

REFERENCE TITLE: statewide ballot measures; circulators; procedures

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SB 1451

Introduced by
Senator Leach

AN ACT

AMENDING SECTIONS 19-118, 19-121 AND 19-121.01, ARIZONA REVISED STATUTES;
RELATING TO INITIATIVE AND REFERENDUM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 19-118, Arizona Revised Statutes, is amended to read:

19-118. Registered circulators: requirements: violation: classification: definition

A. ~~All circulators who are not residents of this state and,~~ For statewide ~~ballot~~ INITIATIVE AND REFERENDUM measures only, ALL CIRCULATORS WHO ARE NOT RESIDENTS OF THIS STATE AND all paid circulators must register as circulators with the secretary of state before circulating petitions pursuant to this title. The ~~political~~ committee that is circulating the petition shall collect and submit the ~~registrations~~ COMPLETED REGISTRATION APPLICATIONS to the secretary of state. The secretary of state shall establish in the instructions and procedures manual issued pursuant to section 16-452 a procedure for registering circulators, INCLUDING CIRCULATOR REGISTRATION APPLICATIONS, and shall publish on a website maintained by the secretary of state all information regarding circulators that is required pursuant to this section. The secretary of state shall disqualify all signatures collected by a circulator who fails to register pursuant to this subsection as provided for in section 19-121.01, subsection A.

B. The CIRCULATOR registration APPLICATION required by subsection A of this section shall ~~include~~ REQUIRE the following ~~provisions~~:

1. THE CIRCULATOR'S FULL NAME, RESIDENCE ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS.

2. THE INITIATIVE OR REFERENDUM PETITION ON WHICH THE CIRCULATOR WILL GATHER SIGNATURES.

~~1.~~ 3. A STATEMENT THAT the circulator consents to the jurisdiction of the courts of this state in resolving any disputes concerning the circulation of petitions by that circulator.

~~2.~~ 4. The ~~circulator shall designate an~~ address OF THE COMMITTEE in this state FOR WHICH THE CIRCULATOR IS GATHERING SIGNATURES AND at which the circulator will accept service of process related to disputes concerning circulation of that circulator's petitions. Service of process is effected under this section by delivering a copy of the subpoena to that person individually, ~~or~~ by leaving a copy of the subpoena ~~at the address designated by the circulator~~ with a person of suitable age OR BY MAILING A COPY OF THE SUBPOENA TO THE COMMITTEE BY CERTIFIED MAIL TO THE ADDRESS PROVIDED.

5. AN AFFIDAVIT FROM THE REGISTERED CIRCULATOR THAT IS SIGNED BY THE CIRCULATOR BEFORE A NOTARY PUBLIC AND THAT INCLUDES THE FOLLOWING DECLARATION:

I, _____ (PRINT NAME) _____, UNDER PENALTY OF A CLASS 1 MISDEMEANOR, ACKNOWLEDGE THAT I AM ELIGIBLE TO REGISTER AS A CIRCULATOR IN THE STATE OF ARIZONA, THAT ALL OF THE INFORMATION PROVIDED IS CORRECT TO THE BEST OF MY KNOWLEDGE

1 AND THAT I HAVE READ AND UNDERSTAND ARIZONA ELECTION LAWS
2 APPLICABLE TO THE COLLECTION OF SIGNATURES FOR A STATEWIDE
3 INITIATIVE OR REFERENDUM.

4 C. WITHIN FIVE BUSINESS DAYS AFTER SUBMISSION AND REVIEW OF A
5 COMPLETE AND CORRECT CIRCULATOR REGISTRATION APPLICATION THAT COMPLIES
6 WITH THIS SECTION, THE SECRETARY OF STATE SHALL REGISTER AND ASSIGN A
7 CIRCULATOR REGISTRATION NUMBER TO THE CIRCULATOR.

8 D. A PERSON MAY NOT REGISTER AS A CIRCULATOR PURSUANT TO THIS
9 SECTION IF THE PERSON:

10 1. HAS HAD A CIVIL OR CRIMINAL PENALTY IMPOSED FOR A VIOLATION OF
11 TITLE 16 OR THIS TITLE WITHIN THE IMMEDIATELY PRECEDING FIVE YEARS.

