

SB0036S03 compared with SB0036S02

~~text~~ shows text that was in SB0036S02 but was deleted in SB0036S03.

text shows text that was not in SB0036S02 but was inserted into SB0036S03.

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Senator Karen Mayne proposes the following substitute bill:

VOTER INFORMATION AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: Lee B. Perry

LONG TITLE

General Description:

This bill amends provisions of the Election Code, and related provisions, in relation to disclosure of, and the use of, the list of registered voters and information from the list of registered voters.

Highlighted Provisions:

This bill:

- ▶ prohibits a person, other than ~~an election officer~~ a government official or employee, from using the list of registered voters, or information obtained from the list of registered voters, for certain purposes, including commercial purposes ~~or harassment~~;
- ▶ subject to certain exceptions, prohibits a person from reproducing the list of registered voters, or information obtained from the list of registered voters;

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- ▶ prohibits a person from using the list of registered voters, or information obtained from the list of registered voters, to solicit donations or to conduct surveys;
- ▶ prohibits a person from providing the list of registered voters, or information obtained from the list of registered voters, to another person if the person providing the information has reason to believe that the other person will use the list, or information obtained from the list, in violation of the provisions of this bill;
- ▶ provides exceptions to certain provisions of this bill if the list of registered voters, or information obtained from the list of registered voters, is used for political, scholarly, journalistic, or governmental purposes;
- ▶ describes the circumstances under which the lieutenant governor or a county clerk may disclose the list of registered voters or information from the list of registered voters;
- ▶ requires a person who requests the list of registered voters, or information from the list of registered voters, to provide identification, other information, and assurances regarding the use of the list and information from the list;
- ▶ provides that making a false statement when providing the information and assurances described above constitutes a crime; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-2-104, as last amended by Laws of Utah 2010, Chapter 197

63G-2-301, as last amended by Laws of Utah 2013, Chapters 231, 296, 426, and 445

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

Section 1. Section **20A-2-104** is amended to read:

20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.

(1) Every person applying to be registered shall complete a registration form printed in

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substantially the following form:

UTAH ELECTION REGISTRATION FORM

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

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

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

Name of Voter

First Middle Last

Utah Driver License or Utah Identification Card Number _____

Date of Birth _____

Street Address of Principal Place of Residence

City County State Zip Code

Telephone Number (optional) _____

Last four digits of Social Security Number _____

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

City County State Zip Code

Political Party

(a listing of each registered political party, as defined in Section 20A-8-101 and maintained by the lieutenant governor under Section 67-1a-2, with each party's name preceded by a checkbox)

Unaffiliated (no political party preference) Other (Please specify) _____

I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. I will be at least 18 years old and will have resided in Utah for 30 days immediately before the next election. I am not a convicted felon currently incarcerated for commission of a felony.

Signed and sworn

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Voter's Signature

_____ (month/day/year).

CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered to vote if you know you are not entitled to register to vote is up to one year in jail and a fine of up to \$2,500.

NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID VOTER IDENTIFICATION TO THE POLL WORKER BEFORE VOTING, WHICH MUST BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND PHOTOGRAPH; OR

TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND CURRENT ADDRESS.

FOR OFFICIAL USE ONLY

Type of I.D. _____

Voting Precinct _____

Voting I.D. Number _____

(2) (a) Except as provided under Subsection (2)(b), the county clerk shall retain a copy of each voter registration form in a permanent countywide alphabetical file, which may be electronic or some other recognized system.

(b) The county clerk may transfer a superceded voter registration form to the Division

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of Archives and Records Service created under Section 63A-12-101.

(3) (a) Each county clerk shall retain lists of currently registered voters.

(b) The lieutenant governor shall maintain a list of registered voters in electronic form.

(c) If there are any discrepancies between the two lists, the county clerk's list is the official list.

(d) The lieutenant governor and the county clerks may charge the fees established under the authority of Subsection 63G-2-203(10) to individuals who wish to obtain a copy of the list of registered voters.

(4) (a) ~~{A}~~ Except as provided in Subsection (4)(d), a person ~~}, other than an election officer acting in the election officer's capacity as an election officer,~~ may not use the list of registered voters, or information obtained from the list of registered voters, for the purpose of:

(i) except as provided in Subsection (4)(~~f~~~~e~~):

(A) selling the list or information;

(B) selling use of the list or information; or

(C) advertising, soliciting, selling, or marketing products or services to a person;

(ii) except as provided in Subsection (4)(~~e~~~~f~~), providing the list or information through a medium that displays or sends paid advertising to a person that accesses the list or information;

(iii) except as provided in Subsection (4)(~~f~~~~f~~~~g~~), soliciting a donation;

(iv) except as provided in Subsection (4)(~~f~~~~g~~~~h~~), conducting a survey;

(v) charging a fee to a person to have the person's information, or a portion of the person's information, removed, withheld, or changed; or

(vi) harassing a person.

