

## **ARTICLE 5:02**

### **STATE BOARD OF ELECTIONS**

#### Chapter

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5:02:22      Vote centers.

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5:02:24      Voter registration challenges.

**5:02:03:01. ~~(Effective through December 31, 2025)~~ (Effective January 1, 2026) Voter registration form.** The voter registration form must be legibly printed, and a county may create a large print version. The voter registration form must be printed on one or more pages that are eight-and-a-half-inch-wide by eleven-inch-tall paper containing the following information:

- (1) The deadline for voter registration;
- (2) Whether the applicant is a U.S. citizen;
- (3) Whether the applicant has been a resident of South Dakota for at least thirty consecutive days at the time of the election;
- (4) Whether the applicant is a resident of only one place;
- (5) Whether the applicant is or will be eighteen years of age at the next election;
- (6) The applicant's name;
- (7) The applicant's residence or voting address in South Dakota;
- (8) The applicant's mailing address if different than the applicant's residence or voting address;
- (9) "If you live in a rural area and do not have a street address; if your residence address is a PO Box, rural box, or general delivery; or if you have no address, please describe the physical location of your residence in writing in the space ~~below~~ provided, which may include writing the names of the streets or intersections nearest to where you live and listing any landmarks (e.g., schools, churches, stores) near where you live. If you run out of room, or if you want to draw a map to pinpoint your residence and you do not have enough room in the space provided, use the back of this form";

~~(10)~~ If the applicant uses a commercial mail receiving agency, mail forwarding service, or other post office box as the applicant's residence or voting address without a description of the location of applicant's habitation, the applicant may be registered only as a federal voter;

~~(10)~~(11) The applicant's date of birth;

~~(11)~~(12) The applicant's telephone number (optional);

~~(12)~~(13) The applicant's email address (optional);

~~(13)~~(14) The applicant's current South Dakota driver license number or South Dakota nondriver identification number;

~~(14)~~(15) If the applicant does not have a current South Dakota driver license number or a nondriver identification number, the last four numbers of the applicant's SSN;

~~(15)~~(16) The applicant's choice of party (optional);

~~(16)~~(17) The following as depicted on the applicant's previous voter registration if the applicant seeks to cancel the applicant's prior voter registration:

(a) Name;

(b) Address;

(c) Driver license or nondriver identification number and state, or last four numbers of SSN; and

(d) County; and

~~(17)~~(18) A signed statement declaring under the penalty of perjury that the applicant:

(a) Is a citizen of the United States of America;

(b) Will be at least eighteen years of age at the time of the next election;

(c) Is a resident of the state of South Dakota;

(d) Has not been judged mentally incompetent;

(e) Is not currently serving a sentence for a felony conviction;

(f) Has complied with South Dakota law regarding registration of voters, pursuant to SDCL chapter 12-4; and

(g) Authorizes the cancellation of a previous registration, if applicable.

The Secretary of State's Office shall create and produce a voter registration form containing the above information and distribute ~~it~~ the form to the county auditors.

**Source:** 2 SDR 5, effective July 30, 1975; 5 SDR 31, effective November 1, 1978; 6 SDR 25, effective September 24, 1979; 12 SDR 43, effective September 23, 1985; 14 SDR 19, effective August 9, 1987; 16 SDR 20, effective August 10, 1989; 19 SDR 12, effective August 5, 1992; 21 SDR 77, effective October 24, 1994; 22 SDR 95, effective January 18, 1996; 23 SDR 115, effective January 22, 1997; 25 SDR 167, effective July 6, 1999; 29 SDR 177, effective July 2, 2003; 30 SDR 171, effective May 10, 2004; 31 SDR 214, effective July 4, 2005; 32 SDR 225, effective July 3, 2006; 35 SDR 48, effective September 8, 2008; 39 SDR 123, effective January 16, 2013; 42 SDR 178, effective July 1, 2016; 46 SDR 42, effective September 30, 2019; 49 SDR 47, effective November 21, 2022; 49 SDR 89, effective May 1, 2023; 50 SDR 12, effective August 8, 2023; 51 SDR 141, effective July 1, 2025.

