

**RESIDENCY AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Todd Weiler**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions of the Election Code relating to residency.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ modifies and clarifies provisions relating to determining residency for voting and other purposes; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**20A-2-105**, as last amended by Laws of Utah 2011, Chapter 297

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

Section 1. Section **20A-2-105** is amended to read:

**20A-2-105. Determining residency.**

(1) As used in this section:



28           (a) "Principal place of residence" means the single location where a person's habitation  
29 is fixed and to which, whenever the person is absent, the person has the intention of returning.

30           (b) "Resident" means a person whose principal place of residence is within a specific  
31 voting precinct in Utah.

32           ~~[(1) Except as provided in Subsection (4), election]~~

33           (2) Election officials and judges shall apply the standards and requirements of this  
34 section when determining whether ~~[or not]~~ a person is a resident for purposes of interpreting  
35 this title or the Utah Constitution.

36           ~~[(2) A "resident" is a person who resides within a specific voting precinct in Utah as~~  
37 ~~provided in this section.]~~

38           (3) (a) A person resides in Utah if:

39           (i) the person's principal place of residence is within Utah; and

40           (ii) the person has a present intention to ~~[continue residency within]~~ maintain the  
41 person's principal place of residence in Utah permanently or indefinitely.

42           (b) A person resides within a particular voting precinct if, as of the date of registering  
43 to vote, the ~~[person has the]~~ person's principal place of residence is in that voting precinct.

44           ~~[(4) (a) The principal place of residence of any person shall be determined by applying~~  
45 ~~the provisions of this Subsection (4).]~~

46           ~~[(b) A person's "principal place of residence" is that place in which the person's~~  
47 ~~habitation is fixed and to which, whenever the person is absent, the person has the intention of~~  
48 ~~returning.]~~

49           (c) A ~~[person has not gained or lost a residence]~~ person's principal place of residence  
50 does not change solely because the person is present in Utah ~~[or]~~, present in a voting precinct  
51 ~~[or]~~, absent from Utah, or absent from the person's voting precinct because the person is:

52           (i) employed in the service of the United States or of Utah;

53           (ii) a student at ~~[any]~~ an institution of learning;

54           (iii) incarcerated in prison or jail; or

55           (iv) residing upon ~~[any]~~ an Indian or military reservation.

56           (d) (i) A member of the armed forces of the United States is not a resident of Utah  
57 merely because that member is stationed at ~~[any]~~ a military facility within Utah.

58           (ii) In order to be a resident of Utah, ~~[that]~~ a member of the armed forces described in

59 this Subsection (3)(d) shall meet the other requirements of this section.

60 (e) (i) Except as provided in Subsection ~~[(4)]~~ (3)(e)(ii) or (iii), a person has not lost the  
61 person's principal place of residence in Utah or a precinct if that person ~~[leaves the person's~~  
62 ~~home to go into]~~ moves to a foreign country ~~[or into]~~, another state, or ~~[into]~~ another voting  
63 precinct within Utah, for temporary purposes with the intention of returning.

64 ~~[(ii) If that person has voted in that other state or voting precinct, the person is a~~  
65 ~~resident of that other state or voting precinct.]~~

66 (ii) If a person leaves the state or a voting precinct and votes in another state or voting  
67 precinct, the person is no longer a resident of the state or voting precinct that the person left.

68 (iii) A person loses the person's principal place of residence in Utah or in a precinct, if,  
69 after the person moves to another state or another precinct under Subsection (3)(e)(i), the  
70 person forms the intent of making the other state or precinct the person's principal place of  
71 residence.

72 (f) A person is not a resident of ~~[any]~~ a county or voting precinct if that person comes  
73 for temporary purposes and does not intend to make that county or voting precinct the person's  
74 ~~[home]~~ principal place of residence.

75 (g) A person loses the person's principal place of residence in Utah or in a precinct if  
76 the person:

77 ~~[(g) If a person]~~ (i) removes to another state or precinct with the intention of making  
78 ~~[it] the other state or precinct the person's principal place of residence~~, ~~[the person loses the~~  
79 ~~person's residence in Utah.]; or~~

80 (ii) moves to another state or precinct with the intention of retaining Utah or the  
81 precinct as the person's principal place of residence, but, after removing to the other state or  
82 precinct, forms the intent to make the other state or precinct the person's principal place of  
83 residence.

