S-0250.1

SENATE BILL 5153

State of Washington 68th Legislature 2023 Regular Session

By Senators Valdez, Hunt, Nguyen, and C. Wilson

Prefiled 01/04/23. Read first time 01/09/23. Referred to Committee on State Government & Elections.

- AN ACT Relating to uniform disclosure of records related to 1 2 future voters and making conforming amendments related to 3 participation of future voters in state primaries; amending RCW 29A.04.070, 29A.08.170, 29A.08.174, 29A.08.330, 29A.08.615, 4 29A.08.710, 29A.08.760, 29A.08.770, 29A.80.041, 46.20.155, 46.20.155, 5 42.56.230, 42.56.250, 29A.84.140, and 29A.84.140; reenacting and 6 7 amending RCW 29A.08.720; adding a new section to chapter 29A.08 RCW; 8 repealing RCW 29A.08.375; providing an effective date; and providing 9 an expiration date.
- 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- NEW SECTION. Sec. 1. A new section is added to chapter 29A.08 RCW to read as follows:
- Information that is otherwise disclosable under this chapter cannot be disclosed for a future voter until the person reaches 18 years of age, or until the person is eligible to participate in a primary or election. This information is exempt from public inspection and copying under chapter 42.56 RCW. Information may be disclosed for the purpose of processing and delivering ballots.
- 19 **Sec. 2.** RCW 29A.04.070 and 2018 c 109 s 2 are each amended to 20 read as follows:

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- "Future voter" means a United States citizen and Washington state resident, age sixteen or seventeen, who ((wishes to provide)) has provided information related to voter registration to the appropriate state agencies.
- 5 **Sec. 3.** RCW 29A.08.170 and 2020 c 208 s 15 are each amended to 6 read as follows:
- 7 (1) A person may sign up to register to vote if he or she is 8 sixteen or seventeen years of age, as part of the future voter 9 program.
- 10 (2) A person who signs up to register to vote may not vote until 11 reaching eighteen years of age unless the person is seventeen years 12 of age at the primary election or presidential primary election and 13 will be eighteen years of age by the general election.
- 14 <u>(3)</u> A person who signs up to register to vote may not be added to 15 the statewide voter registration ((database)) list of voters until 16 such time as he or she will be eligible to vote in the next election.
- 17 **Sec. 4.** RCW 29A.08.174 and 2020 c 208 s 17 are each amended to 18 read as follows:

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- (1) A person who has attained sixteen years of age and has a valid Washington state driver's license or identicard may sign up to register to vote as part of the future voter program, by submitting a voter registration application electronically on the secretary of state($(\frac{1}{5})$) website.
- (2) The applicant must attest to the truth of the information provided on the application by affirmatively accepting the information as true.
- (3) If signing up to register electronically, the applicant must affirmatively assent to the use of his or her driver's license or identicard signature for voter registration purposes.
- (4) The applicant must affirmatively acknowledge that he or she will not vote in a special or general election until his or her eighteenth birthday, and will only vote in a primary election or presidential primary election if he or she will be eighteen years of age by the general election.
- 35 (5) For each electronic registration application, the secretary 36 of state must obtain a digital copy of the applicant's driver's 37 license or identicard signature from the department of licensing.

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- 1 (6) The secretary of state may employ additional security 2 measures to ensure the accuracy and integrity of voter 3 preregistration applications submitted electronically.
 - Sec. 5. RCW 29A.08.330 and 2020 c 208 s 5 are each amended to read as follows:
 - (1) The secretary of state shall prescribe the method of voter registration for each designated agency. The agency shall use either the state voter registration by mail form with a separate declination form for the applicant to indicate that he or she declines to register at this time, or the agency may use a separate form approved for use by the secretary of state.
 - (2) The person providing service at the agency shall offer voter registration services to every client whenever he or she applies for service or assistance and with each renewal, recertification, or change of address. The person providing service shall give the applicant the same level of assistance with the voter registration application as is offered to fill out the agency's forms and documents, including information about age and citizenship requirements for voter registration.
- 20 (3) The person providing service at the agency shall determine if 21 the prospective applicant wants to register to vote or update his or 22 her voter registration by asking the following question:
- "Do you want to register or sign up to vote or update your voter registration?"
- 25 If the applicant chooses to register, sign up, or update a 26 registration, the service agent shall ask the following:
 - (a) "Are you a United States citizen?"
- 28 (b) "Are you at least sixteen years old?"

