

**HOUSE BILL NO. 1048**

Introduced by

Legislative Council

(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 1999 Supplement to the North  
5 Dakota Century Code is amended and reenacted as follows:

6 **16.1-05-06. Challenging right of person to vote - Affidavit required - Penalty for**  
7 **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. The members of the election board and poll challengers may challenge the right of  
14 anyone to vote whom they know or have reason to believe is not a qualified  
15 elector. Members of the election board or poll challengers may challenge a voter if  
16 they know or have reason to believe any of the following:
- 17 a. The person offering to vote does not meet the age or citizenship  
18 requirements.
- 19 b. The person offering to vote has never voted in the precinct before and fails to  
20 provide reasonable evidence of residency in the precinct.
- 21 c. Except as provided in section 16.1-01-05, the person offering to vote  
22 physically resides outside of the precinct.
- 23 d. The person offering to vote does not meet the residency requirements  
24 provided in section 16.1-01-05.

- 1           3. If any person offering to vote is challenged by a poll challenger or by a member of  
2           the election board, the challenged person, unless the challenge is withdrawn, shall  
3           ~~stand~~ move aside and may not vote unless the challenged person executes an  
4           affidavit, acknowledged before the election inspector, that the challenged person is  
5           a legally qualified elector of the precinct.
- 6           4. The affidavit must include:
- 7           a. The name and present address of the affiant and the address of the affiant at  
8           the time the affiant last voted.
- 9           b. The previous last name of the affiant if it was different when the affiant last  
10           voted.
- 11           c. A recitation of the qualifications for voting as set forth in section 16.1-01-04  
12           and the rules for determining residence.
- 13           d. Notice of the penalty for making a false affidavit and that the county auditor  
14           may verify the affidavit.
- 15           e. A place for the affiant to sign and swear to the affiant's qualifications as a  
16           voter.
- 17           5. Upon the completion of the affidavit and the marking of the ballot by the challenged  
18           person, the poll challenger or election board member shall insert the marked ballot  
19           in an envelope, seal the envelope, and shall write on the envelope the word  
20           "provisional" and a statement of the reason for the challenge. The poll challenger  
21           or election board member shall attach the affidavit to the envelope containing the  
22           provisional ballot. The envelope must be numbered to correspond to the number  
23           of the provisional voter's name in the registration or poll book and the word  
24           "provisional" must be written following the voter's name in the poll book. The  
25           county auditor shall review the statement of the reason for the challenge and shall  
26           make a recommendation to the county canvassing board as to whether the  
27           challenged voter is a qualified voter. An otherwise properly completed provisional  
28           ballot may not be rejected because an election official failed to comply with any of  
29           the procedures required by this section. The county auditor shall report all known  
30           or suspected violations to the state's attorney for investigation and possible  
31           prosecution.

- 1           6. Written notice of the penalty for making a false affidavit and that the county auditor  
2           may verify the affidavits must also be prominently displayed at the polling place in  
3           a form prescribed by the secretary of state. Any person who falsely swears in  
4           order to vote is guilty of a class A misdemeanor and must be punished pursuant to  
5           chapter 16.1-01.
- 6           ~~6.~~ ~~The county auditor shall verify randomly at least ten percent of the affidavits signed~~  
7           ~~in the county and shall report all known or suspected violations to the state's~~  
8           ~~attorney for investigation and possible prosecution.~~
- 9           7. In addition to the poll challenger, not more than two poll checkers appointed by the  
10           district chairman of each political party represented on the election board may be in  
11           attendance at each polling place, provided such poll checkers do not interfere with  
12           the election process or with the members of the election board in the performance  
13           of their duties. The poll challengers and poll checkers must be qualified electors of  
14           the district in which they are assigned.
- 15           8. No poll challenger or checker may be a member of the election board.