

State of Arizona  
House of Representatives  
Fifty-third Legislature  
First Regular Session  
2017

# HOUSE BILL 2404

## AN ACT

AMENDING TITLE 19, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 19-102.01; AMENDING SECTIONS 19-111.01 AND 19-118, ARIZONA REVISED STATUTES; AMENDING TITLE 19, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 19-118.01; AMENDING SECTION 19-122, ARIZONA REVISED STATUTES; RELATING TO INITIATIVES AND REFERENDA.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 19, chapter 1, article 1, Arizona Revised  
3 Statutes, is amended by adding section 19-102.01, to read:

4 19-102.01. Legislative findings and intent

5 THE LEGISLATURE RECOGNIZES THAT STATEWIDE INITIATIVE MEASURES ENACT  
6 BROAD AND SWEEPING CHANGES TO THE LAWS OF THIS STATE AND THAT PROTECTING  
7 THE INTEGRITY OF THE STATEWIDE INITIATIVE PROCESS THROUGH THE PREVENTION  
8 OF FRAUD IS A SIGNIFICANT STATE INTEREST AND WILL ENSURE THAT THE PEOPLE'S  
9 RIGHT TO LEGISLATE IS PROTECTED. THEREFORE, THE LEGISLATURE FINDS AND  
10 DECLARES THAT THE STATUTORY REQUIREMENTS FOR INITIATIVE MEASURES IN THIS  
11 ACT FURTHER THIS PURPOSE BY PREVENTING FRAUD AND INCREASING PUBLIC  
12 CONFIDENCE IN THE INITIATIVE PROCESS.

13 Sec. 2. Section 19-111.01, Arizona Revised Statutes, is amended to  
14 read:

15 19-111.01. Text review; legislative council; recommendations

16 A. At any time ~~before filing an application for initiative petition~~  
17 ~~or referendum petition and after filing a statement of organization~~  
18 ~~pursuant to section 16-906, a political committee that intends to submit~~  
19 AFTER A PERSON OR ORGANIZATION SUBMITS an application for initiative  
20 petition or referendum petition for a proposed law or constitutional  
21 amendment, A POLITICAL COMMITTEE THAT INTENDS TO SUPPORT THE MEASURE OR A  
22 POLITICAL COMMITTEE THAT INTENDS TO OPPOSE THE MEASURE may submit a copy  
23 of the text of the proposed law, referral or constitutional amendment to  
24 the director of the legislative council.

25 B. No later than thirty days after receipt of the text of the  
26 measure, the legislative council staff shall review the proposed measure.  
27 The legislative council staff shall limit its consideration to errors in  
28 the drafting of the measure, confusing, conflicting or inconsistent  
29 provisions within the measure and conflicts with other state laws and  
30 federal law and shall consider and may prepare recommendations to improve  
31 the text of the proposed measure.

32 C. The person or organization proposing the law or constitutional  
33 amendment may accept, modify or reject any recommendations made by the  
34 legislative council staff regarding the text of the measure solely in its  
35 discretion.

36 Sec. 3. Section 19-118, Arizona Revised Statutes, is amended to  
37 read:

38 19-118. Registered circulators; requirements; definition

39 A. All circulators who are not residents of this state and, for  
40 statewide ballot measures only, all paid circulators must register as  
41 circulators with the secretary of state before circulating petitions  
42 pursuant to this title. The political committee that is circulating the  
43 petition shall collect and submit the registrations to the secretary of  
44 state. The secretary of state shall establish in the instructions and  
45 procedures manual issued pursuant to section 16-452 a procedure for

1 registering circulators and shall publish on a website maintained by the  
2 secretary of state all information regarding circulators that is required  
3 pursuant to this section. The secretary of state shall disqualify all  
4 signatures collected by a circulator who fails to register pursuant to  
5 this subsection as provided for in section 19-121.01, subsection A.

6 B. The registration required by subsection A of this section shall  
7 include the following provisions:

8 1. The circulator consents to the jurisdiction of the courts of  
9 this state in resolving any disputes concerning the circulation of  
10 petitions by that circulator.

11 2. The circulator shall designate an address in this state at which  
12 the circulator will accept service of process related to disputes  
13 concerning circulation of that circulator's petitions. Service of process  
14 is effected under this section by delivering a copy of the subpoena to  
15 that person individually or by leaving a copy of the subpoena at the  
16 address designated by the circulator with a person of suitable age.

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

24 D. Any person may challenge the lawful registration of circulators  
25 in the superior court of the county in which the circulator is registered.  
26 A challenge may not be commenced more than ~~five~~ TEN BUSINESS days after  
27 the date on which the petitions for which the circulator is required to be  
28 registered are filed with the secretary of state. The person challenging  
29 signatures may amend that complaint after the secretary of state has  
30 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 E. The removal or disqualification of any one or more circulators  
38 does not invalidate the random sample of signatures made pursuant to  
39 section 19-121.01, and the secretary of state shall not be required to  
40 conduct any additional random sampling of signatures.

41 F. For the purposes of this title, "paid circulator":

42 1. Means a natural person who receives monetary or other  
43 compensation that is based on the number of signatures obtained on a  
44 petition or on the number of petitions circulated that contain signatures.

1           2. Does not include a paid employee of any political committee  
2 organized pursuant to title 16, chapter 6, unless that employee's primary  
3 responsibility is circulating petitions to obtain signatures.

