

**SHERIFF CERTIFICATION REQUIREMENTS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Joseph G. Murray**

**This act modifies candidacy requirements for county sheriffs to require a candidate for county sheriff to be certified as a law enforcement officer when filing a declaration of candidacy. The act requires county clerks to ensure that persons filing a declaration of candidacy for county sheriff meet the qualifications for office. The act also makes technical changes.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**17-22-1.5**, as last amended by Chapter 282, Laws of Utah 1998

**20A-9-201**, as last amended by Chapter 75, Laws of Utah 2000

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **17-22-1.5** is amended to read:

**17-22-1.5. County sheriff qualifications.**

(1) Each person filing a declaration of candidacy for the office of county sheriff shall <sup>h</sup> :

(a) <sup>h</sup>

have <sup>h</sup> [~~certified as a law enforcement officer according to procedures and requirements of]~~

**SUCCESSFULLY MET THE STANDARDS AND TRAINING REQUIREMENTS ESTABLISHED FOR**

**PEACE OFFICERS UNDER <sup>h</sup> Title**

**53, Chapter 6, <sup>h</sup> [~~Peace Officer Standards and Training Act.] PART 2, PEACE OFFICER TRAINING~~**

**AND CERTIFICATION; AND**

**(b) BE QUALIFIED TO BE CERTIFIED AS A PEACE OFFICER UNDER TITLE 53, CHAPTER 13,**

**PEACE OFFICER CLASSIFICATIONS. <sup>h</sup>**

[~~(+)~~ (2) In addition to the general qualifications required of county officers by Title 17, Chapter 16, County Officers, each county sheriff [~~must meet each of the following qualifications during his term of office]~~ shall:

(a) [~~Prior to]~~ at the time of taking office, [~~a county sheriff must]~~ <sup>h</sup> **HAVE** <sup>h</sup>



23a h **SATISFACTORILY COMPLETED THE BASIC COURSE AT A CERTIFIED LAW ENFORCEMENT**  
23b **OFFICER TRAINING ACADEMY OR HAVE PASSED A CERTIFICATION EXAMINATION AS PROVIDED**  
23c **IN SECTION 53-6-206 AND h** be certified as a law  
24 enforcement officer according to procedures and requirements of Title 53, Chapter 6, Peace  
25 Officer Standards and Training[~~and shall~~] Act;  
26 (b) satisfactorily complete annual certified training as required in Section 53-13-103[-];  
27 and

28 ~~[(b) After]~~ (c) after certification as provided in Subsection (2)(a), ~~[each county sheriff~~  
29 ~~must]~~ remain certified as a law enforcement officer during ~~[his]~~ the sheriff's term of office.

30 ~~[(2)]~~ (3) The county legislative body shall declare the office of sheriff to be vacant if at  
31 any time the incumbent sheriff fails to meet the legal qualifications for office under Subsection  
32 ~~[(+)]~~ (2).

33 Section 2. Section 20A-9-201 is amended to read:

34 **20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of**  
35 **more than one political party prohibited with exceptions -- General filing and form**  
36 **requirements.**

37 (1) Before filing a declaration of candidacy for election to any office, a person shall:

38 (a) be a United States citizen; and

39 (b) meet the legal requirements of that office.

40 (2) (a) Except as provided in Subsection (2)(b), a person may not:

41 (i) file a declaration of candidacy for, or be a candidate for, more than one office in  
42 Utah during any election year; or

43 (ii) appear on the ballot as the candidate of more than one political party.

44 (b) A person may file a declaration of candidacy for, or be a candidate for, President or  
45 Vice President of the United States and another office, if the person resigns the person's  
46 candidacy for the other office after the person is officially nominated for President or Vice  
47 President of the United States.

48 (3) If the final date established for filing a declaration of candidacy is a Saturday or  
49 Sunday, the filing time shall be extended until 5 p.m. on the following Monday.

50 (4) (a) (i) Except for presidential candidates, before the filing officer may accept any  
51 declaration of candidacy, the filing officer shall:

52 (A) read to the prospective candidate the constitutional and statutory qualification  
53 requirements for the office that the candidate is seeking; and

54 (B) require the candidate to state whether or not the candidate meets those  
55 requirements.

56 (ii) Before accepting a declaration of candidacy for the office of county attorney, the  
57 county clerk shall ensure that the person filing that declaration of candidacy is:

58 (A) a United States citizen;



59 (B) an attorney licensed to practice law in Utah who is an active member in good  
60 standing of the Utah State Bar;

61 (C) a registered voter in the county in which he is seeking office; and

62 (D) a current resident of the county in which he is seeking office and either has been a  
63 resident of that county for at least one year or was appointed and is currently serving as county  
64 attorney and became a resident of the county within 30 days after appointment to the office.

65 (iii) Before accepting a declaration of candidacy for the office of district attorney, the  
66 county clerk shall ensure that, as of the date of the election, the person filing that declaration of  
67 candidacy is:

68 (A) a United States citizen;

69 (B) an attorney licensed to practice law in Utah who is an active member in good  
70 standing of the Utah State Bar;

71 (C) a registered voter in the prosecution district in which he is seeking office; and

72 (D) a current resident of the prosecution district in which he is seeking office and either  
73 will have been a resident of that prosecution district for at least one year as of the date of the  
74 election or was appointed and is currently serving as district attorney and became a resident of  
75 the prosecution district within 30 days after receiving appointment to the office.