(b) Except as provided in Subsection (4)(~~h~~~~i~~~~d~~) or (i), a person may not reproduce the list of registered voters, or information obtained from the list of registered voters, in any manner, including print, visual or audio format, electronic format, on the Internet, or via computer terminal.

(c) A person may not provide the list of registered voters, or information obtained from the list of registered voters, to another person if the person providing the list or information has reason to believe that the other person will use the list ~~{of registered voters, }~~ or information ~~{obtained from the list of registered voters, }~~ in violation of Subsection (4)(a) or (b).

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(d) The provisions of Subsections (4)(a)(i) through (v) and (4)(b) do not apply to a person described in Subsection (6)(a)(i).

(e) Subsection (4)(a)(i) does not prohibit a political party or other organization from selling to its members for no more than the cost of production, information compiled using, in part, information obtained from the list of registered voters, if the compiled information is intended for use solely for political purposes.

(~~f~~f) Subsection (4)(a)(ii) does not prohibit a person from providing information obtained from the list of registered voters as part of a newspaper or other journalistic publication.

(~~ff~~g) Subsection (4)(a)(iii) does not prohibit a person from using information obtained from the list of registered voters to solicit a donation for political or governmental purposes.

(~~fg~~h) Subsection (4)(a)(iv) does not prohibit a person from using information obtained from the list of registered voters to conduct a survey for political, scholarly, journalistic, or governmental purposes.

(~~fh~~i) Subsection (4)(b) does not prohibit a person from reproducing the list of registered voters, or information obtained from the list of registered voters, for political, scholarly, journalistic, or governmental purposes.

(~~fi~~i) The lieutenant governor or a county clerk may not disclose the list of registered voters, or information obtained from the list of registered voters, to a person other than ~~an authorized government official~~ a person described in Subsection (6)(a)(i), unless the person:

(i) provides proof of the person's identity; and

(ii) signs a document that includes the following:

(A) the name, address, and telephone number of the person requesting the list or information from the list;

(B) a statement regarding the purpose for which the person desires to obtain the list;

(C) a list of the purposes for which the list, or information obtained from the list, may be used and may not be used;

(D) an assertion from the person that the person will not use the list, or information obtained from the list, for a purpose prohibited by law;

(E) notice that if the person makes a false statement in the document, the person is

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punishable by law under Section 76-8-504; and

(F) notice that a person who uses the list, or information obtained from the list, in a manner that is prohibited by law is guilty of a class B misdemeanor.

(~~ff~~k) The lieutenant governor or a county clerk may not disclose the list of registered voters, or information obtained from the list of registered voters, to a person that the lieutenant governor or county clerk reasonably believes will use the list, or information obtained from the list, in a manner prohibited by law.

(~~fk~~l) A person is guilty of a class B misdemeanor if the person uses the list of registered voters, or information obtained from the list of registered voters, in violation of Subsection (4)(a), (b), or (c).

(5) Subsection (4) does not prohibit a person from obtaining or using the list of registered voters, or information obtained from the list of registered voters, for research purposes if the person does not use the list of registered voters, or information obtained from the list of registered voters, for a purpose prohibited under Subsection (4).

(6) (a) As used in this Subsection (6), "qualified person" means:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or a government employee; or

(ii) a health care provider, as defined in Section 26-33a-102.

(b) Notwithstanding Subsection (4), a person may sell or provide the list of registered voters, or information obtained from the list of registered voters, to a qualified person if the person selling or providing the list, or information obtained from the list:

(i) ensures, using industry standard security measures, that the list, or information obtained from the list, may not be accessed by a person other than a qualified person; and

(ii) verifies that the list, or information obtained from the list, will only be used by:

(A) the qualified person to confirm the identity of a person in order to prevent fraud, waste, or abuse; or

(B) a person described in Subsection (6)(a)(i).

[~~(4)~~ (~~f5~~7) When political parties not listed on the voter registration form qualify as registered political parties under Title 20A, Chapter 8, Political Party Formation and Procedures, the lieutenant governor shall inform the county clerks about the name of the new political party and direct the county clerks to ensure that the voter registration form is modified

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to include that political party.

[(5)] ~~(16)~~ (8) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:

- (a) review each voter registration form for completeness and accuracy; and
- (b) if the county clerk believes, based upon a review of the form, that a person may be seeking to register to vote who is not legally entitled to register to vote, refer the form to the county attorney for investigation and possible prosecution.

Section 2. Section **63G-2-301** is amended to read:

63G-2-301. Public records.