**General Authority:** SDCL 12-1-9(1).

**Law Implemented:** SDCL 12-3-1, 12-4-1.2, 12-4-1.3, 12-4-3, 12-4-5.4, 12-4-6, 12-4-8, 12-4-15, 12-20-1.1.

## **CHAPTER 5:02:08**

### **PETITIONS**

#### Section

- 5:02:08:00 Guidelines for acceptance of petitions.
- 5:02:08:00.01 Requirements for counting signatures on petitions.
- 5:02:08:00.02 Petitions.
- 5:02:08:00.03 Form of petition.
- 5:02:08:00.04 Validity of petition signature when signer has signed more petitions than offices to be nominated.
- 5:02:08:00.05 Methodology for conducting the random sample for a statewide candidate, initiative petition, referred law petition, or initiated constitutional amendment petition.
- 5:02:08:01 Form of nominating petition -- Partisan election.
- 5:02:08:01.01 Certification of partisan candidate for lieutenant governor.
- 5:02:08:02 Form of petition for circuit court judge -- Nonpartisan election.
- 5:02:08:03 Repealed.
- 5:02:08:04 Repealed.
- 5:02:08:05 Certificate of nomination for Independent candidate.
- 5:02:08:05.01 Independent candidate declaration of candidacy and certification of running mate.
- 5:02:08:06 Form of declaration for new political party.
- 5:02:08:07 Form of initiative petition.

- 5:02:08:07.01 Affidavit to be filed with completed initiative, referendum, or initiated constitutional amendment petition.
- 5:02:08:07.02 Affidavit to be submitted with initiative, referendum, or initiated constitutional amendment petition to be circulated.
- 5:02:08:08 Form of referendum petition.
- 5:02:08:09 Form of initiated constitutional amendment petition or initiated petition for repeal of constitutional provision.
- 5:02:08:10 Repealed.
- 5:02:08:11 Nominating petition for school board member.
- 5:02:08:12 Reserved.
- 5:02:08:13 Nominating petition for municipal election.
- 5:02:08:14 Repealed.
- 5:02:08:15 Municipal initiative petition.
- 5:02:08:16 Municipal referendum petition.
- 5:02:08:17 Municipal petition for recall.
- 5:02:08:18 County initiative petition.
- 5:02:08:19 County referendum petition.
- 5:02:08:20 Certificate of nomination for Independent presidential electors.
- 5:02:08:21 Form of petition to increase or decrease number of county commissioners.
- 5:02:08:22 Form of petition to increase or decrease number of members of school board.
- 5:02:08:23 Form of petition for change in municipal government.
- 5:02:08:24 Form of petition for water development district director.
- 5:02:08:25 Form of petition for irrigation district director by division.

5:02:08:26 Form of petition for irrigation district director at large.

5:02:08:27 Form of petition for water project district director by division.

5:02:08:28 Form of petition for water project district director at large.

5:02:08:29 Form of petition for school district reorganization through dissolution.

5:02:08:30 Form of petition for multiple school district reorganization to create a new district.

5:02:08:31 Form of petition for reconsideration of rejected school district reorganization plan.

5:02:08:32 Form of petition for combining county offices.

5:02:08:33 Form of petition for combining a county office with the same office in other counties.

5:02:08:34 Form of nominating petition for township election.

5:02:08:35 Form of nominating petition for special district trustee.

5:02:08:36 Form of petition for conservation district supervisor -- Nonpartisan election.

5:02:08:37 Repealed.

5:02:08:38 Repealed.

5:02:08:39 Form of petition for organization of a county road, ambulance, rural fire protection, sanitary, watershed, or water project district.

5:02:08:40 Form of petition for a resolution of cooperation or consolidation.

5:02:08:41 Form of petition for referring a tax levy opt-out.

5:02:08:42 Form of petition for consumers power district director.

5:02:08:43 Form of petition for establishing or eliminating school board representation areas.

- 5:02:08:44      Form of petition for referring the discontinuance of an attendance center.
- 5:02:08:45      Form for precinct committeeman or committeewoman statement of candidacy.
- 5:02:08:46      Form of petition for a school board to implement a school sentinel program.

