
ENGROSSED SENATE BILL 5856

State of Washington

68th Legislature

2024 Regular Session

By Senators Hunt, Kuderer, Nobles, Valdez, and C. Wilson

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1 AN ACT Relating to voter registration challenges; and amending
2 RCW 29A.08.810, 29A.08.820, 29A.08.835, and 29A.08.840.

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

4 **Sec. 1.** RCW 29A.08.810 and 2023 c 466 s 28 are each amended to
5 read as follows:

6 (1) Registration of a person as a voter is presumptive evidence
7 of his or her right to vote. A challenge to the person's right to
8 vote must be based on personal knowledge of one of the following:

9 (a) The challenged voter has been convicted of a felony that
10 includes serving a sentence of total confinement under jurisdiction
11 of the department of corrections, or a felony conviction in another
12 state's court or federal court and the voter is serving that sentence
13 of total confinement and the person's voting rights have not been
14 restored under RCW 29A.08.520;

15 (b) The challenged voter has been judicially declared ineligible
16 to vote due to mental incompetency under RCW 29A.08.515;

17 (c) The challenger has searched the current official voter
18 registration database of another state and determined the challenged
19 voter is registered to vote in another state more recently than the
20 voter's Washington state registration;

1 (d) The challenged voter will not be 18 years of age by the next
2 general election;

3 (e) The challenged voter is not a citizen of the United States;
4 or

5 (f) The challenged voter resides at a different address than the
6 residential address provided, and is not subject to RCW 29A.04.151 or
7 29A.08.112, in which case the challenger must either:

8 (i) Provide the challenged voter's actual residence on the
9 challenge form; or

10 (ii) Submit evidence that he or she exercised due diligence to
11 verify that the challenged voter does not reside at the address
12 provided. The challenger must, at minimum, provide evidence that the
13 challenger personally:

14 (A) Sent a certified letter with return service requested to the
15 challenged voter's residential address provided, and to the
16 challenged voter's mailing address, if provided, using a form
17 provided by the office of the secretary of state outlining the reason
18 for the challenge;

19 (B) (~~Searched local telephone directories, including online~~
20 ~~directories, to determine whether the voter maintains a telephone~~
21 ~~listing at any address in the county;~~

22 ~~(C)) Searched county ((~~auditor~~)) property records to determine~~
23 ~~whether the challenged voter owns any property in the county; and~~

24 ~~((~~D~~)) (C) Searched the statewide voter registration database to~~
25 ~~determine if the voter is registered at any other address in the~~
26 ~~state((~~;~~ and~~

27 ~~(E) Searched the voter registration database of another state to~~
28 ~~determine if the voter is registered to vote in any other state;~~

29 ~~(d) The challenged voter will not be eighteen years of age by the~~
30 ~~next general election; or~~

31 ~~(e) The challenged voter is not a citizen of the United States)).~~

32 (2) A person's right to vote may be challenged by another
33 registered voter or the county prosecuting attorney.

34 (3) The challenger must file a signed affidavit subject to the
35 penalties of perjury swearing that, to his or her personal knowledge
36 and belief, having exercised due diligence to personally verify the
37 evidence presented, the challenged voter either is not qualified to
38 vote or does not reside at the address given on his or her voter
39 registration record based on one of the reasons allowed in subsection
40 (1) of this section. The challenger must provide the factual basis

1 for the challenge, including any information required by subsection
2 (1)(~~(e)~~) (f) of this section, in the signed affidavit. The
3 challenge may not be based on unsupported allegations or allegations
4 by anonymous third parties. All documents pertaining to the challenge
5 are public records.

6 (4) Challenges based on a felony conviction under RCW 29A.08.520
7 must be heard according to RCW 29A.08.520 and rules adopted by the
8 secretary of state.

9 (5) Voters whose registration has been made inactive do not
10 receive ballots and are not subject to voter registration challenges.

