



2023 South Dakota Legislature
Senate Bill 140
ENROLLED

AN ACT

ENTITLED An Act to revise certain provisions relating to voter registration.

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

Section 1. That § 12-4-1 be AMENDED:

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

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

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

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

12-4-4.2. Sections 12-4-4.2 to 12-4-4.9, inclusive, implement the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20301 et seq., as of January 1, 2023.

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

12-4-4.12. If a voter is identified as being covered by the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20301 et seq., as of January 1, 2023, the voter may register to vote through the system provided by the Office of the Secretary of State.

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

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

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

12-4-5.3. When a voter registration application is received by the county auditor, the county auditor or an individual designated by the county auditor shall review the application for eligibility and completeness. If the applicant is not eligible to be registered or sufficient information to complete the registration card cannot be obtained from the applicant, the county auditor must send an acknowledgment notice by nonforwardable mail to the applicant indicating the reason the registration was not filed. The acknowledgment notice must state that the applicant needs to submit the corrected information to the county auditor within thirty days or the voter registration form may not be processed. The county auditor shall send an acknowledgment notice by nonforwardable mail to the applicant whose registration is accepted. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the form of the acknowledgement notice. The same confirmation mailing required by § 12-4-19 must be sent immediately to any person whose registration acknowledgment notice is returned undeliverable.

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

12-4-5.5. At the time voter registration information is transmitted from a county to the statewide voter registration file, the secretary of state shall verify the authenticity of the driver license number or the South Dakota nondriver identification number with the driver license database. If the last four digits of the person's social security number have been provided, the secretary of state shall review the social security database to determine that the number, name, and date of birth are accurate and that this information belongs to the person. If any of this information is reported as not being accurate, the county auditor must withdraw the voter registration and attempt to get the correct information with the process provided in § 12-4-5.3. The State Board of Elections shall

promulgate rules, pursuant to chapter 1-26, determining technical parameters for the driver license and social security database verification.

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

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

Section 9. That § 12-4-10 be AMENDED:

12-4-10. The county auditor shall provide from the master registration file, in paper or electronic format, a separate list of the names and addresses of all registered voters in each voting precinct as established pursuant to chapter 12-14, § 9-13-16, or 13-7-11 in the county, which shall be known as the precinct registration list. The county auditor shall design the list for any voting precinct so that each name can be distinctly marked when the voter requests a ballot and must contain a space in which may be recorded the record of any challenge, affidavit, or other information as may be required. The precinct superintendent or precinct deputy shall make each entry when the voter requests a ballot.

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

12-4-15. A person may designate or change that person's party affiliation, name, address, phone number, or email address by completing a new registration card. If a person completes a registration card to change that person's name, address, phone number, or email address, and leaves the field for party affiliation blank, the county auditor must list the person's party affiliation as the most recent party affiliation registered for that person. If a person completes a registration card to register to vote for the first time in the state and leaves the field for party affiliation blank, the county auditor must register that person's party affiliation as no party affiliation.

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

12-4-18. The clerk of courts shall, within fifteen days after the close of each month, prepare an abstract from the records of the names of persons declared mentally incompetent in the preceding month. The clerk of courts shall send the name of a person declared mentally incompetent to the county auditor of the county in which the person declared incompetent resides.

The county auditor shall remove from the master registration list:

- (1) The names of persons identified as mentally incompetent in accordance with the information provided pursuant to this section;
- (2) The names of those sentenced to imprisonment in the federal penitentiary system; and
- (3) The names published in an obituary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) The total number of registered voters in each county of the state;
- (2) The total number of registered voters in each legislative district in the state;

- (3) The total number of voters registered as a member of a political party in each county of the state;
- (4) The total number of voters registered as a member of a political party in each legislative district in the state;
- (5) The total number of inactive voters in each county in the state; and
- (6) The total number of inactive voters in each legislative district of this state.

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

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

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

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

Within fifteen days after the close of each month, each clerk of court shall forward to the county auditor of the clerk's county information on any individual called for jury duty who is excused from jury duty because the individual has moved, has been convicted of a felony, has been declared mentally incompetent, is deceased, or is not a citizen of the United States. Upon receipt of the information, the county auditor shall investigate to determine if the reported individual is listed in the county's master registration file and whether the individual is eligible to be registered as a voter.

The county auditor shall remove from the master registration list:

- (1) The names of persons identified as mentally incompetent in accordance with the information provided pursuant to this section or § 12-4-18;
- (2) The names of those sentenced to imprisonment in the federal penitentiary system;
- (3) The names of deceased voters published in an obituary, reported by a county coroner, or recorded in the death records maintained as vital statistics records by the Department of Health; and
- (4) The names of those who are not citizens of the United States.

An Act to revise certain provisions relating to voter registration.

I certify that the attached Act originated in the:

Received at this Executive Office this ____ day of _____,

Senate as Bill No. 140

2023 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby approved this _____ day of _____, A.D., 2023

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2023
at _____ o'clock __ M.

Chief Clerk

Secretary of State

Senate Bill No. 140
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State