

Senator Kirk A. Cullimore proposes the following substitute bill:

APPOINTMENT OF CONSTABLES AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Logan Wilde

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill enacts authority for certain counties and cities to appoint constables.

Highlighted Provisions:

This bill:

- ▶ enacts authority and provides a process for counties of the third through sixth class and cities of the third through sixth class to appoint constables;
- ▶ amends the term of constables;
- ▶ allows a currently serving constable to complete the current term under the amended term limit; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-25a-1, as last amended by Laws of Utah 1993, Chapters 38 and 234

17-25a-3, as last amended by Laws of Utah 2012, Chapter 48



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

Section 1. Section **17-25a-1** is amended to read:

17-25a-1. Constables -- Nomination -- Appointment -- Authority.

(1) (a) (i) The legislative governing bodies of counties and cities [~~of the first or second class~~] shall determine whether to appoint constables.

(ii) If a county or city [~~of the first or second class~~] decides to appoint constables, [~~they~~] the county or city shall [be nominated and appointed under] nominate and appoint constables in accordance with this chapter.

(b) (i) [~~However~~] Notwithstanding Subsection (1)(a), a constable holding office on [~~April 23, 1990~~] July 1, 2019, may complete [~~his~~] the constable's term.

(ii) [~~Any~~] A constable shall serve any subsequent terms [~~he~~] the constable may serve [~~shall be~~] in accordance with this chapter.

(2) To nominate a constable, the legislative body of a county of the first or second class or the legislative body of a city of the first or second class shall establish a nominating commission.

(a) The county nominating commission shall consist of:

(i) one member of the county legislative governing body[;];

(ii) one judge[;];

(iii) the county attorney[;];

(iv) the district attorney[;];

(v) the sheriff of the county[~~, or their designees,~~]; and

(vi) one private citizen.

(b) The city nominating commission shall consist of:

(i) one member of the city legislative governing body[;];

(ii) one judge[;];

(iii) the city attorney[;];

(iv) the chief of police[~~, or their designees,~~]; and

(v) one private citizen.

(c) The nominating commission described in this Subsection (2) shall review each applicant's credentials and, by majority vote, recommend to the legislative governing body of

57 the county or city the nominees [it] the nominating commission finds most qualified [by
58 ~~majority vote~~].

59 ~~[(3)]~~ (d) The county or city legislative governing body shall either appoint or reject any
60 nominee that the nominating commission recommends under Subsection (2)(c).

61 (3) The legislative body of a county of the third, fourth, fifth, or sixth class or the
62 legislative body of a city of the third, fourth, fifth, or sixth class may appoint a constable on a
63 recommendation from the county sheriff, the county attorney, or the chief of police.

64 (4) ~~[The]~~ A county or city legislative governing body that appoints a constable under
65 this section may withdraw the authority of [a] the constable [may be withdrawn by the county
66 or city legislative governing body] for cause, including if the constable's peace officer
67 certification is suspended or revoked under Section 53-6-211.

68 Section 2. Section 17-25a-3 is amended to read:

69 **17-25a-3. County and city constables -- Terms -- Authority -- Deputies.**

70 (1) (a) Constables appointed by a county or city are appointed for terms of ~~[four]~~ six
71 years and may serve more than one term if reappointed by the appointing body.

72 (b) Notwithstanding the law in place at the time a constable was appointed, the term of
73 a constable actively serving on May 14, 2019 expires six years after the day on which the term
74 began.

75 (2) (a) Constables serving process outside the county in which they are appointed shall
76 contact the sheriff's office or police department of the jurisdiction prior to serving executions or
77 seizing any property.

78 (b) A constable or deputy constable shall notify the agency of jurisdiction by contacting
79 the sheriff's office or police department of jurisdiction before serving a warrant of arrest.

80 (3) The appointed constable may, upon approval of the appointing county or city,
81 employ and deputize persons who are certified as special function peace officers to function as
82 deputy constables.

83 (4) If the county or city appointing body withdraws the authority of a constable, the
84 authority of all deputy constables is also withdrawn.

85 (5) If the authority of a constable or deputy constable is withdrawn, notification of the
86 Peace Officer Standards and Training Division of the Department of Public Safety shall be
87 made pursuant to Section 53-6-209.