

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
SECOND DIVISION**

Sheila Cole, *et al.*,
Plaintiffs,

vs.

The State of Arkansas, *et al.*,
Defendants.

Case No. CV 2008-14284

**AFFIDAVIT OF JERRY COX IN
SUPPORT OF MOTION TO INTERVENE**

FILED 01/16/2009 16:27:18
Pat O'Brien Pulaski Circuit Clerk
CR1 By _____

State of Arkansas)
) ss:
County of Pulaski)

I, JERRY COX, depose and say as follows:

1. I make this affidavit in support of the Motion to Intervene by Family Council Action Committee (FCAC) and Jerry Cox.

2. I am over the age of majority and base this affidavit upon my personal knowledge and upon matters as to which I am reliably informed.

3. Intervention is sought here because the plaintiffs in this case have challenged the lawfulness of Act 1, a ballot initiative concerning adoption and foster care in the state of Arkansas that was passed by the voters on November 4, 2008, and became effective on January 1, 2009.

4. FCAC is the ballot sponsor of Act 1. Attached is a copy of FCAC's letters to the Secretary of State, filing the initiative petition. (*See Letters to Secretary of State, Exhibit A.*)

5. I am the President of the FCAC, a registered 501(c)(4) organization formed in 1991, and located at 414 S. Pulaski Street, Suite 3, Little Rock, AR 72201.

6. I have been a member and the President of FCAC since its inception.
7. FCAC is a state-wide grassroots organization dedicated to promoting, protecting, and strengthening traditional family values through the political process.
8. FCAC membership is comprised of Arkansas voters who voted to approve Act 1 on November 4, 2008.
9. I am currently a registered voter in the Arkansas county of Pulaski, I was registered to vote in Arkansas for the November 4, 2008 election. I personally supported and worked for the passage of Act 1. I voted to approve Act 1.
10. John Thomas is a member of FCAC. I am reliably informed that he is a registered voter in the Arkansas county of Pulaski, that he was registered to vote in Arkansas for the November 2008 election, and that he voted to approve Act 1 on November 4, 2008.
11. Reg Hamman is a member of FCAC. I am reliably informed that he is a registered voter in the Arkansas county of Pulaski, that he was registered to vote in Arkansas for the November 2008 election, and that he voted to approve Act 1 on November 4, 2008.
12. Ken Carney is a member of FCAC. I am reliably informed that he is a registered voter in the Arkansas county of Garland, that he was registered to vote in Arkansas for the November 2008 election, and that he voted to approve Act 1 on November 4, 2008.
13. Tom Lundstrum is a member of FCAC. I am reliably informed that he is a registered voter in the Arkansas county of Washington, that he was registered to vote in Arkansas for the November 2008 election, and that he voted to approve Act 1 on November 4, 2008.

14. David Purifoy is a member of FCAC. I am reliably informed that he is a registered voter in the Arkansas county of Sebastian, that he was registered to vote in Arkansas for the November 2008 election, and that he voted to approve Act 1 on November 4, 2008.

15. Through Amendment 7 of the Arkansas Constitution, the people reserve to themselves the power to propose legislative initiatives to their fellow voters.

16. In 2007, FCAC, myself, and its members, undertook steps to propose an initiative to Arkansas voters that would preserve the state's policy of placing adoptive and foster care children with single adults or married couples and to prevent the placement of children with unmarried cohabiting couples – that is couples who live together out of wedlock.

17. FCAC drafted the initiative language and submitted it to the state Attorney General for approval in August 2007.

18. The Attorney General approved the language of the proposed ballot initiative on November 7, 2007. (*See* Attorney General Opinion 2007-293 attached as Exhibit B.)

19. At that time, the proposed initiative was known as the Arkansas Adoption and Foster Care Act of 2008.

20. To place it on the ballot for the November 2008 election, FCAC was required to obtain approximately sixty-two thousand signatures from Arkansas voters.

21. FCAC launched the petition campaign to gather the necessary signatures on January 24, 2008. In addition to getting the initiative on the ballot, the campaign sought to actively encourage married couples to adopt children or serve as foster parents.

22. FCAC recruited county coordinators for each Arkansas county to gather the necessary signatures.

23. FCAC and the various county coordinators recruited and organized approximately 2,700 volunteer canvassers to gather signatures from Arkansas voters.

24. FCAC raised and spent approximately \$92,715.90 to raise awareness about the initiative and to gather signatures. (See Ballot Question Committee Report attached at Exhibit C.)

25. Additionally, FCAC produced numerous mailers and pamphlets, coordinator books and other materials to which it lent its name, advocating for the passage of Act 1. (See mailers, pamphlets attached as Exhibit D.)

26. FCAC timely secured approximately ninety-five thousand signatures, and on August 25, 2008, the Secretary of State certified that the necessary signatures were obtained to place the initiative on the ballot. (See certification attached as Exhibit E.)

27. All in all, I estimate that FCAC and its supporters contributed 20,600 man hours to the development and passage of Act 1.

28. On August 25, 2008, the initiative was placed on the ballot for the November 4, 2008, general election as "Act 1."

29. On November 4, 2008, a majority of Arkansas voters approved Act 1, which became effective on January 1, 2009.

30. Act 1 reads in pertinent part:

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ARKANSAS:

Section 1: Adoption and foster care of minors.

(a) A minor may not be adopted or placed in a foster home if the individual seeking to adopt or to serve as a foster parent is cohabiting with a sexual partner outside of a marriage which is valid under the constitution and laws of this state.

(b) The prohibition of this section applies equally to cohabiting opposite-sex and same-sex individuals.

Section 2: Guardianship of minors.

This act will not affect the guardianship of minors.

Section 3: Definition.

As used in this act, "minor" means an individual under the age of eighteen (18) years.

