

REFERENCE TITLE: initiative; referendum; recall; notary requirement

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

SB 1035

Introduced by
Senator Quezada; Representative Andrade

AN ACT

AMENDING SECTIONS 19-101, 19-112, 19-121.01, 19-121.02, 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

1 infirmity, or to knowingly sign his name more than once for the
2 same measure, or to knowingly sign such petition when he is not
3 a qualified elector."

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

13 (Fifteen lines for signatures which shall be numbered)
14 The validity of signatures on this sheet must be sworn to
15 by the circulator ~~before a notary public~~ on the form appearing
16 on the back of the sheet.

17 Number _____

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

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

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

26 "_____ paid circulator" "_____ volunteer".

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

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

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

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

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

1 in the appropriate spaces following the elector's address, the date on which
2 the elector signed the petition.

3 B. The signature sheets shall be attached at all times during
4 circulation to a full and correct copy of the title and text of the measure
5 or constitutional amendment proposed or referred by the petition. The title
6 and text shall be in at least eight-point type and shall include both the
7 original and the amended text. The text shall indicate material deleted, if
8 any, by printing the material with a line drawn through the center of the
9 letters of the material and shall indicate material added or new material by
10 printing the letters of the material in capital letters. For the purposes of
11 a referendum, the secretary of state's time-and-date-marked copy of the
12 measure with its proposed text set out in full or for any local matter, the
13 copy of the measure signed or enacted into law by the mayor, or chairman of
14 the board of supervisors, as appropriate, with its proposed text set out in
15 full and including the original and any amended text constitutes the full and
16 correct copy of the title and text of the measure for circulation for
17 signatures. For any local matter enacted without an ordinance or resolution,
18 the official minutes approved by the governing body and signed by the clerk
19 of the governing body constitute the full and correct copy of the title and
20 text of the measure. Referendum signatures that are collected with any copy
21 of the measure that is not a facsimile of the time-and-date-marked copy for
22 statewide measures or the full and correct copy of a local measure as
23 prescribed by this subsection are invalid.

24 C. The person before whom the signatures, names and addresses were
25 written on the signature sheet, on the ~~affidavit~~ STATEMENT OF VERIFICATION
26 form pursuant to this section, shall ~~subscribe and swear before a notary~~
27 ~~public~~ that each of the names on the sheet was signed and the name and
28 address were printed by the elector and the circulator on the date indicated,
29 that in his belief each signer was a qualified elector of a certain county of
30 the state, or, in the case of a city, town or county measure, of the city,
31 town 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. All signatures of petitioners on a
34 signature sheet shall be those of qualified electors who are registered to
35 vote in the same county. However, if signatures from more than one county
36 appear on the same signature sheet, only the valid signatures from the same
37 county that are most numerous on the signature sheet shall be counted.

38 D. The ~~affidavit~~ STATEMENT OF VERIFICATION shall be in the following
39 form printed on the reverse side of each signature sheet:

40 ~~Affidavit~~ STATEMENT OF VERIFICATION of Circulator
41 ~~State of Arizona~~)
42) ~~ss.:~~
43 ~~County of~~)
44 ~~(Where notarized)~~

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

17 (Signature of ~~affiant~~ CIRCULATOR) _____
 18 (Residence address, street
 19 and number of affiant, or
 20 if no street address, a
 21 description of residence
 22 location) _____
 23 _____

24 ~~Subscribed and sworn to before me on~~ _____
 25 (date)

26 _____
 27 Notary Public

28 ~~(Form shall include a designated location for notary stamp)~~
 29 E. The eight-point type required by subsection B of this section does
 30 not apply to maps, charts or other graphics.

31 ~~F. The form of the affidavit shall not be modified. Any petition that~~
 32 ~~contains a partially completed affidavit or an affidavit that has been~~
 33 ~~modified is invalid.~~

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

36 19-121.01. Secretary of state; removal of petition and
 37 ineligible signatures; facsimile sheets; random
 38 sample; presumption

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

- 42 1. Remove the following:
 - 43 (a) Those sheets not attached to a copy of the complete title and text
 - 44 of the measure as prescribed in this chapter.
 - 45 (b) The copy of the title and text from the remaining petition sheets.

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

3 (d) Those sheets containing a circulator's ~~affidavit~~ STATEMENT OF
4 VERIFICATION that is not completed or signed or that has been modified.

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

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

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

14 ~~(h)~~ (g) Those sheets on which the circulator is required to be
15 registered with the secretary of state pursuant to section 19-118 and the
16 circulator is not properly registered at the time the petitions were
17 circulated.

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

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

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

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

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

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

37 (b) If the residence address or the description of residence location
38 is missing.

