

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas *As Engrossed: S3/3/03 S3/12/03 S3/17/03*

2 84th General Assembly

# A Bill

3 Regular Session, 2003

SENATE BILL 378

4

5 By: Senators Faris, *Wilkinson, Baker, Argue, J. Jeffress, Wilkins*

6 By: Representative Walters

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## For An Act To Be Entitled

10 AN ACT TO ESTABLISH A PROCEDURE FOR THE RECALL OF  
11 STATE CONSTITUTIONAL OFFICERS, MEMBERS OF THE  
12 GENERAL ASSEMBLY, AND JUDICIAL OFFICERS; AND FOR  
13 OTHER PURPOSES.

14

15

## Subtitle

16

TO ESTABLISH A PROCEDURE FOR THE RECALL  
17 OF STATE CONSTITUTIONAL OFFICERS,  
18 MEMBERS OF THE GENERAL ASSEMBLY, AND  
19 JUDICIAL OFFICERS.

20

21

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

23

24 SECTION 1. Definitions.

25 For the purpose of this act:

26 (1) "Elected judicial office" means the office of district judge,  
27 circuit judge, judge of the Arkansas Court of Appeals, and justice of the  
28 Arkansas Supreme Court;

29 (2) "Elected official" means any person elected to a state  
30 constitutional office, the Arkansas Senate, the Arkansas House of  
31 Representatives, or an elected judicial office; and

32 (3) "Recall" means the voting by the electors of the state or district  
33 to ascertain whether or not it is the desire of the majority of the electors  
34 to allow an elected official to remain in that capacity for the duration of  
35 his or her elected term.

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1           SECTION 2. Petition.

2           (a) The qualified electors of the state or the district may petition  
3 for the recall of an elected official by filing a petition demanding the  
4 recall of the elected official.

5           (b)(1) The petition for the recall of an elected official elected  
6 statewide shall be signed by qualified electors of the state in a number of  
7 at least fifteen percent (15%) of the votes cast for Governor at the last  
8 general election at which a Governor was elected, and the petition shall  
9 include signatures of qualified electors from each of thirty-five (35)  
10 counties in the state, but no more than one-half (1/2) of the total number of  
11 signatures may be from any one county.

12           (2)(A) The petition for the recall of an elected official  
13 elected by district shall be signed by qualified electors of the district in  
14 which the elected official is serving in a number of at least thirty percent  
15 (30%) of the registered voters in the district.

16           (B) However, in districts which encompass at least two (2)  
17 whole counties, no more than one-half (1/2) of the total number of signatures  
18 may be from any one county.

19  
20           SECTION 3. Recall of officers elected statewide and members of the  
21 General Assembly.

22           (a)(1) The recall of a member of the General Assembly or an elected  
23 official elected statewide shall be initiated by filing a notice of intent to  
24 circulate a recall petition. However, the notice of intent shall not be  
25 filed during the first six (6) months of a term of office.

26           (2) No petition shall be circulated before the notice of intent  
27 is filed.

28           (3) The notice of intent to circulate a recall petition shall  
29 state the reason the elected official should be recalled.

30           (4) The notice of intent to circulate a petition seeking the  
31 recall of the elected official shall be filed with the Secretary of State.

32           (5) The sponsor shall within five (5) calendar days after filing  
33 the notice of intent notify the elected official who will be the subject of a  
34 recall petition by certified mail with return receipt requested.

35           (b) Petitions from each county shall be kept separate to facilitate  
36 voter identification.



1 respectfully order that \_\_\_\_\_

2 (Name of Elected Official)

3 be referred to the people of \_\_\_\_\_

4 (Arkansas or District)

5 to the end that the elected official may be approved or rejected by the  
6 vote of the legal voters at an election to be held for this purpose; and each  
7 of us for himself or herself says: I have personally signed this petition; I  
8 am a legal voter of [Arkansas or district], and my printed name, date of  
9 birth, residence, city or town of residence, and date of signing this  
10 petition are correctly written after my signature."

