

**DE 97-01 - February 28, 1997**

**Initiative Petition Signatures**  
**§100.371, F.S.; Fla. Admin. Code R. 1S-2.0091.**

*TO: The Honorable Judy Anderson, Supervisor of Elections, Charlotte County, 118 West Olympia Avenue, Court House, Room 120, Punta Gorda, Florida 33950*

*Prepared by: Division of Elections*

This is in response to your request for an advisory opinion regarding the verification of signatures on initiative petitions circulated to amend Florida's Constitution. You are the Supervisor of Elections for Charlotte County and, pursuant to Section 106.23(2), Florida Statutes, the Division has authority to render this opinion to you.

Essentially, you ask, what date to use when verifying initiative petitions- the date the voter signed the petition or the date the petition is received in your office. For the reasons which follow, the answer is that both dates must be used. In other words, in order to be properly verified the petition must be signed by a person who was a registered elector when they affixed their signature to the petition and they must also be a registered elector at the time the petition is received by your office and verified.

The initiative process for amending Florida's Constitution is a matter which both the Legislature and the Secretary of State regulate in order to ensure ballot integrity and a valid elections process. State of Florida ex rel. Citizens Proposition For Tax Relief v. Firestone, 386 So.2d 561 (Fla. 1980). Section 100.371, Florida Statutes and Fla. Admin. Code R. 1S-2.0091, provide the relevant portions of the process.

The aforementioned laws provide that the signature of an elector must be valid and dated when made and remains valid for a period of four years following such date, provided all other requirements of law are complied with. §100.371(2), Fla. Stat. A valid signature means that the person who signed the petition was a registered voter on the date they signed the petition. See, Tacker v. Board of County Commissioners of Polk County, 127 Fla. 248, 170 So. 458 (Fla. 1936). Thus, if a person was not a registered voter on the date they signed the petition, their signature cannot be verified. In addition, upon receipt of an initiative petition, the Supervisor must also verify the signatures to insure that each person signing the petition is a registered elector in that county and that the date the elector signed the petition was not more than four years prior to the date the Supervisor verified the petition. Fla. Admin. Code R. 1S-2.0091(2)(emphasis added).

Therefore, the applicable regulations impose two conditions as to whether a signature on an initiative petition can be properly determined to be the signature of a qualified elector. First, the signature must be that of a person who was a registered voter on the date that they signed the petition. Second, when the petition is received and verified by you, the person signing the petition must presently be registered with your office as an elector of your county. Both conditions must be met. As to the second

condition, we realize that, in rare instances, you may receive a petition and not verify it until a day or more later thereby creating the possibility that the person who signed the petition may cease to become a registered elector in the interim. If such an event occurs, we believe the rule adopted by the court in State ex rel. Peacock v. Latham, 125 Fla. 793, 170 So. 475 (Fla. 1936), with respect to voting, should obtain with respect to verifying signatures.

In Latham, the court was confronted with the issue of whether to count the vote of someone who had voted absentee when, in the interim, the person had died or otherwise become disqualified. Here, the court stated that, if a person dies or is convicted of a felony, his "right of suffrage will cease and his ballot cannot lawfully be cast." Latham, at 480. Similarly, if after receiving a petition and upon verification, you discover that the person signing the petition has been convicted of a felony, died, or become otherwise disqualified to vote, his right to have his signature counted ceases.

In conclusion, in order to properly verify a signature on an initiative petition, two conditions must be met: A person must have been a registered voter on the date they signed the petition and such person must be a registered voter on the day you actually verify the signature. If, upon verification, you discover that the person who appears on your voter rolls has become disqualified, his or her signature cannot be verified.

## **SUMMARY**

In order for a person to have their signature counted on an initiative petition they must have been a registered voter at the time they signed the petition and they must also be registered when the supervisor verifies the signature. If, upon verification, the person who signed the petition has become disqualified as an elector, his or her signature cannot be verified (counted) on the petition.