

REFERENCE TITLE: initiative; referendum; notary requirement

State of Arizona  
Senate  
Fifty-second Legislature  
First Regular Session  
2015

## **SB 1365**

Introduced by  
Senator Quezada; Representative Andrade

AN ACT

AMENDING SECTIONS 19-101, 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 19-101, Arizona Revised Statutes, is amended to  
3 read:

4 19-101. Referendum petition; circulators; violation;  
5 classification

6 A. The following shall be the form for referring to the people by  
7 referendum petition a measure or item, section or part of a measure enacted  
8 by the legislature, or by the legislative body of an incorporated city, town  
9 or county:

10 Referendum Description

11 (Insert a description of no more than one hundred words of the  
12 principal provisions of the measure sought to be referred.)

13 Notice: This is only a description of the measure sought to be  
14 referred prepared by the sponsor of the measure. It may not include every  
15 provision contained in the measure. Before signing, make sure the title and  
16 text of the measure are attached. You have the right to read or examine the  
17 title and text before signing.

18 Petition for Referendum

19 To the secretary of state (or to the corresponding officer  
20 for or on local, county, city or town measures):

21 We, the undersigned citizens and qualified electors of the state  
22 of Arizona, respectfully order that the senate (or house) bill  
23 No. \_\_\_\_ (or other local, county, city or town measure) entitled  
24 (title of act or ordinance, and if the petition is against less  
25 than the whole act or ordinance then set forth here the item,  
26 section, or part, of any measure on which the referendum is  
27 used), passed by the \_\_\_\_\_ session of the  
28 legislature of the state of Arizona, at the general (or special,  
29 as the case may be) session of said legislature, (or by a  
30 county, city or town legislative body) shall be referred to a  
31 vote of the qualified electors of the state, (county, city or  
32 town) for their approval or rejection at the next regular  
33 general election (or county, city or town election) and each for  
34 himself says:

35 I have personally signed this petition with my first and  
36 last names. I have not signed any other petition for the same  
37 measure. I am a qualified elector of the state of Arizona,  
38 county of (or city or town and county of, as the case may be)  
39 \_\_\_\_\_.

40 "Warning

41 It is a class 1 misdemeanor for any person to knowingly  
42 sign an initiative or referendum petition with a name other than  
43 his own, except in a circumstance where he signs for a person,  
44 in the presence of and at the specific request of such person,  
45 who is incapable of signing his own name because of physical  
46 infirmity, or to knowingly sign his name more than once for the

1 same measure, or to knowingly sign such petition when he is not  
2 a qualified elector."

3	Signature	Name	Actual	Arizona	City or	Date
4		(first and	address	post office	town	signed
5		last name	(street &	address	(if any)	
6		printed)	no. and if	& zip		
7			no street	code		
8			address,			
9			describe			
10			residence			
11			location)			

12 (Fifteen lines for signatures which shall be numbered)

13 The validity of signatures on this sheet must be sworn to  
14 by the circulator ~~before a notary public~~ on the form appearing  
15 on the back of the sheet.

16 Number \_\_\_\_\_

17 B. Each petition sheet shall have printed on the top of each sheet the  
18 following:

19 "It is unlawful to sign this petition before it has a  
20 serial number."

21 C. Each petition sheet shall have printed in capital letters in no  
22 less than twelve point bold-faced type in the upper right-hand corner of the  
23 face of the petition sheet and below the statement prescribed in subsection B  
24 of this section the following:

25 "\_\_\_\_\_ paid circulator" "\_\_\_\_\_ volunteer".

26 D. A circulator of a referendum petition shall state whether he is a  
27 paid circulator or volunteer by checking the appropriate line on the petition  
28 form before circulating the petition for signatures.

29 E. Signatures obtained on referendum petitions in violation of  
30 subsection D of this section are void and shall not be counted in determining  
31 the legal sufficiency of the petition. The presence of signatures that are  
32 invalidated under this subsection on a petition does not invalidate other  
33 signatures on the petition that were obtained as prescribed by this section.

