

CERTIFICATION OF ENROLLMENT

SENATE BILL 5074

66th Legislature
2019 Regular Session

Passed by the Senate February 26, 2019
Yeas 29 Nays 20

President of the Senate

Passed by the House April 12, 2019
Yeas 52 Nays 43

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5074** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5074

Passed Legislature - 2019 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By Senators Kuderer, Pedersen, Hunt, Conway, Nguyen, Saldaña, Palumbo, Wellman, and Darneille; by request of Uniform Law Commission

Prefiled 01/04/19.

1 AN ACT Relating to enactment of the uniform faithful presidential
2 electors act; amending RCW 29A.56.320, 29A.56.340, and 29A.56.350;
3 adding new sections to chapter 29A.56 RCW; creating new sections; and
4 repealing RCW 29A.56.330.

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

6 NEW SECTION. **Sec. 1.** SHORT TITLE. This act may be known and
7 cited as the uniform faithful presidential electors act.

8 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
9 section apply throughout this section and sections 3 through 8 of
10 this act unless the context clearly requires otherwise.

11 (1) "Cast" means accepted by the secretary of state in accordance
12 with section 7(2) of this act.

13 (2) "Elector" means an individual selected as a presidential
14 elector under RCW 29A.56.320 and sections 3 through 8 of this act.

15 (3) "President" means president of the United States.

16 (4) "Unaffiliated presidential candidate" means a candidate for
17 president who qualifies for the general election ballot in this state
18 by means other than nomination by a political party.

19 (5) "Vice president" means vice president of the United States.

1 NEW SECTION. **Sec. 3.** DESIGNATION OF STATE'S ELECTORS. For each
2 elector position in this state, a political party contesting the
3 position, or an unaffiliated presidential candidate, shall submit to
4 the secretary of state the names of two qualified individuals. One of
5 the individuals must be designated "elector nominee" and the other
6 "alternate elector nominee." Except as otherwise provided in sections
7 5 through 8 of this act, this state's electors are the winning
8 elector nominees under the laws of this state.

9 NEW SECTION. **Sec. 4.** PLEDGE. Each elector nominee and alternate
10 elector nominee of a political party shall execute the following
11 pledge: "If selected for the position of elector, I agree to serve
12 and to mark my ballots for president and vice president for the
13 nominees for those offices of the party that nominated me." Each
14 elector nominee and alternate elector nominee of an unaffiliated
15 presidential candidate shall execute the following pledge: "If
16 selected for the position of elector as a nominee of an unaffiliated
17 presidential candidate, I agree to serve and to mark my ballots for
18 that candidate and for that candidate's vice presidential running
19 mate." The executed pledges must accompany the submission of the
20 corresponding names to the secretary of state.

21 NEW SECTION. **Sec. 5.** CERTIFICATION OF ELECTORS. In submitting
22 this state's certificate of ascertainment as required by 3 U.S.C.
23 Sec. 6, the governor shall certify this state's electors and state in
24 the certificate that:

25 (1) The electors will serve as electors unless a vacancy occurs
26 in the office of elector before the end of the meeting at which
27 elector votes are cast, in which case a substitute elector will fill
28 the vacancy; and

29 (2) If a substitute elector is appointed to fill a vacancy, the
30 governor will submit an amended certificate of ascertainment stating
31 the names on the final list of this state's electors.

32 NEW SECTION. **Sec. 6.** PRESIDING OFFICER—ELECTOR VACANCY. (1) The
33 secretary of state shall preside at the meeting of electors described
34 in section 7 of this act.

35 (2) The position of an elector not present to vote is vacant. The
36 secretary of state shall appoint an individual as a substitute
37 elector to fill a vacancy as follows:

1 (a) If the alternate elector is present to vote, by appointing
2 the alternate elector for the vacant position;

3 (b) If the alternate elector for the vacant position is not
4 present to vote, by appointing an elector chosen by lot from among
5 the alternate electors present to vote who were nominated by the same
6 political party or unaffiliated presidential candidate;

7 (c) If the number of alternate electors present to vote is
8 insufficient to fill any vacant position pursuant to (a) and (b) of
9 this subsection, by appointing any immediately available individual
10 who is qualified to serve as an elector and chosen through nomination
11 by and plurality vote of the remaining electors, including nomination
12 and vote by a single elector if only one remains;

13 (d) If there is a tie between at least two nominees for
14 substitute elector in a vote conducted under (c) of this subsection,
15 by appointing an elector chosen by lot from among those nominees; or

16 (e) If all elector positions are vacant and cannot be filled
17 pursuant to (a) through (d) of this subsection, by appointing a
18 single presidential elector, with remaining vacant positions to be
19 filled under (c) of this subsection and, if necessary, (d) of this
20 subsection.

21 (3) To qualify as a substitute elector under subsection (2) of
22 this section, an individual who has not executed the pledge required
23 under section 4 of this act shall execute the following pledge: "I
24 agree to serve and to mark my ballots for president and vice
25 president consistent with the pledge of the individual to whose
26 elector position I have succeeded."

27 NEW SECTION. **Sec. 7.** ELECTOR VOTING. (1) At the time designated
28 for elector voting and after all vacant positions have been filled
29 under section 6 of this act, the secretary of state shall provide
30 each elector with a presidential and a vice presidential ballot. The
31 elector shall mark the elector's presidential and vice presidential
32 ballots with the elector's votes for the offices of president and
33 vice president, respectively, along with the elector's signature and
34 the elector's legibly printed name.

