

SHERIFF CERTIFICATION REQUIREMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Joseph G. Murray

This act modifies candidacy requirements for the office of county sheriff to require a candidate for county sheriff to have successfully met certain standards and training or to have passed a certification examination and to be qualified to be certified as a law enforcement officer at the time the person files a declaration of candidacy. The act modifies qualification requirements for a county sheriff. The act requires county clerks to ensure that persons filing a declaration of candidacy for county sheriff meet the qualifications for office. The act also makes technical changes.

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

AMENDS:

17-22-1.5, as last amended by Chapter 282, Laws of Utah 1998

20A-9-201, as last amended by Chapter 75, Laws of Utah 2000

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

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

17-22-1.5. County sheriff qualifications.

(1) Each person filing a declaration of candidacy for the office of county sheriff shall:

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

(ii) have passed a certification examination as provided in Section 53-6-206; and

(b) be qualified to be certified as a law enforcement officer, as defined in Section 53-13-103.

~~[(1)]~~ (2) In addition to the general qualifications required of county officers by Title 17, Chapter 16, County Officers, each county sheriff ~~[must meet each of the following qualifications during his term of office]~~ shall:

(a) ~~[Prior to]~~ at the time of taking office~~[, a county sheriff must]:~~

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

(B) have passed a certification examination as provided in Section 53-6-206; and

(ii) be qualified to be certified as a law enforcement officer [according to procedures and requirements of Title 53, Chapter 6, Peace Officer Standards and Training, and shall], as defined in Section 53-13-103; and

(b) satisfactorily complete annual certified training as required in Section 53-13-103[-]; and

[(b) After] (c) after certification[, each county sheriff must] as provided in Subsection (2)(a), remain certified as a law enforcement officer during [his] the sheriff's term of office.

[(2)] (3) The county legislative body shall declare the office of sheriff to be vacant if at any time the incumbent sheriff fails to meet the legal qualifications for office under Subsection [(1)] (2).

Section 2. Section **20A-9-201** is amended to read:

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

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

- (a) be a United States citizen; and
- (b) meet the legal requirements of that office.

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

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

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

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

President of the United States.

(3) If the final date established for filing a declaration of candidacy is a Saturday or Sunday, the filing time shall be extended until 5 p.m. on the following Monday.

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

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

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

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

(A) a United States citizen;

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

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

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

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

(A) a United States citizen;

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

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

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

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

(A) as of the date of filing:

(I) is a United States citizen;

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

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

(bb) has passed a certification examination as provided in Section 53-6-206; and

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

and

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

(b) If the prospective candidate states that he does not meet the qualification requirements for the office, the filing officer may not accept the prospective candidate's declaration of candidacy.

(c) If the candidate states that he meets the requirements of candidacy, the filing officer shall:

(i) accept the candidate's declaration of candidacy; and

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

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

"State of Utah, County of ____

I, _____, declare my intention of becoming a candidate for the office of ____ as a candidate for the ____ party. I do solemnly swear that: I can qualify to hold that office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____,

Utah, Zip Code ____ Phone No. ____; I will not knowingly violate any law governing campaigns and elections; and I will qualify for the office if elected to it. The mailing address that I designate for receiving official election notices is _____.

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

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

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

(i) \$25 for candidates for the local school district board; and

(ii) 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office, but not less than \$5, for all other federal, state, and county offices.

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

(i) who is disqualified; or

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

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

(ii) The lieutenant governor shall:

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

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

(d) (i) Each person who is unable to pay the filing fee may file a declaration of candidacy without payment upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer.

(ii) The filing officer shall ensure that the affidavit of impecuniosity is printed in

substantially the following form:

"Affidavit of Impecuniosity

Individual Name _____ Address _____

Phone Number _____

I, _____ (name), do solemnly [swear] [affirm] that, owing to my poverty, I am unable to pay the filing fee required by law.

Date _____ Signature _____

Affiant

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

(signature)

Name and Title of Officer Authorized to Administer Oath _____"

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