

*****Important Info on SB17 **** Please READ ******

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Date Saturday, February 3rd, 2024 at 4:43 PM

Dear Legislator,

The lobbyists for the mail forwarding services, Justin Smith and TJ Nelson, have stated that the case of Dunn v. Blumstein (405 U.S. 330 (1972)) is controlling on the issue of durational residency requirements.

In reviewing that case, it should be pointed out that that is not the entire story. The case involves Tennessee, which closed its registration books 30 days before an election, but also required residence in the state for one year and in the county for three months before someone could register to vote. The court concluded that a period of 30 days appears to be ample to complete whatever administrative tasks are needed to prevent fraud and ensure the purity of the ballot box. They also concluded that, since there are adequate means of ascertaining **bona fide residence** on an individualized basis, the state may not conclusively presume non-residence from failure to satisfy the waiting period requirements of durational residence laws. That particular case involved Mr. Blumstein, who moved to Tennessee to begin a job. When he went to register as a bona fide resident, he could not because he had not been in the state for one year or in the county for three months.

He did not challenge the power of Tennessee to restrict the vote to bona fide Tennessee residents nor did Tennessee dispute that he was a bona fide resident when he attempted to register.

Throughout their decision, **the Supreme Court discusses the fact that Tennessee was well within their rights to require that someone be a bona fide resident of the state in order to vote in that state.** In fact, they stated:

"We emphasize again the difference between bona fide residence requirements and durational residence requirements. We have in the past noted approvingly that the states have the power to require that voters be bona fide residents of the relevant political subdivision. (citations omitted). An appropriately defined and uniformly applied requirement of bona fide residence may be necessary to preserve the basic conception of a political community and, therefore, could withstand close constitutional scrutiny. But durational residence requirements, representing a separate, voting qualification imposed on bona fide residents must be separately tested....."

They went on to state: "In 202 of the Voting Rights Act of 1965, added by the Voting Rights Act Amendments of 1970, Congress outlawed state durational residency requirements for presidential and vice presidential elections, and prohibited the states from closing registration more than 30 days before such elections."

Further, "As long as the state permits registration up to 30 days before an election, a lengthy durational residence requirement does not increase the amount of time the state has in which to carry out an investigation into the sworn claim by the would be voter that he is in fact a resident." "Objective information tendered as relevant to the question of **bona fide residence** under Tennessee law – – **places of dwelling, occupation, car registration, drivers license, property owned, etc.** – – is easy to double check, especially in light of modern communications."

In footnote 13, the court further states "**Nothing said today is meant to cast doubt on the validity of appropriately defined and uniformly applied bona fide residence requirements.**"

In closing, the Dunn case confirms that a 30 day registration requirement is acceptable. It also **confirms that one must be a bona fide resident of the state to vote.** It would follow that, if a 30-day registration requirement is acceptable, that a 30-day residency requirement would also be acceptable as you cannot register unless you are a bona fide resident of the state--which would explain why other states still have a residency requirement of 30 days. The Tennessee case was far outside of those parameters by requiring one year in the

state and three months in the county. It should also be noted that durational residency requirements outlawed by Congress were **only for the presidential and vice presidential elections. Even then, the 30 day registration requirement was acceptable.**

Before considering SB17 on Monday, we strongly urge every one of you to actually read the Dunn V. Blumstein case @ <https://caselaw.findlaw.com/court/us-supreme-court/405/330.html>.

If everyone were to read this case, that argument would be put to rest.

Also, please find durational and registration requirements for all the states here:

<https://www.infoplease.com/us/government/elections/residency-requirements-for-voting>.

The NVRA here: <https://uscode.house.gov/view.xhtml?jsessionid=5B416B9BF862A18EC55D8CED834A3458?req=granuleid%3AUSC-prelim-title52&saved=L3ByZWxpbUB0aXRsZTUyL3N1YnRpdGxIMg%3D%3D%7CZ3JhbnVsZWlkOIVTQy1wcmVsaW0tdGI>

The election official must verify the voter.

Federal Voting Guidelines Here: <https://www.fvap.gov/info/laws/voting-residence>

Defined as: PHYSICAL PRESENCE

State Residency Requirements:

<https://voterhelpdesk.usvotefoundation.org/en/support/solutions/articles/151000052027-what-are-the-various-states-residency-requirements>. Defined as: PHYSICAL PRESENCE

The South Dakota Voter Registration form says the voter must list where he lives along with many instances in SD Codified Law.

<https://sdsos.gov/elections-voting/assets/VoterRegistrationFormFillable.pdf>

- There is no allowance in Federal or State Law allowing for a voter to randomly chose a "residence" without first establishing physical presence.
- The State is within her rights to set residency requirements to secure the purity of the ballot box.
- Military and Overseas Voters are allowed to vote where they LAST RESIDED.
<https://www.fvap.gov/uploads/FVAP/Policies/uocavalaw.pdf>.
- Homeless may provide a location on a map.

With a Republican Led legislature, we should get serious about protecting the vote in South Dakota. All of the amendments made thus far are out of compliance with all Federal Laws and guidelines. Nothing so important should be toyed with so recklessly. This right was paid for with blood.

Rasmussen polls report 80% of Republicans, 60% of Democrats and 70% of Independents believe cheating affects the outcome of our elections, and have doubts about the fairness of future elections. That is the majority of voters in the United States.

South Dakota has an opportunity to lead the nation. Please consider adopting the attached amendment or something similar.

As you weigh hundreds of bills this legislative session, remember this quote from Thomas Paine:

"The true and only basis of representative government is equality of rights. ... The right of voting for representatives is the primary right by which other rights are protected. To take away this right is to reduce a man to slavery."

Allowing the dilution of the vote of the real citizens of South Dakota is effectively taking away true representation, and allowing for representation without taxation for those who claim residency, but do not actually live here.

Jessica Pollema

South Dakota Canvassing Group

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<https://www.sdcanvassing.com/>



Sent with [Proton Mail](#) secure email.

253.46 KB 2 files attached

SB17 - proposed amendment.pdf

180.50 KB

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72.95 KB