11 (6) Any form created for use under subsection (1)(f)(ii)(A) of
12 this section must include the following warning at the top of the
13 form: "THIS IS NOT A GOVERNMENT DOCUMENT AND ANY CLAIM CONTAINED
14 WITHIN HAS NOT BEEN SUBSTANTIATED. YOU ARE NOT REQUIRED TO RESPOND TO
15 MAINTAIN YOUR CURRENT VOTER REGISTRATION."

16 **Sec. 2.** RCW 29A.08.820 and 2023 c 466 s 29 are each amended to
17 read as follows:

18 (1) Challenges must be filed with the county auditor of the
19 county in which the challenged voter is registered no later than 45
20 days before the election. The county auditor or auditor's designee
21 presides over the hearing.

22 (2) Challenges may be filed after 45 days before the election,
23 only when the challenged voter registered to vote less than 60 days
24 before the election, or changed residence less than 60 days before
25 the election without updating the residence address of the voter's
26 voter registration. A challenge may then be filed not later than 10
27 days before any primary or election, general or special, or within 10
28 days of the voter being added to the voter registration database,
29 whichever is later.

30 (a) If the challenge is filed after 45 days before an election at
31 which the challenged voter is eligible to vote, a notation of the
32 challenge must be made immediately to the challenged voter's
33 registration in the voter registration system, and the county
34 canvassing board shall preside over the hearing.

35 (b) If the challenge is filed before the challenged voter's
36 ballot is received, the ballot must be processed as a challenged
37 ballot, and held until the challenge is resolved.

1 (c) If the challenge is filed after the challenged voter's ballot
2 is received, the challenge cannot affect the current election.
3 However, the process shall proceed until the challenge is resolved.

4 (3) The county auditor may dismiss the challenge if the voter is
5 qualified under RCW 29A.04.151 or 29A.08.112, or if the challenged
6 voter's registration is inactive.

7 (4) Prior to any hearing the county auditor shall attempt to
8 resolve the question through one or more of the following methods:

9 (a) Contacting the challenged voter in order to:

10 (i) Update the voter's residence address for voting within the
11 county or state;

12 (ii) Confirm that the voter no longer considers themselves a
13 resident for voting purposes and obtaining a cancellation signed by
14 the voter; or

15 (iii) Learn whether the voter is currently residing at a
16 temporary address with the intent to return to the registered
17 address;

18 (b) Search the statewide voter registration database to determine
19 if the voter is registered at any other address within the state, and
20 resolve the error;

21 (c) Determine if the voter is currently qualified under RCW
22 29A.04.151 or 29A.08.112; or

23 (d) If the challenger provides an out-of-state address for the
24 challenged voter, search the current official voter registration
25 database for the jurisdiction of the address provided, or contact the
26 election official's office in that jurisdiction and determine if the
27 challenged voter has registered to vote in that jurisdiction more
28 recently than the voter's Washington state registration.

29 (5) If the county auditor is successful in resolving the
30 challenge through any of the methods contained in subsection (4) of
31 this section the auditor shall dismiss the challenge and notify the
32 challenger of the dismissal.

33 **Sec. 3.** RCW 29A.08.835 and 2023 c 466 s 30 are each amended to
34 read as follows:

35 (1) ~~((The))~~ For challenges that have not been dismissed for
36 administrative reasons and that cannot be resolved under RCW
37 29A.08.820(4), the county auditor shall, within ~~((seventy-two hours))~~
38 10 business days of receipt, publish on the auditor's internet
39 website the ~~((entire content))~~ affidavit of any voter challenge filed

1 under this chapter (~~29A.08 RCW~~). Immediately after publishing any
2 voter challenge, the county auditor shall notify any person who
3 requests to receive such notifications on an ongoing basis.

4 (2) The information on the website may be removed 45 days
5 following certification of an election. Information related to the
6 challenge must be maintained by the county auditor for the
7 appropriate retention period, and is subject to disclosure upon
8 request.

