

**ELECTION LAW CHANGES**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Peter C. Knudson**

House Sponsor: Glenn A. Donnelson

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**LONG TITLE**

**General Description:**

This bill modifies the Election Code by amending certain election offense, penalty, and residency provisions.

**Highlighted Provisions:**

This bill:

- ▶ amends the penalty for bribing a voter or accepting a bribe as a voter to a third degree felony;
  - ▶ amends the penalty for fraudulently voting or interfering with an election to a class A misdemeanor;
  - ▶ amends the penalty for wilfully hindering voting to a class C misdemeanor;
  - ▶ requires that a person who applies for voter registration must reside within the voting district or precinct in which the person applies to register to vote;
  - ▶ clarifies that a person resides in a voting precinct if the person's principal place of residence is in the voting precinct;
  - ▶ replaces the term "qualified and entitled" with the term "eligible" when describing a person who may register to vote;
  - ▶ amends the penalty for voting in another person's name to a class A misdemeanor;
- and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **20A-1-601**, as enacted by Laws of Utah 1993, Chapter 1

34 **20A-1-602**, as last amended by Laws of Utah 2007, Chapter 75

35 **20A-1-603**, as enacted by Laws of Utah 1993, Chapter 1

36 **20A-1-604**, as enacted by Laws of Utah 1993, Chapter 1

37 **20A-1-606**, as enacted by Laws of Utah 1993, Chapter 1

38 **20A-2-101**, as last amended by Laws of Utah 2007, Chapter 329

39 **20A-2-105**, as last amended by Laws of Utah 2007, Chapter 285

40 **20A-2-201**, as last amended by Laws of Utah 2007, Chapter 285

41 **20A-2-401**, as enacted by Laws of Utah 1993, Chapter 1

42 **20A-3-101**, as last amended by Laws of Utah 2007, Chapter 329

43 **20A-3-505**, as last amended by Laws of Utah 1994, Chapter 2

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

46 Section 1. Section **20A-1-601** is amended to read:

47 **20A-1-601. Bribery in elections -- Paying for votes -- Penalties.**

48 (1) [~~It is unlawful for any~~] A person may not, directly or indirectly, by himself or  
49 through any other person [~~to~~]:

50 (a) pay, loan, or contribute, or offer or promise to pay, loan, or contribute any money  
51 or other valuable consideration to or for any voter or to or for any other person:

52 (i) to induce the voter to vote or refrain from voting at any election provided by law;

53 (ii) to induce any voter to vote or refrain from voting at an election for any particular  
54 person or [~~persons~~] measure;

55 (iii) to induce a voter to go to the polls or remain away from the polls at any election;

56 (iv) because a voter voted or refrained from voting for any particular person, or went to  
57 the polls or remained away from the polls; or

58 (v) to obtain the political support or aid of any person at an election;

59 (b) give, offer, or promise any office, place, or employment, or to promise or procure,  
60 or endeavor to procure, any office, place, or employment, to or for any voter, or to or for any  
61 other person, in order to:

62 (i) induce a voter to vote or refrain from voting at any election;

63 (ii) induce any voter to vote or refrain from voting at an election for any particular  
64 person or ~~[persons]~~ measure; or

65 (iii) obtain the political support or aid of any person;

66 (c) advance or pay, or cause to be paid, any money or other valuable thing to, or for the  
67 use of, any other person with the intent that the money or other valuable thing be used in bribery  
68 at any election provided by law; or

69 (d) knowingly pay, or cause to be paid, any money or other valuable thing to any person  
70 in discharge or repayment of any money expended wholly or in part in bribery at any election.

71 (2) In addition to the penalties established in Section 20A-1-609, ~~[any person convicted~~  
72 ~~of any of the offenses established by this section shall be punished by a fine of not more than~~  
73 ~~\$1,000, or by imprisonment in the state prison for not more than five years, or by both a fine~~  
74 ~~and imprisonment]~~ a person who commits an offense under Subsection (1) is guilty of a third  
75 degree felony.

