

1                   **PEACE OFFICER RECERTIFICATION AMENDMENTS**

2                                   2011 GENERAL SESSION

3                                   STATE OF UTAH

4                           **Chief Sponsor: Richard A. Greenwood**

5                                   Senate Sponsor: John L. Valentine

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7 **LONG TITLE**

8 **General Description:**

9           This bill modifies the Peace Officer Standards and Training Act regarding certification  
10 of peace officers.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ clarifies required qualifications in order to be certified as a peace officer;
- 14           ▶ modifies the requirements and procedures for the waiver of any portion of the  
15 requirements for certification as a peace officer;
- 16           ▶ provides that a peace officer's certification becomes inactive after 18 months of not  
17 being active as a peace officer, which adds six months to the current period of one  
18 year;
- 19           ▶ clarifies all requirements for reinstatement of a certification that has lapsed or  
20 become inactive; and
- 21           ▶ amends related code sections.

22 **Money Appropriated in this Bill:**

23           None

24 **Other Special Clauses:**

25           None

26 **Utah Code Sections Affected:**

27 AMENDS:

28           **17-22-1.5**, as last amended by Laws of Utah 2009, Chapter 5

29           **20A-9-201**, as last amended by Laws of Utah 2010, Chapter 12

30 **53-6-205**, as renumbered and amended by Laws of Utah 1993, Chapter 234

31 **53-6-208**, as renumbered and amended by Laws of Utah 1993, Chapter 234

32 **53-13-103**, as last amended by Laws of Utah 2009, Chapter 344

33 REPEALS AND REENACTS:

34 **53-6-206**, as renumbered and amended by Laws of Utah 1993, Chapter 234



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

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

38 **17-22-1.5. County sheriff qualifications.**

39 (1) Each person filing a declaration of candidacy for the office of county sheriff shall  
40 submit to the county clerk, at the time of filing a declaration of candidacy, a certificate issued  
41 by the Peace Officer Standards and Training Division created under Section 53-6-103 stating  
42 that the candidate has:

43 (a) (i) successfully met the standards and training requirements established for peace  
44 officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

45 (ii) [~~passed a certification examination as provided~~] met the waiver requirements in  
46 Section 53-6-206; and

47 (b) met the qualifications to be certified as a law enforcement officer, as defined in  
48 Section 53-13-103.

49 (2) In addition to the general qualifications required of county officers by Title 17,  
50 Chapter 16, County Officers, each county sheriff shall:

51 (a) at the time of taking office:

52 (i) (A) have successfully met the standards and training requirements established for  
53 peace officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act;  
54 or

55 (B) have [~~passed a certification examination as provided~~] met the waiver requirements  
56 in Section 53-6-206; and

57 (ii) be qualified to be certified as:

- 58 (A) a law enforcement officer, as defined in Section 53-13-103; and
- 59 (B) if the person is elected to the office of county sheriff in any election held after the
- 60 2008 general election:
- 61 (I) a correctional officer, as defined in Section 53-13-104; or
- 62 (II) a correctional facility manager by having successfully completed a correctional
- 63 facility management course that is offered by a certified academy in both an online web-based
- 64 format and in a classroom format and that is approved by the Peace Officer Standards and
- 65 Training Council created in Section 53-6-106;
- 66 (b) satisfactorily complete annual certified training as required in Section 53-13-103;
- 67 and
- 68 (c) after certification as provided in Subsection (2)(a), remain certified during the
- 69 sheriff's term of office as:
- 70 (i) a law enforcement officer; and
- 71 (ii) if the person is elected to the office of county sheriff in any election held after the
- 72 2008 general election:
- 73 (A) a correctional officer; or
- 74 (B) a correctional facility manager by having completed a correctional facility
- 75 management course approved by the Peace Officer Standards and Training Council.
- 76 (3) If a sheriff resigns, retires, dies, or otherwise does not complete the term of office,
- 77 the person appointed to serve for the remainder of the term shall within 60 days after the date
- 78 of appointment complete the training and exam required under Subsection (2)(a)(ii)(B).
- 79 (4) The county legislative body shall declare the office of sheriff to be vacant if at any
- 80 time the incumbent sheriff fails to meet the qualifications for office under Subsection (2).
- 81 Section 2. Section **20A-9-201** is amended to read:
- 82 **20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of**
- 83 **more than one political party prohibited with exceptions -- General filing and form**
- 84 **requirements -- Affidavit of impecuniosity.**
- 85 (1) Before filing a declaration of candidacy for election to any office, a person shall:

86 (a) be a United States citizen; and

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

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

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

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

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

96 (3) (a) (i) Except for presidential candidates, before the filing officer may accept any  
97 declaration of candidacy, the filing officer shall:

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

100 (B) require the candidate to state whether or not the candidate meets those  
101 requirements.

