

APPLICATION FOR INITIATIVE OR REFERENDUM PETITION SERIAL NUMBER

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Secretary of State
1700 W. Washington Street, 7th Floor
Phoenix, AZ 85007

The undersigned intends to circulate and file an INITIATIVE or a REFERENDUM (circle the appropriate word) petition and hereby makes application for the issuance of an official serial number to be printed in the lower right-hand corner of each side of each signature sheet of such petition. Pursuant to Arizona Revised Statutes ~~§ 10-111~~ attached hereto is the full text, in no less than eight point type, of the MEASURE or CONSTITUTIONAL AMENDMENT (circle appropriate word) intended to be INITIATED or REFERRED (circle appropriate word) at the next general election.

SUMMARY: A description of no more than one hundred words of the principal provisions of the proposed law, constitutional amendment or measure that will appear in no less than eight point type on the face of each petition signature sheet to be circulated.

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Summary of Proposed Law for the Arizona Civil Partnership Proposition

A Civil Partnership is a legal contract between two people of the same sex ("civil partners") which guarantees the same benefits and Consequences of an Opposite-sex Marriage that is recognized under the Arizona State Constitution unless otherwise prescribed by the Civil Partnership Proposition.

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Civil Partnership Proposition

OFFICIAL TITLE

CIVIL PARTNERSHIPS PROPOSITION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING THE CONSTITUTION OF ARIZONA BY ADDING ARTICLE XXXI; RELATING TO CIVIL PARTNERSHIPS.

TEXT OF PROPOSED MEASURE

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. Article XXXI, Constitution of Arizona, is proposed to be added as follows if approved by the voters and on proclamation of the Governor:

1. Civil Partnerships

SECTION 1. ONLY ONE MAN AND ONE

MAN OR ONE WOMAN AND ONE WOMAN SHALL BE VALID OR RECOGNIZED AS A CIVIL PARTNERSHIP IN THIS STATE.

2. The Secretary of State shall submit this proposition to the voters at the next general election as provided by article XXI, Constitution of Arizona.

1. Civil Partnership

- 1) A Civil Partnership is a legal contract between two people of the same sex ("civil partners")
 - a. Which is formed when they register as civil partners of each other
 - b. And also guarantees the same benefits and Consequences of an Opposite-sex Marriage that is recognized under the Arizona State Constitution unless otherwise prescribed by this Proposition.
 - c. A Civil Partnership ends only on death, dissolution or annulment.

2. Types of pre-registration procedure

- 1) Two people may register as civil partners of each other under—
 - a. the standard procedure;
 - b. the procedure for house-bound persons;
 - c. the procedure for detained persons;
 - d. the special procedure (which is for cases where a person is seriously ill and not expected to recover).

3. Formation of a Civil Partnership

- 1) For the purposes of section 1, two people are to be regarded as having registered as civil partners of each other once each of them has signed the Civil Partnership certificate—
 - a. at the invitation of, and in the presence of, a Civil Partnership registrar, and
 - b. in the presence of each other and two witnesses.
- 2) A Civil Partnership Certificate must be signed under subsection (1), in the presence of the civil partners and each other, by—
 - a. each of the two witnesses, and
 - b. the Civil Partnership registrar.
- 3) After the witnesses and the Civil Partnership registrar have signed the Civil Partnership certificate, the relevant registration authority must ensure that—
 - a. all relevant information is recorded in the County Clerks office as soon as is practicable.
- 4) "The relevant registration authority" means the registration authority in whose area the registration takes place.
- 5) No religious service can be held while the Civil Partnership registrar is officiating at the signing of a Civil Partnership document.