34 Sec. 2. Section 19-112, Arizona Revised Statutes, is amended to read:

35 19-112. Signatures and verification; attachment; circulator  
36 statement

37 A. Every qualified elector signing a petition shall do so in the  
38 presence of the person who is circulating the petition and who is to execute  
39 the ~~affidavit~~ STATEMENT of verification. At the time of signing, the  
40 qualified elector shall sign his first and last names in the spaces provided  
41 and the elector so signing shall print his first and last names and write, in  
42 the appropriate spaces following the signature, the signer's residence  
43 address, giving street and number, and if he has no street address, a  
44 description of his residence location. The elector so signing shall write,  
45 in the appropriate spaces following the elector's address, the date on which  
46 the elector signed the petition.



1 (Signature of ~~affiant~~ CIRCULATOR) \_\_\_\_\_  
2 (Residence address, street  
3 and number of affiant, or  
4 if no street address, a  
5 description of residence  
6 location) \_\_\_\_\_  
7 \_\_\_\_\_

8 ~~Subscribed and sworn to before me on~~ \_\_\_\_\_  
9 (date)

10 \_\_\_\_\_  
11 Notary Public  
12 \_\_\_\_\_, Arizona.

13 ~~My commission expires on~~ \_\_\_\_\_  
14 (date)

15 E. The eight-point type required by subsection B of this section ~~shall~~  
16 DOES not apply to maps, charts or other graphics.

17 Sec. 3. Section 19-121.01, Arizona Revised Statutes, is amended to  
18 read:

19 19-121.01. Secretary of state; removal of petition and  
20 ineligible signatures; facsimile sheets; random  
21 sample

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

25 1. Remove the following:

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

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

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

31 (d) Those sheets containing a circulator's ~~affidavit~~ STATEMENT OF  
32 VERIFICATION that is not completed or signed.

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

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

39 ~~(g)~~ (f) Those sheets that are circulated by a circulator who is  
40 prohibited from participating in any election, initiative, referendum or  
41 recall campaign pursuant to section 19-119.01.

42 ~~(h)~~ (g) For statewide ballot measures only, those sheets on which the  
43 circulator is required to be registered with the secretary of state pursuant  
44 to section 19-118 and the circulator is not properly registered.

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

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

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

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

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

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

20           (b) If the residence address or the description of residence location  
21 is missing.

22           (c) If the date on which the petitioner signed is missing.

23           (d) Signatures in excess of the fifteen signatures permitted per  
24 petition.

25           (e) Signatures withdrawn pursuant to section 19-113.

26           (f) Signatures for which the secretary of state determines that the  
27 petition circulator has printed the elector's first and last names or other  
28 information in violation of section 19-112.

29           4. After the removal of petition sheets and signatures, count the  
30 number of signatures for verification on the remaining petition sheets and  
31 note that number in the upper right-hand corner of the face of each petition  
32 sheet immediately above the county designation.

33           5. Number the remaining petition sheets that were not previously  
34 removed and that contain signatures eligible for verification in consecutive  
35 order on the front side of each petition sheet in the upper left-hand corner.

36           6. Count all remaining petition sheets and signatures not previously  
37 removed and issue a receipt to the applicant of this total number eligible  
38 for verification.

39           B. If the total number of signatures for verification as determined  
40 pursuant to subsection A, paragraph 6 of this section equals or exceeds the  
41 constitutional minimum, the secretary of state, during the same twenty day  
42 period provided in subsection A of this section, shall select, at random,  
43 five ~~per-cent~~ PERCENT of the total signatures eligible for verification by  
44 the county recorders of the counties in which the persons signing the  
45 petition claim to be qualified electors. The random sample of signatures to  
46 be verified shall be drawn in such a manner that every signature eligible for

1 verification has an equal chance of being included in the sample. The random  
2 sample produced shall identify each signature selected by petition page and  
3 line number. The signatures selected shall be marked according to the  
4 following procedure:

5 1. Using red ink, mark the selected signature by circling the line  
6 number and drawing a line from the base of the circle extending into the left  
7 margin.