**5:02:08:00.01. Requirements for counting signatures on petitions.** Requirements for counting signatures on a petition sheet are as follows:

(1) No signature on a petition sheet may be counted if one of the following conditions is present:

- (a) The form of the petition does not meet the requirements of this chapter;
- (b) The petition sheet is not a self-contained sheet of paper printed front and back;
- (c) The circulator's verification is not completed or is improperly completed, according to subdivision 5:02:08:00(3) unless the missing information is completed elsewhere on the petition sheet. A completed circulator's verification must include the printed name of the circulator, the circulator's residence address as provided in subdivision (2)(c) of this section, and the complete date;
- (d) The declaration of candidacy has not been completed on or after the first date authorized by law to circulate the petition, and signed by the candidate and the signature witnessed by an official empowered to administer oaths in this state; or
- (e) The circulator's verification was signed by more than one circulator;
- (f) A petition for a legislative candidate must include the district number and whether the candidate is running for senate or house; and

(2) An individual signature on a petition sheet may not be counted if one of the following conditions is present:

- (a) It was signed prior to the signing of the candidate's declaration of candidacy or, if for a ballot question to be voted on statewide, it was signed before a copy of the text was filed with the secretary of state;
- (b) It was signed after the circulator completed the verification;

(c) The residence address does not include a street and house number or a rural route and box number and the town. If the signer is a resident of a second or third class municipality, a post office box number may be used. If the signer does not have a residence address or post office box number, a description of the residence location must be provided. If the signer is a resident of a building with a publicly known name, the building name may be used;

(d) If a petition is for a ballot question to be voted on statewide, the address provided by the individual is not substantially the same as the address at which the individual is currently registered to vote;

~~(d)~~(e) The date of signing, including month and day, is not indicated;

~~(e)~~(f) The signer's name is not printed and legible; or

~~(f)~~(g) The signer's county of voter registration is not provided.

**Source:** 10 SDR 27, effective September 26, 1983; 12 SDR 43, effective September 23, 1985; 14 SDR 19, effective August 9, 1987; 16 SDR 20, effective August 10, 1989; 19 SDR 12, effective August 5, 1992; 21 SDR 77, effective October 24, 1994; 26 SDR 168, effective June 25, 2000; 33 SDR 230, effective July 1, 2007; 35 SDR 48, effective September 8, 2008; 44 SDR 94, effective December 4, 2017; 46 SDR 42, effective September 30, 2019.

**General Authority:** SDCL 12-1-9(6).

**Law Implemented:** SDCL 2-1-15, 9-13-11, 12-1-1, 12-1-1.1, 12-1-2, 12-6-7.1, 12-6-8, 13-7-6.

5:02:08:01.01. Certification of partisan candidate for lieutenant governor. The certification of a partisan candidate for lieutenant governor must be in the following form:

**PARTY CANDIDATE FOR GOVERNOR**

**CERTIFICATION OF CANDIDATE FOR LIEUTENANT GOVERNOR**

I, \_\_\_\_\_, under oath, declare that I have been duly nominated as a candidate for Governor by the \_\_\_\_\_ Party. I certify that I have nominated \_\_\_\_\_ as my candidate for lieutenant governor.

\_\_\_\_\_  
Governor Candidate Signature

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(Seal) \_\_\_\_\_

\_\_\_\_\_  
Signature of Officer Administering Oath

My Commission Expires \_\_\_\_\_

\_\_\_\_\_  
Title of Officer Administering Oath

I, \_\_\_\_\_, under oath, declare that I am eligible to seek the office of lieutenant governor, and agree to serve as a candidate for this office.

\_\_\_\_\_  
Lieutenant Governor Candidate Signature

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(Seal) \_\_\_\_\_

\_\_\_\_\_  
Signature of Officer Administering Oath

My Commission Expires \_\_\_\_\_


\_\_\_\_\_  
Title of Officer Administering Oath

\_\_\_\_\_  
**Source:**

\_\_\_\_\_  
**General Authority:** SDCL 12-1-9(7), 12-5-21.1

\_\_\_\_\_  
**Law Implemented:** 12-5-21.1

**5:02:10:01. (Effective January 1, 2026) Application for absentee ballot.** The Secretary of State's Office shall create and produce an absentee ballot application form and distribute the form to the county auditors. The application for an absentee ballot absentee ballot application form must be in the following form contain the following information:

