

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: S4/6/21 H4/13/21
A Bill

SENATE BILL 614

By: Senator B. Davis
By: Representative M. Gray

For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS LAW CONCERNING PAID
CANVASSERS; TO AMEND THE LAW CONCERNING THE
COMPENSATION OF PAID CANVASSERS; TO DECLARE AN
EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND ARKANSAS LAW CONCERNING PAID
CANVASSERS; TO AMEND THE LAW CONCERNING
THE COMPENSATION OF PAID CANVASSERS; AND
TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 7-9-103(a), concerning signing a petition, penalty for falsification, and notice of suspected forgery, is amended to add additional subdivisions to read as follows:

(5) A person shall not act as a canvasser unless he or she is citizen of the United States.

(6) A person shall not act as a canvasser unless he or she is a resident of this state.

SECTION 2. Arkansas Code § 7-9-109, concerning the form of verification for petitions and the penalty for false statements, is amended to add additional subsections to read as follows:

(e) A canvasser who witnesses signatures on a petition part but knowingly allows another canvasser who did not witness all signatures on a



petition part to execute a false verification affidavit with respect to that petition part commits a Class D felony.

(f) A sponsor, sponsor's agent, or representative commits a Class D felony if a sponsor, sponsor's agent, or representative:

(1) Knowingly pays a canvasser for petitioner signatures on a petition part not personally witnessed by that paid canvasser; or

(2) Knowingly submits to the Secretary of State a petition part where the verifying canvasser has not witnessed each signature on that petition part.

SECTION 3. Arkansas Code § 7-9-601(a)(2), concerning the hiring and training of paid canvassers, is amended to add additional subdivisions to read as follows:

(E) Instruct the paid canvasser to provide the sponsor sufficient information of the paid canvasser's identity to allow the sponsor to obtain the criminal history and criminal record of the paid canvasser within thirty (30) days before the date that the paid canvasser begins collecting signatures;

(F) Obtain the criminal history and criminal record of the paid canvasser; and

(G) Contact the appropriate authority in the state or jurisdiction if a paid canvasser's criminal history and criminal record indicate an open or pending criminal charge that constitutes a disqualifying offense to determine the ultimate disposition or current status of the charge.

SECTION 4. Arkansas Code § 7-9-601(b), concerning the hiring and training of paid canvassers, is amended to read as follows:

(b)(1) To verify that there are no ~~criminal~~ disqualifying offenses on record, a sponsor shall obtain, at the sponsor's cost, from the Division of Arkansas State Police, a current state ~~and federal~~ criminal history and criminal record search on every paid canvasser to be registered with the Secretary of State.

(2) The criminal history and criminal record search required by this section shall be obtained within thirty (30) days before the date that the paid canvasser begins collecting signatures.

(3) Upon submission of the sponsor's list of paid canvassers to the Secretary of State, the sponsor shall certify to the Secretary of State that each paid canvasser in the sponsor's employ has ~~passed a criminal background check~~ no disqualifying offenses in accordance with this section.

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

(5) The sponsor shall bear the ultimate burden of proving that a paid canvasser registered by the sponsor does not have a disqualifying offense in an administrative proceeding or judicial proceeding.

SECTION 5. Arkansas Code § 7-9-601(c), concerning the hiring and training of paid canvassers, is amended to read as follows:

(c) 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.

SECTION 6. Arkansas Code § 7-9-601(d)(3), concerning the hiring and training of paid canvassers, is amended to read as follows:

(3)(i) 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~~ disqualifying offense in any state of the United States, the District of Columbia, Puerto Rico, Guam, or any other United States protectorate.

(ii) As used in this section, "disqualifying offense" means:

(a) A felony;

(b) A violation of the election laws;

(c) Fraud;

(d) Forgery;

(e) Counterfeiting;

(f) Identity theft;

(g) A crime of violence, including assault, battery, or intimidation;

(h) Harassment;

(i) Terroristic threatening;
(j) A sex offense, including sexual harassment;
(k) A violation of the drug and narcotics laws;
(l) Breaking and entering;
(m) Trespass;
(n) Destruction or damage of property;
(o) Vandalism;
(p) Arson; or
(q) A crime of theft, including robbery, burglary,
and simple theft or larceny;

SECTION 7. Arkansas Code § 7-9-601, concerning the hiring and training of paid canvassers, is amended to add additional subsections to read as follows:

(g)(1) It is unlawful for a person to pay or offer to pay a person, or receive payment or agree to receive payment, on a basis related to the number of signatures obtained on a statewide initiative petition or statewide referendum petition.

(2) This subsection does not prohibit compensation for circulating petitions but only compensation for obtaining signatures when the compensation or compensation level is impacted by or related to the number of signatures obtained.

(3) A signature obtained in violation of this subsection is void and shall not be counted.

(4) A violation under this subsection is a Class A misdemeanor.

SECTION 8. DO NOT CODIFY. Severability.

(a) All provisions of this act, including all sections, subsections, and subdivisions, are severable and if any portion of this act is declared invalid for any reason, then all remaining sections, subsections, and subdivisions of this act shall remain in full effect.

(b) It is the intent of the General Assembly that the sections, subsections, and subdivisions of this act are severable, notwithstanding whether the act, section, sections, subsection, subsections, subdivision, or subdivisions at issue are:

(1) Meant to accomplish a single purpose;

- (2) Interrelated; or
- (3) Dependent upon each other.

SECTION 9. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that petition canvassers in the State of Arkansas have been approaching Arkansas voters without first passing the required *criminal history and criminal record searches*; that the use of canvassers who have not passed *criminal history and criminal record searches* poses a threat to the health and safety of voters who may give personal information to canvassers with disqualifying offenses; that this act protects voters from criminal canvassers; and that this act is immediately necessary because the Supreme Court's decision in *Thurston v. Safe Surgery Arkansas*, 2021 Ark. 55, has invalidated the current version of § 7-9-601, leaving voters with inadequate protections from criminal canvassers. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
- (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/B. Davis