8 2. If a signature line selected for the random sample is found to be  
9 blank or was removed from the verification process pursuant to subsection A  
10 of this section and is marked with an "SS", then the next line down, even if  
11 that requires going to the next petition sheet in sequence, on which an  
12 eligible signature appears shall be selected as a substitute if that line has  
13 not already been selected for the random sample. If the next eligible line  
14 is already being used in the random sample, the secretary of state shall  
15 proceed back up the page from the signature line originally selected for the  
16 random sample to the next previous signature line eligible for verification.  
17 If that line is already being used in the random sample, the secretary of  
18 state shall continue moving down the page or to the next page from the line  
19 originally selected for the random sample and shall select the next eligible  
20 signature as its substitute for the random sample. The secretary of state  
21 shall use this process of alternately moving forward and backward until a  
22 signature eligible for verification and not already included in the random  
23 sample can be selected and substituted.

24 C. After the selection of the random sample and the marking of the  
25 signatures selected on the original petition sheets pursuant to subsection B  
26 of this section, the secretary of state shall reproduce a facsimile of the  
27 front of each signature sheet on which a signature included in the random  
28 sample appears. The secretary of state shall clearly identify those  
29 signatures marked for verification by color highlighting or other similar  
30 method and shall transmit by personal delivery or certified mail to each  
31 county recorder a facsimile sheet of each signature sheet on which a  
32 signature appears of any individual who claims to be a qualified elector of  
33 that county and whose signature was selected for verification as part of the  
34 random sample.

35 D. The secretary of state shall retain in custody all signature sheets  
36 removed pursuant to this section except as otherwise prescribed in this  
37 title.

38 Sec. 4. Section 19-121.02, Arizona Revised Statutes, is amended to  
39 read:

40 19-121.02. Certification by county recorder

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

- 1           1. No residence address or description of residence location is  
2 provided.
- 3           2. No date of signing is provided.
- 4           3. The signature is illegible and the signer is otherwise  
5 unidentifiable.
- 6           4. The address provided is illegible or nonexistent.
- 7           5. The individual was not a qualified elector on the date of signing  
8 the petition.
- 9           6. The individual was a registered voter but was not at least eighteen  
10 years of age on the date of signing the petition or ~~affidavit~~ STATEMENT OF  
11 VERIFICATION.
- 12           7. The signature was disqualified after comparison with the signature  
13 on the ~~affidavit of registration~~ STATEMENT OF VERIFICATION.
- 14           8. If a petitioner signed more than once, all but one otherwise valid  
15 signature shall be disqualified.
- 16           9. For the same reasons any signatures or entire petition sheets could  
17 have been removed by the secretary of state pursuant to section 19-121.01,  
18 subsection A, paragraph 3.
- 19           B. Within the same time period provided in subsection A of this  
20 section, the county recorder shall certify to the secretary of state the  
21 following:
- 22           1. The name of any individual whose signature was included in the  
23 random sample and disqualified by the county recorder together with the  
24 petition page and line number of the disqualified signature.
- 25           2. The total number of signatures selected for the random sample and  
26 transmitted to the county recorder for verification and the total number of  
27 random sample signatures disqualified.
- 28           C. The secretary of state shall prescribe the form of the county  
29 recorder's certification.
- 30           D. At the time of the certification, the county recorder shall:
- 31           1. Return the facsimile signature sheets to the secretary of state.
- 32           2. Send notice of the results of the certification by mail to the  
33 person or organization that submitted the initiative or referendum petitions  
34 and to the secretary of state.
- 35           Sec. 5. Section 19-121.04, Arizona Revised Statutes, is amended to  
36 read:
- 37           19-121.04. Disposition of petitions by secretary of state
- 38           A. Within seventy-two hours, excluding Saturdays, Sundays and other  
39 legal holidays, after receipt of the facsimile signature sheets and the  
40 certification of each county recorder, the secretary of state shall determine  
41 the total number of valid signatures by subtracting from the total number of  
42 eligible signatures determined pursuant to section 19-121.01, subsection A,  
43 paragraph 6 in the following order:
- 44           1. All signatures on petitions containing a defective circulator's  
45 ~~affidavit~~ STATEMENT OF VERIFICATION.



