

APPLICATION FOR INITIATIVE OR REFERENDUM PETITION SERIAL NUMBER

Secretary of State
1700 W. Washington Street, 7th Floor
Phoenix, AZ 85007

The undersigned intends to circulate and file an INITIATIVE or a REFERENDUM (circle the appropriate word) petition and hereby makes application for the issuance of an official serial number to be printed in the lower right-hand corner of each side of each signature sheet of such petition. Pursuant to Arizona Revised Statutes § 19-111, attached hereto is the full text, in no less than eight point type, of the MEASURE or CONSTITUTIONAL AMENDMENT (circle appropriate word) intended to be INITIATED or REFERRED (circle appropriate word) at the next general election.

SUMMARY: A description of no more than one hundred words of the principal provisions of the proposed law, constitutional amendment or measure that will appear in no less than eight point type on the face of each petition signature sheet to be circulated.

This law will add a new law that will mandate honesty among all public officials and establish a procedure to prosecute public officials who have deceived their constituents or the general public. The law will force all public officials, whether state, local, elected or appointed, to either resign their office or defend criminal charges if the official intentionally, knowingly, recklessly or negligently disseminates false information of a matter of public concern in a public forum. Enforcement will limit prosecutorial discretion and interference from the political process.

X Janice Salerno
Signature of Applicant
JANICE SALERNO
Printed Name of Applicant
4554 W. PARADISE DR.
Address
Glendale, AZ 85304
City State Zip
602-843-9263
Telephone Number

FOX PETITIONS SUPPORTING HONEST OFFICIALS ACT

FOX PETITIONS, LLC
Name of Organization (if any)
5830 W. Thunderbird RD, Ste B8-403
Address
Glendale, AZ 85306-0900
City State Zip

Telephone Number
JANICE Salerno - chairman
Name of Officer and Title
5830 W. Thunderbird RD, Ste B8-403
Address
Glendale, AZ 85306-0900
City State Zip

Telephone Number

Date of Application September 28, 2011
Signatures Required 172,809
Deadline for Filing July 5, 2012
Serial Number Issued I-08-2012
FOR OFFICE USE ONLY

FOX SALERNO - TREASURER
Name of Officer and Title
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Address
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Telephone Number

Revised 11/92

CFID# 201200206

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SECRETARY OF STATE

OFFICIAL TITLE

ADDING CHAPTER 3.3, TITLE 38, ARIZONA REVISED STATUTES, RELATING TO CRIMINAL LIABILITY OF PUBLIC OFFICIALS FOR DISSEMINATING FALSE INFORMATION.

TEXT OF PROPOSED AMENDMENT

Be it enacted by the people of the state of Arizona:

Section 1. Title.

This act may be cited as the "Honest Officials Act."

Section 2. Findings.

The People of Arizona find and declare the following:

Public officials should be models of honesty to their constituents and to the public in general.

Therefore, the purpose of this Act is to mandate honesty among all public officials and to establish a procedure to prosecute public officials who have deceived their constituents or the general public.

Section 3. Chapter 3.3, Title 38, Arizona Revised Statutes, is added to read:

CHAPTER 3.3 STANDARDS FOR TRUTHFUL DISSEMINATION OF INFORMATION
ARTICLE 1 GENERAL PROVISIONS

38-551. APPLICATION OF CHAPTER.

- A. THIS CHAPTER SHALL APPLY TO ALL PUBLIC OFFICERS OF INCORPORATED CITIES OR TOWNS, OF POLITICAL SUBDIVISIONS AND OF THE STATE AND ANY OF ITS DEPARTMENTS, COMMISSIONS, AGENCIES, BODIES OR BOARDS.
- B. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW, OR THE PROVISIONS OF ANY CHARTER OR ORDINANCE OF ANY INCORPORATED CITY OR TOWN TO THE CONTRARY, THE PROVISIONS OF THIS CHAPTER SHALL BE EXCLUSIVELY APPLICABLE TO ALL OFFICERS OF EVERY INCORPORATED CITY OR TOWN OR POLITICAL SUBDIVISION OR THE STATE AND ANY OF ITS DEPARTMENTS, COMMISSIONS, AGENCIES, BODIES OR BOARDS AND SHALL SUPERSEDE THE PROVISIONS OF ANY OTHER SUCH LAW, CHARTER PROVISION OR ORDINANCE.
- C. OTHER PROHIBITIONS IN THE STATE STATUTES AGAINST ANY SPECIFIC MISREPRESENTATIONS SHALL BE IN ADDITION TO THIS ARTICLE IF CONSISTENT WITH THE INTENT AND PROVISIONS OF THIS CHAPTER.

38-552. DEFINITIONS.

