

1 **PEACE OFFICER RECERTIFICATION AMENDMENTS**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Richard A. Greenwood**

5 Senate Sponsor: John L. Valentine

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Peace Officer Standards and Training Act regarding certification
10 of peace officers.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ clarifies required qualifications in order to be certified as a peace officer;
- 14 ▶ modifies the requirements and procedures for the waiver of any portion of the
15 requirements for certification as a peace officer;
- 16 ▶ provides that a peace officer's certification becomes inactive after 18 months of not
17 being active as a peace officer, which adds six months to the current period of one
18 year;
- 19 ▶ clarifies all requirements for reinstatement of a certification that has lapsed or
20 become inactive; and
- 21 ▶ amends related code sections.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:



- 28 **17-22-1.5**, as last amended by Laws of Utah 2009, Chapter 5
- 29 **20A-9-201**, as last amended by Laws of Utah 2010, Chapter 12
- 30 **53-6-205**, as renumbered and amended by Laws of Utah 1993, Chapter 234
- 31 **53-6-208**, as renumbered and amended by Laws of Utah 1993, Chapter 234
- 32 **53-13-103**, as last amended by Laws of Utah 2009, Chapter 344

33 REPEALS AND REENACTS:

- 34 **53-6-206**, as renumbered and amended by Laws of Utah 1993, Chapter 234

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

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

38 **17-22-1.5. County sheriff qualifications.**

39 (1) Each person filing a declaration of candidacy for the office of county sheriff shall
40 submit to the county clerk, at the time of filing a declaration of candidacy, a certificate issued
41 by the Peace Officer Standards and Training Division created under Section 53-6-103 stating
42 that the candidate has:

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

45 (ii) [~~passed a certification examination as provided~~] met the waiver requirements in
46 Section 53-6-206; and

47 (b) met the qualifications to be certified as a law enforcement officer, as defined in
48 Section 53-13-103.

49 (2) In addition to the general qualifications required of county officers by Title 17,
50 Chapter 16, County Officers, each county sheriff shall:

51 (a) at the time of taking office:

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

55 (B) have [~~passed a certification examination as provided~~] met the waiver requirements
56 in Section 53-6-206; and

57 (ii) be qualified to be certified as:

58 (A) a law enforcement officer, as defined in Section 53-13-103; and

59 (B) if the person is elected to the office of county sheriff in any election held after the
60 2008 general election:

61 (I) a correctional officer, as defined in Section 53-13-104; or

62 (II) a correctional facility manager by having successfully completed a correctional
63 facility management course that is offered by a certified academy in both an online web-based
64 format and in a classroom format and that is approved by the Peace Officer Standards and
65 Training Council created in Section 53-6-106;

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

68 (c) after certification as provided in Subsection (2)(a), remain certified during the
69 sheriff's term of office as:

70 (i) a law enforcement officer; and

71 (ii) if the person is elected to the office of county sheriff in any election held after the
72 2008 general election:

73 (A) a correctional officer; or

74 (B) a correctional facility manager by having completed a correctional facility
75 management course approved by the Peace Officer Standards and Training Council.

76 (3) If a sheriff resigns, retires, dies, or otherwise does not complete the term of office,
77 the person appointed to serve for the remainder of the term shall within 60 days after the date
78 of appointment complete the training and exam required under Subsection (2)(a)(ii)(B).

79 (4) The county legislative body shall declare the office of sheriff to be vacant if at any
80 time the incumbent sheriff fails to meet the qualifications for office under Subsection (2).

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

82 **20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of**
83 **more than one political party prohibited with exceptions -- General filing and form**
84 **requirements -- Affidavit of impecuniosity.**

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

86 (a) be a United States citizen; and

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

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

89 (i) file a declaration of candidacy for, or be a candidate for, more than one office in

90 Utah during any election year; or

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

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

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

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

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

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

104 (A) a United States citizen;

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

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

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

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

115 (A) a United States citizen;

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

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

120 (D) a current resident of the prosecution district in which ~~he~~ the person is seeking

121 office and either will have been a resident of that prosecution district for at least one year as of
122 the date of the election or was appointed and is currently serving as district attorney and
123 became a resident of the prosecution district within 30 days after receiving appointment to the
124 office.

