

AN ACT

ENTITLED, An Act to revise certain provisions regarding verification of residency of petition circulators.

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

Section 1. That § 2-1-1.3 be amended to read:

2-1-1.3. Terms used in this chapter mean:

- (1) "Petition circulator," the same as the term is defined under § 12-1-3;
- (2) "Petition sponsor," any person who proposes the placement of a statewide ballot measure on the ballot.

Section 2. That § 12-1-3 be amended to read:

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

- (1) "Candidate," a person whose name is on the ballot or who is entitled to be on the ballot to be voted upon for nomination or election at any election;
- (2) "Election," any election held under the laws of this state;
- (3) "Election officials," state and local officials charged with the duty of conducting elections and the canvass of returns;
- (4) "Elector," a person qualified to register as a voter, whether or not the person is registered;
- (5) "Electronic pollbook," an electronic system containing both the registration list and pollbook;
- (6) "General election," the vote required to be taken in each voting precinct of the state on the first Tuesday after the first Monday in November of each even-numbered year;
- (7) "Paid circulator," any person who receives money or anything of value for collecting signatures for a petition;
- (8) "Party office," an office of a political party organization as distinct from a public office;

- (9) "Person in charge of an election," or "person charged with the conduct of an election," the county auditor in all cases except local elections for a municipality, school district, township, or other political subdivision, in which case it is the officer having the position comparable to the auditor in that unit of government if not specifically designated by law;
- (10) "Petition," a form prescribed by the State Board of Elections, which contains the question or candidacy being petitioned, the declaration of candidacy if required and the verification of the circulator. If multiple sheets of paper are necessary to obtain the required number of signatures, each sheet shall be self-contained and separately verified by the circulator;
- (11) "Petition circulator," a resident of the State of South Dakota as defined under § 12-1-4, who is at least eighteen years of age who circulates nominating petitions or other petitions for the purpose of placing candidates or issues on any election ballot;
- (12) "Political party," a party whose candidate for any statewide office at the last preceding general election received at least two and one-half percent of the total votes cast for that statewide office;
- (13) "Pollbook" or "poll list," a list containing in numerical order the names of all persons voting at the election and type of ballot voted;
- (14) "Polling place," a designated place voters may go to vote;
- (15) "Primary" or "primary election," an election held at which candidates are nominated for public office;
- (16) "Public office," an elected position in government;
- (17) "Registration list," a list of eligible voters;
- (18) "Registered mail," does not include certified mail;
- (19) "Registration officials," the county auditor and deputies and other persons authorized to assist in registration pursuant to chapter 12-4;

- (20) "Vote center," a polling place when the precinct has been defined as the entire jurisdiction and an electronic pollbook is utilized;
- (21) "Voter," a person duly registered to vote or one who is performing the act of voting;
- (22) "Independent (IND)" or "no party affiliation (NPA)," any voter who writes independent, I, Ind, the field is blank, no party affiliation, no party, no choice, nonpartisan, or line crossed off in the choice of party field on the voter registration form;
- (23) "Independent candidate," notwithstanding the definition of independent as stated in this chapter, any registered voter regardless of party affiliation who declares to be an independent candidate for public office pursuant to this chapter;
- (24) "Other," any voter who writes a political party not recognized in South Dakota in the choice of party field on the voter registration form.

Section 3. That § 2-1-1.1 be amended to read:

2-1-1.1. The petition as it is to be circulated for an initiated constitutional amendment shall be filed with the secretary of state prior to circulation for signatures and shall:

- (1) Contain the full text of the initiated constitutional amendment;
- (2) Contain the date of the general election at which the initiated constitutional amendment is to be submitted;
- (3) Contain the title and explanation as prepared by the attorney general;
- (4) Be accompanied by a notarized affidavit form signed by each person who is a petition sponsor that includes the name and address of each petition sponsor; and
- (5) Be accompanied by a statement of organization as provided in § 12-27-6.

The petition circulator shall provide to each person who signs the petition a form containing the title and explanation of the initiated constitutional amendment as prepared by the attorney general; any fiscal note prepared pursuant to § 2-9-31; the name, phone number, and email address of each

petition sponsor; and a statement whether the petition circulator is a volunteer or paid petition circulator and, if a paid circulator, the amount the circulator is being paid. The form shall be approved by the secretary of state prior to circulation.

For any initiated constitutional amendment petition, no signature may be obtained more than twenty-four months preceding the general election that was designated at the time of filing of the full text. The initiated constitutional amendment petition shall be filed with the secretary of state at least one year before the next general election. A sworn affidavit, signed by at least two-thirds of the petition sponsors, containing information required for each petition circulator as required under section 6 of this Act and stating that the documents filed constitute the entire petition and to the best of the knowledge of the sponsors contains a sufficient number of signatures shall also be filed with the secretary of state. The form of the petition and affidavit shall be prescribed by the State Board of Elections.

Section 4. That § 2-1-1.2 be amended to read:

2-1-1.2. The petition as it is to be circulated for an initiated measure shall be filed with the secretary of state prior to circulation for signatures and shall:

- (1) Contain the full text of the initiated measure;
- (2) Contain the date of the general election at which the initiated measure is to be submitted;
- (3) Contain the title and explanation as prepared by the attorney general;
- (4) Be accompanied by a notarized affidavit form signed by each person who is a petition sponsor that includes the name and address of each petition sponsor; and
- (5) Be accompanied by a statement of organization as provided in § 12-27-6.