12 2. HAS BEEN CONVICTED OF A FELONY AND HAS NOT HAD THE PERSON'S
13 CIVIL RIGHTS RESTORED AS PROVIDED BY LAW.

14 3. HAS BEEN CONVICTED OF ANY CRIMINAL OFFENSE INVOLVING FRAUD,
15 FORGERY OR IDENTITY THEFT.

16 ~~E.~~ E. If a registered circulator is properly served with a
17 subpoena to provide evidence in an action regarding circulation of
18 petitions and fails to appear or produce documents as provided for in the
19 subpoena, all signatures collected by that circulator are deemed invalid.
20 The party serving the subpoena may request an order from the court
21 directing the secretary of state to remove any signatures collected by the
22 circulator as provided for in section 19-121.01, subsection A.

23 ~~F.~~ F. Any person may challenge the lawful registration of
24 circulators in the superior court of the county in which the circulator is
25 registered. A challenge may not be commenced more than ten business days
26 after the date on which the petitions for which the circulator is required
27 to be registered are filed with the secretary of state AND HAVE BEEN MADE
28 AVAILABLE BY THE SECRETARY OF STATE FOR PUBLIC INSPECTION. The person
29 challenging signatures may amend that complaint after the secretary of
30 state has removed signatures and signature sheets as prescribed in section
31 19-121.01. An action pursuant to this section shall be advanced on the
32 calendar and decided by the court as soon as possible. Either party may
33 appeal to the supreme court within five calendar days after entry of
34 judgment. The prevailing party in an action to challenge the registration
35 of a circulator under this section is entitled to reasonable attorney
36 fees.

37 ~~G.~~ G. The removal or disqualification of any one or more
38 circulators does not invalidate the random sample of signatures made
39 pursuant to section 19-121.01, and the secretary of state shall not be
40 required to conduct any additional random sampling of signatures.

41 H. A PERSON WHO KNOWINGLY OMITS OR MISREPRESENTS INFORMATION OR
42 PROVIDES FALSE INFORMATION ON A CIRCULATOR REGISTRATION APPLICATION OR WHO
43 REGISTERS IN VIOLATION OF THIS SECTION IS GUILTY OF A CLASS 1 MISDEMEANOR.

1 ~~F.~~ I. For the purposes of this title, "paid circulator":

2 1. Means a natural person who receives monetary or other
3 compensation for obtaining signatures on a STATEWIDE INITIATIVE OR
4 REFERENDUM petition or for circulating STATEWIDE INITIATIVE OR REFERENDUM
5 petitions for signatures.

6 2. Does not include a paid employee of any political committee
7 organized pursuant to title 16, chapter 6, unless that employee has or
8 will obtain two hundred or more signatures on an initiative, referendum or
9 recall petition in an election cycle.

10 Sec. 2. Section 19-121, Arizona Revised Statutes, is amended to
11 read:

12 19-121. Signature sheets; petitions; form; procedure for
13 filing

14 A. Signature sheets filed shall:

15 1. Be in the form prescribed by law.

16 2. Have printed in their lower right-hand corner, on each side of
17 such sheets, the official serial number assigned to the petition by the
18 secretary of state AND, IF APPLICABLE, THE REGISTRATION NUMBER ASSIGNED TO
19 THE CIRCULATOR.

20 3. Be attached to a full and correct copy of the title and text of
21 the measure, or amendment to the constitution, proposed or referred by the
22 petition.

23 4. Be printed in at least eight-point type.

24 5. Be printed in black ink on white or recycled white pages
25 fourteen inches in width by eight and one-half inches in length, with a
26 margin of at least one-half inch at the top and one-fourth inch at the
27 bottom of each page. Notwithstanding this ~~subsection~~ PARAGRAPH, the
28 secretary of state may prescribe an alternative page width and length in
29 the ~~election~~ INSTRUCTIONS AND procedures manual adopted pursuant to
30 section 16-452.

