

**ELECTION CODE CRIMINAL PROVISIONS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Keith Grover**

Senate Sponsor: Margaret Dayton

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**LONG TITLE**

**Committee Note:**

The Government Operations Interim Committee recommended this bill.

**General Description:**

This bill amends provisions in Title 20A, Election Code, regarding the penalty for and prosecution of violations of the Election Code.

**Highlighted Provisions:**

This bill:

- ▶ standardizes language that establishes certain criminal penalties in Title 20A, Election Code;
- ▶ repeals provisions that specify who is required to prosecute a violation of Title 20A, Election Code; and
- ▶ makes technical and conforming amendments.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**20A-4-501**, as enacted by Laws of Utah 1993, Chapter 1

**20A-4-502**, as enacted by Laws of Utah 1993, Chapter 1



- 28           **20A-5-701**, as last amended by Laws of Utah 2007, Chapter 75
- 29           **20A-5-702**, as enacted by Laws of Utah 1993, Chapter 1
- 30           **20A-5-705**, as enacted by Laws of Utah 1993, Chapter 1
- 31           **20A-7-213**, as last amended by Laws of Utah 2003, Chapter 304
- 32           **20A-7-312**, as last amended by Laws of Utah 2009, Chapter 202
- 33           **20A-7-512**, as last amended by Laws of Utah 2001, Chapter 20
- 34           **20A-8-103**, as last amended by Laws of Utah 2012, Chapter 75
- 35           **20A-9-502**, as last amended by Laws of Utah 2012, Chapter 75

36 REPEALS:

- 37           **20A-4-503**, as enacted by Laws of Utah 1993, Chapter 1



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

40           Section 1. Section **20A-4-501** is amended to read:

41           **20A-4-501. Election returns -- Forgery.**

42           (1) It is unlawful for any person to:

43           (a) forge or counterfeit any election returns from any election purporting to have been  
44 held at any voting precinct where no election was in fact held;

45           (b) willfully substitute any forged or counterfeit election returns in the place of the true  
46 return for a voting precinct where any election was actually held; or

47           (c) commit or cause any fraud in any election in any manner.

48           (2) ~~[Each person who violates this section may be sentenced to imprisonment in the~~  
49 ~~state prison for a term of not less than two nor more than 10 years]~~ A violation of this section is  
50 a third degree felony.

51           Section 2. Section **20A-4-502** is amended to read:

52           **20A-4-502. Altering vote count or returns.**

53           (1) It is unlawful for any person to:

54           (a) willfully add to or subtract from the votes actually cast at an election in any election  
55 returns; or

56           (b) alter any election returns.

57           (2) Any person who violates this section ~~[may be sentenced to imprisonment in the~~  
58 ~~state prison for not less than one nor more than five years]~~ is guilty of a third degree felony.

59 Section 3. Section **20A-5-701** is amended to read:

60 **20A-5-701. Willful neglect of duty or corrupt conduct -- Penalty.**

61 (1) It is unlawful for any poll worker to willfully neglect [~~his~~] the poll worker's duty or  
62 to willfully act corruptly in discharging [~~his~~] the poll worker's duty.

63 (2) Any poll worker who violates this section is guilty of a third degree felony [~~and,~~  
64 ~~upon conviction, shall be punished by a fine of \$500 or by confinement in the state prison for~~  
65 ~~not less than one year or both~~].

66 Section 4. Section **20A-5-702** is amended to read:

67 **20A-5-702. Destroying or concealing ballots.**

68 (1) It is unlawful for any person, or officer having charge of official ballots, to destroy,  
69 suppress, or conceal them, except authorized by this title.

70 (2) Any person who violates this section is guilty of a third degree felony [~~and shall be~~  
71 ~~punished by imprisonment in the state prison for not less than one year nor more than five~~  
72 ~~years~~].

73 Section 5. Section **20A-5-705** is amended to read:

74 **20A-5-705. Officer or watcher revealing vote.**

75 (1) It is unlawful for any election official or watcher to reveal to any other person the  
76 name of any candidate for whom a voter has voted, or to communicate to another [~~his~~] the  
77 election official's or watcher's opinion, belief, or impression as to how or for whom a voter has  
78 voted.

79 (2) [~~Any election official or watcher~~] A person who violates this section is guilty of a  
80 class A misdemeanor [~~and shall be imprisoned for not less than six months, and fined not less~~  
81 ~~than \$250~~].

