

## SB0112S01 compared with SB0112

~~text~~ shows text that was in SB0112 but was deleted in SB0112S01.

Inserted text shows text that was not in SB0112 but was inserted into SB0112S01.

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Senator Deidre M. Henderson proposes the following substitute bill:

### VOTER REGISTRATION REVISIONS

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Deidre M. Henderson**

House Sponsor: ~~text~~ Stephen G. Handy

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#### LONG TITLE

##### General Description:

This bill amends provisions related to voter registration.

##### Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ provides that an individual who applies for or renews the individual's driver license or state identification card will be registered to vote unless the individual opts out;
- ▶ allows certain information in a driver license or state identification card application form to be used for voter registration purposes;
- ▶ requires a county clerk to send certain information to an individual who registers to vote;
- ▶ provides that an individual is not guilty of fraudulent registration if the individual is

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ineligible to register to vote but is inadvertently registered to vote under this bill;

- ▶ amends provisions relating to the process by which a voter may request that the voter's voter registration record be classified as a private record; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**20A-2-108**, as last amended by Laws of Utah 2015, Chapter 130

**20A-2-204**, as last amended by Laws of Utah 2015, Chapter 130

**20A-2-304**, as last amended by Laws of Utah 2017, Chapter 91

**20A-2-401**, as last amended by Laws of Utah 2015, Chapter 130

**63G-2-302**, as last amended by Laws of Utah 2017, Chapters 168 and 282

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

Section 1. Section **20A-2-108** is amended to read:

**20A-2-108. Driver license or state identification card registration form --**

#### **Transmittal of information.**

(1) As used in this section, "qualifying form" means:

(a) a driver license application form; or

(b) a state identification card application form.

~~[(+)]~~ (2) The lieutenant governor and the Driver License Division shall design [the driver license application and renewal forms to include the following questions:] each qualifying form to include the following ~~{statement}~~ statements:

(a) "If you are qualified to register or preregister to vote, the information on this form will be used for voter registration purposes, unless you indicate otherwise by marking here: \_\_\_\_\_

No, I do not authorize the use of the information in this form for voter registration purposes.":

and

(b) "If you believe that disclosure of any information contained in your voter

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registration form to a person other than a government official or government employee is likely to put you or a member of your household's life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you may request that your voter registration record be temporarily classified as a private record by indicating below.

If you request that your voter registration record be temporarily classified as a private record, you will be required to provide evidence to the lieutenant governor of the risks described above. You will be contacted with further instruction on how to submit this evidence.

If you agree to the conditions described above, you may request that your voter registration record be temporarily classified as a private record by marking here: \_\_\_\_\_."

~~[(a) "If you are not registered to vote where you live now, would you like to register to vote today?"; and]~~

~~[(b) "If you are 16 or 17 years of age, and will not be 18 years of age before the date of the next election, would you like to preregister to vote today?"]~~

~~[(2) (a) The lieutenant governor and the Driver License Division shall design a motor voter registration form to be used in conjunction with driver license application and renewal forms.]~~

~~[(b) Each driver license application and renewal form shall contain:]~~

~~[(i) a place for the applicant to decline to register or preregister to vote;]~~

~~[(ii) an eligibility statement in substantially the following form:]~~

~~["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. Unless I have indicated above that I am preregistering to vote in a later election, I will be at least 18 years of age and will have resided in Utah for 30 days immediately before the next election.]"~~

~~[Signed and sworn]~~

~~[\_\_\_\_\_]~~

~~[Voter's Signature]~~

~~[\_\_\_\_\_(month\day\year)";]~~

~~[(iii) a citizenship affidavit in substantially the following form:]~~

~~["CITIZENSHIP AFFIDAVIT]~~

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[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 or preregistered to vote if you know you are not entitled to register or preregister to vote is up to one year in jail and a fine of up to \$2,500<sup>00</sup>.]

