

STATE RESIDENCY AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jordan D. Teuscher

Senate Sponsor: _____

LONG TITLE

General Description:

This bill makes changes to the Election Code regarding residency determinations for candidates.

Highlighted Provisions:

This bill:

- ▶ requires an individual who has been absent from the state for an extended period of time to provide evidence of residency with the individual's declaration of candidacy for certain political offices, with some exceptions; and
- ▶ modifies the deadline for objecting to a person's declaration of candidacy.

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 2014, Chapter 260

20A-9-202, as last amended by Laws of Utah 2020, Chapter 22

20A-9-203, as last amended by Laws of Utah 2020, Chapter 22

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



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

29 **20A-2-105. Determining residency.**

30 (1) As used in this section:

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

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

35 (2) Election officials and judges shall apply the standards and requirements of this
36 section when determining whether a person is a resident for purposes of interpreting this title or
37 the Utah Constitution.

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 maintain the person's principal place of
41 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's principal place of residence is in that voting precinct.

44 (c) A person's principal place of residence does not change solely because the person is
45 present in Utah, present in a voting precinct, absent from Utah, or absent from the person's
46 voting precinct because the person is:

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

48 (ii) a student at an institution of learning;

49 (iii) incarcerated in prison or jail; or

50 (iv) residing upon an Indian or military reservation.

51 (d) (i) A member of the armed forces of the United States is not a resident of Utah
52 merely because that member is stationed at a military facility within Utah.

53 (ii) In order to be a resident of Utah, a member of the armed forces described in this
54 Subsection (3)(d) shall meet the other requirements of this section.

55 (e) (i) Except as provided in Subsection (3)(e)(ii) or (iii), a person has not lost the
56 person's principal place of residence in Utah or a precinct if that person moves to a foreign
57 country, another state, or another voting precinct within Utah, for temporary purposes with the
58 intention of returning.

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

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

65 (f) A person is not a resident of a county or voting precinct if that person comes for
66 temporary purposes and does not intend to make that county or voting precinct the person's
67 principal place of residence.

68 (g) A person loses the person's principal place of residence in Utah or in a precinct if
69 the person moves to another state or precinct with the intention of making the other state or
70 precinct the person's principal place of residence.

71 (h) If a person moves to another state or precinct with the intent of remaining there for
72 an indefinite time as the person's principal place of residence, the person loses the person's
73 residence in Utah, or in the precinct, even though the person intends to return at some future
74 time.

75 (4) An election official or judge shall, in determining a person's principal place of
76 residence, consider the following factors, to the extent that the election official or judge
77 determines the factors to be relevant:

- 78 (a) where the person's family resides;
79 (b) whether the person is single, married, separated, or divorced;
80 (c) the age of the person;
81 (d) where the person usually sleeps;
82 (e) where the person's minor children attend school;
83 (f) the location of the person's employment, income sources, or business pursuits;
84 (g) the location of real property owned by the person;
85 (h) the person's residence for purposes of taxation or tax exemption; and
86 (i) other relevant factors.

87 (5) (a) A person has changed the person's principal place of residence if the person:
88 (i) acts affirmatively to move from the state or a precinct in the state; and
89 (ii) has the intent to remain in another state or precinct.

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

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

93 (6) In computing the period that a person is a resident, a person shall:

94 (a) include the day on which the person establishes the person's principal place of
95 residence; and

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

97 (7) (a) There is a rebuttable presumption that a person's principal place of residence is
98 in Utah and in the voting precinct claimed by the person if the person makes an oath or
99 affirmation upon a registration application form that the person's principal place of residence is
100 in Utah and in the voting precinct claimed by the person.

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

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

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

108 (8) (a) The criteria described in this section for establishing a person's principal place
109 of residence for voting purposes do not apply in relation to the person's location while the
110 person is incarcerated in prison or jail.

111 (b) For voting registration purposes, the principal place of residence of a person
112 incarcerated in prison or jail is the state and voting precinct where the person's principal place
113 of residence was located before incarceration.

