

Stricken language would be deleted from and underlined language would be added to present law.
Act 1219 of the Regular Session

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: S3/17/15 H3/26/15
A Bill

SENATE BILL 860

By: Senator Hickey

By: Representative Hickerson

For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS LAW CONCERNING INITIATIVES,
REFERENDA, AND CONSTITUTIONAL AMENDMENTS; AND FOR
OTHER PURPOSES.

Subtitle

TO AMEND ARKANSAS LAW CONCERNING
INITIATIVES, REFERENDA, AND
CONSTITUTIONAL AMENDMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 7-9-103 is amended to read as follows:

7-9-103. Signing of petition – Penalty for falsification – Notice of suspected forgery.

(a)(1)(A) A person who is a registered voter of this state may sign his or her own name and print his or her own name, address, birth date, and the date of signing on an initiative or referendum petition in his or her own proper handwriting, and not otherwise, to order an initiative or referendum vote upon a proposed amendment or a proposed or referred act.

(B) If a person signing a petition under subdivision (a)(1)(A) of this section requires assistance due to disability, another person:

(i) May print the name, address, birth date, and the date of signing; and

(ii) Shall sign and print his or her name in the margin of the petition.



(2)(A) A person who is a registered voter of a municipality or county of this state may sign his or her own name and print his or her own name, address, birth date, and the date of signing on an initiative or referendum petition in his or her own proper handwriting, and not otherwise, to order an initiative or referendum vote upon a proposed or referred ordinance.

(B) If a person signing a petition under subdivision (a)(2)(A) of this section requires assistance due to disability, another person:

(i) May print the name, address, birth date, and the date of signing; and

(ii) Shall sign and print his or her name in the margin of the petition.

(3) A person who is under eighteen (18) years of age shall not act as a canvasser.

(4) A person shall not act as a paid canvasser on a statewide initiative or referendum petition if the sponsor has not provided the information required under § 7-9-601 to the Secretary of State before the person solicits signatures on a petition.

(b) A person commits a Class A misdemeanor if the person knowingly:

(1) Signs a name other than his or her own name to a petition;

(2) Signs his or her name more than one (1) time to a petition;

or

(3) Signs a petition when he or she is not legally entitled to sign the petition.

~~(b)~~(c) A person commits a Class A misdemeanor if the person, acting as a canvasser, notary, sponsor, or agent of a sponsor:

(1) Signs a name other than his or her own to a petition;

(2) Prints a name, address, or birth date other than his or her own on a petition unless the signer requires assistance due to disability and the person complies with this section;

(3) Solicits or obtains a signature to a petition knowing that the person signing is not qualified to sign the petition;

(4) Knowingly pays a person any form of compensation in exchange for signing a petition as a petitioner;

(5) Accepts or pays money or anything of value for obtaining

signatures on a petition when the person acting as a canvasser, sponsor, or agent of a sponsor knows that the person acting as canvasser's name or address is not included on the sponsor's list filed with the Secretary of State under § 7-9-601; ~~or~~

(6) Knowingly misrepresents the purpose and effect of the petition or the measure affected for the purpose of causing a person to sign a petition;

(7) As a canvasser, knowingly makes a false statement on a petition verification form;

(8) As a notary, fails to witness a canvasser's affidavit by witnessing the signing of the instrument in person and either personally knowing the signer or being presented with proof of identity of the signer;
or

~~(6)~~(9) As a sponsor, files a petition part with the official charged with verifying the signatures knowing that the petition part contains one (1) or more false or fraudulent signatures unless each false or fraudulent signature is clearly stricken by the sponsor before filing.

~~(e)~~(d) When the official charged with verifying the signatures has reasonable grounds to believe that one (1) or more signatures on a petition is forged, excluding signatures apparently signed by one (1) spouse for another, the official shall report the suspected forgery and basis for suspecting forgery to:

(1) The Department of Arkansas State Police, in the case of a statewide petition; or

(2) The prosecuting attorney of the county, in the case of a local petition.

SECTION 2. Arkansas Code § 7-9-111(a), concerning the determination of the sufficiency of a petition, is amended to read as follows:

(a)(1) The Secretary of State shall ascertain and declare the sufficiency or insufficiency of each initiative and referendum petition within thirty (30) days after it is filed.

(2) The Secretary of State may contract with the various county clerks for their assistance in verifying the signatures on petitions. The county clerk shall return the petitions to the Secretary of State within ten (10) days.

~~(3) After a petition has been filed under this subchapter, a canvasser shall not circulate a petition or collect, solicit, or obtain any additional signatures for the filed petition until the Secretary of State determines the sufficiency of the petition under this section.~~

SECTION 3. Arkansas Code § 7-9-126(b), concerning the counting of signatures, is amended to read as follows:

(b) A petition part and all signatures appearing on the petition part shall not be counted for any purpose by the official charged with verifying the signatures, including the initial count of signatures, if one (1) or more of the following is true:

(1) The petition is not an original petition, including without limitation a petition that is photocopied or is a facsimile transmission;

(2) The petition lacks the signature, printed name, and residence address of the canvasser or is signed by more than one (1) canvasser;

(3)(A) The canvasser is a paid canvasser whose name and the information required under § 7-9-601 were not submitted by the sponsor to the Secretary of State before the petitioner signed the petition.

