

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5843**

Chapter 28, Laws of 2024

68th Legislature  
2024 Regular Session

ELECTION SECURITY BREACHES

EFFECTIVE DATE: June 6, 2024

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

DENNY HECK

**President of the Senate**

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

Laurie Jinkins

**Speaker of the House of  
Representatives**

Approved March 13, 2024 11:16 AM

JAY INSLEE

**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.

SARAH BANNISTER

**Secretary**

FILED

March 14, 2024

**Secretary of State  
State of Washington**

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**SENATE BILL 5843**

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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.

Passed by the Senate February 2, 2024.

Passed by the House February 27, 2024.

Approved by the Governor March 13, 2024.

Filed in Office of Secretary of State March 14, 2024.

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