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

117 (10) (a) If an individual seeking to become a candidate for a political office that
118 includes a durational residency requirement has been absent from the state for a period of more
119 than 180 consecutive days during the applicable residency period, the individual shall, at the
120 time that the candidate files a declaration of candidacy, submit evidence to the filing officer to

121 show that the individual intended to return to the state during the time of the individual's
122 absence from the state.

123 (b) If an individual described in Subsection (10)(a) does not submit evidence to the
124 filing officer sufficient to rebut a presumption that the individual did not intend to return to the
125 state during the individual's absence, the filing officer may not accept the individual's
126 declaration of candidacy.

127 (c) Subsections (10)(a) and (b) do not apply to an individual who was absent from the
128 state because the individual was:

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

130 (ii) a student at an institution of learning; or

131 (iii) engaged solely in religious, missionary, philanthropic, or humanitarian activities.

132 Section 2. Section **20A-9-202** is amended to read:

133 **20A-9-202. Declarations of candidacy for regular general elections.**

134 (1) (a) An individual seeking to become a candidate for an elective office that is to be
135 filled at the next regular general election shall:

136 (i) except as provided in Subsection (1)(c), file a declaration of candidacy in person
137 with the filing officer on or after January 1 of the regular general election year, and, if
138 applicable, before the individual circulates nomination petitions under Section **20A-9-405**; and

139 (ii) pay the filing fee.

140 (b) Unless expressly provided otherwise in this title, for a registered political party that
141 is not a qualified political party, the deadline for filing a declaration of candidacy for an
142 elective office that is to be filled at the next regular general election is 5 p.m. on the first
143 Monday after the third Saturday in April.

144 (c) Subject to Subsection **20A-9-201(7)(b)**, an individual may designate an agent to file
145 a declaration of candidacy with the filing officer if:

146 (i) the individual is located outside of the state during the entire filing period;

147 (ii) the designated agent appears in person before the filing officer;

148 (iii) the individual communicates with the filing officer using an electronic device that
149 allows the individual and filing officer to see and hear each other; and

150 (iv) the individual provides the filing officer with an email address to which the filing
151 officer may send the individual the copies described in Subsection **20A-9-201(5)**.

152 (d) Each county clerk who receives a declaration of candidacy from a candidate for
153 multicounty office shall transmit the filing fee and a copy of the candidate's declaration of
154 candidacy to the lieutenant governor within one business day after the candidate files the
155 declaration of candidacy.

156 (e) Each day during the filing period, each county clerk shall notify the lieutenant
157 governor electronically or by telephone of candidates who have filed a declaration of candidacy
158 with the county clerk.

159 (f) Each individual seeking the office of lieutenant governor, the office of district
160 attorney, or the office of president or vice president of the United States shall comply with the
161 specific declaration of candidacy requirements established by this section.

162 (2) (a) Each individual intending to become a candidate for the office of district
163 attorney within a multicounty prosecution district that is to be filled at the next regular general
164 election shall:

165 (i) file a declaration of candidacy with the clerk designated in the interlocal agreement
166 creating the prosecution district on or after January 1 of the regular general election year, and
167 before the individual circulates nomination petitions under Section 20A-9-405; and

168 (ii) pay the filing fee.

169 (b) The designated clerk shall provide to the county clerk of each county in the
170 prosecution district a certified copy of each declaration of candidacy filed for the office of
171 district attorney.

172 (3) (a) Before the deadline described in Subsection (1)(b), each lieutenant governor
173 candidate shall:

174 (i) file a declaration of candidacy with the lieutenant governor;

175 (ii) pay the filing fee; and

176 (iii) submit a letter from a candidate for governor who has received certification for the
177 primary-election ballot under Section 20A-9-403 that names the lieutenant governor candidate
178 as a joint-ticket running mate.

179 (b) (i) A candidate for lieutenant governor who fails to timely file is disqualified.

