

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4
5 By: Representative Ray
6 By: Senator J. Payton
7

A Bill

HOUSE BILL 1601

For An Act To Be Entitled

9 AN ACT TO CREATE A LICENSE FOR A PAID CANVASSER; TO
10 REQUIRE THE SECRETARY OF STATE TO PROMULGATE RULES
11 FOR A TRAINING PROGRAM FOR CANVASSERS AND FOR THE
12 LICENSING OF PAID CANVASSERS; TO AMEND THE LAW
13 CONCERNING PAID CANVASSERS; AND FOR OTHER PURPOSES.
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Subtitle

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17 TO CREATE A LICENSE FOR A PAID CANVASSER;
18 AND TO REQUIRE THE SECRETARY OF STATE TO
19 PROMULGATE RULES FOR A TRAINING PROGRAM
20 FOR CANVASSERS AND FOR THE LICENSING OF
21 PAID CANVASSERS.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

27 (a) The General Assembly finds that:

28 (1) Through Amendment 7 to the Arkansas Constitution, the people
29 of Arkansas have reserved to themselves the power to propose legislative
30 measures, laws, and amendments to the Arkansas Constitution and to enact or
31 reject the proposed measures, laws, and amendments at the polls independently
32 of the General Assembly;

33 (2) The citizens of this state have an expectation that their
34 right of initiative and referendum will be respected and that the process of
35 gathering signatures of registered voters will be free of fraud, forgery, and
36 other illegal conduct by sponsors, canvassers, notaries, and petitioners;



1 (3) Historically, the invalidity rate for signatures on
2 initiatives and referendums has been high;

3 (4) From 2016-2022, the Secretary of State has reviewed
4 petitions submitted by at least fourteen (14) different sponsors of proposed
5 amendments, initiated acts, or referendums and found the validity rate of
6 signatures to range between twenty-five percent (25%) and thirty-six percent
7 (36%);

8 (5) Paid petition-gatherers are employed for their ability to
9 collect signatures and have an incentive to submit large numbers of
10 signatures to justify their employment and therefore have an incentive to
11 produce signatures for their sponsor even if the signatures are invalid or
12 fraudulent;

13 (6) Absent an effort to address these issues:

14 (A) Untrained political canvassers will continue to obtain
15 and submit high levels of fraudulent, forged, or otherwise facially invalid
16 signatures;

17 (B) Unscrupulous sponsors and canvassers will continue to
18 have an incentive to submit fraudulent, forged, or otherwise facially invalid
19 signatures and make false statements to the Secretary of State;

20 (C) The Secretary of State will be forced to expend extra
21 state resources to verify whether signatures are valid or invalid; and

22 (D) The general public will continue to lose confidence
23 and trust in the integrity of the initiative process; and

24 (7) Efforts to ensure training and competency of paid signature-
25 gatherers would make the sponsors and paid signature gatherers more
26 accountable to the people, facilitate the operation of the initiative
27 process, reduce fraud in obtaining signatures and filing petitions, conserve
28 state resources, and help restore confidence and trust in the initiative
29 process.

30 (b) Therefore, it is the intent of the General Assembly to create a
31 license for paid canvassers to prevent fraud and protect the integrity of the
32 process of collecting signatures on initiative petitions and referendum
33 petitions to increase public confidence.

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35 SECTION 2. Arkansas Code § 7-9-601 is repealed.

36 ~~7-9-601. Hiring and training of paid canvassers—Definitions.~~

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

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

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

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

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

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

18 ~~(D) Submit to the Secretary of State a copy of the signed~~
19 ~~statement provided by the paid canvasser under subdivision (d)(3) of this~~
20 ~~section;~~

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

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

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

33 ~~(3) Upon filing the petition with the Secretary of State, the~~
34 ~~sponsor shall submit to the Secretary of State a:~~

35 ~~(A) Final list of the names and current residential~~
36 ~~addresses of each paid canvasser; and~~

1 ~~(B) Signature card for each paid canvasser.~~

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

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

9 ~~(3) Upon submission of the sponsor's list of paid canvassers to~~
10 ~~the Secretary of State, the sponsor shall certify to the Secretary of State~~
11 ~~that each paid canvasser in the sponsor's employ has no disqualifying~~
12 ~~offenses in accordance with this section.~~

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

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

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

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

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

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

29 ~~(3)(A) A signed statement taken under oath or solemn affirmation~~
30 ~~stating that the person has not pleaded guilty or nolo contendere to or been~~
31 ~~found guilty of a disqualifying offense in any state of the United States,~~
32 ~~the District of Columbia, Puerto Rico, Guam, or any other United States~~
33 ~~protectorate.~~