 <b>South Dakota Absentee Ballot Application Form</b> _____ County			
<b>Please print and return to the county auditor in the county you are registered. A new application must be completed EACH calendar year.</b> <b>You may apply for an absentee ballot before 5:00 p.m. the day before the election for any or all general, primary, municipal, school, or any other elections conducted in this calendar year with one request. Additional information on absentee voting is available at sdsos.gov.</b>			
1	Last Name	First Name	Middle Name(s)/Initial
	Suffix		
2	Voter Registration Address	Apt. or Lot #	City, State
	Zip Code		
3	Absentee ballot mailing address (if different from Section #2)		City, State
	Zip Code		
<b>SELECT THE ELECTION(S) YOU ARE REQUESTING AN ABSENTEE BALLOT FOR: If your address changes after this is submitted, you must submit a new form.</b> <input type="checkbox"/> All <input type="checkbox"/> General <input type="checkbox"/> Primary <input type="checkbox"/> Municipal <input type="checkbox"/> School <input type="checkbox"/> Any Other You will receive the Primary Election ballot of your party registration, if one is available. If you are registered as an independent/no party affiliation and are requesting a Primary Election ballot, you may have a choice of the following: <input type="checkbox"/> Democratic <input type="checkbox"/> Libertarian <input type="checkbox"/> Non-Political <b>(You can only mark one selection.)</b>			
4	Daytime telephone number _____ If request is for a municipal or school election: I have lived in that jurisdiction at least 30 days in the last year. <input type="checkbox"/> YES <input type="checkbox"/> NO I am a full-time student who resided in that jurisdiction prior to leaving. <input type="checkbox"/> YES <input type="checkbox"/> NO		
<b>MILITARY AND OVERSEAS CITIZENS ONLY:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO - I am a member of the Uniformed Services or Merchant Marine on active duty <input type="checkbox"/> YES <input type="checkbox"/> NO - I am an eligible spouse or dependent of a member of the Uniformed Services or Merchant Marine on active duty <input type="checkbox"/> YES <input type="checkbox"/> NO - I am a U.S. citizen residing outside the United States <b>If you checked no for all questions, proceed to section #7.</b> If you would like your ballot sent electronically (for Primary and General Elections ONLY) instead of first class mail, provide your e-mail address: E-mail address <b>(MILITARY AND OVERSEAS CITIZENS ONLY):</b> _____ *An overseas military, overseas citizen, or stateside military, a spouse or dependent of the same, voter is not required to submit a photocopy of the voter's ID. *Any military and overseas voter may submit a signed application for absentee ballot by fax or e-mail.			
5	An acceptable ID is: A South Dakota driver's license or non-driver ID card, a passport or other picture ID issued by the United States government, a tribal photo ID, or a current student photo ID issued by a South Dakota high school or postsecondary education institution. <input type="checkbox"/> Copy of photo identification is attached <b>OR</b> <input type="checkbox"/> I hereby verify that I am the person named above and these statements made by me on this application are true and correct. Sworn to me before this _____ day of _____, 20____. (Seal) Notary Signature _____ My commission expires _____		
6	Voter's Signature <b>(required)</b> _____ Voter's Date of Signing <b>(required):</b> ____/____/____ Month / Day / Year		
<b>AUTHORIZED MESSENGER REQUEST DUE TO SICKNESS OR DISABILITY ONLY: The deadline to request is 3:00 p.m. on Election Day</b> As a registered voter, I authorize... Last Name _____ First Name _____ Daytime telephone _____ Address _____ Apt. or Lot # _____ City, State _____ Zip Code _____			
7	...to serve as my authorized messenger to pick up my absentee ballot. I further certify under penalty of law that I am confined because of sickness or disability and for this reason alone am unable to vote at my polling place on Election Day. _____ Voter's Signature		
8	As the authorized messenger, I acknowledge receipt of the ballot for the above named voter on...Date: _____ Time: _____ Are you serving as an authorized messenger for any other voter? <input type="checkbox"/> YES <input type="checkbox"/> NO _____ Authorized Messenger's Signature		

- \_\_\_\_\_ (1) The deadline for an applicant to request an absentee ballot;
- \_\_\_\_\_ (2) Submission instructions for an applicant to request an absentee ballot;
- \_\_\_\_\_ (3) The applicant's name;
- \_\_\_\_\_ (4) The applicant's voter registration address;
- \_\_\_\_\_ (5) If the applicant's voter registration address is a commercial mail receiving agency, mail forwarding service, or other post office box, the applicant must provide a description of the location of applicant's residence in accordance with the following instructions:
- \_\_\_\_\_ (a) "If you live in a rural area and do not have a street address; if your residence address is a commercial mail receiving agency, mail forwarding service, or other post office box; or if you have no address, please describe the physical location of your residence in writing or by drawing a map, which may include writing the names of the streets or intersections nearest to where you live and listing any landmarks (e.g., schools, churches, stores) near where you live, in the space provided"; and
- \_\_\_\_\_ (b) "Failure to provide a description of the location of your residence will give rise to the presumption that you are not a resident of this state for the purposes of SDCL 12-1-4 and will result in you being designated a federal voter";
- \_\_\_\_\_ (6) The applicant's mailing address, if different from the applicant's voter registration address;
- \_\_\_\_\_ (7) The applicant's telephone number;
- \_\_\_\_\_ (8) The applicant's email address;
- \_\_\_\_\_ (9) The election or elections for which the applicant intends to request a ballot;