4           Sec. 4. Title 19, chapter 1, article 2, Arizona Revised Statutes,  
5 is amended by adding section 19-118.01, to read:

6           19-118.01. Signature collection; prohibited payments;  
7                                   violation; classification

8           A. A PERSON SHALL NOT PAY OR RECEIVE MONEY OR ANY OTHER THING OF  
9 VALUE BASED ON THE NUMBER OF SIGNATURES COLLECTED ON A STATEWIDE  
10 INITIATIVE OR REFERENDUM PETITION. SIGNATURES THAT ARE OBTAINED BY A PAID  
11 CIRCULATOR WHO VIOLATES THIS SECTION ARE VOID AND SHALL NOT BE COUNTED IN  
12 DETERMINING THE LEGAL SUFFICIENCY OF THE PETITION.

13           B. A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR.

14           Sec. 5. Section 19-122, Arizona Revised Statutes, is amended to  
15 read:

16           19-122. Refusal of secretary of state to file petition or  
17                                   transmit facsimiles of signature sheets or  
18                                   affidavits of circulators; writ of mandamus; venue

19           A. If the secretary of state refuses to accept and file a petition  
20 for the initiative or referendum, or proposal for a constitutional  
21 amendment that has been presented within the time prescribed, or if the  
22 secretary of state refuses to transmit the facsimiles of a signature sheet  
23 or sheets or affidavits of circulators to the county recorders for  
24 certification under section 19-121.01, the secretary of state shall  
25 provide the person who submitted the petition, proposal, signature sheet  
26 or affidavit with a written statement of the reason for the refusal.  
27 Within five calendar days after the refusal any citizen may apply to the  
28 superior court for a writ of mandamus to compel the secretary of state to  
29 file the petition or proposal or transmit the facsimiles, or for matters  
30 involving statewide initiatives or referenda or proposed constitutional  
31 amendments, the citizen may file a complaint with the county attorney or  
32 attorney general. The county attorney or attorney general may apply,  
33 within five calendar days after the complaint is made, to the superior  
34 court for a writ of mandamus to compel the secretary of state to file the  
35 petition or proposal or transmit the facsimiles. The action shall be  
36 advanced on the calendar and heard and decided by the court as soon as  
37 possible. Either party may appeal to the supreme court within five  
38 calendar days after entry of judgment by the superior court. The decision  
39 of the superior court may be stayed as prescribed by rules adopted by the  
40 supreme court. If the court finds that the petition is legally  
41 sufficient, the secretary of state shall then file it, with a certified  
42 copy of the judgment attached as of the date on which it was originally  
43 offered for filing in the secretary of state's office.

44           B. The most current version of the general county register  
45 statewide voter registration database at the time of filing a court action

1 challenging an initiative or referendum petition shall constitute the  
2 official record to be used to determine on a prima facie basis by the  
3 challenger that the signer of a petition was not registered to vote at the  
4 address given on the date of signing the petition. If the address of the  
5 signer given on the date of signing the petition is different from that on  
6 the most current version of the general county register, the county  
7 recorder shall examine the version of the general county register that was  
8 current on the date the signer signed the petition to determine the  
9 validity of the signature and to determine whether the person was eligible  
10 to sign the petition at the time of signing. This subsection does not  
11 preclude introducing into evidence a certified copy of the affidavit of  
12 registration of any signer dated before the signing of the petition if the  
13 affidavit is in the possession of the county recorder but has not yet been  
14 filed in the general county register.

15 C. An action that contests the validity of an initiative or  
16 referendum measure based on the actions of the secretary of state **OR**  
17 **COMPLIANCE WITH THIS CHAPTER BY ANY PERSON** may not be maintained in any  
18 court in this state except as prescribed by this section. ~~ANY~~ person  
19 ~~may not maintain a separate action seeking~~ **MAY CONTEST THE VALIDITY OF AN**  
20 **INITIATIVE OR REFERENDUM. IF MULTIPLE ACTIONS ARE FILED THAT CONTEST THE**  
21 **VALIDITY OF AN INITIATIVE OR REFERENDUM, INCLUDING ACTIONS FILED PURSUANT**  
22 **TO SUBSECTION A OF THIS SECTION, THE SEPARATE ACTIONS SHALL BE**  
23 **CONSOLIDATED BEFORE THE APPROPRIATE VENUE PURSUANT TO SUBSECTION D OF THIS**  
24 **SECTION. IN ADDITION TO CONTESTING THE VALIDITY OF AN INITIATIVE OR**  
25 **REFERENDUM, ANY PERSON MAY SEEK** to enjoin the secretary of state or other  
26 officer from certifying or printing the official ballot for the election  
27 that will include the proposed initiative or referendum measure and ~~any~~  
28 ~~request~~ to enjoin the certification or printing of the ballot ~~shall be~~  
29 ~~made as a part of an action filed pursuant to subsection A of this~~  
30 ~~section.~~

31 D. The superior court in Maricopa county shall have jurisdiction of  
32 actions relating to measures and amendments to be submitted to the  
33 electors of the state at large. With respect to actions relating to local  
34 and special measures for a county, special district or school district,  
35 the superior court in the county in which the district is located shall  
36 have jurisdiction. With respect to actions relating to local or special  
37 measures for a city or town, the superior court in the county in which the  
38 majority of the population of that city or town resides shall have  
39 jurisdiction.

40 Sec. 6. Severability

41 If a provision of this act or its application to any person or  
42 circumstance is held invalid, the invalidity does not affect other  
43 provisions or applications of the act that can be given effect without the  
44 invalid provision or application, and to this end the provisions of this  
45 act are severable.