

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

As Engrossed: H3/14/23

# 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; TO DECLARE AN EMERGENCY;  
14 AND FOR OTHER PURPOSES.

## Subtitle

18 TO CREATE A LICENSE FOR A PAID CANVASSER;  
19 TO REQUIRE THE SECRETARY OF STATE TO  
20 PROMULGATE RULES FOR A TRAINING PROGRAM  
21 FOR CANVASSERS AND FOR THE LICENSING OF  
22 PAID CANVASSERS; AND TO DECLARE AN  
23 EMERGENCY.

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

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

29 (a) The General Assembly finds that:

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

35 (2) The citizens of this state have an expectation that their  
36 right of initiative and referendum will be respected and that the process of



1 gathering signatures of registered voters will be free of fraud, forgery, and  
2 other illegal conduct by sponsors, canvassers, notaries, and petitioners;

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

5 (4) From 2016-2022, the Secretary of State has reviewed  
6 petitions submitted by at least fourteen (14) different sponsors of proposed  
7 amendments, initiated acts, or referendums and found the validity rate of  
8 signatures to range between twenty-five percent (25%) and thirty-six percent  
9 (36%);

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

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

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

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

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

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

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

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

36

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

2 ~~7-9-601. Hiring and training of paid canvassers—Definitions.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36                   ~~(B) As used in this section, "disqualifying offense"~~

1 ~~means:~~

2 ~~(i) A felony;~~

3 ~~(ii) A violation of the election laws;~~

4 ~~(iii) Fraud;~~

5 ~~(iv) Forgery;~~

6 ~~(v) Counterfeiting;~~

7 ~~(vi) Identity theft;~~

8 ~~(vii) A crime of violence, including assault,~~

9 ~~battery, or intimidation;~~

10 ~~(viii) Harassment;~~

11 ~~(ix) Terroristic threatening;~~

12 ~~(x) A sex offense, including sexual harassment;~~

13 ~~(xi) A violation of the drug and narcotics laws;~~

14 ~~(xii) Breaking and entering;~~

15 ~~(xiii) Trespass;~~

16 ~~(xiv) Destruction or damage of property;~~

17 ~~(xv) Vandalism;~~

18 ~~(xvi) Arson; or~~

19 ~~(xvii) A crime of theft, including robbery, burglary,~~

20 ~~and simple theft or larceny;~~

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

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

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

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

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

36 ~~(2) This subsection does not prohibit compensation for~~

1 ~~circulating petitions but only compensation for obtaining signatures when the~~  
2 ~~compensation or compensation level is impacted by or related to the number of~~  
3 ~~signatures obtained.~~

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

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

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

10 7-9-601. Hiring and training of paid canvassers – Definitions.

11 As used in this subchapter:

12 (1) “Disqualifying offense” means:

13 (A) A felony;

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

15 (C) Fraud;

16 (D) Forgery;

17 (E) Counterfeiting;

18 (F) Identity theft;

19 (G) A crime of violence, including assault, battery, or  
20 intimidation;

21 (H) Harassment;

22 (I) Terroristic threatening;

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

24 (K) A violation of the federal or state drug and narcotics  
25 laws;

26 (L) Breaking and entering;

27 (M) Trespass;

28 (N) Destruction or damage of property;

29 (O) Vandalism;

30 (P) Arson; or

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

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

1  
2 7-9-602. Licensing of paid canvassers – Secretary of State.

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

5 (b) The Secretary of State shall:

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

8 (A) Submits an application in writing;

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

12 (C) Completes all training required by the Secretary of  
13 State;

14 (D) Passes the test administered by the Secretary of  
15 State; and

16 (E) Pays all fees associated with the criminal background  
17 and criminal history check.

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

19 (A) Is offered to:

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

21 (ii) Unpaid canvassers;

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

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

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

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

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

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

35 (b) Law related to initiatives and referenda;

36 (c) Practice of collecting signatures; and

1 (d) Procedure for submitting signatures to the  
2 Secretary of State.

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

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

9  
10 7-9-603. Grounds for revocation, suspension, or refusal.

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

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

16 (2) That the canvasser has been convicted of a disqualifying  
17 offense.

18  
19 7-9-604. Revocation, suspension, or refusal – Procedure.

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

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

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

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

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

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

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



1 appealed.

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

8  
9 7-9-605. Hiring of paid canvassers.

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

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

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

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

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

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

32 (D) Obtain any criminal history and criminal record of the  
33 paid canvasser; and

34 (E) Contact the appropriate authority in the state or  
35 jurisdiction if a paid canvasser's criminal history and criminal record  
36 indicate an open or pending criminal charge that constitutes a disqualifying

1 offense under § 7-9-601(1) to determine the ultimate disposition or current  
2 status of the charge.

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

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

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

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

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

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

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

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

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

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

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

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

34 (3) A signed statement taken under oath or solemn affirmation  
35 stating that the person has not pleaded guilty or nolo contendere to or been  
36 found guilty of a disqualifying offense in any state of the United States,

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

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

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

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

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

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

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

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

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

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

27  
28 *SECTION 4. DO NOT CODIFY. Severability.*

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

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

1 (1) Meant to accomplish a single purpose;

2 (2) Interrelated; or

3 (3) Dependent upon each other.

4  
5 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the  
6 General Assembly of the State of Arkansas that petition canvassers in the  
7 State of Arkansas have been submitting unacceptably high rates of facially  
8 invalid signatures; that the use of paid canvassers who have not been  
9 properly trained poses a threat to the integrity of the initiative process  
10 and the citizens of Arkansas' rights under Article 5, § 1 of the Arkansas  
11 Constitution; that this act protects voters from unscrupulous canvassers by  
12 requiring the paid canvasser be properly trained. Therefore, an emergency is  
13 declared to exist, and this act being immediately necessary for the  
14 preservation of the public peace, health, and safety shall become effective  
15 on:

16 (1) The date of its approval by the Governor;

17 (2) If the bill is neither approved nor vetoed by the Governor,  
18 the expiration of the period of time during which the Governor may veto the  
19 bill; or

20 (3) If the bill is vetoed by the Governor and the veto is  
21 overridden, the date the last house overrides the veto.

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23 /s/Ray  
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