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- If the applicant answers in the affirmative to both questions, the agent shall then provide the applicant with a voter registration form and instructions and shall record that the applicant has requested to sign up to vote, register to vote, or update a voter registration. If the applicant answers in the negative to either question, the agent shall not provide the applicant with a voter registration application.
- 36 (4) If an agency uses a computerized application process, it may, 37 in consultation with the secretary of state, develop methods to

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capture simultaneously the information required for voter registration during a person's computerized application process.

- (5) Each designated agency shall transmit the applications to the secretary of state or appropriate county auditor within three business days and must be received by the election official by the required voter registration deadline.
- (6) ((Information that is otherwise disclosable under this chapter cannot be disclosed on the future voter until the person reaches eighteen years of age, except for the purpose of processing and delivering ballots.)) Disclosure of information on individuals under the age of 18 is subject to section 1 of this act.
- **Sec. 6.** RCW 29A.08.615 and 2018 c 109 s 9 are each amended to 13 read as follows:
 - (1) Registered voters are divided into two categories, "active" and "inactive." All registered voters are classified as active, unless assigned to inactive status by the county auditor.
- 17 (2) Persons signing up to register to vote as future voters as
 18 defined under RCW 29A.04.070 are classified as "pending" until the
 19 person will be at least eighteen years of age by the next election.
 20 or eligible to participate in a primary under RCW 29A.08.110 or
 21 29A.08.170.
- **Sec. 7.** RCW 29A.08.710 and 2018 c 109 s 10 are each amended to 23 read as follows:
 - (1) The county auditor shall have custody of the original voter registration records and voter registration sign up records for each county. The original voter registration form must be filed without regard to precinct and is considered confidential and unavailable for public inspection and copying. An automated file of all registered voters must be maintained pursuant to RCW 29A.08.125. An auditor may maintain the automated file in lieu of filing or maintaining the original voter registration forms if the automated file includes all of the information from the original voter registration forms including, but not limited to, a retrievable facsimile of each voter's signature.
 - (2)(a) The following information contained in voter registration records or files regarding a voter or a group of voters is available for public inspection and copying, except as provided in RCW 40.24.060 and (b) of this subsection: The voter's name, address,

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political jurisdiction, gender, date of birth, voting record, date of registration, and registration number. No other information from voter registration records or files is available for public inspection or copying.

- (b) ((The personally identifiable information of individuals who are under the age of eighteen are exempt from public inspection and copying until the subject of the record is eighteen years of age, except for the purpose of processing and delivering ballots.))

 Disclosure of information on individuals under the age of 18 is subject to section 1 of this act.
- **Sec. 8.** RCW 29A.08.720 and 2018 c 110 s 206 and 2018 c 109 s 11 12 are each reenacted and amended to read as follows:
 - (1) In the case of voter registration records received through the health benefit exchange, the department of licensing, or an agency designated under RCW 29A.08.310, the identity of the office or agency at which any particular individual registered to vote must be used only for voter registration purposes, is not available for public inspection, and shall not be disclosed to the public. Any record of a particular individual's choice not to register to vote at an office of the department of licensing or a state agency designated under RCW 29A.08.310 is not available for public inspection and any information regarding such a choice by a particular individual shall not be disclosed to the public. ((Information that is otherwise disclosable under this chapter cannot be disclosed on the future voter until the person reaches eighteen years of age, except for the purpose of processing and delivering ballots.))
 - (2) <u>Disclosure of information on individuals under the age of 18</u> is subject to section 1 of this act.
 - (3) (a) Subject to the restrictions of RCW 29A.08.710 and 40.24.060, and (b) of this subsection, precinct lists and current lists of registered voters are public records and must be made available for public inspection and copying under such reasonable rules and regulations as the county auditor or secretary of state may prescribe. The county auditor or secretary of state shall promptly furnish current lists of registered voters in his or her possession, at actual reproduction cost, to any person requesting such information. The lists shall not be used for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose

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of mailing or delivering any solicitation for money, services, or anything of value. However, the lists and labels may be used for any political purpose. The county auditor or secretary of state must provide a copy of RCW 29A.08.740 to the person requesting the material that is released under this section.

