



2023 South Dakota Legislature

Senate Bill 82

SENATE STATE AFFAIRS ENGROSSED

Introduced by: **Senator Duhamel**

1 **An Act to modify provisions pertaining to poll watchers.**

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

3 **Section 1. That § 12-18-9 be AMENDED:**

4 ~~12-18-9. Any person, except a candidate who is on the ballot being voted on at~~
 5 ~~that polling place, may be present at any polling place for the purpose of observing the~~
 6 ~~voting process. Any person may be present to observe the counting process. A candidate~~
 7 ~~who is on the ballot being voted on at a polling place may only be present to cast the~~
 8 ~~candidate's vote during voting hours. A number of poll watchers shall be permitted for~~
 9 ~~each candidate at a primary election or political party and independent candidate at a~~
 10 ~~general election pursuant to § 12-18-8.1. Each polling place shall be arranged in a manner~~
 11 ~~that permits each poll watcher to be positioned in a location where the poll watcher can~~
 12 ~~plainly see and hear what is done within the polling place.~~

13 At a general, primary, or special election pursuant to § 12-18-8.1, any candidate,
 14 party or ballot question committee as defined in § 12-27-1 is entitled to have a poll
 15 watcher present at any polling place for the purpose of observing the voting and counting
 16 process. This section may not apply to a candidate who is on the ballot being voted on at
 17 a polling place, and the candidate may only be present to cast the candidate's vote during
 18 voting hours.

19 The observation areas may not be less than four feet from, nor more than six feet
 20 from, the table at which voters announce their name and address to be issued a ballot at
 21 the polling place. The observation areas must be so positioned to permit any poll watcher
 22 to plainly see and hear all public aspects of the voting process.

23 A violation of this section is a Class 2 misdemeanor.

24 **Section 2. That § 12-1-3 be AMENDED:**

25 **12-1-3.** Terms used in this title mean:

- 1 (1) "Candidate," a person whose name is on the ballot or who is entitled to be on the
2 ballot to be voted upon for nomination or election at any election;
- 3 ~~(2)~~(2) "Election," any election held under the laws of this state;
- 4 ~~(3)~~(3) "Election officials," state and local officials charged with the duty of conducting
5 elections and the canvass of returns;
- 6 ~~(4)~~(4) "Elector," a person qualified to register as a voter, whether or not the person is
7 registered;
- 8 ~~(5)~~(5) "Electronic pollbook," an electronic system containing both the registration list and
9 pollbook;
- 10 ~~(6)~~(6) "General election," the vote required to be taken in each voting precinct of the
11 state on the first Tuesday after the first Monday in November of each even-
12 numbered year;
- 13 ~~(7)~~(7) "Paid circulator," any person who receives money or anything of value for collecting
14 signatures for a petition;
- 15 ~~(8)~~(8) "Party office," an office of a political party organization as distinct from a public
16 office;
- 17 ~~(9)~~(9) "Person in charge of an election," or "person charged with the conduct of an
18 election," the county auditor in all cases except local elections for a municipality,
19 school district, township, or other political subdivision, in which case it is the officer
20 having the position comparable to the auditor in that unit of government if not
21 specifically designated by law;
- 22 ~~(10)~~(10) "Petition," a form prescribed by the State Board of Elections, which contains
23 the question or candidacy being petitioned, the declaration of candidacy if required
24 and the verification of the circulator. If multiple sheets of paper are necessary to
25 obtain the required number of signatures, each sheet shall be self-contained and
26 separately verified by the circulator;
- 27 ~~(11)~~(11) "Petition circulator," a resident of the State of South Dakota as defined under
28 § 12-1-4, who is at least eighteen years of age who circulates nominating petitions
29 or other petitions for the purpose of placing candidates or issues on any election
30 ballot;
- 31 ~~(12)~~(12) "Political party," beginning with the 2014 general election and each general
32 election thereafter, a party whose candidate for any statewide office received at
33 least two and one-half percent of the total votes cast for that statewide office in
34 either of the two previous general election cycles;

- 1 ~~(13)~~(13) "Pollbook" or "poll list," a list containing in numerical order the names of all
2 persons voting at the election and type of ballot voted;
- 3 ~~(14)~~(14) "Polling place," a designated place voters may go to vote;
- 4 ~~(15)~~(15) "Poll watcher," a person appointed to observe the conduct of an election on behalf
5 of a candidate, a political party, or a ballot question committee;
- 6 ~~(15)~~(16) "Primary" or "primary election," an election held at which candidates are
7 nominated for public office;
- 8 ~~(16)~~(17) "Public office," an elected position in government;
- 9 ~~(17)~~(18) "Registration list," a list of eligible voters;
- 10 ~~(18)~~(19) "Registered mail," does not include certified mail;
- 11 ~~(19)~~(20) "Registration officials," the county auditor and deputies and other persons
12 authorized to assist in registration pursuant to chapter 12-4;
- 13 ~~(20)~~(21) "Vote center," a polling place when the precinct has been defined as the entire
14 jurisdiction and an electronic pollbook is utilized;
- 15 ~~(21)~~(22) "Voter," a person duly registered to vote or one who is performing the act of
16 voting;
- 17 ~~(22)~~(23) "Independent (IND)" or "no party affiliation (NPA)," any currently registered
18 voter who writes independent, I, Ind, no party affiliation, no party, no choice,
19 nonpartisan, or line crossed off in the choice of party field on the voter registration
20 form and any individual who is not currently registered to vote who leaves the
21 choice of party field blank on the voter registration form;
- 22 ~~(23)~~(24) "Independent candidate," notwithstanding the definition of independent as
23 stated in this chapter, any registered voter regardless of party affiliation who
24 declares to be an independent candidate for public office pursuant to this chapter;
- 25 ~~(24)~~(25) "Other," any voter who writes a political party not recognized in South Dakota
26 in the choice of party field on the voter registration form.