76 Section 2. Section **20A-1-602** is amended to read:

77 **20A-1-602. Receiving bribe -- Receiving payments for votes -- Penalties.**

78 (1) ~~[It is unlawful for any person, for himself]~~ A person may not, for himself or for any  
79 other person, directly or indirectly, by himself or through any person, before, during, or after  
80 any election ~~[to]~~:

81 (a) receive, agree to receive, or contract for any money, gift, loan, or other valuable  
82 consideration, office, place, or employment for:

83 (i) voting or agreeing to vote;

84 (ii) going or agreeing to go to the polls;

85 (iii) remaining or agreeing to remain away from the polls; or

86 (iv) refraining or agreeing to refrain from voting, or for voting or agreeing to vote, or  
87 refraining or agreeing to refrain from voting, for any particular person or measure at any  
88 election provided by law; or

89 (b) receive any money or other valuable thing because the person induced any other  
90 person to:

91 (i) vote or refrain from voting; or

92 (ii) vote or refrain from voting for any particular person or measure at any election  
93 provided by law.

94 (2) In addition to the penalties established in Section 20A-1-609, [~~any person convicted~~  
95 ~~of any of the offenses established by this section shall be punished by:~~] a person who commits  
96 an offense under Subsection (1) is guilty of a third degree felony.

97 [~~(a) a fine of not more than \$1,000;~~]

98 [~~(b) imprisonment in the state prison for not more than five years; or]~~

99 [~~(c) both a fine and imprisonment as provided by this section.]~~

100 Section 3. Section **20A-1-603** is amended to read:

101 **20A-1-603. Fraud, interference, disturbance -- Tampering with ballots or records**

102 **-- Penalties.**

103 [~~(1) It is unlawful for:]~~

104 [~~(a) any person who is not entitled to vote to fraudulently vote; and]~~

105 [~~(b) any person to:]~~

106 (1) (a) A person may not fraudulently vote on behalf of himself or another, by:

107 (i) [~~vote]~~ voting more than once at any one election;

108 (ii) knowingly [~~hand]~~ handing in two or more ballots folded together;

109 (iii) [~~change]~~ changing any ballot after it has been cast or deposited in the ballot box;

110 (iv) [~~add or attempt]~~ adding or attempting to add any ballot or vote to those legally  
111 polled at any election by fraudulently introducing the ballot or vote into the ballot box or vote  
112 tally, either before or after the ballots have been counted;

113 (v) [~~add to or mix, or attempt]~~ adding to or mixing or attempting to add or mix, other

114 ballots with the ballots lawfully polled while those ballots are being counted or canvassed, or at  
 115 any other time; or

116 (vi) voting in a voting district or precinct when the person knew or should have known  
 117 that the person was not eligible for voter registration in that district or precinct, unless the  
 118 person is legally entitled to vote the ballot under Section 20A-4-107 or another provision of this  
 119 title.

120 (b) A person may not fraudulently interfere with an election by:

121 ~~[(vi)]~~ (i) willfully [detain, mutilate, or destroy] detaining, mutilating, or destroying any  
 122 election returns;

123 ~~[(vii)]~~ (ii) in any manner, [interfere] interfering with the officers holding an election or  
 124 conducting a canvass, or with the voters lawfully exercising their rights of voting at an election,  
 125 so as to prevent the election or canvass from being fairly held or lawfully conducted;

126 ~~[(viii) engage]~~ (iii) engaging in riotous conduct at any election, or [interfere] interfering  
 127 in any manner with any election [officer] official in the discharge of [his] the election official's  
 128 duties;

129 ~~[(ix) induce]~~ (iv) inducing any election officer, or officer whose duty it is to ascertain,  
 130 announce, or declare the result of any election or to give or make any certificate, document, or  
 131 evidence in relation to any election, to violate or refuse to comply with [his] the election  
 132 officer's duty or any law regulating [his] the election officer's duty;

133 ~~[(x) take, carry away, conceal, remove, or destroy]~~

134 (v) taking, carrying away, concealing, removing, or destroying any ballot, pollbook, or  
 135 other thing from a polling place, or from the possession of the person authorized by law to have  
 136 the custody of that thing; or

137 ~~[(xi) aid, counsel, provide, procure, advise, or assist]~~

138 (vi) aiding, counseling, providing, procuring, advising, or assisting any person to do any  
 139 of the acts specified in this section.