34 ~~(B) As used in this section, "disqualifying offense"~~
35 ~~means:~~

36 ~~(i) A felony;~~

- ~~(ii) A violation of the election laws;~~
- ~~(iii) Fraud;~~
- ~~(iv) Forgery;~~
- ~~(v) Counterfeiting;~~
- ~~(vi) Identity theft;~~
- ~~(vii) A crime of violence, including assault, battery, or intimidation;~~
- ~~(viii) Harassment;~~
- ~~(ix) Terroristic threatening;~~
- ~~(x) A sex offense, including sexual harassment;~~
- ~~(xi) A violation of the drug and narcotics laws;~~
- ~~(xii) Breaking and entering;~~
- ~~(xiii) Trespass;~~
- ~~(xiv) Destruction or damage of property;~~
- ~~(xv) Vandalism;~~
- ~~(xvi) Arson; or~~
- ~~(xvii) A crime of theft, including robbery, burglary, and simple theft or larceny;~~

~~(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.~~

~~(f) Signatures incorrectly obtained or submitted under this section shall not be counted by the Secretary of State for any purpose.~~

~~(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~~

1 ~~signatures obtained.~~

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

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

5
 6 SECTION 3. Arkansas Code Title 7, Chapter 9, Subchapter 6, is amended
 7 to add additional sections to read as follows:

8 7-9-601. Hiring and training of paid canvassers – Definitions.

9 As used in this subchapter:

10 (1) “Disqualifying offense” means:

11 (A) A felony;

12 (B) A violation of federal or state election law;

13 (C) Fraud;

14 (D) Forgery;

15 (E) Counterfeiting;

16 (F) Identity theft;

17 (G) A crime of violence, including assault, battery, or
 18 intimidation;

19 (H) Harassment;

20 (I) Terroristic threatening;

21 (J) A sex offense, including sexual harassment;

22 (K) A violation of the federal or state drug and narcotics
 23 laws;

24 (L) Breaking and entering;

25 (M) Trespass;

26 (N) Destruction or damage of property;

27 (O) Vandalism;

28 (P) Arson; or

29 (Q) A crime of theft, including robbery, burglary, and
 30 simple theft or larceny; and

31 (2) “Paid canvasser” means a person who is paid or with whom
 32 there is an agreement to pay money or anything of value before or after a
 33 signature on an initiative petition or referendum petition is solicited in
 34 exchange for soliciting a signature on a petition.

35
 36 7-9-602. Licensing of paid canvassers – Secretary of State.

1 (a) A person employed as a paid canvasser in the State of Arkansas
2 shall hold a license issued by the Secretary of State.

3 (b) The Secretary of State shall:

4 (1) Have the authority to issue a license to an applicant for a
5 license to be a paid canvasser if the applicant:

6 (A) Submits an application in writing;

7 (B) Satisfactorily completes a criminal history and
8 criminal record check that does not reveal a disqualifying offense, as
9 defined under § 7-9-601;

10 (C) Completes all training required by the Secretary of
11 State;

12 (D) Passes the test administered by the Secretary of
13 State; and

14 (E) Pays all fees associated with the criminal background
15 and criminal history check.

16 (2) Offer in-person and online training for canvassers that:

17 (A) Is offered to:

18 (i) Applicants for a paid canvasser license; and

19 (ii) Unpaid canvassers;

20 (B) Is a minimum of eight (8) hours;

21 (C) Provides the canvasser a digital copy of the most
22 recent edition of the Secretary of State's Initiatives and Referenda
23 Handbook; and

24 (D) Explains the Arkansas law, rules, and procedures
25 applicable to obtaining signatures on an initiative petition or referendum
26 petition to the canvasser; and

27 (E)(i) Includes an examination that applicants are
28 required to pass to obtain the license.

29 (ii) The examination under subdivision (b)(2)(E)(i)
30 of this section shall ensure applicants demonstrate proficiency in the:

31 (a) Rules of the Secretary of State for
32 collecting signatures on an initiative petition or referendum petition;

33 (b) Law related to initiatives and referenda;

34 (c) Practice of collecting signatures; and

35 (d) Procedure for submitting signatures to the
36 Secretary of State.

1 (c) Canvassers who are not paid canvassers may attend the training
2 offered under subdivision (b)(2) of this section but shall not be required to
3 comply with the requirements of subdivision (b)(1) of this section.

4 (d) The Secretary of State shall promulgate rules under the Arkansas
5 Administrative Procedure Act, § 25-15-201 et seq. to establish the licensing
6 process under this section.

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8 7-9-603. Grounds for revocation, suspension, or refusal.

