

FELON VOTING RESTRICTIONS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Carl R. Saunders

AN ACT RELATING TO VOTING; PROHIBITING CERTAIN FELONS FROM VOTING OR REGISTERING TO VOTE IN UTAH ELECTIONS; PROVIDING FOR RESTORATION OF FELON'S VOTING RIGHTS; MAKING TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

AMENDS:

20A-2-101, as last amended by Chapter 2, Laws of Utah 1994

20A-2-104, as last amended by Chapter 183, Laws of Utah 1997

20A-2-109, as enacted by Chapter 152, Laws of Utah 1995

20A-3-202, as last amended by Chapter 183, Laws of Utah 1997

ENACTS:

20A-2-101.5, Utah Code Annotated 1953

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

Section 1. Section **20A-2-101** is amended to read:

20A-2-101. Eligibility for registration.

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

(a) is a citizen of the United States;

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

(c) will be at least 18 years old on the day of the election.

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

[(b)] (ii) A person who is involuntarily confined or incarcerated in a jail or prison is

resident of the voting precinct in which the person resided before the confinement or incarceration.

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

(3) Any person who is eligible or qualified to vote may register and vote in a regular general election, a regular primary election, a municipal general election, a municipal primary election, a statewide special election, a local special election, a special district election, and a bond election unless that person resides outside the geographic boundaries of the entity in which the election is held.

Section 2. Section **20A-2-101.5** is enacted to read:

20A-2-101.5. Convicted felons -- Restoration of right to vote.

(1) As used in this section, "convicted felon" means a person convicted of a felony in a Utah state court.

(2) Each convicted felon's right to register to vote and to vote in an election is restored when:

(a) the felon is sentenced to probation by the sentencing judge;

(b) the felon is granted parole by the Board of Pardons; or

(c) the felon has successfully completed the term of incarceration to which the felon was sentenced.

Section 3. Section **20A-2-104** is amended to read:

20A-2-104. Voter registration form -- Registered voter lists.

(1) Every person applying to be registered shall complete a registration form printed in substantially the following form:

UTAH ELECTION REGISTRATION FORM

Name of Voter _____

 First Middle Last

Driver License or Identification Card Number (optional)_____

Date of Birth _____

Street Address of Principal Place of Residence _____

City County State Zip Code

Telephone Number (optional) _____

Last four digits of Social Security Number (optional) _____

Place of Birth _____

Last former address at which I was registered to vote (if known) _____

City County State Zip Code

Voting Precinct (if known) _____

Political Party (optional) _____

I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. I will be at least 18 years old and will have resided in Utah for 30 days immediately before the next election. I am not a convicted felon currently incarcerated for commission of a felony.

Signed and sworn _____

Voter's Signature

Date _____, 19 _____.

NOTICE: IN ORDER TO VOTE, YOUR NAME MUST APPEAR IN THE OFFICIAL REGISTER.

FOR OFFICIAL USE ONLY

Voting Precinct _____

Voting I.D. Number _____

(2) The county clerk shall retain a copy in a permanent countywide alphabetical file, which may be electronic or some other recognized system.

(3) (a) Each county clerk shall retain lists of currently registered voters.

(b) (i) Voter registration lists are public information and shall be made available for the public to view in the clerk's office.

(ii) The lieutenant governor shall maintain a list of registered voters in electronic form.

(iii) If there are any discrepancies between the two lists, the county clerk's list is the official list.

(c) The lieutenant governor and the county clerks may charge individuals who wish to obtain a copy of the list of registered voters.

(i) Any registered voter may submit a written request to the county clerk to have their voter registration record secured.

(ii) After receipt of a written request, the county clerk and the lieutenant governor may not provide that voter's information on the lists that are sold to the public.

Section 4. Section **20A-2-109** is amended to read:

20A-2-109. Statewide voter registration data base -- Lieutenant governor to create -- Counties to provide information -- List of incarcerated felons.

(1) (a) The lieutenant governor shall develop a statewide voter registration data base.

~~[(2)]~~ (b) Each county clerk shall provide the lieutenant governor with the county's voter registration and other data requested by the lieutenant governor in the form required by the lieutenant governor.