- (b) ((The personally identifiable information of individuals who are under the age of eighteen are exempt from public inspection and copying until the subject of the record is eighteen years of age, except for the purpose of processing and delivering ballots.
- 10 (3)) Disclosure of information on individuals under the age of 11 18 is subject to section 1 of this act.
- 12 (4) For the purposes of this section, "political purpose" means a purpose concerned with the support of or opposition to any candidate for any partisan or nonpartisan office or concerned with the support of or opposition to any ballot proposition or issue. "Political purpose" includes, but is not limited to, such activities as the advertising for or against any candidate or ballot measure or the solicitation of financial support.
- **Sec. 9.** RCW 29A.08.760 and 2018 c 109 s 12 are each amended to 20 read as follows:

The secretary of state shall provide a duplicate copy of the master statewide computer file or electronic data file of registered voters to the consolidated technology services agency for purposes of creating the jury source list without cost. The information contained in a voter registration application is exempt from inclusion until the applicant reaches age eighteen. ((Information that is otherwise disclosable under this chapter cannot be disclosed on the future voter until the person reaches eighteen years of age, except for the purpose of processing and delivering ballots.)) Disclosure of information on individuals under the age of 18 is subject to section 1 of this act. Restrictions as to the commercial use of the information on the statewide computer ((tape or)) data file of registered voters, and penalties for its misuse, shall be the same as provided in RCW 29A.08.720 and 29A.08.740.

- **Sec. 10.** RCW 29A.08.770 and 2018 c 109 s 19 are each amended to read as follows:
- The secretary of state and each county auditor shall maintain for at least two years and shall make available for public inspection and

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copying all records concerning the implementation of programs and 1 activities conducted for the purpose of insuring the accuracy and 2 currency of official lists of eligible voters. These records must 3 include lists of the names and addresses of all persons to whom 4 notices are sent and information concerning whether or not each 5 6 person has responded to the notices. These records must contain lists of all persons removed from the list of eligible voters and the 7 reasons why the voters were removed. ((The personally identifiable 8 information of individuals who are under the age of eighteen are 9 exempt from public inspection and copying until the subject of the 10 record is eighteen years of age, except for the purpose of processing 11 12 and delivering ballots.)) Disclosure of information on individuals under the age of 18 is subject to section 1 of this act. 13

- 14 **Sec. 11.** RCW 29A.80.041 and 2020 c 208 s 19 are each amended to 15 read as follows:
- 16 <u>(1)</u> Any member of a major political party who is a registered voter in the precinct and who will be at least eighteen years old by the date of the precinct committee officer election may file his or her declaration of candidacy as prescribed under RCW 29A.24.031 with the county auditor for the office of precinct committee officer of his or her party in that precinct.
- 22 (2) Disclosure of filing information for precinct committee 23 officer candidates who have not reached the age of 18 is the same as 24 all candidates for precinct committee officer.
- 25 <u>(3)</u> When elected at the primary, the precinct committee officer 26 shall serve so long as the committee officer remains an eligible 27 voter in that precinct.
- 28 **Sec. 12.** RCW 46.20.155 and 2018 c 109 s 15 are each amended to 29 read as follows:
- 30 (1) Before issuing an original license or identicard or renewing 31 a license or identicard under this chapter, the licensing agent shall 32 determine if the applicant wants to register to vote or update his or 33 her voter registration by asking the following question:
- "Do you want to register or sign up to vote or update your voter registration?"
- If the applicant chooses to register, sign up, or update a registration, the agent shall ask the following:

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- 1 (1) "Are you a United States citizen?"
- 2 (2) "Are you at least eighteen years old or are you at least sixteen years old and will you vote only after you turn eighteen?"
- If the applicant answers in the affirmative to both questions, the agent shall then submit the registration, sign up form, or update. If the applicant answers in the negative to either question, the agent shall not submit an application.
- 8 <u>(2)</u> Information that is otherwise disclosable under chapter 29A.08 RCW cannot be disclosed ((on the)) for a future voter until the person reaches eighteen years of age((, except)) or until the person is eligible to participate in a primary or election, or for the purpose of processing and delivering ballots.
- $((\frac{(2)}{(2)}))$ (3) The department shall establish a procedure that substantially meets the requirements of subsection (1) of this section when permitting an applicant to renew a license or identicard by mail or by electronic commerce.
- 17 **Sec. 13.** RCW 46.20.155 and 2020 c 208 s 8 are each amended to 18 read as follows:
- 19 (1) Before issuing an original license or identicard or renewing 20 a license or identicard under this chapter, the licensing agent shall 21 determine if the applicant wants to register to vote or update his or 22 her voter registration by asking the following question:
- "Do you want to register or sign up to vote or update your voter registration?"
- If the applicant chooses to register, sign up, or update a registration, the agent shall ask the following:
- 27 $((\frac{1}{2}))$ "Are you a United States citizen?"
- 28 (((2) "Are you at least sixteen years old?"))
- If the applicant answers in the affirmative ((to both questions)), the agent shall then submit the registration, sign up form, or update. If the applicant answers in the negative to ((either)) the question, the agent shall not submit an application.
- 33 (2) Information that is otherwise disclosable under chapter
 34 29A.08 RCW cannot be disclosed ((on the)) for a future voter until
 35 the person reaches eighteen years of age((, except)) or until the
 36 person is eligible to participate in a primary or election, or for
 37 the purpose of processing and delivering ballots.