140 (2) In addition to the penalties established in Section 20A-1-609, ~~[any person convicted~~  
 141 ~~of any of the offenses established in this section shall be punished by a fine of not more than~~

142 ~~\$1,000, or by imprisonment in the state prison for not more than five years, or by both a fine~~  
143 ~~and imprisonment]~~ a person who commits an offense under Subsection (1) is guilty of a class A  
144 misdemeanor.

145 Section 4. Section **20A-1-604** is amended to read:

146 **20A-1-604. Destroying instruction cards, sample ballots, or election**  
147 **paraphernalia -- Penalties.**

148 ~~[(1) It is unlawful for any person to:]~~

149 (1) A person may not:

150 (a) willfully deface or destroy any list of candidates posted in accordance with the  
151 provisions of this title;

152 (b) willfully deface, tear down, remove or destroy any card of instruction or sample  
153 ballot, printed or posted for the instruction of voters during an election;

154 (c) willfully remove or destroy any of the supplies or conveniences furnished to enable a  
155 voter to prepare ~~[his]~~ the voter's ballot during an election; or

156 (d) willfully hinder the voting of others.

157 (2) In addition to the penalties established in Section 20A-1-609, ~~[any person convicted~~  
158 ~~of any of the offenses established by this section shall be punished by a fine of not less than \$5~~  
159 ~~nor more than \$100, or by imprisonment in the county jail not exceeding three months, or by~~  
160 ~~both a fine and imprisonment]~~ a person who commits an offense under Subsection (1) is guilty  
161 of a class C misdemeanor.

162 Section 5. Section **20A-1-606** is amended to read:

163 **20A-1-606. Wagering on elections forbidden.**

164 (1) (a) ~~[It is unlawful for any candidate]~~ A candidate may not, before or during any  
165 primary or election campaign ~~[to]~~:

166 (i) make any bet or wager anything of pecuniary value on the result of the primary or  
167 election, or on any event or contingency relating to any pending primary or election;

168 (ii) become a party to any bet or wager on the result of a primary or election or on any  
169 event or contingency relating to any pending primary or election; and

170 (iii) provide money or any other valuable thing to be used by any other person in betting  
 171 or wagering upon the results of any impending primary or election.

172 (b) In addition to the penalties established in Section 20A-1-609, [~~any person convicted~~  
 173 ~~of any of the offenses established by]~~ a person who commits an offense under Subsection (1) is  
 174 guilty of a third degree felony.

175 (2) (a) [~~It is unlawful for any person to]~~ A person who is not a candidate may not make  
 176 any bet or wager anything of pecuniary value on the result of any primary or election, or on any  
 177 event or contingency relating to any primary or election.

178 (b) In addition to the penalties established in Section 20A-1-609, [~~any person convicted~~  
 179 ~~of any of the offenses established by]~~ a person who commits an offense under Subsection (2)(a)  
 180 is guilty of a class B misdemeanor.

181 (3) (a) [~~It is unlawful for any person to]~~ A person may not directly or indirectly make a  
 182 bet or wager with any voter that is dependent upon the outcome of any primary or election with  
 183 the intent to subject that voter to the possibility of challenge at a primary or election or to  
 184 prevent the voter from voting at a primary or election.

185 (b) In addition to the penalties established in Section 20A-1-609, [~~any person convicted~~  
 186 ~~of any of the offenses established by this]~~ a person who commits an offense under Subsection  
 187 (3)(a) is guilty of a class B misdemeanor.

188 Section 6. Section **20A-2-101** is amended to read:

189 **20A-2-101. Eligibility for registration.**

190 (1) Except as provided in Subsection (2), any person may apply to register to vote in an  
 191 election who:

192 (a) is a citizen of the United States;

193 (b) has been a resident of Utah for at least the 30 days immediately before the election;

194 [~~and]~~

195 (c) will be at least 18 years old on the day of the election[-]; and

196 (d) currently resides within the voting district or precinct in which the person applies to  
 197 register to vote.

