

Stricken language would be deleted from and underlined language would be added to the Arkansas Constitution.

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023

HJR 1003

4
5 By: Representatives Cavanaugh, G. Hodges
6 By: Senator J. Payton

7
8 **HOUSE JOINT RESOLUTION**

9 AN AMENDMENT TO THE ARKANSAS CONSTITUTION TO CREATE A
10 PROCEDURE FOR THE RECALL OF PERSONS ELECTED TO THE
11 OFFICES OF GOVERNOR, LIEUTENANT GOVERNOR, ATTORNEY
12 GENERAL, SECRETARY OF STATE, TREASURER OF STATE,
13 AUDITOR OF STATE, COMMISSIONER OF STATE LANDS, MEMBER
14 OF THE HOUSE OF REPRESENTATIVES, MEMBER OF THE
15 SENATE, CHIEF JUSTICE OF THE SUPREME COURT, JUSTICE
16 OF THE SUPREME COURT, CHIEF JUDGE OF THE COURT OF
17 APPEALS, JUDGE OF THE COURT OF APPEALS, CIRCUIT
18 JUDGE, DISTRICT JUDGE, OR PROSECUTING ATTORNEY.

19
20
21 **Subtitle**

22 AN AMENDMENT TO THE ARKANSAS CONSTITUTION
23 TO CREATE A PROCEDURE FOR THE RECALL OF A
24 STATE CONSTITUTIONAL OFFICER, A MEMBER OF
25 THE GENERAL ASSEMBLY, AN ELECTED JUDICIAL
26 OFFICER, OR A PROSECUTING ATTORNEY.

27
28
29 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-FOURTH GENERAL
30 ASSEMBLY OF THE STATE OF ARKANSAS, AND BY THE SENATE, A MAJORITY OF ALL
31 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

32
33 THAT the following is proposed as an amendment to the Constitution of
34 the State of Arkansas, and upon being submitted to the electors of the state
35 for approval or rejection at the next general election for Representatives
36 and Senators, if a majority of the electors voting thereon at the election



1 adopt the amendment, the amendment shall become a part of the Constitution of
2 the State of Arkansas, to wit:

3
4 SECTION 1. The Arkansas Constitution is amended to add an additional
5 amendment to read as follows:

6 § 1. Definitions.

7 As used in this amendment:

8 (1) "Elected official" means a person elected or appointed to
9 one (1) of the following offices:

10 (A) Governor;

11 (B) Lieutenant Governor;

12 (C) Attorney General;

13 (D) Secretary of State;

14 (E) Treasurer of State;

15 (F) Auditor of State;

16 (G) Commissioner of State Lands;

17 (H) Member of the House of Representatives;

18 (I) Member of the Senate;

19 (J) Chief Justice of the Supreme Court;

20 (K) Justice of the Supreme Court;

21 (L) Chief Judge of the Court of Appeals;

22 (M) Judge of the Court of Appeals;

23 (N) Circuit court judge;

24 (O) District court judge; and

25 (P) Prosecuting attorney.

26 (2) "Recall" means the voting by the electors of the state or
27 the electors of a district to ascertain whether or not it is the desire of
28 the majority of the electors to allow an elected official to remain in that
29 capacity for the duration of his or her elected term; and

30 (3) "Recall petition" means a petition demanding the recall of
31 an elected official.

32
33 § 2. Petition.

34 (a) The qualified electors of the state or a district, as the case may
35 be, may petition for the recall of an elected official by filing a recall
36 petition demanding the recall of the elected official.

1 (b)(1) The recall petition for the recall of an elected official
2 elected statewide shall be signed by qualified electors of the state in a
3 number of at least twenty-five percent (25%) of the votes cast for Governor
4 at the last general election at which a Governor was elected.

5 (2) The recall petition for an elected official elected by a
6 district shall be signed by qualified electors of the district in which the
7 elected official is serving in a number of at least twenty-five percent (25%)
8 of the votes cast for Governor within the district at the last general
9 election at which a Governor was elected.

