

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SENATE BILL 1137

AN ACT

AMENDING SECTIONS 16-311, 16-312, 16-341 AND 16-351, ARIZONA REVISED
STATUTES; RELATING TO NOMINATING PROCEDURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 16-311, Arizona Revised Statutes, is amended to
3 read:

4 16-311. Nomination papers; filing; definitions

5 A. Any person desiring to become a candidate at a primary election for
6 a political party and to have the person's name printed on the official
7 ballot shall be a qualified elector of such party and, not less than ninety
8 nor more than one hundred twenty days before the primary election, shall sign
9 and cause to be filed a nomination paper giving the person's actual residence
10 address or description of place of residence and post office address, naming
11 the party of which the person desires to become a candidate, stating the
12 office and district or precinct, if any, for which the person offers the
13 person's candidacy, stating the exact manner in which the person desires to
14 have the person's name printed on the official ballot pursuant to subsection
15 G OF THIS SECTION, and giving the date of the primary election and, if
16 nominated, the date of the general election at which the person desires to
17 become a candidate. A candidate for public office shall be a qualified
18 elector at the time of filing and shall reside in the county, district or
19 precinct ~~which~~ THAT the person proposes to represent.

20 B. Any person desiring to become a candidate at any nonpartisan
21 election and to have the person's name printed on the official ballot shall
22 be at the time of filing a qualified elector of such county, city, town or
23 district and, not less than ninety nor more than one hundred twenty days
24 before the election, shall sign and cause to be filed a nomination paper
25 giving the person's actual residence address or description of place of
26 residence and post office address, stating the office and county, city, town
27 or district and ward or precinct, if any, for which the person offers the
28 person's candidacy, stating the exact manner in which the person desires to
29 have the person's name printed on the official ballot pursuant to subsection
30 G OF THIS SECTION and giving the date of the election. A candidate for
31 office shall reside at the time of filing in the county, city, town,
32 district, ward or precinct ~~which~~ THAT the person proposes to represent.

33 C. Notwithstanding subsection B ~~to the contrary~~ OF THIS SECTION, any
34 city or town may adopt by ordinance for its elections the time frame provided
35 in subsection A OF THIS SECTION for filing nomination petitions. Such
36 ordinance shall be adopted not less than one hundred twenty days before the
37 first election to which it applies.

38 D. All persons desiring to become a candidate shall file with the
39 nomination paper provided for in subsection A OF THIS SECTION an affidavit,
40 which shall be printed in a form prescribed by the secretary of state. The
41 affidavit shall include facts sufficient to show that, other than the
42 residency requirement provided in subsection A OF THIS SECTION AND THE
43 SATISFACTION OF ANY MONETARY PENALTIES, FINES OR JUDGMENTS AS PRESCRIBED IN
44 SUBSECTION I OF THIS SECTION, the candidate will be qualified at the time of
45 election to hold the office the person seeks, AND THAT FOR ANY MONETARY

1 PENALTIES, FINES OR JUDGMENTS AS PRESCRIBED IN SUBSECTION I OF THIS SECTION,
2 THE CANDIDATE HAS MADE COMPLETE PAYMENT BEFORE THE TIME OF FILING.

3 E. The nomination paper of a candidate for the office of United States
4 senator or representative in Congress, for the office of presidential elector
5 or for a state office, including a member of the legislature, or for any
6 other office for which the electors of the entire state or a subdivision of
7 the state greater than a county are entitled to vote, shall be filed with the
8 secretary of state no later than 5:00 p.m. on the last date for filing.

9 F. The nomination paper of a candidate for superior court judge or for
10 a county, district and precinct office for which the electors of a county or
11 a subdivision of a county other than an incorporated city or town are
12 entitled to vote shall be filed with the county elections officer no later
13 than 5:00 p.m. on the last date for filing as prescribed by subsection A OF
14 THIS SECTION. The nomination paper of a candidate for a city or town office
15 shall be filed with the city or town clerk no later than 5:00 p.m. on the
16 last date for filing. The nomination paper of a candidate for school
17 district office shall be filed with the county school superintendent no later
18 than 5:00 p.m. on the last date for filing.