180 (ii) If a candidate for lieutenant governor is disqualified, another candidate may file to
181 replace the disqualified candidate.

182 (4) Before 5 p.m. no later than August 31, each registered political party shall:

183 (a) certify the names of the political party's candidates for president and vice president
184 of the United States to the lieutenant governor; or

185 (b) provide written authorization for the lieutenant governor to accept the certification
186 of candidates for president and vice president of the United States from the national office of
187 the registered political party.

188 (5) (a) A declaration of candidacy filed under this section is valid unless a written
189 objection is filed with the clerk or lieutenant governor before 5 p.m. [~~within five days after the~~
190 ~~last day for filing~~] on the last business day that is at least 10 days before the deadline for the
191 clerk or lieutenant governor to certify the candidate.

192 (b) If an objection is made, the clerk or lieutenant governor shall:

193 (i) mail or personally deliver notice of the objection to the affected candidate
194 immediately; and

195 (ii) decide any objection within 48 hours after it is filed.

196 (c) If the clerk or lieutenant governor sustains the objection, the candidate may cure the
197 problem by amending the declaration or petition before 5 p.m. within three days after the day
198 on which the objection is sustained or by filing a new declaration before 5 p.m. within three
199 days after the day on which the objection is sustained.

200 (d) (i) The clerk's or lieutenant governor's decision upon objections to form is final.

201 (ii) The clerk's or lieutenant governor's decision upon substantive matters is reviewable
202 by a district court if prompt application is made to the court.

203 (iii) The decision of the district court is final unless the Supreme Court, in the exercise
204 of its discretion, agrees to review the lower court decision.

205 (6) Any person who filed a declaration of candidacy may withdraw as a candidate by
206 filing a written affidavit with the clerk.

207 (7) (a) Except for a candidate who is certified by a registered political party under
208 Subsection (4), and except as provided in Section [20A-9-504](#), before 5 p.m. no later than
209 August 31 of a general election year, each individual running as a candidate for vice president
210 of the United States shall:

211 (i) file a declaration of candidacy, in person or via a designated agent, on a form
212 developed by the lieutenant governor, that:

213 (A) contains the individual's name, address, and telephone number;

214 (B) states that the individual meets the qualifications for the office of vice president of
215 the United States;

216 (C) names the presidential candidate, who has qualified for the general election ballot,
217 with which the individual is running as a joint-ticket running mate;

218 (D) states that the individual agrees to be the running mate of the presidential candidate
219 described in Subsection (7)(a)(i)(C); and

220 (E) contains any other necessary information identified by the lieutenant governor;

221 (ii) pay the filing fee; and

222 (iii) submit a letter from the presidential candidate described in Subsection (7)(a)(i)(C)
223 that names the individual as a joint-ticket running mate as a vice presidential candidate.

224 (b) A designated agent described in Subsection (7)(a)(i) may not sign the declaration of
225 candidacy.

226 (c) A vice presidential candidate who fails to meet the requirements described in this
227 Subsection (7) may not appear on the general election ballot.

228 (8) An individual filing a declaration of candidacy for president or vice president of the
229 United States shall pay a filing fee of \$500.

230 Section 3. Section **20A-9-203** is amended to read:

231 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

232 (1) An individual may become a candidate for any municipal office if:

233 (a) the individual is a registered voter; and

234 (b) (i) the individual has resided within the municipality in which the individual seeks
235 to hold elective office for the 12 consecutive months immediately before the date of the
236 election; or

237 (ii) the territory in which the individual resides was annexed into the municipality, the
238 individual has resided within the annexed territory or the municipality the 12 consecutive
239 months immediately before the date of the election.

240 (2) (a) For purposes of determining whether an individual meets the residency
241 requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months
242 before the election, the municipality is considered to have been incorporated 12 months before
243 the date of the election.

244 (b) In addition to the requirements of Subsection (1), each candidate for a municipal

245 council position shall, if elected from a district, be a resident of the council district from which
246 the candidate is elected.

