



2023 South Dakota Legislature

Senate Bill 140

SENATE STATE AFFAIRS ENGROSSED

Introduced by: **Senator Steve Kolbeck**

1 **An Act to revise certain provisions relating to voter registration.**

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

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

4 **12-4-1.** ~~Every~~A person residing within the state who has the qualifications of a
5 voter prescribed by § 12-3-1 or 12-3-1.1, or who will have such qualifications at the next
6 ensuing municipal, primary, general, or school district election, ~~shall be~~is entitled to be
7 registered as a voter in the voting precinct in which ~~he~~the person resides.

8 **Section 2. That § 12-4-3.2 be AMENDED:**

9 **12-4-3.2.** Any private entity or individual registering a person to vote shall file the
10 completed registration form with the ~~county~~of the county in which the applicant
11 resides within ten days or by the next voter registration deadline, whichever occurs first.
12 A violation of this section is a Class 2 misdemeanor.

13 **Section 3. That § 12-4-4.2 be AMENDED:**

14 **12-4-4.2.** ~~The purpose of §§~~Sections 12-4-4.2 to 12-4-4.9, inclusive, ~~is to~~
15 implement the Uniformed and Overseas Citizens Absentee Voting Act, ~~42 U.S.C.~~
16 ~~§§ 1973ff 1-1973ff 6, (Jan. 1, 1996)~~ 52 U.S.C. § 20301 et seq., as of January 1, 2023.

17 **Section 4. That § 12-4-4.12 be AMENDED:**

18 **12-4-4.12.** If a voter is identified as being covered by the Uniformed and Overseas
19 Citizens Absentee Voting Act ~~(42 U.S.C. 1973ff 1)~~ as of January 1, 2010, 52 U.S.C.
20 § 20301 et seq., as of January 1, 2023, the voter may register to vote through the system
21 provided by the Office of the Secretary of State.

22 **Section 5. That § 12-4-5.2 be AMENDED:**

1 **12-4-5.2.** The county auditor or the person responsible for the conduct of a local
 2 election shall give notice of the availability of registration officials and state when
 3 registration will be terminated and the effect of ~~a failure to have registered~~ not registering
 4 to vote. ~~Such notice shall be published~~ The county auditor or the person responsible for
 5 the conduct of a local election shall publish the notice online and in official newspapers at
 6 least once each week for two consecutive weeks, the last publication to be not less than
 7 ten nor more than fifteen days before the deadline for registration. A township,
 8 conservation district, sanitation district, fire district, or any special district is not required
 9 to post a notice online if the district does not have an official website.

10 **Section 6. That § 12-4-5.3 be AMENDED:**

11 **12-4-5.3.** When a voter registration application is received by the county auditor,
 12 the county auditor or an individual designated by the county auditor shall review the
 13 application for eligibility and completeness. If the applicant is not eligible to be registered
 14 or sufficient information to complete the registration card cannot be obtained from the
 15 applicant, ~~the applicant shall be sent~~ county auditor must send an acknowledgment notice
 16 by nonforwardable mail to the applicant indicating the reason the registration was not
 17 filed. ~~In addition, the~~ The acknowledgment notice ~~shall~~ must state that the ~~voter~~ applicant
 18 needs to submit the corrected information to the county auditor within thirty days or the
 19 voter registration form may not be processed. The county auditor or an individual
 20 designated by the county auditor may contact the applicant by phone or electronic
 21 communication to collect the required additional information. ~~Any applicant whose~~
 22 ~~registration is accepted~~ The county auditor shall be sent send an acknowledgment notice
 23 by nonforwardable mail to the applicant whose registration is accepted. ~~The~~
 24 ~~acknowledgment notice shall be prescribed by the State Board of Elections and sent by~~
 25 ~~nonforwardable mail~~ The State Board of Elections shall promulgate rules, pursuant to
 26 chapter 1-26, prescribing the form of the acknowledgement notice. The same confirmation
 27 mailing required by § 12-4-19 ~~shall~~ must be sent immediately to any person whose
 28 registration acknowledgment notice is returned undeliverable.