10
11 § 3. Recall of elected officials.

12 (a)(1)(A) The recall of an elected official shall be initiated by
13 filing a notice of intent to circulate a recall petition with the Secretary
14 of State.

15 (B) If the Secretary of State is the subject of the recall
16 petition, the notice of intent shall be filed with the Attorney General.

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

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

21 (4) The filer of the notice of intent to circulate a recall
22 petition shall within five (5) calendar days after filing the notice of
23 intent notify the elected official who will be the subject of a recall
24 petition by certified mail with return receipt requested.

25 (b) A separate recall petition shall be used for each county and
26 recall petitions from each county shall be kept separate to facilitate voter
27 identification.

28 (c)(1) The recall petitions shall be filed with the Secretary of State
29 not less than sixty (60) calendar days nor more than eighty (80) calendar
30 days after the filing of the notice of intent to circulate a recall petition.

31 (2) If the Secretary of State is the subject of the recall
32 petition, the recall petitions shall be filed with the Attorney General.

33 (d)(1)(A) Within thirty (30) calendar days after the recall petitions
34 are filed, the Secretary of State shall determine whether the recall petition
35 is sufficient and, if the recall petition is sufficient, shall state the
36 sufficiency in a letter to the filer of the notice of intent.

1 (B) If the Secretary of State is the subject of the recall
2 petition, the Attorney General shall determine whether the recall petition is
3 sufficient and, if the recall petition is sufficient, shall state the
4 sufficiency in a letter to the filer of the notice of intent.

5 (2)(A) If the recall petition is found to be insufficient, the
6 letter shall state the reasons creating the insufficiency.

7 (B)(i) The recall petition may be amended to correct or
8 amend an insufficiency within thirty (30) calendar days after the original
9 determination of insufficiency.

10 (ii) An amended or corrected recall petition shall
11 be filed with the Secretary of State or, if the Secretary of State is the
12 subject of the recall petition, the Attorney General.

13 (C) For a statewide recall petition, correction or
14 amendment of an insufficient recall petition shall be permitted only if the
15 recall petition contains valid signatures of legal voters equal to at least
16 seventy-five percent (75%) of the number of statewide signatures of legal
17 voters required.

18 (3)(A) Within fifteen (15) calendar days after the filing of an
19 amended recall petition, the Secretary of State shall examine the recall
20 petition again to determine sufficiency and shall state the sufficiency of
21 the amended recall petition in a letter to the filer of the notice of intent
22 to circulate a recall petition.

23 (B) If the Secretary of State is the subject of the recall
24 petition, the Attorney General shall examine the recall petition again to
25 determine sufficiency and shall state the sufficiency of the amended recall
26 petition in a letter to the filer of the notice of intent to circulate a
27 recall petition.

28 (e)(1)(A) Immediately upon finding an original or amended recall
29 petition sufficient, the Secretary of State shall notify the Governor who
30 shall immediately call a special election for the purpose of submitting the
31 recall proposal to the appropriate electors.

32 (B) If the Secretary of State is the subject of the recall
33 petition, the Attorney General shall notify the Governor immediately upon
34 finding an original or amended recall petition sufficient.

35 (C) If the Governor is the subject of the recall petition,
36 the Secretary of State shall notify the Lieutenant Governor, who shall

1 immediately call a special election.

2 (2)(A) The special election for the purpose of submitting the
 3 recall proposal to the appropriate electors shall be held within ninety (90)
 4 calendar days after the call for a special election.

5 (B) However, if the next following general election is to
 6 be held within one hundred twenty (120) calendar days of the original or
 7 amended recall petition being found sufficient, the recall proposal shall be
 8 submitted at the next following general election.

9 (f) If the Attorney General performs one (1) or more duties of the
 10 Secretary of State under this section due to the Secretary of State being the
 11 subject of the recall petition, the Attorney General may employ outside legal
 12 counsel to defend a legal challenge regarding the sufficiency of a recall
 13 petition.