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

127 (A) as of the date of filing:

128 (I) is a United States citizen;

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

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

133 (Bb) has [~~passed a certification examination as provided~~] met the waiver requirements
134 in Section 53-6-206; and

135 (IV) is qualified to be certified as a law enforcement officer, as defined in Section
136 53-13-103; and

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

139 (v) Before accepting a declaration of candidacy for the office of governor, lieutenant
140 governor, state auditor, state treasurer, attorney general, state legislator, or State Board of
141 Education member, the filing officer shall ensure:

142 (A) that the person filing the declaration of candidacy also files the financial disclosure
143 required by Section 20A-11-1603; and

144 (B) if the filing officer is not the lieutenant governor, that the financial disclosure is
145 provided to the lieutenant governor according to the procedures and requirements of Section
146 20A-11-1603.

147 (b) If the prospective candidate states that [~~he does not meet~~] the qualification
148 requirements for the office are not met, the filing officer may not accept the prospective
149 candidate's declaration of candidacy.

150 (c) If the candidate meets the requirements of Subsection (3)(a) and states that [~~he~~
151 ~~meets~~] the requirements of candidacy are met, the filing officer shall:

- 152 (i) inform the candidate that:
- 153 (A) the candidate's name will appear on the ballot as it is written on the declaration of
- 154 candidacy;
- 155 (B) the candidate may be required to comply with state or local campaign finance
- 156 disclosure laws; and
- 157 (C) the candidate is required to file a financial statement before the candidate's political
- 158 convention under:
 - 159 (I) Section 20A-11-204 for a candidate for constitutional office;
 - 160 (II) Section 20A-11-303 for a candidate for the Legislature; or
 - 161 (III) local campaign finance disclosure laws, if applicable;
- 162 (ii) provide the candidate with a copy of the current campaign financial disclosure laws
- 163 for the office the candidate is seeking and inform the candidate that failure to comply will
- 164 result in disqualification as a candidate and removal of the candidate's name from the ballot;
- 165 (iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide
- 166 Electronic Voter Information Website Program and inform the candidate of the submission
- 167 deadline under Subsection 20A-7-801(4)(a);
- 168 (iv) provide the candidate with a copy of the pledge of fair campaign practices
- 169 described under Section 20A-9-206 and inform the candidate that:
 - 170 (A) signing the pledge is voluntary; and
 - 171 (B) signed pledges shall be filed with the filing officer;
 - 172 (v) accept the candidate's declaration of candidacy; and
 - 173 (vi) if the candidate has filed for a partisan office, provide a certified copy of the
 - 174 declaration of candidacy to the chair of the county or state political party of which the
 - 175 candidate is a member.
- 176 (d) If the candidate elects to sign the pledge of fair campaign practices, the filing
- 177 officer shall:
 - 178 (i) accept the candidate's pledge; and
 - 179 (ii) if the candidate has filed for a partisan office, provide a certified copy of the
 - 180 candidate's pledge to the chair of the county or state political party of which the candidate is a
 - 181 member.
- 182 (4) Except for presidential candidates, the form of the declaration of candidacy shall be

183 substantially as follows:

184 "State of Utah, County of ____

185 I, _____, declare my intention of becoming a candidate for the office of
186 ____ as a candidate for the ____ party. I do solemnly swear that: I will meet the qualifications
187 to hold the office, both legally and constitutionally, if selected; I reside at _____ in
188 the City or Town of ____, Utah, Zip Code ____ Phone No. ____; I will not knowingly violate
189 any law governing campaigns and elections; I will file all campaign financial disclosure reports
190 as required by law; and I understand that failure to do so will result in my disqualification as a
191 candidate for this office and removal of my name from the ballot. The mailing address that I
192 designate for receiving official election notices is _____.

193 _____

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

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

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

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

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

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

203 (i) who is disqualified; or

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

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

207 (ii) The lieutenant governor shall:

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

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

214 (d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy
215 without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by
216 an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer,
217 a financial statement filed at the time the affidavit is submitted.

