberts, Jinkins, Tharinger, Ryu, Riccelli, Gregerson, Pettigrew, and Pollet

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1 AN ACT Relating to certificates of restoration of opportunity to
2 support more successful reentry and personal responsibility after
3 criminal justice involvement and promote public safety by reducing
4 recidivism through lifting statutory bars to occupations, licenses or
5 permits that result from a criminal history and often create barriers
6 to employment; and adding a new chapter to Title 9 RCW.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** The legislature finds that employment is a
9 key factor to the successful reintegration to society of people with
10 criminal histories, and is critical to reducing recidivism, promoting
11 public safety, and encouraging personal responsibility.

12 Occupational licensing and employment laws regulate many
13 professions as well as unskilled and semiskilled occupations. Examples
14 of regulated occupations include alcohol servers, barbers and
15 cosmetologists, body piercers, commercial fishers, contractors,
16 drivers, embalmers, engineers, healthcare workers, insurance adjusters,
17 real estate professionals, tattoo artists, and waste management
18 workers. Individuals with criminal histories may meet the competency

1 requirements for these occupations through training, experience, or
2 education, but may be disqualified from them based on their criminal
3 history.

4 Certificates of restoration of opportunity help reduce some
5 barriers to employment for adults and juveniles by providing an
6 opportunity for individuals to become more employable and to more
7 successfully reintegrate into society after they have served their
8 sentence, demonstrated a period of law-abiding behavior consistent with
9 successful reentry, and proved that they have turned their lives around
10 following a conviction. Applicants for a license must also meet all
11 other statutory licensing requirements.

12 Certificates of restoration of opportunity offer potential public
13 and private employers or housing providers concrete and objective
14 information about an individual under consideration for an opportunity.
15 These certificates can facilitate the successful societal reintegration
16 of individuals with a criminal history whose behavior demonstrates that
17 they are taking responsibility for their past criminal conduct and
18 pursuing a positive law-abiding future. A certificate of restoration
19 of opportunity provides a process for people previously sentenced by a
20 Washington court who have successfully changed their lives to present
21 evidence of this change to a Washington court and to seek a document
22 confirming their changed circumstances.

23 A certificate of restoration of opportunity does not affect any
24 employer's or housing provider's discretion to individually assess
25 every applicant and to hire or rent to the applicants of their choice.
26 Employers will not have to forego hiring their chosen applicants
27 because they face statutory bars that prevent obtaining the necessary
28 occupational credentials.

29 NEW SECTION. **Sec. 2.** The definitions in this section apply
30 throughout this chapter unless the context clearly requires otherwise.

31 (1) "Qualified applicant" means any adult or juvenile who meets the
32 following requirements:

33 (a) One year has passed from sentencing for those sentenced by a
34 Washington state court to probation, or receiving a deferred sentence
35 or other noncustodial sentencing for a misdemeanor or gross misdemeanor
36 offense or an equivalent juvenile adjudication; or

1 (b) Eighteen months has passed from release from total confinement
2 from a Washington prison or jail or juvenile facility for those
3 sentenced by a Washington state court to incarceration for a
4 misdemeanor or gross misdemeanor or an equivalent juvenile
5 adjudication; or

6 (c) Two years have passed from release from total confinement from
7 a Washington prison or jail or juvenile facility for those sentenced by
8 a Washington state court for a class B or C felony or an equivalent
9 juvenile adjudication; or

10 (d) Three years have passed from release from total confinement
11 from a Washington prison or jail or juvenile facility for those
12 sentenced by a Washington state court for a class A felony or an
13 equivalent juvenile adjudication; and the applicant:

14 (i) Is in compliance or has completed all sentencing requirements
15 imposed by a court except for court-ordered legal financial obligations
16 as long as he or she has a payment plan in place and has made at least
17 nine payments in the last twelve months, or has good cause for missing
18 payments during this period;

19 (ii) Has never been convicted of a sex offense as defined in RCW
20 9.94A.030 or a crime that includes sexual motivation pursuant to RCW
21 9.94A.835 (sexual motivation for adults), RCW 13.40.135 (sexual
22 motivation for juveniles), RCW 9.94A.535(3)(f) (departures from the
23 guidelines, sexual motivation,) and is not required to register as a
24 sex offender pursuant to RCW 9A.44.130 (registration of sex offenders
25 and kidnapping offenders--Procedures--Definition--Penalties); and

26 (iii) Has not been arrested for nor convicted of a new crime and
27 has no pending criminal charge, and there is no information presented
28 to a qualified court that such a charge is imminent.

29 (2) "Qualified court" means any Washington court of record or court
30 of limited jurisdiction that has sentenced or adjudicated the qualified
31 applicant. If a court that has sentenced the applicant no longer
32 exists, the applicant may file for a certificate of restoration of
33 opportunity in the successor court.

34 (3) "Restoration" means the process by which an individual restores
35 himself or herself to a useful and constructive place in society
36 through some form of vocational, correctional, or therapeutic effort.