198 (2) (a) (i) A person who is involuntarily confined or incarcerated in a jail, prison, or  
199 other facility within a voting precinct is not a resident of that voting precinct and may not  
200 register to vote in that voting precinct unless the person was a resident of that voting precinct  
201 before the confinement or incarceration.

202 (ii) A person who is involuntarily confined or incarcerated in a jail or prison is resident  
203 of the voting precinct in which the person resided before the confinement or incarceration.

204 (b) A person who has been convicted of a felony whose right to vote has not been  
205 restored as provided by law may not register to vote.

206 (3) ~~Any~~ A person who is eligible ~~[or qualified]~~ to vote and who resides within the  
207 geographic boundaries of the entity in which the election is held may register ~~and~~ to vote in a:

208 (a) regular general election~~[-a]~~;

209 (b) regular primary election~~[-a]~~;

210 (c) municipal general election~~[-a]~~;

211 (d) municipal primary election~~[-a]~~;

212 (e) statewide special election~~[-a]~~;

213 (f) local special election~~[-a]~~;

214 (g) local district election~~[-a]~~; and [a]

215 (h) bond election ~~[unless that person resides outside the geographic boundaries of the~~  
216 ~~entity in which the election is held]~~.

217 Section 7. Section **20A-2-105** is amended to read:

218 **20A-2-105. Determining residency.**

219 (1) Except as provided in Subsection (4), election officials and judges shall apply the  
220 standards and requirements of this section when determining whether or not a person is a  
221 resident for purposes of interpreting this title or the Utah constitution.

222 (2) A "resident" is a person who resides within a specific voting precinct in Utah as  
223 provided in this section.

224 (3) (a) A person resides in Utah if ~~the person~~:

225 (i) ~~has his~~ the person's principal place of residence is within Utah; and

226 (ii) the person has a present intention to continue residency within Utah permanently or  
 227 indefinitely.

228 (b) A person resides within a particular voting precinct if, as of the date of registering to  
 229 vote, the person has ~~[, or will have as of the date of the election, his]~~ the person's principal place  
 230 of residence in ~~[the]~~ that voting precinct.

231 (4) (a) The principal place of residence of any person shall be determined by applying  
 232 the ~~[rules contained in]~~ provisions of this Subsection (4).

233 (b) A person's "principal place of residence" is that place in which the person's  
 234 habitation is fixed and to which, whenever ~~[he]~~ the person is absent, ~~[he]~~ the person has the  
 235 intention of returning.

236 (c) A person has not gained or lost a residence solely because ~~[he]~~ the person is present  
 237 in Utah or present in a voting precinct or absent from Utah or ~~[his]~~ absent from the person's  
 238 voting precinct because ~~[he]~~ the person is:

239 (i) employed in the service of the United States or of Utah;

240 (ii) a student at any institution of learning;

241 (iii) incarcerated in prison or jail; or

242 (iv) residing upon any Indian or military reservation.

243 (d) (i) A member of the armed forces of the United States is not a resident of Utah  
 244 merely because that member is stationed at any military facility within Utah.

245 (ii) In order to be a resident of Utah, that member must meet the other requirements of  
 246 this section.

247 (e) (i) Except as provided in Subsection (4)(e)(ii), a person has not lost ~~[his]~~ the  
 248 person's residence if that person leaves ~~[his]~~ the person's home to go into a foreign country or  
 249 into another state or into another voting precinct within Utah for temporary purposes with the  
 250 intention of returning.

251 (ii) If that person has voted in that other state or voting precinct, the person is a  
 252 resident of that other state or voting precinct.

253 (f) A person is not a resident of any county or voting precinct if that person comes for

254 temporary purposes [~~without intending~~] and does not intend to make that county [~~his~~] or voting  
255 precinct the person's home.

256 (g) If a person removes to another state with the intention of making it [~~his~~] the  
257 person's principal place of residence, [~~he~~] the person loses [~~his~~] the person's residence in Utah.