218 (ii) A person who is able to pay the filing fee may not claim impecuniosity.

219 (iii) (A) False statements made on an affidavit of impecuniosity or a financial
220 statement filed under this section shall be subject to the criminal penalties provided under
221 Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

222 (B) Conviction of a criminal offense under Subsection (5)(d)(iii)(A) shall be
223 considered an offense under this title for the purposes of assessing the penalties provided in
224 Subsection 20A-1-609(2).

225 (iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in
226 substantially the following form:

227 "Affidavit of Impecuniosity
228 Individual Name _____
229 _____ Address _____
230 Phone Number _____
231 I, _____ (name), do solemnly [swear] [affirm], under penalty of law
232 for false statements, that, owing to my poverty, I am unable to pay the filing fee required by
233 law.
234 Date _____ Signature _____
235 Affiant
236 Subscribed and sworn to before me on _____ (month\day\year)

237 _____
238 (signature)
239 Name and Title of Officer Authorized to Administer Oath _____"

240 (v) The filing officer shall provide to a person who requests an affidavit of
241 impecuniosity a statement printed in substantially the following form, which may be included
242 on the affidavit of impecuniosity:

243 "Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a
244 candidate who is found guilty of filing a false statement, in addition to being subject to criminal

e ballot."

246 (vi) The filing officer may request that a person who makes a claim of impecuniosity
 247 under this Subsection (5)(d) file a financial statement on a form prepared by the election
 248 official.

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

251 (7) A declaration of candidacy filed under this section may not be amended or
 252 modified after the final date established for filing a declaration of candidacy.

253 Section 3. Section **53-6-205** is amended to read:

254 **53-6-205. Completion of training course required -- Persons affected.**

255 ~~[(1)(a) Except as provided in Subsection (2), a peace officer in this state must~~
 256 ~~successfully complete the basic course at a certified academy, or successfully pass a state~~
 257 ~~certification examination according to the requirements of Section 53-6-206, before that person~~
 258 ~~can be certified.]~~

259 (1) (a) Except as provided in Subsection (2), before a person may be certified as a
 260 peace officer in Utah the person shall:

261 (i) successfully complete the basic training course at a certified academy;

262 (ii) pass the certification examination; and

263 (iii) pass a physical fitness test.

264 (b) A person may not exercise peace officer ~~[powers]~~ authority until certified.

265 (2) Subsection (1) applies only to persons not previously certified and who receive
 266 their first employment appointment or election as a peace officer in ~~[this state]~~ Utah on or after
 267 January 1, 1985.

268 Section 4. Section **53-6-206** is repealed and reenacted to read:

269 **53-6-206. Waiver of training course requirement.**

270 (1) The director may waive the required basic peace officer training course and certify
 271 an applicant who:

272 (a) provides proof that the applicant meets the requirements under Section 53-6-203
 273 relating to qualifications for admission to the training course;

274 (b) provides proof that the applicant has completed a basic peace officer training
 275 program that, in the director's judgment, is equivalent to the course required for certification

276 under this part:

277 (c) passes the certification examination; and

278 (d) passes a physical fitness test.

279 (2) A waiver applicant may not exercise peace officer authority until all waiver process
280 requirements have been met and the applicant has been certified.

281 (3) If an applicant fails the examination under Subsection (1)(c), the director may not
282 waive the required basic peace officer training course and the applicant shall comply with all of
283 the requirements in Subsection 53-6-205(1) to be certified as a peace officer in Utah.

284 Section 5. Section **53-6-208** is amended to read:

285 **53-6-208. Inactive certificates -- Lapse of certificate -- Reinstatement.**

286 (1) (a) The certificate of a peace officer who has not been actively engaged in
287 performing the duties of a peace officer for [~~one year shall be~~] 18 consecutive months or more
288 is designated "inactive."