Section 4: Public policy.

The public policy of the state is to favor marriage, as defined by the constitution and laws of this state, over unmarried cohabitation with regard to adoption and foster care.

Section 5: Finding and declaration.

The people of Arkansas find and declare that it is in the best interest of children in need of adoption or foster care to be reared in homes in which adoptive or foster parents are not cohabiting outside of marriage.

Section 6: Regulations.

The Director of the Department of Human Services, or the successor agency or agencies responsible for adoption and foster care, shall promulgate regulations consistent with this act.

Section 7: Prospective application and effective date.

This act applies prospectively beginning on January 1, 2009.

31. Along with other FCAC members and volunteers, I was personally involved in determining the language of the initiative and the petition drive to gather the necessary signatures to put Act 1 on the November 2008 ballot.

32. FCAC and I seek intervention to oppose plaintiffs' complaint, which demands that the initiative ballot title and the initiative itself be declared unconstitutional.

33. If plaintiffs' relief is granted, the rights of the sponsors and supporters of Act 1 to determine public policy by ballot initiative will be nullified and the successful fruits of their time, effort, and resources will be eliminated.

34. But Arkansas Constitution, Amendment 7 and related election laws guarantee the right of private citizens, including myself as a legal Arkansas voter, and the FCAC as the sponsor on behalf of Arkansas voters who worked to place the initiative on the ballot, to present ballot initiatives to the voters.

35. These rights, and the time, effort and resources that were devoted to this end are substantial interests threatened by the plaintiffs' suit to declare Act 1 unconstitutional.

36. In addition, the voters through the ballot initiative sponsor of Act 1, FCAC, have unique rights and responsibilities separate from the ordinary legislative process to determine the public policy of the state through the initiative process. As such, only FCAC and the voters in support of Act 1 can adequately represent those interests. Although the Attorney General is charged with defending the laws, the Attorney General, in doing so, has no duty to represent the private interests of the ballot initiative sponsor and voters who supported Act 1 which are at stake in this litigation.

37. While I do not question the Attorney General's general competence, I am reliably informed that the Attorney General remained opposed to the passage of Act 1. As such he may not make all arguments or execute litigation strategies in defense of Act 1 in the same manner as would the interveners.

38. Likewise, I am reliably informed that the Governor recently expressed his opposition to Act 1 and as such, the other defendants, who serve at the pleasure of the Governor,

may not make all arguments or execute litigation strategies in defense of Act 1 in the same manner as would the interveners.

39. FCAC and I are seeking intervention to defend our rights under Amendment 7 and the election laws to enact initiatives and to present proof and argument on the allegations raised by the plaintiffs regarding the purposes, scope, and constitutionality of Act 1, and, specifically, to present proof and argument that Act 1 is lawful on all counts.

40. FCAC and I have put forth substantial personal and professional effort in getting the consent of the constitutionally required number of Arkansas voters to put Act 1 on the ballot, and the required number of voters to approve Act 1.

41. FCAC and I undertook many actions to comply with the election law, petition the voters, and align multiple political interests to bring about the successful placement of Act 1 on the ballot, and to persuade the voters to approve it.

42. If nullified, the political chemistry achieved and the effort expended to put Act 1 on the ballot and have it approved cannot be mechanically reproduced.

43. If Act 1 is declared unconstitutional it may very well hurt the FCAC in its span of influence and support it currently receives.

44. I am reliably informed by my attorney that the Attorney General will not oppose the intervenors' intervention in this case.

45. The protection of these rights involves questions of law and fact which are common to this main action because the validity of Act 1 will be decided in this action.

46. I respectfully request that the Motion to Intervene be granted.

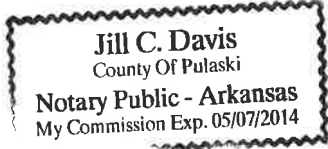
State of Arkansas)
)
County of Pulaski)

Jerry Cox 

SWORN TO AND SUBSCRIBED BEFORE ME ON this 16 day of January, 2009

Notary Public: Jill C. Davis

My Commission Expires: 5/7/2014.



Benjamin W. Bull, AZ Bar No. 009940 (*Of Counsel*)
Brian W. Raum, NY Bar No. 2856102 (*Of Counsel*)
Byron J. Babione, AZ Bar No. 024320*
Alliance Defense Fund
15100 N. 90th Street
Scottsdale, AZ 85260
(480) 444-0020
(480) 444-0028 Fax

Martha Adcock
Family Council
414 S. Pulaski, Suite 2
Little Rock, AR 72201
(501) 375 7000
(501) 375-7040 Fax
Local Counsel

Attorneys for Intervenors
Family Council Action Committee and Jerry Cox
**Pro hac vice pending*

EXHIBIT A



July 7, 2008

The Honorable Charlie Daniels
Secretary of State
State Capitol
Little Rock, AR 72201

Re: Submission of Signatures for the Arkansas Adoption and Foster Care Act

Dear Secretary Daniels,

It is my privilege, as the sponsor of the "Arkansas Adoption and Foster Care Act," to present 65,899 signatures on 7,022 petitions for your review. Enclosed you will find a spreadsheet indicating the number of signatures from each county and the number of petitions from each county. There is a second spreadsheet with the percentage of signatures based on the number of votes from the 2006 general election.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry Cox", written in a cursive style.

Jerry Cox
President

Enclosures

FILED

JUL - 7 2008

CHARLIE DANIELS
SECRETARY OF STATE

BY

A handwritten signature in black ink, appearing to read "K. McQueen", written in a cursive style.



