

---

**SENATE BILL 5843**

---

**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

Read first time 01/13/22. Referred to Committee on State Government & Elections.

1 AN ACT Relating to public officials and candidates who knowingly  
2 make false statements and claims regarding the election process and  
3 results; amending RCW 42.12.010; adding a new section to chapter  
4 29A.84 RCW; creating a new section; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that:

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

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

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

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 29A.84  
17 RCW to read as follows:

18 (1) Every elected official and candidate who has filed for public  
19 office under chapter 29A.24 RCW and who knowingly makes false  
20 statements or claims regarding the election process or election  
21 results, which statements or claims are made for the purpose of  
22 undermining the election process or election results and are directed  
23 to inciting or producing imminent lawless action and such statements  
24 or claims produce such action, related to any election conducted in  
25 the state, is guilty of a gross misdemeanor punishable under RCW  
26 9A.20.021 and, if convicted, immediately forfeits the elected office.

27 (2) For the purpose of this section:

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

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

1       **Sec. 3.** RCW 42.12.010 and 1994 c 223 s 2 are each amended to  
2 read as follows:

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

5       (1) The death of the incumbent;

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

8       (3) His or her removal;

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

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

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

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

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

--- END ---