11 (b) Each sheet of each petition containing the signatures shall be  
12 verified in substantially the following form by the person who circulated the  
13 sheet of the petition by his or her affidavit attached to the petition. The  
14 affidavit shall be in substantially the following form:

15 "STATE OF ARKANSAS )  
16 COUNTY )

17 I, \_\_\_\_\_ under oath, state that the above listed persons  
18 signed this sheet, and each of them signed his or her name on this sheet in  
19 my presence. I believe that each has correctly stated his or her name, date  
20 of birth, residence, city or town of residence, and date of signing the  
21 petition.

22 Signature \_\_\_\_\_

23 Address \_\_\_\_\_

24 Subscribed and sworn to before me this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

25 Signature \_\_\_\_\_

26 Notary Public

27 My Commission Expires: \_\_\_\_\_ "

28 (c) The forms provided in this section are not mandatory, and if  
29 substantially followed in any petition it shall be sufficient, disregarding  
30 clerical and technical errors.

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32 SECTION 5. Recall of elected official other than a statewide officer  
33 or member of the General Assembly.

34 (a)(1) The recall of an elected official other than an elected  
35 official who is elected statewide or a member of the General Assembly shall  
36 be initiated by filing a notice of intent to circulate a recall petition.

1           (2) No petition shall be circulated before the notice of intent  
2 is filed.

3           (3) The notice of intent to circulate a recall petition shall  
4 state the reason the elected official should be recalled.

5           (4) The notice of intent to circulate a petition seeking the  
6 recall of the elected official shall be filed with the county clerk of the  
7 county of residence of the elected official.

8           (5) The sponsor shall within five (5) calendar days notify the  
9 elected official who will be the subject of a recall petition by certified  
10 mail with return receipt requested.

11          (b) Petitions from each county shall be kept separate to facilitate  
12 voter identification.

13          (c) The recall petitions shall be filed with the county clerk of the  
14 county of residence of the elected official not less than sixty (60) calendar  
15 days nor more than eighty (80) calendar days after the filing of the notice  
16 of intent to circulate a recall petition.

17          (d)(1) Within thirty (30) calendar days after the petition is filed,  
18 the county clerk shall determine by careful examination whether the petition  
19 is sufficient and so state in a certificate attached to the petition.

20          (2) If the district from which the elected official was elected  
21 includes all or a part of more than one (1) county the county clerks of the  
22 other counties shall assist the county clerk of the county in which the  
23 petition was filed to determine the validity of the names of legal voters on  
24 parts of the petition with signatures from their respective counties.

25          (e)(1) If the petition is found to be insufficient, the certificate  
26 shall state the reasons creating the insufficiency.

27          (2) The petition may be amended to correct any insufficiency  
28 within thirty (30) calendar days following the filing of the original  
29 certificate.

30          (3) Within fifteen (15) calendar days after filing the amended  
31 petition, it shall again be carefully examined to determine sufficiency and a  
32 certificate stating the findings shall be attached.

33          (f)(1) Immediately upon finding an original or amended petition  
34 sufficient, the county clerk of the county in which the elected voter resides  
35 shall notify the county board of election commissioners of the county in  
36 which the elected official resides and the board shall immediately call a

1 special election for the purpose of submitting the proposal to the electors.

2 (2) The election shall be held within sixty (60) calendar days  
3 after the call for a special election.

4 (3) However, if the general election is to be held within ninety  
5 (90) calendar days, the recall proposal shall be held and submitted at the  
6 general election.

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8 SECTION 6. Recall petitions for elected official other than a  
9 statewide officer or member of the General Assembly.

