

PREFILED JAN 09 2020

REFERENCE TITLE: common law marriage confirmation; caregivers

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HB 2138

Introduced by
Representative Lawrence

AN ACT

AMENDING SECTION 25-111, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 1, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 25-122; RELATING TO MARRIAGE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 25-111, Arizona Revised Statutes, is amended to
3 read:

4 25-111. Requirement of license and solemnization; covenant
5 marriages

6 A. A marriage shall not be contracted by agreement without a
7 marriage ceremony EXCEPT AS PROVIDED IN SECTION 25-122.

8 B. EXCEPT AS PROVIDED IN SECTION 25-122, A marriage contracted
9 within this state is not valid unless all of the following occur:

10 1. A license is issued as provided in this title.

11 2. The marriage is solemnized by a person authorized by law to
12 solemnize marriages or by a person purporting to act in such capacity and
13 believed in good faith by at least one of the parties to be so authorized.

14 3. The marriage is solemnized before the expiration of the marriage
15 license.

16 C. The requirements of this section do not apply to the conversion
17 of an existing marriage that is valid in this state to a covenant marriage
18 that complies with the requirements of section 25-902.

19 Sec. 2. Title 25, chapter 1, article 3, Arizona Revised Statutes,
20 is amended by adding section 25-122, to read:

21 25-122. Marriage license confirming a common law marriage;
22 requirements; effect

23 A. IF TWO PERSONS LIVE TOGETHER IN PARTNERSHIP AT THE TIME OF THE
24 DEATH OF ONE OF THE PERSONS, THE SURVIVING PERSON MAY APPLY TO THE CLERK
25 OF THE SUPERIOR COURT IN ANY COUNTY OF THIS STATE TO RECEIVE A MARRIAGE
26 LICENSE CONFIRMING A COMMON LAW MARRIAGE. THE SURVIVING PERSON SHALL
27 PROVIDE EVIDENCE TO THE CLERK OF THE SUPERIOR COURT THAT SHOWS ALL OF THE
28 FOLLOWING:

29 1. THE TWO PERSONS ARE THE BIOLOGICAL OR ADOPTIVE PARENTS OF ONE OR
30 MORE CHILDREN TOGETHER.

31 2. THE TWO PERSONS HAVE LIVED TOGETHER IN PARTNERSHIP FOR AT LEAST
32 TWO CONSECUTIVE YEARS.

33 3. THE SURVIVING PERSON ACTED AS A CAREGIVER TO THE DECEASED PERSON
34 WHILE THE PERSONS LIVED TOGETHER IN PARTNERSHIP.

35 B. IF THE CLERK OF THE SUPERIOR COURT FINDS THAT THE SURVIVING
36 PERSON HAS PROVIDED EVIDENCE AS PRESCRIBED IN SUBSECTION A OF THIS
37 SECTION, THE CLERK OF THE SUPERIOR COURT SHALL ISSUE A MARRIAGE LICENSE
38 CONFIRMING A COMMON LAW MARRIAGE TO THE SURVIVING PERSON.

39 C. NOTWITHSTANDING SECTION 25-121, IF THE CLERK OF THE SUPERIOR
40 COURT ISSUES A MARRIAGE LICENSE CONFIRMING A COMMON LAW MARRIAGE, THE
41 PERSONS' MARRIAGE IS CONSIDERED AS BEGINNING ON THE DATE THE PERSONS BEGAN
42 LIVING TOGETHER IN PARTNERSHIP. THE CLERK OF THE SUPERIOR COURT SHALL
43 NOTE THIS DATE ON THE MARRIAGE LICENSE CONFIRMING A COMMON LAW MARRIAGE.

44 D. THE CLERK OF THE SUPERIOR COURT SHALL MAINTAIN A RECORD OF ALL
45 ISSUED MARRIAGE LICENSES CONFIRMING A COMMON LAW MARRIAGE.

46 Sec. 3. Retroactivity

47 This act applies retroactively to from and after August 31, 2017.