(3) The lieutenant governor and the Driver License Division shall ensure that a qualifying form contains:

(a) a place for an individual to affirm the individual's citizenship, voting eligibility, and Utah residency, and that the information provided in the form is true;

(b) a records disclosure that is similar to the records disclosure on a voter registration form described in Section 20A-2-104;

~~(iv)~~ (c) a statement that if an applicant declines to register or preregister to vote, the fact that the applicant has declined to register or preregister will remain confidential and will be used only for voter registration purposes; ~~and~~

~~(v)~~ (d) a statement that if an applicant does register or preregister to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes; ~~and~~

~~}; and~~

(e) a space where an individual may, if desired:

(i) indicate the individual's desired political affiliation from a listing of each registered political party, as defined in Section 20A-8-101;

(ii) specify a political party that is not listed under Subsection (3)(e)(i) with which the individual desires to affiliate; or

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(iii) indicate that the individual does not wish to affiliate with a political party.

~~[(vi) the following statement:]~~

~~["The portion of a voter registration form that lists a person's driver license or identification card number, Social Security number, and email address is a private record. The portion of a voter registration form that lists a person's date of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.]~~

~~[If you believe that disclosure of any information contained in this voter registration form to a person other than a government official or government employee is likely to put you or a member of your household's life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private."]~~

~~[(3) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:]~~

~~[(a) review the 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 or preregister to vote who is not legally entitled to register or preregister to vote, refer the form to the county attorney for investigation and possible prosecution.]~~

Section 2. Section **20A-2-204** is amended to read:

### **20A-2-204. Registering to vote when applying for or renewing a driver license.**

(1) As used in this section, "voter registration form" means ~~[the driver license application/voter registration form and the driver license renewal/voter registration form required by Section 20A-2-108]~~ the information on a qualifying form, as defined in Section 20A-2-108, that can be used for voter registration purposes if the individual named on the form does not indicate otherwise under Subsection 20A-2-108(2).

(2) ~~[Any]~~ A citizen who is qualified to vote ~~[may register]~~ and who completes a voter registration form under this section shall be registered to vote, and ~~[any]~~ a citizen who is qualified to preregister to vote ~~[may preregister]~~ and who completes a voter registration form under this section shall be preregistered to vote~~[, by completing the voter registration form].~~

(3) The Driver License Division shall:

(a) assist ~~[applicants]~~ an individual in completing the voter registration form unless the

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[applicant] individual refuses assistance;

~~[(b) accept a completed voter registration form and transmit the form to the county clerk of the county in which the applicant resides within five days after the day on which the division receives the form;]~~

~~[(c) (b) electronically transmit each address change to the lieutenant governor within five days after the day on which the division receives the address change; and~~

~~[(d) transmit electronically to the lieutenant governor's office the name, address, birth date, and driver license number of each individual who answers "yes" to a question described in Subsection 20A-2-108(1), and indicate whether the individual is registering or preregistering to vote.]~~

~~[(4)(a) Upon receipt of a correctly completed voter registration form from an individual who is registering to vote, the county clerk shall:]~~

~~[(i) enter the applicant's name on the list of registered voters for the voting precinct in which the applicant resides; and]~~

~~[(ii) notify the applicant of registration.]~~

~~[(b) Upon receipt of a correctly completed voter registration form from an individual who is preregistering to vote, the county clerk shall]~~

(c) within five days after the day on which the division receives a voter registration form, electronically transmit the form to the Office of the Lieutenant Governor, including the following for the individual named on the form:

(i) the name, date of birth, driver license or state identification card number, last four digits of the social security number, Utah residential address, place of birth, and signature;

(ii) a mailing address, if different from the individual's Utah residential address; and

(iii) an email address and phone number, if available;

(iv) the desired political affiliation, if indicated; and

(v) an indication of whether the individual requested that the individual's voter registration record be classified as a private record under Subsection 20A-2-108(2)(b).

