

**Effective 5/13/2014**

**20A-1-803 Verified petition by registered voter -- Receiving and reviewing official -- Special investigation -- Special counsel -- Civil action.**

- (1) A registered voter may file a verified petition alleging a violation of any provision of this title, if the registered voter:
  - (a) has information relating to the alleged violation;
  - (b) the allegation is against a candidate for whom the registered voter had the right to vote, a personal campaign committee of that candidate, or a member of a personal campaign committee of that candidate.
- (2) The registered voter described in Subsection (1) shall file the verified petition with the receiving official.
- (3) If the receiving official determines, in writing, that the receiving official has a conflict of interest in relation to taking an action required in this part, the receiving official shall:
  - (a) designate as the reviewing official an individual who does not have a conflict of interest, in the following order of precedence:
    - (i) the attorney general;
    - (ii) the state auditor;
    - (iii) the state treasurer; or
    - (iv) the governor; and
  - (b) forward the petition to the reviewing official for further action.
- (4)
  - (a) The reviewing official shall gather information and determine whether, in the discretion of the reviewing official, a special investigation is necessary.
  - (b) In making the determination described in Subsection (4)(a), the reviewing official may consider the following:
    - (i) whether, based on the information available to the reviewing official, the reviewing official is able to determine that a violation did not occur;
    - (ii) the seriousness of the alleged violation;
    - (iii) whether the alleged violation was intentional or accidental;
    - (iv) whether the alleged violation could be resolved informally;
    - (v) whether the petition is frivolous or filed for the purpose of harassment;
    - (vi) whether the alleged violation should be addressed in, or is being adequately addressed in, another forum, including a criminal investigation or proceeding;
    - (vii) whether additional investigation, as part of a civil proceeding in relation to the petition, is desirable;
    - (viii) the likelihood that an action, based on the allegations, is likely to be successful; or
    - (ix) other criteria relevant to making the determination.
- (5) If the reviewing official determines that a special investigation is necessary, the reviewing official shall:
  - (a) except as provided in Subsection (5)(b), refer the information to the attorney general, who shall appoint special counsel; or
  - (b) if the verified petition alleges that the attorney general violated a provision of this title, or if the reviewing official determines that the Office of the Attorney General has a conflict of interest in relation to the verified petition, appoint a person who is not an employee of the Office of the Attorney General as special counsel, in accordance with Title 63G, Chapter 6a, Utah Procurement Code.
- (6) The special counsel:

- (a) shall review the petition and any evidence relative to determining whether a defendant committed a violation of a provision of this title;
  - (b) may interview individuals or gather additional evidence relative to determining whether a defendant committed a violation of a provision of this title;
  - (c) shall advise the reviewing official whether, in the opinion of the special counsel, sufficient evidence exists to establish that a defendant committed a significant violation of a provision of this title; and
  - (d) shall, within three days after the day on which the special counsel complies with Subsection (6)(c), prepare and provide to the reviewing official a document that:
    - (i) states whether, in the opinion of the special counsel, sufficient evidence exists to establish that a defendant committed at least one significant violation of a provision of this title; and
    - (ii) if the special counsel is of the opinion that sufficient evidence exists to establish that a defendant committed at least one significant violation of a provision of this title:
      - (A) states the name of each defendant for which, in the opinion of the special counsel, sufficient evidence exists to establish that the defendant committed at least one significant violation of a provision of this title;
      - (B) states each provision of this title for which, in the opinion of the special counsel, sufficient evidence exists to establish that the defendant violated; and
      - (C) may not include a description of the evidence supporting the opinion of the special counsel.
- (7) The reviewing official shall:
- (a) within three days after the day on which the reviewing official receives the document described in Subsection (6)(d), post a conspicuous link to the document on the home page of the reviewing official's website; and
  - (b) within seven days after the day on which the special counsel complies with Subsection (6)(c):
    - (i) determine whether, in the opinion of the reviewing official, sufficient evidence exists to establish that a defendant committed a significant violation of a provision of this title; and
    - (ii) if the reviewing official is of the opinion that sufficient evidence exists to establish that a defendant committed at least one significant violation of a provision of this title, direct the special counsel to file a civil action and serve summons in accordance with the Utah Rules of Civil Procedure:
      - (A) against each defendant for whom the reviewing official determines that sufficient evidence exists that the defendant committed a significant violation of this title; and
      - (B) that includes each significant violation for which the reviewing official determines that sufficient evidence exists.
- (8)
- (a) The purpose of the civil action described in Subsection (7)(b)(ii) is to determine whether a defendant committed a significant violation of a provision of this title.
  - (b) For a civil action described in Subsection (7)(b)(ii), the complaint may include an allegation of any violation of a provision of this title by a defendant, regardless of whether the violation is alleged in the petition.
  - (c) The special counsel may amend the complaint at any time after the complaint is filed, including by adding allegations to the complaint or amending allegations already made in the complaint, if the court determines that the amendment will not violate the due process rights of the defendant against whom the added or amended allegation is made.
- (9)
- (a) An action brought under this section shall:
    - (i) be heard without a jury, with the court determining all issues of fact and issues of law; and

- (ii) have precedence over any other civil actions.
- (b) The court shall schedule discovery and hearings, and shall otherwise conduct proceedings relating to an action brought under this section, in an expedited manner while preserving the rights of the parties and the integrity of the proceedings.

Enacted by Chapter 254, 2014 General Session