(10) For an applicant who is registered as an independent or no party affiliation voter and intends to request a ballot for a primary election, the type of ballot that the applicant intends to request;

(11) For an applicant who intends to request a ballot for a municipal or school election, an affirmation that the applicant:

(a) Has lived in the jurisdiction for at least thirty days in the last year; or

(b) Is a full-time student who resided in the jurisdiction prior to leaving;

(12) Whether the applicant is:

(a) A member of the Uniformed Services or Merchant Marine on active duty;

(b) An eligible spouse or dependent of a member of the Uniformed Services or Merchant Marine on active duty; or

(c) A United State citizen residing outside the United States;

(13) For an applicant in a class listed in subdivision 5:02:10:01(12), whether the applicant intends to have a ballot sent electronically;

(14) Verification of the applicant's identity through:

(a) An oath affirming the validity of the information in the application, administered by a notary public or other officer authorized by this state to administer an oath or administered by an out-of-state notary public; or

(b) A copy of a valid form of personal identification, including a South Dakota driver's license or nondriver identification card; a passport or an identification card, including a picture, issued by an agency of the United States government; a tribal identification card, including a picture; or a current student identification card, including a picture, issued by a South Dakota high school or postsecondary education institution;

- (15) The applicant's signature;
- (16) The date in which the applicant signed the absentee ballot application form;
- (17) Authorization for an individual to serve as an authorized messenger on behalf of the applicant with identifying information, including:
- (a) The authorized messenger's name;
- (b) The authorized messenger's address; and
- (c) The authorized messenger's telephone number;
- (18) Acknowledgement by the authorized messenger that the applicant's ballot was received, including the date and time of receipt;
- (19) Whether the authorized messenger is serving as an authorized messenger for any other voter; and
- (20) The authorized messenger's signature.

**Source:** 2 SDR 46, effective December 30, 1975; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 10 SDR 27, effective September 26, 1983; 16 SDR 20, effective August 10, 1989; 16 SDR 203, effective May 28, 1990; 19 SDR 12, effective August 5, 1992; 21 SDR 77, effective October 24, 1994; 23 SDR 115, effective January 22, 1997; 23 SDR 236, effective July 17, 1997; 25 SDR 8, effective August 3, 1998; 25 SDR 167, effective July 6, 1999; 29 SDR 177, effective July 2, 2003; 32 SDR 109, effective December 26, 2005; 32 SDR 225, effective July 3, 2006; 36 SDR 112, effective January 11, 2010; 36 SDR 209, effective June 30, 2010; 40 SDR 40, effective September 9, 2013; 44 SDR 94, December 4, 2017; 47 SDR 37, effective October 6, 2020 (effective December 1, 2020).

**General Authority:** SDCL 12-1-9(4), 12-19-2.

**Law Implemented:** SDCL 9-13-4.1, 12-4-1.3, 12-18-6.1, 12-19-2, 12-19-2.1, 12-19-2.2,  
13-7-4.2.

**5:02:10:01.03. (Effective January 1, 2026) Combined absentee ballot application/return envelope.** The application for an in-office absentee ballot shall be printed in the following form on an envelope used for sealing the voted ballot:

**APPLICATION FOR IN-OFFICE ABSENTEE BALLOT**

\_\_\_\_\_ **COUNTY, SOUTH DAKOTA**

My printed name as it appears on the voter registration list is: \_\_\_\_\_

My voter registration residence address is: \_\_\_\_\_

(address)

(city)

If your voter registration address is a commercial mail receiving agency, mail forwarding service, or other post office box, please provide a description of the location of your residence in the space provided: \_\_\_\_\_

Check the election for which you are requesting an absentee ballot:

☐ Primary    If you are registered as an independent and are requesting a primary ballot, you may

have a choice of ballots. Please check one of the following: ~~☐ Non-political ballot~~

~~or ☐ Democratic Party ballot~~ ☐ Democratic ☐ Libertarian ☐ Non-Political

☐ General

☐ Municipal

☐ School

☐ Special \_\_\_\_\_(specify jurisdiction)