258 (h) If a person moves to another state with the intent of remaining there for an indefinite  
259 time as a place of permanent residence, [~~he~~] the person loses [~~his~~] the person's residence in  
260 Utah, even though [~~he~~] the person intends to return at some future time.

261 (i) (i) Except as provided in Subsection (4)(i)(ii), the place where a person's family  
262 resides is presumed to be [~~his~~] the person's place of residence.

263 (ii) A person may rebut the presumption established in Subsection (4)(i)(i) by proving  
264 [~~his~~] the person's intent to remain at a place other than where [~~his~~] the person's family resides.

265 (j) (i) A person has changed his residence if:

266 (A) the person has acted affirmatively to remove himself from one geographic location;  
267 and

268 (B) the person has an intent to remain in another place.

269 (ii) There can only be one residence.

270 (iii) A residence cannot be lost until another is gained.

271 (5) In computing the period of residence, a person shall:

272 (a) include the day on which the person's residence begins; and

273 (b) exclude the day of the next election.

274 (6) (a) There is a presumption that a person is a resident of Utah and of a voting  
275 precinct and intends to remain in Utah permanently or indefinitely if the person makes an oath  
276 or affirmation upon a registration application form that [~~his~~] the person's residence address and  
277 place of residence is within a specific voting precinct in Utah.

278 (b) The election officers and election officials shall allow that person to register and  
279 vote unless, upon a challenge by a registrar or some other person, it is shown by law or by clear  
280 and [~~compelling~~] convincing evidence that:

281 (i) the person does not intend to remain permanently or indefinitely in Utah; or

282 (ii) the person is incarcerated in prison or jail.

283 (7) (a) The rules set forth in this section for determining place of residence for voting  
284 purposes do not apply to a person incarcerated in prison or jail.

285 (b) For voting registration purposes, a person incarcerated in prison or jail is considered  
286 to reside in the voting precinct in which ~~[his]~~ the person's place of residence was located before  
287 incarceration.

288 (8) If a person's principal place of residence is a residential parcel of one acre in size or  
289 smaller that is divided by the boundary line between two or more counties, that person shall be  
290 considered a resident of the county in which a majority of the residential parcel lies.

291 Section 8. Section **20A-2-201** is amended to read:

292 **20A-2-201. Registering to vote at office of county clerk.**

293 (1) Except as provided in Subsection (3), the county clerk shall register to vote all  
294 persons who present themselves for registration at the county clerk's office during designated  
295 office hours if those persons, on ~~[voting day]~~ the date of the election, will be legally ~~[qualified~~  
296 ~~and entitled]~~ eligible to vote in a voting precinct in the county in accordance with Section  
297 20A-2-101.

298 (2) If a registration form is submitted in person at the office of the county clerk during  
299 the period beginning on the date after the voter registration deadline and ending on the date that  
300 is 15 calendar days before the date of the election, the county clerk shall:

301 (a) accept registration forms from all persons who present themselves for registration at  
302 the clerk's office during designated office hours if those persons, on ~~[voting day]~~ the date of the  
303 election, will be legally qualified and entitled to vote in a voting precinct in the county; and

304 (b) inform them that:

305 (i) they will be registered to vote in the pending election; and

306 (ii) for the pending election, they must vote on the day of the election and will not be  
307 eligible to vote using early voting under Chapter 3, Part 6, Early Voting, because they  
308 registered too late.

309 (3) Except as provided in this Subsection (3), if a registration form is submitted to the

310 county clerk on the date of the election or during the 14 calendar days before an election, the  
311 county clerk shall:

312 (a) accept registration forms from all persons who present themselves for registration at  
313 the clerk's office during designated office hours if those persons, on ~~[voting day]~~ the date of the  
314 election, will be legally qualified and entitled to vote in a voting precinct in the county; and

315 (b) inform them that they will be registered to vote but may not vote in the pending  
316 election because they registered too late.

