



2023 South Dakota Legislature

House Bill 1232

Introduced by: **Representative Lems**

1 **An Act to revise provisions related to residency for voter registration.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 12-1-4 be AMENDED:**

4 **12-1-4.** For the purposes of this title, the term, residence, means the place in
 5 which a person has fixed ~~his or her~~ the person's habitation and to which the person,
 6 whenever absent, intends to return.

7 A county auditor shall determine residency based on the following:

- 8 (1) The sole basis for the person's presence at the location is not based on a business
 9 or a commercial use;
- 10 (2) The residence of the person is a place in which the person's habitation is fixed and
 11 to which the person has a definite plan to return following an absence;
- 12 (3) The person is not claiming residency solely for taxation or insurance purposes with
 13 no intention of physically remaining or returning; and
- 14 (4) The person maintains a domicile with long-term sleeping accommodations at the
 15 location, unless the person is homeless and lacks a fixed, regular, and adequate
 16 nighttime residence or domicile, which in such case residency must be determined
 17 using one of the following:
- 18 (a) A supervised publicly or privately operated shelter designed to provide
 19 temporary living accommodations;
- 20 (b) An institution that provides temporary residence for a person intended to
 21 be institutionalized; or
- 22 (c) A public or private place not designed for, or ordinarily used as, a regular
 23 sleeping accommodation;

24 If the county auditor denies a person's registration based on residency, the person
 25 may appeal the denial to the Office of Hearing Examiners as a contested case pursuant to
 26 chapter 1-26. The administrative law judge may allow voter registration at a particular

1 address if the judge determines circumstances indicate residence was established at the
2 address. Prior long-term residence in the state must be considered proof of intention to
3 return to the state.

4 A person who has left home and gone into another state or territory or county of
5 this state for a temporary purpose only has not changed ~~his or her~~ the person's residence.

6 A person is considered to have gained a residence in any county or municipality of
7 this state in which the person actually lives, if the person has no present intention of
8 leaving and has actually resided in this state for at least thirty consecutive days.

9 If a person moves to another state, or to any of the other territories, with the
10 intention of making it ~~his or her~~ the person's permanent home, the person thereby loses
11 residence in this state.

12 **Section 2. That chapter 12-1 be amended with a NEW SECTION:**

13 No person may register to vote using a business location or campground as the
14 registration address. If no other residential address or valid physical description of the
15 location of the residence is available, the person may appeal to the county auditor in the
16 county of registration.