

CERTIFICATION OF ENROLLMENT

SENATE BILL 5843

68th Legislature
2024 Regular Session

Passed by the Senate February 2, 2024
Yeas 46 Nays 3

President of the Senate

Passed by the House February 27, 2024
Yeas 58 Nays 37

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5843** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5843

Passed Legislature - 2024 Regular Session

State of Washington

68th Legislature

2024 Regular Session

By Senators Nguyen, Boehnke, Hasegawa, Hunt, Kuderer, Mullet, Nobles, Randall, and Valdez; by request of Secretary of State

Prefiled 12/14/23. Read first time 01/08/24. Referred to Committee on State Government & Elections.

1 AN ACT Relating to security breaches of election systems and
2 election-related systems; amending RCW 29A.12.180, 29A.12.200,
3 29A.40.100, 29A.40.160, 29A.60.200, 29A.84.550, 29A.84.560,
4 29A.84.720, and 29A.84.050; adding a new section to chapter 29A.84
5 RCW; and prescribing penalties.

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

7 **Sec. 1.** RCW 29A.12.180 and 2018 c 218 s 6 are each amended to
8 read as follows:

9 (1) A manufacturer or distributor of a voting system or component
10 of a voting system that is certified by the secretary of state under
11 RCW 29A.12.020 shall disclose to the secretary of state and attorney
12 general any breach of the security of its system immediately
13 following discovery of the breach if:

14 (a) The breach has, or is reasonably likely to have, compromised
15 the security, confidentiality, or integrity of an election in any
16 state; or

17 (b) Personal information of residents in any state was, or is
18 reasonably believed to have been, acquired by an unauthorized person
19 as a result of the breach and the personal information was not
20 secured. For purposes of this subsection, "personal information" has
21 the meaning given in RCW 19.255.010.

1 (2) Every county must install and maintain an intrusion detection
2 system that passively monitors its network for malicious traffic 24
3 hours a day, seven days a week, and 365 days a year by a qualified
4 and trained security team with access to cyberincident response
5 personnel who can assist the county in the event of a malicious
6 attack. The system must support the unique security requirements of
7 state, local, tribal, and territorial governments and possess the
8 ability to receive cyberintelligent threat updates to stay ahead of
9 evolving attack patterns.

10 (3) A county auditor or county information technology director of
11 any county, participating in the shared voter registration system
12 operated by the secretary of state under RCW 29A.08.105 and
13 29A.08.125, or operating a voting system or component of a voting
14 system that is certified by the secretary of state under RCW
15 29A.12.020 shall disclose to the secretary of state and attorney
16 general any malicious activity or breach of the security of any of
17 its information technology (IT) systems immediately following
18 discovery if:

19 (a) Malicious activity was detected by an information technology
20 intrusion detection system (IDS), malicious domain blocking and
21 reporting system, or endpoint security software, used by the county,
22 the county auditor, or the county election office;

23 (b) A breach has, or is reasonably likely to have, compromised
24 the security, confidentiality, or integrity of election systems,
25 information technology systems used by the county staff to manage and
26 support the administration of elections, or peripheral information
27 technology systems that support the auditor's office in the office's
28 day-to-day activities;

29 (c) The breach has, or is reasonably likely to have, compromised
30 the security, confidentiality, or integrity of an election within the
31 state; or

32 (d) Personal information of residents in any state was, or is
33 reasonably believed to have been, acquired by an unauthorized person
34 as a result of the breach and the personal information was not
35 secured. For purposes of this subsection, "personal information" has
36 the meaning given in RCW 19.255.005.

37 (4) For purposes of this section:

38 (a) "Malicious activity" means an external or internal threat
39 that is designed to damage, disrupt, or compromise an information
40 technology network, as well as the hardware and applications that

1 reside on the network, thereby impacting performance, data integrity,
2 and the confidentiality of data on the network. Threats include
3 viruses, ransomware, trojan horses, worms, malware, data loss, or the
4 disabling or removing of information technology security systems.

5 (b) "Security breach" means a breach of the election system,
6 information technology systems used to administer and support the
7 election process, or associated data where the system or associated
8 data has been penetrated, accessed, or manipulated by an unauthorized
9 person. The definition of breach includes all unauthorized access to
10 systems by external or internal personnel or organizations, including
11 personnel employed by a county or the state providing access to
12 systems that have the potential to lead to a breach.