- (1) As used in this section:
 - (a) "Business address" means a single address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.
 - (b) "Business email address" means a single email address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.
 - (c) "Business telephone number" means a single telephone number of a governmental agency designated for the public to contact an employee or officer of the governmental agency.
- (2) The following records are public except to the extent they contain information expressly permitted to be treated confidentially under the provisions of Subsections 63G-2-201(3)(b) and (6)(a):
 - (a) laws;
 - (b) the name, gender, gross compensation, job title, job description, business address, business email address, business telephone number, number of hours worked per pay period, dates of employment, and relevant education, previous employment, and similar job qualifications of a current or former employee or officer of the governmental entity, excluding:
 - (i) undercover law enforcement personnel; and
 - (ii) investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;
 - (c) final opinions, including concurring and dissenting opinions, and orders that are made by a governmental entity in an administrative, adjudicative, or judicial proceeding except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they contain information that is private, controlled, or protected;

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(d) final interpretations of statutes or rules by a governmental entity unless classified as protected as provided in Subsection 63G-2-305 (17) or (18);

(e) information contained in or compiled from a transcript, minutes, or report of the open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open and Public Meetings Act, including the records of all votes of each member of the governmental entity;

(f) judicial records unless a court orders the records to be restricted under the rules of civil or criminal procedure or unless the records are private under this chapter;

(g) unless otherwise classified as private under Section 63G-2-303, records or parts of records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or other governmental entities that give public notice of:

(i) titles or encumbrances to real property;

(ii) restrictions on the use of real property;

(iii) the capacity of persons to take or convey title to real property; or

(iv) tax status for real and personal property;

(h) records of the Department of Commerce that evidence incorporations, mergers, name changes, and uniform commercial code filings;

(i) data on individuals that would otherwise be private under this chapter if the individual who is the subject of the record has given the governmental entity written permission to make the records available to the public;

(j) documentation of the compensation that a governmental entity pays to a contractor or private provider;

(k) summary data;

(l) subject to Subsection 20A-2-104(4), voter registration records, including an individual's voting history, except for those parts of the record that are classified as private in Subsection 63G-2-302(1)(j);

(m) for an elected official, as defined in Section 11-47-102, a telephone number, if available, and email address, if available, where that elected official may be reached as required in Title 11, Chapter 47, Access to Elected Officials;

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(n) for a school community council member, a telephone number, if available, and email address, if available, where that elected official may be reached directly as required in Section 53A-1a-108.1;

(o) annual audited financial statements of the Utah Educational Savings Plan described in Section 53B-8a-111; and

(p) an initiative packet, as defined in Section 20A-7-101, and a referendum packet, as defined in Section 20A-7-101, after the packet is submitted to a county clerk.

(3) The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b), Section 63G-2-302, 63G-2-304, or 63G-2-305:

(a) administrative staff manuals, instructions to staff, and statements of policy;

(b) records documenting a contractor's or private provider's compliance with the terms of a contract with a governmental entity;

(c) records documenting the services provided by a contractor or a private provider to the extent the records would be public if prepared by the governmental entity;

(d) contracts entered into by a governmental entity;

(e) any account, voucher, or contract that deals with the receipt or expenditure of funds by a governmental entity;

(f) records relating to government assistance or incentives publicly disclosed, contracted for, or given by a governmental entity, encouraging a person to expand or relocate a business in Utah, except as provided in Subsection 63G-2-305(35);

(g) chronological logs and initial contact reports;

(h) correspondence by and with a governmental entity in which the governmental entity determines or states an opinion upon the rights of the state, a political subdivision, the public, or any person;

(i) empirical data contained in drafts if:

(i) the empirical data is not reasonably available to the requester elsewhere in similar form; and

(ii) the governmental entity is given a reasonable opportunity to correct any errors or make nonsubstantive changes before release;

(j) drafts that are circulated to anyone other than:

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- (i) a governmental entity;
 - (ii) a political subdivision;
 - (iii) a federal agency if the governmental entity and the federal agency are jointly responsible for implementation of a program or project that has been legislatively approved;
 - (iv) a government-managed corporation; or
 - (v) a contractor or private provider;
 - (k) drafts that have never been finalized but were relied upon by the governmental entity in carrying out action or policy;
 - (l) original data in a computer program if the governmental entity chooses not to disclose the program;
 - (m) arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;
 - (n) search warrants after execution and filing of the return, except that a court, for good cause, may order restricted access to search warrants prior to trial;
 - (o) records that would disclose information relating to formal charges or disciplinary actions against a past or present governmental entity employee if:
 - (i) the disciplinary action has been completed and all time periods for administrative appeal have expired; and
 - (ii) the charges on which the disciplinary action was based were sustained;
 - (p) records maintained by the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining that evidence mineral production on government lands;
 - (q) final audit reports;
 - (r) occupational and professional licenses;
 - (s) business licenses; and
 - (t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar records used to initiate proceedings for discipline or sanctions against persons regulated by a governmental entity, but not including records that initiate employee discipline.
- (4) The list of public records in this section is not exhaustive and should not be used to limit access to records.