31 B. For the purposes of this chapter, a petition is filed when the
32 petition sheets are tendered to the secretary of state, who shall issue a
33 receipt based on an estimate made to the secretary of state of the
34 purported number of sheets and signatures filed. A receipt may be
35 electronically issued. After the issuance of the receipt, no additional
36 petition sheets may be accepted for filing.

37 C. ~~Petitions may be filed with the secretary of state in numbered~~
38 ~~sections for convenience in handling.~~ The secretary of state may
39 prescribe the method of filing, including electronic filing. Not more
40 than fifteen signatures on one sheet shall be counted. For petitions
41 filed regarding STATEWIDE INITIATIVES AND REFERENDA AND city, town or
42 county matters, the ~~political~~ committee that is the proponent of the
43 petition and that files the petitions shall organize the signature sheets
44 and group them by circulator and is solely responsible for compliance with

1 this subsection. The ~~local~~ filing officer may return as unfiled any
2 signature sheets that are not so organized and grouped.

3 D. Initiative petitions that have not been filed with the secretary
4 of state as of 5:00 p.m. on the day required by the constitution before
5 the ensuing general election after their issuance shall be null and void,
6 but in no event shall the secretary of state accept an initiative petition
7 that was issued for circulation more than twenty-four months before the
8 general election at which the measure is to be included on the ballot.

9 E. For the purposes of this article and article 4 of this chapter,
10 the measure to be attached to the petition as enacted by the legislative
11 body of an incorporated city, town or county means the adopted ordinance
12 or resolution signed by the mayor or the chairman of the board of
13 supervisors, as appropriate, and signed by the clerk of the municipality
14 or the clerk of the board, as appropriate, or, in the absence of a written
15 ordinance or resolution, that portion of the minutes of the legislative
16 body that is approved by the governing body and filed with the clerk of
17 the governing body and that reflects the action taken by that body when
18 adopting the measure. In the case of zoning measures, the measure shall
19 also include a legal description of the property and any amendments made
20 to the ordinance by the legislative body.

21 Sec. 3. Section 19-121.01, Arizona Revised Statutes, is amended to
22 read:

23 19-121.01. Secretary of state; removal of petition and
24 ineligible signatures; sheets copies; random
25 sample; presumption

26 A. Within twenty days, excluding Saturdays, Sundays and other legal
27 holidays, after the date of filing of an initiative or referendum petition
28 and issuance of the receipt, the secretary of state shall:

29 1. Remove the following:

30 (a) Those sheets not attached to a copy of the complete title and
31 text of the measure as prescribed in this chapter.

32 (b) The copy of the title and text from the remaining petition
33 sheets.

34 (c) Those sheets not bearing the correct petition serial number
35 **AND, IF APPLICABLE, THE PAID CIRCULATOR REGISTRATION NUMBER** in the lower
36 right-hand corner of each side.

37 (d) Those sheets containing a circulator's affidavit that is not
38 completed or signed or that has been modified.

39 (e) Those sheets on which the affidavit of the circulator is not
40 notarized, the notary's signature is missing, the notary's commission has
41 expired or the notary's seal is not affixed.

42 (f) Those sheets on which the signatures of the circulator or the
43 notary are dated earlier than the dates on which the electors signed the
44 face of the petition sheet.

1 (g) Those sheets that are circulated by a circulator who is
2 prohibited from participating in any election, initiative, referendum or
3 recall campaign pursuant to section 19-119.01.

4 (h) Those sheets on which the circulator is required to be
5 registered with the secretary of state pursuant to section 19-118 and the
6 circulator is not properly registered at the time the petitions were
7 circulated.

8 (i) THOSE SHEETS THAT ARE NOT PROPERLY GROUPED PURSUANT TO SECTION
9 19-121.

10 2. After completing the steps in paragraph 1 of this subsection,
11 review each sheet to determine the county of the majority of the signers
12 and shall:

13 (a) Place a three or four letter abbreviation designating that
14 county on the face of the petition.

15 (b) Remove all signatures of those not in the county of the
16 majority on each sheet BY placing an adjacent mark or striking through the
17 signature line.

18 (c) Cause all signature sheets to be grouped together by county of
19 registration of the majority of those signing. The detached copies of the
20 title and text of the measure shall be made available to the applicant but
21 may be disposed of after a reasonable period of time.