19 G. The nomination paper shall include the exact manner in which the
20 candidate desires to have the person's name printed on the official ballot
21 and shall be limited to the candidate's surname and given name or names, an
22 abbreviated version of such names or appropriate initials such as "Bob" for
23 "Robert", "Jim" for "James", "Wm." for "William" or "S." for "Samuel".
24 Nicknames are permissible, but in no event shall nicknames, abbreviated
25 versions or initials of given names suggest reference to professional,
26 fraternal, religious or military titles. No other descriptive name or names
27 shall be printed on the official ballot, except as provided in this section.
28 Candidates' abbreviated names or nicknames may be printed within quotation
29 marks. The candidate's surname shall be printed first, followed by the given
30 name or names.

31 H. A person who does not file a timely nomination paper that complies
32 with this section is not eligible to have the person's name printed on the
33 official ballot for that office. The filing officer shall not accept the
34 nomination paper of a candidate for state or local office unless the person
35 provides or has provided all of the following:

36 1. The nomination petition required by this title.
37 2. A political committee statement of organization or the five hundred
38 dollar threshold exemption statement for that office.

39 3. The financial disclosure statement as prescribed for candidates for
40 that office.

41 4. THE AFFIDAVIT OF QUALIFICATION AND ELIGIBILITY AS PRESCRIBED IN
42 SUBSECTION D OF THIS SECTION.

43 I. EXCEPT IN CASES WHERE THE LIABILITY IS BEING APPEALED, THE FILING
44 OFFICER SHALL NOT ACCEPT THE NOMINATION PAPER OF A CANDIDATE FOR STATE OR
45 LOCAL OFFICE IF THE PERSON IS LIABLE FOR AN AGGREGATION OF ONE THOUSAND

1 DOLLARS OR MORE IN FINES, PENALTIES, LATE FEES OR ADMINISTRATIVE OR CIVIL
2 JUDGMENTS, INCLUDING ANY INTEREST OR COSTS, IN ANY COMBINATION, THAT HAVE NOT
3 BEEN FULLY SATISFIED AT THE TIME OF THE ATTEMPTED FILING OF THE NOMINATION
4 PAPER AND THE LIABILITY AROSE FROM FAILURE TO COMPLY WITH OR ENFORCEMENT OF
5 CHAPTER 6 OF THIS TITLE.

6 ~~I.~~ J. For the purposes of this title:

7 1. "Election district" means the state, any county, city, town,
8 precinct or other political subdivision or a special district ~~which~~ THAT is
9 not a political subdivision, ~~which~~ THAT is authorized by statute to conduct
10 an election and ~~which~~ THAT is authorized or required to conduct its election
11 in accordance with this title.

12 2. "Nomination paper" means the form filed with the appropriate office
13 by a person wishing to declare the person's intent to become a candidate for
14 a particular political office.

15 Sec. 2. Section 16-312, Arizona Revised Statutes, is amended to read:

16 16-312. Filing of nomination papers for write-in candidates

17 A. Any person desiring to become a write-in candidate for an elective
18 office in any election shall file a nomination paper, signed by the
19 candidate, giving the person's actual residence address or description of
20 place of residence and post office address, age, length of residence in the
21 state and date of birth.

22 B. A write-in candidate shall file the nomination paper not later than
23 5:00 p.m. on the fortieth day before the election, except that:

24 1. A candidate running as a write-in candidate as provided in section
25 16-343, subsection D shall file the nomination paper not later than 5:00 p.m.
26 on the fifth day before the election.

27 2. A candidate running as a write-in candidate for an election that
28 may be canceled pursuant to section ~~48-1082~~, 16-410 shall file the nomination
29 paper not later than 5:00 p.m. on the seventy-sixth day before the election.

30 C. The write-in filing procedure shall be in the same manner as
31 prescribed in section 16-311. Any person who does not file a timely
32 nomination paper shall not be counted in the tally of ballots. The filing
33 officer shall not accept the nomination paper of a candidate for state or
34 local office unless the candidate provides or has provided both of the
35 following:

36 1. A political committee statement of organization or the five hundred
37 dollar threshold exemption statement for that office.

38 2. The financial disclosure statement as prescribed for candidates for
39 that office.