13 (5) Notification under ((subsection (1) of)) this section must be
14 made in the most expedient time possible and without unreasonable
15 delay.

16 **Sec. 2.** RCW 29A.12.200 and 2020 c 101 s 2 are each amended to
17 read as follows:

18 (1) The secretary of state must annually consult with the
19 Washington state fusion center, state chief information officer, and
20 each county auditor to identify instances of security breaches of
21 election systems or election data.

22 (2) To the extent possible, the secretary of state must identify
23 whether the source of a security breach, if any, is a foreign entity,
24 domestic entity, or both.

25 (3) By December 31st of each year, the secretary of state must
26 submit a report to the governor, state chief information officer,
27 Washington state fusion center, and the chairs and ranking members of
28 the appropriate legislative committees from the senate and house of
29 representatives that includes information on any instances of
30 security breaches identified under subsection (1) of this section and
31 options to increase the security of the election systems and election
32 data, and to prevent future security breaches. The report, and any
33 related material, data, or information provided pursuant to
34 subsection (1) of this section or used to assemble the report, may
35 only be distributed to, or otherwise shared with, the individuals
36 specifically mentioned in this subsection (3).

37 (4) For the purposes of this section:

38 (a) "Domestic entity" means an entity organized or formed under
39 the laws of the United States, a person domiciled in the United

1 States, or a citizen of the United States, and includes elected
2 officials and staff of the state or a county.

3 (b) "Foreign entity" means an entity that is not organized or
4 formed under the laws of the United States, or a person who is not
5 domiciled in the United States or a citizen of the United States.

6 ~~((b))~~ (c) "Security breach" means a breach of the election
7 system or associated data where the system or associated data has
8 been penetrated, accessed, or manipulated by an unauthorized person.

9 **Sec. 3.** RCW 29A.40.100 and 2011 c 10 s 40 are each amended to
10 read as follows:

11 County auditors must request that observers be appointed by the
12 major political parties to be present during the processing of
13 ballots at the counting center. County auditors have discretion to
14 also request that observers be appointed by any campaigns or
15 organizations. The absence of the observers will not prevent the
16 processing of ballots if the county auditor has requested their
17 presence. Observers may not touch any ballots, ballot materials, or
18 election systems. Unauthorized physical contact, or access to ballots
19 or election systems is a crime subject to punishment under chapter
20 29A.84 RCW.

21 **Sec. 4.** RCW 29A.40.160 and 2022 c 69 s 1 are each amended to
22 read as follows:

23 (1) Each county auditor shall open a voting center each primary,
24 special election if the county is conducting an election, and general
25 election. The voting center shall be open during business hours
26 during the voting period, which begins eighteen days before, and ends
27 at 8:00 p.m. on the day of, the primary, special election if the
28 county is conducting an election, or general election.

29 (2) Each county auditor shall open a voting center at each of the
30 following locations in the county:

31 (a) At the county auditor's office or at the division of
32 elections that is in a separate location from the county auditor's
33 office; and

34 (b) For each presidential general election, in each city in the
35 county with a population of one hundred thousand or greater which
36 does not have a voting center as required in (a) of this subsection.
37 A voting center opened pursuant to this subsection (2) is not
38 required to be open on the Sunday before the presidential election.

1 (3) Voting centers shall be located in public buildings or
2 buildings that are leased by a public entity including, but not
3 limited to, libraries.

4 (4) Each voting center, and at least one of the other locations
5 designated by the county auditor to allow voters to register in
6 person pursuant to RCW 29A.08.140(1)(b), must provide voter
7 registration materials, ballots, provisional ballots, disability
8 access voting units, sample ballots, instructions on how to properly
9 vote the ballot, a ballot drop box, and voters' pamphlets, if a
10 voters' pamphlet has been published.

11 (5) Each voting center must be accessible to persons with
12 disabilities. Each state agency and entity of local government shall
13 permit the use of any of its accessible facilities as voting centers
14 when requested by a county auditor.