4. Parental etc. consent where proposed civil partner under 18

- 1) Must have consent of the parent(s) or Legal Guardian
- 2) The requirement of consent under subsection (1) does not apply if the child is a surviving civil partner.
- 3) Nothing in this section affects any need to obtain the consent of the Court before a ward of court and another person may register as civil partners of each other.
- 4) In this Part "child", except where used to express a relationship, means a person who is under 18.
- 5) Age group 16 to 17 years of age only

5. Place of registration

- 1) The place at which two people may register as civil partners of each other—
 - a. must be in the State of Arizona

- b. must not be in religious premises, site owned by a religious group and
- c. must be specified in the notices, or notice, of proposed Civil Partnership
- 2) "Religious premises" means premises which—
 - a. are used solely or mainly for religious purposes, or
 - b. have been so used and have not subsequently been used solely or mainly for other purposes.
- 3) In the case of registration under the standard procedure—the place—
 - a. must be one which is open to any person wishing to attend the registration as long as those persons wishing to attend are not hindering proceedings, and
 - b. before being specified in a proposed Civil Partnership, must be agreed with the registration authority in whose area that place is located.
- 4) A registration authority may provide a place in its area for the registration of Civil Partnerships.

6. Application to be reported to County Clerk's office

- 1) You will receive your Civil Partnership license at the time you apply for it, so you can hold your Civil Partnership signing on the same day,
- 2) No blood test is required to obtain a Civil Partnership license.
- 3) Copies of previous divorce decrees are not required.
- 4) You may be required to provide proof of age and legal name to obtain a Civil Partnership license.

7. Registration authorities

- 1) In this Chapter "registration authority" means—
 - a. a judge, a magistrate, a clerk of the circuit court, or a clerk or clerk-treasurer of a city, town or county.
 - b. in relation to Arizona, a county registrar, the registrar of any district comprised in an area for which there is no registrar.

8. Civil Partnership registrars

- 1) A Civil Partnership registrar is an individual who is designated by a registration authority as a Civil Partnership registrar for its area.
- 2) It is the duty of each registration authority to ensure that there is a sufficient number of Civil Partnership registrars for its area to carry out in that area the functions of Civil Partnership registrars.
- 3) Each district must inform the County Clerks office as soon as is practicable—
 - a. of any designation it has made of a person as a Civil Partnership registrar, and
 - b. of the ending of any such designation.
- 4) The County Clerks office must make available to the public a list—
 - a. of Civil Partnership registrars, and
 - b. of the registration authorities for which they are designated to act.

9. Fees

- 1) Fees will be assessed, dispensed and imposed by the County Clerks office which will be subject to change without noticed and are the responsibility of the person(s) attaining the Civil Partnership License.

10. House-bound persons

- 1) This section applies if two people wish to register as civil partners of each other at the place where one of them is house-bound.
- 2) A person is house-bound at any place if, in relation to that person, a statement is made by a registered medical practitioner that, in his opinion—
 - a. because of illness or disability, that person ought not to move or be moved from the place where he is at the time when the statement is made, and
 - b. it is likely to be the case for at least the following 3 months that because of the illness or disability that person ought not to move or be moved from that place.
- 3) The procedure under which the two people concerned may register as civil partners of each other is the same as the standard procedure, except that—
 - a. each notice of proposed Civil Partnership must be accompanied by a statement under subsection (2) ("a medical statement"), which must have been made not more than 14 days before the day on which the notice is recorded,
 - b. the fact that the registration authority to whom the notice is given has received the medical statement must be recorded in the County Clerks office, and
 - c. A medical statement must contain such information and must be made in such manner as may be prescribed by regulations.
 - d. A medical statement may not be made in relation to a person who is detained as described in section 11(2).

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- e. For the purposes of this Chapter, a person in relation to whom a medical statement is made is to be treated, if the person would not otherwise be so treated, as resident and usually resident at the place where that person is for the time being.

11. Detained persons

- 1) This section applies if two people wish to register as civil partners of each other at the place where one of them is detained.
- 2) "Detained" means detained—
 - a. as a patient in a mental hospital or
 - b. in a prison or other correctional institution
- 3) The procedure under which the two people concerned may register as civil partners of each other is the same as the standard procedure, except that—
 - a. each notice of proposed Civil Partnership must be accompanied by a supporting statement, which must have been made not more than 21 days before the day on which the notice is recorded,
 - b. the fact that the registration authority to whom the notice is given has received the supporting statement must be recorded in the County Clerks Office.
- 4) A supporting statement, in relation to a detained person, is a statement made by the responsible authority which—
 - a. identifies the establishment where the person is detained, and
 - b. states that the responsible authority has no objection to that establishment being specified in a notice of proposed Civil Partnership as the place at which the person is to register as a civil partner.
- 5) A supporting statement must contain such information and must be made in such manner as may be prescribed by regulations.
- 6) "The responsible authority" means—
 - a. if the person is detained in a hospital, the hospital's managers;
 - b. if the person is detained in a prison or other correctional institution, the warden or other officer for the time being in charge of that prison or other correctional facility.
- 7) "Patient" and "hospital" have the same meaning
- 8) For the purposes of this Chapter, a detained person is to be treated, if the person would not otherwise be so treated, as resident and usually resident at the place where the person is for the time being.