40 D. EXCEPT IN CASES WHERE THE LIABILITY IS BEING APPEALED, THE FILING
41 OFFICER SHALL NOT ACCEPT THE NOMINATION PAPER OF A WRITE-IN CANDIDATE FOR
42 STATE OR LOCAL OFFICE IF THE PERSON IS LIABLE FOR AN AGGREGATION OF ONE
43 THOUSAND DOLLARS OR MORE IN FINES, PENALTIES, LATE FEES OR ADMINISTRATIVE OR
44 CIVIL JUDGMENTS, INCLUDING ANY INTEREST OR COSTS, IN ANY COMBINATION, THAT
45 HAVE NOT BEEN FULLY SATISFIED AT THE TIME OF THE ATTEMPTED FILING OF THE

1 NOMINATION PAPER AND THE LIABILITY AROSE FROM FAILURE TO COMPLY WITH OR
2 ENFORCEMENT OF CHAPTER 6 OF THIS TITLE.

3 ~~D.~~ E. The secretary of state shall notify the various boards of
4 supervisors as to write-in candidates filing with the secretary of state's
5 office. The county school superintendent shall notify the appropriate board
6 of supervisors as to write-in candidates filing with the superintendent's
7 office. The board of supervisors shall notify the appropriate election board
8 inspector of all candidates who have properly filed such statements. In the
9 case of a city or town election, the city or town clerk shall notify the
10 appropriate election board inspector of candidates properly filed. No other
11 write-ins shall be counted. The election board inspector shall post the
12 notice of official write-in candidates in a conspicuous location within the
13 polling place.

14 ~~E.~~ F. Except as provided in section 16-343, subsection E, a candidate
15 may not file pursuant to this section if any of the following applies:

16 1. For a candidate in the general election, the candidate ran in the
17 immediately preceding primary election and failed to be nominated to the
18 office sought in the current election.

19 2. For a candidate in the general election, the candidate filed a
20 nomination petition for the immediately preceding primary election for the
21 office sought and failed to provide a sufficient number of valid petition
22 signatures as prescribed by section 16-322.

23 3. For a candidate in the primary election, the candidate filed a
24 nomination petition for the current primary election for the office sought
25 and failed to provide a sufficient number of valid petition signatures as
26 prescribed by section 16-322.

27 4. For a candidate in the general election, the candidate filed a
28 nomination petition for nomination other than by primary for the office
29 sought and failed to provide a sufficient number of valid petition signatures
30 as prescribed by section 16-341.

31 ~~F.~~ G. A person who files a nomination paper pursuant to this section
32 for the office of president of the United States shall designate in writing
33 to the secretary of state at the time of filing the name of the candidate's
34 vice-presidential running mate, the names of presidential electors who will
35 represent that candidate and a statement signed by the vice-presidential
36 running mate and designated presidential electors that indicates their
37 consent to be designated. A nomination paper for each presidential elector
38 designated shall be filed with the candidate's nomination paper. The number
39 of presidential electors shall equal the number of United States senators and
40 representatives in Congress from this state.

41 Sec. 3. Section 16-341, Arizona Revised Statutes, is amended to read:

42 16-341. Nomination petition; method and time of filing; form;
43 qualifications and number of petitioners required

44 A. Any qualified elector who is not a registered member of a political
45 party that is recognized pursuant to this title may be nominated as a

1 candidate for public office otherwise than by primary election or by party
2 committee pursuant to this section.

3 B. This article shall not be used to place on the general election
4 ballot the name of a political party that fails to meet the qualifications
5 specified in section 16-802 or 16-804, or the name of any candidate
6 representing such party or the name of a candidate who has filed a nomination
7 petition in the immediately preceding primary election and has failed to
8 qualify as the result of an insufficient number of valid signatures.

9 C. A nomination petition stating the name of the office to be filled,
10 the name and residence of the candidate and other information required by
11 this section shall be filed with the same officer with whom primary
12 nomination papers and petitions are required to be filed as prescribed in
13 section 16-311. Except for candidates for the office of presidential elector
14 filed pursuant to this section, the petition shall be filed at the same time
15 as primary nomination papers and petitions are required to be filed as
16 prescribed by section 16-311. The petition shall be signed only by voters
17 who have not signed the nomination petitions of a candidate for the office to
18 be voted for at that primary election.

