

REFERENCE TITLE: ballot measures; recall petitions; notarization

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SB 1430

Introduced by
Senator Gallardo

AN ACT

AMENDING SECTIONS 19-112, 19-121.01, 19-121.02, 19-121.04, 19-122, 19-127,
19-205 AND 19-208.02, ARIZONA REVISED STATUTES; RELATING TO INITIATIVE,
REFERENDUM AND RECALL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 19-112, Arizona Revised Statutes, is amended to
3 read:

4 19-112. Signatures and verification; attachment; registration
5 of circulators

6 A. Every qualified elector signing a petition shall do so in the
7 presence of the person who is circulating the petition and who is to execute
8 the ~~affidavit~~ STATEMENT of verification. At the time of signing, the
9 qualified elector shall sign his first and last names in the spaces provided
10 and the elector so signing shall print his first and last names and write, in
11 the appropriate spaces following the signature, the signer's residence
12 address, giving street and number, and if he has no street address, a
13 description of his residence location. The elector so signing shall write,
14 in the appropriate spaces following the elector's address, the date on which
15 the elector signed the petition.

16 B. The signature sheets shall be attached at all times during
17 circulation to a full and correct copy of the title and text of the measure
18 or constitutional amendment proposed or referred by the petition. The title
19 and text shall be in at least eight point type and shall include both the
20 original and the amended text. The text shall indicate material deleted, if
21 any, by printing the material with a line drawn through the center of the
22 letters of the material and shall indicate material added or new material by
23 printing the letters of the material in capital letters.

24 C. The person before whom the signatures, names and addresses were
25 written on the signature sheet shall, on the ~~affidavit~~ form PRESCRIBED
26 pursuant to this section, ~~subscribe and swear before a notary public~~ STATE
27 that each of the names on the sheet was signed and the name and address were
28 printed by the elector and the circulator on the date indicated, and that in
29 his belief each signer was a qualified elector of a certain county of the
30 state, or, in the case of a city, town or county measure, of the city, town
31 or county affected by the measure on the date indicated, and that at all
32 times during circulation of the signature sheet a copy of the title and text
33 was attached to the signature sheet. Circulators who are not residents of
34 this state must be registered as circulators with the secretary of state
35 before circulating petitions. The secretary of state shall provide for a
36 method of receiving service of process for those petition circulators who
37 register pursuant to this subsection. The secretary of state shall establish
38 in the instructions and procedures manual issued pursuant to section 16-452 a
39 procedure for registering circulators and receiving service of process. All
40 signatures of petitioners on a signature sheet shall be those of qualified
41 electors who are registered to vote in the same county. However, if
42 signatures from more than one county appear on the same signature sheet, only
43 the valid signatures from the same county that are most numerous on the
44 signature sheet shall be counted. Signature and handwriting comparisons may
45 be made.

1 D. The ~~affidavit~~ STATEMENT shall be in the following form printed on
2 the reverse side of each signature sheet:

3 Affidavit STATEMENT of Circulator

4 ~~State of Arizona~~)
5 _____) ss.:
6 ~~County of _____~~)
7 ~~(Where notarized)~~

8 I, (print name), a person who is not required to be a
9 resident of this state but who is otherwise qualified to
10 register to vote in the county of _____, in the state of
11 Arizona at all times during my circulation of this petition
12 sheet, and under the penalty of a class 1 misdemeanor, ~~depose~~
13 ~~and~~ say that subject to section 19-115, Arizona Revised
14 Statutes, each individual printed the individual's own name and
15 address and signed this sheet of the foregoing petition in my
16 presence on the date indicated and I believe that each signer's
17 name and residence address or post office address are correctly
18 stated and that each signer is a qualified elector of the state
19 of Arizona (or in the case of a city, town or county measure, of
20 the city, town or county affected by the measure proposed to be
21 initiated or referred to the people) and that at all times
22 during circulation of this signature sheet a copy of the title
23 and text was attached to the signature sheet.

24 (Signature of ~~affiant~~ CIRCULATOR) _____
25 (Residence address, street
26 and number of ~~affiant~~ CIRCULATOR,
27 or if no street address, a
28 description of residence
29 location) _____
30 ~~Subscribed and sworn to before me on~~ _____.
31 (date)

32 _____
33 ~~Notary Public~~
34 _____, Arizona.
35 ~~My commission expires on~~ _____.
36 (date)

37 E. The eight point type required by subsection B OF THIS SECTION shall
38 not apply to maps, charts or other graphics.