Family Council
Action
Committee

FILED

AUG 21 2008

August 21, 2008

CHARLIE DANIELS
SECRETARY OF STATE

The Honorable Charlie Daniels
Secretary of State
State Capitol
Little Rock, AR 72201

Re: Supplemental Filing of Signatures for the Arkansas Adoption and Foster Care Act

Dear Secretary Daniels,

It is my privilege, as the sponsor of the "Arkansas Adoption and Foster Care Act," to present a supplemental filing of petition signatures for your review. Enclosed you will find a spreadsheet indicating the number of supplemental signatures from each county and the number of supplemental petitions for each county.

The total number of supplemental signatures is 31,012 on 3,868 petitions.

In the original review process, you rejected some petitions and we have had the opportunity to make some of those petitions "more definite and certain." Thus, we are resubmitting for your consideration 1,148 signatures on 137 petitions that were submitted in July and subsequently rejected. Those numbers are in ADDITION to the 31,012 supplemental signatures on 3,868 petitions.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

Jerry Cox
President

County of Pulaski

State of Arkansas

Acknowledged before me on August 21, 2008.



Jill C. Davis
Notary Public

My commission expires: 05-07-2014

EXHIBIT B

Opinion No. 2007-293

November 7, 2007

Mr. Robert S. Shafer, Esquire
Friday, Eldredge & Clark
2000 Regions Center
400 West Capitol Avenue
Little Rock, Arkansas 72201-3522

Dear Mr. Shafer:

This is in response to your request for certification, pursuant to A.C.A. § 7-9-107 (Repl. 2000), of the popular name and ballot title for a proposed initiated act. You have previously submitted similar measures, one of which was rejected due to lack of an enacting clause in the proposed act and problems with the submitted popular name and ballot title. *See* Op. Att’y Gen. No. 2007-248. On October 4, 2007, this office certified a popular name and ballot title for a similar measure, as evidenced by Op. Att’y Gen. No. 2007-266. You have since elected to make changes to your measure and have submitted a revised popular name and ballot title for my certification. Your proposed popular name and ballot title are as follows:

Popular Name

AN ACT PROVIDING THAT AN INDIVIDUAL WHO IS
COHABITING OUTSIDE OF A VALID MARRIAGE MAY NOT ADOPT OR
BE A FOSTER PARENT OF A CHILD LESS THAN EIGHTEEN YEARS OLD

Ballot Title

A PROPOSED ACT PROVIDING THAT A MINOR MAY NOT
BE ADOPTED OR PLACED IN A FOSTER HOME IF THE
INDIVIDUAL SEEKING TO ADOPT OR TO SERVE AS A
FOSTER PARENT IS COHABITING WITH A SEXUAL

PARTNER OUTSIDE OF A MARRIAGE WHICH IS VALID UNDER THE CONSTITUTION AND LAWS OF THIS STATE; STATING THAT THE FOREGOING PROHIBITION APPLIES EQUALLY TO COHABITING OPPOSITE-SEX AND SAME-SEX INDIVIDUALS; STATING THAT THE ACT WILL NOT AFFECT THE GUARDIANSHIP OF MINORS; DEFINING "MINOR" TO MEAN AN INDIVIDUAL UNDER THE AGE OF EIGHTEEN (18) YEARS; STATING THAT THE PUBLIC POLICY OF THE STATE IS TO FAVOR MARRIAGE, AS DEFINED BY THE CONSTITUTION AND LAWS OF THIS STATE, OVER UNMARRIED COHABITATION WITH REGARD TO ADOPTION AND FOSTER CARE; FINDING AND DECLARING ON BEHALF OF THE PEOPLE OF THE STATE THAT IT IS IN THE BEST INTEREST OF CHILDREN IN NEED OF ADOPTION OR FOSTER CARE TO BE REARED IN HOMES IN WHICH ADOPTIVE OR FOSTER PARENTS ARE NOT COHABITING OUTSIDE OF MARRIAGE; PROVIDING THAT THE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES SHALL PROMULGATE REGULATIONS CONSISTENT WITH THE ACT; AND PROVIDING THAT THE ACT APPLIES PROSPECTIVELY BEGINNING ON JANUARY 1, 2009

The Attorney General is required, pursuant to A.C.A. § 7-9-107, to certify the popular name and ballot title of all proposed initiative and referendum acts or amendments before the petitions are circulated for signature. The law provides that the Attorney General may substitute and certify a more suitable and correct popular name and ballot title, if he can do so, or if the proposed popular name and ballot title are sufficiently misleading, may reject the entire petition. **Neither certification nor rejection of a popular name and ballot title reflects my view of the merits of the proposal. This Office has been given no authority to consider the merits of any measure.**

In this regard, A.C.A. § 7-9-107 neither requires nor authorizes this office to make legal determinations concerning the merits of the act or amendment, or concerning the likelihood that it will accomplish its stated objective. In addition, following Arkansas Supreme Court precedent, this office will not address the constitutionality of proposed measures in the context of a ballot title review unless

the measure is “clearly contrary to law.” *Kurrus v. Priest*, 342 Ark. 434, 29 S.W.3d, 669 (2000); *Donovan v. Priest*, 326 Ark. 353, 931 S.W.2d 119 (1996); and *Plugge v. McCuen*, 310 Ark. 654, 841 S.W.2d 139 (1992). Consequently, this review has been limited to a determination, pursuant to the guidelines that have been set forth by the Arkansas Supreme Court, discussed below, of whether the proposed popular name and ballot title accurately and impartially summarize the provisions of your proposed amendment or act.

The purpose of my review and certification is to ensure that the popular name and ballot title honestly, intelligibly, and fairly set forth the purpose of the proposed amendment or act. See *Arkansas Women’s Political Caucus v. Riviere*, 283 Ark. 463, 466, 677 S.W.2d 846 (1984).