35 (2) Except as otherwise provided by law of this state other than
36 sections 2 through 8 of this act, each elector shall present both
37 completed ballots to the secretary of state, who shall examine the
38 ballots and accept as cast all ballots of electors whose votes are
39 consistent with their pledges executed under section 4 or 6(3) of

1 this act. Except as otherwise provided by law of this state other
2 than sections 2 through 8 of this act, the secretary of state may not
3 accept and may not count either an elector's presidential or vice
4 presidential ballot if the elector has not marked both ballots or has
5 marked a ballot in violation of the elector's pledge.

6 (3) An elector who refuses to present a ballot, presents an
7 unmarked ballot, or presents a ballot marked in violation of the
8 elector's pledge executed under section 4 or 6(3) of this act vacates
9 the office of elector, creating a vacant position to be filled under
10 section 6 of this act.

11 (4) The secretary of state shall distribute ballots to and
12 collect ballots from a substitute elector and repeat the process
13 under this section of examining ballots, declaring and filling vacant
14 positions as required, and recording appropriately completed ballots
15 from the substituted electors, until all of this state's electoral
16 votes have been cast and recorded.

17 NEW SECTION. **Sec. 8.** ELECTOR REPLACEMENT; ASSOCIATED
18 CERTIFICATES. (1) After the vote of this state's electors is
19 completed, if the final list of electors differs from any list that
20 the governor previously included on a certificate of ascertainment
21 prepared and transmitted under 3 U.S.C. Sec. 6, the secretary of
22 state immediately shall prepare an amended certificate of
23 ascertainment and transmit it to the governor for the governor's
24 signature.

25 (2) The governor immediately shall deliver the signed amended
26 certificate of ascertainment to the secretary of state and a signed
27 duplicate original of the amended certificate of ascertainment to all
28 individuals entitled to receive this state's certificate of
29 ascertainment, indicating that the amended certificate of
30 ascertainment is to be substituted for the certificate of
31 ascertainment previously submitted.

32 (3) The secretary of state shall prepare a certificate of vote.
33 The electors on the final list shall sign the certificate. The
34 secretary of state shall process and transmit the signed certificate
35 with the amended certificate of ascertainment under 3 U.S.C. Secs. 9,
36 10, and 11.

37 NEW SECTION. **Sec. 9.** UNIFORMITY OF APPLICATION AND
38 CONSTRUCTION. In applying and construing this uniform act,

1 consideration must be given to the need to promote uniformity of the
2 law with respect to its subject matter among states that enact it.

3 **Sec. 10.** RCW 29A.56.320 and 2013 c 11 s 56 are each amended to
4 read as follows:

5 (1) In the year in which a presidential election is held, each
6 major political party and each minor political party or independent
7 candidate convention that nominates candidates for president and vice
8 president of the United States shall nominate presidential electors
9 for this state. The party or convention shall file with the secretary
10 of state a certificate signed by the presiding officer of the
11 convention at which the presidential electors were chosen, listing
12 the names and addresses of the presidential electors. (~~Each~~
13 ~~presidential elector shall execute and file with the secretary of~~
14 ~~state a pledge that, as an elector, he or she will vote for the~~
15 ~~candidates nominated by that party.))~~

16 (2) The names of presidential electors shall not appear on the
17 ballots. The votes cast for candidates for president and vice
18 president of each political party shall be counted for the candidates
19 for presidential electors of that political party; however, if the
20 interstate compact entitled the "agreement among the states to elect
21 the president by national popular vote," as set forth in RCW
22 29A.56.300, governs the appointment of the presidential electors for
23 a presidential election as provided in clause 9 of Article III of
24 that compact, then the final appointment of presidential electors for
25 that presidential election shall be in accordance with that compact.

26 **Sec. 11.** RCW 29A.56.340 and 2003 c 111 s 1427 are each amended
27 to read as follows:

28 The electors of the president and vice president shall convene at
29 the seat of government on the day fixed by federal statute, at the
30 hour of twelve o'clock noon of that day. (~~If there is any vacancy in~~
31 ~~the office of an elector occasioned by death, refusal to act, neglect~~
32 ~~to attend, or otherwise, the electors present shall immediately~~
33 ~~proceed to fill it by voice vote, and plurality of votes. When all of~~
34 ~~the electors have appeared and the vacancies have been filled they~~
35 ~~shall constitute the college of electors of the state of Washington,~~
36 ~~and shall proceed to perform the duties required of them by the~~
37 ~~Constitution and laws of the United States. Any elector who votes for~~
38 ~~a person or persons not nominated by the party of which he or she is~~

1 ~~an elector is subject to a civil penalty of up to one thousand~~
2 ~~dollars.)~~)

3 **Sec. 12.** RCW 29A.56.350 and 2013 c 38 s 1 are each amended to
4 read as follows:

5 Every presidential elector who attends at the time and place
6 appointed, and gives his or her vote for president and vice president
7 consistent with his or her pledge under section 4 or 6(3) of this
8 act, is entitled to receive from this state a subsistence allowance
9 and travel expenses pursuant to RCW 43.03.050 and 43.03.060 for each
10 day's attendance at the meeting of the college of electors.

11 NEW SECTION. **Sec. 13.** RCW 29A.56.330 (Counting and canvassing
12 the returns) and 2003 c 111 s 1426 & 1965 c 9 s 29.71.030 are each
13 repealed.

14 NEW SECTION. **Sec. 14.** CODIFICATION. Sections 2 through 8 of
15 this act are each added to chapter 29A.56 RCW.

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