

23.0349.01006

Sixty-eighth  
Legislative Assembly  
of North Dakota

HOUSE BILL NO. 1230

Introduced by

Representatives Nathe, Bosch, Boschee, Dockter, Hagert, Heinert, Lefor, Stemen  
Senators Hogue, Meyer, Patten

1 A BILL for an Act to amend and reenact section 16.1-01-10 of the North Dakota Century Code,  
2 relating to invalid signatures on an initiated petition; and to provide a penalty for an Act to  
3 amend and reenact section 16.1-01-12 of the North Dakota Century Code, relating to invalid  
4 signatures on an initiated petition; and to provide a penalty.

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

6 **SECTION 1. AMENDMENT.** Section 16.1-01-10 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 ~~16.1-01-10. Secretary of state to pass upon sufficiency of petitions -- Method -- Time~~  
9 ~~limit -- Penalty.~~

10 ~~1. The secretary of state shall have a reasonable period, not to exceed thirty-five days, in~~  
11 ~~which to pass upon the sufficiency of any petition mentioned in section 16.1-01-09.~~  
12 ~~The secretary of state shall conduct a representative random sampling of the~~  
13 ~~signatures contained in the petitions by the use of questionnaires, postcards,~~  
14 ~~telephone calls, personal interviews, or other accepted information-gathering~~  
15 ~~techniques, or any combinations thereof, to determine the validity of the signatures.~~  
16 ~~Signatures determined by the secretary of state to be invalid may not be counted and~~  
17 ~~all violations of law discovered by the secretary of state must be reported to the~~  
18 ~~attorney general for prosecution.~~

19 ~~2. In addition to the penalties prescribed in subsection 2 of section 16.1-01-12, any~~  
20 ~~member of a measure committee, including an initiative or referendum sponsoring~~  
21 ~~committee, who is found to have willfully submitted an invalid initiative or referendum~~  
22 ~~petition, is subject to a fine of not less than one thousand dollars.~~

23 ~~3. In addition to the penalties prescribed in subsection 2 of section 16.1-01-12, a~~  
24 ~~measure committee, including an initiative or referendum sponsoring committee that is~~

1 ~~found to have willfully submitted an invalid initiative or referendum petition, is subject~~  
2 ~~to a fine of not less than ten thousand dollars and is banned from conducting business~~  
3 ~~in North Dakota for five years following the entry of judgment for the offense under~~  
4 ~~section 16.1-01-12.~~

5 **SECTION 1. AMENDMENT.** Section 16.1-01-12 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **16.1-01-12. Election offenses - Penalty.**

- 8 1. It is unlawful for an individual, measure committee as described in section  
9 16.1-08.1-01, or other organization to:
- 10 a. Fraudulently alter another individual's ballot, substitute one ballot for another, or
  - 11 otherwise defraud a voter of that voter's vote.
  - 12 b. Obstruct a qualified elector on the way to a polling place.
  - 13 c. Vote more than once in any election.
  - 14 d. Knowingly vote in the wrong election precinct or district.
  - 15 e. Disobey the lawful command of an election officer as defined in chapter 16.1-05.
  - 16 f. Knowingly exclude a qualified elector from voting or knowingly allow an
  - 17 unqualified individual to vote.
  - 18 g. Knowingly vote when not qualified to do so.
  - 19 h. Sign an initiative, referendum, recall, or any other election petition when not
  - 20 qualified to do so.
  - 21 i. Circulate an initiative, referendum, recall, or any other election petition not in its
  - 22 entirety or when unqualified to do so.
  - 23 j. Pay or offer to pay any individual, measure committee, or other organization, or
  - 24 receive payment or agree to receive payment, on a basis related to the number
  - 25 of signatures obtained for circulating an initiative, referendum, or recall petition.
  - 26 This subsection does not prohibit the payment of salary and expenses for
  - 27 circulation of the petition on a basis not related to the number of signatures
  - 28 obtained, as long as the circulators file the intent to remunerate before submitting
  - 29 the petitions and, in the case of initiative and referendum petitions, fully disclose
  - 30 all contributions received pursuant to chapter 16.1-08.1 to the secretary of state
  - 31 upon submission of the petitions. The disclosure of contributions received under

