

How to Refer a State Law

Last updated March 27, 2019

South Dakota Secretary of State's Office
State Capitol, 500 E. Capitol Avenue, Pierre, SD 57501-5070
605-773-3537 • elections@state.sd.us • www.sdsos.gov

General Election is November 3, 2020

Disclaimer: This information is provided as a general guide and is not a legal opinion.
We encourage Sponsors to review the statutes that apply.

INFORMATION FOR SPONSORS

SD Legislative Research Council, 605-773-3251
500 E. Capitol Ave., Pierre, SD 57501

Office of the SD Attorney General, 605-773-3215
1302 E. HWY 14, Suite 1, Pierre, SD 57501

PETITIONS ARE DUE NO LATER THAN

JUNE 27, 2019 BY 5:00 PM (CT)

(90 days of adjournment sine die of the 2019 legislative session)

Signatures required: 16,961 valid signatures

STEP 1: The items below must be submitted to the Secretary of State's office (SOS) for approval **BEFORE** circulation may begin. The timeframe for SOS approval depends on how many edits the sponsor must make. Signatures obtained before SOS approval shall not be counted.

- **An original, hardcopy of the petition form** (ARSD [05:02:08:08](#)), (**NEW Petition form** that must be used as of July 29, 2018; SDCL [2-1-10](#) made this change), with the title of the referred law and the effective date and the date of the general election. The petition must be in the exact format as prescribed in Administrative Rule. Any deviation from this will result in the sponsor having to make corrections and resubmit another original, hardcopy petition form to the SOS.

- **A copy** (electronic format is acceptable) **of the prison/jail population cost estimate and/or fiscal note** (if one was written during the Legislative Session) (SDCL [2-1-3.1](#) and [2-9-32](#)). Contact LRC for a copy.

- o 2-9-32. Fiscal note for referred law. If any referred law had a fiscal note prepared by the director of the Legislative Research Council prior to passage of the law, the sponsor shall obtain the fiscal note from the Legislative Research Council website and attach the fiscal note to the petition filed pursuant to § 2-1-3.1. If the fiscal note exceeds fifty words, the sponsor shall request from the director of the Legislative Research Council a summary of the fiscal note that does not exceed fifty words and attach the fiscal note summary in lieu of the fiscal note to the petition filed pursuant to § 2-1-3.1. The director shall file the fiscal note summary with the sponsor within five days of receipt of the sponsor's request.

- **A campaign finance statement of organization**, if one has not been filed already (SDCL [12-27-6](#)). This may be filed online, mailed or submitted electronically (fax or email).

- **An original, hardcopy of a notarized form** (ARSD [05:02:08:07.02](#)) that includes the names and addresses of the petition sponsor(s) (SDCL [2-1-3.1](#)).
- **The circulator handout (CH)**. This is a form that shall be given to each petition signer. It **MUST** contain:
 - o The title of the referred law.
 - o A fiscal note (if applicable).
 - o The name, phone number, and email address of each petition **SPONSOR**
 - o The name, phone number, and email address of each petition **CIRCULATOR**
 - o 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 circulator handout may be submitted electronically (fax or email). If the sponsor(s) are going to provide a handout to petition signers in a format other than on a regular 8.5x11 sheet of paper, the SOS will need to have a hard copy before circulation may begin.

STEP 2: After receiving SOS approval, the sponsor may begin circulating the petition for signatures.

STEP 3: A **completed petition** for a referred law (a minimum of **16,961*** valid signatures) must be submitted to the SOS's office within 90 days of adjournment *sine die* of the legislative session in which the law was passed (SDCL [2-1-3](#) & [5](#) and [2-1-3.1](#)).

*the number of signatures required is based off the number of votes cast for Governor at the Nov. 6, 2018 General Election. (SDCL [2-1-5](#))

STEP 3A: All petitions shall be submitted to the SOS **simultaneously** with a sworn affidavit(s) signed by two-thirds of the sponsors (ARSD [05:02:08:07.01](#)).

- o **Proof of Circulator Residency***: SDCL 2-1-1.4 requires a sworn affidavit attesting to the residency of each circulator. We have provided a sample form on our website for your convenience. Below is the statute for your reference:
2-1-1.4. Affidavit to include information as to residency. 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.**

The SOS will begin validating petitions immediately in order to meet the July 1 deadline of when new laws take effect.