19 D. The nomination petition shall be in substantially the following
20 form:

21 The undersigned, qualified electors of _____ county,
22 state of Arizona, do hereby nominate _____, who resides at
23 _____ in the county of _____, as a candidate for the
24 office of _____ at the general (or special, as the case may
25 be) election to be held on the _____ day of _____,
26 _____.

27 I hereby declare that I have not signed the nomination
28 petitions of any candidate for the office to be voted for at
29 this primary election, and I do hereby select the following
30 designation under which name the said candidate shall be placed
31 on the official ballot (here insert such designation not
32 exceeding three words in length as the signers may select).

33 E. The nomination petition shall conform as nearly as possible to the
34 provisions relating to nomination petitions of candidates to be voted for at
35 primary elections and shall be signed by at least the number of persons who
36 are registered to vote determined by calculating three per cent of the
37 persons who are registered to vote of the state, county, subdivision or
38 district for which the candidate is nominated who are not members of a
39 political party that is qualified to be represented by an official party
40 ballot at the next ensuing primary election and accorded representation on
41 the general election ballot.

42 F. The percentage of persons who are registered to vote necessary to
43 sign the nomination petition shall be determined by the total number of
44 registered voters from other than political parties that are qualified to be
45 represented by an official party ballot at the next ensuing primary election

1 and accorded representation on the general election ballot in the state,
2 county, subdivision or district on March 1 of the year in which the general
3 election is held. Notwithstanding the method prescribed by subsection E of
4 this section and this subsection for calculating the minimum number of
5 signatures necessary, any person who is registered to vote in the state,
6 county, subdivision or district for which the candidate is nominated is
7 eligible to sign the nomination petition without regard to the signer's party
8 affiliation.

9 G. A nomination petition for any candidate may be circulated by a
10 person who is not a resident of this state but who is otherwise eligible to
11 register to vote in this state if that person registers as a circulator with
12 the secretary of state before circulating petitions. The nomination petition
13 for the office of presidential elector shall include a group of names of
14 candidates equal to the number of United States senators and representatives
15 in Congress from this state instead of separate nomination petitions for each
16 candidate for the office of presidential elector. A valid signature on a
17 petition containing a group of presidential electors candidates is counted as
18 a signature for the nomination of each of the candidates. The presidential
19 candidate whom the candidates for presidential elector will represent shall
20 designate in writing to the secretary of state the names of the candidates
21 who will represent the presidential candidate before any signatures for the
22 candidate can be accepted for filing. A nomination petition for the office
23 of presidential elector shall be filed not less than sixty nor more than
24 ninety days before the general election. The petition shall be signed only
25 by qualified electors who have not signed the nomination petitions of a
26 candidate for the office of presidential elector to be voted for at that
27 election.

28 H. The secretary of state shall require in the instructions and
29 procedures manual issued pursuant to section 16-452 that persons who
30 circulate nomination petitions pursuant to this section and who are not
31 residents of this state but who are otherwise eligible to register to vote in
32 this state shall register as circulators with the office of the secretary of
33 state before circulating petitions. The secretary of state shall provide for
34 a method of receiving service of process for those petition circulators who
35 are registered.

36 I. A person who files a nomination paper pursuant to this section for
37 the office of president of the United States shall designate in writing to
38 the secretary of state at the time of filing the name of the candidate's
39 vice-presidential running mate, the names of the presidential electors who
40 will represent that candidate and a statement that is signed by the
41 vice-presidential running mate and the designated presidential electors and
42 that indicates their consent to be designated. A nomination paper for each
43 presidential elector designated shall be filed with the candidate's
44 nomination paper. The number of presidential electors shall equal the number
45 of United States senators and representatives in Congress from this state.

1 J. A candidate who does not file a timely nomination petition that
2 complies with this section is not eligible to have the candidate's name
3 printed on the official ballot for that office. The filing officer shall not
4 accept the nomination paper of a candidate for state or local office unless
5 the candidate provides or has provided all of the following:

- 6 1. The nomination petition required by this title.
- 7 2. A political committee statement of organization or the five hundred
8 dollar threshold exemption statement for that office.
- 9 3. The financial disclosure statement as prescribed for candidates for
10 that office.