1 person or organization that submitted them, together with a certified  
2 statement that, for the following reasons, the petition lacks the minimum  
3 number of signatures to place it on the general election ballot:

4 1. Signature sheets bearing secretary of state page  
5 numbers \_\_\_\_\_ and bearing signatures of \_\_\_\_\_  
6 persons appeared on petitions containing a defective  
7 circulator's ~~affidavit~~ STATEMENT OF VERIFICATION.

8 2. A total of \_\_\_\_\_ signatures on the remaining  
9 petition sheets were found to be ineligible.

10 3. A total of \_\_\_\_\_ signatures included in the  
11 random sample have been certified by the county recorders as  
12 ineligible at the time such petition was signed and a projection  
13 from such random sample has indicated that \_\_\_\_\_ more  
14 signatures are ineligible to appear on the petition.

15 A facsimile of the certifications of the county recorders under section  
16 19-121.02 shall accompany the signature sheets returned to the person or  
17 organization that submitted them.

18 Sec. 6. Section 19-122, Arizona Revised Statutes, is amended to read:

19 19-122. Refusal of secretary of state to file petition or  
20 transmit facsimiles of signature sheets or circulator  
21 statements of verification; writ of mandamus; venue

22 A. If the secretary of state refuses to accept and file a petition for  
23 the initiative or referendum, or proposal for a constitutional amendment that  
24 has been presented within the time prescribed, or if the secretary of state  
25 refuses to transmit the facsimiles of a signature sheet or sheets or  
26 ~~affidavits~~ STATEMENTS OF VERIFICATION of circulators to the county recorders  
27 for certification under section 19-121.01, the secretary of state shall  
28 provide the person who submitted the petition, proposal, signature sheet or  
29 ~~affidavit~~ STATEMENT OF VERIFICATION with a written statement of the reason  
30 for the refusal. Within five calendar days after the refusal any citizen may  
31 apply to the superior court for a writ of mandamus to compel the secretary of  
32 state to file the petition or proposal or transmit the facsimiles, or the  
33 citizen may file a complaint with the county attorney or attorney general.  
34 The county attorney or attorney general may apply, within five calendar days  
35 after the complaint is made, to the superior court for a writ of mandamus to  
36 compel the secretary of state to file the petition or proposal or transmit  
37 the facsimiles. The action shall be advanced on the calendar and heard and  
38 decided by the court as soon as possible. Either party may appeal to the  
39 supreme court within five calendar days after judgment. If the court finds  
40 that the petition is legally sufficient, the secretary of state shall then  
41 file it, with a certified copy of the judgment attached as of the date on  
42 which it was originally offered for filing in the secretary of state's  
43 office.

44 B. The most current version of the general county register statewide  
45 voter registration database at the time of filing a court action challenging  
46 an initiative or referendum petition shall constitute the official record to

1 be used to determine on a prima facie basis by the challenger that the signer  
 2 of a petition was not registered to vote at the address given on the date of  
 3 signing the petition. If the address of the signer given on the date of  
 4 signing the petition is different from that on the most current version of  
 5 the general county register, the county recorder shall examine the version of  
 6 the general county register that was current on the date the signer signed  
 7 the petition to determine the validity of the signature and to determine  
 8 whether the person was eligible to sign the petition at the time of  
 9 signing. This subsection does not preclude introducing into evidence a  
 10 certified copy of the affidavit of registration of any signer dated ~~prior to~~  
 11 **BEFORE** the signing of the petition if the affidavit is in the possession of  
 12 the county recorder but has not yet been filed in the general county  
 13 register.

