

Representative David E. Lifferth proposes the following substitute bill:

CANDIDATE DISCLOSURE AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David E. Lifferth

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to a candidate's disclosure requirements.

Highlighted Provisions:

This bill:

- ▶ requires a candidate to make certain disclosures relating to criminal convictions, pending criminal charges, protection orders, and bankruptcy;
- ▶ imposes a fine and requires public notification for a violation of the provisions of this bill; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-9-201, as last amended by Laws of Utah 2014, Chapter 17

20A-9-203, as last amended by Laws of Utah 2014, Chapter 38

ENACTS:



26 [20A-9-207](#), Utah Code Annotated 1953



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

29 Section 1. Section **20A-9-201** is amended to read:

30 **20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of**
31 **more than one political party prohibited with exceptions -- General filing and form**
32 **requirements -- Affidavit of impecuniosity.**

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

34 (a) be a United States citizen;

35 (b) meet the legal requirements of that office; and

36 (c) if seeking a registered political party's nomination as a candidate for elective office,
37 designate that registered political party as their preferred party affiliation on their declaration of
38 candidacy.

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

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

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

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

47 (ii) A person may file a declaration of candidacy for, or be a candidate for, more than
48 one justice court judge office.

49 (iii) A person may file a declaration of candidacy for lieutenant governor even if the
50 person filed a declaration of candidacy for another office in the same election year if the person
51 withdraws as a candidate for the other office in accordance with Subsection [20A-9-202\(6\)](#)
52 before filing the declaration of candidacy for lieutenant governor.

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

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

57 (B) require the candidate to state whether ~~[or not]~~ the candidate meets those
58 requirements.

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

61 (A) a United States citizen;

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

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

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

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

72 (A) a United States citizen;

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

75 (C) a registered voter in the prosecution district in which the person is seeking office;
76 and

77 (D) a current resident of the prosecution district in which the person is seeking office
78 and either will have been a resident of that prosecution district for at least one year as of the
79 date of the election or was appointed and is currently serving as district attorney and became a
80 resident of the prosecution district within 30 days after ~~[receiving appointment]~~ the day on
81 which the person was appointed to the office of district attorney.

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

84 (A) as of the date of filing:

85 (I) is a United States citizen;

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

87 (III) (Aa) has successfully met the standards and training requirements established for

88 law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and
89 Certification Act; or

90 (Bb) has met the waiver requirements in Section 53-6-206; and

91 (IV) is qualified to be certified as a law enforcement officer, as defined in Section
92 53-13-103; and

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

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

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

100 (B) if the filing officer is not the lieutenant governor, that the financial disclosure is
101 provided to the lieutenant governor according to the procedures and requirements of Section
102 20A-11-1603.

103 (b) If the prospective candidate states that the qualification requirements for the office
104 are not met, the filing officer may not accept the prospective candidate's declaration of
105 candidacy.

106 (c) If the candidate meets the requirements of Subsection (3)(a) and states that the
107 requirements of candidacy are met, the filing officer shall:

108 (i) inform the candidate that:

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

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

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

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

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

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

118 (D) a candidate, other than a presidential or vice presidential candidate, is required to

119 file the candidate filing disclosure form described in Section 20A-9-207;

120 (ii) except for a presidential candidate, provide the candidate with a copy of the current
121 campaign financial disclosure laws for the office the candidate is seeking and inform the
122 candidate that failure to comply will result in disqualification as a candidate and removal of the
123 candidate's name from the ballot;

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

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

- 129 (A) signing the pledge is voluntary; and
- 130 (B) signed pledges shall be filed with the filing officer;
- 131 (v) accept the candidate's declaration of candidacy; and

132 (vi) if the candidate has filed for a partisan office, provide a certified copy of the
133 declaration of candidacy to the chair of the county or state political party of which the
134 candidate is a member.

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

- 137 (i) accept the candidate's pledge; and
- 138 (ii) if the candidate has filed for a partisan office, provide a certified copy of the
139 candidate's pledge to the chair of the county or state political party of which the candidate is a
140 member.

141 (4) (a) Except for presidential candidates, the form of the declaration of candidacy shall
142 be substantially as follows:

143 "State of Utah, County of ____

144 I, _____, declare my candidacy for the office of _____, seeking the
145 nomination of the _____ party, which is my preferred political party affiliation. I do
146 solemnly swear that: I will meet the qualifications to hold the office, both legally and
147 constitutionally, if selected; I reside at _____ in the City or Town of _____,
148 Utah, Zip Code _____ Phone No. _____; I will not knowingly violate any law governing
149 campaigns and elections; I will file all campaign financial disclosure reports as required

150 by law; and I understand that failure to do so will result in my disqualification as a candidate
151 for this office and removal of my name from the ballot. The mailing address that I designate
152 for receiving official election notices is _____.

