

SHERIFF CERTIFICATION REQUIREMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Joseph G. Murray

This act modifies candidacy requirements for county sheriffs to require a candidate for county sheriff to be certified as a law enforcement officer when filing a declaration of candidacy. 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 have certified as a law enforcement officer according to procedures and requirements of Title 53, Chapter 6, Peace Officer Standards and Training Act.

~~[(+)]~~ (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]~~ be certified as a law enforcement officer according to procedures and requirements of Title 53, Chapter 6, Peace Officer Standards and Training~~[, and shall]~~ Act;

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



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

30 ~~[(2)]~~ (3) The county legislative body shall declare the office of sheriff to be vacant if at
31 any time the incumbent sheriff fails to meet the legal qualifications for office under Subsection
32 ~~[(+)]~~ (2).

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

34 **20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of**
35 **more than one political party prohibited with exceptions -- General filing and form**
36 **requirements.**

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

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

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

- 41 (i) file a declaration of candidacy for, or be a candidate for, more than one office in
42 Utah during any election year; or
- 43 (ii) appear on the ballot as the candidate of more than one political party.

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

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

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

- 52 (A) read to the prospective candidate the constitutional and statutory qualification
53 requirements for the office that the candidate is seeking; and
- 54 (B) require the candidate to state whether or not the candidate meets those
55 requirements.

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

- 58 (A) a United States citizen;

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

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

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

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

68 (A) a United States citizen;

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

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

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

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

78 (A) as of the date of filing:

79 (I) is a United States citizen;

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

81 (III) has certified as a law enforcement officer according to procedures and
82 requirements of Title 53, Chapter 6, Peace Officer Standards and Training Act; and

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

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

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

90 (i) accept the candidate's declaration of candidacy; and
 91 (ii) if the candidate has filed for a partisan office, provide a certified copy of the
 92 declaration of candidacy to the chair of the county or state political party of which the
 93 candidate is a member.

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

96 "State of Utah, County of ____
 97 I, _____, declare my intention of becoming a candidate for the office of
 98 ____ as a candidate for the ____ party. I do solemnly swear that: I can qualify to hold that
 99 office, both legally and constitutionally, if selected; I reside at _____ in the City or
 100 Town of _____, Utah, Zip Code _____ Phone No. _____; I will not knowingly violate any law
 101 governing campaigns and elections; and I will qualify for the office if elected to it. The
 102 mailing address that I designate for receiving official election notices is _____
 103 _____.

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

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

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

109 (i) \$25 for candidates for the local school district board; and
 110 (ii) 1/8 of 1% of the total salary for the full term of office legally paid to the person
 111 holding the office, but not less than \$5, for all other federal, state, and county offices.

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

114 (i) who is disqualified; or
 115 (ii) who the filing officer determines has filed improperly.

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

118 (ii) The lieutenant governor shall:

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

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

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

128 (ii) The filing officer shall ensure that the affidavit of impecuniosity is printed in
129 substantially the following form:

130 "Affidavit of Impecuniosity

131 Individual Name _____ Address _____

132 Phone Number _____

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

135 Date _____ Signature _____ Affiant

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

137 _____
138 (signature)

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

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

Legislative Review Note
as of 1-9-03 1:33 PM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0194

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13-Feb-03

12:16 PM

State Impact

No fiscal impact

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst