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**SENATE BILL 5843**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senators Frockt, Kuderer, Hunt, Keiser, Lovelett, Nguyen, Nobles, Salomon, and C. Wilson; by request of Office of the Governor

AN ACT Relating to public officials and candidates who knowingly make false statements and claims regarding the election process and results; amending RCW 42.12.010; adding a new section to chapter 29A.84 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. **Sec.**  The legislature finds that:

The state of Washington is a leader in the country regarding election security and voter accessibility. The state is routinely held as a model for other states to implement practices that were early adopted by Washington such as vote by mail, same day registration, and prepaid ballot postage, all of which are secure and increase voter access. Unfortunately, during the 2020 election, false claims regarding the validity of the 2020 election results were made by individuals who were attempting to undermine the election results because their preferred candidate or candidates were not successful in the 2020 general election. Thousands of Americans believed the false statements made by elected officials and candidates for office regarding the election results and sieged the United States capitol on January 6, 2021, with the intent to overturn the 2020 presidential election results.

False claims about our election system are damaging, but such claims are even more damaging when made by elected officials. In the aftermath of the January 6th events, we saw how false statements about the 2020 general election resulted in imminent lawlessness that included five deaths, hundreds of injuries with at least 137 law enforcement officers who sustained injuries, and over $30 million in damage to the United States capitol.

The United States supreme court has ruled that states have the power to restrict speech that incites or produces imminent lawless action (*Brandenburg v. Ohio*). It is the intent of the legislature to hold elected officials and those that seek to hold an elected position who have taken an oath to uphold the Constitutions of the United States and state of Washington accountable and to prohibit these individuals from bringing forward false claims with the purpose of casting doubt on one of our most sacred institutions.

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

(1) Every elected official and candidate who has filed for public office under chapter 29A.24 RCW and who knowingly makes false statements or claims regarding the election process or election results, which statements or claims are made for the purpose of undermining the election process or election results and are directed to inciting or producing imminent lawless action and such statements or claims produce such action, related to any election conducted in the state, is guilty of a gross misdemeanor punishable under RCW 9A.20.021 and, if convicted, immediately forfeits the elected office.

(2) For the purpose of this section:

(a) "Knowingly makes false statements or claims" means any statements or claims that are publicly made by an elected official or candidate for which there is no proof or evidence. The burden of proof shall rest with the prosecutor to prove that the elected official or candidate knowingly made false statements or claims.

(b) "Undermining the election process or election results" means the elected official or candidate intended to deceive the public regarding the election process or results of an election conducted in the state, interfered with a voter's ability to cast their ballot, intimidated a voter, or deterred a voter from voting freely.

**Sec.**  RCW 42.12.010 and 1994 c 223 s 2 are each amended to read as follows:

Every elective office shall become vacant on the happening of any of the following events:

(1) The death of the incumbent;

(2) His or her resignation. A vacancy caused by resignation shall be deemed to occur upon the effective date of the resignation;

(3) His or her removal;

(4) Except as provided in RCW 3.46.067 and 3.50.057, his or her ceasing to be a legally registered voter of the district, county, city, town, or other municipal or quasi municipal corporation from which he or she shall have been elected or appointed, including where applicable the council district, commissioner district, or ward from which he or she shall have been elected or appointed;

(5) His or her conviction of a felony, a gross misdemeanor for knowingly making false statements regarding the election process or results as described in section 2 of this act, or of any offense involving a violation of his or her official oath;

(6) His or her refusal or neglect to take his or her oath of office, or to give or renew his or her official bond, or to deposit such oath or bond within the time prescribed by law;

(7) The decision of a competent tribunal declaring void his or her election or appointment; or

(8) Whenever a judgment shall be obtained against that incumbent for breach of the condition of his or her official bond.

**--- END ---**