

# NORTH DAKOTA

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## VOTER REGISTRATION

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**These resources are current as of 8/17/14. We do our best to periodically update these resources and welcome any comments or questions regarding new developments in the law. Please email us at [advocacy@afj.org](mailto:advocacy@afj.org).**

This guide summarizes key aspects of laws governing voter registration on the state level. It is not intended to provide legal advice or to serve as a substitute for legal advice

In some jurisdictions, city and/or county regulations may also apply to certain political activities. Check with the appropriate local jurisdiction before undertaking any activity.

North Dakota is the only state in the United States that does not require voter registration. Provided they are otherwise eligible, a person may vote without being previously registered. Although cities may still register voters for city elections, only one small city (Medora) does so. Additional information about the state's unique approach to voting is available from the [Secretary of State's office](#). The governing law is N.D. Cent. Code Title chs. 16.1-02; 16.1-01.

## VOTER ELIGIBILITY

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- **Who is eligible to vote?**
  - A voter is qualified to vote in North Dakota if he or she meets the following criteria:
    - A U.S. citizen;
    - At least 18 years old on the day of an election;
    - A legal North Dakota resident;
    - A resident in the precinct for 30 days preceding the election; and,
    - Is not presently serving a term of actual incarceration as a convicted felon. N.D. Cent. Code §§ 16.1-01-04 and 12.1-33-01. Once an individual has been released from prison, they are entitled to vote again.

- **What is a voter's residence?**
  - A person may have one residence only. A residence is defined as “the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he or she returns in seasons of repose.” N.D. Cent. Code § 54-01-26.
  - Residency is neither gained nor lost by reason solely of school enrollment in college or by being stationed in the state as a member of the military. N.D. Cent. Code § 16.1-01-04. Case law interpreting N.D. Cent Code § 54-01-26 makes it clear that a college student seeking to vote in his or her college precinct must (1) have abandoned their previous (parents’) residence; (2) be actually living in the new (college) residence; and (3) intend to change from the old (parents’) residence to the new (college) residence and to remain there. Keating v. Keating, 399 N.W.2d 872 (N.D. 1987).
  - There is a presumption against a change of legal residence, and the burden of proving a change in legal residence in on the person alleging he change. Keating, 399 N.W.2d 872; see also Mitteldadt v. Bender, 210 N.W.2d 89 (N.D. 1973).

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## VOTER ID REQUIREMENTS

- **Required for registration? If so, what kinds of ID?**
  - Not applicable.
- **Required for voting? If so, what kinds of ID?**
  - Yes. A voter is required to provide identification at the polling place. N.D. Cent. Code § 16.1-05-07.
  - Identification must indicate date of birth and place of residence. N.D. Cent. Code § 16.1-05-07. The form of identification may be one of the following:
    - an official state-issued form of identification;
    - an official form of identification issued by a tribal government;
    - a form of identification prescribed by the North Dakota Secretary of State; or
    - any combination of any the three forms identified above.
  - According to the Secretary of State, the following forms of identification are acceptable:
    - Driver’s license
    - Non-driver’s identification card
    - Tribal government issued identification card
    - Student identification certificate (provided by ND college or university)
    - Long-term care identification certificate (provided by ND facility)
  - The ID must include the voter’s name, date of birth and current residential address. Historically, voters were

allowed to use a passport or utility bill, but the legislature removed these provisions in 2013.

- Historically voters were permitted to sign an affidavit, certifying under oath, the voter's identity and residence. The legislature removed this provision for the 2014 elections. Voters without an ID can still vote an absentee ballot if they have an "attester." An attester must provide his or her name, North Dakota driver's license, non-driver's, or tribal identification number, and sign the absentee/mail ballot application form to attest to the applicant's North Dakota residency and voting eligibility.
- **Requirement to provide proof of citizenship to register and/or vote?**
  - No.

## ABSENTEE VOTING

- **Does state permit absentee voting?**
  - Yes. N.D. Cent. Code §§ 16.1-07-01 *et seq.*
- **How can a voter request an absentee ballot?**
  - To vote absentee, a voter must complete an application form and submit it to the local county auditor at any time during the election year. N.D. Cent. Code §§ 16.1-07-05; 16.1-07-06. Absentee ballots are available to voters 40 days prior to each election day. N.D. Cent. Code § 16.1-07-03. Once prepared, ballots are sent to approved absentee voting applicants. Ballots must be returned in person or postmarked by at least the day before the election is held. N.D. Cent. Code § 16.1-07-09.
  - An applicant can either fill out a form furnished by the [Secretary of State](#), complete an [online application](#), or request a copy from any county, city, or school district. Additionally, the applicant is permitted to simply provide the following information on a blank sheet:
    - The applicant's name,
    - The applicant's current or most recent North Dakota residential address,
    - The applicant's mailing address,
    - The applicant's current home telephone number,
    - The election for which the ballot is being requested,
    - The date of the request,
    - An affirmation that the applicant has resided, or will reside, in the precinct for at least thirty days next preceding the election,
    - The applicant's signature,
    - A space for the voter to include the voter's precinct or voting location, if known,
    - The applicant's birth date and year, and

- The applicant’s motor vehicle operator’s license or non-driver identification number, if available, or tribal identification number, or a copy of the voter’s alternate form of identification from the list above. See N.D. Cent. Code § 16.1-07-06; see *also* Op. N.D. Atty. Gen. 92-19; Op. N.D. Atty. Gen. 78-1.
    - If the applicant will be using an attester, the application should also include the required language for an attester.
  - Applications for an absentee ballot can be submitted by mail, in person, by fax, or as a scanned attachment to an email. Although the Secretary of State’s office has an online [application wizard](#), the application cannot be submitted online.
  - Applications for electors serving on active military duty, their family members, or electors living outside the U.S. need to provide a (1) facsimile telephone number or (2) an electronic mail address if they intend to vote by facsimile or electronic mail.
  - Absentee voting requires that the elector’s signature on the voter’s affidavit provided along with the absentee ballot matches the signature of the corresponding application. See N.D. Cent. Code § 16.1-07-12.
- **What is the deadline to request an absentee ballot?**
  - A completed application must be submitted to the appropriate election official in a timely manner so as to allow the applicant to receive, complete, and mail the absent voter's ballot before the day of the election. See N.D. Cent. Code § 16.1-07-05(6).
  - Unless there is an emergency situation, absentee ballots must be postmarked prior to the day of the election. See N.D. Cent. Code § 16.1-07-05(5-6).
- **Conducting absentee voter drives**
  - Organizations can request copies of absentee ballot applications from the Secretary of State’s office without any specific request being made for the applications. N.D. Cent. Code § 16.1-07-07.

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## EARLY IN PERSON VOTING

- **Does the state allow for early voting?**
  - Yes, in some counties. If the County establishes early voting, voting must be authorized during the 15 days immediately before the day of the election. The county auditor shall designate the business days and times during which the early voting election precinct will be open and publish notice of the dates and times in the official county newspaper once each week for three consecutive weeks immediately before the day of the election. N.D. Cent. Code § 16.1-07-15.

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## CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

### **Elections Division**

North Dakota Secretary of State

600 E Boulevard Ave Dept 108

Bismarck, ND 58505-0500

Telephone: (701) 328-4146

Toll free: (800) 352-0867, ext. 8-4146

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## **FOR FURTHER ASSISTANCE**

**For assistance regarding these resources or for more information about federal law, please contact our attorney one-on-one counseling service:**

**Email: [Advocacy@afj.org](mailto:Advocacy@afj.org)  
Telephone: 1-866-NPLOBBY  
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**For assistance regarding state law in North Dakota, please contact:**

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