The popular name is primarily a useful legislative device. *Pafford v. Hall*, 217 Ark. 734, 233 S.W.2d 72 (1950). It need not contain detailed information or include exceptions that might be required of a ballot title, but it must not be misleading or give partisan coloring to the merit of the proposal. *Chaney v. Bryant*, 259 Ark. 294, 532 S.W.2d 741 (1976); *Moore v. Hall*, 229 Ark. 411, 316 S.W.2d 207 (1958). The popular name is to be considered together with the ballot title in determining the ballot title’s sufficiency. *Id.*

The ballot title must include an impartial summary of the proposed amendment or act that will give the voter a fair understanding of the issues presented. *Hoban v. Hall*, 229 Ark. 416, 417, 316 S.W.2d 185 (1958); *Becker v. Riviere*, 270 Ark. 219, 223, 226, 604 S.W.2d 555 (1980). According to the court, if information omitted from the ballot title is an “essential fact which would give the voter serious ground for reflection, it must be disclosed.” *Bailey v. McCuen*, 318 Ark. 277, 285, 884 S.W.2d 938 (1994), citing *Finn v. McCuen*, 303 Ark. 418, 798 S.W.2d 34 (1990); *Gaines v. McCuen*, 296 Ark. 513, 758 S.W.2d 403 (1988); *Hoban v. Hall, supra*; and *Walton v. McDonald*, 192 Ark. 1155, 97 S.W.2d 81 (1936). At the same time, however, a ballot title must be brief and concise (*see* A.C.A. § 7-9-107(b)); otherwise voters could run afoul of A.C.A. § 7-5-522’s five minute limit in voting booths when other voters are waiting in line. *Bailey v. McCuen, supra*. The ballot title is not required to be perfect, nor is it reasonable to expect the title to cover or anticipate every possible legal argument the proposed measure might evoke. *Plugge v. McCuen*, 310 Ark. 654, 841 S.W.2d 139 (1992). The title, however, must be free from any misleading tendency, whether by amplification, omission,

or fallacy; it must not be tinged with partisan coloring. *Id.* A ballot title must convey an intelligible idea of the scope and significance of a proposed change in the law. *Christian Civic Action Committee v. McCuen*, 318 Ark. 241, 884 S.W.2d 605 (1994). It has been stated that the ballot title must be: 1) intelligible, 2) honest, and 3) impartial. *Becker v. McCuen*, 303 Ark. 482, 798 S.W.2d 71 (1990), citing *Leigh v. Hall*, 232 Ark. 558, 339 S.W.2d 104 (1960).

Having analyzed your proposed initiated act, as well as your proposed popular name and ballot title under the above precepts, it is my conclusion that they should be certified as submitted.

I note, however, that you have essentially reinserted and summarized in your ballot title, the last of the four subsections of the “findings” language that I found objectionable in Op. Att’y Gen. 2007-248. In that Opinion, I rejected your submission under A.C.A. § 7-9-107(c) due to the lack of an enacting clause and, among other things, noted that it was improper to summarize four separate subsections of what I termed “preamble” language in your proposed ballot title, especially where the language might be viewed as lending partisan coloring to the merits of the proposal.¹ In Opinion 2007-248, I concluded, in balancing the interests of full disclosure to the voter against the potential for partisan coloring, that “on balance” the previous more expansive preamble language should not be included in the ballot title for your measure.

After I certified a popular name and ballot title for a revised measure you submitted (see Op. Att’y Gen. 2007-266), you have now elected to revise your measure again, to, among other things, add current Section 5 to the text of your measure, which provides that: “The people of Arkansas find and declare that it is in the best interest of children in need of adoption or foster care to be reared in homes in which adoptive or foster parents are not cohabiting outside of marriage.” You have summarized this language in your proposed ballot title.

Although there is a potential for “findings” and “declarations” language in initiated measures, and thus ballot titles, to impermissibly veer into the realm of

¹ In that opinion, I could not simply substitute a different ballot title under A.C.A. § 7-9-107(b) omitting this language in light of the absence of an enacting clause from your measure, which created an ambiguity as to your measure’s effectiveness.

argument in support of a measure, mere recitations of purpose or declarations of the impetus for the law may not transgress this principle. *Cf., e.g., California Gillnetters Association v. Department of Fish and Game*, 39 Cal.App.4th 1145, 46 Cal.Rptr.2d 338 (1995) (it was not improper for appellants' two-paragraph prefatory "findings and declaration" section to be included as part of the text of the measure in a ballot pamphlet); and *State ex rel. Berry v. Superior Court in and for Thurston County*, 159 P. 92 (Wash. 1916) (enjoining preparing and printing of petitions for an initiated act containing preamble language that was "polemic," "*argumentum ad hominem*" and "pure argument," but noting the possible acceptability of preamble language amounting to "mere recital[s] . . . of the declared mischiefs to be remedied" and "proper declarations of purpose").

Although I rejected the inclusion of the more expanded "findings" language in a ballot title for your measure in Opinion 2007-248, I do not find the same degree of partisanship or *ad hominem* argumentative content with regard to the more abbreviated language of your current Section 5. It asks the people of this State to make a blanket, conclusory "Finding and declaration" concerning the best interests of children. Although this portion of your measure seeks a vote on a factual assertion, I do not view it as impermissibly lending partisan coloring to your proposal. *See, e.g., May v. Daniels*, 359 Ark. 100, 194 S.W.3d 771 (2004) (upholding popular name "An Amendment Concerning Marriage" as nonpartisan where "[i]t merely alert[ed] voters to the subject on which they w[ould] be voting, without attempting to influence them one way or the other" and stating that the term "marriage" did not evoke the same type of emotional reaction as the phrase "unborn child").