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

104 (A) a United States citizen;

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

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

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

112 (iii) Before accepting a declaration of candidacy for the office of district attorney, the  
113 county clerk shall ensure that, as of the date of the election, the person filing that declaration of

114 candidacy is:

115 (A) a United States citizen;

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

118 (C) a registered voter in the prosecution district in which ~~he~~ the person is seeking  
119 office; and

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

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

127 (A) as of the date of filing:

128 (I) is a United States citizen;

129 (II) is a registered voter in the county in which the person seeks office;

130 (III) (Aa) has successfully met the standards and training requirements established for  
131 law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and  
132 Certification Act; or

133 (Bb) has ~~[passed a certification examination as provided]~~ met the waiver requirements  
134 in Section 53-6-206; and

135 (IV) is qualified to be certified as a law enforcement officer, as defined in Section  
136 53-13-103; and

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

139 (v) Before accepting a declaration of candidacy for the office of governor, lieutenant  
140 governor, state auditor, state treasurer, attorney general, state legislator, or State Board of  
141 Education member, the filing officer shall ensure:

142 (A) that the person filing the declaration of candidacy also files the financial disclosure  
143 required by Section 20A-11-1603; and

144 (B) if the filing officer is not the lieutenant governor, that the financial disclosure is  
145 provided to the lieutenant governor according to the procedures and requirements of Section  
146 20A-11-1603.

147 (b) If the prospective candidate states that [~~he does not meet~~] the qualification  
148 requirements for the office are not met, the filing officer may not accept the prospective  
149 candidate's declaration of candidacy.

150 (c) If the candidate meets the requirements of Subsection (3)(a) and states that [~~he~~  
151 ~~meets~~] the requirements of candidacy are met, the filing officer shall:

152 (i) inform the candidate that:

153 (A) the candidate's name will appear on the ballot as it is written on the declaration of  
154 candidacy;

155 (B) the candidate may be required to comply with state or local campaign finance  
156 disclosure laws; and

157 (C) the candidate is required to file a financial statement before the candidate's political  
158 convention under:

159 (I) Section 20A-11-204 for a candidate for constitutional office;

160 (II) Section 20A-11-303 for a candidate for the Legislature; or

161 (III) local campaign finance disclosure laws, if applicable;

162 (ii) provide the candidate with a copy of the current campaign financial disclosure laws  
163 for the office the candidate is seeking and inform the candidate that failure to comply will  
164 result in disqualification as a candidate and removal of the candidate's name from the ballot;

165 (iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide  
166 Electronic Voter Information Website Program and inform the candidate of the submission  
167 deadline under Subsection 20A-7-801(4)(a);

168 (iv) provide the candidate with a copy of the pledge of fair campaign practices  
169 described under Section 20A-9-206 and inform the candidate that:

170 (A) signing the pledge is voluntary; and  
 171 (B) signed pledges shall be filed with the filing officer;  
 172 (v) accept the candidate's declaration of candidacy; and  
 173 (vi) if the candidate has filed for a partisan office, provide a certified copy of the  
 174 declaration of candidacy to the chair of the county or state political party of which the  
 175 candidate is a member.

176 (d) If the candidate elects to sign the pledge of fair campaign practices, the filing  
 177 officer shall:

178 (i) accept the candidate's pledge; and  
 179 (ii) if the candidate has filed for a partisan office, provide a certified copy of the  
 180 candidate's pledge to the chair of the county or state political party of which the candidate is a  
 181 member.

182 (4) Except for presidential candidates, the form of the declaration of candidacy shall be  
 183 substantially as follows:

184 "State of Utah, County of \_\_\_\_  
 185 I, \_\_\_\_\_, declare my intention of becoming a candidate for the office of  
 186 \_\_\_\_ as a candidate for the \_\_\_\_ party. I do solemnly swear that: I will meet the qualifications  
 187 to hold the office, both legally and constitutionally, if selected; I reside at \_\_\_\_\_ in  
 188 the City or Town of \_\_\_\_\_, Utah, Zip Code \_\_\_\_\_ Phone No. \_\_\_\_\_; I will not knowingly violate  
 189 any law governing campaigns and elections; I will file all campaign financial disclosure reports  
 190 as required by law; and I understand that failure to do so will result in my disqualification as a  
 191 candidate for this office and removal of my name from the ballot. The mailing address that I  
 192 designate for receiving official election notices is \_\_\_\_\_.