82 Section 6. Section **20A-7-213** is amended to read:

83 **20A-7-213. Misconduct of electors and officers -- Penalty.**

84 (1) It is unlawful for any person to:

85 (a) sign any name other than [~~his~~] the person's own to any initiative petition;

86 (b) knowingly sign [~~his~~] the person's name more than once for the same measure at one  
87 election;

88 (c) sign an initiative knowing [~~he~~] the person is not a legal voter; or

89 (d) knowingly and willfully violate any provision of this part.

90 (2) It is unlawful for any person to sign the verification for an initiative packet knowing  
91 that:

92 (a) ~~[he]~~ the person does not meet the residency requirements of Section 20A-2-105;

93 (b) ~~[he]~~ the person has not witnessed the signatures of those persons whose names  
94 appear in the initiative packet; or

95 (c) one or more persons whose signatures appear in the initiative packet is either:

96 (i) not registered to vote in Utah; or

97 (ii) does not intend to become registered to vote in Utah.

98 (3) It is unlawful for any person to:

99 (a) pay a person to sign an initiative petition;

100 (b) pay a person to remove the person's signature from an initiative petition;

101 (c) accept payment to sign an initiative petition; or

102 (d) accept payment to have the person's name removed from an initiative petition.

103 (4) Any person violating this section is guilty of a class A misdemeanor.

104 ~~[(5) The attorney general or the county attorney shall prosecute any violation of this~~  
105 ~~section.]~~

106 Section 7. Section **20A-7-312** is amended to read:

107 **20A-7-312. Misconduct of electors and officers -- Penalty.**

108 (1) It is unlawful for any person to:

109 (a) sign any name other than ~~[his]~~ the person's own to any referendum petition;

110 (b) knowingly sign ~~[his]~~ the person's name more than once for the same measure at one  
111 election;

112 (c) sign a referendum knowing ~~[he]~~ the person is not a legal voter; or

113 (d) knowingly and willfully violate any provision of this part.

114 (2) It is unlawful for any person to sign the verification for a referendum packet  
115 knowing that:

116 (a) ~~[he]~~ the person does not meet the residency requirements of Section 20A-2-105;

117 (b) ~~[he]~~ the person has not witnessed the signatures of those persons whose names  
118 appear in the referendum packet; or

119 (c) one or more persons whose signatures appear in the referendum packet is either:

120 (i) not registered to vote in Utah; or

121 (ii) does not intend to become registered to vote in Utah.

122 (3) Any person violating this section is guilty of a class A misdemeanor.

123 [~~(4) The attorney general or the county or district attorney shall prosecute any violation~~  
124 ~~of this section.~~]

125 Section 8. Section **20A-7-512** is amended to read:

126 **20A-7-512. Misconduct of electors and officers -- Penalty.**

127 (1) It is unlawful for any person to:

128 (a) sign any name other than [~~his~~] the person's own to any initiative petition;

129 (b) knowingly sign [~~his~~] the person's name more than once for the same measure at one  
130 election;

131 (c) sign an initiative knowing [~~he~~] the person is not a legal voter; or

132 (d) knowingly and willfully violate any provision of this part.

133 (2) It is unlawful for any person to sign the verification for an initiative packet knowing  
134 that:

135 (a) [~~he~~] the person does not meet the residency requirements of Section 20A-2-105;

136 (b) [~~he~~] the person has not witnessed the signatures of those persons whose names  
137 appear in the initiative packet; or

138 (c) one or more persons whose signatures appear in the initiative packet is either:

139 (i) not registered to vote in Utah; or

140 (ii) does not intend to become registered to vote in Utah.

141 (3) Any person violating this part is guilty of a class A misdemeanor.

142 [~~(4) The county attorney or municipal attorney shall prosecute any violation of this~~  
143 ~~section.~~]

144 Section 9. Section **20A-8-103** is amended to read:

145 **20A-8-103. Petition procedures -- Criminal penalty.**

146 (1) As used in this section, the proposed name or emblem of a registered political party  
147 is "distinguishable" if a reasonable person of average intelligence will be able to perceive a  
148 difference between the proposed name or emblem and any name or emblem currently being  
149 used by another registered political party.

