

**ELECTION CODE CRIMINAL PROVISIONS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Keith Grover**

Senate Sponsor: Margaret Dayton

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**LONG TITLE**

**General Description:**

This bill amends provisions in Title 20A, Election Code, regarding the penalty for and prosecution of violations of the Election Code.

**Highlighted Provisions:**

This bill:

- ▶ standardizes language that establishes certain criminal penalties in Title 20A, Election Code;
- ▶ repeals provisions that specify who is required to prosecute a violation of Title 20A, Election Code; and
- ▶ makes technical and conforming amendments.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

- 20A-4-501**, as enacted by Laws of Utah 1993, Chapter 1
- 20A-4-502**, as enacted by Laws of Utah 1993, Chapter 1
- 20A-5-701**, as last amended by Laws of Utah 2007, Chapter 75
- 20A-5-702**, as enacted by Laws of Utah 1993, Chapter 1
- 20A-5-705**, as enacted by Laws of Utah 1993, Chapter 1
- 20A-7-213**, as last amended by Laws of Utah 2003, Chapter 304

30 20A-7-312, as last amended by Laws of Utah 2009, Chapter 202

31 20A-7-512, as last amended by Laws of Utah 2001, Chapter 20

32 20A-8-103, as last amended by Laws of Utah 2012, Chapter 75

33 20A-9-502, as last amended by Laws of Utah 2012, Chapter 75

34 REPEALS:

35 20A-4-503, as enacted by Laws of Utah 1993, Chapter 1



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

38 Section 1. Section 20A-4-501 is amended to read:

39 **20A-4-501. Election returns -- Forgery.**

40 (1) It is unlawful for any person to:

41 (a) forge or counterfeit any election returns from any election purporting to have been  
42 held at any voting precinct where no election was in fact held;

43 (b) willfully substitute any forged or counterfeit election returns in the place of the true  
44 return for a voting precinct where any election was actually held; or

45 (c) commit or cause any fraud in any election in any manner.

46 (2) ~~[Each person who violates this section may be sentenced to imprisonment in the~~  
47 ~~state prison for a term of not less than two nor more than 10 years]~~ A violation of this section is  
48 a third degree felony.

49 Section 2. Section 20A-4-502 is amended to read:

50 **20A-4-502. Altering vote count or returns.**

51 (1) It is unlawful for any person to:

52 (a) willfully add to or subtract from the votes actually cast at an election in any election  
53 returns; or

54 (b) alter any election returns.

55 (2) Any person who violates this section ~~[may be sentenced to imprisonment in the~~  
56 ~~state prison for not less than one nor more than five years]~~ is guilty of a third degree felony.

57 Section 3. Section 20A-5-701 is amended to read:

58           **20A-5-701. Willful neglect of duty or corrupt conduct -- Penalty.**

59           (1) It is unlawful for any poll worker to willfully neglect [~~his~~] the poll worker's duty or  
60 to willfully act corruptly in discharging [~~his~~] the poll worker's duty.

61           (2) Any poll worker who violates this section is guilty of a third degree felony [~~and,~~  
62 ~~upon conviction, shall be punished by a fine of \$500 or by confinement in the state prison for~~  
63 ~~not less than one year or both~~].

64           Section 4. Section **20A-5-702** is amended to read:

65           **20A-5-702. Destroying or concealing ballots.**

66           (1) It is unlawful for any person, or officer having charge of official ballots, to destroy,  
67 suppress, or conceal them, except authorized by this title.

68           (2) Any person who violates this section is guilty of a third degree felony[~~, and shall be~~  
69 ~~punished by imprisonment in the state prison for not less than one year nor more than five~~  
70 ~~years~~].

71           Section 5. Section **20A-5-705** is amended to read:

72           **20A-5-705. Officer or watcher revealing vote.**

73           (1) It is unlawful for any election official or watcher to reveal to any other person the  
74 name of any candidate for whom a voter has voted, or to communicate to another [~~his~~] the  
75 election official's or watcher's opinion, belief, or impression as to how or for whom a voter has  
76 voted.

77           (2) [~~Any election official or watcher~~] A person who violates this section is guilty of a  
78 class A misdemeanor [~~and shall be imprisoned for not less than six months, and fined not less~~  
79 ~~than \$250~~].

