

ELECTIONS RECORDS AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Kwan

House Sponsor: Norman K Thurston

LONG TITLE

General Description:

This bill amends provisions relating to the disclosure of the name and address of individuals whose ballots have been rejected and not yet resolved.

Highlighted Provisions:

This bill:

prohibits an election officer who discloses the name and address of voters whose ballots have been rejected and not yet resolved from including in the disclosure the name or address of a protected individual.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-3a-401, as last amended by Laws of Utah 2023, Chapters 56, 106, 297, and 406 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 106

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

Section 1. Section 20A-3a-401 is amended to read:

20A-3a-401 . Custody of voted ballots mailed or deposited in a ballot drop box --

Disposition -- Notice -- Disclosures relating to unresolved ballots.

(1) This section governs ballots returned by mail or via a ballot drop box.

(2) (a) Poll workers shall open return envelopes containing manual ballots that are in the custody of the poll workers in accordance with this section.

(b) The poll workers shall, first, compare the signature of the voter on the affidavit of the

- 29 return envelope to the signature of the voter in the voter registration records.
- 30 (3) After complying with Subsection (2), the poll workers shall determine whether:
- 31 (a) the signatures correspond;
- 32 (b) the affidavit is sufficient;
- 33 (c) the voter is registered to vote in the correct precinct;
- 34 (d) the voter's right to vote the ballot has been challenged;
- 35 (e) the voter has already voted in the election;
- 36 (f) the voter is required to provide valid voter identification; and
- 37 (g) if the voter is required to provide valid voter identification, whether the voter has
- 38 provided valid voter identification.
- 39 (4) (a) The poll workers shall take the action described in Subsection (4)(b) if the poll
- 40 workers determine:
- 41 (i) in accordance with the rules made under Subsection (11):
- 42 (A) that the signature on the affidavit of the return envelope is reasonably
- 43 consistent with the individual's signature in the voter registration records; or
- 44 (B) for an individual who checks the box described in Subsection (5)(c)(v), that
- 45 the signature is verified by alternative means;
- 46 (ii) that the affidavit is sufficient;
- 47 (iii) that the voter is registered to vote in the correct precinct;
- 48 (iv) that the voter's right to vote the ballot has not been challenged;
- 49 (v) that the voter has not already voted in the election; and
- 50 (vi) for a voter required to provide valid voter identification, that the voter has
- 51 provided valid voter identification.
- 52 (b) If the poll workers make all of the findings described in Subsection (4)(a), the poll
- 53 workers shall:
- 54 (i) remove the manual ballot from the return envelope in a manner that does not
- 55 destroy the affidavit on the return envelope;
- 56 (ii) ensure that the ballot does not unfold and is not otherwise examined in
- 57 connection with the return envelope; and
- 58 (iii) place the ballot with the other ballots to be counted.
- 59 (c) If the poll workers do not make all of the findings described in Subsection (4)(a), the
- 60 poll workers shall:
- 61 (i) disallow the vote;
- 62 (ii) without opening the return envelope, record the ballot as "rejected" and state the

- 63 reason for the rejection; and
- 64 (iii) place the return envelope, unopened, with the other rejected return envelopes.
- 65 (5) (a) If the poll workers reject an individual's ballot because the poll workers
- 66 determine, in accordance with rules made under Subsection (11), that the signature
- 67 on the return envelope is not reasonably consistent with the individual's signature in
- 68 the voter registration records, the election officer shall:
- 69 (i) contact the individual in accordance with Subsection (6); and
- 70 (ii) inform the individual:
- 71 (A) that the individual's signature is in question;
- 72 (B) how the individual may resolve the issue; and
- 73 (C) that, in order for the ballot to be counted, the individual is required to deliver
- 74 to the election officer a correctly completed affidavit, provided by the county
- 75 clerk, that meets the requirements described in Subsection (5)(c).
- 76 (b) The election officer shall ensure that the notice described in Subsection (5)(a)
- 77 includes:
- 78 (i) when communicating the notice by mail, a printed copy of the affidavit described
- 79 in Subsection (5)(c) and a courtesy reply envelope;
- 80 (ii) when communicating the notice electronically, a link to a copy of the affidavit
- 81 described in Subsection (5)(c) or information on how to obtain a copy of the
- 82 affidavit; or
- 83 (iii) when communicating the notice by phone, either during a direct conversation
- 84 with the voter or in a voicemail, arrangements for the voter to receive a copy of
- 85 the affidavit described in Subsection (5)(c), either in person from the clerk's
- 86 office, by mail, or electronically.
- 87 (c) An affidavit described in Subsection (5)(a)(ii)(C) shall include:
- 88 (i) an attestation that the individual voted the ballot;
- 89 (ii) a space for the individual to enter the individual's name, date of birth, and driver
- 90 license number or the last four digits of the individual's social security number;
- 91 (iii) a space for the individual to sign the affidavit;
- 92 (iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant
- 93 governor's and county clerk's use of the individual's signature on the affidavit for
- 94 voter identification purposes; and
- 95 (v) a check box accompanied by language in substantially the following form: "I am
- 96 a voter with a qualifying disability under the Americans with Disabilities Act that

97 impacts my ability to sign my name consistently. I can provide appropriate
98 documentation upon request. To discuss accommodations, I can be contacted at
99 _____".