150 (2) To become a registered political party, an organization of registered voters that is  
151 not a continuing political party shall:

152 (a) circulate a petition seeking registered political party status beginning no earlier than  
153 the date of the statewide canvass held after the last regular general election and ending no later  
154 than the February 15 of the year in which the next regular general election will be held; and

155 (b) file a petition with the lieutenant governor that is signed, with a holographic  
156 signature, by at least 2,000 registered voters on or before February 15 of the year in which a  
157 regular general election will be held.

158 (3) The petition shall:

159 (a) be on sheets of paper 8-1/2 inches long and 11 inches wide;

160 (b) be ruled with a horizontal line 3/4 inch from the top, with the space above that line  
161 blank for the purpose of binding;

162 (c) contain the name of the political party and the words "Political Party Registration  
163 Petition" printed directly below the horizontal line;

164 (d) contain the word "Warning" printed directly under the words described in  
165 Subsection (3)(c);

166 (e) contain, to the right of the word "Warning," the following statement printed in not  
167 less than eight-point, single leaded type:

168 "It is a class A misdemeanor for anyone to knowingly sign a political party registration  
169 petition signature sheet with any name other than the person's own name or more than once for  
170 the same party or if the person is not registered to vote in this state and does not intend to  
171 become registered to vote in this state before the petition is submitted to the lieutenant  
172 governor.";

173 (f) contain the following statement directly under the statement described in Subsection  
174 (3)(e):

175 "POLITICAL PARTY REGISTRATION PETITION To the Honorable \_\_\_\_\_,  
176 Lieutenant Governor:

177 We, the undersigned citizens of Utah, seek registered political party status for \_\_\_\_\_  
178 (name);

179 Each signer says:

180 I have personally signed this petition with a holographic signature;

181 I am registered to vote in Utah or will register to vote in Utah before the petition is  
182 submitted to the lieutenant governor;

183 I am or desire to become a member of the political party; and

184 My street address is written correctly after my name."; and

185 (g) be vertically divided into columns as follows:

186 (i) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be  
187 headed with "For Office Use Only," and be subdivided with a light vertical line down the  
188 middle;

189 (ii) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed  
190 Name (must be legible to be counted)";

191 (iii) the next column shall be 2-1/2 inches wide, headed "Holographic Signature of  
192 Registered Voter";

193 (iv) the next column shall be one inch wide, headed "Birth Date or Age (Optional)";

194 (v) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip  
195 Code"; and

196 (vi) at the bottom of the sheet, contain the following statement: "Birth date or age  
197 information is not required, but it may be used to verify your identity with voter registration  
198 records. If you choose not to provide it, your signature may not be certified as a valid signature  
199 if you change your address before petition signatures are certified or if the information you  
200 provide does not match your voter registration records.";

201 (h) have a final page bound to one or more signature sheets that are bound together that  
202 contains the following printed statement:

203 "Verification

204 State of Utah, County of \_\_\_\_

205 I, \_\_\_\_\_, of \_\_\_\_\_, hereby state that:

206 I am a Utah resident and am at least 18 years old;

207 All the names that appear on the signature sheets bound to this page were signed by  
208 persons who professed to be the persons whose names appear on the signature sheets, and each  
209 of them signed the person's name on the signature sheets in my presence;

210 I believe that each has printed and signed the person's name and written the person's  
211 street address correctly, and that each signer is registered to vote in Utah or will register to vote  
212 in Utah before the petition is submitted to the lieutenant governor.

213 \_\_\_\_\_

214 (Signature) (Residence Address) (Date)"; and

215 (i) be bound to a cover sheet that:

216 (i) identifies the political party's name, which may not exceed four words, and the  
217 emblem of the party;

218 (ii) states the process that the organization will follow to organize and adopt a  
219 constitution and bylaws; and

220 (iii) is signed by a filing officer, who agrees to receive communications on behalf of  
221 the organization.

222 (4) The filing officer described in Subsection (3)(i)(iii) shall ensure that the person in  
223 whose presence each signature sheet is signed:

224 (a) is at least 18 years old;

225 (b) meets the residency requirements of Section 20A-2-105; and

226 (c) verifies each signature sheet by completing the verification bound to one or more  
227 signature sheets that are bound together.

228 (5) A person may not sign the verification if the person signed a signature sheet bound  
229 to the verification.

230 (6) The lieutenant governor shall:

231 (a) determine whether the required number of voters appears on the petition;

232 (b) review the proposed name and emblem to determine if they are "distinguishable"  
233 from the names and emblems of other registered political parties; and

234 (c) certify the lieutenant governor's findings to the filing officer described in  
235 Subsection (3)(i)(iii) within 30 days of the filing of the petition.