80           Section 6. Section **20A-7-213** is amended to read:

81           **20A-7-213. Misconduct of electors and officers -- Penalty.**

82           (1) It is unlawful for any person to:

83           (a) sign any name other than [~~his~~] the person's own to any initiative petition;

84           (b) knowingly sign [~~his~~] the person's name more than once for the same measure at one  
85 election;

86 (c) sign an initiative knowing [he] the person is not a legal voter; or

87 (d) knowingly and willfully violate any provision of this part.

88 (2) It is unlawful for any person to sign the verification for an initiative packet knowing

89 that:

90 (a) [he] the person does not meet the residency requirements of Section 20A-2-105;

91 (b) [he] the person has not witnessed the signatures of those persons whose names

92 appear in the initiative packet; or

93 (c) one or more persons whose signatures appear in the initiative packet is either:

94 (i) not registered to vote in Utah; or

95 (ii) does not intend to become registered to vote in Utah.

96 (3) It is unlawful for any person to:

97 (a) pay a person to sign an initiative petition;

98 (b) pay a person to remove the person's signature from an initiative petition;

99 (c) accept payment to sign an initiative petition; or

100 (d) accept payment to have the person's name removed from an initiative petition.

101 (4) Any person violating this section is guilty of a class A misdemeanor.

102 [~~5) The attorney general or the county attorney shall prosecute any violation of this~~  
103 ~~section.~~]

104 Section 7. Section **20A-7-312** is amended to read:

105 **20A-7-312. Misconduct of electors and officers -- Penalty.**

106 (1) It is unlawful for any person to:

107 (a) sign any name other than [his] the person's own to any referendum petition;

108 (b) knowingly sign [his] the person's name more than once for the same measure at one  
109 election;

110 (c) sign a referendum knowing [he] the person is not a legal voter; or

111 (d) knowingly and willfully violate any provision of this part.

112 (2) It is unlawful for any person to sign the verification for a referendum packet  
113 knowing that:

114 (a) ~~he~~ the person does not meet the residency requirements of Section 20A-2-105;

115 (b) ~~he~~ the person has not witnessed the signatures of those persons whose names  
116 appear in the referendum packet; or

117 (c) one or more persons whose signatures appear in the referendum packet is either:

118 (i) not registered to vote in Utah; or

119 (ii) does not intend to become registered to vote in Utah.

120 (3) Any person violating this section is guilty of a class A misdemeanor.

121 ~~[(4) The attorney general or the county or district attorney shall prosecute any violation~~  
122 ~~of this section.]~~

123 Section 8. Section **20A-7-512** is amended to read:

124 **20A-7-512. Misconduct of electors and officers -- Penalty.**

125 (1) It is unlawful for any person to:

126 (a) sign any name other than ~~his~~ the person's own to any initiative petition;

127 (b) knowingly sign ~~his~~ the person's name more than once for the same measure at one  
128 election;

129 (c) sign an initiative knowing ~~he~~ the person is not a legal voter; or

130 (d) knowingly and willfully violate any provision of this part.

131 (2) It is unlawful for any person to sign the verification for an initiative packet knowing  
132 that:

133 (a) ~~he~~ the person does not meet the residency requirements of Section 20A-2-105;

134 (b) ~~he~~ the person has not witnessed the signatures of those persons whose names  
135 appear in the initiative packet; or

136 (c) one or more persons whose signatures appear in the initiative packet is either:

137 (i) not registered to vote in Utah; or

138 (ii) does not intend to become registered to vote in Utah.

139 (3) Any person violating this part is guilty of a class A misdemeanor.

140 ~~[(4) The county attorney or municipal attorney shall prosecute any violation of this~~  
141 ~~section.]~~

142 Section 9. Section **20A-8-103** is amended to read:

143 **20A-8-103. Petition procedures -- Criminal penalty.**

144 (1) As used in this section, the proposed name or emblem of a registered political party  
145 is "distinguishable" if a reasonable person of average intelligence will be able to perceive a  
146 difference between the proposed name or emblem and any name or emblem currently being  
147 used by another registered political party.

148 (2) To become a registered political party, an organization of registered voters that is  
149 not a continuing political party shall:

150 (a) circulate a petition seeking registered political party status beginning no earlier than  
151 the date of the statewide canvass held after the last regular general election and ending no later  
152 than the February 15 of the year in which the next regular general election will be held; and

153 (b) file a petition with the lieutenant governor that is signed, with a holographic  
154 signature, by at least 2,000 registered voters on or before February 15 of the year in which a  
155 regular general election will be held.