193 \_\_\_\_\_

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

195 Notary Public (or other officer qualified to administer oath.)"

196 (5) (a) Except for presidential candidates, the fee for filing a declaration of candidacy  
 197 is:

- 198 (i) \$25 for candidates for the local school district board; and  
199 (ii) 1/8 of 1% of the total salary for the full term of office legally paid to the person  
200 holding the office, but not less than \$5, for all other federal, state, and county offices.
- 201 (b) Except for presidential candidates, the filing officer shall refund the filing fee to  
202 any candidate:
- 203 (i) who is disqualified; or  
204 (ii) who the filing officer determines has filed improperly.
- 205 (c) (i) The county clerk shall immediately pay to the county treasurer all fees received  
206 from candidates.
- 207 (ii) The lieutenant governor shall:
- 208 (A) apportion to and pay to the county treasurers of the various counties all fees  
209 received for filing of nomination certificates or acceptances; and
- 210 (B) ensure that each county receives that proportion of the total amount paid to the  
211 lieutenant governor from the congressional district that the total vote of that county for all  
212 candidates for representative in Congress bears to the total vote of all counties within the  
213 congressional district for all candidates for representative in Congress.
- 214 (d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy  
215 without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by  
216 an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer,  
217 a financial statement filed at the time the affidavit is submitted.
- 218 (ii) A person who is able to pay the filing fee may not claim impecuniosity.
- 219 (iii) (A) False statements made on an affidavit of impecuniosity or a financial  
220 statement filed under this section shall be subject to the criminal penalties provided under  
221 Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.
- 222 (B) Conviction of a criminal offense under Subsection (5)(d)(iii)(A) shall be  
223 considered an offense under this title for the purposes of assessing the penalties provided in  
224 Subsection 20A-1-609(2).
- 225 (iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in

226 substantially the following form:

227 "Affidavit of Impecuniosity

228 Individual Name

229 \_\_\_\_\_ Address \_\_\_\_\_

230 Phone Number \_\_\_\_\_

231 I, \_\_\_\_\_ (name), do solemnly [swear] [affirm], under penalty of law  
232 for false statements, that, owing to my poverty, I am unable to pay the filing fee required by  
233 law.

234 Date \_\_\_\_\_ Signature \_\_\_\_\_

235 Affiant

236 Subscribed and sworn to before me on \_\_\_\_\_ (month\day\year)

237 \_\_\_\_\_  
238 (signature)

239 Name and Title of Officer Authorized to Administer Oath \_\_\_\_\_ "

240 (v) The filing officer shall provide to a person who requests an affidavit of  
241 impecuniosity a statement printed in substantially the following form, which may be included  
242 on the affidavit of impecuniosity:

243 "Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a  
244 candidate who is found guilty of filing a false statement, in addition to being subject to criminal  
245 penalties, will be removed from the ballot."

246 (vi) The filing officer may request that a person who makes a claim of impecuniosity  
247 under this Subsection (5)(d) file a financial statement on a form prepared by the election  
248 official.

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

251 (7) A declaration of candidacy filed under this section may not be amended or  
252 modified after the final date established for filing a declaration of candidacy.

253 Section 3. Section **53-6-205** is amended to read:

254 **53-6-205. Completion of training course required -- Persons affected.**

255 [~~(1) (a) Except as provided in Subsection (2), a peace officer in this state must~~  
256 ~~successfully complete the basic course at a certified academy, or successfully pass a state~~  
257 ~~certification examination according to the requirements of Section 53-6-206, before that person~~  
258 ~~can be certified.]~~

259 (1) (a) Except as provided in Subsection (2), before a person may be certified as a  
260 peace officer in Utah the person shall:

261 (i) successfully complete the basic training course at a certified academy;

262 (ii) pass the certification examination; and

263 (iii) pass a physical fitness test.

264 (b) A person may not exercise peace officer [~~powers~~] authority until certified.

265 (2) Subsection (1) applies only to persons not previously certified and who receive  
266 their first employment appointment or election as a peace officer in [~~this state~~] Utah on or after  
267 January 1, 1985.

268 Section 4. Section **53-6-206** is repealed and reenacted to read:

269 **53-6-206. Waiver of training course requirement.**

270 (1) The director may waive the required basic peace officer training course and certify  
271 an applicant who:

272 (a) provides proof that the applicant meets the requirements under Section 53-6-203  
273 relating to qualifications for admission to the training course;

274 (b) provides proof that the applicant has completed a basic peace officer training  
275 program that, in the director's judgment, is equivalent to the course required for certification  
276 under this part;

277 (c) passes the certification examination; and

278 (d) passes a physical fitness test.

279 (2) A waiver applicant may not exercise peace officer authority until all waiver process  
280 requirements have been met and the applicant has been certified.

281 (3) If an applicant fails the examination under Subsection (1)(c), the director may not

282 waive the required basic peace officer training course and the applicant shall comply with all of  
283 the requirements in Subsection 53-6-205(1) to be certified as a peace officer in Utah.