317 Section 9. Section **20A-2-401** is amended to read:

318 **20A-2-401. Fraudulent registration -- Penalty.**

319 (1) ~~[It is unlawful for any person to]~~ A person may not willfully cause, procure, or  
320 allow himself to be registered to vote, knowing that he is not ~~[entitled]~~ eligible to register to  
321 vote under Section 20A-2-101.

322 (2) ~~[It is unlawful for any person to]~~ A person may not willfully cause, procure, advise,  
323 encourage, or assist any other person to be registered to vote, knowing or believing that the  
324 person is not ~~[entitled]~~ eligible to register to vote.

325 (3) Any person who violates this section is guilty of a class A misdemeanor.

326 Section 10. Section **20A-3-101** is amended to read:

327 **20A-3-101. Residency and age requirements of voters.**

328 (1) A person may vote in any regular general election or statewide special election if  
329 that person[:] has registered to vote in accordance with Title 20A, Chapter 2, Voter  
330 Registration.

331 ~~[(a) is a citizen of the United States;]~~

332 ~~[(b) is a resident of Utah;]~~

333 ~~[(c) will, on the date of that election;]~~

334 ~~[(i) be at least 18 years old; and]~~

335 ~~[(ii) have been a resident of Utah for 30 days immediately before that election; and]~~

336 ~~[(d) has registered to vote.]~~

337 (2) A person may vote in the Western States Presidential Primary election or a regular

338 primary election if ~~[that person]:~~  
 339 ~~[(a) is a citizen of the United States;]~~  
 340 ~~[(b) is a resident of Utah;]~~  
 341 ~~[(c) will, on the date of that election:]~~  
 342 ~~[(i) be at least 18 years old; and]~~  
 343 ~~[(ii) have been a resident of Utah for 30 days immediately before that election;]~~  
 344 ~~[(d)]~~ (a) that person has registered to vote in accordance with Title 20A, Chapter 2,  
 345 Voter Registration; and  
 346 ~~[(e) whose]~~ (b) that person's political party affiliation, or unaffiliated status, allows the  
 347 ~~[voter]~~ person to vote in the election.

348 (3) A person may vote in a municipal general election, municipal primary, in a local  
 349 special election, in a local district election, and in a bond election if that person:  
 350 ~~[(a) is a citizen of the United States;]~~  
 351 ~~[(b) is a resident of Utah;]~~  
 352 ~~[(c) is a resident of the local entity that is holding the election;]~~  
 353 ~~[(d) will, on the date of the election:]~~  
 354 ~~[(i) be at least 18 years old; and]~~  
 355 ~~[(ii) have been a resident of Utah for 30 days immediately before the election; and]~~  
 356 ~~[(e)]~~ (a) has registered to vote~~[-]~~ in accordance with Title 20A, Chapter 2, Voter  
 357 Registration; and  
 358 (b) is a resident of a voting district or precinct within the local entity that is holding the  
 359 election.

360 Section 11. Section **20A-3-505** is amended to read:

361 **20A-3-505. False impersonation -- Double voting.**

362 (1) (a) ~~[It is unlawful for any person to]~~ A person may not apply for a ballot;  
 363 (i) in the name of some other person, whether it is that of a person living or dead, or of  
 364 a fictitious person~~[-]~~; or ~~[who;~~  
 365 (ii) after having voted once at ~~[a primary or]~~ an election, ~~[applies]~~ apply again at the

366 same election for a ballot in [~~his~~] the person's own name or any other name.

367 (b) Any person who violates [~~this section~~] Subsection (1)(a) is guilty of a third degree  
368 felony [~~and shall be punished by imprisonment in the state prison for not less than one nor more~~  
369 ~~than three years~~].

370 (2) (a) [~~It is unlawful for any person to~~] A person may not aid, [~~abet~~] assist, counsel, or  
371 procure another person to commit the felony prohibited in Subsection (1)(a).

372 (b) Any person who violates [~~this subsection is guilty of a felony and shall be punished~~  
373 ~~by imprisonment in the state prison for not less than one nor more than three years~~] Subsection  
374 (2)(a) is guilty of a class A misdemeanor.