14
 15 § 4. Recall petitions for elected officials.

16 (a) The recall petition regarding an elected official shall be in
 17 substantially the following form:

18 "PETITION FOR RECALL

19 To the Secretary of State [or the Attorney General, if the Secretary of State
 20 is the subject of the recall petition]:

21 We, the undersigned legal voters of _____

22 (Arkansas or District)

23 respectfully order that _____

24 (Name of Elected Official)

25 be referred to the people of _____

26 (Arkansas or District)

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

33 (b)(1) Each sheet of each recall petition containing the signatures
 34 shall be verified by the person who circulated the sheet of the recall
 35 petition by his or her affidavit attached to the recall petition.

36 (2) The affidavit shall be in substantially the following form:

1 "STATE OF ARKANSAS)

2 COUNTY)

3 I, _____, under oath, state that the above-listed persons
4 signed this sheet, and each of them signed his or her name on this sheet in
5 my presence. I believe that each has correctly stated his or her name, date
6 of birth, residence, city or town of residence, and date of signing the
7 petition.

8 Signature _____

9 Address _____

10 Subscribed and sworn to before me this the _____ day of _____, _____.

11 Signature _____

12 Notary Public

13 My Commission Expires: _____."

14 (c) A petition shall be sufficient if it substantially follows the
15 format of this section, disregarding clerical and technical errors.

16

17 § 5. Ballot.

18 (a) At the election the recall proposal shall be printed on the ballot
19 in substantially the following form:

20 Name: Office:

21 "For Permitting _____ to
22 continue to serve the term of office for which elected /_/_

23

24 Name: Office:

25 Against Permitting _____ to
26 continue to serve the term of office for which elected /_/_."

27 (b)(1) If at the election a majority of the qualified electors voting
28 on the recall proposal vote against permitting the elected official to
29 continue to serve the term of office to which he or she was elected, an
30 immediate vacancy shall exist in the office, and the vacancy shall be filled
31 in the manner prescribed by law.

32 (2) If at the election a majority of the qualified electors
33 voting on the recall proposal vote for permitting the elected official to
34 continue to serve the term of office for which he or she elected, the elected
35 official shall serve the full term for which he or she was elected.

36

1 § 6. Frequency of recall.

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

5
6 § 7. Recall expenses.

7 All expenses of an election for the recall of an elected official shall
8 be paid for in the same manner and from the same source as provided by
9 applicable law for election expenses.

10
11 § 8. Ballot question.

12 (a) A recall proposal shall be considered a ballot question for
13 purposes of applicable laws on measures referred to voters.

14 (b) An elected official, any person or entity acting on behalf of an
15 elected official, or any other person or entity who receives contributions or
16 makes expenditures for the purpose of attempting to influence the
17 qualification, passage, or defeat of a recall petition or recall proposal
18 shall be considered a ballot question committee and shall comply with
19 applicable laws on measures referred to voters.

20
21 SECTION 2. EFFECTIVE DATE. This amendment shall be effective on and
22 after January 1, 2025.

23
24 SECTION 3. BALLOT TITLE AND POPULAR NAME. When this proposed
25 amendment is submitted to the electors of this state on the general election
26 ballot:

27 (1) The title of this Joint Resolution shall be the ballot
28 title; and

29 (2) The popular name shall be "A Constitutional Amendment to
30 Create a Procedure for the Recall of Persons Elected to the Offices of
31 Governor, Lieutenant Governor, Attorney General, Secretary of State,
32 Treasurer of State, Auditor of State, Commissioner of State Lands, Member of
33 the House of Representatives, Member of the Senate, Chief Justice of the
34 Supreme Court, Justice of the Supreme Court, Chief Judge of the Court of
35 Appeals, Judge of the Court of Appeals, Circuit Judge, District Judge, or
36 Prosecuting Attorney".