1 NEW SECTION. **Sec. 3.** No state, county, or municipal department,
2 board, officer, or agency authorized to assess the qualifications of
3 any applicant for a license, certificate of authority, qualification to
4 engage in the practice of a profession or business, or for admission to
5 an examination to qualify for such a license or certificate may
6 disqualify a qualified applicant, solely based on the applicant's
7 criminal history, if the qualified applicant has obtained a certificate
8 of restoration of opportunity and the applicant meets all other
9 statutory and regulatory requirements. Nothing in this section is
10 interpreted as restoring or creating a means to restore any firearms
11 rights or requiring the removal of a protection order.

12 NEW SECTION. **Sec. 4.** (1) A qualified court has jurisdiction to
13 issue a certificate of restoration of opportunity to a qualified
14 applicant. A certificate applies to all past criminal history. The
15 certificate does not apply to any future criminal justice involvement.

16 (2) A court must determine whether to issue a certificate by:

17 (a) Considering the nature and seriousness of the applicant's
18 criminal history;

19 (b) Considering material evidence of the applicant's restoration;

20 (c) Determining that the applicant is a qualified applicant as
21 defined by section 2 of this act;

22 (d) Finding that issuing a certificate assists in the successful
23 reintegration of the offender; and

24 (e) Finding that issuing a certificate does not pose a substantial
25 risk to public safety.

26 (3) The court must determine the nature and seriousness of the
27 applicant's criminal history by examining the applicant's judgment and
28 sentence, criminal history and offender score, if applicable, and any
29 certificate of discharge, if obtained by applicant.

30 (4) Material evidence of restoration includes, but is not limited
31 to:

32 (a) Good conduct in the community or in a correctional facility as
33 documented by the following nonexclusive list:

34 (i) Any order discharging the applicant from community custody,
35 probation, or treatment;

36 (ii) Letters or declarations from the applicant's housing provider,

1 clergy, twelve-step sponsor, sentencing judge, mentor, or other
2 individual with knowledge of the applicant's changed circumstances;

3 (iii) Awards, certificates, or other relevant achievements; or

4 (iv) Reports by a probation or community corrections officer,
5 parole board, or department of corrections or similar entity.

6 (b) Counseling, psychiatric, or substance abuse treatment as
7 documented by the following nonexclusive list:

8 (i) Letters or declarations from the applicant's doctors,
9 counselors, treatment providers, social service providers, or other
10 health care providers;

11 (ii) Completion or compliance with drug, mental health, or other
12 relevant alternative courts; or

13 (iii) Signed twelve-step attendance sheets.

14 (c) Acquisition of subsequent academic or vocational schooling,
15 employment, or volunteer work as documented by the following
16 nonexclusive list:

17 (i) Successful participation in correctional vocational or work
18 release programs;

19 (ii) School transcripts;

20 (iii) Certificate of completion of training;

21 (iv) Diploma or equivalent; or

22 (v) Proof of volunteer work or employment.

23 (5) Restoration must be proven to the court by a preponderance of
24 the evidence.

25 NEW SECTION. **Sec. 5.** An employer or housing provider may, in its
26 sole discretion, determine whether to consider a certificate of
27 restoration of opportunity issued under this chapter in making
28 employment or rental decisions. Nothing in this section is construed
29 to create a protected class, private right of action, any right,
30 privilege, or duty, or to change any right, privilege, or duty existing
31 under law related to employment or housing except as provided in
32 section 3 of this act.

33 NEW SECTION. **Sec. 6.** (1) Department of social and health services
34 abuse and neglect registry: A certificate of restoration of
35 opportunity does not apply to the state abuse and neglect registry. No
36 finding of abuse, neglect, or misappropriation of property may be

1 removed from the registry based solely on a certificate. The
2 department must include such certificates as part of its criminal
3 history record reports, qualifying letters, or other assessments
4 pursuant to RCW 43.43.830 through 43.43.838.

5 (2) Washington state patrol: The Washington state patrol is not
6 required to remove any records based solely on a certificate of
7 restoration of opportunity. The state patrol must include a
8 certificate as part of its criminal history record report.

9 (3) State court records:

10 (a) A certificate of restoration of opportunity has no effect on
11 any other records kept by the Washington administrative office of the
12 courts, including its judicial information system. The court records
13 related to a certificate of restoration of opportunity must be
14 processed and recorded in the same manner as any other record.

15 (b) The qualified court where the applicant seeks the certificate
16 of rehabilitation must administer the court records regarding the
17 certificate in the same manner as it does regarding all other
18 proceedings.

19 NEW SECTION. **Sec. 7.** In all cases, a qualified applicant must
20 provide notice to the prosecutor in the county where he or she seeks a
21 certificate of restoration of opportunity of the pendency of such
22 application. The qualified applicant must also notify the prosecuting
23 attorney of any other jurisdiction in which he or she was sentenced
24 within five years of the application for a certificate.

25 NEW SECTION. **Sec. 8.** A reasonable processing fee, not to exceed
26 fifty dollars, may be charged by the clerk of the court at the time the
27 application for a certificate of restoration of opportunity is filed.

28 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act constitute
29 a new chapter in Title 9 RCW.

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