

1 **FELON VOTING RESTRICTIONS**

2 1998 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Carl R. Saunders**

5 AN ACT RELATING TO VOTING; PROHIBITING FELONS FROM VOTING OR  
6 REGISTERING TO VOTE IN UTAH ELECTIONS; MAKING TECHNICAL  
7 CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

9 AMENDS:

10 **20A-2-101**, as last amended by Chapter 2, Laws of Utah 1994

11 **20A-2-104**, as last amended by Chapter 183, Laws of Utah 1997

12 **20A-2-109**, as enacted by Chapter 152, Laws of Utah 1995

13 **20A-3-101**, as last amended by Chapter 152, Laws of Utah 1995

14 **20A-3-202**, as last amended by Chapter 183, Laws of Utah 1997

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

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

17 **20A-2-101. Eligibility for registration.**

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

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

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

22 [and]

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

24 (d) is not incarcerated, on probation, or on parole for a felony conviction.

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

1 confinement or incarceration.

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

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

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

10 **20A-2-104. Voter registration form.**

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

13 -----

14 UTAH ELECTION REGISTRATION FORM

15 Name of Voter \_\_\_\_\_

16 First Middle Last

17 Driver License or Identification Card Number (optional) \_\_\_\_\_

18 Date of Birth \_\_\_\_\_

19 Street Address of Principal Place of Residence \_\_\_\_\_

20 \_\_\_\_\_

21 City County State Zip Code

22 Telephone Number (optional) \_\_\_\_\_

23 Last four digits of Social Security Number (optional) \_\_\_\_\_

24 Place of Birth \_\_\_\_\_

25 Last former address at which I was registered to vote (if known) \_\_\_\_\_

26 \_\_\_\_\_

27 City County State Zip Code

28 \_\_\_\_\_

29 Voting Precinct (if known)

30 Political Party (optional) \_\_\_\_\_

31 I do swear (or affirm), subject to penalty of law for false statements, that the information

1 contained in this form is true, and that I am a citizen of the United States and a resident of the state  
2 of Utah, residing at the above address. I will be at least 18 years old and will have resided in Utah  
3 for 30 days immediately before the next election. I am not incarcerated, on probation, or on parole  
4 for a felony conviction.

5 Signed and sworn \_\_\_\_\_

6 Voter's Signature

7 Date \_\_\_\_\_, 19 \_\_\_\_.

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

10 FOR OFFICIAL USE ONLY

11 Voting Precinct \_\_\_\_\_

12 Voting I.D. Number \_\_\_\_\_

13 -----

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

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

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

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

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

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

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

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

28 Section 3. Section **20A-2-109** is amended to read:

29 **20A-2-109. Statewide voter registration data base -- Lieutenant governor to create**  
30 **-- Counties to provide information.**

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

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

4           (2) (a) The lieutenant governor shall maintain a current list of all convicted felons in Utah  
5 who are incarcerated, on probation, or on parole.

6           (b) (i) The Administrator of the Courts shall provide the lieutenant governor's office with  
7 a list of the name and last-known address of each person convicted of a felony in a Utah state  
8 court.

9           (ii) The lieutenant governor shall establish the frequency of receipt of the information and  
10 the method of transmitting the information after consultation with the Administrator of the Courts.

11           (c) (i) The Department of Corrections shall provide the lieutenant governor's office with  
12 a list of the name of each convicted felon that is no longer subject to the jurisdiction of the  
13 department because the person has been:

14           (A) released from incarceration and is not placed on parole;

15           (B) released from probation because the felon has successfully completed his term of  
16 probation; or

17           (C) released from parole because the felon has successfully completed his term of parole.

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

20           Section 4. Section **20A-3-101** is amended to read:

21           **20A-3-101. Residency and age requirements of voters.**

22           (1) A person may vote in any regular general election, statewide special election, and  
23 statewide primary election if that person:

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

25           (b) is a resident of Utah;

26           (c) will, on the date of that election:

27           (i) be at least 18 years old; and

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

29           (d) has registered to vote~~[-]~~; and

30           (e) is not incarcerated, on probation, or on parole for a felony conviction.