12. Not Eligible

- 1) Two people are not eligible to register as civil partners of each other if—
 - a. they are not of the same sex,
 - b. either of them is already a civil partner, lawfully married or any other form as prescribed in Section 13(1),
 - c. either of them is under 16, or
 - d. they are within prohibited degrees of relationship.

13. Non US residents and Non Arizona Residents

- 1) All same-sex Civil Partnerships, Civil Unions, Domestic Partnerships, same-sex Marriages and Legally Binding Contracts that are held overseas and in other states within the United States of America hold true to the same benefits and consequences as a Civil Partnerships Originating from the State of Arizona.

14. Dissolution of a Civil Partnership

- 1) The term "Dissolution" is to be used when the Civil Partnership is to be terminated and not the term "Divorce".

15. Powers to make orders and effect of orders

- 1) The Arizona Superior Court in civil partners county may, in accordance with this Chapter—
 - a. may make an order (a "dissolution order") which dissolves a Civil Partnership on the ground that it has broken down irretrievably;
 - b. may make an order (a "nullity order") which annuls a Civil Partnership which is void or voidable;
 - c. may make an order (a "presumption of death order") which dissolves a Civil Partnership on the ground that one of the civil partners is presumed to be dead.
- 2) Every dissolution, nullity or presumption of death order—
 - a. is, in the first instance, a conditional order, and
 - b. may not be made final before the end of the prescribed period

16. The period before conditional orders may be made final

- 1) Subject to relevant subsections, the prescribed period for the purposes of section 17(1) is—
 - a. 6 weeks from the making of the conditional order, or
 - b. if the 6 week period would end on a day on which the Superior Court dealing with the case is closed, the period of 6 weeks extended to the end of the first day on which the office or registry is next open.
 - c. Superior court may rule to make a "dissolution order" before time restraint in section 17(1) in extenuating circumstances only if the other civil partner is a hazard to the other civil partners long term mental or physical health.

17. Time bar on applications for dissolution orders

- 1) No application for a dissolution order may be made to the court before the end of the period of 1 year from the date of the formation of the Civil Partnership.
 - a. Unless otherwise decided based on section 16(1) subsection (c)

18. Attempts at reconciliation of civil partners

- 1) This section applies in relation to cases where an application is made for dissolution.
- 2) Rules of court must make provision for requiring the lawyer acting for the applicant to certify whether he has—
 - a. discussed with the applicant the possibility of a reconciliation with the other civil partner, and
 - b. given the applicant the names and addresses of persons qualified to help effect a reconciliation between civil partners who have become estranged.
- 3) If at any stage of proceedings for the order it appears to the court that there is a reasonable possibility of reconciliation between the civil partners, the court may adjourn the proceedings for such period as it thinks fit to enable attempts to be made to effect reconciliation between them.
- 4) The power to adjourn under subsection (3) is additional to any other power of adjournment.

19. Consideration by the court of certain agreements or arrangements

- 1) This section applies in relation to cases where—
 - a. proceedings for a dissolution are contemplated or have begun, and
 - b. an agreement or arrangement is made or proposed to be made between the civil partners which relates to, arises out of, or is connected with, the proceedings.
- 2) Rules of court may make provision for enabling—
 - a. the civil partners, or either of them, to refer the agreement or arrangement to the court, and
 - b. the court—
 - (i) to express an opinion, if it thinks it desirable to do so, as to the reasonableness of the agreement or arrangement, and
 - (ii) to give such directions, if any, in the matter as it thinks fit.