It appears that the language of Section 5, if adopted, may be akin to a non-self-executing policy expression, similar to Section 4 of your measure.² *See, e.g., Knowlton v. Ward*, 318 Ark. 867, 889 S.W.2d 721 (1994) (provision of Amendment 68 to the effect that "[t]he policy of this state is to protect the life of every unborn child from conception until birth. . ." merely expresses the public policy of the state, but does not itself provide any means by which the policy is to be effectuated and therefore cannot be considered self-executing). *Cf. also Sutherland's on Statutory Construction*, § 20:12 (Sixth Ed. 2002) (stating that

² Section 4 of your measure states that "The public policy of the state is to favor marriage, as defined by the constitution and laws of this state, over unmarried cohabitation with regard to adoption and foster care."

Mr. Robert S. Shafer, Esq.
Opinion No. 2007-293
Page 6

“[t]he declaration of policy like the preamble is not part of the substantive portion of the statute”).

The effect of Section 5, therefore, may not add appreciably to the substance of Section 1(a) of your measure, which unambiguously prohibits the conduct Section 5 finds to be outside the best interests of children. Because it has not yet been adopted, however, it is impossible to state the ultimate effect of Section 5, or to determine to what extent its provisions could give voters “serious ground for reflection” in deciding whether to approve your measure. *See Bailey v. McCuen, supra*. In exercising my discretion in determining whether to substitute a different ballot title for your measure under A.C.A. § 7-9-107(b), I must weigh, among other things, the potential for any material omissions in the title against the risks of including any language that could be considered partisan or misleading. *See generally* Op. Att’y Gen. 2007-248. I cannot state, as I found in Opinion 2007-248, that “on balance” the risks of partisanship outweigh the risks of failing to include a summation of the language of Section 5 in your ballot title. I thus conclude that your submitted popular name and ballot title should be certified as submitted.

Pursuant to A.C.A. § 7-9-108, instructions to canvassers and signers must precede every petition, informing them of the privileges granted by the Constitution and of the penalties imposed for violations of this act. Enclosed herewith, over the signature of the Attorney General, are instructions that should be incorporated in your petition prior to circulation.

Sincerely,

DUSTIN McDANIEL
Attorney General

DM:cyh

Enclosures

EXHIBIT C

BALLOT QUESTION COMMITTEE FINANCIAL REPORT

To be filed with:
Arkansas Ethics Commission
Post Office Box 1917
Little Rock, AR 72203
Phone (501) 324-9600
Fax (501) 324-9606

(Arkansas Ethics Commission File Stamp)



Adoption & Foster Care Issue

Check if this report is an amendment to a previously filed report

1. NAME OF COMMITTEE (IN FULL) Family Council Action Committee	2. TYPE OF REPORT <input type="checkbox"/> Monthly Report (due 15 days after end of month) <input type="checkbox"/> Preelection Report (due 7 days before election)* <input type="checkbox"/> Final Report (due 30 days after election)
ADDRESS 414 S. Pulaski, Suite 3	*NOTE: Preelection report must be <i>received</i> by the Ethics Commission on or before due date.
CITY, STATE AND ZIP CODE Little Rock, AR 72201	
TELEPHONE NUMBER 501 375 7000	

This report covers period: (10 - 26 - 08) through (12 - 01 - 08)

SUMMARY	FOR REPORTING PERIOD	CUMULATIVE TOTALS
3. BALANCE OF FUNDS AT BEGINNING OF REPORTING PERIOD	\$ 5,446.09	
4. TOTAL MONETARY CONTRIBUTIONS RECEIVED DURING REPORTING PERIOD	\$ 6,655.00	\$92,800.68
5. TOTAL EXPENDITURES MADE DURING REPORTING PERIOD	\$- 12,016.31	\$92,715.90
6. BALANCE OF FUNDS AT CLOSE OF REPORTING PERIOD	\$ 84.78	

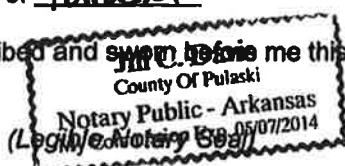
7. () **NO ACTIVITY** Check if you have not received or made any contributions during this reporting period.
If you have no activity, file the first page of this report only.

I certify under oath that I have examined this report and to the best of my knowledge and belief the information so disclosed is a complete, true, and accurate financial statement.

Signature of Ballot Question Committee Officer

State of Arkansas
County of Pulaski } ss

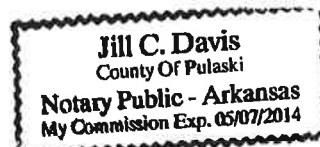
Subscribed and sworn before me this 4th day of December, 2008



Signature of Notary Public

My Commission Expires 05-07-2014

Revised 07/07



8. LOAN INFORMATION
Please Type or Print
Do Not List Loans Previously Reported

Date	Name and Address of Lender	Amount
	NONE	
	9. TOTAL LOANS THIS REPORT	

ITEMIZED MONETARY CONTRIBUTIONS RECEIVED BY COMMITTEE OF \$50 OR MORE
Please Type or Print

Date of Receipt	Name of Contributor	Street Address of Contributor	Amount of Contribution	Cumulative Total from this Contributor
11. TOTAL ITEMIZED MONETARY CONTRIBUTIONS OF \$50 OR MORE				\$ 6,208.00
12. TOTAL UNITEMIZED MONETARY CONTRIBUTIONS				\$ 447.00
13. TOTAL MONETARY CONTRIBUTIONS THIS REPORT (Includes totals from lines 9, 11, and 12)				\$ 6,655.00

