

CERTIFICATION OF ENROLLMENT

SENATE BILL 5459

Chapter 404, Laws of 2023

68th Legislature
2023 Regular Session

ELECTION INFORMATION—RECORDS REQUESTS

EFFECTIVE DATE: July 23, 2023

Passed by the Senate February 28,
2023

Yeas 43 Nays 4

DENNY HECK

President of the Senate

Passed by the House April 10, 2023

Yeas 58 Nays 40

Laurie Jinkins

**Speaker of the House of
Representatives**

Approved May 9, 2023 2:44 PM

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 5459** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

May 10, 2023

**Secretary of State
State of Washington**

SENATE BILL 5459

Passed Legislature - 2023 Regular Session

State of Washington

68th Legislature

2023 Regular Session

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

Read first time 01/19/23. Referred to Committee on State Government & Elections.

1 AN ACT Relating to requests for records containing election
2 information; amending RCW 29A.08.105 and 42.56.420; adding a new
3 section to chapter 42.56 RCW; creating a new section; and repealing
4 RCW 29A.60.290.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that requests for
7 records concerning voter registration information, election data, and
8 systems and processes of election administration have increased
9 exponentially over the last several years. The legislature further
10 finds that public access to these requested records increases the
11 public confidence in electoral processes through greater public
12 transparency. The legislature intends to clarify responsibilities for
13 producing records containing election information to improve the
14 efficiency in which they are made available.

15 **Sec. 2.** RCW 29A.08.105 and 2009 c 369 s 8 are each amended to
16 read as follows:

17 (1) In compliance with the Help America Vote Act (P.L. 107-252),
18 the centralized statewide voter registration list maintained by the
19 secretary of state is the official list of eligible voters for all
20 elections.

1 (2) In all counties, the county auditor shall be the chief
2 registrar of voters for every precinct within the county.

3 (3) Requests for records from, or any existing standard reports
4 generated by, the statewide voter registration database must be
5 submitted to and fulfilled by the secretary of state per Title 42
6 RCW. If a county elections office receives a request for records
7 from, or any existing standard reports generated by, the statewide
8 voter registration database, the county elections office is not
9 required to produce any records in response to the request, but
10 shall, by the deadline set forth in RCW 42.56.520, direct the
11 requestor to submit the request to the secretary of state.

12 **Sec. 3.** RCW 42.56.420 and 2022 c 140 s 1 are each amended to
13 read as follows:

14 The following information relating to security is exempt from
15 disclosure under this chapter:

16 (1) Those portions of records assembled, prepared, or maintained
17 to prevent, mitigate, or respond to criminal terrorist acts, which
18 are acts that significantly disrupt the conduct of government or of
19 the general civilian population of the state or the United States and
20 that manifest an extreme indifference to human life, the public
21 disclosure of which would have a substantial likelihood of
22 threatening public safety, consisting of:

23 (a) Specific and unique vulnerability assessments or specific and
24 unique response or deployment plans, including compiled underlying
25 data collected in preparation of or essential to the assessments, or
26 to the response or deployment plans; and

27 (b) Records not subject to public disclosure under federal law
28 that are shared by federal or international agencies, and information
29 prepared from national security briefings provided to state or local
30 government officials related to domestic preparedness for acts of
31 terrorism;

32 (2) Those portions of records containing specific and unique
33 vulnerability assessments or specific and unique emergency and escape
34 response plans at a city, county, or state adult or juvenile
35 correctional facility, or secure facility for persons civilly
36 confined under chapter 71.09 RCW, the public disclosure of which
37 would have a substantial likelihood of threatening the security of a
38 city, county, or state adult or juvenile correctional facility,

1 secure facility for persons civilly confined under chapter 71.09 RCW,
2 or any individual's safety;

3 (3) Information compiled by school districts or schools in the
4 development of their comprehensive safe school plans under RCW
5 28A.320.125, to the extent that they identify specific
6 vulnerabilities of school districts and each individual school;

7 (4) Information regarding the public and private infrastructure
8 and security of computer and telecommunications networks, consisting
9 of security passwords, security access codes and programs, access
10 codes for secure software applications, security and service recovery
11 plans, security risk assessments, and security test results to the
12 extent that they identify specific system vulnerabilities, and other
13 such information the release of which may increase risk to the
14 confidentiality, integrity, or availability of security, information
15 technology infrastructure, or assets;

16 (5) The system security and emergency preparedness plan required
17 under RCW 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170,
18 and 81.112.180; and