15 (6) Each voting center must provide at least one voting unit
16 certified by the secretary of state that provides access to
17 individuals who are blind or visually impaired, enabling them to vote
18 with privacy and independence.

19 (7) No person may interfere with a voter attempting to vote in a
20 voting center. Interfering with a voter attempting to vote is a
21 violation of RCW 29A.84.510. The county auditor shall designate by
22 administrative rule a specific point or points as the entrance to
23 each voting center, taking into account the unique attributes of the
24 voting center, to assure that voters have the ability to arrive and
25 depart unimpeded.

26 (8) No person may interfere with the operation of a voting
27 center. Interfering with the operation of a voting center is a
28 violation of RCW 29A.84.510. This prohibition includes unauthorized
29 access or handling of ballots, and unauthorized access to any voting
30 equipment or election systems. Unauthorized access includes elected
31 officials and county staff accessing systems in any manner not
32 required by their job function.

33 (9) Before opening the voting center, the voting equipment shall
34 be inspected to determine if it has been properly prepared for
35 voting. If the voting equipment is capable of direct tabulation of
36 each voter's choices, the county auditor shall verify that no votes
37 have been registered for any issue or office, and that the device has
38 been sealed with a unique numbered seal at the time of final
39 preparation and logic and accuracy testing. A log must be made of all
40 device numbers and seal numbers.

1 (~~(9)~~) (10) The county auditor shall require any person desiring
2 to vote at a voting center to either sign a ballot declaration or
3 provide identification.

4 (a) The signature on the declaration must be compared to the
5 signature on the voter registration record before the ballot may be
6 counted. If the voter registered using a mark, or can no longer sign
7 (~~his or her~~) the voter's name, the election officers shall require
8 the voter to be identified by another registered voter.

9 (b) The identification must be valid photo identification, such
10 as a driver's license, state identification card, student
11 identification card, tribal identification card, or employer
12 identification card. A tribal identification card is not required to
13 include a residential address or an expiration date to be considered
14 valid under this section. Any individual who desires to vote in
15 person but cannot provide identification shall be issued a
16 provisional ballot, which shall be accepted if the signature on the
17 declaration matches the signature on the voter's registration record.

18 (~~(10)~~) (11) Provisional ballots must be accompanied by a
19 declaration and security envelope, as required by RCW 29A.40.091, and
20 space for the voter's name, date of birth, current and former
21 registered address, reason for the provisional ballot, and
22 disposition of the provisional ballot. The voter shall vote and
23 return the provisional ballot at the voting center. The voter must be
24 provided information on how to ascertain whether the provisional
25 ballot was counted and, if applicable, the reason why the vote was
26 not counted.

27 (~~(11)~~) (12) Any voter may take printed or written material into
28 the voting device to assist in casting (~~his or her~~) votes. The
29 voter shall not use this material to electioneer and shall remove it
30 when (~~he or she leaves~~) leaving the voting center.

31 (~~(12)~~) (13) If any voter states that (~~he or she~~) the voter is
32 unable to cast (~~his or her votes~~) a vote due to a disability, the
33 voter may designate a person of (~~his or her~~) the voter's choice, or
34 two election officers, to enter the voting booth and record the votes
35 as (~~he or she~~) the voter directs.

36 (~~(13)~~) (14) No voter is entitled to vote more than once at a
37 primary, special election, or general election. If a voter
38 incorrectly marks a ballot, (~~he or she~~) the voter may be issued a
39 replacement ballot.

1 (~~(14)~~) (15) A voter who has already returned a ballot but
2 requests to vote at a voting center shall be issued a provisional
3 ballot. The canvassing board shall not count the provisional ballot
4 if it finds that the voter has also voted a regular ballot in that
5 primary, special election, or general election.

6 (~~(15)~~) (16) Any voter who is inside or in line at the voting
7 center at 8:00 p.m. on the day of the primary, special election, or
8 general election must be allowed to vote.

9 (~~(16)~~) (17) For each primary, special election, and general
10 election, the county auditor may provide election services at
11 locations in addition to the voting center. The county auditor has
12 discretion to establish which services will be provided at the
13 additional locations, and which days and hours the locations will be
14 open.

