

Election Statute Navigator: South Dakota

The Election Law Program prepared this Election Law Navigator to highlight state election statutes particularly relevant to the 2020 cycle. The Election Law Navigator is updated as of October 19, 2020. Please contact elect@wm.edu with questions or suggestions. To access COVID-specific legal information impacting this state's election process, please use this link: <https://ebenchmark.org/south-dakota/covid/#tracker>.

Voter Registration

- Voters (other than above) register prior to Election Day §§ 12-4-5; 12-4-5.4; 12-4-5.5
 - Deadlines: Fifteen days before an election.
- Registration via mail available § 12-4-3
- In-Person registration available § 12-4-6
 - Locations: Driver's License Station
- Preregistration allowed § 12-3-1
 - Eighteen by the election
- Residency requirement § 12-3-1
 - Resident of the state
- Voters judged mentally incompetent or under guardianship for a mental disability cannot vote § 12-4-18

State Absentee, Early, and Mail Voting

- Early voting allowed §§ 12-19-1.2; 12-19-2.1
 - 45 days before election until 5 p.m. the day before the election
- No-excuse absentee voting § 12-19-1
- Absentee ballot application is verified § 12-19-2
- Absentee ballot verification details § 12-19-10
 - An application for an absentee ballot must be accompanied by either an oath verifying the information, administered by a notary public or authorized officer or a copy of the voter's identification as required by §12-18-6.1. There is a statement on the absentee ballot return envelope that must be signed by the voter. The signature on the statement is compared to the signature on the absentee ballot application to ensure both were signed by the same voter.
- Someone other than the voter can return an absentee or mail ballot on behalf of the voter § 12-19-9



- Deadline by which election official must receive absentee/mailed ballots **§ 12-19-12**
 - Election Day (before polls close)
- Absentee/Mail ballot processing and counting procedures **§§ 12-19-10; 12-19-37; 12-19-46**
- Absentee ballots are reported separately from precinct totals **§ 12-19-37**

In-Person Voter ID

- Photo ID requirements **§ 12-18-6.1**
- Options for voters without ID: **§ 12-18-6.2**
 - If a voter is not able to present a form of personal identification as required, the voter may complete an affidavit in lieu of the personal identification. The affidavit shall require the voter to provide his or her name and address. The voter shall sign the affidavit under penalty of perjury.

Provisional Voting

- Provisional ballot availability **§ 12-18-39**
 - If any person is not authorized to vote pursuant to **§ 12-18-7.2**, is successfully challenged under **§ 12-18-10**, or is otherwise denied the ability to vote and the person maintains that he or she is currently registered to vote in that precinct
- Time allotted to determine the status of provisional ballot **§§ 12-20-13.2; 12-20-13.3**
 - Seven-17 days following the election, just prior to the official canvass.
- Provisional ballot rejection reasons: **§ 12-20-5.1**
 - Not registered to vote
- Method for informing voters whether provisional vote was counted **§ 12-20-13.4**

Polling Place

- Polling Place availability and requirements **§ 12-14-9**
- Electioneering or campaigning must not be closer than 100 feet to the entrance of the polling place **§ 12-18-3**
- Rules governing poll observers **§ 12-18-9**
- Poll watcher qualifications as well as the number of poll watchers permitted **§ 12-15-2.1; § 12-18-8.1**



- Prohibits precinct superintendents, precinct deputies, candidates, or election board workers from serving as poll watchers; one watcher per polling place per each party, independent candidate, slate of presidential electors and each side of a ballot issue.
- Photography restrictions **§ 12-18-3**

State Emergency Rules and How Elections are Affected

- The County Auditor has authority to set rules and procedures (after declaring “election emergency”) **§ 12-2-4**
- Listed triggers for Emergency Rules
 - Mechanical failure of a voting machine or an unanticipated shortage of ballots or like unforeseen event warrants it

Counting Rules

- Voting system requirements **§ 12-17B-2**
- Counting procedures **§ 12-17B-13**

Contest/Protest, Recount Rules

- Contest filing guidelines **§ 12-22-5**
- Challenging a voter **§ 12-18-10**
- Automatic recount **§ 12-21-16**
 - Triggers: tie occurs