1 Sec. 2. Section 19-121.01, Arizona Revised Statutes, is amended to
2 read:

3 19-121.01. Secretary of state; removal of petition and
4 ineligible signatures; facsimile sheets; random
5 sample

6 A. Within twenty days, excluding Saturdays, Sundays and other legal
7 holidays, of the date of filing of an initiative or referendum petition and
8 issuance of the receipt, the secretary of state shall:

9 1. Remove the following:

10 (a) Those sheets not attached to a copy of the title and text of the
11 measure.

12 (b) The copy of the title and text from the remaining petition sheets.

13 (c) Those sheets not bearing the petition serial number in the lower
14 right-hand corner of each side.

15 (d) Those sheets containing a circulator's ~~affidavit~~ STATEMENT that is
16 not completed or signed.

17 ~~(e) Those sheets on which the affidavit of the circulator is not~~
18 ~~notarized, the notary's signature is missing, the notary's commission has~~
19 ~~expired or the notary's seal is not affixed.~~

20 ~~(f)~~ (e) Those sheets on which the signatures of the circulator ~~or the~~
21 ~~notary~~ are dated earlier than the dates on which the electors signed the face
22 of the petition sheet.

23 ~~(g)~~ (f) Beginning after November 2, 2010, those sheets that are
24 circulated by a circulator who is prohibited from participating in any
25 election, initiative, referendum or recall campaign pursuant to section
26 19-119.01.

27 2. After completing the steps in paragraph 1 of this subsection,
28 review each sheet to determine the county of the majority of the signers and
29 shall:

30 (a) Place a three or four letter abbreviation designating that county
31 in the upper right-hand corner of the face of the petition.

32 (b) Remove all signatures of those not in the county of the majority
33 on each sheet by marking an "SS" in red ink in the margin to the right of the
34 signature line.

35 (c) Cause all signature sheets to be grouped together by county of
36 registration of the majority of those signing and attach them to one or more
37 copies of the title and text of the measure. If the sheets are too bulky for
38 convenient grouping by the secretary of state in one volume by county, they
39 may be bound in two or more volumes with those in each volume attached to a
40 single printed copy of the measure. The remaining detached copies of the
41 title and text of the measure shall be delivered to the applicant.

42 3. After completing the steps in paragraph 2 of this subsection,
43 remove the following signatures that are not eligible for verification by
44 marking an "SS" in red ink in the margin to the right of the signature line:

45 (a) If the signature of the qualified elector is missing.

- 1 (b) If the residence address or the description of residence location
2 is missing.
- 3 (c) If the date on which the petitioner signed is missing.
- 4 (d) Signatures in excess of the fifteen signatures permitted per
5 petition.
- 6 (e) Signatures withdrawn pursuant to section 19-113.
- 7 (f) Beginning after November 2, 2010, signatures for which the
8 secretary of state determines that the petition circulator has printed the
9 elector's first and last names or other information in violation of section
10 19-112.
- 11 4. After the removal of petition sheets and signatures, count the
12 number of signatures for verification on the remaining petition sheets and
13 note that number in the upper right-hand corner of the face of each petition
14 sheet immediately above the county designation.
- 15 5. Number the remaining petition sheets that were not previously
16 removed and that contain signatures eligible for verification in consecutive
17 order on the front side of each petition sheet in the upper left-hand corner.
- 18 6. Count all remaining petition sheets and signatures not previously
19 removed and issue a receipt to the applicant of this total number eligible
20 for verification.
- 21 B. If the total number of signatures for verification as determined
22 pursuant to subsection A, paragraph 6 of this section equals or exceeds the
23 constitutional minimum, the secretary of state, during the same twenty day
24 period provided in subsection A of this section, shall select, at random,
25 five per cent of the total signatures eligible for verification by the county
26 recorders of the counties in which the persons signing the petition claim to
27 be qualified electors. The random sample of signatures to be verified shall
28 be drawn in such a manner that every signature eligible for verification has
29 an equal chance of being included in the sample. The random sample produced
30 shall identify each signature selected by petition page and line number. The
31 signatures selected shall be marked according to the following procedure:
- 32 1. Using red ink, mark the selected signature by circling the line
33 number and drawing a line from the base of the circle extending into the left
34 margin.
- 35 2. If a signature line selected for the random sample is found to be
36 blank or was removed from the verification process pursuant to subsection A
37 of this section and is marked with an "SS", then the next line down, even if
38 that requires going to the next petition sheet in sequence, on which an
39 eligible signature appears shall be selected as a substitute if that line has
40 not already been selected for the random sample. If the next eligible line
41 is already being used in the random sample, the secretary of state shall
42 proceed back up the page from the signature line originally selected for the
43 random sample to the next previous signature line eligible for verification.
44 If that line is already being used in the random sample, the secretary of
45 state shall continue moving down the page or to the next page from the line

1 originally selected for the random sample and shall select the next eligible
2 signature as its substitute for the random sample. The secretary of state
3 shall use this process of alternately moving forward and backward until a
4 signature eligible for verification and not already included in the random
5 sample can be selected and substituted.