153 _____

154 Subscribed and sworn before me this _____ (month\day\year).

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

156 (b) An agent designated to file a declaration of candidacy under Section 20A-9-202
157 may not sign the form described in Subsection (4)(a).

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

160 (i) \$50 for candidates for the local school district board; and

161 (ii) \$50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the
162 person holding the office for all other federal, state, and county offices.

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

165 (i) who is disqualified; or

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

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

169 (ii) The lieutenant governor shall:

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

172 (B) ensure that each county receives that proportion of the total amount paid to the
173 lieutenant governor from the congressional district that the total vote of that county for all
174 candidates for representative in Congress bears to the total vote of all counties within the
175 congressional district for all candidates for representative in Congress.

176 (d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy
177 without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by
178 an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer,
179 a financial statement filed at the time the affidavit is submitted.

180 (ii) A person who is able to pay the filing fee may not claim impecuniosity.

181 (iii) (A) False statements made on an affidavit of impecuniosity or a financial
182 statement filed under this section shall be subject to the criminal penalties provided under
183 Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

184 (B) Conviction of a criminal offense under Subsection (5)(d)(iii)(A) shall be
185 considered an offense under this title for the purposes of assessing the penalties provided in
186 Subsection 20A-1-609(2).

187 (iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in
188 substantially the following form:

189 "Affidavit of Impecuniosity

190 Individual Name

191 _____ Address _____

192 Phone Number _____

193 I, _____ (name), do solemnly [swear] [affirm], under penalty of law
194 for false statements, that, owing to my poverty, I am unable to pay the filing fee required by
195 law.

196 Date _____ Signature _____

197 Affiant

198 Subscribed and sworn to before me on _____ (month\day\year)

199 _____
200 (signature)

201 Name and Title of Officer Authorized to Administer Oath _____"

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

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

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

211 (6) (a) If there is no legislative appropriation for the Western States Presidential

212 Primary election, as provided in Part 8, Western States Presidential Primary, a candidate for
213 president of the United States who is affiliated with a registered political party and chooses to
214 participate in the regular primary election shall:

215 (i) file a declaration of candidacy, in person or via a designated agent, with the
216 lieutenant governor:

217 (A) on a form developed and provided by the lieutenant governor; and

218 (B) on or after the second Friday in March and before 5 p.m. on the third Thursday in
219 March before the next regular primary election;

220 (ii) identify the registered political party whose nomination the candidate is seeking;

221 (iii) provide a letter from the registered political party certifying that the candidate may
222 participate as a candidate for that party in that party's presidential primary election; and

223 (iv) pay the filing fee of \$500.

224 (b) An agent designated to file a declaration of candidacy may not sign the form
225 described in Subsection (6)(a)(i)(A).

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

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

230 Section 2. Section **20A-9-203** is amended to read:

231 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

232 (1) (a) (i) A person may become a candidate for any municipal office if:

233 (A) the person is a registered voter; and

234 (B) (I) the person has resided within the municipality in which that person seeks to
235 hold elective office for the 12 consecutive months immediately before the date of the election;
236 or

237 (II) if the territory in which the person resides was annexed into the municipality, the
238 person has resided within the annexed territory or the municipality the 12 consecutive months
239 immediately before the date of the election.

240 (ii) For purposes of determining whether a person meets the residency requirement of
241 Subsection (1)(a)(i)(B)(I) in a municipality that was incorporated less than 12 months before
242 the election, the municipality shall be considered to have been incorporated 12 months before

243 the date of the election.

244 (b) In addition to the requirements of Subsection (1)(a), each candidate for a municipal
245 council position shall, if elected from a district, be a resident of the council district from which
246 elected.

247 (c) In accordance with Utah Constitution Article IV, Section 6, any mentally
248 incompetent person, any person convicted of a felony, or any person convicted of treason or a
249 crime against the elective franchise may not hold office in this state until the right to hold
250 elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

251 (2) (a) A person seeking to become a candidate for a municipal office shall:

252 (i) file a declaration of candidacy, in person with the city recorder or town clerk, during
253 the office hours described in Section 10-3-301 and not later than the close of those office
254 hours, between June 1 and June 7 of any odd-numbered year; and

255 (ii) pay the filing fee, if one is required by municipal ordinance.

256 (b) Any resident of a municipality may nominate a candidate for a municipal office by:

257 (i) filing a nomination petition with the city recorder or town clerk during the office
258 hours described in Section 10-3-301 and not later than the close of those office hours, between
259 June 1 and June 7 of any odd-numbered year; and

260 (ii) paying the filing fee, if one is required by municipal ordinance.