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- 1 $((\frac{(2)}{(2)}))$ (3) The department shall establish a procedure that 2 substantially meets the requirements of subsection (1) of this 3 section when permitting an applicant to renew a license or identicard 4 by mail or by electronic commerce.
- 5 **Sec. 14.** RCW 42.56.230 and 2021 c 89 s 1 are each amended to 6 read as follows:
- 7 The following personal information is exempt from public 8 inspection and copying under this chapter:
- 9 (1) Personal information in any files maintained for students in 10 public schools, patients or clients of public institutions or public 11 health agencies, or welfare recipients;
 - (2) (a) Personal information:

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- 13 (i) For a child enrolled in licensed child care in any files 14 maintained by the department of children, youth, and families;
 - (ii) For a child enrolled in a public or nonprofit program serving or pertaining to children, adolescents, or students, including but not limited to early learning or child care services, parks and recreation programs, youth development programs, and afterschool programs;
 - (iii) For the family members or guardians of a child who is subject to the exemption under this subsection (2) if the family member or guardian has the same last name as the child or if the family member or guardian resides at the same address as the child and disclosure of the family member's or guardian's information would result in disclosure of the personal information exempted under (a) (i) and (ii) of this subsection; or
 - (iv) For substitute caregivers who are licensed or approved to provide overnight care of children by the department of children, youth, and families.
 - (b) Emergency contact information under this subsection (2) may be provided to appropriate authorities and medical personnel for the purpose of treating the individual during an emergency situation;
 - (3) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy;
 - (4) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would: (a) Be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance

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1 authorized under RCW 35.102.145; or (b) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer;

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- (5) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial information as defined in RCW 9.35.005 including social security numbers, except when disclosure is expressly required by or governed by other law;
- (6) Personal and financial information related to a small loan or 9 any system of authorizing a small loan in RCW 31.45.093; 10
 - (7)(a) Any record used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identicard.
 - (b) Information provided under RCW 46.20.111 that indicates that an applicant declined to register with the selective service system.
 - (c) Any record pertaining to a vehicle license plate, driver's license, or identicard issued under RCW 46.08.066 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement, confidential public health work, public assistance fraud, or child support investigative activity. This exemption does not prevent the release of the total number of vehicle license plates, drivers' licenses, or identicards that, under RCW 46.08.066, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse.
 - (d) Any record pertaining to a vessel registration issued under RCW 88.02.330 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement activity. This exemption does not prevent the release of the total number of vessel registrations that, under RCW 88.02.330, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse.
 - Upon request by the legislature, the department of licensing shall provide a report to the legislature containing all of the information in (c) of this subsection (7) and this subsection (7)(d) that is subject to public disclosure;
 - (8) All information related to individual claim resolution settlement agreements submitted to the board of industrial insurance

p. 10 SB 5153 appeals under RCW 51.04.063, other than final orders from the board of industrial insurance appeals. The board of industrial insurance appeals shall provide to the department of labor and industries copies of all final claim resolution settlement agreements;

- (9) Voluntarily submitted information contained in a database that is part of or associated with enhanced 911 emergency communications systems, or information contained or used in emergency notification systems as provided under RCW 38.52.575 and 38.52.577;
- (10) ((Until the person reaches eighteen years of age, information, otherwise disclosable under chapter 29A.08 RCW, that relates to a future voter, except for the purpose of processing and delivering ballots)) Information relating to a future voter, as provided in section 1 of this act;
- (11) All information submitted by a person to the state, either directly or through a state-licensed gambling establishment, or Indian tribes, or tribal enterprises that own gambling operations or facilities with class III gaming compacts, as part of the self-exclusion program established in RCW 9.46.071 or 67.70.040 for people with a gambling problem or gambling disorder; and
- 20 (12) Names, addresses, or other personal information of individuals who participated in the bump-fire stock buy-back program 22 under RCW 43.43.920.
- **Sec. 15.** RCW 42.56.250 and 2020 c 106 s 1 are each amended to 24 read as follows:
 - The following employment and licensing information is exempt from public inspection and copying under this chapter:
 - (1) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination;
 - (2) All applications for public employment other than for vacancies in elective office, including the names of applicants, resumes, and other related materials submitted with respect to an applicant;
 - (3) Professional growth plans (PGPs) in educator license renewals submitted through the eCert system in the office of the superintendent of public instruction;
 - (4) The following information held by any public agency in personnel records, public employment related records, volunteer rosters, or included in any mailing list of employees or volunteers of any public agency: Residential addresses, residential telephone