9 **Sec. 4.** RCW 29A.08.840 and 2023 c 466 s 31 are each amended to
10 read as follows:

11 (1) The county auditor shall determine within 10 business days of
12 receipt of a challenge whether the challenge is in proper form and
13 the factual basis meets the legal grounds for a challenge. If the
14 challenge is not in proper form or the factual basis for the
15 challenge does not meet the legal grounds for a challenge, the county
16 auditor may dismiss the challenge and, when permitted, shall notify
17 the challenger of the reasons for the dismissal. A challenge is not
18 in proper form if it is incomplete on its face or does not
19 substantially comply with the form issued by the secretary of state
20 as described in RCW 29A.08.810.

21 (2) If the challenge is in proper form and the factual basis
22 meets the legal grounds for a challenge, and the challenge has not
23 been dismissed for administrative reasons, or resolved by the voter
24 updating information, the county auditor must notify the challenged
25 voter (~~and provide a copy of the affidavit~~) via certified mail to
26 the mailing address and residential address provided in the voter
27 registration record. If the affidavit is returned as undeliverable,
28 the county auditor shall move the challenged voter to an inactive
29 status and send a confirmation notice pursuant to RCW 29A.08.030.
30 (~~The county auditor shall also provide to any person, upon request,~~
31 ~~a copy of all materials~~) Materials provided to the challenged voter
32 are not exempt from copying or inspection under chapter 42.56 RCW,
33 except for voters qualifying for exemption under RCW 29A.04.151 or
34 29A.08.112.

35 (a) If the challenge is to the residential address provided by
36 the voter, the challenged voter must be provided notice of the
37 exceptions allowed in RCW 29A.08.112 and 29A.04.151, and Article VI,
38 section 4 of the state Constitution, (~~and~~) or may update the

1 residence address on the voter's voter registration, or reregister
2 until 8:00 p.m. the day of the election.

3 (b) The county auditor must schedule a hearing and notify the
4 challenger and the challenged voter of the time and place for the
5 hearing.

6 (3) All notice must be by certified mail with return requested to
7 the (~~address~~) addresses provided in the voter registration record
8 for residence and for mailing, and any other addresses at which the
9 challenged voter is alleged to reside or the county auditor
10 reasonably expects the voter to receive notice. The challenger and
11 challenged voter may either appear in person or submit testimony by
12 affidavit. Personal appearance may be accomplished using video
13 telecommunications technology if the auditor or canvassing board
14 chooses.

15 (4) The challenger has the burden to prove by clear and
16 convincing evidence that the challenged voter's registration is
17 improper. The challenged voter must be provided a reasonable
18 opportunity to respond. If the challenge is to the residential
19 address provided by the voter, the challenged voter may provide
20 evidence that he or she resides at the location described in his or
21 her voter's registration records, or meets one of the exceptions
22 allowed in RCW 29A.08.112 or 29A.04.151, or Article VI, section 4 of
23 the state Constitution. If either the challenger or challenged voter
24 fails to appear at the hearing, the challenge must be resolved based
25 on the available facts.

26 (5) If the challenge is based on an allegation under RCW
27 29A.08.810(1) (a), (b), (c), (d), or (e) and the auditor, auditor's
28 designee, or canvassing board sustains the challenge, the voter
29 registration shall be canceled and any challenged ballot shall not be
30 counted. If the challenge is based on an allegation under RCW
31 29A.08.810(1) (~~(e)~~) (f) and the auditor, auditor's designee, or
32 canvassing board sustains the challenge prior to certification, the
33 (~~board shall permit the voter~~) voter shall be permitted to correct
34 the residence address on the voter registration and any races and
35 ballot measures on any challenged ballot that the voter would have
36 been qualified to vote for had the registration been correct shall be
37 counted.

38 (6) If the challenger fails to prove by clear and convincing
39 evidence that the registration is improper, the challenge must be
40 dismissed and any pending challenged ballot must be accepted as

1 valid. All challenged ballots must be resolved before certification
2 of the election. The decision of the county auditor, auditor's
3 designee, or canvassing board is final subject only to judicial
4 review by the superior court under chapter 34.05 RCW.

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