
HOUSE BILL 1414

State of Washington 57th Legislature 2001 Regular Session

By Representatives Schindler, McMorris and Lambert

Read first time 01/25/2001. Referred to Committee on State Government.

1 AN ACT Relating to establishing a data base for voter registration
2 purposes; amending RCW 29.10.185, 29.10.020, 29.10.051, 29.10.110,
3 29.10.180, 29.10.071, 11.88.010, and 36.22.200; adding a new section to
4 chapter 29.10 RCW; adding a new section to chapter 72.09 RCW; creating
5 a new section; providing an effective date; and providing an expiration
6 date.

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

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

10 (1) The secretary of state shall establish and maintain a data base
11 containing:

12 (a) The names, residential addresses, and active or inactive voting
13 status of all persons registered to vote in the state;

14 (b) The names of persons convicted in the state for infamous crimes
15 as defined in RCW 29.01.080;

16 (c) The names and residential addresses of persons declared
17 incompetent for purposes of rationally exercising the right to vote
18 under chapter 11.88 RCW;

1 (d) The names, residential addresses, and former names of persons
2 who have legally changed their names;

3 (e) Change of address information received under RCW 29.10.020 and
4 29.10.180; and

5 (f) Cancellation information received under RCW 29.10.110.

6 (2) The secretary of state shall, at a minimum, update the data
7 base on a monthly basis.

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

11 (4) The secretary of state shall establish the data base by July 1,
12 2002.

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

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

19 (a) Persons excluded from elective franchise due to a conviction
20 for an infamous crime under Article VI, section 3 of the state
21 Constitution;

22 (b) Persons declared incompetent for purposes of rationally
23 exercising the right to vote in guardianship proceedings under chapter
24 11.88 RCW;

25 (c) Persons who have legally changed their names under RCW
26 4.24.130;

27 (d) Persons who have changed their addresses within the same
28 county; and

29 (e) Persons registered in more than one county.

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

34 (3) The office of the secretary of state shall ((cause to be
35 created)) use the data base created in section 1 of this act to create
36 a list of registered voters;

1 (a) Who are excluded from elective franchise due to a conviction
2 for an infamous crime under Article VI, section 3 of the state
3 Constitution;

4 (b) Who have been declared incompetent for purposes of rationally
5 exercising the right to vote in guardianship proceedings under chapter
6 11.88 RCW;

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

8 (d) Who have changed their addresses within the same county; and

9 (e) With the same date of birth and similar names who appear on two
10 or more county lists of registered voters.

11 (4) The office of the secretary of state shall forward ((this)) the
12 list required by subsection (3) of this section to each county auditor
13 so that they may properly cancel the ((previous)) registration of
14 voters who ((have subsequently)) are improperly registered in ((a
15 different)) the county.

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

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

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

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

33 **Sec. 3.** RCW 29.10.020 and 1994 c 57 s 35 are each amended to read
34 as follows:

35 To maintain a valid voter registration, a registered voter who
36 changes his or her residence from one address to another within the
37 same county shall transfer his or her registration to the new address
38 in one of the following ways: (1) Sending to the county auditor a

1 signed request stating the voter's present address and the address from
2 which the voter was last registered; (2) appearing in person before the
3 auditor and signing such a request; (3) transferring the registration
4 in the manner provided by RCW 29.10.170; or (4) telephoning the county
5 auditor to transfer the registration. The telephone call transferring
6 a registration by telephone must be received by the auditor before the
7 precinct registration files are closed to new registrations for the
8 next primary or special or general election in which the voter
9 participates. The county auditor shall, on the tenth day of each
10 month, submit to the secretary of state the names and change of address
11 information of any voters who have changed their voting addresses under
12 this section during the previous month.

13 The secretary of state may adopt rules facilitating the transfer of
14 a registration by telephone authorized by this section.

15 **Sec. 4.** RCW 29.10.051 and 1994 c 57 s 37 are each amended to read
16 as follows:

17 To maintain a valid voter registration, a person who changes his or
18 her name shall notify the county auditor regarding the name change in
19 one of the following ways: (1) By sending the auditor a notice clearly
20 identifying the name under which he or she is registered to vote, the
21 voter's new name, and the voter's residence. Such a notice must be
22 signed by the voter using both this former name and the voter's new
23 name; (2) by appearing in person before the auditor or a registration
24 assistant and signing such a change-of-name notice; (3) by signing such
25 a change-of-name notice at the voter's precinct polling place on the
26 day of a primary or special or general election; (4) by properly
27 executing a name change on a mail-in registration application or a
28 prescribed state agency application. The county auditor shall, on the
29 tenth day of each month, submit to the secretary of state the name
30 change information of any voters who have changed their names under
31 this section during the previous month.

32 A properly registered voter who files a change-of-name notice at
33 the voter's precinct polling place during a primary or election and who
34 desires to vote at that primary or election shall sign the poll book
35 using the voter's former and new names in the same manner as is
36 required for the change-of-name notice.

