



28 **20A-2-307. County clerks' instructions to election judges.**

29 (1) Each county clerk shall instruct election judges to allow a voter to vote a regular  
30 ballot if:

31 (a) the voter has moved from one address within a voting precinct to another address  
32 within the same voting precinct; and

33 (b) the voter affirms the change of address orally or in writing before the election  
34 judges.

35 (2) Each county clerk shall instruct election judges to allow a person to vote a  
36 provisional ballot if:

37 ~~[(a) the voter is registered to vote in another voting precinct but has changed residence~~  
38 ~~to the election judge's voting precinct and has not registered to vote in that voting precinct;~~  
39 ~~and]~~

40 ~~[(b) the election judge's voting precinct is in the same county and congressional district~~  
41 ~~as the voter's previous voting precinct.]~~

42 (a) the voter's name does not appear on the official register; or

43 (b) the voter is challenged as provided in Section 20A-3-202.

44 Section 3. Section **20A-3-105.5** is amended to read:

45 **20A-3-105.5. Manner of voting -- Provisional ballot.**

46 (1) As used in this section:

47 (a) "Proof of identity" means some form of photo identification, such as a driver  
48 license or identification card, that establishes a person's identity.

49 (b) "Proof of residence" means some official document or form, such as a driver  
50 license or utility bill that establishes a person's residence.

51 (2) The election judges shall follow the procedures and requirements of this section  
52 when:

53 (a) the person's right to vote is challenged as provided in Section 20A-3-202; or

54 (b) the person's name is not found on the official register.

55 (3) When faced with one of the circumstances outlined in Subsection (2), the election  
56 judge shall:

57 (a) request that the person provide proof of identity and proof of [~~residency~~] residence;  
58 and

59 (b) review the proof of identity and proof of [~~residency~~] residence provided by the  
60 person.

61 (4) If the election judge is satisfied that the person has established their identity and  
62 their residence in the voting precinct:

63 (a) the election judge in charge of the official register shall:

64 (i) record in the official register the type of source documents that established the  
65 person's proof of identity and proof of [~~residency~~] residence;

66 (ii) write the provisional ballot envelope number opposite the name of the voter in the  
67 official register; and

68 (iii) direct the voter to sign his name in the election column in the official register;

69 (b) another judge shall list the ballot number and voter's name in the pollbook; and

70 (c) the election judge having charge of the ballots shall:

71 (i) endorse his initials on the stub;

72 (ii) check the name of the voter on the pollbook list with the number of the stub;

73 (iii) give the voter a ballot and a provisional ballot envelope; and

74 (iv) allow the voter to enter the voting booth.

75 (5) If the election judge is not satisfied that the voter has provided sufficient proof of  
76 identity and proof of residence:

77 (a) the election judge in charge of the official register shall:

78 (i) record in the official register that the voter did not provide adequate proof of  
79 identity and proof of residence;

80 (ii) write the provisional ballot envelope number opposite the name of the voter in the  
81 official register; and

82 (iii) direct the voter to sign his name in the election column in the official register;

83 (b) another judge shall list the ballot number and voter's name in the pollbook; and

84 (c) the election judge having charge of the ballots shall:

85 (i) endorse his initials on the stub;

86 (ii) check the name of the voter on the pollbook list with the number of the stub;

87 (iii) give the voter a ballot and a provisional ballot envelope; and

88 (iv) allow the voter to enter the voting booth.

89 [~~5~~] (6) Whenever the election officer is required to furnish more than one kind of

90 official ballot to a voting precinct, the election judges of that voting precinct shall give the  
91 registered voter the kind of ballot that the voter is qualified to vote.

92 Section 4. Section **20A-4-107** is amended to read:

93 **20A-4-107. Review and disposition of provisional ballot envelopes.**

94 (1) As used in this section, a voter is "legally entitled to vote" if:

95 (a) the voter:

96 (i) is registered to vote in the county;

97 (ii) resides within the voting precinct where the voter seeks to vote; and

98 (iii) provided sufficient proof of identity and proof of residence to the election judge as  
99 indicated by a notation in the official register;

100 (b) the voter:

101 (i) is registered to vote in the county; and

102 (ii) did not vote in the voter's precinct of residence, but the ballot that the voter voted is  
103 identical to the ballot voted in the voter's precinct of residence; or

104 (c) the voter:

105 (i) is registered to vote in the county;

106 (ii) the judge recorded in the official register that the voter either failed to provide  
107 proof of identity and proof of residence or the proof of identity and proof of residence was  
108 inadequate; and

109 (iii) the county clerk verifies the voter's proof of identity and proof of residence  
110 through some other means.

111 ~~[(+)]~~ (2) (a) Upon receipt of provisional ballot envelopes, the election officer shall  
112 review the affirmation on the face of each provisional ballot envelope and determine if the  
113 person signing the affirmation is a registered voter and legally entitled to vote the ballot that the  
114 voter voted.