247 (c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent
248 individual, an individual convicted of a felony, or an individual convicted of treason or a crime
249 against the elective franchise may not hold office in this state until the right to hold elective
250 office is restored under Section 20A-2-101.3 or 20A-2-101.5.

251 (3) (a) An individual seeking to become a candidate for a municipal office shall,
252 regardless of the nomination method by which the individual is seeking to become a candidate:

253 (i) except as provided in Subsection (3)(b) or Title 20A, Chapter 4, Part 6, Municipal
254 Alternate Voting Methods Pilot Project, and subject to Subsection 20A-9-404(3)(e), file a
255 declaration of candidacy, in person with the city recorder or town clerk, during the office hours
256 described in Section 10-3-301 and not later than the close of those office hours, between June 1
257 and June 7 of any odd-numbered year; and

258 (ii) pay the filing fee, if one is required by municipal ordinance.

259 (b) Subject to Subsection (5)(b), an individual may designate an agent to file a
260 declaration of candidacy with the city recorder or town clerk if:

261 (i) the individual is located outside of the state during the entire filing period;

262 (ii) the designated agent appears in person before the city recorder or town clerk;

263 (iii) the individual communicates with the city recorder or town clerk using an
264 electronic device that allows the individual and city recorder or town clerk to see and hear each
265 other; and

266 (iv) the individual provides the city recorder or town clerk with an email address to
267 which the city recorder or town clerk may send the individual the copies described in
268 Subsection (4).

269 (c) Any resident of a municipality may nominate a candidate for a municipal office by:

270 (i) except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting
271 Methods Pilot Project, filing a nomination petition with the city recorder or town clerk during
272 the office hours described in Section 10-3-301 and not later than the close of those office
273 hours, between June 1 and June 7 of any odd-numbered year that includes signatures in support
274 of the nomination petition of the lesser of at least:

275 (A) 25 registered voters who reside in the municipality; or

276 (B) 20% of the registered voters who reside in the municipality; and
277 (ii) paying the filing fee, if one is required by municipal ordinance.

278 (4) (a) Before the filing officer may accept any declaration of candidacy or nomination
279 petition, the filing officer shall:

280 (i) read to the prospective candidate or individual filing the petition the constitutional
281 and statutory qualification requirements for the office that the candidate is seeking;

282 (ii) require the candidate or individual filing the petition to state whether the candidate
283 meets the requirements described in Subsection (4)(a)(i); and

284 (iii) inform the candidate or the individual filing the petition that an individual who
285 holds a municipal elected office may not, at the same time, hold a county elected office.

286 (b) If the prospective candidate does not meet the qualification requirements for the
287 office, the filing officer may not accept the declaration of candidacy or nomination petition.

288 (c) If it appears that the prospective candidate meets the requirements of candidacy, the
289 filing officer shall:

290 (i) inform the candidate that the candidate's name will appear on the ballot as it is
291 written on the declaration of candidacy;

292 (ii) provide the candidate with a copy of the current campaign financial disclosure laws
293 for the office the candidate is seeking and inform the candidate that failure to comply will
294 result in disqualification as a candidate and removal of the candidate's name from the ballot;

295 (iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide
296 Electronic Voter Information Website Program and inform the candidate of the submission
297 deadline under Subsection 20A-7-801(4)(a);

298 (iv) provide the candidate with a copy of the pledge of fair campaign practices
299 described under Section 20A-9-206 and inform the candidate that:

300 (A) signing the pledge is voluntary; and

301 (B) signed pledges shall be filed with the filing officer; and

302 (v) accept the declaration of candidacy or nomination petition.

303 (d) If the candidate elects to sign the pledge of fair campaign practices, the filing
304 officer shall:

305 (i) accept the candidate's pledge; and

306 (ii) if the candidate has filed for a partisan office, provide a certified copy of the

307 candidate's pledge to the chair of the county or state political party of which the candidate is a
308 member.