9 The Secretary of State shall revoke, suspend, or refuse to issue a
10 license for violation of this subchapter, or upon receipt of evidence as
11 follows:

12 (1) That the canvasser has made false or misrepresentative
13 statements on his or her application; or

14 (2) That the canvasser has been convicted of a disqualifying
15 offense.

16
17 7-9-604. Revocation, suspension, or refusal – Procedure.

18 (a)(1) Upon the receipt of evidence of any violation of this
19 subchapter, the Secretary of State shall order a hearing to be held.

20 (2) All interested parties shall be apprised, at least twenty
21 (20) days before the hearing, as to the time and place of the hearing.

22 (3) The Secretary of State shall have authority to summon and
23 examine witnesses, gather information by affidavit and deposition, and
24 subpoena those records pertinent to the charges as to any alleged violator.

25 (4) Revocation, suspension, or refusal to issue a license shall
26 be by order of the Secretary of State.

27 (b)(1) A prospective paid canvasser shall have the right to appeal the
28 order of the Secretary of State to the Pulaski County Circuit Court, which
29 shall try the case.

30 (2) The appeal may be taken by filing a petition with the clerk
31 of the court within thirty (30) days of the date of the decision of the
32 Secretary of State.

33 (3) The decision of the Pulaski County Circuit Court shall be
34 appealable to the Supreme Court in the same manner as civil cases are
35 appealed.

36 (c) In the event that the holder of a paid canvasser license fails to

1 secure a renewal thereof, or in the event of the suspension or revocation of
2 the license by the Secretary of State, and in the event that an appeal is
3 taken to the courts as provided in this section, the holder of the paid
4 canvasser license shall not be allowed, during the period of the appeal, to
5 gather signatures as a paid canvasser.

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7 7-9-605. Hiring of paid canvassers.

8 (a)(1) A person shall not provide money or anything of value to
9 another person for obtaining signatures on a statewide initiative petition or
10 statewide referendum petition unless the person receiving the money or item
11 of value is licensed as a paid canvasser by the Secretary of State and meets
12 the requirements of this subchapter.

13 (2) Before a signature is solicited by a paid canvasser a
14 sponsor of a initiative petition or referendum petition shall:

15 (A)(i) Provide a complete list of all paid canvassers'
16 names, license numbers, and current residential addresses to the Secretary of
17 State.

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

22 (B) Submit to the Secretary of State a copy of the signed
23 statement provided by the paid canvasser under subdivision (c)(3) of this
24 section;

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

30 (D) Obtain any criminal history and criminal record of the
31 paid canvasser; and

32 (E) Contact the appropriate authority in the state or
33 jurisdiction if a paid canvasser's criminal history and criminal record
34 indicate an open or pending criminal charge that constitutes a disqualifying
35 offense under § 7-9-601(1) to determine the ultimate disposition or current
36 status of the charge.

1 (3) Upon filing the petition with the Secretary of State, the
2 sponsor shall submit to the Secretary of State a:

3 (A) Final list of the names, license numbers, and current
4 residential addresses of each paid canvasser;

5 (B) Signature card for each paid canvasser; and

6 (C) Copy of the license of each paid canvasser.

7 (b)(1) To verify that there are no disqualifying offenses on record
8 between the time of the issuance of the license and the sponsor hiring the
9 paid canvasser, a sponsor shall obtain, at the sponsor's cost, from the
10 Division of Arkansas State Police a current state criminal history and
11 criminal record search on every paid canvasser to be registered with the
12 Secretary of State by the sponsor.

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

16 (3) Upon submission of the sponsor's list of paid canvassers to
17 the Secretary of State, the sponsor shall certify to the Secretary of State
18 that each paid canvasser in the sponsor's employ has no disqualifying
19 offenses in accordance with this section.

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

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

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

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

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

32 (3) A signed statement taken under oath or solemn affirmation
33 stating that the person has not pleaded guilty or nolo contendere to or been
34 found guilty of a disqualifying offense in any state of the United States,
35 the District of Columbia, Puerto Rico, Guam, or any other United States
36 protectorate;

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

4 (5) A signed statement that the person has been provided a copy
5 of the most recent edition of the Secretary of State's Initiatives and
6 Referenda Handbook; and

7 (6) A copy of the license issued by the Secretary of State
8 licensing the person as a paid canvasser.

9 (d) A sponsor shall maintain the information required under this
10 section for each hired paid canvasser for three (3) years after a general
11 election.

12 (e) Signatures incorrectly obtained or submitted under this section
13 shall not be counted by the Secretary of State for any purpose.

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

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

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

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

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