76 (iv) Before accepting a declaration of candidacy for the office of county sheriff, the  
77 county clerk shall ensure that the person filing that declaration of candidacy:

78 (A) as of the date of filing:

79 (I) is a United States citizen;

80 (II) is a registered voter in the county in which the person seeks office; <sup>h</sup> [and] <sup>h</sup>

81 (III) has <sup>h</sup> [certified as a law enforcement officer according to procedures and  
82 requirements of Title 53, Chapter 6, Peace Officer Standards and Training Act; and] SUCCESSFULLY  
82a MET THE STANDARDS AND TRAINING REQUIREMENTS ESTABLISHED FOR PEACE OFFICERS  
82b UNDER TITLE 53, CHAPTER 6, PART 2, PEACE OFFICER TRAINING AND CERTIFICATION; AND  
82c (IV) IS QUALIFIED TO BE CERTIFIED AS A PEACE OFFICER UNDER TITLE 53, CHAPTER 13,  
82d PEACE OFFICER CLASSIFICATIONS; AND <sup>h</sup>

83 (B) as of the date of the election, shall have been a resident of the county in which the  
84 person seeks office for at least one year.

85 (b) If the prospective candidate states that he does not meet the qualification  
86 requirements for the office, the filing officer may not accept the prospective candidate's  
87 declaration of candidacy.

88 (c) If the candidate states that he meets the requirements of candidacy, the filing officer  
89 shall:

90 (i) accept the candidate's declaration of candidacy; and  
91 (ii) if the candidate has filed for a partisan office, provide a certified copy of the  
92 declaration of candidacy to the chair of the county or state political party of which the  
93 candidate is a member.

94 (5) Except for presidential candidates, the form of the declaration of candidacy shall be  
95 substantially as follows:

96 "State of Utah, County of \_\_\_\_

97 I, \_\_\_\_\_, declare my intention of becoming a candidate for the office of  
98 \_\_\_\_ as a candidate for the \_\_\_\_ party. I do solemnly swear that: I can qualify to hold that  
99 office, both legally and constitutionally, if selected; I reside at \_\_\_\_\_ in the City or  
100 Town of \_\_\_\_, Utah, Zip Code \_\_\_\_ Phone No. \_\_\_\_; I will not knowingly violate any law  
101 governing campaigns and elections; and I will qualify for the office if elected to it. The  
102 mailing address that I designate for receiving official election notices is \_\_\_\_\_  
103 \_\_\_\_\_.

104 Subscribed and sworn before me this \_\_\_\_\_(month\day\year).

105 \_\_\_\_\_  
106 Notary Public (or other officer qualified to administer oath.)"

107 (6) (a) Except for presidential candidates, the fee for filing a declaration of candidacy  
108 is:

109 (i) \$25 for candidates for the local school district board; and

110 (ii) 1/8 of 1% of the total salary for the full term of office legally paid to the person  
111 holding the office, but not less than \$5, for all other federal, state, and county offices.

112 (b) Except for presidential candidates, the filing officer shall refund the filing fee to any  
113 candidate:

114 (i) who is disqualified; or

115 (ii) who the filing officer determines has filed improperly.

116 (c) (i) The county clerk shall immediately pay to the county treasurer all fees received  
117 from candidates.

118 (ii) The lieutenant governor shall:

119 (A) apportion to and pay to the county treasurers of the various counties all fees  
120 received for filing of nomination certificates or acceptances; and

121 (B) ensure that each county receives that proportion of the total amount paid to the  
122 lieutenant governor from the congressional district that the total vote of that county for all  
123 candidates for representative in Congress bears to the total vote of all counties within the  
124 congressional district for all candidates for representative in Congress.

125 (d) (i) Each person who is unable to pay the filing fee may file a declaration of  
126 candidacy without payment upon a prima facie showing of impecuniosity as evidenced by an  
127 affidavit of impecuniosity filed with the filing officer.

128 (ii) The filing officer shall ensure that the affidavit of impecuniosity is printed in  
129 substantially the following form:

130 "Affidavit of Impecuniosity  
131 Individual Name \_\_\_\_\_ Address \_\_\_\_\_  
132 Phone Number \_\_\_\_\_

133 I, \_\_\_\_\_ (name), do solemnly [swear] [affirm] that, owing to my  
134 poverty, I am unable to pay the filing fee required by law.

135 Date \_\_\_\_\_ Signature \_\_\_\_\_ Affiant  
136 Subscribed and sworn to before me on \_\_\_\_\_ (month\day\year)

137 \_\_\_\_\_  
138 (signature)  
139 Name and Title of Officer Authorized to Administer Oath \_\_\_\_\_"

140 (7) Any person who fails to file a declaration of candidacy or certificate of nomination  
141 within the time provided in this chapter is ineligible for nomination to office.

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**Legislative Review Note**  
**as of 1-9-03 1:33 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0194**

**Sheriff Certification Requirements**

*24-Jan-03*

*10:20 AM*

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**State Impact**

No fiscal impact

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**Individual and Business Impact**

No significant fiscal impact.

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**Office of the Legislative Fiscal Analyst**