If request is for a municipal or school election:

I have lived in that jurisdiction at least 30 days in the last year.    Yes ☐    No ☐

I am a full-time postsecondary student who resided in that jurisdiction immediately prior to leaving  
for postsecondary education.    Yes ☐    No ☐

I am on active duty military and my home of record is in that jurisdiction.    Yes ☐    No ☐

I, under penalty of impersonating a registered voter (5 years imprisonment and \$10,000 fine), state  
that I am the person named above, these statements made by me are true and correct, and that I  
will vote the ballot which will be enclosed in this envelope.

\_\_\_\_\_  
Voter Signature

\_\_\_\_\_  
Date

## **INSTRUCTIONS TO THE VOTER**

- Mark your ballot privately.
- Do not fold your ballot.
- Place your ballot in this envelope and seal it securely.
- Return the envelope immediately to the person in charge of the election.

**Auditor Office Use Only:**

Voter Precinct: \_\_\_\_\_

Type of ID: \_\_\_\_\_

~~Printers-Printer's~~ Note: When this form is printed for primary, general, or other county elections, reference to municipal and school elections may be omitted. The instruction to "not fold your ballot" may be changed if the ballot is to be folded.

**Source:** 32 SDR 225, effective July 3, 2006; 33 SDR 230, effective July 1, 2007; 36 SDR 112, effective January 11, 2010.

**General Authority:** SDCL 12-1-9(8), 12-19-2.5.

**Law Implemented:** SDCL 12-4-1.3, 12-19-2, 12-19-2.1, ~~12-19-9.1~~, 12-19-2.5, 12-19-9.1, 12-26-7, 22-6-1.

**5:02:19:05. Candidate's petition for recount.** A petition for recount on a race that involves any candidate whose nominating petition was submitted in a county auditor's office to be placed on a primary or general election ballot shall be submitted with the applicable county auditor(s). A statewide candidate or candidate voted on in more than one county (not including municipal, ~~or~~ school, ~~or legislative~~ candidates) shall file the petition with the secretary of state. A candidate's petition for recount shall be in the following form:

### CANDIDATE'S PETITION FOR RECOUNT

I, \_\_\_\_\_, candidate for the office of \_\_\_\_\_, believe that a recount will change the result of the election held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and I petition for a recount of all votes cast for this office in every precinct which has not previously been recounted.

(Signed)\_\_\_\_\_

STATE OF SOUTH DAKOTA     )

) SS     VERIFICATION

COUNTY OF \_\_\_\_\_     )

I, \_\_\_\_\_, under oath, state that I read and signed the foregoing petition and know its contents and that, to the best of my knowledge and belief, the statement is true.

(Signed)\_\_\_\_\_

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(Seal)

\_\_\_\_\_

Officer Administering Oath

My Commission Expires \_\_\_\_\_

\_\_\_\_\_

Title of Officer Administering Oath

**Source:** 6 SDR 25, effective September 24, 1979; 16 SDR 20, effective August 10, 1989;  
42 SDR 15, effective August 11, 2015; 44 SDR 94, effective December 4, 2017.

**General Authority:** SDCL 12-1-9.

**Law Implemented:** SDCL 12-21-10, 12-21-11, 12-21-12.

## **CHAPTER 5:02:24**

### **VOTER REGISTRATION CHALLENGES**

#### **Section**

**5:02:24:01 Voter registration challenge application.**

**5:02:24:02 Documentation required to support voter registration challenge.**

**5:02:24:03 Documentation required to rebut voter registration challenge.**

**5:02:24:04 Process to establish the validity of a voter registration challenge.**

**5:02:24:01. Voter registration challenge application.** The Secretary of State's Office shall create and produce an application to challenge the right to vote of any registered voter and distribute the application to the county auditors. The voter registration challenge application must contain the following information:

- (1) The name of the individual filing the challenge;
- (2) The address of the individual filing the challenge;
- (3) Contact information for the individual filing the challenge, including:
  - (a) The individual's phone number; and
  - (b) The individual's email address;
- (4) The name of the challenged voter;
- (5) Additional identifying information for the challenged voter, including:
  - (a) The voter's voter identification number;
  - (b) The voter's social security number;
  - (c) The voter's South Dakota driver's license or nondriver identification card number;
  - (d) The voter's passport number; or
  - (e) The voter's year of birth;
- (6) The voter registration address of the challenged voter;
- (7) The reason for the challenge, including:
  - (a) The challenged voter is disqualified from voting, pursuant to SDCL 12-4-18;
  - (b) The challenged voter is deceased;
  - (c) The challenged voter has voted or registered to vote in another state; or