115 (b) If the election officer determines that the person is not a registered voter or is not  
116 legally entitled to vote the ballot that the voter voted, the election officer shall retain the ballot  
117 envelope, unopened, for the period specified in Section 20A-4-202 unless ordered by a court to  
118 produce or count it.

119 (c) If the election officer determines that the person is a registered voter and is legally  
120 entitled to vote the ballot that the voter voted, the election officer shall remove the ballot from

121 the provisional ballot envelope and place the ballot with the absentee ballots to be counted with  
122 those ballots at the canvass.

123 (d) The election officer may not count, or allow to be counted a provisional ballot  
124 unless the voter's proof of identity and proof of residence is established by a preponderance of  
125 the evidence.

126 [~~2~~] (3) If the election officer determines that the person is a registered voter, the  
127 election officer shall ensure that the voter registration records are updated to reflect the  
128 information provided on the provisional ballot envelope.

129 (4) If the election officer determines that the person is not a registered voter and the  
130 information on the provisional ballot envelope is complete, the election officer shall:

- 131 (a) consider the provisional ballot envelope a voter registration form; and
- 132 (b) register the voter.

133 Section 5. Section **20A-6-105** is amended to read:

134 **20A-6-105. Provisional ballot envelopes.**

135 (1) Each election officer shall ensure that provisional ballot envelopes are printed in  
136 substantially the following form:

137 "AFFIRMATION

138 Are you a citizen of the United States of America? Yes No

139 Will you be 18 years old on or before election day? Yes No

140 If you checked "no" in response to either of the two above questions, do not complete this  
141 form.

142 Name of Voter \_\_\_\_\_

143 First Middle Last

144 Driver License or Identification Card Number \_\_\_\_\_

145 State of Issuance of Driver License of Identification Card Number

146 \_\_\_\_\_

147 Date of Birth \_\_\_\_\_

148 Street Address of Principal Place of Residence

149 \_\_\_\_\_

150 City County State Zip Code

151 Telephone Number (optional) \_\_\_\_\_

152 Last four digits of Social Security Number [~~optional~~]

153 \_\_\_\_\_

154 Place of Birth

155 \_\_\_\_\_

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

157 \_\_\_\_\_

158 City County State Zip Code

159 Voting Precinct (if known)

160 \_\_\_\_\_

161 I, (please print your full name)\_\_\_\_\_do solemnly swear or  
162 affirm:

163 1. that I am currently registered to vote in \_\_\_\_\_, County, Utah;  
164 that I have not moved out of the county since the date of the original registration; that I have  
165 not voted in this election in any other precinct; and that I request that I be permitted to vote in  
166 this election in this precinct;

167 2. that on or about\_\_\_\_\_ (Date), I completed a voter registration  
168 application at\_\_\_\_\_ (please indicate the office at which you  
169 completed the voter registration application, for example, Human Services, Driver License,  
170 etc., or, if you filled out a mail-in registration form, please indicate.);

171 3. that I have previously registered to vote in \_\_\_\_\_, County, Utah; that  
172 I have not resided outside of that county since completing that registration; and that I am  
173 entitled to vote today; and

174 4. subject to penalty of law for false statements, that the information contained in this  
175 form is true, and that I am a citizen of the United States and a resident of Utah, residing at the  
176 above address; and that I am at least 18 years old and have resided in Utah for the 30 days  
177 immediately before this election.

178 Signed \_\_\_\_\_

179 Dated

180 \_\_\_\_\_"

181 (2) The provisional ballot envelope shall include:

182 (a) a unique number;

183           (b) a detachable part that includes the unique number; and  
184           (c) a telephone number, internet address, or other indicator of a means, in accordance  
185 with Section 20A-6-105.5, where the voter can find out if the provisional ballot was counted.

186           Section 6. Section **20A-6-105.5** is enacted to read:

187           **20A-6-105.5. Voter access to provisional ballot information.**

188           Each county clerk shall implement, through an internet website, toll-free telephone  
189 number, or other means, a system where an individual who voted a provisional ballot may, free  
190 of charge, determine if the voter's vote was counted, and, if the vote was not counted, the  
191 reason the vote was not counted.

192           Section 7. **Effective date.**

193           This act takes effect on May 5, 2003, except that Sections 20A-6-105 and 20A-6-105.5  
194 take effect on May 1, 2004.

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**Legislative Review Note**  
**as of 1-22-03 2:20 PM**

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

**Office of Legislative Research and General Counsel**

**State Impact**

This bill is intended to comply with federal mandates. It is estimated that provisions of this bill can be implemented with existing resources. Counties may incur costs to conform to the mandates. It is anticipated that federal funds will become available and will be passed through to the counties. No State funding is required to implement provisions of this bill.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**