

Fifty-eighth
Legislative Assembly
of North Dakota

Introduced by

Judiciary Committee

1 A BILL for an Act to amend and reenact section 16.1-05-06 of the North Dakota Century Code,
2 relating to challenging the right of a person to vote.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 16.1-05-06 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **16.1-05-06. Challenging right of person to vote - Identification or affidavit**
7 **required - Penalty for false swearing - Optional poll checkers.**

- 8 1. One poll challenger appointed by the district chairman of each political party
9 represented on the election board is entitled to be in attendance at each polling
10 place. Individual poll challengers may be replaced at any time during the hours of
11 voting, but no more than one poll challenger from each political party is entitled to
12 be in attendance at each polling place at any one time.
- 13 2. Any member of the election board may challenge the right of an individual to vote if
14 the election board member has knowledge or has reason to believe the individual
15 is not a qualified elector. A poll challenger may request members of the election
16 board to challenge the right of an individual to vote if the poll challenger has
17 knowledge or has reason to believe the individual is not a qualified elector of the
18 precinct. A challenge may be based upon any one of the following:
- 19 a. The individual offering to vote does not meet the age or citizenship
20 requirements.
- 21 b. The individual offering to vote has never voted in the precinct before, the
22 name of the individual offering to vote does not appear in the pollbook
23 generated from the central voter file, and the individual fails to provide
24 reasonable evidence of residency in the precinct.

- 1 c. Except as provided in section 16.1-01-05, the individual offering to vote
- 2 physically resides outside of the precinct.
- 3 d. The individual offering to vote does not meet the residency requirements
- 4 provided in section 16.1-01-04.
- 5 e. The individual offering to vote fails or refuses to provide an appropriate form
- 6 of identification as requested under subsection 3.
- 7 3. If after an election board member has requested that the individual offering to vote
- 8 provide an appropriate form of identification to address any of the voting eligibility
- 9 concerns listed in subsection 2 and the identification is not provided or does not
- 10 adequately confirm the eligibility of the challenged individual, the challenged
- 11 individual may not vote unless the challenged individual executes an affidavit,
- 12 acknowledged before the election inspector, that the challenged individual is a
- 13 legally qualified elector of the precinct.
- 14 4. The affidavit must include:
- 15 a. The name and present address of the affiant and the address of the affiant at
- 16 the time the affiant last voted.
- 17 b. The previous last name of the affiant if it was different when the affiant last
- 18 voted.
- 19 c. A recitation of the qualifications for voting as set forth in section 16.1-01-04
- 20 and the rules for determining residence.
- 21 d. Notice of the penalty for making a false affidavit and that the county auditor
- 22 may verify the affidavit.
- 23 e. A place for the affiant to sign and swear to the affiant's qualifications as a
- 24 voter.
- 25 5. Upon the completion of the affidavit and the marking of the ballot by the challenged
- 26 person, the poll challenger or election board member shall insert the marked ballot
- 27 in an envelope, seal the envelope, and shall write on the envelope the word
- 28 "provisional" and a statement of the reason for the challenge. The poll challenger
- 29 or election board member shall attach the affidavit to the envelope containing the
- 30 provisional ballot. The envelope must be numbered to correspond to the number
- 31 of the provisional voter's name in the registration or poll book and the word

"provisional" must be written following the voter's name in the poll book. The county auditor shall open and review the provisional ballots and shall make a recommendation to the county canvassing board as to the acceptance or rejection of each ballot. An otherwise properly completed provisional ballot may not be rejected because an election official failed to comply with any of the procedures required by this section. The county auditor shall report all known or suspected violations to the state's attorney for investigation and possible prosecution.

6. Written notice of the penalty for making a false affidavit and that the county auditor may verify the affidavits must also be prominently displayed at the polling place in a form prescribed by the secretary of state. An individual who falsely swears in order to vote is guilty of a class A misdemeanor and must be punished pursuant to chapter 16.1-01.

~~6. In addition to the poll challenger, not more than two poll checkers appointed by the district chairman of each political party represented on the election board may be in attendance at each polling place, provided the poll checkers do not interfere with the election process or with the members of the election board in the performance of their duties. The poll challengers and poll checkers must be qualified electors of the district in which they are assigned.~~

7. No poll challenger or checker may be a member of the election board.

8. The district chairman shall notify the county auditor of each county contained in the legislative district before the third day before the day of the election of the names of individuals whom the district chairman has appointed to serve as poll challengers and poll checkers in the precincts in the legislative district.