100 (d) In order for an individual described in Subsection (5)(a) to have the individual's
101 ballot counted, the individual shall deliver the affidavit described in Subsection (5)(c)
102 to the election officer.

103 (e) An election officer who receives a signed affidavit under Subsection (5)(d) shall
104 immediately:

- 105 (i) scan the signature on the affidavit electronically and keep the signature on file in
106 the statewide voter registration database developed under Section 20A-2-502;
- 107 (ii) if the election officer receives the affidavit no later than 5 p.m. three days before
108 the day on which the canvass begins, count the individual's ballot; and
- 109 (iii) if the check box described in Subsection (5)(c)(v) is checked, comply with the
110 rules described in Subsection (11)(c).

111 (6) (a) The election officer shall, within two business days after the day on which an
112 individual's ballot is rejected, notify the individual of the rejection and the reason for
113 the rejection, by phone, mail, email, or SMS text message, unless:

- 114 (i) the ballot is cured within one business day after the day on which the ballot is
115 rejected; or
- 116 (ii) the ballot is rejected because the ballot is received late or for another reason that
117 cannot be cured.

118 (b) If an individual's ballot is rejected for a reason described in Subsection (6)(a)(ii), the
119 election officer shall notify the individual of the rejection and the reason for the
120 rejection by phone, mail, email, or SMS text message, within the later of:

- 121 (i) 30 days after the day of the rejection; or
- 122 (ii) 30 days after the day of the election.

123 (c) The election officer may, when notifying an individual by phone under this
124 Subsection (6), use auto-dial technology.

125 (7) An election officer may not count the ballot of an individual whom the election officer
126 contacts under Subsection (5) or (6) unless, no later than 5 p.m. three days before the
127 day on which the canvass begins, the election officer:

- 128 (a) receives a signed affidavit from the individual under Subsection (5); or
- 129 (b) (i) contacts the individual;
- 130 (ii) if the election officer has reason to believe that an individual, other than the voter

131 to whom the ballot was sent, signed the ballot affidavit, informs the individual that
132 it is unlawful to sign a ballot affidavit for another person, even if the person gives
133 permission;

134 (iii) verifies the identity of the individual by:

135 (A) requiring the individual to provide at least two types of personal identifying
136 information for the individual; and

137 (B) comparing the information provided under Subsection (7)(b)(iii)(A) to records
138 relating to the individual that are in the possession or control of an election
139 officer; and

140 (iv) documenting the verification described in Subsection (7)(b)(iii), by recording:

141 (A) the name and voter identification number of the individual contacted;

142 (B) the name of the individual who conducts the verification;

143 (C) the date and manner of the communication;

144 (D) the type of personal identifying information provided by the individual;

145 (E) a description of the records against which the personal identifying information
146 provided by the individual is compared and verified; and

147 (F) other information required by the lieutenant governor.

148 (8) The election officer shall:

149 (a) retain and preserve the return envelopes in the manner provided by law for the
150 retention and preservation of ballots voted at that election;

151 (b) retain and preserve the documentation described in Subsection (7)(b)(iv); and

152 (c) if the election officer complies with Subsection (8)(b) by including the
153 documentation in the voter's voter registration record, make, retain, and preserve a
154 record of the name and voter identification number of each voter contacted under
155 Subsection (7)(b).

156 (9) (a) The election officer shall record the following in the database used to verify
157 signatures:

158 (i) any initial rejection of a ballot under Subsection (4)(c), within one business day
159 after the day on which the election officer rejects the ballot; and

160 (ii) any resolution of a rejection of a ballot under Subsection (7), within one business
161 day after the day on which the ballot rejection is resolved.

162 (b) An election officer shall include, in the canvass report, a final report of the
163 disposition of all rejected and resolved ballots, including, for ballots rejected, the
164 following:

165 (i) the number of ballots rejected because the voter did not sign the voter's ballot; and
166 (ii) the number of ballots rejected because the voter's signatures on the ballot, and in
167 records on file, do not correspond.

168 (10) Willful failure to comply with this section constitutes willful neglect of duty under
169 Section 20A-5-701.

170 (11) The director of elections within the Office of the Lieutenant Governor shall make
171 rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
172 establish:

173 (a) criteria and processes for use by poll workers in determining if a signature
174 corresponds with the signature on file for the voter under Subsections (3)(a) and
175 (4)(a)(i)(A);

176 (b) training and certification requirements for election officers and employees of election
177 officers regarding the criteria and processes described in Subsection (11)(a); and

178 (c) in compliance with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C.
179 Secs. 12131 through 12165, an alternative means of verifying the identity of an
180 individual who checks the box described in Subsection (5)(c)(v).

181 (12) [Hf] Subject to Subsection (13), if, in response to a request, and in accordance with the
182 requirements of law, an election officer discloses the name or address of voters whose
183 ballots have been rejected and not yet resolved, the election officer shall:

184 (a) make the disclosure within two business days after the day on which the request is
185 made;

186 (b) respond to each request in the order the requests were made; and

187 (c) make each disclosure in a manner, and within a period of time, that does not reflect
188 favoritism to one requestor over another.

189 (13) A disclosure described in Subsection (12) may not include the name or address of a
190 protected individual, as defined in Subsection 20A-2-104(1).

191 Section 2. **Effective date.**

192 This bill takes effect on May 1, 2024.