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**SUBSTITUTE HOUSE BILL 1414**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** House Committee on State Government (originally sponsored by Representatives Schindler, McMorris and Lambert)

Read first time . Referred to Committee on .

1 AN ACT Relating to establishing a data base for voter registration  
2 purposes; amending RCW 29.10.185, 29.10.180, 29.04.150, 11.88.010, and  
3 36.22.200; adding a new section to chapter 29.10 RCW; and adding a new  
4 section to chapter 72.09 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 29.10 RCW  
7 to read as follows:

8 (1) The secretary of state shall establish and maintain an  
9 automated data base containing the name, residential address, date of  
10 birth, county of residence, legislative district, congressional  
11 district, date of registration, last two dates voted, signature image,  
12 and any other information deemed necessary by the secretary of state  
13 for each person registered to vote in the state.

14 (2) The secretary of state shall, at a minimum, update the data  
15 base on a biannual basis.

16 (3) The secretary of state shall prohibit the public inspection and  
17 copying of portions of the data base containing information exempt from  
18 public inspection and copying under chapter 42.17 RCW.

1 (4) The secretary of state shall establish the data base by July 1,  
2 2003.

3 **Sec. 2.** RCW 29.10.185 and 1999 c 100 s 4 are each amended to read  
4 as follows:

5 (1) In addition to the case-by-case cancellation procedure required  
6 in RCW 29.10.040, the county auditor, in conjunction with the office of  
7 the secretary of state, shall participate in an annual list maintenance  
8 program designed to detect:

9 (a) Persons excluded from elective franchise due to a conviction  
10 for an infamous crime under Article VI, section 3 of the state  
11 Constitution who are housed in a state correctional facility;

12 (b) Persons declared incompetent for purposes of rationally  
13 exercising the right to vote in guardianship proceedings under chapter  
14 11.88 RCW;

15 (c) Persons who have legally changed their names under RCW  
16 4.24.130;

17 (d) Persons registered in more than one county; and

18 (e) Persons voting in more than one county.

19 ((This)) (2) The program must be applied uniformly throughout the  
20 county and must be nondiscriminatory in its application. The program  
21 must be completed not later than thirty days before the date of a  
22 primary or general election.

23 (3) The office of the secretary of state shall cause to be created  
24 a list of registered voters:

25 (a) Who are excluded from elective franchise due to a conviction  
26 for an infamous crime under Article VI, section 3 of the state  
27 Constitution and are housed in a state correctional facility;

28 (b) Who have been declared incompetent for purposes of rationally  
29 exercising the right to vote in guardianship proceedings under chapter  
30 11.88 RCW;

31 (c) Who have legally changed their names under RCW 4.24.130;

32 (d) With the same date of birth and similar names who appear on two  
33 or more county lists of registered voters; or

34 (e) Who have voted in more than one county at the same election.

35 (4) The office of the secretary of state shall forward ((this)) the  
36 list required by subsection (3) of this section to each county auditor  
37 so that they may properly cancel the ((previous)) registration of

1 voters who (~~have subsequently~~) are improperly registered in ((a  
2 different)) the county.

3 (5)(a) For a voter who is registered in more than one county, the  
4 county auditor of the county where the previous registration was made  
5 shall cancel the registration of the voter if it appears that the  
6 signatures in the registration and the signature provided to the new  
7 county on the voter's new registration were made by the same person.

8 (b) For a voter who is ineligible to vote due to conviction of an  
9 infamous crime or incompetence, the county auditor shall cancel the  
10 registration of the voter if the voter's name appears on the list  
11 required by subsection (3) of this section, and it appears that the  
12 voter on the list and the voter whose registration is being canceled  
13 are the same person.

14 (c) For a voter who has legally changed his or her name, but not  
15 changed his or her voter registration, the county auditor shall send  
16 the voter instructions on how to change his or her name for  
17 registration purposes under RCW 29.10.051.

18 (6) The office of the secretary of state shall adopt rules to  
19 facilitate this process.