309 (5) (a) The declaration of candidacy shall be in substantially the following form:

310 "I, (print name) ____, being first sworn, say that I reside at ____ Street, City of ____,
311 County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a
312 registered voter; and that I am a candidate for the office of ____ (stating the term). I will meet
313 the legal qualifications required of candidates for this office. If filing via a designated agent, I
314 attest that I will be out of the state of Utah during the entire candidate filing period. I will file
315 all campaign financial disclosure reports as required by law and I understand that failure to do
316 so will result in my disqualification as a candidate for this office and removal of my name from
317 the ballot. I request that my name be printed upon the applicable official ballots. (Signed)

318 _____

319 Subscribed and sworn to (or affirmed) before me by ____ on this
320 _____(month\day\year).

321 (Signed) _____ (Clerk or other officer qualified to administer oath)".

322 (b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may
323 not sign the form described in Subsection (5)(a).

324 (c) (i) A nomination petition shall be in substantially the following form:

325 "NOMINATION PETITION

326 The undersigned residents of (name of municipality), being registered voters, nominate
327 (name of nominee) for the office of (name of office) for the (length of term of office)."

328 (ii) The remainder of the petition shall contain lines and columns for the signatures of
329 individuals signing the petition and each individual's address and phone number.

330 (6) If the declaration of candidacy or nomination petition fails to state whether the
331 nomination is for the two-year or four-year term, the clerk shall consider the nomination to be
332 for the four-year term.

333 (7) (a) The clerk shall verify with the county clerk that all candidates are registered
334 voters.

335 (b) Any candidate who is not registered to vote is disqualified and the clerk may not
336 print the candidate's name on the ballot.

337 (8) Immediately after expiration of the period for filing a declaration of candidacy, the

338 clerk shall:

339 (a) publish a list of the names of the candidates as they will appear on the ballot:

340 (i) (A) in at least two successive publications of a newspaper of general circulation in
341 the municipality;

342 (B) if there is no newspaper of general circulation in the municipality, by posting one
343 copy of the list, and at least one additional copy of the list per 2,000 population of the
344 municipality, in places within the municipality that are most likely to give notice to the voters
345 in the municipality; or

346 (C) by mailing notice to each registered voter in the municipality;

347 (ii) on the Utah Public Notice Website created in Section 63F-1-701, for seven days;

348 (iii) in accordance with Section 45-1-101, for seven days; and

349 (iv) if the municipality has a website, on the municipality's website for seven days; and

350 (b) notify the lieutenant governor of the names of the candidates as they will appear on
351 the ballot.

352 (9) Except as provided in Subsection (10)(c), an individual may not amend a
353 declaration of candidacy or nomination petition filed under this section after the candidate
354 filing period ends.

355 (10) (a) A declaration of candidacy or nomination petition that an individual files under
356 this section is valid unless a person files a written objection with the clerk before 5 p.m. [~~within~~
357 ~~five days after the last day for filing~~] on the last business day that is at least 10 days before the
358 deadline for the clerk to certify the candidate.

359 (b) If a person files an objection, the clerk shall:

360 (i) mail or personally deliver notice of the objection to the affected candidate
361 immediately; and

362 (ii) decide any objection within 48 hours after the objection is filed.

363 (c) If the clerk sustains the objection, the candidate may, before 5 p.m. within three
364 days after the day on which the clerk sustains the objection, correct the problem for which the
365 objection is sustained by amending the candidate's declaration of candidacy or nomination
366 petition, or by filing a new declaration of candidacy.

367 (d) (i) The clerk's decision upon objections to form is final.

368 (ii) The clerk's decision upon substantive matters is reviewable by a district court if

369 prompt application is made to the district court.

370 (iii) The decision of the district court is final unless the Supreme Court, in the exercise
371 of its discretion, agrees to review the lower court decision.

372 (11) A candidate who qualifies for the ballot under this section may withdraw as a
373 candidate by filing a written affidavit with the municipal clerk.