37 The secretary of state may adopt rules facilitating the
38 implementation of this section.

1 **Sec. 5.** RCW 29.10.110 and 1991 c 81 s 26 are each amended to read
2 as follows:

3 Every county auditor shall carefully preserve in a separate file or
4 list the registration records of persons whose voter registrations have
5 been canceled as authorized under this title. The files or lists shall
6 be kept in the manner prescribed by rule by the secretary of state.
7 Information from such canceled registration records is available for
8 public inspection and copying to the same extent established by RCW
9 29.07.130 for other voter registration information. The county auditor
10 shall, on the tenth day of each month, submit to the secretary of state
11 the cancellation information of any voters whose registrations have
12 been canceled during the previous month.

13 The county auditor may destroy the voter registration information
14 and records of any person whose voter registration has been canceled
15 for a period of two years or more.

16 **Sec. 6.** RCW 29.10.180 and 1999 c 100 s 2 are each amended to read
17 as follows:

18 In addition to the case-by-case maintenance required under RCW
19 29.10.071 and 29.10.075 and the canceling of registrations under RCW
20 29.10.090, the county auditor shall establish a general program of
21 voter registration list maintenance. This program must be a thorough
22 review that is applied uniformly throughout the county and must be
23 nondiscriminatory in its application. Any program established must be
24 completed at least once every two years and not later than ninety days
25 before the date of a primary or general election for federal office.
26 The county auditor shall submit results of the program to the secretary
27 of state. The county may fulfill its obligations under this section in
28 one of the following ways:

29 (1) The county auditor may enter into one or more contracts with
30 the United States postal service, or its licensee, which permit the
31 auditor to use postal service change-of-address information. If the
32 auditor receives change of address information from the United States
33 postal service that indicates that a voter has changed his or her
34 residence address within the county, the auditor shall transfer the
35 registration of that voter and send a confirmation notice informing the
36 voter of the transfer to the new address. If the auditor receives
37 postal change of address information indicating that the voter has
38 moved out of the county, the auditor shall send a confirmation notice

1 to the voter and advise the voter of the need to reregister in the new
2 county. The auditor shall place the voter's registration on inactive
3 status;

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

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

11 **Sec. 7.** RCW 29.10.071 and 1994 c 57 s 38 are each amended to read
12 as follows:

13 (1) A county auditor shall assign a registered voter to inactive
14 status and shall send the voter a confirmation notice if any of the
15 following documents are returned by the postal service as
16 undeliverable:

17 (a) An acknowledgement of registration;

18 (b) An acknowledgement of transfer to a new address;

19 (c) A vote-by-mail ballot, absentee ballot, or application for a
20 ballot;

21 (d) Notification to a voter after precinct reassignment;

22 (e) Notification to serve on jury duty; or

23 (f) Any other document other than a confirmation notice, required
24 by statute, to be mailed by the county auditor to the voter.

25 (2) A county auditor shall also assign a registered voter to
26 inactive status and shall send the voter a confirmation notice:

27 (a) Whenever change of address information received from the
28 department of licensing under RCW 29.07.270, or by any other agency
29 designated to provide voter registration services under RCW 29.07.420,
30 indicates that the voter has moved to an address outside the county; or

31 (b) If the auditor receives postal change of address information
32 under RCW 29.10.180, indicating that the voter has moved out of the
33 county.

34 (3) A county auditor shall, on the tenth day of each month, submit
35 to the secretary of state the names and residential addresses of any
36 voters who have been assigned to inactive status under this section
37 during the previous month.

1 **Sec. 8.** 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 and residential address of the incompetent
8 person.

9 NEW SECTION. **Sec. 9.** A new section is added to chapter 72.09 RCW
10 to read as follows:

11 The secretary shall:

12 (1) By September 1, 2001, submit to the secretary of state the
13 names and sentences of all offenders incarcerated on that date for
14 infamous crimes as defined in RCW 29.01.080; and

15 (2) On the tenth day of each month thereafter, submit to the
16 secretary of state:

17 (a) The names and sentences of any offenders who have been
18 incarcerated for infamous crimes as defined in RCW 29.01.080 during the
19 previous month; and

20 (b) The names of any offenders convicted of infamous crimes as
21 defined in RCW 29.01.080 who have been released from incarceration
22 during the previous month.

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

25 Upon receipt of the fee and the name change order from the district
26 court as provided in RCW 4.24.130, the county auditor shall file and
27 record the name change order and send a copy of the order to the
28 secretary of state.

29 NEW SECTION. **Sec. 11.** (1) The secretary of state shall study and
30 recommend to the legislature methods to improve the data base required
31 by section 1 of this act. When conducting the study, the secretary
32 shall consider the following:

33 (a) Requiring state agencies that maintain lists containing the
34 names and residential addresses of citizens to submit change of address
35 information to the secretary of state;

1 (b) Requiring businesses that become aware of citizens changing
2 their addresses through the normal course of business to submit change
3 of address information to the secretary of state;

4 (c) Contracting with the federal government and other states to
5 obtain lists of persons convicted of federal felonies or felonies in
6 other states; and

7 (d) Any other method of increasing the amount and accuracy of the
8 information in the data base.

9 (2) The secretary of state shall consider the privacy interests of
10 persons whose information is contained in the data base when making the
11 recommendations required by this section.

12 (3) The secretary of state shall report the findings to the
13 legislature by December 1, 2001.

14 (4) This section expires January 1, 2002.

15 NEW SECTION. **Sec. 12.** Section 2 of this act takes effect January
16 1, 2003.

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