39 (c) If the date on which the petitioner signed is missing, if the date
40 on which the petitioner signed the petition is before the date that the
41 statement of organization was filed for the political committee that is
42 filing the petition or if the date on which the petitioner signed the
43 petition is after the date on which the ~~affidavit~~ STATEMENT OF VERIFICATION
44 was completed by the circulator ~~and notarized~~.

1 (d) Signatures in excess of the fifteen signatures permitted per
2 petition.

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

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

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

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

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

17 B. If the total number of signatures for verification as determined
18 pursuant to subsection A, paragraph 6 of this section equals or exceeds the
19 constitutional minimum, the secretary of state, during the same twenty day
20 period provided in subsection A of this section, shall select, at random,
21 five percent of the total signatures eligible for verification by the county
22 recorders of the counties in which the persons signing the petition claim to
23 be qualified electors. The random sample of signatures to be verified shall
24 be drawn in such a manner that every signature eligible for verification has
25 an equal chance of being included in the sample. The random sample produced
26 shall identify each signature selected by petition page and line number. The
27 signatures selected shall be marked according to the following procedure:

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

31 2. If a signature line selected for the random sample is found to be
32 blank or was removed from the verification process pursuant to subsection A
33 of this section and is marked with an "SS", then the next line down, even if
34 that requires going to the next petition sheet in sequence, on which an
35 eligible signature appears shall be selected as a substitute if that line has
36 not already been selected for the random sample. If the next eligible line
37 is already being used in the random sample, the secretary of state shall
38 proceed back up the page from the signature line originally selected for the
39 random sample to the next previous signature line eligible for verification.
40 If that line is already being used in the random sample, the secretary of
41 state shall continue moving down the page or to the next page from the line
42 originally selected for the random sample and shall select the next eligible
43 signature as its substitute for the random sample. The secretary of state
44 shall use this process of alternately moving forward and backward until a

1 signature eligible for verification and not already included in the random
2 sample can be selected and substituted.

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

14 D. The secretary of state shall presume that the date noted on the
15 petition for a petitioner's signature is the date on which the petitioner
16 signed the petition, and any person seeking to establish a different date for
17 the signature bears the burden of proof in overcoming the presumption.

18 E. The secretary of state shall retain in custody all signature sheets
19 removed pursuant to this section except as otherwise prescribed in this
20 title.

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

23 19-121.02. Certification by county recorder

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

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

31 2. No date of signing is provided.

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

34 4. The address provided is illegible or nonexistent.

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

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

40 7. The signature was disqualified after comparison with the signature
41 on the ~~affidavit of registration~~ STATEMENT OF VERIFICATION.

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

1 9. ~~If~~ A petition signer's signature is determined to be invalid after
2 a comparison is made between the signature and handwriting on the petition
3 and the petition signer's voter registration file.

4 10. ~~If~~ The person circulating the petition was a justice of the peace
5 or a county recorder at the time the person circulated the petition.

6 11. For the same reasons any signatures or entire petition sheets
7 could have been removed by the secretary of state pursuant to section
8 19-121.01, subsection A, paragraph 1 or 3.

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

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

15 2. The total number of signatures selected for the random sample and
16 transmitted to the county recorder for verification and the total number of
17 random sample signatures disqualified.

18 C. The secretary of state shall prescribe the form of the county
19 recorder's certification.

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

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

22 2. Send notice of the results of the certification by mail to the
23 person or organization that submitted the initiative or referendum petitions
24 and to the secretary of state.

25 Sec. 5. Section 19-122, Arizona Revised Statutes, is amended to read:

26 19-122. Refusal of secretary of state to file petition or
27 transmit facsimiles of signature sheets or circulator
28 statements; writ of mandamus; venue

29 A. If the secretary of state refuses to accept and file a petition for
30 the initiative or referendum, or proposal for a constitutional amendment that
31 has been presented within the time prescribed, or if the secretary of state
32 refuses to transmit the facsimiles of a signature sheet or sheets or
33 ~~affidavits~~ STATEMENTS OF VERIFICATION of circulators to the county recorders
34 for certification under section 19-121.01, the secretary of state shall
35 provide the person who submitted the petition, proposal, signature sheet or
36 ~~affidavit~~ STATEMENT OF VERIFICATION with a written statement of the reason
37 for the refusal. Within five calendar days after the refusal any citizen may
38 apply to the superior court for a writ of mandamus to compel the secretary of
39 state to file the petition or proposal or transmit the facsimiles, or for
40 matters involving statewide initiatives or referenda or proposed
41 constitutional amendments, the citizen may file a complaint with the county
42 attorney or attorney general. The county attorney or attorney general may
43 apply, within five calendar days after the complaint is made, to the superior
44 court for a writ of mandamus to compel the secretary of state to file the
45 petition or proposal or transmit the facsimiles. The action shall be

1 advanced on the calendar and heard and decided by the court as soon as
2 possible. Either party may appeal to the supreme court within five calendar
3 days after entry of judgment by the superior court. The decision of the
4 superior court may be stayed as prescribed by rules adopted by the supreme
5 court. If the court finds that the petition is legally sufficient, the
6 secretary of state shall then file it, with a certified copy of the judgment
7 attached as of the date on which it was originally offered for filing in the
8 secretary of state's office.

