

Representative Ben C. Ferry proposes the following substitute bill:

SHERIFF CERTIFICATION REQUIREMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Joseph G. Murray

This act modifies provisions relating to Counties and in the Election Code. The act requires county sheriffs to have completed law enforcement officer training or to have passed a certification examination at the time of taking office. The act provides certain qualifications for candidates who file a declaration of candidacy for county sheriff in certain counties. The act requires candidates for county sheriff in certain counties to file a statement certifying that the candidate has completed required training, has passed a certification examination, or is enrolled in a certification training program, and provides for the candidate's disqualification from the ballot if the statement is not timely filed. The act requires county clerks to ensure that persons filing a declaration of candidacy for county sheriff meet the qualifications for office. The act requires write-in candidates for sheriff to submit a statement certifying that the candidate has met law enforcement officer standards and training requirements or has passed a certification examination and prohibits county clerks from accepting a declaration of candidacy for a write-in candidate for sheriff unless the statement is filed. 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

20A-9-601, as last amended by Chapter 81, Laws of Utah 2000

ENACTS:

20A-11-1501, Utah Code Annotated 1953



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

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

28 **17-22-1.5. County sheriff qualifications.**

29 (1) Each person filing a declaration of candidacy for the office of county sheriff in a
30 county of the first, second, or third class shall:

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

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

35 (b) be qualified to be certified as a law enforcement officer, as defined in Section
36 53-13-103.

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

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

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

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

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

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

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

52 ~~[(2)]~~ (3) The county legislative body shall declare the office of sheriff to be vacant if at
53 any time the incumbent sheriff fails to meet the legal qualifications for office under Subsection
54 ~~[(+)]~~ (2).

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

56 **20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of**

57 **more than one political party prohibited with exceptions -- General filing and form**
58 **requirements.**

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

60 (a) be a United States citizen; and

61 (b) meet the legal requirements of that office.

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

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

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

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

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

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

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

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

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

80 (A) a United States citizen;

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

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

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

87 (iii) Before accepting a declaration of candidacy for the office of district attorney, the

88 county clerk shall ensure that, as of the date of the election, the person filing that declaration of
89 candidacy is:

90 (A) a United States citizen;

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

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

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

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

100 (A) as of the date of filing:

101 (I) is a United States Citizen;

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

103 (III) in a county of the first, second, or third class;

104 (aa) has successfully met the standards and training requirements established for law
105 enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification
106 or has passed a certification examination as provided in Section 53-6-206; and

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

108 and

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

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

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

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

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

119 candidate is a member.

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

122 "State of Utah, County of ____

123 I, _____, declare my intention of becoming a candidate for the office of
124 ____ as a candidate for the ____ party. I do solemnly swear that: I can qualify to hold that
125 office, both legally and constitutionally, if selected; I reside at _____ in the City or
126 Town of ____, Utah, Zip Code ____ Phone No. ____; I will not knowingly violate any law
127 governing campaigns and elections; and I will qualify for the office if elected to it. The
128 mailing address that I designate for receiving official election notices is

129 _____.

130 _____

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

132 _____

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

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

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

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

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

141 (i) who is disqualified; or

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

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

145 (ii) The lieutenant governor shall:

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

148 (B) ensure that each county receives that proportion of the total amount paid to the
149 lieutenant governor from the congressional district that the total vote of that county for all

150 candidates for representative in Congress bears to the total vote of all counties within the
151 congressional district for all candidates for representative in Congress.

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

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

157 "Affidavit of Impecuniosity

158 Individual Name

159 _____ Address _____

160 Phone Number _____

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

163 Date _____ Signature _____

164 Affiant

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

166 _____
167 (signature)

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

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

171 Section 3. Section **20A-9-601** is amended to read:

172 **20A-9-601. Qualifying as a write-in candidate.**

173 (1) (a) Each person wishing to become a valid write-in candidate shall file a declaration
174 of candidacy with the appropriate filing officer not later than 14 days before the regular general
175 election or municipal general election in which the person intends to be a write-in candidate.

176 (b) (i) The filing officer shall:

177 (A) read to the candidate the constitutional and statutory requirements for the office;

178 and

179 (B) ask the candidate whether or not the candidate meets the requirements.

180 (ii) If the candidate cannot meet the requirements of office, the filing officer may not

181 accept the write-in candidate's declaration of candidacy.

182 (2) A write-in candidate in towns need not prequalify with the filing officer.

183 (3) By November 1 of each regular general election year, the lieutenant governor shall
184 certify to each county clerk the names of all write-in candidates who filed their declaration of
185 candidacy with the lieutenant governor.

186 (4) (a) A person may not become a valid write-in candidate for the office of county
187 sheriff unless the person submits to the county clerk, at the time of filing a declaration of
188 candidacy, a statement from a certified academy, as defined in Section 53-6-102, certifying that
189 the candidate:

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

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

194 (ii) is qualified to be certified as a law enforcement officer, as defined in Section
195 53-13-103.

196 (b) A county clerk may not accept a declaration of candidacy for a write-in candidate
197 for the office of county sheriff unless the person also files the statement required under
198 Subsection (4)(a).

199 Section 4. Section **20A-11-1501** is enacted to read:

200 **Part 15. Statement of Training for County Sheriff Candidates**

201 **20A-11-1501. County sheriff candidates in certain counties required to file**
202 **statement certifying law enforcement officer training -- Disqualification for failure to file.**

203 (1) (a) If a primary election is held for the office of county sheriff in a county of the
204 fourth, fifth, or sixth class, each candidate for that office shall file with the county clerk a
205 statement from a certified academy, as defined in Section 53-6-102, certifying that the
206 candidate:

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

210 (B) has passed a certification examination as provided in Section 53-6-206; or

211 (ii) has been accepted by the certified academy for admission to a training program for

212 law enforcement officers conducted by the certified academy under Title 53, Chapter 6, Part 2,
213 Peace Officer Training and Certification.

214 (b) The statement required by Subsection (1)(a) shall be filed during the year in which
215 the candidate has filed a declaration of candidacy for county sheriff and at least seven days
216 before the regular primary election date.

217 (2) (a) Whether or not there is a primary election for the office of county sheriff and
218 except as provided in Subsection (2)(c), each candidate for the office of county sheriff in a
219 county of the fourth, fifth, or sixth class shall file with the county clerk a statement from a
220 certified academy, as defined in Section 53-6-102, certifying that the candidate:

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

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

225 (ii) is qualified to be certified as a law enforcement officer, as defined in Section
226 53-13-103.

227 (b) The statement required by Subsection (2)(a) shall be filed during the year in which
228 the candidate has filed a declaration of candidacy for county sheriff and at least seven days
229 before the regular general election date.

230 (c) The requirement to file a statement under Subsection (2)(a) does not apply to a
231 candidate who timely filed a statement under Subsection (1)(a) before the primary election
232 certifying that the candidate had:

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

236 (ii) passed a certification examination as provided in section 53-6-206.

237 (3) If a candidate for county sheriff in a county of the fourth, fifth, or sixth class fails to
238 file the statement required under Subsection (1) or (2) at the time specified:

239 (a) the county clerk:

240 (i) shall:

241 (A) if practicable, remove the name of the candidate by blacking out the candidate's
242 name before the ballots are delivered to voters; or

243 (B) if removing the candidate's name from the ballot is not practicable, inform the
244 voters by any practicable method that the candidate has been disqualified and that votes cast for
245 the candidate will not be counted; and
246 (ii) may not count any votes for that candidate; and
247 (b) the candidate is disqualified and the vacancy on the ballot may be filled as provided
248 in Section 20A-1-501.