6 C. After the selection of the random sample and the marking of the
7 signatures selected on the original petition sheets pursuant to subsection B
8 of this section, the secretary of state shall reproduce a facsimile of the
9 front of each signature sheet on which a signature included in the random
10 sample appears. The secretary of state shall clearly identify those
11 signatures marked for verification by color highlighting or other similar
12 method and shall transmit by personal delivery or certified mail to each
13 county recorder a facsimile sheet of each signature sheet on which a
14 signature appears of any individual who claims to be a qualified elector of
15 that county and whose signature was selected for verification as part of the
16 random sample.

17 D. The secretary of state shall retain incustody all signature sheets
18 removed pursuant to this section except as otherwise prescribed in this
19 title.

20 Sec. 3. Section 19-121.02, Arizona Revised Statutes, is amended to
21 read:

22 19-121.02. Certification by county recorder

23 A. Within fifteen days, excluding Saturdays, Sundays and other legal
24 holidays, after receiving the facsimile signature sheets from the secretary
25 of state pursuant to section 19-121.01, the county recorder shall determine
26 which signatures of individuals whose names were transmitted shall be
27 disqualified for any of the following reasons:

28 1. No residence address or description of residence location is
29 provided.

30 2. No date of signing is provided.

31 3. The signature is illegible and the signer is otherwise
32 unidentifiable.

33 4. The address provided is illegible or nonexistent.

34 5. The individual was not a qualified elector on the date of signing
35 the petition.

36 6. The individual was a registered voter but was not at least eighteen
37 years of age on the date of signing the petition or ~~affidavit~~ STATEMENT.

38 7. The signature was disqualified after comparison with the signature
39 on the affidavit of registration.

40 8. If a petitioner signed more than once, all but one otherwise valid
41 signature shall be disqualified.

42 9. For the same reasons any signatures or entire petition sheets could
43 have been removed by the secretary of state pursuant to section 19-121.01,
44 subsection A, paragraph 3.

1 B. Within the same time period provided in subsection A of this
2 section, the county recorder shall certify to the secretary of state the
3 following:

4 1. The name of any individual whose signature was included in the
5 random sample and disqualified by the county recorder together with the
6 petition page and line number of the disqualified signature.

7 2. The total number of signatures selected for the random sample and
8 transmitted to the county recorder for verification and the total number of
9 random sample signatures disqualified.

10 C. The secretary of state shall prescribe the form of the county
11 recorder's certification.

12 D. At the time of the certification, the county recorder shall:

13 1. Return the facsimile signature sheets to the secretary of state.

14 2. Send notice of the results of the certification by mail to the
15 person or organization that submitted the initiative or referendum petitions
16 and to the secretary of state.

17 Sec. 4. Section 19-121.04, Arizona Revised Statutes, is amended to
18 read:

19 19-121.04. Disposition of petitions by secretary of state

20 A. Within seventy-two hours, excluding Saturdays, Sundays and other
21 legal holidays, after receipt of the facsimile signature sheets and the
22 certification of each county recorder, the secretary of state shall determine
23 the total number of valid signatures by subtracting from the total number of
24 eligible signatures determined pursuant to section 19-121.01, subsection A,
25 paragraph 6 in the following order:

26 1. All signatures on petitions containing a defective circulator's
27 ~~affidavit~~ STATEMENT.

28 2. All signatures that were found ineligible by the county recorders
29 and that were not subtracted pursuant to paragraph 1 of this subsection.

30 3. After determining the percentage of all signatures found to be
31 invalid in the random sample, a like percentage from those signatures
32 remaining after the subtractions performed pursuant to paragraphs 1 and 2 of
33 this subsection.