156 (3) The petition shall:

157 (a) be on sheets of paper 8-1/2 inches long and 11 inches wide;

158 (b) be ruled with a horizontal line 3/4 inch from the top, with the space above that line  
159 blank for the purpose of binding;

160 (c) contain the name of the political party and the words "Political Party Registration  
161 Petition" printed directly below the horizontal line;

162 (d) contain the word "Warning" printed directly under the words described in  
163 Subsection (3)(c);

164 (e) contain, to the right of the word "Warning," the following statement printed in not  
165 less than eight-point, single leaded type:

166 "It is a class A misdemeanor for anyone to knowingly sign a political party registration  
167 petition signature sheet with any name other than the person's own name or more than once for  
168 the same party or if the person is not registered to vote in this state and does not intend to  
169 become registered to vote in this state before the petition is submitted to the lieutenant

170 governor.";

171 (f) contain the following statement directly under the statement described in Subsection

172 (3)(e):

173 "POLITICAL PARTY REGISTRATION PETITION To the Honorable \_\_\_\_\_,

174 Lieutenant Governor:

175 We, the undersigned citizens of Utah, seek registered political party status for \_\_\_\_\_

176 (name);

177 Each signer says:

178 I have personally signed this petition with a holographic signature;

179 I am registered to vote in Utah or will register to vote in Utah before the petition is

180 submitted to the lieutenant governor;

181 I am or desire to become a member of the political party; and

182 My street address is written correctly after my name."; and

183 (g) be vertically divided into columns as follows:

184 (i) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be

185 headed with "For Office Use Only," and be subdivided with a light vertical line down the

186 middle;

187 (ii) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed

188 Name (must be legible to be counted)";

189 (iii) the next column shall be 2-1/2 inches wide, headed "Holographic Signature of

190 Registered Voter";

191 (iv) the next column shall be one inch wide, headed "Birth Date or Age (Optional)";

192 (v) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip

193 Code"; and

194 (vi) at the bottom of the sheet, contain the following statement: "Birth date or age

195 information is not required, but it may be used to verify your identity with voter registration

196 records. If you choose not to provide it, your signature may not be certified as a valid signature

197 if you change your address before petition signatures are certified or if the information you

198 provide does not match your voter registration records.";

199 (h) have a final page bound to one or more signature sheets that are bound together that  
200 contains the following printed statement:

201 "Verification  
202 State of Utah, County of \_\_\_\_\_

203 I, \_\_\_\_\_, of \_\_\_\_\_, hereby state that:

204 I am a Utah resident and am at least 18 years old;

205 All the names that appear on the signature sheets bound to this page were signed by  
206 persons who professed to be the persons whose names appear on the signature sheets, and each  
207 of them signed the person's name on the signature sheets in my presence;

208 I believe that each has printed and signed the person's name and written the person's  
209 street address correctly, and that each signer is registered to vote in Utah or will register to vote  
210 in Utah before the petition is submitted to the lieutenant governor.

211 \_\_\_\_\_  
212 (Signature) (Residence Address) (Date)"; and

213 (i) be bound to a cover sheet that:

214 (i) identifies the political party's name, which may not exceed four words, and the  
215 emblem of the party;

216 (ii) states the process that the organization will follow to organize and adopt a  
217 constitution and bylaws; and

218 (iii) is signed by a filing officer, who agrees to receive communications on behalf of  
219 the organization.

220 (4) The filing officer described in Subsection (3)(i)(iii) shall ensure that the person in  
221 whose presence each signature sheet is signed:

222 (a) is at least 18 years old;

223 (b) meets the residency requirements of Section 20A-2-105; and

224 (c) verifies each signature sheet by completing the verification bound to one or more  
225 signature sheets that are bound together.

226 (5) A person may not sign the verification if the person signed a signature sheet bound  
227 to the verification.

228 (6) The lieutenant governor shall:

229 (a) determine whether the required number of voters appears on the petition;

230 (b) review the proposed name and emblem to determine if they are "distinguishable"  
231 from the names and emblems of other registered political parties; and

232 (c) certify the lieutenant governor's findings to the filing officer described in  
233 Subsection (3)(i)(iii) within 30 days of the filing of the petition.