\_\_\_\_\_ (d) The challenged voter is not a resident of South Dakota, pursuant to SDCL 12-1-4;

\_\_\_\_\_ (8) A list of the documentation provided with the voter registration challenge application to demonstrate the insufficiency of the challenged voter's qualifications;

\_\_\_\_\_ (9) An oath administered by a notary public or another official authorized by this state to administer an oath: "I, \_\_\_\_\_ (printed name of the individual filing the challenge), under oath , attest that, to the best of my personal knowledge and belief, having exercised due diligence to personally verify the evidence presented, the challenged voter is not qualified to vote based on the reason indicated above. I have filed a complete voter registration challenge application, which includes attached evidence. I attest that the application is not based on an unsupported allegation or the allegation of an anonymous third party. I understand that this application and the attached documentation may be provided to the challenged voter, and that the challenged voter may request a hearing to demonstrate their qualifications as a registered voter";

\_\_\_\_\_ (10) The date the application was filed with the county auditor, including:

\_\_\_\_\_ (a) Whether the application was filed at least thirty days before an election for the reasons listed in subsections 5:02:24:01(7)(a) and (7)(b); or

\_\_\_\_\_ (b) Whether the application was filed at least ninety days before an election for the reasons listed in subsections 5:02:24:01(7)(c) and (7)(d);

\_\_\_\_\_ (11) The county in which the individual filing the challenge is registered to vote in, including:

\_\_\_\_\_ (a) Whether the individual filing the challenge is registered to vote in South Dakota for the reasons listed in subsections 5:02:24:01(7)(a) and (7)(b); or

(b) Whether the individual filing the challenge is registered to vote in the same county as the challenged voter for the reasons listed in subsections 5:02:24:01(7)(c) and (7)(d).

**Source:**

**General Authority:** SDCL 12-1-9(4), 12-4-60

**Law Implemented:** 12-4-58, 12-4-59, 12-4-60, 12-4-61

5:02:24:02. Documentation required to support voter registration challenge. When an individual files a voter registration challenge affidavit, the individual shall provide the county auditor with an original or a photocopy of at least one of the following documents to demonstrate the insufficiency of the challenged voter's qualifications:

(1) If the affidavit raises a challenge on the grounds that the challenged voter is disqualified from voting, pursuant to SDCL 12-4-18:

(a) A court order declaring the challenged voter to be mentally incompetent; or

(b) A record of a felony conviction in a state or federal court;

(2) If the affidavit raises a challenge on the grounds that the challenged voter is deceased:

(a) An obituary; or

(b) A death certificate;

(3) If the affidavit raises a challenge on the grounds that the challenged voter has voted or registered to vote in another state:

(a) A voter file obtained from an election official in another state indicating that the challenged voter is registered to vote in the state; or

(b) A voter history file obtained from an election official in another state indicating that the challenged voter has voted or offered to vote at any election held in the state;

(4) If the affidavit raises a challenge on the grounds that the challenged voter is not a resident of South Dakota, pursuant to SDCL 12-1-4:

(a) A driver's license or nondriver identification card issued by another state;

(b) A resident hunting, fishing, or trapping license issued by another state;

(c) A national change of address with the United States Post Office indicating that the challenged voter has moved to another state;

(d) State or county records for a property owned by the challenged voter in another state indicating that the property is subject to a homestead exemption;

(e) Tax documents indicating that the challenged voter is a resident of another state for the purpose of taxation; or

(f) A completed residency affidavit or certificate from another state.