10 (a) The petition for recall of an elected official other than an  
11 elected official who is elected statewide or a member of the General Assembly  
12 shall be in substantially the following form:

13 "PETITION FOR RECALL

14 To the County Clerk of \_\_\_\_\_ County:

15 We, the undersigned legal voters of \_\_\_\_\_

16 (District)

17 respectfully order that \_\_\_\_\_

18 (Name of Elected Official)

19 be referred to the people of \_\_\_\_\_

20 (District)

21 to the end that the elected official may be approved or rejected by the  
22 vote of the legal voters at an election to be held for this purpose; and each  
23 of us for himself or herself says: I have personally signed this petition; I  
24 am a legal voter of the district, and my printed name, date of birth,  
25 residence, city or town of residence, and date of signing this petition are  
26 correctly written after my signature."

27 (b) Each sheet of each petition containing the signatures shall be  
28 verified in substantially the following form by the person who circulated the  
29 sheet of the petition by his or her affidavit thereon as a part thereof. The  
30 affidavit shall be in substantially the following form:

31 "STATE OF ARKANSAS \_\_\_\_\_ )

32 COUNTY \_\_\_\_\_ )

33 I, \_\_\_\_\_ under oath, state that the above listed persons  
34 signed this sheet, and each of them signed his or her name on this sheet in  
35 my presence. I believe that each has correctly stated his or her name, date  
36 of birth, residence, city or town of residence, and date of signing the

1 petition.  
 2 Signature \_\_\_\_\_  
 3 Address \_\_\_\_\_  
 4 Subscribed and sworn to before me this the \_\_\_\_\_ day of \_\_\_\_\_ , \_\_\_\_\_  
 5 Signature \_\_\_\_\_  
 6 Notary Public  
 7 My Commission Expires: \_\_\_\_\_ "

8 (c) The forms provided in this section are not mandatory, and if  
 9 substantially followed in any petition it shall be sufficient, disregarding  
 10 clerical and technical errors.

11  
 12 SECTION 7. Ballot.

13 (a) At the election the recall issue shall be printed on the ballot in  
 14 substantially the following form:

15 “For Permitting \_\_\_\_\_ to  
 16 \_\_\_\_\_ Name \_\_\_\_\_ Office  
 17 continue to serve the term of office for which elected ..... / /  
 18 Against Permitting \_\_\_\_\_ to  
 19 \_\_\_\_\_ Name \_\_\_\_\_ Office  
 20 continue to serve the term of office for which elected ..... / /”

21 (b)(1) If at the election a majority of the qualified electors voting  
 22 on the issue vote against permitting the elected official to serve the term  
 23 of office to which elected, an immediate vacancy shall exist in the office,  
 24 and the vacancy shall be filled in the manner prescribed by law.

25 (2) If at the election a majority of the qualified electors  
 26 voting on the issue vote for permitting the elected official to continue to  
 27 serve the term of office for which elected, the elected official shall serve  
 28 the full term for which elected.

29  
 30 SECTION 8. Frequency of recall.

31 After one (1) recall petition and election, no further recall petition  
 32 shall be filed against the same elected official during the same term of  
 33 office.

34  
 35 SECTION 9. Recall expenses.

36 All expenses of elections for the recall of elected officials shall be

1 paid for in the same manner and from the same source as provided under  
2 Arkansas Code § 7-5-104.

3  
4 SECTION 10. Ballot question.

5 (a) Any recall issue shall be considered a ballot question for  
6 purposes of the Disclosure Act for Public Initiatives, Referendums, and  
7 Measures Referred to Voters, Arkansas Code §§ 7-9-401, et seq.

8 (b) An elected official, any person or entity acting on behalf of the  
9 elected official, or any other person or entity who receives contributions or  
10 makes expenditures for the purpose of attempting to influence the  
11 qualification, passage, or defeat of a recall petition or issue shall be  
12 considered a ballot question committee and shall comply with the Disclosure  
13 Act for Public Initiatives, Referendums, and Measures Referred to Voters,  
14 Arkansas Code §§ 7-9-401, et seq.

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16 */s/ Faris*  
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