Date of Receipt	Organization	First Name	Last Name	Address	Contribution Amount	Cumulative Total from Contributor
10/27/2008		Debbie	Kitchens	871 Parsons Rel New Hope, AR 71959	\$ 50.00	\$ 50.00
10/27/2008		James and Linda	Little	265 Mountain Aire Drive Heber Springs, AR 72543-9045	\$ 25.00	\$ 50.00
10/27/2008	Lyle's Construction Inc.	Joyce	Kammeyer	511 Elmore Road Cabot, AR 72023-9513	\$ 50.00	\$ 75.00
10/27/2008		Ronald and Roberta	Huisman	26 S. Pego Way Hot Springs Village, AR 71909-2803	\$ 30.00	\$ 90.00
10/27/2008	First Free Will Baptist Church			1101 Brooks St. Batesville, AR 72501-3301	\$ 100.00	\$ 100.00
10/27/2008		Mr. and Mrs. E.J.	Alexander	1511 N. Jackson Russellville, AR 72801-3203	\$ 50.00	\$ 100.00
10/27/2008		Jenny	Allen	PO Box 1618 Crossett, AR 71635	\$ 50.00	\$ 100.00
10/27/2008		Michael	Carson	114 Jason Lane Hot Springs, AR 71913-8123	\$ 100.00	\$ 100.00
10/27/2008		Randall and Roxanne	Coe	6170 Harrison St. Batesville, AR 72501	\$ 15.00	\$ 125.00
10/27/2008		Dr. Bill and Drew	Terry	315 Autumnridge Cir. Hot Springs, AR 71901	\$ 75.00	\$ 375.00
10/27/2008		David and Sally	Smith	663 Camp Story Rd. Jessieville, AR 71949-9370	\$ 300.00	\$ 1,000.00
10/28/2008	Trinity Baptist Church			1601 E. Moore St. Searcy, AR 72143	\$ 50.00	\$ 50.00
10/28/2008		Dr. and Mrs Henry B.	Rogers	11 Bella View Dr Little Rock, AR 72212-2791	\$ 25.00	\$ 50.00
10/28/2008		Nolan	Brisco	11160 Erbie Cutoff Rd. Harrison, AR 72601-5098	\$ 25.00	\$ 50.00
10/28/2008		Ralph and Eleanor	Murphy	138 Second Street Biggers, AR 72413-0165	\$ 50.00	\$ 65.00
10/28/2008		Lydia	Stevens	51 Stevens Dr. Bonnerdale, AR 71933-8032	\$ 50.00	\$ 75.00
10/28/2008		Bernyce M.	Anderson	4102 Fairway Dr. Springdale, AR 72764-1013	\$ 25.00	\$ 75.00
10/28/2008		Dan and Lorraine	Christen	PO Box 2478 Mountain View, AR 72560-2478	\$ 50.00	\$ 75.00
10/28/2008		Mr. & Mrs. Charles	Hartsfield	2912 Dallas Drive Fort Smith, AR 72901-6932	\$ 50.00	\$ 80.00
10/28/2008		Jeff and Sheila	McCarthy	PO Box 484 Pottsville, AR 72858-0484	\$ 43.00	\$ 93.00
10/28/2008		Virginia	Ball	541 Whippoorwill Rd Magnolia, AR 71753-8429	\$ 75.00	\$ 100.00

10/28/2008		Elizabeth	Sanchez	603 Cornell St. Bentonville, AR 72712	\$ 100.00	\$ 100.00
10/28/2008		Betty	Richardson	819 Florida St. Walnut Ridge, AR 72476	\$ 100.00	\$ 100.00
10/28/2008		Kay	Williams	PO Box 803 Paragould, AR 72451-0803	\$ 500.00	\$ 500.00
10/28/2008	Ouachita Baptist Association			1201 College Drive Mena, AR 71953	\$ 750.00	\$ 750.00
10/29/2008		William and Jane	Gresham	1335 CR 3350 Clarksville, AR 72830-8164	\$ 30.00	\$ 50.00
10/29/2008	Cleburn County Baptist Church			1111 South 6th Street Heber Springs, AR 72543	\$ 50.00	\$ 50.00
10/29/2008	First Baptist Church			PO Box 220 Centerion, AR 72719-0220	\$ 50.00	\$ 50.00
10/29/2008		Howard	Latimer	378 Melrose Rd Lockesburg, AR 71846-9421	\$ 75.00	\$ 75.00
10/29/2008		Dan and April	Tyree	PO Box 35 Elizabeth, AR 72531-0035	\$ 50.00	\$ 110.00
10/29/2008		Vincent	Guest	PO Box 1437 Wynne, AR 72396-1437	\$ 250.00	\$ 250.00
10/29/2008		John	Hickel	118 Pleasant Hill Rd. De Queen, AR 71832	\$ 125.00	\$ 325.00
10/29/2008		Lynne	Kamerman	9 Woodcrust Searcy, AR 72143	\$ 100.00	\$ 425.00
10/29/2008		Charley and Denise	Grosse	195 Shalom Lane Mena, AR 71953-4469	\$ 750.00	\$ 750.00
10/30/2008		Harlene	Morgan	2667 Ouachita Road 3 Camden, AR 71701-9200	\$ 50.00	\$ 50.00
10/30/2008		Mike and Laura	Peterson	2611 Janet Drive Benton, AR 72015-2669	\$ 50.00	\$ 50.00
10/30/2008		Myron	Calhoun	1152 Avalon Rd. Star City, AR 71667	\$ 100.00	\$ 200.00
10/31/2008	Immanuel Baptist Church			2409 Mount Holly Road Camden, AR 71701	\$ 50.00	\$ 50.00
10/31/2008	Immanuel Southern Baptist Church			PO Box 435 Salem, AR 72576-9042	\$ 50.00	\$ 50.00
10/31/2008		Marsha Rowe	McCarver	404 A Ouachita 16 Chidester, AR 71726-8111	\$ 50.00	\$ 60.00
10/31/2008		Butch and Gina	Floyd	28 Greenview Circle Sherwood, AR 72120	\$ 25.00	\$ 100.00
10/31/2008		Robert and Margaret	Barrett	12208 Madison 3605 Kingston, AR 72742-9210	\$ 50.00	\$ 100.00
10/31/2008		Asa and Susan	Hutchinson	206 Cambridge Place Drive Little Rock, AR 72227-2100	\$ 250.00	\$ 250.00
10/31/2008	First Baptist Church	Dr. Gary	Buckner	PO Box 2455 Batesville, AR 72503-2455	\$ 300.00	\$ 700.00