84 (h) If a person moves to another state or precinct with the intent of remaining there for  
85 an indefinite time as ~~[a place of permanent]~~ the person's principal place of residence, the person  
86 loses the person's residence in Utah, or in the precinct, even though the person intends to return  
87 at some future time.

88 ~~[(i) (i) Except as provided in Subsection (4)(i)(ii), the place]~~

89 (4) An election official or judge shall, in determining a person's principal place of

90 residence, consider the following factors, to the extent that the election official or judge  
 91 determines the factors to be relevant:

92 (a) where [a] the person's family resides [is presumed to be the person's place of  
 93 residence.];

94 ~~[(ii) A person may rebut the presumption established in Subsection (4)(i)(i) by proving~~  
 95 ~~the person's intent to remain at a place other than where the person's family resides.]~~

96 (b) whether the person is single, married, separated, or divorced;

97 (c) the age of the person;

98 (d) where the person usually sleeps;

99 (e) where the person's minor children attend school;

100 (f) the location of the person's employment, income sources, or business pursuits;

101 (g) the location of real property owned by the person;

102 (h) the person's residence for purposes of taxation or tax exemption; and

103 (i) other relevant factors.

104 ~~[(j)-(i)]~~ (5) (a) A person has changed the person's principal place of residence if the  
 105 person:

106 ~~[(A) the person has acted affirmatively to move from one geographic location; and]~~

107 ~~[(B) the person has an]~~

108 (i) acts affirmatively to remove from the state or a precinct in the state; and

109 (ii) has the intent to remain in another [place] state or precinct.

110 ~~[(ii) There can only be one residence.]~~

111 ~~[(iii) A residence cannot be lost until another is gained.]~~

112 (b) A person may not have more than one principal place of residence.

113 (c) A person does not lose the person's principal place of residence until the person  
 114 establishes another principal place of residence.

115 ~~[(5)]~~ (6) In computing the period [of residence] that a person is a resident, a person  
 116 shall:

117 (a) include the day on which the [person's residence begins] person establishes the  
 118 person's principal place of residence; and

119 (b) exclude the day of the next election.

120 ~~[(6)]~~ (7) (a) There is a presumption that a [person is a resident of] person's principal

121 place of residence is in Utah and [of a] in the voting precinct [and intends to remain in Utah  
 122 permanently or indefinitely] claimed by the person if the person makes an oath or affirmation  
 123 upon a registration application form that the person's [~~residence address and place of residence~~  
 124 ~~is within a specific voting precinct in Utah]~~ principal place of residence is in Utah and in the  
 125 voting precinct claimed by the person.

126 (b) The election officers and election officials shall allow [~~that~~] a person described in  
 127 Subsection (7)(a) to register and vote unless, upon a challenge by a registrar or some other  
 128 person, it is shown by law or by clear and convincing evidence that:

129 [~~(i) the person does not intend to remain permanently or indefinitely in Utah; or]~~

130 (i) the person's principal place of residence is not in Utah; or

131 (ii) the person is incarcerated in prison or jail and did not, before the person was  
 132 incarcerated in prison or jail, establish the person's principal place of residence in the voting  
 133 precinct.

134 [~~(7)~~] (8) (a) The [rules set forth] criteria described in this section for [determining]  
 135 establishing a person's principal place of residence for voting purposes do not apply [to a  
 136 person] in relation to the person's location while the person is incarcerated in prison or jail.

137 (b) For voting registration purposes, the principal place of residence of a person  
 138 incarcerated in prison or jail is [considered to reside in] the state and voting precinct [in which]  
 139 where the person's principal place of residence was located before incarceration.

140 [~~(8)~~] (9) If a person's principal place of residence is a residential parcel of one acre in  
 141 size or smaller that is divided by the boundary line between two or more counties, that person  
 142 shall be considered a resident of the county in which a majority of the residential parcel lies.

**Legislative Review Note**  
 as of 1-30-14 11:03 AM

**Office of Legislative Research and General Counsel**