

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Senator Malone**

# A Bill

**SENATE BILL**

## For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE TITLE  
9 7, CHAPTER 9, SUBCHAPTER 1 CONCERNING INITIATIVE AND  
10 REFERENDUM PETITIONS; AND FOR OTHER PURPOSES."

## Subtitle

13 "AN ACT CONCERNING INITIATIVE AND REFERENDUM PETITIONS."

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

17 SECTION 1. Arkansas Code 7-9-108 is amended by adding the following  
18 subsections:

19 "(e) Prior to the solicitation of any signatures upon any initiative or  
20 referendum petition, a canvasser shall register before the county clerk of the  
21 county in which the canvassers circulate said petitions, on a registration  
22 form provided by the county clerk, which shall contain and include the popular  
23 name of the measure proposed to be initiated or referred and the name, address  
24 and phone number, if available, of the canvasser, typed or legibly printed or  
25 written upon the form. The county clerks which receive these registration  
26 forms shall promptly transmit by mail those forms to the Secretary of State,  
27 who shall maintain a file containing such registration forms, which shall be  
28 subject to review and copying by any person so requesting.

29 (f) Prior to circulation of any initiative or referendum petition for  
30 signatures in a county, canvassers shall present blank pages of the petition  
31 parts, which the canvasser intends to circulate in that county, to the county  
32 clerk, who will stamp or affix the name of the canvasser and of the county and  
33 number sequentially the petition parts to be circulated, and shall certify  
34 that such actions have been performed, including the date of certification.  
35 The county clerks shall maintain a file reflecting these certifications,

1 consisting of either photocopies or the petition pages or notations reflecting  
2 the name of the canvasser and the sequentially numbered petition pages.  
3 However, the county clerk shall not stamp or number any page of a petition  
4 upon which signatures have already been obtained.

5 (g) Signatures appearing upon any page of a petition shall be void and  
6 shall not be verified or counted by public official charged with verifying  
7 signatures and petitions, provided that:

8 (1) Canvassers appearing thereon have not been registered as such  
9 prior to the solicitation of signatures as required by subsection (e); or

10 (2) The signature of the canvasser does not substantially conform  
11 to the signature appearing on such canvasser\_s form of registration; or

12 (3) the signatures were placed upon the petition prior to the  
13 county clerk\_s certified action referred to in subsection (f), above.

14 (h) The persons signing the petition shall, in their own handwriting,  
15 write the date those persons signed the petition, in a space provided for such  
16 date on the petition."

17

18 SECTION 2. Penalties.

19 (a) A person shall be guilty of a Class A misdemeanor for each  
20 violation who, while acting as a canvasser with respect to any petition:

21 (i) shall permit signatures to be affixed to such petition while the petition  
22 is out of the actual, physical possession of the canvasser; or (ii) shall  
23 knowingly and falsely execute the verification on any page of such petition,  
24 outside the actual and physical presence of the notary public attesting the  
25 verification.

26 (b) Each canvasser is charged with prima facia personal knowledge of  
27 the duties of the canvasser, regardless of the lack of actual personal  
28 knowledge of those requirements.

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30 SECTION 3. Procedure for circulating and filing of petitions.

31 (a) On the filing of any petition with a public official for  
32 verification, pages of the petition shall be separately and sequentially  
33 numbered by the sponsor, with a separate number and the county in which the  
34 signatures were gathered. The numbering system shall be printed or written in  
35 ink on each page of the petition. Any filing of pages of a petition with a

1 public official, subsequent to and in addition to the previous filings of  
2 petitions with such public official, shall comply with this section; and, in  
3 addition, shall be sufficient to distinguish each subsequent filing from every  
4 other filing of pages with respect to the same petition. A sequential  
5 numbering system shall be sufficient compliance with this section, provided  
6 that a record is made of the exact pages contained in each separate filing,  
7 including the date of such filing.

8 (b) The public official charged with the duty of certifying the  
9 petitions shall not accept pages of a petition by mail or other delivery from  
10 a person other than the sponsor identified upon the petition.