236 (7) (a) If the lieutenant governor determines that the petition meets the requirements of  
237 this section, and that the proposed name and emblem are distinguishable, the lieutenant  
238 governor shall authorize the filing officer described in Subsection (3)(i)(iii) to organize the  
239 prospective political party.

240 (b) If the lieutenant governor finds that the name, emblem, or both are not  
241 distinguishable from the names and emblems of other registered political parties, the lieutenant  
242 governor shall notify the filing officer that the filing officer has seven days to submit a new  
243 name or emblem to the lieutenant governor.

244 (8) A registered political party may not change its name or emblem during the regular



245 general election cycle.

246 (9) (a) It is unlawful for any person to:

247 (i) knowingly sign a political party registration petition:

248 (A) with any name other than the person's own name;

249 (B) more than once for the same political party; or

250 (C) if the person is not registered to vote in this state and does not intend to become

251 registered to vote in this state before the petition is submitted to the lieutenant governor; or

252 (ii) sign the verification of a political party registration petition signature sheet if the

253 person:

254 (A) does not meet the residency requirements of Section 20A-2-105;

255 (B) has not witnessed the signing by those persons whose names appear on the political

256 party registration petition signature sheet; or

257 (C) knows that a person whose signature appears on the political party registration

258 petition signature sheet is not registered to vote in this state and does not intend to become

259 registered to vote in this state.

260 (b) Any person violating this Subsection (9) is guilty of a class A misdemeanor.

261 [~~(c) The attorney general or the county attorney shall prosecute any violation of this~~

262 ~~Subsection (9).~~]

263 Section 10. Section **20A-9-502** is amended to read:

264 **20A-9-502. Certificate of nomination -- Contents -- Circulation -- Verification --**

265 **Criminal penalty.**

266 (1) The candidate shall:

267 (a) prepare a certificate of nomination in substantially the following form:

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

269 I, \_\_\_\_\_, declare my intention of becoming an unaffiliated candidate for the

270 political group designated as \_\_\_\_ for the office of \_\_\_\_\_. I do solemnly swear that I can

271 qualify to hold that office both legally and constitutionally if selected, and that I reside at \_\_\_\_\_

272 Street, in the city of \_\_\_\_\_, county of \_\_\_\_\_, state of \_\_\_\_\_, zip code \_\_\_\_\_, phone \_\_\_\_\_, and

273 that I am providing, or have provided, the required number of holographic signatures of

274 registered voters required by law; that as a candidate at the next election I will not knowingly

275 violate any election or campaign law; I will file all campaign financial disclosure reports as

276 required by law; and I understand that failure to do so will result in my disqualification as a  
277 candidate for this office and removal of my name from the ballot.

278 \_\_\_\_\_  
279 Subscribed and sworn to before me this \_\_\_\_\_(month\day\year).

280 \_\_\_\_\_  
281 Notary Public (or other officer  
282 qualified to administer oaths)";

283 (b) bind signature sheets to the certificate that:

284 (i) are printed on sheets of paper 8-1/2 inches long and 11 inches wide;

285 (ii) are ruled with a horizontal line 3/4 inch from the top, with the space above that line  
286 blank for the purpose of binding;

287 (iii) contain the name of the proposed candidate and the words "Unaffiliated Candidate  
288 Certificate of Nomination Petition" printed directly below the horizontal line;

289 (iv) contain the word "Warning" printed directly under the words described in  
290 Subsection (1)(b)(iii);

291 (v) contain, to the right of the word "Warning," the following statement printed in not  
292 less than eight-point, single leaded type:

293 "It is a class A misdemeanor for anyone to knowingly sign a certificate of nomination  
294 signature sheet with any name other than the person's own name or more than once for the  
295 same candidate or if the person is not registered to vote in this state and does not intend to  
296 become registered to vote in this state before the county clerk certifies the signatures.";

297 (vi) contain the following statement directly under the statement described in  
298 Subsection (1)(b)(v):

299 "Each signer says:

300 I have personally signed this petition with a holographic signature;

301 I am registered to vote in Utah or intend to become registered to vote in Utah before the  
302 county clerk certifies my signature; and

303 My street address is written correctly after my name.";

304 (vii) contain horizontally ruled lines, 3/8 inch apart under the statement described in  
305 Subsection (1)(b)(vi); and