284 Section 5. Section **53-6-208** is amended to read:

285 **53-6-208. Inactive certificates -- Lapse of certificate -- Reinstatement.**

286 (1) (a) The certificate of a peace officer who has not been actively engaged in  
287 performing the duties of a peace officer for [~~one year shall be~~] 18 consecutive months or more  
288 is designated "inactive."

289 [~~(b) If a peace officer having an inactive certificate becomes reemployed or~~  
290 ~~subsequently reengaged as a peace officer, his certificate may be reissued or reinstated by the~~  
291 ~~director upon successful completion by that peace officer of the waiver process established by~~  
292 ~~the director.]~~

293 [~~(c) The director may require a peace officer with an inactive certificate to successfully~~  
294 ~~complete the basic training course before reissuing or reinstating certification.]~~

295 (b) A peace officer whose certificate is inactive shall pass the certification examination  
296 and a physical fitness test before the certificate may be reissued or reinstated.

297 (2) (a) The certificate of a peace officer [~~lapses if he~~] who has not been actively  
298 engaged in performing the duties of a peace officer for four continuous years[~~;~~] or more is  
299 designated as "lapsed."

300 [~~(b) Subject to Section 53-6-206, the peace officer shall successfully complete the~~  
301 ~~basic training course before the certificate may be reissued or reinstated.]~~

302 (b) A peace officer whose certificate is lapsed shall pass the basic training course at a  
303 certified academy, the certification examination, and a physical fitness test before the  
304 certificate may be reissued or reinstated.

305 Section 6. Section **53-13-103** is amended to read:

306 **53-13-103. Law enforcement officer.**

307 (1) (a) "Law enforcement officer" means a sworn and certified peace officer who is an  
308 employee of a law enforcement agency that is part of or administered by the state or any of its  
309 political subdivisions, and whose primary and principal duties consist of the prevention and

310 detection of crime and the enforcement of criminal statutes or ordinances of this state or any of  
311 its political subdivisions.

312 (b) "Law enforcement officer" specifically includes the following:

313 (i) any sheriff or deputy sheriff, chief of police, police officer, or marshal of any  
314 county, city, or town;

315 (ii) the commissioner of public safety and any member of the Department of Public  
316 Safety certified as a peace officer;

317 (iii) all persons specified in Sections 23-20-1.5 and 79-4-501;

318 (iv) any police officer employed by any college or university;

319 (v) investigators for the Motor Vehicle Enforcement Division;

320 (vi) special agents or investigators employed by the attorney general, district attorneys,  
321 and county attorneys;

322 (vii) employees of the Department of Natural Resources designated as peace officers  
323 by law;

324 (viii) school district police officers as designated by the board of education for the  
325 school district;

326 (ix) the executive director of the Department of Corrections and any correctional  
327 enforcement or investigative officer designated by the executive director and approved by the  
328 commissioner of public safety and certified by the division;

329 (x) correctional enforcement, investigative, or adult probation and parole officers  
330 employed by the Department of Corrections serving on or before July 1, 1993;

331 (xi) members of a law enforcement agency established by a private college or  
332 university provided that the college or university has been certified by the commissioner of  
333 public safety according to rules of the Department of Public Safety;

334 (xii) airport police officers of any airport owned or operated by the state or any of its  
335 political subdivisions; and

336 (xiii) transit police officers designated under Section 17B-2a-823.

337 (2) Law enforcement officers may serve criminal process and arrest violators of any

338 law of this state and have the right to require aid in executing their lawful duties.

339 (3) (a) A law enforcement officer has statewide full-spectrum peace officer authority,  
340 but the authority extends to other counties, cities, or towns only when the officer is acting  
341 under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law enforcement officer is  
342 employed by the state.

343 (b) (i) A local law enforcement agency may limit the jurisdiction in which its law  
344 enforcement officers may exercise their peace officer authority to a certain geographic area.

345 (ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise [his]  
346 authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act  
347 on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the  
348 limited geographic area.

349 (c) The authority of law enforcement officers employed by the Department of  
350 Corrections is regulated by Title 64, Chapter 13, Department of Corrections - State Prison.

351 (4) A law enforcement officer shall, prior to exercising peace officer authority[;  
352 satisfactorily complete]:

353 [~~(a) the basic course at a certified law enforcement officer training academy or pass a~~  
354 ~~certification examination as provided]~~

355 (a) (i) have satisfactorily completed the requirements of Section 53-6-205; or

356 (ii) have met the waiver requirements in Section 53-6-206[; and be certified]; and

357 (b) have satisfactorily completed annual certified training of at least 40 hours per year  
358 as directed by the director of the division, with the advice and consent of the council.