- 1 this section does not affect the requirement to file a pre-election report by  
2 individuals or organizations soliciting or accepting contributions for the purpose of  
3 aiding or opposing the circulation or passage of a statewide initiative or  
4 referendum petition or measure placed upon a statewide ballot by action of the  
5 legislative assembly under chapter 16.1-08.1. Any signature obtained in violation  
6 of this subdivision is void and may not be counted.
- 7 k. Willfully fail to perform any duty of an election officer after having accepted the  
8 responsibility of being an election officer by taking the oath as prescribed in this  
9 title.
- 10 l. Willfully violate any rule adopted by the secretary of state pursuant to this title.
- 11 m. Willfully make any false canvass of votes, or make, sign, publish, or deliver any  
12 false return of an election, knowing the canvass or return to be false; or willfully  
13 deface, destroy, or conceal any statement or certificate entrusted to the  
14 individual's or organization's care.
- 15 n. Destroy ballots, ballot boxes, election lists, or other election supplies except as  
16 provided by law, or negatively impact the confidentiality, integrity, or availability of  
17 any system used for voting.
- 18 o. Sign a name other than that individual's own name to an initiative, referendum,  
19 recall, or any other election petition.
- 20 p. Willfully submit an initiative or referendum petition that contains invalid signatures  
21 totaling thirty percent or more of the total number of signatures on the petition for  
22 a measure that ultimately is placed on the ballot.
- 23 2. a. A violation of subdivisions b, e, f, or h through l of subsection 1 is a class A  
24 misdemeanor.
- 25 b. A violation of subdivisions a, c, d, g, or m of subsection 1 is a class C felony.
- 26 c. A violation of subdivision n of subsection 1 is a class C felony.
- 27 d. A violation of subdivision o of subsection 1 is a class A misdemeanor if an  
28 individual signs one or two names other than the individual's own name to a  
29 petition and is a class C felony if an individual signs more than two names other  
30 than the individual's own name to a petition.

- 1 e. An organization, as defined in section 12.1-03-04, that violates this section is  
2 subject to the organizational fines in section 12.1-32-01.1. The court in which the  
3 conviction is entered shall notify the secretary of state of the conviction and shall  
4 order the secretary of state to revoke the certificate of authority of any convicted  
5 organization or limited liability company. The organization may not reapply to the  
6 secretary of state for authorization to do business under any name for one year  
7 upon conviction of a class A misdemeanor and for five years upon conviction of a  
8 class C felony under this section, except an organization operating a signature  
9 gathering business, or similar enterprise, that violates subdivision p of  
10 subsection 1, and is convicted of fraud, is subject to a class A misdemeanor and  
11 may not reapply to the secretary of state for authorization to do business under  
12 any name for five years following the entry of judgment.
- 13 f. A violation of subdivision p of subsection 1 by the chairman of a measure  
14 committee, including an initiative or referendum sponsoring committee or an  
15 agent acting on behalf of, or in conjunction with a measure committee for the  
16 purpose of collecting signatures for a petition under this chapter is subject to a  
17 fine of two dollars for each signature deemed invalid by the secretary of state.
- 18 g. An individual who is a member of an organization may be convicted of a violation  
19 as an accomplice under section 12.1-03-01.
- 20 3. Every act this chapter makes criminal when committed with reference to the election of  
21 a candidate is equally criminal when committed with reference to the determination of  
22 a question submitted to qualified electors to be decided by votes cast at an election.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1230

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 16.1-01-12 of the North Dakota Century Code, relating to invalid signatures on an initiated petition; and to provide a penalty.