MISCELLANEOUS SPONSOR INFORMATION

- If citizens Vote “NO” to reject the Act of the Legislature, the Act will not become law.
- If the citizens Vote “YES” to allow the Act of the Legislature to become law, it will go into effect on July 1, 2021 after the statewide canvass unless specified differently within the language of the measure. (SDCL [2-1-12](#))
- When will a signature line be considered or not considered for the random sample?
 - The circulator or sponsor must draw a line completely through all six boxes, marking off completely ALL text, and then the signature line would not be considered for the random sample.
 - Writing “void” doesn’t invalidate a signature line.
 - Any sort of mark on a signature line would be considered for the random sample.
 - If only a portion of the text on a signature line is crossed off that signature line would still be considered for the random sample.

INFORMATION FOR CIRCULATING

1. A petition circulator is a person of at least eighteen years of age and a resident of the state of South Dakota. No registered sex offender may circulate a petition except if the sex offender is in the employ of, and under immediate supervision of, another person and where the circumstances preclude any contact with children (SDCL [12-1-32](#) through [12-1-34](#)).
2. The petition circulator must personally witness each signature on the petition being circulated. The petition's verification must be completed following circulation and must include the circulator's printed name, residence address, city, state, complete date and be signed under oath before a South Dakota notary public or other officer authorized to administer oaths.
3. Each petition signer must be a registered voter in the state of South Dakota in the jurisdiction for which the petition is circulated (SDCL [12-6-8](#)). This website is available for circulators to verify voter registration: <https://vip.sdsos.gov/viplogin.aspx>
4. Signers must sign their names as they are registered to vote or as they usually sign their names.
5. The signer's printed name must also appear.
6. Each signature line must show a complete residence address. This can be the street and house number or rural route and box number (only residents of a second or third-class municipality may use a PO Box, which are those municipalities with less than 5,000 populations) in addition to the city or town. Zip codes are optional. A signer in a first-class municipality may not use a PO Box. This would include the following which are first class municipalities:
Aberdeen, Belle Fourche, Box Elder, Brandon, Brookings, Harrisburg, Huron, Madison, Mitchell, Pierre, Rapid City, Sioux Falls, Spearfish, Sturgis, Vermillion, Watertown and Yankton.
- If the signer does not have a residence address or post office box number, a description of the residence location must be provided.
7. Each signature line must show the month and day it was signed.
8. Numbers to designate the month are permissible. Abbreviations commonly used are also acceptable.

9. The county of the signer's voter registration must be included.
10. All six boxes of a signature line must be completed. If all the information for those six boxes is included but a signer wrote the information in the wrong box, that is acceptable. Example: A signer prints his/her name in the signature box and signs his/her name in the printed box.
11. The date, address, county of registration, and printed name may be added by the circulator prior to the petition being filed. Ditto marks may **not** be used.
12. Each petition sheet must be a self-contained sheet with the heading, instructions to signers, signature lines and circulator's verification on a single sheet. Stapled, taped or glued together petitions sheets will **not** be accepted.
13. Circulators for statewide ballot measures cannot be employed, rewarded or compensated based on the number of registered voters who signed the petitions. This does not prohibit any person from employing a circulator based on one of the following practices: Paying an hourly wage or salary; establishing either express or implied minimum signature requirements for the petition circulator; terminating the petition circulator's employment, if the petition circulator fails to meet certain productivity requirements; and paying discretionary bonuses based on reliability, longevity, and productivity. (SDCL [12-13-28](#))
14. Circulators for statewide ballot measures must make a reasonable inquiry of each signer to determine that each signer is a qualified voter of the state and county indicated on the signature line.
15. Circulators for statewide ballot measures must state under oath that no statute regarding petition circulation was knowingly violated. The verification shall be witnessed by a notary public commissioned in South Dakota or other officer authorized to administer oaths pursuant to SDCL [18-3-1](#).
16. State law prohibits a person from conducting petition signature gathering within 100 feet of a polling place (SDCL [12-18-3](#)).
17. The petition circulator shall provide to each person who signs the petition a form (to be approved by the SOS prior to circulation) containing the title and explanation of the measure or amendment as prepared by the Attorney General. Also, the name, phone number, 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. (SDCL [2-1-1.1](#), [2-1-1.2](#) & [2-1-3.1](#))
18. No signatures, for an initiated measure, may be obtained more than 24 months preceding the Nov. 3, 2020 General Election (SDCL [2-1-1.1](#)).
19. The **NOTARY PUBLIC MAY NOT** be the **CIRCULATOR** and the **NOTARY**. If this occurs, that would invalidate the entire petition sheet. (SDCL [18-1-12.2](#))
20. The **NOTARY PUBLIC MAY NOT** be a **SIGNER** on the **PETITION** they **NOTARIZE**. If this occurs, that signature line would be invalid. (SDCL [18-1-12.2](#))