(B) A canvasser is a paid canvasser if he or she is paid money or anything of value for soliciting signatures before or after the signatures are obtained;

(4) The canvasser verification is not notarized, is notarized by more than one (1) notary, or lacks a notary signature or a notary seal;

(5) The canvasser verification is dated earlier than the date on which a petitioner signed the petition;

(6) The petition fails to comply with § 7-9-104 or § 7-9-105, including the lack of the exact popular name or ballot title approved by the Attorney General for a statewide initiative, a discrepancy in the text of the initiated or referred measure, or the lack of an enacting clause in a statewide petition for an initiated act; or

~~(7) The petition part of a statewide petition clearly and unmistakably contains signatures of petitioners from more than one (1) county unless each signature of a petitioner from another county is clearly stricken before the filing of the petition with the Secretary of State; or~~

~~(8)~~(7) The petition part has a material defect that, on its

face, renders the petition part invalid.

SECTION 4. Arkansas Code § 7-9-601 is amended to read as follows:

7-9-601. Hiring and training of paid canvassers.

(a)(1) A person shall not provide money or anything of value to another person for obtaining signatures on a statewide initiative or referendum petition unless the person receiving the money or item of value meets the requirements of this section.

(2) Before a signature is solicited by a paid canvasser the sponsor shall:

(A) Provide the paid canvasser with a copy of the most recent edition of the Secretary of State's initiatives and referenda handbook;

(B) Explain the Arkansas law applicable to obtaining signatures on an initiative or referendum petition to the canvasser; and

(C)(i) Provide a complete list of all paid canvassers' names and current residential addresses to the Secretary of State.

(ii) If additional paid canvassers agree to solicit signatures on behalf of a sponsor after the complete list is provided, the sponsor shall provide an updated list of all paid canvassers' names and current residential addresses to the Secretary of State.

~~*(b)(1) Before obtaining a signature on an initiative or referendum petition as a paid canvasser, a person shall submit in person or by mail to the sponsor:*~~

~~*(1) The full name and any assumed name of the person;*~~

~~*(2) The current residence address of the person and the person's permanent domicile address if the person's permanent domicile address is different from the person's current residence address;*~~

~~*(3) A signed statement taken under oath or solemn affirmation that states that the person has not pleaded guilty or nolo contendere to or been found guilty of a criminal offense involving a violation of the election laws, fraud, forgery, or identification theft in any state;*~~

~~*(4) A signed statement that the person has read and understands the Arkansas law applicable to obtaining signatures on an initiative or referendum petition;*~~

~~*(5) A signed statement that the person has been provided a copy*~~

~~of the most recent edition of the Secretary of State's initiatives and referenda handbook by the sponsor; and~~

~~(6) A photograph of the person taken within ninety (90) days of the submission of the information required under this section. To verify that there are no criminal offenses on record, a sponsor shall obtain, at its cost, from the Department of Arkansas State Police, a current state and federal criminal record search on every paid canvasser to be registered with the Secretary of State.~~

(2) The criminal record search shall be obtained within thirty (30) days prior to the registration of the paid canvasser.

(3) Upon submission of its list of paid canvassers to the Secretary of State, the sponsor shall certify to the Secretary of State that each paid canvasser in its employ has passed a criminal background search in accordance with this section.

(4) A willful violation of this section by a sponsor or paid canvasser constitutes a Class A misdemeanor.

(5) Signatures incorrectly obtained or submitted under this section shall not be counted by the Secretary of State.

~~(c) A sponsor shall maintain the information required under this section for each paid canvasser for three (3) years after the general election.~~

~~(d) As used in this section, "paid canvasser" means a person who is paid or with whom there is an agreement to pay money or anything of value before or after a signature on an initiative or referendum petition is solicited in exchange for soliciting or obtaining a signature on a petition.~~

(d) Before obtaining a signature on an initiative or referendum petition as a paid canvasser, the prospective canvasser shall submit in person or by mail to the sponsor:

(1) The full name and any assumed name of the person;

(2) The current residence address of the person and the person's permanent domicile address if the person's permanent domicile address is different from the person's current residence address;

(3) A signed statement taken under oath or solemn affirmation stating that the person has not pleaded guilty or nolo contendere to or been found guilty of a criminal felony offense or a violation of the election laws, fraud, forgery, or identification theft in any state of the United

States, the District of Columbia, Puerto Rico, Guam, or any other United States protectorate;

(4) A signed statement that the person has read and understands the Arkansas law applicable to obtaining signatures on an initiative or referendum petition; and

(5) A signed statement that the person has been provided a copy of the most recent edition of the Secretary of State's initiatives and referenda handbook by the sponsor.

(e) A sponsor shall maintain the information required under this section for each paid canvasser for three (3) years after the general election.

/s/Hickey

APPROVED: 04/07/2015