34 B. If the actual number of signatures on the remaining sheets after
35 any such subtraction equals or exceeds the minimum number required by the
36 constitution or if the number of valid signatures as projected from the
37 random sample pursuant to subsection A of this section is at least one
38 hundred per cent of the minimum number required by the constitution, the
39 secretary of state shall issue the following receipt to the person or
40 organization that submitted them:

41 _____ signature pages bearing _____
42 signatures for initiative (referendum) petition serial number
43 _____ have been refused for filing in this office because the
44 person circulating them was a county recorder or justice of the
45 peace at the time of circulating the petition or due to defects

1 in the circulator's ~~affidavit~~ STATEMENT. A total of
 2 _____ signatures included on the remaining petition
 3 sheets were found to be ineligible. Of the total random sample
 4 of _____ signatures, a total of _____ signatures
 5 were invalidated by the county recorders resulting in a failure
 6 rate of _____ per cent. The actual number of remaining
 7 signatures for such initiative (referendum) petition number
 8 _____ are equal to or in excess of the minimum required by
 9 the constitution to place a measure on the general election
 10 ballot. The number of valid signatures filed with this
 11 petition, based on the random sample, appears to be at least one
 12 hundred ~~five~~ per cent of the minimum required or through
 13 examination of each signature has been certified to be greater
 14 than the minimum required by the constitution.

15 Date: _____

16 Secretary of State
 17 (Seal)

18 The secretary of state shall then forthwith notify the governor that a
 19 sufficient number of signatures has been filed and that the initiative or
 20 referendum shall be placed on the ballot in the manner provided by law.

21 C. If the number of valid signatures as projected from the random
 22 sample is less than one hundred per cent of the minimum number required by
 23 the constitution or if the actual number of signatures on the remaining
 24 sheets after any such subtraction from the random sample or after
 25 certification fails to equal or exceed the minimum required by the
 26 constitution, the secretary of state shall immediately return the original
 27 signature sheets, in the form filed by him under section 19-121, to the
 28 person or organization that submitted them, together with a certified
 29 statement that, for the following reasons, the petition lacks the minimum
 30 number of signatures to place it on the general election ballot:

31 1. Signature sheets bearing secretary of state page
 32 numbers _____ and bearing signatures of _____
 33 persons appeared on petitions containing a defective
 34 circulator's ~~affidavit~~ STATEMENT.

35 2. A total of _____ signatures on the remaining petition
 36 sheets were found to be ineligible.

37 3. A total of _____ signatures included in the
 38 random sample have been certified by the county recorders as
 39 ineligible at the time such petition was signed and a projection
 40 from such random sample has indicated that _____ more
 41 signatures are ineligible to appear on the petition.

42 A facsimile of the certifications of the county recorders under section
 43 19-121.02 shall accompany the signature sheets returned to the person or
 44 organization that submitted them.

1 Sec. 5. Section 19-122, Arizona Revised Statutes, is amended to read:
2 19-122. Refusal of secretary of state to file petition or
3 transmit facsimiles of signature sheets or statements
4 of circulators; writ of mandamus; venue

5 A. If the secretary of state refuses to accept and file a petition for
6 the initiative or referendum, or proposal for a constitutional amendment that
7 has been presented within the time prescribed, or if the secretary of state
8 refuses to transmit the facsimiles of a signature sheet or sheets or
9 ~~affidavits~~ STATEMENTS of circulators to the county recorders for
10 certification under section 19-121.01, the secretary of state shall provide
11 the person who submitted the petition, proposal, signature sheet or ~~affidavit~~
12 STATEMENT with a written statement of the reason for the refusal. Within
13 five calendar days after the refusal any citizen may apply to the superior
14 court for a writ of mandamus to compel the secretary of state to file the
15 petition or proposal or transmit the facsimiles, or the citizen may file a
16 complaint with the county attorney or attorney general. The county attorney
17 or attorney general may apply, within five calendar days after the complaint
18 is made, to the superior court for a writ of mandamus to compel the secretary
19 of state to file the petition or proposal or transmit the facsimiles. The
20 action shall be advanced on the calendar and heard and decided by the court
21 as soon as possible. Either party may appeal to the supreme court within
22 five calendar days after judgment. If the court finds that the petition is
23 legally sufficient, the secretary of state shall then file it, with a
24 certified copy of the judgment attached as of the date on which it was
25 originally offered for filing in the secretary of state's office.

