



## 2023 South Dakota Legislature

# Senate Bill 82

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~~ At a primary election, pursuant to § 12-18-8.1, a number of poll  
 10 watchers must be permitted for each candidate, or political party and independent  
 11 candidate at At a general or special election, pursuant to § 12-18-8.1, a number of poll  
 12 watchers must be permitted for each political party and independent candidate. A number  
 13 of poll watchers must be permitted from each ballot question committee for an initiated  
 14 or referred measure or initiated constitutional amendment at any election in which the  
 15 measure or amendment appears on the ballot, pursuant to § 12-18-8.1. ~~Each polling place~~  
 16 ~~shall be arranged in a manner that permits each poll watcher to be positioned in a location~~  
 17 ~~where the poll watcher can plainly see and hear what is done within the polling place.~~

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

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

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

24 **12-1-3.** Terms used in this title mean:

- 1 (1) "Ballot question committee," a person or entity that raises, collects, or distributes  
 2 contributions as one of the following:  
 3 (a) A proponent for placement on the ballot of one or more initiated or referred  
 4 measures or initiated constitutional amendments;  
 5 (b) An opponent to placement on the ballot of one or more initiated or referred  
 6 measures or initiated constitutional amendments;  
 7 (c) A proponent for the adoption of one or more initiated or referred measures  
 8 or initiated constitutional amendments on the ballot;  
 9 (d) An opponent to the adoption of one or more initiated or referred measures  
 10 or initiated constitutional amendments on the ballot;  
 11 (2) "Candidate," a person whose name is on the ballot or who is entitled to be on the  
 12 ballot to be voted upon for nomination or election at any election;  
 13 ~~(2)~~(3) "Election," any election held under the laws of this state;  
 14 ~~(3)~~(4) "Election officials," state and local officials charged with the duty of conducting  
 15 elections and the canvass of returns;  
 16 ~~(4)~~(5) "Elector," a person qualified to register as a voter, whether or not the person is  
 17 registered;  
 18 ~~(5)~~(6) "Electronic pollbook," an electronic system containing both the registration list and  
 19 pollbook;  
 20 ~~(6)~~(7) "General election," the vote required to be taken in each voting precinct of the  
 21 state on the first Tuesday after the first Monday in November of each even-  
 22 numbered year;  
 23 ~~(7)~~(8) "Paid circulator," any person who receives money or anything of value for collecting  
 24 signatures for a petition;  
 25 ~~(8)~~(9) "Party office," an office of a political party organization as distinct from a public  
 26 office;  
 27 ~~(9)~~(10) "Person in charge of an election," or "person charged with the conduct of an  
 28 election," the county auditor in all cases except local elections for a municipality,  
 29 school district, township, or other political subdivision, in which case it is the officer  
 30 having the position comparable to the auditor in that unit of government if not  
 31 specifically designated by law;  
 32 ~~(10)~~(11) "Petition," a form prescribed by the State Board of Elections, which contains  
 33 the question or candidacy being petitioned, the declaration of candidacy if required  
 34 and the verification of the circulator. If multiple sheets of paper are necessary to

- 1 obtain the required number of signatures, each sheet shall be self-contained and  
2 separately verified by the circulator;
- 3 ~~(11)~~(12) "Petition circulator," a resident of the State of South Dakota as defined under  
4 § 12-1-4, who is at least eighteen years of age who circulates nominating petitions  
5 or other petitions for the purpose of placing candidates or issues on any election  
6 ballot;
- 7 ~~(12)~~(13) "Political party," beginning with the 2014 general election and each general  
8 election thereafter, a party whose candidate for any statewide office received at  
9 least two and one-half percent of the total votes cast for that statewide office in  
10 either of the two previous general election cycles;
- 11 ~~(13)~~(14) "Pollbook" or "poll list," a list containing in numerical order the names of all  
12 persons voting at the election and type of ballot voted;
- 13 ~~(14)~~(15) "Polling place," a designated place voters may go to vote;
- 14 (16) "Poll watcher," a person appointed to observe the conduct of an election on behalf  
15 of a candidate, a political party, or a ballot question committee;
- 16 ~~(15)~~(17) "Primary" or "primary election," an election held at which candidates are  
17 nominated for public office;
- 18 ~~(16)~~(18) "Public office," an elected position in government;
- 19 ~~(17)~~(19) "Registration list," a list of eligible voters;
- 20 ~~(18)~~(20) "Registered mail," does not include certified mail;
- 21 ~~(19)~~(21) "Registration officials," the county auditor and deputies and other persons  
22 authorized to assist in registration pursuant to chapter 12-4;
- 23 ~~(20)~~(22) "Vote center," a polling place when the precinct has been defined as the entire  
24 jurisdiction and an electronic pollbook is utilized;
- 25 ~~(21)~~(23) "Voter," a person duly registered to vote or one who is performing the act of  
26 voting;
- 27 ~~(22)~~(24) "Independent (IND)" or "no party affiliation (NPA)," any currently registered  
28 voter who writes independent, I, Ind, no party affiliation, no party, no choice,  
29 nonpartisan, or line crossed off in the choice of party field on the voter registration  
30 form and any individual who is not currently registered to vote who leaves the  
31 choice of party field blank on the voter registration form;
- 32 ~~(23)~~(25) "Independent candidate," notwithstanding the definition of independent as  
33 stated in this chapter, any registered voter regardless of party affiliation who  
34 declares to be an independent candidate for public office pursuant to this chapter;

- 1        ~~(24)~~(26) "Other," any voter who writes a political party not recognized in South Dakota
- 2                in the choice of party field on the voter registration form.