(4) Upon receipt of an individual's voter registration form from the Driver License Division under Subsection (3), the lieutenant governor shall:

(a) enter the information into the statewide voter registration database; and

(b) if the individual requests on the individual's voter registration form that the

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individual's voter registration record be classified as a private record:

(i) temporarily classify the individual's voter registration record as a private record:

(ii) immediately send a notice to the individual that:

(A) explains that the lieutenant governor has temporarily classified the individual's voter registration record as a private record;

(B) explains that, in order for the individual's voter registration record to be permanently classified as a private record, the individual is required to submit an application described in Subsection 20A-2-104(4)(f)(i) and provide evidence to the lieutenant governor establishing that release of the information on the voter's voter registration record is likely to put the voter or a member of the voter's household's life or safety at risk, or to put the voter or a member of the voter's household at risk of being stalked or harassed;

(C) lists types of evidence that may be sufficient to comply with the requirements described in Subsection (4)(b)(ii)(B), including the types of evidence described in Subsection 20A-2-104(4)(g);

(D) includes an application described in Subsection 20A-2-104(4)(f)(i);

(E) specifies the deadline described in Subsection (5) by which the individual is required to submit the application and evidence described in Subsection (4)(b)(ii)(B);

(F) includes instructions on how the individual may submit the application and evidence to the lieutenant governor; and

(G) explains that, if the individual does not submit the application and evidence before the deadline described in Subsection (4)(b)(ii)(E), the lieutenant governor will classify the individual's voter registration record as a public record; and

(iii) (A) if the individual submits the application and evidence described in Subsection (4)(b)(ii)(B) before the deadline described in Subsection (4)(b)(ii)(E), permanently classify the individual's voter registration record as a private record; or

(B) if the individual does not submit the evidence described in Subsection (4)(b)(ii)(B) before the deadline described in Subsection (4)(b)(ii)(E), classify the individual's voter registration record as a public record.

(5) An individual shall submit the application and evidence described in Subsection (4)(b)(ii)(B) within 30 days after the day on which the lieutenant governor sends the notice described in Subsection (4)(b)(ii).

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~~(5)~~ ~~(6)~~ (6) The county clerk for an individual whose information is entered into the statewide voter registration database under Subsection (4) shall:

- (a) (i) ensure that the individual meets the qualifications to be registered or preregistered to vote; and
- (ii) if the individual meets the qualifications to be registered to vote:
  - (A) ensure that the individual is assigned to the proper voting precinct; and
  - (B) send the individual the notice described in Section 20A-2-304; or
- (b) if the individual meets the qualifications to be preregistered to vote, process the form in accordance with the requirements of Section 20A-2-101.1.

~~(5)~~ ~~(6)~~ (7) (a) If the county clerk receives a correctly completed voter registration form under this section that is dated after the voter registration deadline, the county clerk shall, unless the individual named in the form is preregistering to vote:

- (i) register the [applicant] individual after the next election; and
- (ii) if possible, promptly phone or mail a notice to the [applicant] individual before the election[;] informing the [applicant] individual that [his] the individual's registration will not be effective until after the election.

(b) When the county clerk receives a correctly completed voter registration form at least seven days before an election that is dated on or before the voter registration deadline, the county clerk shall, unless the individual named in the form is preregistering to vote:

- (i) process the voter registration form; and
- (ii) record the [new voter] individual in the official register.

~~(6)~~ ~~(7)~~ (8) (a) If the county clerk determines that [a] an individual's voter registration form received from the Driver License Division is incorrect because of an error [~~or~~], because [it] the form is incomplete, or because the individual does not meet the qualifications to be registered to vote, the county clerk shall mail notice to the individual [~~attempting to register or preregister to vote~~;] stating that the individual has not been registered or preregistered because of an error [~~or~~], because the form is incomplete, or because the individual does not meet the qualifications to be registered or preregistered to vote.

(b) If a county clerk believes, based upon a review of a voter registration form, that an individual, who knows that the individual is not legally entitled to register or preregister to vote, may be intentionally seeking to register or preregister to vote, the county clerk may refer



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the form to the county attorney for investigation and possible prosecution.