31           (2) A person may vote in a municipal general election, municipal primary, in a local

1 special election, in a special district election, and in a bond election if that person:

- 2 (a) is a citizen of the United States;
- 3 (b) is a resident of Utah;
- 4 (c) is a resident of the local entity that is holding the election;
- 5 (d) will, on the date of the election:
- 6 (i) be at least 18 years old; and
- 7 (ii) have been a resident of Utah for 30 days immediately before the election; [and]
- 8 (e) has registered to vote[~~;~~]; and
- 9 (f) is not incarcerated, on probation, or on parole for a felony conviction.

10 (3) If, as of the date of any election, a person has not resided within the voting precinct for  
11 at least 20 days or has not registered to vote in that voting precinct, the person may vote at the  
12 voting precinct in which he resided before he moved to the new voting precinct if:

- 13 (a) the person is legally registered in that voting precinct; and
- 14 (b) that voting precinct is in the same county and congressional district as the person's new  
15 voting precinct.

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

17 **20A-3-202. Challenges -- Recorded in official register and in pollbook.**

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

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

- 23 (i) the voter is not the person whose name appears in the official register and under which  
24 name the right to vote is claimed;
- 25 (ii) the voter is not a resident of Utah;
- 26 (iii) the voter is not a citizen of the United States;
- 27 (iv) the voter has not or will not have resided in Utah for 30 days immediately before the  
28 date of the election;
- 29 (v) the voter does not live in the voting precinct;
- 30 (vi) the voter does not live within the geographic boundaries of the entity holding the  
31 election;

- 1 (vii) the voter's principal place of residence is not in the voting precinct;
- 2 (viii) the voter's principal place of residence is not in the geographic boundaries of the
- 3 election area;
- 4 (ix) the voter has voted before in the election;
- 5 (x) the voter is not at least 18 years old; [or]
- 6 (xi) the voter is involuntarily confined or incarcerated in jail or prison and was not a
- 7 resident of the entity holding the election before the voter was confined or incarcerated[-]; or
- 8 (xii) the voter is a convicted felon and is currently incarcerated, on probation, or on parole
- 9 for the felony conviction.

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

- 11 (i) the person challenged signs a written affidavit certifying that he meets all the
- 12 requirements for voting; and
- 13 (ii) the election judge determines that the person challenged is registered to vote.

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

- 15 (i) the person challenged refuses to sign the written affidavit; or
- 16 (ii) the election judge determines that the person challenged is not registered to vote.

17 (c) (i) It is unlawful for any person to sign an affidavit certifying that he meets all the

18 requirements for voting when that person knows he does not meet at least one of those

19 requirements.

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

21 (3) (a) Any person may challenge the right to vote of any person whose name appears on

22 the posting list by filing a written signed statement identifying the challenged voter's name and the

23 basis for the challenge with the county clerk on the Friday before the election during regular

24 business hours.

25 (b) The person challenging a person's right to vote shall allege one or more of the grounds

26 established in Subsection (1)(b) as the basis for the challenge.

27 (c) The county clerk shall:

- 28 (i) carefully preserve the written challenges;
- 29 (ii) write in the appropriate official register opposite the name of any person for whom the
- 30 county clerk received a written challenge, the words "To be challenged"; and
- 31 (iii) transmit the written challenges to election judges of that voting precinct.

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

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

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

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

9 (5) If the person challenged under Subsection (3) voted an absentee ballot, the county clerk  
10 shall submit the name of the voter and the challenge to the voter to the county attorney, or the  
11 district attorney in counties with a prosecution district, for investigation and prosecution for voter  
12 fraud.

13 Section 6. **Effective date.**

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

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## Legislative Review Note

as of 11-20-97 10:33 AM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

## Committee Note

The Government Operations Interim Committee recommended this bill.