11 K. EXCEPT IN CASES WHERE THE LIABILITY IS BEING APPEALED, THE FILING
12 OFFICER SHALL NOT ACCEPT THE NOMINATION PAPER OF A CANDIDATE FOR STATE OR
13 LOCAL OFFICE IF THE PERSON IS LIABLE FOR AN AGGREGATION OF ONE THOUSAND
14 DOLLARS OR MORE IN FINES, PENALTIES, LATE FEES OR ADMINISTRATIVE OR CIVIL
15 JUDGMENTS, INCLUDING ANY INTEREST OR COSTS, IN ANY COMBINATION, THAT HAVE NOT
16 BEEN FULLY SATISFIED AT THE TIME OF THE ATTEMPTED FILING OF THE NOMINATION
17 PAPER AND THE LIABILITY AROSE FROM FAILURE TO COMPLY WITH OR ENFORCEMENT OF
18 CHAPTER 6 OF THIS TITLE.

19 Sec. 4. Section 16-351, Arizona Revised Statutes, is amended to read:
20 16-351. Limitations on appeals of validity of nomination
21 petitions; disqualification of candidate

22 A. Any elector filing any court action challenging the nomination of a
23 candidate as provided for in this chapter shall do so no later than 5:00 p.m.
24 of the tenth day, excluding Saturday, Sunday and other legal holidays, after
25 the last day for filing nomination papers and petitions. The elector shall
26 specify in the action the petition number, line number and basis for the
27 challenge for each signature being challenged. Failure to specify this
28 information shall result in the dismissal of the court action. Within ten
29 days after the filing of the action, the superior court shall hear and render
30 a decision on the matter. Such decision shall be appealable only to the
31 supreme court, and notice of appeal shall be filed within five days after the
32 decision of the superior court in the action. The supreme court shall hear
33 and render a decision on the appeal promptly.

34 B. Any elector may challenge a candidate for any reason relating to
35 qualifications for the office sought as prescribed by law, including age,
36 residency, ~~or~~ professional requirements OR FAILURE TO FULLY PAY FINES,
37 PENALTIES OR JUDGMENTS AS PRESCRIBED IN SECTIONS 16-311, 16-312 AND 16-341,
38 if applicable.

39 C. In any action challenging a nomination petition, the following
40 persons are indispensable parties to the action and shall be named and served
41 as defendants:

- 42 1. The candidate whose petition is the subject of the challenge.
- 43 2. The officer with whom the petitions are required to be filed.

1 3. The board of supervisors and the recorder of each county or the
2 clerk of each city or town who is responsible for preparing the ballots that
3 contain the challenged candidate's name.

4 D. For the purposes of an action challenging nomination petitions, the
5 board of supervisors and the recorder of each county or the clerk of each
6 city or town responsible for preparing the ballots that contain the
7 challenged candidate's name and each person filing a nomination petition
8 under this chapter appoints the officer with whom the candidate files the
9 nomination paper and petitions as the person's agent to receive service of
10 process. Process in an action challenging a nomination petition shall be
11 served immediately after the action is filed and in no event more than
12 twenty-four hours after filing the action, excluding Saturdays, Sundays and
13 other legal holidays. Immediately on receipt of process served on the
14 officer as agent for a person filing a nomination petition, the officer shall
15 mail the process to the person and shall notify the person by telephone of
16 the filing of the action.

17 E. Notwithstanding the system used pursuant to section 16-163,
18 subsection D, the most current version of the general county register at the
19 time of filing of a court action challenging a nomination petition shall
20 constitute the official record to be used to determine on a prima facie basis
21 by the challenger that the signer of a petition was not registered to vote at
22 the residence address given, or at the address on the general county register
23 if a mailing address was given, on the date of signing of the petition. This
24 subsection does not preclude the challenged candidate from introducing into
25 evidence a certified copy of the registration form of any signer of a
26 petition dated on or before the date of the signing of the petition if the
27 registration form is in the possession of the county recorder but has not yet
28 been filed in the general county register.

29 F. In addition to the procedures set forth in this section, all
30 petitions that have been submitted by a candidate who is found guilty of
31 petition forgery shall be disqualified and that candidate shall not be
32 eligible to seek election to a public office for a period of not less than
33 five years.

34 Sec. 5. Emergency

35 This act is an emergency measure that is necessary to preserve the
36 public peace, health or safety and is operative immediately as provided by
37 law.