(2) (a) The lieutenant governor shall maintain a current list of all incarcerated felons in Utah.

(b) (i) The Department of Corrections shall provide the lieutenant governor's office with a list of the name and last-known address of each person who:

(A) was convicted of a felony in a Utah state court; and

(B) is currently incarcerated for commission of a felony.

(ii) The lieutenant governor shall establish the frequency of receipt of the information and the method of transmitting the information after consultation with the Department of Corrections.

(c) (i) The Department of Corrections shall provide the lieutenant governor's office with a list of the name of each convicted felon who is no longer subject to the jurisdiction of the department because the person has been released from incarceration.

(ii) The lieutenant governor shall establish the frequency of receipt of the information and the method of transmitting the information after consultation with the Department of Corrections.

Section 5. Section **20A-3-202** is amended to read:

20A-3-202. Challenges -- Recorded in official register and in pollbook.

(1) (a) When any person applies for a ballot or when a person offers a ballot for deposit in the ballot box, the person's right to vote in that voting precinct and in that election may be orally challenged by an election judge or any challenger orally stating the challenged voter's name and the basis for the challenge.

(b) A person may challenge another person's right to vote by alleging that:

(i) the voter is not the person whose name appears in the official register and under which name the right to vote is claimed;

(ii) the voter is not a resident of Utah;

(iii) the voter is not a citizen of the United States;

(iv) the voter has not or will not have resided in Utah for 30 days immediately before the date of the election;

(v) the voter does not live in the voting precinct;

(vi) the voter does not live within the geographic boundaries of the entity holding the election;

(vii) the voter's principal place of residence is not in the voting precinct;

(viii) the voter's principal place of residence is not in the geographic boundaries of the election area;

(ix) the voter has voted before in the election;

(x) the voter is not at least 18 years old; [or]

(xi) the voter is involuntarily confined or incarcerated in jail or prison and was not a resident of the entity holding the election before the voter was confined or incarcerated[.]; or

(xii) the voter is a convicted felon and is incarcerated for the commission of a felony.

(2) (a) The election judges shall give the voter a ballot and allow the voter to vote if:

(i) the person challenged signs a written affidavit certifying that he meets all the

requirements for voting; and

(ii) the election judge determines that the person challenged is registered to vote.

(b) The election judges may not give the voter a ballot or allow the voter to vote if:

(i) the person challenged refuses to sign the written affidavit; or

(ii) the election judge determines that the person challenged is not registered to vote.

(c) (i) It is unlawful for any person to sign an affidavit certifying that he meets all the requirements for voting when that person knows he does not meet at least one of those requirements.

(ii) Any person who violates this Subsection (c) is guilty of a class B misdemeanor.

(3) (a) Any person may challenge the right to vote of any person whose name appears on the posting list by filing a written signed statement identifying the challenged voter's name and the basis for the challenge with the county clerk on the Friday before the election during regular business hours.

(b) The person challenging a person's right to vote shall allege one or more of the grounds established in Subsection (1)(b) as the basis for the challenge.

(c) The county clerk shall:

(i) carefully preserve the written challenges;

(ii) write in the appropriate official register opposite the name of any person for whom the county clerk received a written challenge, the words "To be challenged"; and

(iii) transmit the written challenges to election judges of that voting precinct.

(d) On election day, the election judges shall raise the written challenge with the voter before giving the voter a ballot.

(e) If the person challenged takes an oath before any of the election judges that the grounds of the challenge are false, the judges shall allow the person to vote.

(f) If the person applying to vote does not meet the legal requirements to vote, or refuses to take the oath, the election judges may not deliver a ballot to him.

(4) The election judges shall record all challenges in the official register and on the challenge sheets in the pollbook.

(5) If the person challenged under Subsection (3) voted an absentee ballot, the county clerk

shall submit the name of the voter and the challenge to the voter to the county attorney, or the district attorney in counties with a prosecution district, for investigation and prosecution for voter fraud.

Section 6. Effective date.

This act takes effect on the January 1 of the year after the approval by the voters of the state of a proposition to amend the Utah Constitution Article IV permitting this statute.