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- numbers, personal wireless telephone numbers, personal email addresses, social security numbers, driver's license numbers, identicard numbers, payroll deductions including the amount and identification of the deduction, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal email addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency. For purposes of this subsection, "employees" includes independent provider home care workers defined in RCW 74.39A.240;
 - (5) Information that identifies a person who, while an agency employee: (a) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (b) requests his or her identity or any identifying information not be disclosed;

- (6) Investigative records compiled by an employing agency in connection with an investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws or an employing agency's internal policies prohibiting discrimination or harassment in employment. Records are exempt in their entirety while the investigation is active and ongoing. After the agency has notified the complaining employee of the outcome of the investigation, the records may be disclosed only if the names of complainants, other accusers, and witnesses are redacted, unless a complainant, other accuser, or witness has consented to the disclosure of his or her name. The employing agency must inform a complainant, other accuser, or witness that his or her name will be redacted from the investigation records unless he or she consents to disclosure;
- (7) Criminal history records checks for board staff finalist candidates conducted pursuant to RCW 43.33A.025;
- (8) Photographs and month and year of birth in the personnel files of employees or volunteers of a public agency, including employees and workers of criminal justice agencies as defined in RCW 10.97.030. The news media, as defined in RCW 5.68.010(5), shall have access to the photographs and full date of birth. For the purposes of this subsection, news media does not include any person or

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organization of persons in the custody of a criminal justice agency as defined in RCW 10.97.030;

- (9) The global positioning system data that would indicate the location of the residence of a public employee or volunteer using the global positioning system recording device;
- (10) ((Until the person reaches eighteen years of age, information, otherwise disclosable under chapter 29A.08 RCW, that relates to a future voter, except for the purpose of processing and delivering ballots)) Information relating to a future voter, as provided in section 1 of this act; and
- (11) Voluntarily submitted information collected and maintained by a state agency or higher education institution that identifies an individual state employee's personal demographic details. "Personal demographic details" means race or ethnicity, sexual orientation as defined by RCW 49.60.040(((26))) (27), immigration status, national origin, or status as a person with a disability. This exemption does not prevent the release of state employee demographic information in a deidentified or aggregate format.
- (12) Upon receipt of a request for information located exclusively in an employee's personnel, payroll, supervisor, or training file, the agency must provide notice to the employee, to any union representing the employee, and to the requestor. The notice must state:
 - (a) The date of the request;

- (b) The nature of the requested record relating to the employee;
- (c) That the agency will release any information in the record which is not exempt from the disclosure requirements of this chapter at least ten days from the date the notice is made; and
- 29 (d) That the employee may seek to enjoin release of the records 30 under RCW 42.56.540.
- **Sec. 16.** RCW 29A.84.140 and 2018 c 109 s 13 are each amended to 32 read as follows:

A person who knows that he or she does not possess the legal qualifications of a voter and who registers to vote is guilty of a class C felony. This section does not apply to persons age sixteen or seventeen signing up to register to vote as authorized under RCW 29A.08.170, or to persons voting in primaries pursuant to RCW 29A.04.061.

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- 1 **Sec. 17.** RCW 29A.84.140 and 2020 c 208 s 20 are each amended to read as follows:
- A person who knows that he or she does not possess the legal qualifications of a voter and who registers to vote is guilty of a
- 5 class C felony. This section does not apply to persons age sixteen or
- 6 seventeen signing up to register to vote as authorized under \mathtt{RCW}
- 7 29A.08.170 or 29A.08.355(2), or to persons voting in primaries
- 8 pursuant to RCW 29A.04.061.
- 9 <u>NEW SECTION.</u> **Sec. 18.** RCW 29A.08.375 (Automatic registration—
- 10 Rule-making authority) and 2018 c 110 s 207 are each repealed.
- 11 <u>NEW SECTION.</u> **Sec. 19.** Sections 12 and 16 of this act expire
- 12 September 1, 2023.
- 13 NEW SECTION. Sec. 20. Sections 13 and 17 of this act take
- 14 effect September 1, 2023.

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