289 [~~(b) If a peace officer having an inactive certificate becomes reemployed or~~
290 ~~subsequently reengaged as a peace officer, his certificate may be reissued or reinstated by the~~
291 ~~director upon successful completion by that peace officer of the waiver process established by~~
292 ~~the director.]~~

293 [~~(c) The director may require a peace officer with an inactive certificate to successfully~~
294 ~~complete the basic training course before reissuing or reinstating certification.]~~

295 (b) A peace officer whose certificate is inactive shall pass the certification examination
296 and a physical fitness test before the certificate may be reissued or reinstated.

297 (2) (a) The certificate of a peace officer [~~lapses if he~~] who has not been actively
298 engaged in performing the duties of a peace officer for four continuous years[~~;~~] or more is
299 designated as "lapsed."

300 [~~(b) Subject to Section 53-6-206, the peace officer shall successfully complete the~~
301 ~~basic training course before the certificate may be reissued or reinstated.]~~

302 (b) A peace officer whose certificate is lapsed shall pass the basic training course at a
303 certified academy, the certification examination, and a physical fitness test before the
304 certificate may be reissued or reinstated.

305 Section 6. Section **53-13-103** is amended to read:

306 **53-13-103. Law enforcement officer.**

307 (1) (a) "Law enforcement officer" means a sworn and certified peace officer who is an
308 employee of a law enforcement agency that is part of or administered by the state or any of its
309 political subdivisions, and whose primary and principal duties consist of the prevention and
310 detection of crime and the enforcement of criminal statutes or ordinances of this state or any of
311 its political subdivisions.

312 (b) "Law enforcement officer" specifically includes the following:

313 (i) any sheriff or deputy sheriff, chief of police, police officer, or marshal of any
314 county, city, or town;

315 (ii) the commissioner of public safety and any member of the Department of Public
316 Safety certified as a peace officer;

317 (iii) all persons specified in Sections 23-20-1.5 and 79-4-501;

318 (iv) any police officer employed by any college or university;

319 (v) investigators for the Motor Vehicle Enforcement Division;

320 (vi) special agents or investigators employed by the attorney general, district attorneys,
321 and county attorneys;

322 (vii) employees of the Department of Natural Resources designated as peace officers
323 by law;

324 (viii) school district police officers as designated by the board of education for the
325 school district;

326 (ix) the executive director of the Department of Corrections and any correctional
327 enforcement or investigative officer designated by the executive director and approved by the
328 commissioner of public safety and certified by the division;

329 (x) correctional enforcement, investigative, or adult probation and parole officers
330 employed by the Department of Corrections serving on or before July 1, 1993;

331 (xi) members of a law enforcement agency established by a private college or
332 university provided that the college or university has been certified by the commissioner of
333 public safety according to rules of the Department of Public Safety;

334 (xii) airport police officers of any airport owned or operated by the state or any of its
335 political subdivisions; and

336 (xiii) transit police officers designated under Section 17B-2a-823.

337 (2) Law enforcement officers may serve criminal process and arrest violators of any

338 law of this state and have the right to require aid in executing their lawful duties.

339 (3) (a) A law enforcement officer has statewide full-spectrum peace officer authority,
340 but the authority extends to other counties, cities, or towns only when the officer is acting
341 under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law enforcement officer is
342 employed by the state.

343 (b) (i) A local law enforcement agency may limit the jurisdiction in which its law
344 enforcement officers may exercise their peace officer authority to a certain geographic area.

345 (ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise [his]
346 authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act
347 on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the
348 limited geographic area.

349 (c) The authority of law enforcement officers employed by the Department of
350 Corrections is regulated by Title 64, Chapter 13, Department of Corrections - State Prison.

351 (4) A law enforcement officer shall, prior to exercising peace officer authority[;
352 ~~satisfactorily complete~~]:

353 [~~(a) the basic course at a certified law enforcement officer training academy or pass a~~
354 ~~certification examination as provided]~~

355 (a) (i) have satisfactorily completed the requirements of Section 53-6-205; or

356 (ii) have met the waiver requirements in Section 53-6-206[~~, and be certified~~]; and

357 (b) shall have satisfactorily completed annual certified training of at least 40 hours per
358 year as directed by the director of the division, with the advice and consent of the council.

Legislative Review Note
as of 1-28-11 12:20 PM

Office of Legislative Research and General Counsel