Section 3. Section **20A-2-304** is amended to read:

### **20A-2-304. County clerk's responsibilities -- Notice of disposition.**

Each county clerk shall:

- (1) register to vote each [~~applicant for registration~~] individual who meets the requirements for registration and who:
  - (a) submits a completed voter registration form to the county clerk [~~on or before the voter registration deadline~~];
  - (b) submits a completed voter registration form, as defined in Section 20A-2-204, to the Driver License Division[;];
  - (c) submits a completed voter registration form to a public assistance agency[;] or a discretionary voter registration agency [~~on or before the voter registration deadline~~]; or
  - ~~(c)~~ (d) mails a completed by-mail voter registration form to the county clerk [~~on or before the voter registration deadline~~]; and
- (2) within 30 days after the day on which the county clerk processes a voter registration [~~application~~] form, send a notice to the individual who submits the [~~application~~] form that:
  - (a) (i) informs the individual that the individual's [~~application for~~] voter registration form has been accepted and that the individual is registered to vote;
  - (ii) informs the individual of the procedure for designating or changing the individual's political affiliation;
  - (iii) informs the individual of the procedure to cancel a voter registration; and
  - (iv) if the voter registration form was submitted under Subsection (1) after the voter registration deadline and before the election to which the deadline pertains, informs the individual that the individual's voter registration will not be effective until after the election;
- (b) informs the individual that the individual's [~~application for~~] voter registration form has been rejected and the reason for the rejection; or
- (c) (i) informs the individual that the [~~application for~~] individual's voter registration form is being returned to the individual for further action because the [~~application~~] form is incomplete; and
- (ii) gives instructions to the individual on how to properly complete the [~~application~~] form.

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Section 4. Section **20A-2-401** is amended to read:

**20A-2-401. Fraudulent registration -- Penalty.**

(1) (a) An individual may not willfully register to vote, or cause, procure, or allow himself or herself to be registered to vote, knowing that the individual is not eligible to register to vote under Section 20A-2-101.

(b) A person may not willfully cause, procure, advise, encourage, or assist any individual to be registered to vote, knowing or believing that the individual is not eligible to register to vote under Section 20A-2-101.

(2) (a) An individual may not willfully preregister to vote, or allow himself or herself to be preregistered to vote, knowing that the individual is not eligible to preregister to vote under Section 20A-2-101.1.

(b) A person may not willfully cause, advise, encourage, or assist an individual to preregister to vote, knowing or believing that the individual is not eligible to preregister to vote under Section 20A-2-101.1.

(3) A person is not guilty of violating this section if:

(a) the individual who is ineligible to vote becomes registered to vote under Section 20A-2-204; and

(b) the person did not:

(i) provide false information; or

(ii) take other action intended to cause the registration of an individual who is ineligible to vote.

~~[(3)]~~ (4) A person who violates this section is guilty of a class A misdemeanor.

f

### Legislative Review Note

~~Office of Legislative Research and General Counsel~~

amended to read:

**63G-2-302. Private records.**

(1) The following records are private:

Section 5. Section 63G-2-302 is

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(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202,

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58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) Social Security number, or last four digits of the Social Security number;

(iii) email address; or

(iv) date of birth;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-104(4)(f) [or], 20A-2-101.1(5)(a), or 20A-2-204(4)(b);

(l) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(m) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

(n) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(o) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);

(p) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

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(q) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(r) an email address provided by a military or overseas voter under Section 20A-16-501;

(s) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(t) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 11-49-201, except for:

(i) the commission's summary data report that is required in Section 11-49-202; and

(ii) any other document that is classified as public in accordance with Title 11, Chapter 49, Political Subdivisions Ethics Review Commission;

(u) a record described in Subsection 53A-11a-203(3) that verifies that a parent was notified of an incident or threat; and

(v) a criminal background check or credit history report conducted in accordance with Section 63A-3-201.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

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(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Section 76-2-408(1)(d);

or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.