1. "PUBLIC AGENCY" MEANS:

- (A) ALL COURTS.
- (B) ANY DEPARTMENT, AGENCY, BOARD, COMMISSION, INSTITUTION, INSTRUMENTALITY OR LEGISLATIVE OR ADMINISTRATIVE BODY OF THE STATE, A COUNTY, AN INCORPORATED TOWN OR CITY AND ANY OTHER POLITICAL SUBDIVISION.
- (C) THE STATE, COUNTY AND INCORPORATED CITIES OR TOWNS AND ANY OTHER POLITICAL SUBDIVISIONS.
3. "PUBLIC OFFICER" MEANS ALL ELECTED AND APPOINTED OFFICERS OF A PUBLIC AGENCY ESTABLISHED BY CHARTER, ORDINANCE, RESOLUTION, STATE CONSTITUTION OR STATUTE.
4. "STATE PUBLIC OFFICER" MEANS A MEMBER OF THE LEGISLATURE AND ANY JUDGE OF THE COURT OF APPEALS OR THE SUPERIOR COURT, OR A PERSON HOLDING AN ELECTIVE OFFICE THE CONSTITUENCY OF WHICH EMBRACES THE ENTIRE GEOGRAPHICAL LIMITS OF THIS STATE. MEMBERS OF CONGRESS ARE NOT STATE PUBLIC OFFICERS AS DEFINED IN THIS PARAGRAPH.

38-553. PROHIBITED ACTS.

- A. A PUBLIC OFFICER SHALL NOT DISSEMINATE FALSE INFORMATION OF A MATTER OF PUBLIC CONCERN IN ANY PUBLIC FORUM.
- B. FOR PURPOSES OF THIS SECTION, "FALSE INFORMATION" MEANS:
- (1) ANY UNTRUE STATEMENT OF MATERIAL FACT, OR OMIT TO STATE ANY MATERIAL FACT NECESSARY IN ORDER TO MAKE THE STATEMENTS MADE, IN THE LIGHT OF THE CIRCUMSTANCES UNDER WHICH THEY WERE MADE, NOT MISLEADING.
- (2) ANY STATEMENT OR PRACTICE WHICH OPERATES OR WOULD OPERATE AS A FRAUD OR DECEIT.

38-554. PENALTIES.

A. A PERSON WHO:

1. INTENTIONALLY OR KNOWINGLY VIOLATES ANY PROVISION OF SECTION 38-553 IS GUILTY OF A CLASS 6 FELONY.
2. RECKLESSLY OR NEGLIGENTLY VIOLATES ANY PROVISION OF SECTION 38-553 IS GUILTY OF A CLASS 1 MISDEMEANOR.
- B. A PERSON WHO IS CONVICTED OF INTENTIONALLY OR KNOWINGLY VIOLATING ANY PROVISION OF SECTION 38-553 SHALL BE SENTENCED TO IMPRISONMENT FOR NOT LESS THAN THE MINIMUM SENTENCE

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AUTHORIZED UNDER TITLE 13, CHAPTER 7, AND IS NOT ELIGIBLE FOR SUSPENSION OF SENTENCE, COMMUTATION OR RELEASE ON ANY BASIS UNTIL THE SENTENCE IMPOSED IS SERVED.

C. A PERSON FOUND GUILTY OF AN OFFENSE DESCRIBED IN SUBSECTION A OF THIS SECTION SHALL FORFEIT HIS PUBLIC OFFICE, IF ANY.

D. IT IS NO DEFENSE TO A PROSECUTION FOR A VIOLATION OF SECTION 38-553 THAT THE PUBLIC OFFICER WAS NOT QUALIFIED OR AUTHORIZED TO DISSEMINATE THE INFORMATION.

E. IT IS NO DEFENSE TO A PROSECUTION FOR A VIOLATION OF SECTION 38-553 THAT THE PUBLIC OFFICER HAS IMMUNITY FROM PROSECUTION UNDER THE COMMON LAW.

F. IF THE PUBLIC OFFICER HAS VOLUNTARILY TERMINATED HIS STATUS AS A PUBLIC OFFICER WITHIN 30 DAYS AFTER BEING THE SUBJECT OF A CRIMINAL CHARGE FOR VIOLATION OF SECTION 38-553, THE CRIMINAL CHARGE SHALL BE DISMISSED WITH PREJUDICE.

G. IF THE PUBLIC OFFICER HAS VOLUNTARILY TERMINATED HIS STATUS AS A PUBLIC OFFICER PRIOR TO BEING THE SUBJECT OF A CRIMINAL CHARGE FOR VIOLATION OF SECTION 38-553, THE PUBLIC OFFICER IS IMMUNE FROM PROSECUTION FOR A VIOLATION OF SECTION 38-553.

38-555. ENFORCEMENT.

A. THE ATTORNEY GENERAL OR THE COUNTY ATTORNEY SHALL ENFORCE THE PROVISIONS OF THIS CHAPTER. AN AUTHORIZED COUNTY PROSECUTOR MAY ASSIST THE ATTORNEY GENERAL OR THE COUNTY ATTORNEY IN DETERMINING WHETHER THE PROVISIONS OF THIS CHAPTER ARE VIOLATED.