20 **Sec. 3.** RCW 29.10.180 and 1999 c 100 s 2 are each amended to read  
21 as follows:

22 In addition to the case-by-case maintenance required under RCW  
23 29.10.071 and 29.10.075 and the canceling of registrations under RCW  
24 29.10.090, the county auditor shall establish a general program of  
25 voter registration list maintenance. This program must be a thorough  
26 review that is applied uniformly throughout the county and must be  
27 nondiscriminatory in its application. Any program established must be  
28 completed at least once every two years and not later than ninety days  
29 before the date of a primary or general election for federal office.  
30 The county auditor may substitute the results of any address screening  
31 program conducted by the secretary of state in lieu of other methods.  
32 The county may fulfill its obligations under this section in one of the  
33 following ways:

34 (1) The county auditor may enter into one or more contracts with  
35 the United States postal service, or its licensee, which permit the  
36 auditor to use postal service change-of-address information. If the  
37 auditor receives change of address information from the United States  
38 postal service that indicates that a voter has changed his or her

1 residence address within the county, the auditor shall transfer the  
2 registration of that voter and send a confirmation notice informing the  
3 voter of the transfer to the new address. If the auditor receives  
4 postal change of address information indicating that the voter has  
5 moved out of the county, the auditor shall send a confirmation notice  
6 to the voter and advise the voter of the need to reregister in the new  
7 county. The auditor shall place the voter's registration on inactive  
8 status;

9 (2) A direct, nonforwardable, nonprofit or first-class mailing to  
10 every registered voter within the county bearing the postal endorsement  
11 "Return Service Requested." If address correction information for a  
12 voter is received by the county auditor after this mailing, the auditor  
13 shall place that voter on inactive status and shall send to the voter  
14 a confirmation notice;

15 (3) Any other method approved by the secretary of state.

16 **Sec. 4.** RCW 29.04.150 and 1993 c 441 s 1 are each amended to read  
17 as follows:

18 (1) No later than June 15th or November 15th, any political party  
19 organization or any other individual may request in writing from the  
20 secretary of state to receive a copy of the subsequent statewide  
21 computer file of registered voters compiled under subsection (2) of  
22 this section. At the time it makes this request, the political party  
23 or individual shall deposit sufficient funds with the secretary of  
24 state to pay for the cost of assembling, compiling, and distributing  
25 the computer file of registered voters and shall agree to the statutory  
26 restrictions regarding the commercial use of this data.

27 (2) Not earlier than January 1st or July 1st subsequent to the  
28 receipt of a request and deposit under subsection (1) of this section,  
29 or at the request of the secretary of state, each county auditor shall  
30 provide to the secretary of state, or a data processing agency  
31 designated by the secretary of state, a duplicate computer tape or data  
32 file of the records of the registered voters in that county, containing  
33 the information specified in ((RCW 29.07.220. ~~The secretary of state~~  
34 ~~shall reimburse each county for the actual cost of reproduction and~~  
35 ~~mailing of the duplicate computer tape or data file)) section 1 of this  
36 act.~~

1       **Sec. 5.** RCW 11.88.010 and 1991 c 289 s 1 are each amended to read  
2 as follows:

3       (1) The superior court of each county shall have power to appoint  
4 guardians for the persons and/or estates of incapacitated persons, and  
5 guardians for the estates of nonresidents of the state who have  
6 property in the county needing care and attention.

7       (a) For purposes of this chapter, a person may be deemed  
8 incapacitated as to person when the superior court determines the  
9 individual has a significant risk of personal harm based upon a  
10 demonstrated inability to adequately provide for nutrition, health,  
11 housing, or physical safety.

12       (b) For purposes of this chapter, a person may be deemed  
13 incapacitated as to the person's estate when the superior court  
14 determines the individual is at significant risk of financial harm  
15 based upon a demonstrated inability to adequately manage property or  
16 financial affairs.

17       (c) A determination of incapacity is a legal not a medical  
18 decision, based upon a demonstration of management insufficiencies over  
19 time in the area of person or estate. Age, eccentricity, poverty, or  
20 medical diagnosis alone shall not be sufficient to justify a finding of  
21 incapacity.

22       (d) A person may also be determined incapacitated if he or she is  
23 under the age of majority as defined in RCW 26.28.010.