234 (7) (a) If the lieutenant governor determines that the petition meets the requirements of  
235 this section, and that the proposed name and emblem are distinguishable, the lieutenant  
236 governor shall authorize the filing officer described in Subsection (3)(i)(iii) to organize the  
237 prospective political party.

238 (b) If the lieutenant governor finds that the name, emblem, or both are not  
239 distinguishable from the names and emblems of other registered political parties, the lieutenant  
240 governor shall notify the filing officer that the filing officer has seven days to submit a new  
241 name or emblem to the lieutenant governor.

242 (8) A registered political party may not change its name or emblem during the regular  
243 general election cycle.

244 (9) (a) It is unlawful for any person to:

245 (i) knowingly sign a political party registration petition:

246 (A) with any name other than the person's own name;

247 (B) more than once for the same political party; or

248 (C) if the person is not registered to vote in this state and does not intend to become  
249 registered to vote in this state before the petition is submitted to the lieutenant governor; or

250 (ii) sign the verification of a political party registration petition signature sheet if the  
251 person:

252 (A) does not meet the residency requirements of Section 20A-2-105;

253 (B) has not witnessed the signing by those persons whose names appear on the political

254 party registration petition signature sheet; or

255 (C) knows that a person whose signature appears on the political party registration  
256 petition signature sheet is not registered to vote in this state and does not intend to become  
257 registered to vote in this state.

258 (b) Any person violating this Subsection (9) is guilty of a class A misdemeanor.

259 ~~[(c) The attorney general or the county attorney shall prosecute any violation of this~~  
260 ~~Subsection (9).]~~

261 Section 10. Section **20A-9-502** is amended to read:

262 **20A-9-502. Certificate of nomination -- Contents -- Circulation -- Verification --**  
263 **Criminal penalty.**

264 (1) The candidate shall:

265 (a) prepare a certificate of nomination in substantially the following form:

266 "State of Utah, County of \_\_\_\_\_

267 I, \_\_\_\_\_, declare my intention of becoming an unaffiliated candidate for the  
268 political group designated as \_\_\_\_ for the office of \_\_\_\_\_. I do solemnly swear that I can  
269 qualify to hold that office both legally and constitutionally if selected, and that I reside at \_\_\_\_  
270 Street, in the city of \_\_\_\_\_, county of \_\_\_\_\_, state of \_\_\_\_\_, zip code \_\_\_\_\_, phone \_\_\_\_\_, and  
271 that I am providing, or have provided, the required number of holographic signatures of  
272 registered voters required by law; that as a candidate at the next election I will not knowingly  
273 violate any election or campaign law; I will file all campaign financial disclosure reports as  
274 required by law; and I understand that failure to do so will result in my disqualification as a  
275 candidate for this office and removal of my name from the ballot.

276 \_\_\_\_\_  
277 Subscribed and sworn to before me this \_\_\_\_\_(month\day\year).

278 \_\_\_\_\_  
279 Notary Public (or other officer  
280 qualified to administer oaths);

281 (b) bind signature sheets to the certificate that:

- 282 (i) are printed on sheets of paper 8-1/2 inches long and 11 inches wide;
- 283 (ii) are ruled with a horizontal line 3/4 inch from the top, with the space above that line  
284 blank for the purpose of binding;
- 285 (iii) contain the name of the proposed candidate and the words "Unaffiliated Candidate  
286 Certificate of Nomination Petition" printed directly below the horizontal line;
- 287 (iv) contain the word "Warning" printed directly under the words described in  
288 Subsection (1)(b)(iii);
- 289 (v) contain, to the right of the word "Warning," the following statement printed in not  
290 less than eight-point, single leaded type:
- 291 "It is a class A misdemeanor for anyone to knowingly sign a certificate of nomination  
292 signature sheet with any name other than the person's own name or more than once for the  
293 same candidate or if the person is not registered to vote in this state and does not intend to  
294 become registered to vote in this state before the county clerk certifies the signatures.";
- 295 (vi) contain the following statement directly under the statement described in  
296 Subsection (1)(b)(v):
- 297 "Each signer says:  
298 I have personally signed this petition with a holographic signature;  
299 I am registered to vote in Utah or intend to become registered to vote in Utah before the  
300 county clerk certifies my signature; and  
301 My street address is written correctly after my name.";
- 302 (vii) contain horizontally ruled lines, 3/8 inch apart under the statement described in  
303 Subsection (1)(b)(vi); and
- 304 (viii) be vertically divided into columns as follows:
- 305 (A) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be  
306 headed with "For Office Use Only," and be subdivided with a light vertical line down the  
307 middle;
- 308 (B) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed  
309 Name (must be legible to be counted)";