11/3/2008	Mrs. Janice	Taylor	611 Sherer St. Sherwood, AR 72120-3349	\$ 25.00	\$ 50.00
11/3/2008	David and Christy	Lehenbauer	11905 Oakhills Drive Bentonville, AR 72712-8783	\$ 25.00	\$ 50.00
11/3/2008	Donna	Johnson	Rt 4, Box 139B Camden, AR 71701-9305	\$ 10.00	\$ 50.00
11/3/2008	John and Norma Ellis	Cutler	5875 Prairie View Rd Harrison, AR 72601	\$ 120.00	\$ 120.00
11/4/2008	Waymon and Christine	Holt	751 N County Rd. 49 Manila, AR 72442	\$ 20.00	\$ 60.00
11/4/2008	Allen	Brooks	PO Box 791 Mountain View, AR 72560-0791	\$ 25.00	\$ 100.00
11/4/2008	Ann	Marshall	320 Melwood Hot Springs, AR 71901	\$ 100.00	\$ 100.00
11/4/2008	Roger and Karen	Pritchett	9808 Vinson Ct Little Rock, AR 72205	\$ 20.00	\$ 115.00
11/4/2008	John and Frances	Buercklin	12 Valley Rd. Cabot, AR 72023-2022	\$ 25.00	\$ 125.00
11/4/2008	Lucille	Phillips	PO Box 343 Mount Ida, AR 71957-0343	\$ 25.00	\$ 125.00
11/4/2008	Evelyn	Lancaster	2540 T. J. Drive Conway, AR 72034	\$ 25.00	\$ 165.00
11/4/2008	Chester	Sirois	1709 Heern Dr. Jonesboro, AR 72401	\$ 50.00	\$ 250.00
11/4/2008	Michael and Barbara	Eliason	2 Chalamont Ct. Little Rock, AR 72223-5513	\$ 50.00	\$ 250.00
11/4/2008	Ruth	Heggen	24 Aracena Lane Hot Springs Village, AR 71909-5059	\$ 35.00	\$ 255.00
11/5/2008	Nellie	Henderson	412 N. 4th St. Prattville, AR 72129-9034	\$ 25.00	\$ 75.00
11/5/2008	Dale D.	Henderson	800 Henryetta St. Apt 1G Springdale, AR 72762-5171	\$ 50.00	\$ 100.00
11/5/2008	Mark	Gibson	104 Woodside Lane Rogers, AR 72756	\$ 50.00	\$ 125.00
11/5/2008	Mrs. John	Greenwood	6710 Azalea Dr. Little Rock, AR 72209-4565	\$ 25.00	\$ 175.00
11/5/2008	Sal and Janeice	Pappalardo	10014 Kinrade Cove Jacksonville, AR 72076-2183	\$ 200.00	\$ 500.00
11/6/2008	Charles	Gillham	1414 Old Bear Rd. Royal, AR 71968-8745	\$ 10.00	\$ 70.00
11/6/2008	Steve and Lin	Willettts	4971 Marion County 7001 Flippin, AR 72634-9548	\$ 25.00	\$ 75.00
11/6/2008	Mr. and Mrs. Daniel	Brock	8180 Top Flite Cir. Rogers, AR 72756-8014	\$ 25.00	\$ 215.00
11/6/2008	Larry and DeAnn	Tate	5425 Ridgefield Lane Little Rock, AR 72223	\$ 50.00	\$ 475.00

14. NONMONEY CONTRIBUTIONS RECEIVED BY COMMITTEE

Estimated Fair Market Value If Over \$50
(Does not include volunteer services by individuals)

Date of Receipt	Name of Contributor	Street Address of Contributor	Description and Value of Nonmoney Item	Cumulative Total from this Contributor
10/27/08	Focus on the Family	8605 Explorer Drive, Colorado Springs, CO	CitizenLink Article \$62.26	\$9,099.77
15. TOTAL ITEMIZED NONMONEY CONTRIBUTIONS OF \$50 OR MORE				\$ 62.26
16. TOTAL NONITEMIZED NONMONEY CONTRIBUTIONS				\$ -0-
17. TOTAL NONMONEY CONTRIBUTIONS THIS REPORT (Includes totals from lines 15 and 16)				\$ 62.26

IMPORTANT

In addition to monetary contributions, committees should report the receipt of any nonmoney ("in-kind") contributions. A committee receives an in-kind contribution whenever a person provides the committee with an item or service without charge or for a charge that is less than the fair market value of the item or service in question.