14 C. Notwithstanding section 19-121.04, if any petition filed is not  
 15 legally sufficient, the court, in an action brought by any citizen, may  
 16 enjoin the secretary **OF STATE** or other officers from certifying or printing  
 17 on the official ballot for the ensuing election the amendment or measure  
 18 proposed or referred. The action shall be advanced on the calendar and heard  
 19 and decided by the court as soon as possible. Either party may appeal to the  
 20 supreme court within five days after judgment.

21 D. The superior court in Maricopa county shall have jurisdiction of  
 22 actions relating to measures and amendments to be submitted to the electors  
 23 of the state at large. With respect to actions relating to local and special  
 24 measures, the superior court in the county, or in one of the counties, in  
 25 which the measures are to be voted on shall have jurisdiction.

26 Sec. 7. Section 19-127, Arizona Revised Statutes, is amended to read:  
 27 **19-127. Preservation and publication of approved measures**

28 A. If a measure or proposed constitutional amendment, at the ensuing  
 29 election, is approved by the people, the preserved copies with the sheets,  
 30 signatures and ~~affidavits~~ **STATEMENTS OF VERIFICATION**, and a certified copy of  
 31 the governor's proclamation declaring them to have been approved by the  
 32 people, shall be bound together in such form that they may be conveniently  
 33 identified and preserved.

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

39 Sec. 8. Section 19-205, Arizona Revised Statutes, is amended to read:  
 40 **19-205. Signatures and verification**

41 A. Every qualified elector signing a petition for a recall election  
 42 shall do so in the presence of the person who is circulating the petition and  
 43 who is to execute the ~~affidavit~~ **STATEMENT** of verification on the reverse side  
 44 of the signature sheet. At the time of signing, the qualified elector shall  
 45 sign and print his first and last name and the elector so signing shall  
 46 write, in the appropriate spaces following the signature, his residence

1 address, giving street and number or, if the elector has no street address, a  
2 description of his residence location, and the date on which he signed the  
3 petition.

4 B. The person before whom the signatures were written on the signature  
5 sheet ~~shall, in an affidavit subscribed and~~ A STATEMENT OF VERIFICATION sworn  
6 to by him ~~before a notary public,~~ SHALL verify that each of the names on the  
7 sheet was signed in his presence on the date indicated, and that in his  
8 belief each signer was a qualified elector of the election district on the  
9 date indicated in which such recall election will be conducted. All  
10 signatures of petitioners on a signature sheet shall be those of qualified  
11 electors who are registered to vote in the same county. ~~However,~~ If  
12 signatures from more than one county appear on the same signature sheet, only  
13 the valid signatures from the same county ~~which~~ THAT are most numerous on the  
14 signature sheet shall be counted. In the absence of a legible signature, the  
15 name as it is printed shall be the name used to determine the validity of the  
16 signature.

17 C. The ~~affidavit~~ STATEMENT OF VERIFICATION shall be in the form  
18 prescribed for initiative and referendum. In addition it shall also require  
19 a statement by the circulator that the circulator believes that the  
20 circulator is qualified to register to vote and all signers thereof are  
21 qualified to vote in the recall election.

22 Sec. 9. Section 19-208.02, Arizona Revised Statutes, is amended to  
23 read:

24 19-208.02. Certification by county recorder

25 A. Within sixty days after receipt of the signature sheets from the  
26 receiving officer, the county recorder shall determine the number of  
27 signatures ~~or affidavits~~ of individuals whose names were transmitted that  
28 must be disqualified for any of the reasons set forth in section 19-121.02,  
29 subsection A, and the county recorder shall certify ~~such~~ THAT number to the  
30 receiving officer in the form prescribed by the secretary of state.

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

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

34 2. Send notice of the results of certification by mail to the person  
35 or organization that submitted the recall petitions and to the secretary of  
36 state.