29 **Section 7. That § 12-4-5.5 be AMENDED:**

30 **12-4-5.5.** At the time voter registration information is transmitted from a county
 31 to the statewide voter registration file, the secretary of state shall verify the authenticity
 32 of the driver license number or the South Dakota nondriver identification number ~~shall be~~
 33 ~~verified~~ with the driver license database. If the ~~person has provided~~ the last four digits of

1 ~~his or her~~the person's social security number have been provided, the secretary of state
 2 shall review the social security database ~~shall be checked~~ to determine that the number,
 3 name, and date of birth are accurate and that this information ~~does belong~~ belongs to
 4 ~~such~~the person. If any of this information is reported as not being accurate, the county
 5 auditor ~~shall~~ must withdraw the voter registration and attempt to get the correct
 6 information with the process provided in § 12-4-5.3. The State Board of Elections ~~may~~
 7 shall promulgate rules, pursuant to chapter 1-26, determining technical parameters for
 8 the driver license and social security database verification.

9 **Section 8. That § 12-4-8.1 be AMENDED:**

10 **12-4-8.1.** In lieu of forms for registration prescribed under § 12-4-8, requests for
 11 absentee ballots submitted in accordance with the Uniformed and Overseas Citizens
 12 Absentee Voting Act ~~(UOCAVA) (42 U.S.C. § 1973ff)~~ shall be, 52 U.S.C. § 20301 et seq.,
 13 as of January 1, 2023, are sufficient for registration purposes. The county auditor shall
 14 make and file the index card for the master file and attach the card thereto and shall save
 15 an electronic copy of the card. ~~a~~ The county auditor shall supply a photocopy ~~shall be~~
 16 supplied to the election board of the precinct for the purposes of § 12-19-2.

17 **Section 9. That § 12-4-10 be AMENDED:**

18 **12-4-10.** The county auditor shall provide from the master registration file, in
 19 paper or electronic format, a separate list of the names and addresses of all registered
 20 voters in each voting precinct as established pursuant to chapter 12-14, § 9-13-16, or 13-
 21 7-11 in the county, which shall be known as the precinct registration list. The county
 22 auditor shall design the list for any voting precinct ~~shall be designed~~ so that each name
 23 can be distinctly marked ~~whenever~~ when the registrant ~~presents himself or herself for~~
 24 voting voter requests a ballot and ~~shall~~ must contain a space in which may be recorded
 25 the record of any challenge, affidavit, or other information as may be required. The
 26 precinct superintendent or precinct deputy ~~Each entry shall be made by the precinct~~
 27 superintendent or precinct deputies make each entry when the voter ~~presents himself or~~
 28 herself for voting requests a ballot.

29 **Section 10. That § 12-4-15 be AMENDED:**

30 **12-4-15.** A person may designate or change that person's party affiliation, name,
 31 or address, phone number, or email address by completing a new registration card. ~~For~~

1 ~~any registration card completed by a person changing that person's party affiliation, name,~~
 2 ~~or address, if the field for party affiliation is left blank. If a person completes a registration~~
 3 ~~card to change that person's name, address, phone number, or email address, and leaves~~
 4 ~~the field for party affiliation blank, the county auditor must list the person's party affiliation~~
 5 ~~shall be~~ the most recent party affiliation registered for that person. ~~For any registration~~
 6 ~~card completed by a person who is registering to vote for the first time in this state, if the~~
 7 ~~field for party affiliation is left blank. If a person completes a registration card to register~~
 8 ~~to vote for the first time in the state and leaves the field for party affiliation blank, the~~
 9 ~~county auditor must register that person's party affiliation shall be registered as~~
 10 ~~independent or no party affiliation.~~

11 **Section 11. That § 12-4-18 be AMENDED:**

12 **12-4-18.** The clerk of courts shall, within fifteen days after the close of each
 13 month, prepare and deliver to the county auditor an abstract from the records of the
 14 names of persons declared mentally incompetent in the preceding month. ~~The clerk of~~
 15 ~~courts notice shall be sent~~ send the name of a person declared mentally incompetent
 16 the county auditor of the county in which the person declared incompetent resides. The
 17 county auditor shall remove from the master registration list the names of persons
 18 identified in accordance with the information provided pursuant to this section and names
 19 of those sentenced to imprisonment in the federal penitentiary system and may remove
 20 names published in an obituary.