9 B. The most current version of the general county register statewide
10 voter registration database at the time of filing a court action challenging
11 an initiative or referendum petition shall constitute the official record to
12 be used to determine on a prima facie basis by the challenger that the signer
13 of a petition was not registered to vote at the address given on the date of
14 signing the petition. If the address of the signer given on the date of
15 signing the petition is different from that on the most current version of
16 the general county register, the county recorder shall examine the version of
17 the general county register that was current on the date the signer signed
18 the petition to determine the validity of the signature and to determine
19 whether the person was eligible to sign the petition at the time of signing.
20 This subsection does not preclude introducing into evidence a certified copy
21 of the affidavit of registration of any signer dated before the signing of
22 the petition if the affidavit is in the possession of the county recorder but
23 has not yet been filed in the general county register.

24 C. An action that contests the validity of an initiative or referendum
25 measure based on the actions of the secretary of state may not be maintained
26 in any court in this state except as prescribed by this section. A person
27 may not maintain a separate action seeking to enjoin the secretary of state
28 or other officer from certifying or printing the official ballot for the
29 election that will include the proposed initiative or referendum measure and
30 any request to enjoin the certification or printing of the ballot shall be
31 made as a part of an action filed pursuant to subsection a of this section.

32 D. The superior court in Maricopa county shall have jurisdiction of
33 actions relating to measures and amendments to be submitted to the electors
34 of the state at large. With respect to actions relating to local and special
35 measures for a county, special district or school district, the superior
36 court in the county in which the district is located shall have jurisdiction.
37 With respect to actions relating to local or special measures for a city or
38 town, the superior court in the county in which the majority of the
39 population of that city or town resides shall have jurisdiction.

40 Sec. 6. Section 19-127, Arizona Revised Statutes, is amended to read:

41 19-127. Preservation and publication of approved measures

42 A. If a measure or proposed constitutional amendment, at the ensuing
43 election, is approved by the people, the preserved copies with the sheets,
44 signatures and ~~affidavits~~ STATEMENTS OF VERIFICATION, and a certified copy of
45 the governor's proclamation declaring them to have been approved by the

1 people, shall be bound together in such form that they may be conveniently
 2 identified and preserved.

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

8 Sec. 7. Section 19-205, Arizona Revised Statutes, is amended to read:
 9 19-205. Signatures and verification

10 A. Every qualified elector signing a petition for a recall election
 11 shall do so in the presence of the person who is circulating the petition and
 12 who is to execute the ~~affidavit~~ STATEMENT of verification on the reverse side
 13 of the signature sheet. At the time of signing, the qualified elector shall
 14 sign and print his first and last name and the elector so signing shall
 15 write, in the appropriate spaces following the signature, his residence
 16 address, giving street and number or, if the elector has no street address, a
 17 description of his residence location, and the date on which he signed the
 18 petition.

19 B. The person before whom the signatures were written on the signature
 20 sheet ~~shall, in an affidavit subscribed and~~ A STATEMENT OF VERIFICATION sworn
 21 to by him ~~before a notary public,~~ SHALL verify that each of the names on the
 22 sheet was signed in his presence on the date indicated, and that in his
 23 belief each signer was a qualified elector of the election district on the
 24 date indicated in which such recall election will be conducted. All
 25 signatures of petitioners on a signature sheet shall be those of qualified
 26 electors who are registered to vote in the same county. ~~However,~~ If
 27 signatures from more than one county appear on the same signature sheet, only
 28 the valid signatures from the same county ~~which~~ THAT are most numerous on the
 29 signature sheet shall be counted. In the absence of a legible signature, the
 30 name as it is printed shall be the name used to determine the validity of the
 31 signature.

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

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

39 19-208.02. Certification by county recorder

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

- 1 B. At the time of ~~such~~ certification, the county recorder shall:
- 2 1. Return the original signature sheets to the receiving officer,
- 3 obtaining a dated, signed receipt therefor.
- 4 2. Send notice of the results of certification by mail to the person
- 5 or organization that submitted the recall petitions and to the secretary of
- 6 state.