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

**SECTION 1. AMENDMENT.** Section 16.1-01-12 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-01-12. Election offenses - Penalty.**

1. It is unlawful for an individual, measure committee as described in section 16.1-08.1-01, or other organization to:
  - a. Fraudulently alter another individual's ballot, substitute one ballot for another, or otherwise defraud a voter of that voter's vote.
  - b. Obstruct a qualified elector on the way to a polling place.
  - c. Vote more than once in any election.
  - d. Knowingly vote in the wrong election precinct or district.
  - e. Disobey the lawful command of an election officer as defined in chapter 16.1-05.
  - f. Knowingly exclude a qualified elector from voting or knowingly allow an unqualified individual to vote.
  - g. Knowingly vote when not qualified to do so.
  - h. Sign an initiative, referendum, recall, or any other election petition when not qualified to do so.
  - i. Circulate an initiative, referendum, recall, or any other election petition not in its entirety or when unqualified to do so.
  - j. Pay or offer to pay any individual, measure committee, or other organization, or receive payment or agree to receive payment, on a basis related to the number of signatures obtained for circulating an initiative, referendum, or recall petition. This subsection does not prohibit the payment of salary and expenses for circulation of the petition on a basis not related to the number of signatures obtained, as long as the circulators file the intent to remunerate before submitting the petitions and, in the case of initiative and referendum petitions, fully disclose all contributions received pursuant to chapter 16.1-08.1 to the secretary of state upon submission of the petitions. The disclosure of contributions received under this section does not affect the requirement to file a pre-election report by individuals or

organizations soliciting or accepting contributions for the purpose of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure placed upon a statewide ballot by action of the legislative assembly under chapter 16.1-08.1. Any signature obtained in violation of this subdivision is void and may not be counted.

- k. Willfully fail to perform any duty of an election officer after having accepted the responsibility of being an election officer by taking the oath as prescribed in this title.
  - l. Willfully violate any rule adopted by the secretary of state pursuant to this title.
  - m. Willfully make any false canvass of votes, or make, sign, publish, or deliver any false return of an election, knowing the canvass or return to be false; or willfully deface, destroy, or conceal any statement or certificate entrusted to the individual's or organization's care.
  - n. Destroy ballots, ballot boxes, election lists, or other election supplies except as provided by law, or negatively impact the confidentiality, integrity, or availability of any system used for voting.
  - o. Sign a name other than that individual's own name to an initiative, referendum, recall, or any other election petition.
  - p. Willfully submit an initiative or referendum petition that contains invalid signatures totaling thirty percent or more of the total number of signatures on the petition for a measure that ultimately is placed on the ballot.
- 2.
- a. A violation of subdivisions b, e, f, or h through l of subsection 1 is a class A misdemeanor.
  - b. A violation of subdivisions a, c, d, g, or m of subsection 1 is a class C felony.
  - c. A violation of subdivision n of subsection 1 is a class C felony.
  - d. A violation of subdivision o of subsection 1 is a class A misdemeanor if an individual signs one or two names other than the individual's own name to a petition and is a class C felony if an individual signs more than two names other than the individual's own name to a petition.
  - e. An organization, as defined in section 12.1-03-04, that violates this section is subject to the organizational fines in section 12.1-32-01.1. The court in which the conviction is entered shall notify the secretary of state of the conviction and shall order the secretary of state to revoke the certificate of authority of any convicted organization or limited liability company. The organization may not reapply to the secretary of state for authorization to do business under any name for one year upon conviction of a class A misdemeanor and for five years upon conviction of a class C felony under this section, except an organization operating a signature gathering business, or similar enterprise, that violates subdivision p of subsection 1, and is convicted of fraud, is subject to a class A misdemeanor and may not reapply to

the secretary of state for authorization to do business under any name for five years following the entry of judgment.

- f. A violation of subdivision p of subsection 1 by the chairman of a measure committee, including an initiative or referendum sponsoring committee or an agent acting on behalf of, or in conjunction with a measure committee for the purpose of collecting signatures for a petition under this chapter is subject to a fine of two dollars for each signature deemed invalid by the secretary of state.
  - g. An individual who is a member of an organization may be convicted of a violation as an accomplice under section 12.1-03-01.
3. Every act this chapter makes criminal when committed with reference to the election of a candidate is equally criminal when committed with reference to the determination of a question submitted to qualified electors to be decided by votes cast at an election."

Renumber accordingly