

## 2023 South Dakota Legislature

**Senate Bill 140****AMENDMENT 140D  
FOR THE SENATE STATE AFFAIRS ENGROSSED BILL**

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~~ county auditor ~~of the county in which the~~  
11 applicant resides within ten days or by the next voter registration deadline, whichever  
12 occurs first. 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 to  
 16 the county auditor of the county in which the person declared incompetent resides.

17 The county auditor shall remove from the master registration list ~~the:~~  
 18 (1) The names of persons identified as mentally incompetent in accordance with the  
 19 information provided pursuant to this section ~~and;~~  
 20 (2) The names of those sentenced to imprisonment in the federal penitentiary system;  
 21 ~~and may remove~~  
 22 (3) The names published in an obituary.

23 ~~Voter~~ The county auditor shall match voter registration records maintained in or  
 24 transmitted to the statewide voter registration file ~~shall be matched~~ with the death records  
 25 maintained as vital statistics records by the Department of Health, the social security  
 26 death index, the Social Security Administration master death file, and the records of felony  
 27 convictions maintained by the Unified Judicial System each month. ~~Any~~ The county auditor  
 28 shall remove a Any voter identified as deceased ~~or, as mentally incompetent, or~~ who is  
 29 serving a sentence for a felony conviction ~~shall be removed~~ must be removed from the  
 30 voter registration records.

31 The State Board of Elections ~~may shall~~ promulgate rules, pursuant to chapter 1-  
 32 26, determining how voter registration records ~~shall be~~ are matched.

33 Prior to providing a registration list to precincts, as prescribed in § 12-4-10, the  
 34 county auditor must certify with the secretary of state that all individuals required to be

1 removed from the master registration list have been removed based on the information  
2 available to the county auditor at the time the certification is submitted. The State Board  
3 of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the form to  
4 certify the accuracy of the master registration list.

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

6 **12-4-24.** The county auditor shall complete and make available to the official  
7 charged with the conduct of a local election at least one day preceding the election a  
8 precinct registration list and the person in charge of the election shall deliver the list to  
9 each of his the superintendents of election.

10 **Section 13. That § 12-4-34 be AMENDED:**

11 **12-4-34.** If a statute refers to registered voters, it does not include those in the  
12 inactive registration file unless specifically included. ~~However, any~~ Any voter in the inactive  
13 registration file may sign a petition.

14 **Section 14. That § 12-4-37 be AMENDED:**

15 **12-4-37.** The secretary of state shall establish and maintain a computerized  
16 system for maintaining and utilizing the voter registration file and transmitting voter  
17 registration information from each county auditor to the Office of the Secretary of State.  
18 The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, to develop  
19 and implement procedures to secure the computerized system used for the voter  
20 registration file from external threats that could damage the integrity of the voter  
21 registration system.

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

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

29 By March first of each year, ~~each county auditor shall submit a report to the~~  
30 secretary of state ~~and shall submit a report to~~ the State Board of Elections providing the

1 number of voters removed from the county's voter registration list from the previous year  
2 due to inactivity, death, felony conviction, mental incompetence, or relocation to another  
3 jurisdiction.

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

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

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

- 11 (1) The total number of registered voters in each county of the state;  
12 (2) The total number of registered voters in each legislative district in the state;  
13 (3) The total number of voters registered as a member of a political party in each  
14 county of the state;  
15 (4) The total number of voters registered as a member of a political party in each  
16 legislative district in the state;  
17 (5) The total number of inactive voters in each county in the state; and  
18 (6) The total number of inactive voters in each legislative district of this state.

19 The State Board of Elections shall promulgate rules, pursuant to chapter 1-26,  
20 designating the form for online publication of the information listed in this section.

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

22 A person registered to vote, pursuant to this chapter, may request that the auditor  
23 of the county in which the voter resides remove the person's name from the master  
24 registration list. If a person makes a request pursuant to this section less than fourteen  
25 days prior to an election, the removal of the individual's name is effective on the day after  
26 the election. The State Board of Elections shall promulgate rules, pursuant to chapter 1-  
27 26, prescribing the form to be used by a person requesting the removal of the person's  
28 name from the master registration list.

29 **Section 18. That chapter 12-4 be amended with a NEW SECTION:**

30 ~~Each~~ Within fifteen days after the close of each month, ~~each~~ clerk of court shall  
31 forward to the county auditor of the clerk's county information on any individual called for

1 jury duty who is excused from jury duty because the individual has moved, has been  
2 convicted of a felony, has been declared mentally incompetent, is deceased, or is not a  
3 citizen of the United States. Upon receipt of the information, the county auditor shall  
4 investigate to determine if the reported individual is listed in the county's master  
5 registration file and whether the individual is eligible to be registered as a voter.

- 6 The county auditor shall remove from the master registration list:  
7 (1) The names of persons identified as mentally incompetent in accordance with the  
8 information provided pursuant to this section or § 12-4-18;  
9 (2) The names of those sentenced to imprisonment in the federal penitentiary system;  
10 (3) The names of deceased voters published in an obituary, reported by a county  
11 coroner, or recorded in the death records maintained as vital statistics records by  
12 the Department of Health; and  
13 (4) The names of those who are not a citizen of the United States.  
14