**Source:**

**General Authority:** SDCL 12-1-9(4), 12-4-60

**Law Implemented:** 12-4-58, 12-4-59, 12-4-60, 12-4-61

**5:02:24:03. Documentation required to rebut voter registration challenge.** When a challenged voter is required to demonstrate the sufficiency of the voter's qualifications, the voter shall provide the county auditor with an original or a photocopy of the following documents:

(1) A valid form of personal identification:

(a) A South Dakota driver's license or nondriver identification card;

(b) A Social Security Administration account number card;

(c) A passport or an identification card issued by an agency of the United States government; or

(d) A tribal identification card of a federally recognized Indian tribe located wholly or partially within South Dakota; and

(2) If the affidavit raises a challenge on the grounds that the challenged voter is disqualified from voting, pursuant to SDCL 12-4-18:

(a) A court order declaring that the challenged voter has been restored to competency; or

(b) Records from the Unified Judicial System, the Department of Corrections, or the federal court or penitentiary system indicating that the challenged voter has completed the entire sentence imposed on the voter for a felony conviction; or

(3) If the affidavit raises a challenge on the grounds that the challenged voter is deceased:

(a) An affidavit signed by the challenged voter affirming that that the voter is not deceased; or

(4) If the affidavit raises a challenge on the grounds that the challenged voter has voted or registered to vote in another state:

(a) A record or statement from an election official in the state indicating that the challenged voter is not registered to vote in the state;

(b) A record or statement from an election official in the state indicating that the challenged voter's registration was canceled; or

(c) A record or statement from an election official in the state indicating that the challenged voter has not voted or offered to vote at any election in the state; or

(5) If the affidavit raises a challenge on the grounds that the challenged voter is not a resident of South Dakota, pursuant to SDCL 12-1-4:

(a) A South Dakota driver's license or nondriver identification card;

(b) A tribal identification card of a federally recognized Indian tribe located wholly or partially within South Dakota;

(c) A South Dakota resident hunting, fishing, or trapping license issued by the Department of Game, Fish, and Parks;

(d) County records for a property owned by the challenged voter in South Dakota indicating that the property is subject to a homestead exemption;

(e) Tax documents indicating that the challenged voter is a resident of South Dakota for the purpose of taxation;

(f) A consent for use of South Dakota address form; or

(g) A completed South Dakota residency affidavit or certificate.

**Source:**

**General Authority:** SDCL 12-1-9(4), 12-4-60

**Law Implemented:** 12-4-58, 12-4-59, 12-4-60, 12-4-61

5:02:24:04. Process to establish the validity of a voter registration challenge. The county auditor shall adhere to the following process to establish the validity of a voter registration challenge:

(1) Upon receipt of a voter registration challenge affidavit, the county auditor shall scan the affidavit into the computerized voter registration system maintained by the secretary of state;

(2) The county auditor shall evaluate the documentation provided with the voter registration challenge affidavit and determine if the documentation taken at face value establishes a prima facie case against the challenged voter:

(a) If the documentation taken at face value is insufficient to establish a prima facie case against the challenged voter, the voter registration challenge must be deemed invalid;  
or

(b) If the documentation taken at face value is sufficient to establish a prima facie case against the challenged voter, the county auditor shall investigate the authenticity of the documentation;

(3) The county auditor shall make a reasonable effort to determine if the documentation provided with the voter registration challenge affidavit is authentic:

(a) If the county auditor is unable to confirm the authenticity of the documentation, the voter registration challenge must be deemed invalid; or

(b) If the county auditor confirms the authenticity of the documentation, the voter registration challenge must be deemed valid;

(4) Upon the county auditor's determination that the voter registration challenge is valid, the auditor shall send a verification request to the challenged voter pursuant to SDCL 12-4-61;

(5) At the request of the challenged voter, the county auditor shall hold a hearing to determine the validity of the voter's qualifications. The conduct of the hearing may be determined by the county auditor, except that the county auditor shall ensure that:

(a) The challenged voter may rebut the evidence provided against the validity of the voter's qualifications in the voter registration challenge affidavit; and

(b) The challenged voter may provide documentation sufficient to demonstrate the validity of voter's qualifications;

(6) After the hearing, the county auditor shall determine the validity of the challenged voter's qualifications:

(a) If the challenged voter's qualifications are valid, the county auditor shall maintain the voter's registration; or

(b) If the challenged voter's qualifications are invalid, the county auditor shall cancel the voter's registration pursuant to SDCL 12-4-61;

(7) If at any point the county auditor determines that the voter registration challenge is valid or that the challenged voter's qualifications are invalid, the auditor shall:

(a) State in writing the factual basis supporting the determination;

(b) Notify the individual who filed the challenge and the challenged voter of the determination; and

(c) Inform the challenged voter that the voter may appeal the decision to either the board of county commissioners or the circuit court.

**Source:**

**General Authority:** SDCL 12-1-9(4), 12-4-61

**Law Implemented: 12-4-58, 12-4-59, 12-4-60, 12-4-61**