11

12 SECTION 4. Arkansas Code 7-9-111 (b) is amended to read as follows:

13 "(b) Any person desiring to challenge the sufficiency of signatures on  
14 any page of a petition shall file such a challenge, in writing, with the  
15 public official charged with certifying the petition. Within three (3)  
16 business days after receipt of the challenge, the certifying public official  
17 shall appoint a hearing officer to review the challenge. If the hearing  
18 officer finds that any page of a petition contains evidence of deliberate  
19 forgery or other irregularity, disregarding technical and merely inadvertent  
20 errors, the certifying public official shall require the sponsor to assume the  
21 burden of proving, within five (5) business days after the finding of the  
22 hearing officer of the irregularity, that all signatures appearing on the page  
23 are genuine and that the signers are registered voters and are in all other  
24 respects entitled to sign the petition. Proof of genuineness and registration  
25 by affidavit of the signer shall be sufficient to satisfy the burden of proof.  
26 If the sponsor fails to assume and meet the burden, then the certifying  
27 public official shall reject that page and shall not count any of the  
28 signatures appearing thereon. The certifying public official shall further  
29 notify the prosecuting attorney of Pulaski County in writing of its findings.

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31 SECTION 5. Arkansas Code 7-9-111 (f) is amended to read as follows:

32 "(f) The Secretary of State, or other certifying public official,  
33 shall not in any event return pages of the petition previously filed to the  
34 sponsor, but shall maintain custody of such pages as required by law."

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1 SECTION 6. The Secretary of State, after receipt of a written request,  
2 shall allow a person, or a group of persons, not exceeding five (5) in number,  
3 reasonable access to the immediate area where the signatures are being  
4 verified, in order to observe the verification process and to make reasonable  
5 objections to that process. The person or group of persons shall be solely  
6 responsible for any cost incurred in connection with their activity.

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8 SECTION 7. Arkansas Code 7-9-109 (a) is amended to read as follows:

9 "(a) Each petition containing the signatures shall be verified in  
10 substantially the following form, by the person who circulated the sheet of  
11 the petition by his or her affidavit thereon as a part thereof:

12

13 State of Arkansas )

14

15 County of \_\_\_\_\_ )

16

17 I, \_\_\_\_\_, being first duly sworn, state that the foregoing  
18 persons signed this sheet of the foregoing petition, and each of them signed  
19 his name thereunto in my presence. I believe that each has stated his name,  
20 date of birth, date of signing the petition, residence or town of residence  
21 correctly, and that each signer is a legal voter of the State of Arkansas,  
22 \_\_\_\_\_ County, or City or Incorporated Town of \_\_\_\_\_.

23

24 Signature \_\_\_\_\_

25

26 Residence \_\_\_\_\_

27

28 Subscribed and sworn to before me this the \_\_\_\_\_ day of \_\_\_\_\_,  
29 19\_\_.

30

31 Signature \_\_\_\_\_

32

Clerk, Notary, Judge or J.P.

33

34 Residence \_\_\_\_\_"

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1           SECTION 8. All provisions of this act of a general and permanent  
2 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
3 Code Revision Commission shall incorporate the same in the Code.

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5           SECTION 9. If any provision of this act or the application thereof to  
6 any person or circumstance is held invalid, such invalidity shall not affect  
7 other provisions or applications of the act which can be given effect without  
8 the invalid provision or application, and to this end the provisions of this  
9 act are declared to be severable.

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11           SECTION 10. All laws and parts of laws in conflict with this act are  
12 hereby repealed.

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14           SECTION 11. EMERGENCY. It is hereby found and determined by the  
15 General Assembly that the current law concerning initiative and referendum  
16 petitions is in need of immediate revision in order to protect the citizens of  
17 this state from fraud. Therefore, an emergency is hereby declared to exist  
18 and this act being necessary for the immediate preservation of the public  
19 peace, health and safety shall be in full force and effect from and after its  
20 passage and approval.

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