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ELECTION INTEGRITY AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses the verification of a voter's signatures and the handling of a ballot for which the voter's signatures do not correspond.

Highlighted Provisions:

This bill:

- ▶ clarifies when a voter's signatures correspond;
- ▶ adds requirements to an election officer's required notice to the individual for whom poll workers reject a ballot because the voter's signatures do not correspond;
- ▶ allows for the inclusion on an affidavit regarding a rejected ballot information regarding a voter's disability that causes the voter's signatures not to correspond;
- ▶ requires election officers to:
 - record certain information regarding rejected ballots; and
 - report certain information regarding rejected ballots to the Office of the Lieutenant Governor;
- ▶ requires the director of elections within the Office of the Lieutenant Governor to make certain rules regarding verifying a voter's signatures;
- ▶ includes an election officer as in individual subject to a criminal penalty for willful neglect of duty or corrupt conduct; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **20A-3a-401**, as renumbered and amended by Laws of Utah 2020, Chapter 31

34 **20A-5-701**, as last amended by Laws of Utah 2013, Chapter 253

35

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

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

38 **20A-3a-401. Custody of voted ballots mailed or deposited in a ballot drop box --**

39 **Disposition -- Notice.**

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

41 (2) (a) Poll workers shall open return envelopes containing manual ballots that are in
42 the custody of the poll workers in accordance with Subsection (2)(b).

43 (b) The poll workers shall, first, compare the signature of the voter on the affidavit of
44 the return envelope to the signature of the voter in the voter registration records.

45 (3) After complying with Subsection (2), the poll workers shall determine whether:

46 (a) the signatures correspond;

47 (b) the affidavit is sufficient;

48 (c) the voter is registered to vote in the correct precinct;

49 (d) the voter's right to vote the ballot has been challenged;

50 (e) the voter has already voted in the election;

51 (f) the voter is required to provide valid voter identification; and

52 (g) if the voter is required to provide valid voter identification, whether the voter has
53 provided valid voter identification.

54 (4) (a) The poll workers shall take the action described in Subsection (4)(b) if the poll
55 workers determine that:

56 (i) the signatures correspond;

57 (ii) the affidavit is sufficient;

58 (iii) the voter is registered to vote in the correct precinct;

59 (iv) the voter's right to vote the ballot has not been challenged;

60 (v) the voter has not already voted in the election; and

61 (vi) for a voter required to provide valid voter identification, that the voter has
62 provided valid voter identification.

63 (b) If the poll workers make all of the findings described in Subsection (4)(a), the poll
64 workers shall:

65 (i) remove the manual ballot from the return envelope in a manner that does not
66 destroy the affidavit on the return envelope;

67 (ii) ensure that the ballot does not unfold and is not otherwise examined in connection
68 with the return envelope; and

69 (iii) place the ballot with the other ballots to be counted.

70 (c) If the poll workers do not make all of the findings described in Subsection (4)(a),
71 the poll workers shall:

72 (i) disallow the vote;

73 (ii) without opening the return envelope, mark across the face of the return envelope:

74 (A) "Rejected as defective"; or

75 (B) "Rejected as not a registered voter"; and

76 (iii) place the return envelope, unopened, with the other rejected return envelopes.

77 (d) A signature corresponds as described in Subsection (4)(a)(i) if the poll worker, in
78 accordance with the criteria and processes that the Office of the Lieutenant Governor issues
79 under Subsection (12), determines that the signature on a ballot's affidavit return envelope is
80 reasonably consistent with the individual's signature in the voter registration records.

81 (5) (a) If the poll workers reject an individual's ballot because the poll workers
82 determine that [~~the signature on the return envelope does not match the individual's signature in~~
83 ~~the voter registration records~~] signatures do not meet the conditions described in Subsection
84 (4)(d), the election officer shall:

85 (i) contact the individual in accordance with Subsection (7) and to the maximum
86 degree possible using the information on record for the voter, including any contact
87 information provided by the voter on the voter's mail-in ballot envelope, by mail, email, SMS
88 text message, or phone[~~, and~~];

89 (ii) attempt contact using each method of communication described in Subsection

90 (5)(a)(i) until the election official reaches the individual; and

91 (iii) inform the individual:

92 [(i)] (A) that the individual's signature is in question;

93 [(ii)] (B) how the individual may resolve the issue; and

94 [(iii)] (C) that, in order for the ballot to be counted, the individual is required to deliver
95 to the election officer a correctly completed affidavit, provided by the county clerk, that meets
96 the requirements described in Subsection (5)[(b)](c).

97 (b) The election officer shall ensure that the notice described in Subsection (5)(a)
98 includes:

99 (i) when communicating the notice by mail, a printed copy of the affidavit described in
100 Subsection (5)(c) and a return envelope with pre-paid postage;

101 (ii) when communicating the notice by email or text message, a link to a copy of the
102 affidavit described in Subsection (5)(c) that the county clerk's website hosts; or

103 (iii) when communicating the notice through phone, either during a direct conversation
104 with the voter or in a voicemail, arrangements for the voter to receive a copy of the affidavit
105 described in Subsection (5)(c), either from the clerk's office in person, by mail, or electronically
106 on the clerk's website.