21 ~~Voter~~ The county auditor shall match voter registration records maintained in or
 22 transmitted to the statewide voter registration file ~~shall be matched~~ with the death records
 23 maintained as vital statistics records by the Department of Health and the records of felony
 24 convictions maintained by the Unified Judicial System. ~~Any~~ The county auditor shall remove
 25 a voter identified as deceased or who is serving a sentence for a felony conviction shall be
 26 ~~removed~~ from the voter registration records. The State Board of Elections ~~may~~ shall
 27 promulgate rules, pursuant to chapter 1-26, determining how voter registration records
 28 ~~shall be~~ are matched.

29 Prior to providing a registration list to precincts, as prescribed in § 12-4-10, the
 30 county auditor must certify with the secretary of state that all individuals required to be
 31 removed from the master registration list have been removed based on the information
 32 available to the county auditor at the time the certification is submitted. The State Board
 33 of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the form to
 34 certify the accuracy of the master registration list.

1 **Section 12. That § 12-4-24 be AMENDED:**

2 **12-4-24.** The county auditor shall complete and make available to the official
3 charged with the conduct of a local election at least one day preceding the election a
4 precinct registration list and the person in charge of the election shall deliver the list to
5 each of ~~his~~ the superintendents of election.

6 **Section 13. That § 12-4-37 be AMENDED:**

7 **12-4-37.** The secretary of state shall establish and maintain a computerized
8 system for maintaining and utilizing the voter registration file and transmitting voter
9 registration information from each county auditor to the Office of the Secretary of State.
10 The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, to develop
11 and implement procedures to secure the computerized system used for the voter
12 registration file from external threats that could damage the integrity of the voter
13 registration system.

14 Each county auditor shall transmit any changes to the master registration file or
15 the absentee voter log to the secretary of state on a daily basis. The county auditor shall
16 transmit updated information contained in the county voter registration system, including
17 voter registration information and voter election history information, to the Office of the
18 Secretary of State not later than July fifteenth after each primary election and December
19 fifteenth after each general election.

20 **Section 14. That chapter 12-4 be amended with a NEW SECTION:**

21 By March first of each year, each county auditor shall submit a report to the
22 secretary of state and the State Board of Elections providing the number of voters
23 removed from the county's voter registration list from the previous year due to inactivity,
24 death, felony conviction, mental incompetence, or relocation to another jurisdiction.

25 The State Board of Elections shall promulgate rules, pursuant to chapter 1-26,
26 designating the form and content of the report. The content of each report must be made
27 available for public inspection on the official website of the secretary of state.

28 **Section 15. That chapter 12-4 be amended with a NEW SECTION:**

29 On the first business day of each month and on the date of a primary, general,
30 runoff, or special election in the state, the secretary of state shall publish the following
31 information on the official website of the secretary of state:

- 1 (1) The total number of registered voters in each county of the state;
2 (2) The total number of registered voters in each legislative district in the state;
3 (3) The total number of voters registered as a member of a political party in each
4 county of the state;
5 (4) The total number of voters registered as a member of a political party in each
6 legislative district in the state;
7 (5) The total number of inactive voters in each county in the state; and
8 (6) The total number of inactive voters in each legislative district of this state.
9 The State Board of Elections shall promulgate rules, pursuant to chapter 1-26,
10 designating the form for online publication of the information listed in this section.

11 **Section 16. That chapter 12-4 be amended with a NEW SECTION:**

12 A person registered to vote, pursuant to this chapter, may request that the auditor
13 of the county in which the voter resides remove the person's name from the master
14 registration list. If a person makes a request pursuant to this section less than fourteen
15 days prior to an election, the removal of the individual's name is effective on the day after
16 the election. The State Board of Elections shall promulgate rules, pursuant to chapter 1-
17 26, prescribing the form to be used by a person requesting the removal of the person's
18 name from the master registration list.

19 **Section 17. That chapter 12-4 be amended with a NEW SECTION:**

20 Each clerk of court shall forward to the county auditor of the clerk's county
21 information on any individual called for jury duty who is excused from jury duty because
22 the individual has moved, has been convicted of a felony, has been declared mentally
23 incompetent, is deceased, or is not a citizen of the United States. Upon receipt of the
24 information, the county auditor shall investigate to determine if the reported individual is
25 listed in the county's master registration file and whether the individual is eligible to be
26 registered as a voter.