Date	Name of Person To Whom Expenditure was Made	Street Address	Amount of Expenditure	Purpose of Expenditure
10/27/2008	Federal Express	1121 S Spring St. Little Rock, AR 72202	\$396.76	Ship materials for Adoption Act
10/28/2008	East Arkansas Broadcasters	PO Box 1737, Jonesboro, AR 72403	\$499.00	Adoption Act Radio Ads
10/29/2008	Bennett Davis	PO Box 26415, Little Rock, AR 72221	\$500.00	Design and layout of Adoption Newspaper Ads
10/30/2008	United States Postal Office	600 East Capitol, Little Rock, AR 72202	\$1,134.00	Adoption Mail out
10/31/2008	IRS		\$418.07	Federal Withholding Taxes
10/31/2008	Pitney Bowes	PO Box 856042, Louisville, KY 40285-6042	\$738.41	Adoption Mailings
11/3/2008	Arkansas Newspaper Clipping Service	PO Box 873, Columbia, MO 65205	\$285.25	Clipping service for Adoption Act
11/3/2008	David Cox	501 Napa Valley Dr. Apt. 723, Little Rock, AR 72211	\$921.74	Salary
11/3/2008	Federal Express	1121 S Spring St. Little Rock, AR 72202	\$531.95	Ship materials for Adoption Act
11/3/2008	Tara Caldwell	5201 Fairway #33, North Little Rock, AR 72116	\$668.04	Salary
11/6/2008	Holiday Inn Presidential	600 I-30, Little Rock, AR 72202	\$384.93	Room Rental for Watch Party - Adoption Part
11/10/2008	DataMax	7400 Kanis Rd, Little Rock, AR 72204	\$343.42	Copies - Adoption
11/10/2008	Jerry Cox	20 Nob Hill, Little Rock, AR 72205	\$227.74	Refund Jerry for Adoption travel expenses
11/10/2008	Twin City Printing	PO Box 15368, North Little Rock, AR 72231	\$1,018.96	Printing of round two for Adoption flyers

Date	Name of Person To Whom Expenditure was Made	Street Address	Amount of Expenditure	Purpose of Expenditure
11/12/2008	Commercial Mail Service	200 N. Cross Street, Little Rock, AR 72201	\$506.89	Adoption Mail Out
11/13/2008	David Cox	501 Napa Valley Dr. Apt. 723, Little Rock, AR 72211	\$921.74	Salary
11/30/2008	Arkansas Department of Finance and Administration	100 Main Street, Little Rock, AR 72201	\$112.39	State Withholding Taxes
11/30/2008	IRS		\$663.41	Federal Withholding Taxes
12/1/2008	David Cox	501 Napa Valley Dr. Apt. 723, Little Rock, AR 72211	\$921.74	Salary
12/1/2008	IRS		\$214.22	Federal Withholding Taxes
12/1/2008	Arkansas Newspaper Clipping Service	PO Box 873. Columbia, MO 65205	\$233.63	Clipping service for Adoption Act
			\$11,642.29	TOTAL

EXHIBIT D

May 2, 2008



Dear County Coordinators and Volunteers,

We have gathered 21,000 of the 100,000 signatures we need to gather in order to place the Arkansas Adoption and Foster Care Act on the ballot.

We have set two more deadlines for turning in signatures:

May 28: Deadline for turning in signatures gathered at polling places and churches during the month of May.

June 30: Final deadline for all signatures.

State law requires that we turn all signatures in to the Secretary of State by 5 p.m. on July 7, 2008. We must gather a minimum of 61,974 valid signatures in order to place the act on the ballot this November, but we need to gather approximately 100,000 signatures to ensure that we have enough valid signatures after they are checked.

Some counties are close to reaching their signature goal, but none have reached it yet. Some counties are a long way from reaching their goal. I am writing to ask every county coordinator and every volunteer to begin organizing volunteers to cover polling places on May 20th. Please let us know if you will not be able to organize people to gather signatures at polling places. In 2004, we gathered over 50,000 signatures at the polls in one day. With every county working, I believe we can gather enough signatures on May 20th to put us over the top.

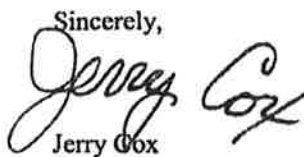
If your county is close to reaching its goal, I hope you will cover the polls and gather more than your goal. If you are a long way from reaching your goal, I hope you will do all you can do to increase your signature total.

Here are some suggestions on organizing poll workers.

1. Find a precinct captain to cover each polling place in your county (start with the largest precincts and work your way down as far as you can go)
2. Ask each precinct captain to recruit enough poll workers to cover the polling place all day long on Tuesday, May 20.
3. Supply each precinct captain with petitions, rules for gathering signatures, instructions for poll workers, and other supplies for their poll workers. Precinct captains will pass the material on to their poll workers.
4. Gather signed and notarized petitions from your precinct captains and send them to us by June 30th.

This is a critical time for our petition drive. If we can be successful in gathering signatures at polling places on May 20th, we will be on our way to putting this measure on the ballot. If we are not successful in gathering signatures at polling places, it will be difficult for us to have the necessary signatures to place the Arkansas Adoption and Foster Care Act on the ballot.

Thank you so much for your help. We will be in touch with you by phone to talk about how to get all this done.

Sincerely,

Jerry Cox
President

WHO WILL CARE FOR THE

Orphan?



Pure religion and undefiled before God and the Father is this, To visit the fatherless and widows in their affliction, and to keep himself unspotted from the world.
James 1:27 KJV



SUPPORT THE
**ARKANSAS ADOPTION
& FOSTER CARE ACT**
SIGN THE PETITION HERE

***CONSIDER ADOPTION *GET FOSTER TRAINING
WWW.ArkansasAdoptionAct.COM**

EXHIBIT E

STATE OF ARKANSAS

SECRETARY OF STATE



Certification

Attorney General Opinion No. 2007-293

I, Charlie Daniels, Secretary of State, State of Arkansas, do hereby certify that the petition submitted for the proposal of

An Act Providing That An Individual Who is Cohabiting Outside Of A Valid Marriage May Not Adopt Or Be A Foster Parent Of A Child Less Than Eighteen Years Old

Has met the signature requirements as established by Amendment 7 of the Arkansas Constitution in order to place the Proposed Initiative on the Arkansas General Election Ballot on November 4, 2008.

In Witness Whereof, I have hereunto set my hand and affixed the official seal of my office on this the 25th day of August, 2008.



Charlie Daniels
Arkansas Secretary of State

Date: August 25, 2008