19 (6) Personally identifiable information of employees, and other
20 security information, of a private cloud service provider that has
21 entered into a criminal justice information services agreement as
22 contemplated by the United States department of justice criminal
23 justice information services security policy, as authorized by 28
24 C.F.R. Part 20 (~~;~~ and

25 ~~(7)(a) In addition to the information in subsection (4) of this~~
26 ~~section, the following related to election security:~~

27 ~~(i) The continuity of operations plan for election operations and~~
28 ~~any security audits, security risk assessments, or security test~~
29 ~~results, relating to physical security or cybersecurity of election~~
30 ~~operations or infrastructure. These records are exempt from~~
31 ~~disclosure in their entirety;~~

32 ~~(ii) Those portions of records containing information about~~
33 ~~election infrastructure, election security, or potential threats to~~
34 ~~election security, the public disclosure of which may increase risk~~
35 ~~to the integrity of election operations or infrastructure; and~~

36 ~~(iii) Voter signatures on ballot return envelopes, ballot~~
37 ~~declarations, and signature correction forms, including the original~~
38 ~~documents, copies, and electronic images; and a voter's phone number~~
39 ~~and email address contained on ballot return envelopes, ballot~~
40 ~~declarations, or signature correction forms. The secretary of state,~~

1 ~~by rule, may authorize in-person inspection of unredacted ballot~~
2 ~~return envelopes, ballot declarations, and signature correction forms~~
3 ~~in accordance with RCW 29A.04.260.~~

4 ~~(b) The exemptions specified in (a) of this subsection do not~~
5 ~~include information or records pertaining to security breaches,~~
6 ~~except as prohibited from disclosure pursuant to RCW 29A.12.200.~~

7 ~~(c) The exemptions specified in (a) of this subsection do not~~
8 ~~prohibit an audit authorized or required under Title 29A RCW from~~
9 ~~being conducted).~~

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 42.56
11 RCW to read as follows:

12 (1) The following information related to election security is
13 exempt from disclosure under this chapter:

14 (a) The continuity of operations plan for election operations and
15 any security audits, security risk assessments, or security test
16 results, relating to physical security or cybersecurity of election
17 operations or infrastructure. These records are exempt from
18 disclosure in their entirety;

19 (b) Those portions of records, manuals, or documentation
20 containing technical details and information regarding election
21 infrastructure, which include the systems, software, and networks
22 that support the election process, the public disclosure of which may
23 increase risk to the integrity of election operations or
24 infrastructure;

25 (c) Voter signatures on ballot return envelopes, ballot
26 declarations, and signature correction forms, including the original
27 documents, copies, and electronic images; and a voter's phone number
28 and email address contained on ballot return envelopes, ballot
29 declarations, or signature correction forms. The secretary of state,
30 by rule, may authorize in-person inspection of unredacted ballot
31 return envelopes, ballot declarations, and signature correction forms
32 in accordance with RCW 29A.04.260;

33 (d) Records regarding the infrastructure of a private entity
34 submitted to elections officials are exempt from disclosure for a
35 period of 25 years after the creation of the record when accompanied
36 by an express statement that the record contains information about
37 the private entity's infrastructure and public disclosure may
38 increase risk to the integrity of election operations or
39 infrastructure; and

1 (e) Voted ballots, voted ballot images, copies of voted ballots,
2 photographs of voted ballots, facsimile images of voted ballots, or
3 cast vote records of voted ballots, starting at the time of ballot
4 return from the voter, during storage per RCW 29A.60.110, and through
5 destruction following any retention period or litigation.

6 (2) The exemptions specified in subsection (1) of this section do
7 not include information or records pertaining to security breaches,
8 except as prohibited from disclosure under RCW 29A.12.200.

9 (3) The exemptions specified in subsection (1) of this section do
10 not prohibit an audit authorized or required under Title 29A RCW from
11 being conducted.

12 (4) Requests for records from or any existing reports generated
13 by the statewide voter registration database established under RCW
14 29A.08.105 must be submitted to and fulfilled by the secretary of
15 state. If a county elections office receives a request for records
16 from or any existing reports generated by the statewide voter
17 registration database established under RCW 29A.08.105, the county
18 elections office is not required to produce any records in response
19 to the request, but shall, by the deadline set forth in RCW
20 42.56.520, direct the requestor to submit their request to the
21 secretary of state.

22 NEW SECTION. **Sec. 5.** RCW 29A.60.290 (Statewide election data
23 and reporting standards—Secretary of state to develop, make rules)
24 and 2016 c 134 s 1 are each repealed.

Passed by the Senate February 28, 2023.
Passed by the House April 10, 2023.
Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

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