15 **Sec. 5.** RCW 29A.60.200 and 2011 c 10 s 60 are each amended to
16 read as follows:

17 (1) Before canvassing the returns of a primary or election, the
18 chair of the county legislative authority or the chair's designee
19 shall administer an oath to the county auditor or the auditor's
20 designee attesting to the authenticity of the information presented
21 to the canvassing board. This oath must be signed by the county
22 auditor or designee and filed with the returns of the primary or
23 election.

24 (2) The county canvassing board shall proceed to verify the
25 results from the ballots received. The board shall execute a
26 certificate of the results of the primary or election signed by all
27 members of the board or their designees. Failure to certify the
28 returns, if they can be ascertained with reasonable certainty, is a
29 crime under RCW 29A.84.720.

30 (3) If the county canvassing board refuses to certify the results
31 of the election without cause, the secretary of state may examine the
32 records, ballots, and results of the election and certify the results
33 of the election. This must be completed within two business days
34 after the certification deadline in RCW 29A.60.190 after the refusal
35 of the county canvassing board to certify the results of the
36 election.

37 **Sec. 6.** RCW 29A.84.550 and 2011 c 10 s 74 are each amended to
38 read as follows:

1 Any person who willfully defaces, removes, or destroys any of the
2 supplies or materials that the person knows are intended both for use
3 in a voting center (~~and~~), election office, ballot counting area,
4 ballot storage area, or election system including materials and
5 systems meant for enabling a voter to prepare (~~his or her~~) the
6 voter's ballot is guilty of a class C felony punishable under RCW
7 9A.20.021.

8 NEW SECTION. **Sec. 7.** A new section is added to chapter 29A.84
9 RCW to read as follows:

10 Any person who willfully and without authority accesses or
11 assists another person or entity with unauthorized access to a voting
12 center, election office, ballot counting area, ballot storage area,
13 or any election system, or provides unauthorized access to another
14 person or entity to a voting center, election office, ballot counting
15 area, ballot storage area, or any election system, whether electronic
16 or physical access, is guilty of a class C felony punishable under
17 RCW 9A.20.021.

18 **Sec. 8.** RCW 29A.84.560 and 2003 c 111 s 2126 are each amended to
19 read as follows:

20 Any person who tampers with or damages or attempts to damage any
21 voting machine or device to be used or being used in a primary or
22 special or general election, or who prevents or attempts to prevent
23 the correct operation of such machine or device, or any unauthorized
24 person who (~~makes or has in his or her possession a key to a~~)
25 accesses or assists another person or entity with unauthorized access
26 to a voting center, election office, ballot counting area, ballot
27 storage area, or election system, voting machine, or device to be
28 used or being used in a primary or special or general election, is
29 guilty of a class C felony punishable under RCW 9A.20.021.

30 **Sec. 9.** RCW 29A.84.720 and 2003 c 111 s 2138 are each amended to
31 read as follows:

32 Every person charged with the performance of any duty under the
33 provisions of any law of this state relating to elections, including
34 primaries, or the provisions of any charter or ordinance of any city
35 or town of this state relating to elections who willfully neglects or
36 refuses to perform such duty, or provides unauthorized access to a
37 person or entity to physical locations or electronic or physical

1 access to election software or hardware used in any element of
2 conduct of an election, or who, in the performance of such duty, or
3 in (~~his or her~~) the person's official capacity, knowingly or
4 fraudulently violates any of the provisions of law relating to such
5 duty, is guilty of a class C felony punishable under RCW 9A.20.021
6 and shall forfeit (~~his or her~~) the person's office.

7 **Sec. 10.** RCW 29A.84.050 and 2011 c 10 s 68 are each amended to
8 read as follows:

9 (1) A person who knowingly destroys, alters, defaces, conceals,
10 or discards a completed voter registration form (~~(☒)~~) signed ballot
11 declaration, or voted ballot is guilty of a gross misdemeanor. This
12 section does not apply to (a) the voter who completed the form or
13 declaration, or (b) a county auditor who acts as authorized by law.

14 (2) Any person who intentionally fails to return another person's
15 completed voter registration form (~~(☒)~~) signed ballot declaration,
16 or voted ballot to the proper state or county elections office by the
17 applicable deadline is guilty of a gross misdemeanor.

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