22 3. After completing the steps in paragraph 2 of this subsection,
23 remove the following signatures that are not eligible for verification by
24 placing an adjacent mark or striking through the signature line:

25 (a) If the signature of the qualified elector is missing.

26 (b) If the residence address or the description of residence
27 location is missing.

28 (c) If the date on which the petitioner signed is missing, if the
29 date on which the petitioner signed the petition is before the date that
30 the serial number was assigned to the political committee that is filing
31 the petition or if the date on which the petitioner signed the petition is
32 after the date on which the affidavit was completed by the circulator and
33 notarized.

34 (d) Signatures in excess of the fifteen signatures permitted per
35 petition.

36 (e) Signatures withdrawn pursuant to section 19-113.

37 (f) Signatures for which the secretary of state determines that the
38 petition circulator has printed the elector's first and last names or
39 other information in violation of section 19-112.

40 4. After the removal of petition sheets and signatures, count the
41 number of signatures for verification on the remaining petition sheets and
42 note that number on the face of each petition sheet.

43 5. Number the remaining petition sheets that were not previously
44 removed and that contain signatures eligible for verification in
45 consecutive order on the front side of each petition sheet.

1 6. Count all remaining petition sheets and signatures not
2 previously removed and notify the applicant of this total number eligible
3 for verification.

4 B. If the total number of signatures for verification as determined
5 pursuant to subsection A, paragraph 6 of this section equals or exceeds
6 the constitutional minimum, during the same twenty day period provided in
7 subsection A of this section, the secretary of state shall select, at
8 random, five percent of the total signatures eligible for verification by
9 the county recorders of the counties in which the persons signing the
10 petition claim to be qualified electors. The random sample of signatures
11 to be verified shall be drawn in such a manner that every signature
12 eligible for verification has an equal chance of being included in the
13 sample. The random sample produced shall identify each signature selected
14 by petition page and line number. The signatures selected shall be marked
15 in a clear manner.

16 C. If a signature line selected for the random sample is found to
17 be blank or was removed from the verification process pursuant to
18 subsection A of this section then the next line down, even if that
19 requires going to the next petition sheet in sequence, on which an
20 eligible signature appears shall be selected as a substitute if that line
21 has not already been selected for the random sample. If the next eligible
22 line is already being used in the random sample, the secretary of state
23 shall proceed back up the page from the signature line originally selected
24 for the random sample to the next previous signature line eligible for
25 verification. If that line is already being used in the random sample,
26 the secretary of state shall continue moving down the page or to the next
27 page from the line originally selected for the random sample and shall
28 select the next eligible signature as its substitute for the random
29 sample. The secretary of state shall use this process of alternately
30 moving forward and backward until a signature eligible for verification
31 and not already included in the random sample can be selected and
32 substituted.

33 D. After the selection of the random sample and the marking of the
34 signatures selected on the petition sheets pursuant to subsection B of
35 this section, the secretary of state shall transmit a copy of the front of
36 each signature sheet on which a signature included in the random sample
37 appears. The secretary of state shall clearly identify those signatures
38 marked for verification and shall transmit by personal delivery, certified
39 mail, ~~electronic mail~~ E-MAIL or other electronic transfer method to each
40 county recorder a copy of each signature sheet on which a signature
41 appears of any individual who claims to be a qualified elector of that
42 county and whose signature was selected for verification as part of the
43 random sample.

1 E. The secretary of state shall presume that the date noted on the
2 petition for a petitioner's signature is the date on which the petitioner
3 signed the petition, and any person seeking to establish a different date
4 for the signature bears the burden of proof in overcoming the presumption.

5 F. The secretary of state shall retain an electronic copy of all
6 signature sheets except as otherwise prescribed in this title. After the
7 time period for legal challenges has elapsed, the original sheets shall be
8 made available to the applicant but may be disposed of after a reasonable
9 period of time.

10 Sec. 4. Severability

11 If a provision of this act or its application to any person or
12 circumstance is held invalid, the invalidity does not affect other
13 provisions or applications of the act that can be given effect without the
14 invalid provision or application, and to this end the provisions of this
15 act are severable.