24       (e) For purposes of giving informed consent for health care  
25 pursuant to RCW 7.70.050 and 7.70.065, an "incompetent" person is any  
26 person who is (i) incompetent by reason of mental illness,  
27 developmental disability, senility, habitual drunkenness, excessive use  
28 of drugs, or other mental incapacity, of either managing his or her  
29 property or caring for himself or herself, or both, or (ii)  
30 incapacitated as defined in (a), (b), or (d) of this subsection.

31       (f) For purposes of the terms "incompetent," "disabled," or "not  
32 legally competent," as those terms are used in the Revised Code of  
33 Washington to apply to persons incapacitated under this chapter, those  
34 terms shall be interpreted to mean "incapacitated" persons for purposes  
35 of this chapter.

36       (2) The superior court for each county shall have power to appoint  
37 limited guardians for the persons and estates, or either thereof, of  
38 incapacitated persons, who by reason of their incapacity have need for  
39 protection and assistance, but who are capable of managing some of

1 their personal and financial affairs. After considering all evidence  
2 presented as a result of such investigation, the court shall impose, by  
3 order, only such specific limitations and restrictions on an  
4 incapacitated person to be placed under a limited guardianship as the  
5 court finds necessary for such person's protection and assistance. A  
6 person shall not be presumed to be incapacitated nor shall a person  
7 lose any legal rights or suffer any legal disabilities as the result of  
8 being placed under a limited guardianship, except as to those rights  
9 and disabilities specifically set forth in the court order establishing  
10 such a limited guardianship. In addition, the court order shall state  
11 the period of time for which it shall be applicable.

12 (3) Venue for petitions for guardianship or limited guardianship  
13 shall lie in the county wherein the alleged incapacitated person is  
14 domiciled, or if such person resides in a facility supported in whole  
15 or in part by local, state, or federal funding sources, in either the  
16 county where the facility is located, the county of domicile prior to  
17 residence in the supported facility, or the county where a parent or  
18 spouse of the alleged incapacitated person is domiciled.

19 If the alleged incapacitated person's residency has changed within  
20 one year of the filing of the petition, any interested person may move  
21 for a change of venue for any proceedings seeking the appointment of a  
22 guardian or a limited guardian under this chapter to the county of the  
23 alleged incapacitated person's last place of residence of one year or  
24 more. The motion shall be granted when it appears to the court that  
25 such venue would be in the best interests of the alleged incapacitated  
26 person and would promote more complete consideration of all relevant  
27 matters.

28 (4) Under RCW 11.94.010, a principal may nominate, by a durable  
29 power of attorney, the guardian or limited guardian of his or her  
30 estate or person for consideration by the court if guardianship  
31 proceedings for the principal's person or estate are thereafter  
32 commenced. The court shall make its appointment in accordance with the  
33 principal's most recent nomination in a durable power of attorney  
34 except for good cause or disqualification.

35 (5) When a court imposes a full guardianship for an incapacitated  
36 person, the person shall be considered incompetent for purposes of  
37 rationally exercising the right to vote and shall lose the right to  
38 vote, unless the court specifically finds that the person is rationally  
39 capable of exercising the franchise. Imposition of a limited

1 guardianship for an incapacitated person shall not result in the loss  
2 of the right to vote unless the court determines that the person is  
3 incompetent for purposes of rationally exercising the franchise. A  
4 court imposing a full or limited guardianship that results in the  
5 incapacitated person losing his or her right to vote shall, within  
6 fourteen days of the establishment of the guardianship, submit to the  
7 secretary of state the name, date of birth, and residential address of  
8 the incompetent person.

9       **Sec. 6.** RCW 36.22.200 and 1992 c 30 s 2 are each amended to read  
10 as follows:

11       Upon receipt of the fee and the name change order from the district  
12 court as provided in RCW 4.24.130, the county auditor shall file and  
13 record the name change order and send a copy of the order to the  
14 secretary of state.

15       NEW SECTION. **Sec. 7.** A new section is added to chapter 72.09 RCW  
16 to read as follows:

17       By June 1, 2002, and each month thereafter, the secretary of  
18 corrections shall submit to the secretary of state, a list of persons  
19 convicted of infamous crimes under Article VI, section 3 of the state  
20 Constitution and housed in state correctional facilities. The list  
21 must include each person's complete name, last known address before  
22 incarceration, and date of birth.

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