The petition circulator shall provide to each person who signs the petition a form containing the title and explanation of the initiated measure as prepared by the attorney general; any fiscal note prepared pursuant to § 2-9-31; the name, phone number, and email address of each petition sponsor;

and a statement whether the petition circulator is a volunteer or paid petition circulator and, if a paid circulator, the amount the circulator is being paid. The form shall be approved by the secretary of state prior to circulation.

For any initiated measure petition, no signature may be obtained more than twenty-four months preceding the general election that was designated at the time of filing of the full text. The initiated measure petition shall be filed with the secretary of state at least one year before the next general election. A sworn affidavit, signed by at least two-thirds of the petition sponsors, containing information required for each petition circulator as required under section 6 of this Act and stating that the documents filed constitute the entire petition and to the best of the knowledge of the sponsors contains a sufficient number of signatures shall also be filed with the secretary of state. The form of the petition and affidavit shall be prescribed by the State Board of Elections.

Section 5. That § 2-1-3.1 be amended to read:

2-1-3.1. The petition as it is to be circulated for a referred law shall be filed with the secretary of state prior to circulation for signatures and shall:

- (1) Contain the title of the referred law;
- (2) Contain the effective date of the referred law;
- (3) Contain the date of the general election at which the referred law is to be submitted;
- (4) Be accompanied by a notarized form that includes the names and addresses of the petition sponsors; and
- (5) Be accompanied by a statement of organization as provided in § 12-27-6.

The petition shall be filed with the secretary of state within ninety days after the adjournment of the Legislature which passed the referred law. A sworn affidavit, signed by at least two-thirds of the petition sponsors, containing information required for each petition circulator as required under section 6 of this Act and stating that the documents filed constitute the entire petition and to the best

of the knowledge of the sponsors contains a sufficient number of signatures shall also be filed with the secretary of state. The form of the petition and affidavit shall be prescribed by the State Board of Elections.

The petition circulator shall provide to each person who signs the petition a form containing the title of the referred law; any fiscal note or summary of a fiscal note obtained pursuant to § 2-9-32; the name, phone number, and email address of each petition sponsor; and a statement whether the petition circulator is a volunteer or paid petition circulator and, if a paid circulator, the amount the circulator is being paid. The form shall be approved by the secretary of state prior to circulation.

Section 6. That chapter 2-1 be amended by adding a NEW SECTION to read:

A sworn affidavit filed with the secretary of state pursuant to § 2-1-1.1, 2-1-1.2, or 2-1-3.1 shall include information attesting to residency as defined in § 12-1-4 of each petition circulator. The following information shall be included in the affidavit:

- (1) Current state in which the petition circulator is licensed to drive, driver license number, and expiration date;
- (2) Current state of voter registration;
- (3) Length of time at current physical street address and previous two addresses, and whether the prior addresses were located in South Dakota;
- (4) A sworn statement by the petition circulator indicating the circulator's intention to stay in the state after the petition circulation deadline;
- (5) Any other information relevant to indicate residency, including a library card or utility bill;
- (6) Whether the petition circulator pays in-state tuition at any public postsecondary educational institution, if applicable; and
- (7) Whether the petition circulator obtains any resident hunting or resident fishing license of

any kind, if applicable.

The information included in the affidavit are factors in determining residency but are not determinative. The contents under this section of any affidavit filed with the secretary of state shall be held confidential by the secretary of state, and the secretary of state may release the contents only to an interested person for purposes of § 2-1-18 and to the attorney general. Failure to substantially comply with the provisions of this section shall disqualify the petitions from a petition circulator not in substantial compliance with this section from being considered.

Section 7. That chapter 2-1 be amended by adding a NEW SECTION to read:

If any petition sponsor, or any person or entity compensated by the petition sponsor or a ballot question committee for purposes of petition circulation, knowingly or with reckless disregard commits multiple violations of the law regarding petition circulation, residency of a petition circulator, or campaign finance regulation, the petition sponsor, person, or entity, including any person serving as a member of the board or as an officer of the entity, is prohibited from being a petition sponsor or petition circulator, and from performing any work for any ballot question committee for a period of four years in addition to any other penalty imposed under state or federal law. Any violation of the provisions of this section shall also result in a civil penalty of up to five thousand dollars to be deposited into the state general fund.

Section 8. That § 2-1-10 be amended to read:

2-1-10. Before filing a petition to initiate an amendment to the Constitution, initiated measure, or referred law with the officer in whose office the petition is required to be filed, each petition circulator shall sign a verification attesting that the circulator personally circulated the petition and is not attesting to any signature obtained by any other person, that the petition circulator is a resident of South Dakota, that the circulator made reasonable inquiry and, to the best of the circulator's knowledge, each person signing the petition is a qualified voter of the state in the county indicated

on the signature line and that no state statute regarding the circulation of petitions was knowingly violated. The State Board of Elections shall prescribe the form for the verification. The circulator's signature on the verification shall be witnessed and notarized by a notary public commissioned in South Dakota or other officer authorized to administer oaths pursuant to § 18-3-1. Any person who falsely attests to the verification under this section is guilty of a Class 1 misdemeanor.

An Act to revise certain provisions regarding verification of residency of petition circulators.

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I certify that the attached Act
originated in the
HOUSE as Bill No. 1196

Chief Clerk
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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1196
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,
20__ at _____ M.

By _____
for the Governor
=====

The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

=====
STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State