26 B. The most current version of the general county register statewide
27 voter registration database at the time of filing a court action challenging
28 an initiative or referendum petition shall constitute the official record to
29 be used to determine on a prima facie basis by the challenger that the signer
30 of a petition was not registered to vote at the address given on the date of
31 signing the petition. If the address of the signer given on the date of
32 signing the petition is different from that on the most current version of
33 the general county register, the county recorder shall examine the version of
34 the general county register that was current on the date the signer signed
35 the petition to determine the validity of the signature and to determine
36 whether the person was eligible to sign the petition at the time of
37 signing. This subsection does not preclude introducing into evidence a
38 certified copy of the affidavit of registration of any signer dated prior to
39 the signing of the petition if the affidavit is in the possession of the
40 county recorder but has not yet been filed in the general county register.

41 C. Notwithstanding section 19-121.04, if any petition filed is not
42 legally sufficient, the court, in an action brought by any citizen, may
43 enjoin the secretary or other officers from certifying or printing on the
44 official ballot for the ensuing election the amendment or measure proposed or
45 referred. The action shall be advanced on the calendar and heard and decided

1 by the court as soon as possible. Either party may appeal to the supreme
2 court within five days after judgment.

3 D. The superior court in Maricopa county shall have jurisdiction of
4 actions relating to measures and amendments to be submitted to the electors
5 of the state at large. With respect to actions relating to local and special
6 measures, the superior court in the county, or in one of the counties, in
7 which the measures are to be voted on shall have jurisdiction.

8 Sec. 6. Section 19-127, Arizona Revised Statutes, is amended to read:
9 19-127. Preservation and publication of approved measures

10 A. If a measure or proposed constitutional amendment, at the ensuing
11 election, is approved by the people, the preserved copies with the sheets,
12 signatures, STATEMENTS and affidavits, and a certified copy of the governor's
13 proclamation declaring them to have been approved by the people, shall be
14 bound together in such form that they may be conveniently identified and
15 preserved.

16 B. The secretary of state shall cause every measure or constitutional
17 amendment submitted under the initiative and approved by the people to be
18 printed with the general laws enacted by the next ensuing session of the
19 legislature, with the date of the governor's proclamation declaring them to
20 have been approved by the people.

21 Sec. 7. Section 19-205, Arizona Revised Statutes, is amended to read:
22 19-205. Signatures and verification

23 A. Every qualified elector signing a petition for a recall election
24 shall do so in the presence of the person who is circulating the petition and
25 who is to execute the ~~affidavit~~ STATEMENT of verification on the reverse side
26 of the signature sheet. At the time of signing, the qualified elector shall
27 sign and print his first and last name and the elector so signing shall
28 write, in the appropriate spaces following the signature, his residence
29 address, giving street and number or, if the elector has no street address, a
30 description of his residence location, and the date on which he signed the
31 petition.

32 B. The person before whom the signatures were written on the signature
33 sheet shall in ~~an affidavit subscribed and sworn to by him before a notary~~
34 ~~public~~ A STATEMENT verify that each of the names on the sheet was signed in
35 his presence on the date indicated, and that in his belief each signer was a
36 qualified elector of the election district on the date indicated in which
37 such recall election will be conducted. All signatures of petitioners on a
38 signature sheet shall be those of qualified electors who are registered to
39 vote in the same county. ~~However,~~ If signatures from more than one county
40 appear on the same signature sheet, only the valid signatures from the same
41 county which are most numerous on the signature sheet shall be counted. In
42 the absence of a legible signature, the name as it is printed shall be the
43 name used to determine the validity of the signature.

1 C. The ~~affidavit~~ STATEMENT OF CIRCULATOR shall be in the form
2 prescribed for initiative and referendum. In addition it shall also require
3 a statement by the circulator that the circulator believes that the
4 circulator is qualified to register to vote and all signers thereof are
5 qualified to vote in the recall election.

6 Sec. 8. Section 19-208.02, Arizona Revised Statutes, is amended to
7 read:

8 19-208.02. Certification by county recorder

9 A. Within sixty days after receipt of the signature sheets from the
10 receiving officer, the county recorder shall determine the number of
11 signatures or ~~affidavits~~ STATEMENTS of individuals whose names were
12 transmitted that must be disqualified for any of the reasons set forth in
13 section 19-121.02, subsection A, and the county recorder shall certify such
14 number to the receiving officer in the form prescribed by the secretary of
15 state.

16 B. At the time of such certification, the county recorder shall:

17 1. Return the original signature sheets to the receiving officer,
18 obtaining a dated, signed receipt therefor.

19 2. Send notice of the results of certification by mail to the person
20 or organization that submitted the recall petitions and to the secretary of
21 state.