107 [(b)] (c) An affidavit described in Subsection (5)(a)(iii) shall include:

108 (i) an attestation that the individual voted the ballot;

109 (ii) a space for the individual to enter the individual's name, date of birth, and driver
110 license number or the last four digits of the individual's social security number;

111 (iii) a space for the individual to sign the affidavit; and

112 (iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant
113 governor's and county clerk's use of the individual's signature on the affidavit for voter
114 identification purposes.

115 [(c)] (d) In order for an individual described in Subsection (5)(a) to have the
116 individual's ballot counted, the individual shall deliver the affidavit described in Subsection
117 [(5)(b)] (5)(a)(iii) to the election officer.

118 (e) If the reason that a signature does not correspond under Subsection (5)(a) is due to
119 an individual's disability, the individual may include related information in the affidavit
120 described in Subsection (5)(a)(iii).

121 ~~[(d)]~~ (f) An election officer who receives a signed affidavit under Subsection ~~[(5)(e)]~~
 122 (5)(d) shall immediately:

123 (i) scan the signature on the affidavit electronically and keep the signature on file in the
 124 statewide voter registration database developed under Section 20A-2-109; ~~[and]~~

125 (ii) if the election officer receives the affidavit no later than 5 p.m. the day before the
 126 canvass, count the individual's ballot~~[-]; and~~

127 (iii) if the affidavit discloses that the reason that the signature does not correspond is
 128 due to an individual's disability as described in Subsection (5)(e), the election officer shall
 129 modify policies as appropriate for the individual in accordance with Title II of the Americans
 130 with Disabilities Act of 1990, 42 U.S.C. 12131 - 12165.

131 (6) If the poll workers reject an individual's ballot for any reason, other than the reason
 132 described in Subsection (5)(a), the election officer shall notify the individual of the rejection in
 133 accordance with Subsection (7) by mail, email, SMS text message, or phone and specify the
 134 reason for the rejection.

135 (7) An election officer who is required to give notice under Subsection (5) or (6) shall
 136 give the notice no later than:

137 ~~[(a) if the election officer rejects the ballot before election day.]~~

138 ~~[(i)]~~ (a) one business day after the day on which the election officer rejects the ballot, if
 139 the election officer gives the notice by email or text message; or

140 ~~[(ii)]~~ (b) two business days after the day on which the election officer rejects the ballot,
 141 if the election officer gives the notice by postal mail or phone~~[-]~~.

142 ~~[(b) seven days after election day if the election officer rejects the ballot on election~~
 143 ~~day; or]~~

144 ~~[(c) seven days after the canvass if the election officer rejects the ballot after election~~
 145 ~~day and before the end of the canvass.]~~

146 (8) (a) An election officer may not count the ballot of an individual whom the election
 147 officer contacts under Subsection (5) or (6) unless the election officer:

148 (i) receives a signed affidavit described in Subsection (5)(c) from the individual
 149 ~~[under]~~ in accordance with Subsection ~~[(5)(b)]~~ (5)(c); or

150 (ii) is otherwise able to establish contact with the individual to confirm the individual's
 151 identity.

152 (b) For purposes of this Subsection (8), an election officer establishes contact with the
153 individual and confirms the individual's identify if:

154 (i) the election officer or the election officer's employee communicates directly with
155 the voter;

156 (ii) the voter provides vital information to the officer or employee that the officer or
157 employee verifies using the voter's voter registration file; and

158 (iii) the election officer maintains written documentation of:

159 (A) the contact;

160 (B) the vital information that the voter provides; and

161 (C) the verification of the information using the voter file.

162 (9) The election officer shall retain and preserve the return envelopes in the manner
163 provided by law for the retention and preservation of ballots voted at that election.

164 (10) (a) (i) The election officer shall record the following in the statewide database of
165 registered voters:

166 (A) any initial rejection of a ballot under Subsection (4)(c) within one business day
167 after the day on which the election officer rejects the ballot; and

168 (B) any resolution of a rejection of a ballot under Subsection (8) within one business
169 day after the day on which the ballot rejection is resolved.

170 (ii) A record described in Subsection (10)(a)(i) constitutes a part of the voting history
171 record as that term is defined in Section [20A-5-410](#).

172 (b) No later than 14 business days after the canvass date for the election in question,
173 the election officer shall provide to the Office of the Lieutenant Governor a final report of the
174 disposition of all rejected and resolved ballots, including specific numbers of ballots rejected:

175 (i) because the voter did not sign the voter's ballot;

176 (ii) because the voter's signatures on the ballot and in records on file do not correspond;
177 and

178 (iii) for which the voter subsequently submitted an affidavit described in Subsection
179 (5)(e) stating that the reason for a voter's rejected signature was the voter's disability.

180 (11) Willful failure to comply with this section constitutes willful neglect of duty under
181 Section [20A-5-701](#).

182 (12) The director of elections within the Office of the Lieutenant Governor shall make

183 rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

184 (a) establish criteria and processes for use by poll workers in determining if a signature
185 corresponds with the signature on file for the voter in accordance with Subsection (4)(d); and

186 (b) provide training and certification to election officers and employees of election
187 officers regarding the criteria and processes described in Subsection (12)(a).

188 Section 2. Section **20A-5-701** is amended to read:

189 **20A-5-701. Willful neglect of duty or corrupt conduct -- Penalty.**

190 (1) It is unlawful for any poll worker or election officer to willfully neglect the poll
191 worker's or election officer's duty or to willfully act corruptly in discharging the poll worker's
192 or election officer's duty.

193 (2) Any poll worker or election officer who violates this section is guilty of a third
194 degree felony.