261 (3) (a) Before the filing officer may accept any declaration of candidacy or nomination
262 petition, the filing officer shall:

263 (i) read to the prospective candidate or person filing the petition the constitutional and
264 statutory qualification requirements for the office that the candidate is seeking; and

265 (ii) require the candidate or person filing the petition to state whether the candidate
266 meets those requirements.

267 (b) If the prospective candidate does not meet the qualification requirements for the
268 office, the filing officer may not accept the declaration of candidacy or nomination petition.

269 (c) If it appears that the prospective candidate meets the requirements of candidacy, the
270 filing officer shall:

271 (i) inform the candidate that the candidate's name will appear on the ballot as it is
272 written on the declaration of candidacy;

273 (ii) provide the candidate with a copy of the current campaign financial disclosure laws

274 for the office the candidate is seeking and inform the candidate that failure to comply will
275 result in disqualification as a candidate and removal of the candidate's name from the ballot;

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

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

281 (A) signing the pledge is voluntary; and

282 (B) signed pledges shall be filed with the filing officer; [~~and~~]

283 (v) inform the candidate that the candidate is required to file the candidate filing
284 disclosure form described in Section 20A-9-207; and

285 [~~v~~] (vi) accept the declaration of candidacy or nomination petition.

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

288 (i) accept the candidate's pledge; and

289 (ii) if the candidate has filed for a partisan office, provide a certified copy of the
290 candidate's pledge to the chair of the county or state political party of which the candidate is a
291 member.

292 (4) Notwithstanding the requirement in Subsection (2)(a)(i) to file a declaration of
293 candidacy in person, a person may designate an agent to file the form described in Subsection
294 (5) in person with the city recorder or town clerk if:

295 (a) the person is located outside the state during the filing period because:

296 (i) of employment with the state or the United States; or

297 (ii) the person is a member of:

298 (A) the active or reserve components of the Army, Navy, Air Force, Marine Corps, or
299 Coast Guard of the United States who is on active duty;

300 (B) the Merchant Marine, the commissioned corps of the Public Health Service, or the
301 commissioned corps of the National Oceanic and Atmospheric Administration of the United
302 States; or

303 (C) the National Guard on activated status;

304 (b) the person makes the declaration of candidacy described in Subsection (5) to a

305 person qualified to administer an oath;

306 (c) the person communicates with the city recorder or town clerk using an electronic
307 device that allows the person and the city recorder or town clerk to see and hear each other; and

308 (d) the person provides the city recorder or town clerk with an email address to which
309 the filing officer may send the copies described in Subsection (3).

310 (5) (a) The declaration of candidacy shall substantially comply with the following
311 form:

312 "I, (print name) ____, being first sworn, say that I reside at ____ Street, City of ____,
313 County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a
314 registered voter; and that I am a candidate for the office of ____ (stating the term). I will meet
315 the legal qualifications required of candidates for this office. I will file all campaign financial
316 disclosure reports as required by law and I understand that failure to do so will result in my
317 disqualification as a candidate for this office and removal of my name from the ballot. I
318 request that my name be printed upon the applicable official ballots. (Signed)

319 _____

320 Subscribed and sworn to (or affirmed) before me by ____ on this
321 _____(month\day\year).

322 (Signed) _____ (Clerk or other officer qualified to administer oath)"

323 (b) An agent designated to file a declaration of candidacy under Subsection (4) may not
324 sign the form described in Subsection (5)(a).

325 (6) (a) A registered voter may be nominated for municipal office by submitting a
326 petition signed, with a holographic signature, by:

327 (i) 25 residents of the municipality who are at least 18 years old; or

328 (ii) 20% of the residents of the municipality who are at least 18 years old.

329 (b) (i) The petition shall substantially conform to the following form:

330 "NOMINATION PETITION

331 The undersigned residents of (name of municipality) being 18 years old or older
332 nominate (name of nominee) to the office of ____ for the (two or four-year term, whichever is
333 applicable)."

334 (ii) The remainder of the petition shall contain lines and columns for the signatures of
335 persons signing the petition and their addresses and telephone numbers.

336 (7) If the declaration of candidacy or nomination petition fails to state whether the
337 nomination is for the two or four-year term, the clerk shall consider the nomination to be for
338 the four-year term.

339 (8) (a) The clerk shall verify with the county clerk that all candidates are registered
340 voters.

341 (b) Any candidate who is not registered to vote is disqualified and the clerk may not
342 print the candidate's name on the ballot.