310 (C) the next column shall be 2-1/2 inches wide, headed "Holographic Signature of  
311 Registered Voter";

312 (D) the next column shall be one inch wide, headed "Birth Date or Age (Optional)";

313 (E) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip  
314 Code"; and

315 (F) at the bottom of the sheet, contain the following statement: "Birth date or age  
316 information is not required, but it may be used to verify your identity with voter registration  
317 records. If you choose not to provide it, your signature may not be certified as a valid signature  
318 if you change your address before petition signatures are certified or if the information you  
319 provide does not match your voter registration records."; and

320 (c) bind a final page to one or more signature sheets that are bound together that  
321 contains, except as provided by Subsection (2), the following printed statement:

322 "Verification  
323 State of Utah, County of \_\_\_\_\_

324 I, \_\_\_\_\_, of \_\_\_\_\_, hereby state that:

325 I am a Utah resident and am at least 18 years old;

326 All the names that appear on the signature sheets bound to this page were signed by  
327 persons who professed to be the persons whose names appear on the signature sheets, and each  
328 of them signed the person's name on the signature sheets in my presence;

329 I believe that each has printed and signed the person's name and written the person's  
330 street address correctly, and that each signer is registered to vote in Utah or will register to vote  
331 in Utah before the county clerk certifies the signatures on the signature sheet.

332 \_\_\_\_\_  
333 (Signature) (Residence Address) (Date)".

334 (2) (a) The candidate shall circulate the nomination petition and ensure that the person  
335 in whose presence each signature sheet is signed:

336 (i) is at least 18 years old;

337 (ii) except as provided by Subsection (2)(b), meets the residency requirements of

338 Section 20A-2-105; and

339 (iii) verifies each signature sheet by completing the verification bound to one or more  
340 signature sheets that are bound together.

341 (b) A person who is not a resident may sign the verification on a petition for an  
342 unaffiliated candidate for the office of President of the United States.

343 (c) A person may not sign the verification if the person signed a signature sheet bound  
344 to the verification.

345 (3) (a) It is unlawful for any person to:

346 (i) knowingly sign a certificate of nomination signature sheet:

347 (A) with any name other than the person's own name;

348 (B) more than once for the same candidate; or

349 (C) if the person is not registered to vote in this state and does not intend to become  
350 registered to vote in this state before the county clerk certifies the signatures; or

351 (ii) sign the verification of a certificate of nomination signature sheet if the person:

352 (A) except as provided by Subsection (2)(b), does not meet the residency requirements  
353 of Section 20A-2-105;

354 (B) has not witnessed the signing by those persons whose names appear on the  
355 certificate of nomination signature sheet; or

356 (C) knows that a person whose signature appears on the certificate of nomination  
357 signature sheet is not registered to vote in this state and does not intend to become registered to  
358 vote in this state.

359 (b) Any person violating this Subsection (3) is guilty of a class A misdemeanor.

360 ~~[(c) The attorney general or the county attorney shall prosecute any violation of this~~  
361 ~~Subsection (3).]~~

362 (4) (a) The candidate shall submit the petition and signature sheets to the county clerk  
363 for certification when the petition has been completed by:

364 (i) at least 1,000 registered voters residing within the state when the nomination is for  
365 an office to be filled by the voters of the entire state; or

366 (ii) at least 300 registered voters residing within a political division or at least 5% of  
367 the registered voters residing within a political division, whichever is less, when the  
368 nomination is for an office to be filled by the voters of any political division smaller than the  
369 state.

370 (b) In reviewing the petition, the county clerk shall count and certify only those persons  
371 who signed the petition with a holographic signature who:

372 (i) are registered voters within the political division that the candidate seeks to  
373 represent; and

374 (ii) did not sign any other certificate of nomination for that office.

375 (c) The candidate may supplement or amend the certificate of nomination at any time  
376 on or before the filing deadline.

377 **Section 11. Repealer.**

378 This bill repeals:

379 **Section 20A-4-503, Abetting forgery or alteration.**