

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

661B0231

HOUSE BILL NO. 1157

Introduced by: Representatives Gosch, Beal, Greenfield (Lana), Haugaard, Healy, Livermont, Marty, McCleerey, Mulally, Pischke, Qualm, Rasmussen, Smith (Jamie), and Willadsen and Senators Greenfield (Brock), Heinert, Jensen (Phil), Kennedy, and Langer

1 FOR AN ACT ENTITLED, An Act to revise provisions regarding challenges to candidate
2 nominating petitions.

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

4 Section 1. That § 12-1-13 be amended to read:

5 12-1-13. Within five business days after a nominating, initiative, or referendum petition,
6 excluding petitions for statewide initiative, referendum, or constitutional initiative petitions, is
7 validated and filed with the person in charge of the election, any interested person who has
8 researched the signatures contained on the petition or, for a nominating petition, has researched
9 the information contained in the declaration of candidacy, may submit an affidavit stating that
10 the petition contains deficiencies as to the number of signatures of persons who are eligible to
11 sign the petition or that the declaration of candidacy is not valid. The affidavit shall include an
12 itemized listing of the specific deficiencies in question.

13 Any challenge to the following items is prohibited under this challenge process:

14 (1) Signer does not live at address listed on the petition;



- 1 (2) Circulator does not live at address listed on the petition;
- 2 (3) Circulator listed a residence address in South Dakota but is not a South Dakota
3 resident;
- 4 (4) Circulator did not witness the signers;
- 5 (5) Signatures or petition sheets not included in the random sample. This subdivision
6 applies only to petitions for statewide candidates, new party formation petitions, or
7 to local jurisdictions that conduct random sampling; and
- 8 (6) Petition that was originally rejected.

9 All challenges by the same person or party in interest shall be included in one affidavit.

10 The original signed affidavit shall be received by the person in charge of that election by
11 5:00 p.m. local time on the deadline date. If the affidavit challenges any item that is prohibited
12 by this section, only that line item shall be summarily rejected.

13 The decision of the secretary of state or the person in charge of the election regarding a
14 challenge under this section may not be challenged a second time with the secretary of state or
15 the person in charge of the election, but may be appealed to the circuit court. Any challenge with
16 the secretary of state may be appealed in Hughes County. An appeal challenging a nominating
17 petition for a primary election, takes precedence over other cases in circuit court. Any party
18 appealing the circuit court order to the Supreme Court shall file a notice of appeal within ten
19 days of the date of the notice of the entry of the circuit court order.

20 A failure to challenge a petition ~~pursuant to~~ in accordance with this section; does not deny
21 a person any other legal remedy to challenge the filing of a nominating, initiative, or referendum
22 petition in circuit court. A challenge to a petition in circuit court may include items prohibited
23 in this section.

24 Section 2. That § 12-1-14 be amended to read:

1 12-1-14. The person in charge of the election shall verify the information contained in the
2 affidavit submitted ~~pursuant to~~ in accordance with § 12-1-13 and make a written declaration
3 regarding the validity of the signatures in question or, for a nominating petition, of the
4 declaration of candidacy. The person in charge of the election shall verify that each person,
5 challenged ~~pursuant to~~ under § 12-1-13, was a registered voter at the time the person signed the
6 petition by using the registration documents on file or, for a nominating petition, that the
7 candidate was a resident of the district at the time the declaration of candidacy was signed, in
8 accordance with § 12-6-3.1, and is a registered voter with a party affiliation in accordance with
9 § 12-6-3.2.