343 (9) Immediately after expiration of the period for filing a declaration of candidacy, the
344 clerk shall:

345 (a) cause the names of the candidates as they will appear on the ballot to be published:

346 (i) in at least two successive publications of a newspaper with general circulation in the
347 municipality; and

348 (ii) as required in Section 45-1-101; and

349 (b) notify the lieutenant governor of the names of the candidates as they will appear on
350 the ballot.

351 (10) A declaration of candidacy or nomination petition filed under this section may not
352 be amended after the expiration of the period for filing a declaration of candidacy.

353 (11) (a) A declaration of candidacy or nomination petition filed under this section is
354 valid unless a written objection is filed with the clerk within five days after the last day for
355 filing.

356 (b) If an objection is made, the clerk shall:

357 (i) mail or personally deliver notice of the objection to the affected candidate
358 immediately; and

359 (ii) decide any objection within 48 hours after it is filed.

360 (c) If the clerk sustains the objection, the candidate may correct the problem by
361 amending the declaration or petition within three days after the objection is sustained or by
362 filing a new declaration within three days after the objection is sustained.

363 (d) (i) The clerk's decision upon objections to form is final.

364 (ii) The clerk's decision upon substantive matters is reviewable by a district court if
365 prompt application is made to the district court.

366 (iii) The decision of the district court is final unless the Supreme Court, in the exercise

367 of its discretion, agrees to review the lower court decision.

368 (12) Any person who filed a declaration of candidacy and was nominated, and any
369 person who was nominated by a nomination petition, may, any time up to 23 days before the
370 election, withdraw the nomination by filing a written affidavit with the clerk.

371 Section 3. Section **20A-9-207** is enacted to read:

372 **20A-9-207. Candidate filing disclosure form.**

373 (1) Within seven days after the day on which a candidate, other than a presidential or
374 vice presidential candidate, files a declaration of candidacy, the candidate shall file with the
375 filing officer a candidate filing disclosure form that includes the information described in
376 Subsection (2).

377 (2) Except as provided in Subsection (3), the candidate filing disclosure form shall
378 require the candidate to:

379 (a) indicate whether the candidate has ever been convicted of a felony and, for each
380 felony conviction:

381 (i) give a description of the felony;

382 (ii) state the date of conviction;

383 (iii) state the jurisdiction of the conviction; and

384 (iv) state whether the candidate's civil rights have been restored;

385 (b) indicate whether the candidate has ever been convicted of a class A or class B
386 misdemeanor and, for each class A or class B misdemeanor conviction:

387 (i) give a description of the misdemeanor;

388 (ii) state the date of conviction;

389 (iii) state the jurisdiction of the conviction; and

390 (iv) state whether the candidate's civil rights have been restored;

391 (c) indicate whether there are any criminal charges for a felony, a class A
392 misdemeanor, or a class B misdemeanor pending against the candidate and, for each pending
393 criminal charge for a felony, a class A misdemeanor, or a class B misdemeanor:

394 (i) give a description of the charge; and

395 (ii) state the jurisdiction where the charge is pending;

396 (d) indicate whether a protection order has ever been issued against the candidate and,
397 for each protection order issued:

- 398 (i) state the reason for the protection order;
399 (ii) state the beginning and ending dates of the protection order;
400 (iii) identify the court that issued the protection order; and
401 (iv) indicate whether the protection order was ever extended and the reason for the
402 extension; and
403 (e) indicate whether the candidate has filed for bankruptcy within five years before the
404 day on which the candidate files the candidate filing disclosure form and, for each filing, state
405 the date and jurisdiction of the filing.
406 (3) (a) A candidate who completes a candidacy filing disclosure form is not required to
407 disclose a felony or misdemeanor, or any information relating to a felony or misdemeanor, that
408 has been expunged.
409 (b) A candidate is not required to disclose a protection order, or any information
410 relating to a protection order, that was issued without the candidate receiving notice and an
411 opportunity to be heard before the protection order was issued.
412 (4) The lieutenant governor shall:
413 (a) impose a \$100 fine on a state office candidate who fails to timely file a complete
414 and accurate candidate filing disclosure form;
415 (b) deposit a fine collected under Subsection (4)(a) into the General Fund as a
416 dedicated credit to pay for the costs of administering the provisions of this section; and
417 (c) report the fine on the lieutenant governor's website, in the location where reports
418 relating to each candidate are available for public access.
419 (5) The election official shall:
420 (a) impose a \$100 fine on a candidate, who is not a state office candidate, who fails to
421 timely file a complete and accurate candidate filing disclosure form; and
422 (b) report the fine on the election official's website.