B. THE ATTORNEY GENERAL OR COUNTY ATTORNEY SHALL ONLY COMMENCE ENFORCEMENT OF THE PROVISIONS OF THIS CHAPTER IF A PERSON DOMICILED IN THIS STATE FILES A WRITTEN COMPLAINT AND POSTS A TEN-THOUSAND DOLLAR CASH BOND WITH THE COMPLAINT, AND THE ATTORNEY GENERAL OR COUNTY ATTORNEY DETERMINES THAT CLEAR AND CONVINCING EVIDENCE SUPPORTS A VIOLATION OF SECTION 38-553.

C. IF THE COMPLAINT RESULTS IN A CRIMINAL CHARGE, THE CASH BOND SHALL BE RETURNED TO THE COMPLAINANT. IF THE COMPLAINT DOES NOT RESULT IN A CRIMINAL CHARGE, THE CASH BOND SHALL BE FORFEITED AND DEPOSITED WITH THE DEPARTMENT OF EDUCATION.

D. ALL WRITTEN COMPLAINTS SHALL BE INVESTIGATED BY THE ATTORNEY GENERAL OR COUNTY ATTORNEY, AND A DECISION TO PROCEED TO A CRIMINAL CHARGE SHALL BE MADE WITHIN 30 DAYS OF THE SUBMITTAL OF THE COMPLAINT. IF THE DECISION TO PROCEED TO A CRIMINAL CHARGE IS NOT MADE WITHIN 30 DAYS OF SUBMITTAL, THE CASH BOND SHALL BE RETURNED TO THE COMPLAINANT AND THE COMPLAINANT SHALL RECEIVE ONE THOUSAND DOLLARS FOR EACH DAY BEYOND THE 30 DAY PERIOD.

E. IF THE ATTORNEY GENERAL OR COUNTY ATTORNEY DETERMINES THAT CLEAR AND CONVINCING EVIDENCE DOES NOT SUPPORT A VIOLATION OF SECTION 38-553, THE COMPLAINANT CAN INITIATE A LEGAL ACTION IN SUPERIOR COURT WITH THE FILING OF THE WRITTEN COMPLAINT. AFTER A HEARING, THE SUPERIOR COURT SHALL DETERMINE WHETHER CLEAR AND CONVINCING EVIDENCE SUPPORTS A VIOLATION OF SECTION 38-553. THE SUPERIOR COURT SHALL MAKE SUCH DETERMINATION WITHIN 60 DAYS OF THE FILING OF THE WRITTEN COMPLAINT. IF THE SUPERIOR COURT DETERMINES THAT CLEAR AND CONVINCING EVIDENCE SUPPORTS A VIOLATION OF SECTION 38-553, THE ATTORNEY GENERAL OR COUNTY ATTORNEY SHALL COMMENCE ENFORCEMENT OF THE PROVISIONS OF THIS CHAPTER. IF THE SUPERIOR COURT DETERMINES THAT CLEAR AND CONVINCING EVIDENCE DOES NOT SUPPORT A VIOLATION OF SECTION 38-553, THE COMPLAINANT MAY APPEAL THE DETERMINATION AND THE APPELLATE COURT SHALL ISSUE A DECISION ON THE APPEAL WITHIN 60 DAYS, AND THE DECISION SHALL BE FINAL WITH NO FURTHER APPEALS.

F. THE COURT MAY IN ITS DISCRETION ORDER PAYMENT OF COSTS, INCLUDING REASONABLE ATTORNEY'S FEES, TO THE PREVAILING PARTY IN AN ACTION BROUGHT UNDER SUBSECTION E.

G. THE SUPERIOR COURT IN THIS STATE SHALL HAVE JURISDICTION OVER VIOLATIONS OF THIS CHAPTER, EXCEPT ACTIONS OR PROCEEDINGS BROUGHT AGAINST A STATE PUBLIC OFFICER, OVER WHICH THE SUPERIOR COURT IN MARICOPA COUNTY SHALL HAVE EXCLUSIVE JURISDICTION.

H. ANY ACTION AUTHORIZED BY THIS CHAPTER MAY BE BROUGHT IN THE COUNTY IN WHICH THE DEFENDANT IS FOUND, IS AN INHABITANT OR HOLDS PUBLIC OFFICE, OR IN THE COUNTY WHERE THE VIOLATION TOOK PLACE, AND IN SUCH CASES, PROCESS MAY BE SERVED IN ANY OTHER COUNTY IN WHICH THE DEFENDANT IS AN INHABITANT OR IN WHICH THE DEFENDANT IS FOUND.

Section 4. Effective Date.

This act shall be effective upon certification of the secretary of state.

Section 5. Severability.

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