



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 88- 103

Dale W. Bell
Emporia City Attorney
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Re: Elections--Sufficiency of Petitions--Petition
Documents; Withdrawal of Signature

Synopsis: Under the provisions of subsection (d) of K.S.A. 25-3602, any person who has signed a petition who desires to withdraw his name may do so by giving written notice to the county election officer or other designated official not later than the third day following the date upon which the petition is filed. In our opinion, the written notice of withdrawal is subject to the verification requirement imposed by subsection (c) of K.S.A. 25-3602. Cited herein: K.S.A. 25-3601; 25-3602.

* * *

Dear Mr. Bell:

You request our interpretation of subsection (d) of K.S.A. 25-3602. Specifically, you ask whether the written notice of a person desiring to withdraw his name from a petition is subject to the verification requirement imposed by subsection (c) of K.S.A. 25-3602.

K.S.A. 25-3601, et seq., prescribe requirements relating to the sufficiency of petitions. K.S.A. 25-3602 deals with

the contents of petition documents, with subsections (c) and (d) providing as follows:


"(c) Every petition shall contain, at the end of each set of documents carried by each circulator, a verification, signed by the circulator, to the effect that the circulator personally witnessed the signing of the petition by each person whose name appears thereon. The circulator of a petition shall be duly registered to vote and a resident of the political or taxing subdivision in which the election is sought to be held.

"(d) Any person who has signed a petition who desires to withdraw such person's name may do so by giving written notice to the county election officer or other designated official not later than the third day following the date upon which the petition is filed."

As is apparent from the above-quoted excerpt, the statute is silent as to whether a withdrawal notice (or withdrawal petition) is to be executed with the same formality (i.e. verification) as the original petition. Our research into the legislative history of subsection (d) of K.S.A. 25-3602 provides no guidance as to legislative intent, nor are we aware of any Kansas cases wherein the issue has been raised. However, courts of other states have held that a withdrawal notice (or withdrawal petition) must be executed with the same formality as the original petition. See State v. Sullivan, 224 S.W. 327, 339 (Mo. 1920); Halgren v. Welling, 63 P.2d 550, 556 (Utah 1936). See also Board of Education v. Allen, 615 P.2d 1009, 1014 (Okla. 1980).

In accordance with the above-cited authorities, it is our opinion that a written notice of withdrawal under subsection (d) of K.S.A. 25-3602 is subject to the verification requirement imposed by subsection (c) of the same statute.

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas



Terrence R. Hearshman
Assistant Attorney General