306 (viii) be vertically divided into columns as follows:

307 (A) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be  
308 headed with "For Office Use Only," and be subdivided with a light vertical line down the  
309 middle;

310 (B) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed  
311 Name (must be legible to be counted)";

312 (C) the next column shall be 2-1/2 inches wide, headed "Holographic Signature of  
313 Registered Voter";

314 (D) the next column shall be one inch wide, headed "Birth Date or Age (Optional)";

315 (E) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip  
316 Code"; and

317 (F) at the bottom of the sheet, contain the following statement: "Birth date or age  
318 information is not required, but it may be used to verify your identity with voter registration  
319 records. If you choose not to provide it, your signature may not be certified as a valid signature  
320 if you change your address before petition signatures are certified or if the information you  
321 provide does not match your voter registration records."; and

322 (c) bind a final page to one or more signature sheets that are bound together that  
323 contains, except as provided by Subsection (2), the following printed statement:

324 "Verification

325 State of Utah, County of \_\_\_\_

326 I, \_\_\_\_\_, of \_\_\_\_\_, hereby state that:

327 I am a Utah resident and am at least 18 years old;

328 All the names that appear on the signature sheets bound to this page were signed by  
329 persons who professed to be the persons whose names appear on the signature sheets, and each  
330 of them signed the person's name on the signature sheets in my presence;

331 I believe that each has printed and signed the person's name and written the person's  
332 street address correctly, and that each signer is registered to vote in Utah or will register to vote  
333 in Utah before the county clerk certifies the signatures on the signature sheet.

334 \_\_\_\_\_

335 (Signature) (Residence Address) (Date)".

336 (2) (a) The candidate shall circulate the nomination petition and ensure that the person  
337 in whose presence each signature sheet is signed:

338 (i) is at least 18 years old;  
339 (ii) except as provided by Subsection (2)(b), meets the residency requirements of  
340 Section 20A-2-105; and  
341 (iii) verifies each signature sheet by completing the verification bound to one or more  
342 signature sheets that are bound together.

343 (b) A person who is not a resident may sign the verification on a petition for an  
344 unaffiliated candidate for the office of President of the United States.

345 (c) A person may not sign the verification if the person signed a signature sheet bound  
346 to the verification.

347 (3) (a) It is unlawful for any person to:

348 (i) knowingly sign a certificate of nomination signature sheet:

349 (A) with any name other than the person's own name;

350 (B) more than once for the same candidate; or

351 (C) if the person is not registered to vote in this state and does not intend to become  
352 registered to vote in this state before the county clerk certifies the signatures; or

353 (ii) sign the verification of a certificate of nomination signature sheet if the person:

354 (A) except as provided by Subsection (2)(b), does not meet the residency requirements  
355 of Section 20A-2-105;

356 (B) has not witnessed the signing by those persons whose names appear on the  
357 certificate of nomination signature sheet; or

358 (C) knows that a person whose signature appears on the certificate of nomination  
359 signature sheet is not registered to vote in this state and does not intend to become registered to  
360 vote in this state.

361 (b) Any person violating this Subsection (3) is guilty of a class A misdemeanor.

362 [~~(c) The attorney general or the county attorney shall prosecute any violation of this~~  
363 ~~Subsection (3).~~]

364 (4) (a) The candidate shall submit the petition and signature sheets to the county clerk  
365 for certification when the petition has been completed by:

366 (i) at least 1,000 registered voters residing within the state when the nomination is for  
367 an office to be filled by the voters of the entire state; or

368 (ii) at least 300 registered voters residing within a political division or at least 5% of

369 the registered voters residing within a political division, whichever is less, when the  
370 nomination is for an office to be filled by the voters of any political division smaller than the  
371 state.

372 (b) In reviewing the petition, the county clerk shall count and certify only those persons  
373 who signed the petition with a holographic signature who:

374 (i) are registered voters within the political division that the candidate seeks to  
375 represent; and

376 (ii) did not sign any other certificate of nomination for that office.

377 (c) The candidate may supplement or amend the certificate of nomination at any time  
378 on or before the filing deadline.

379 Section 11. **Repealer.**

380 This bill repeals:

381 Section **20A-4-503, Abetting forgery or alteration.**

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**Legislative Review Note**  
as of 10-22-12 7:29 AM

**Office of Legislative Research and General Counsel**