20. Dissolution of Civil Partnership which has broken down irretrievably

- 1) An application for a dissolution order may be made to the court by either civil partner on the grounds that the Civil Partnership has broken down irretrievably.
- 2) On an application for a dissolution order the court must inquire, so far as it reasonably can, into—
 - a. the facts alleged by the applicant, and
 - b. any facts alleged by the respondent.
- 3) The court hearing an application for a dissolution order must not hold that the Civil Partnership has broken down irretrievably unless the applicant satisfies the court of one or more of the facts described in subsection (5)(a), (b), (c) or (d).
- 4) But if the court is satisfied of any of those facts, it must make a dissolution order unless it is satisfied on all the evidence that the Civil Partnership has not broken down irretrievably.
- 5) The facts referred to in subsections (3) and (4) are—
 - a. that the respondent has behaved in such a way that the applicant cannot reasonably be expected to live with the respondent;
 - b. that—
 - (i) the applicant and the respondent have lived apart for a continuous period of at least 2 years immediately preceding the making of the application ("2 years' separation"), and
 - (ii) the respondent consents to a dissolution order being made;
 - c. that the applicant and the respondent have lived apart for a continuous period of at least 5 years immediately preceding the making of the application ("5 years' separation");
 - d. that the respondent has deserted the applicant for a continuous period of at least 2 years immediately preceding the making of the application.

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21. Grounds on which Civil Partnership is void

- 1) Where two people register as civil partners of each other in the State of Arizona, the Civil Partnership is void if—
 - a. at the time when they do so, they are not eligible to register as civil partners of each other
 - b. at the time when they do so they both know—
 - (i) that the Civil Partnership Certificate has not been duly issued,
 - (ii) that the place of registration is a place other than that specified for proposed Civil Partnerships, or
 - (iii) that an official Civil Partnership registrar is not present.

22. Grounds on which Civil Partnership is voidable

- 1) Where two people register as civil partners of each other in the State of Arizona, the Civil Partnership is voidable if—
 - a. either of them did not validly consent to its formation (whether as a result of duress, mistake, unsoundness of mind or otherwise);
 - b. at the time of its formation either of them, though capable of giving a valid consent, was suffering (whether continuously or intermittently) from mental disorder of such a kind or to such an extent as to be unfitted for Civil Partnership.

23. Presumption of death orders

- 1) The court may, on an application made by a civil partner, make a presumption of death order if it is satisfied that reasonable grounds exist for supposing that the other civil partner is dead.
- 2) In any proceedings under this section the fact that—
 - a. for a period of 7 years or more the other civil partner has been continually absent from the applicant, and
 - b. the applicant has no reason to believe that the other civil partner has been living within that time, is evidence that the other civil partner is dead until the contrary is proved.

24. Restrictions on making of orders affecting children

- 1) In any proceedings for a dissolution the court must consider—
 - a. whether there are any children of the family to whom this section applies, and
 - b. if there are any such children, whether (in the light of the arrangements which have been, or are proposed to be, made for their upbringing and welfare) it should exercise any of its powers in the best interest of the child
- 2) If, in the case of any child to whom this section applies, it appears to the court that—
 - a. the circumstances of the case require it, or are likely to require it, to exercise any of its powers with respect to any such child,
 - b. it is not in a position to exercise the power or (as the case may be) those powers without giving further consideration to the case, and
 - c. there are exceptional circumstances which make it desirable in the interests of the child that the court should give a direction under this section, it may direct that the order is not to be made final, or is not to be made, until the court orders otherwise.
- 3) This section applies to—
 - a. any child of the family who has not reached 16 at the date when the court considers the case in accordance with the requirements of this section, and
 - b. any child of the family who has reached 16 at that date and in relation to whom the court directs that this section shall apply.

25. Contribution by civil partner to property improvement

- 1) This section applies if—
 - a. a civil partner contributes in money or money's worth to the improvement of real or personal property in which or in the proceeds of sale of which either or both of the civil partners has or have a beneficial interest, and
 - b. the contribution is of a substantial nature.
- 2) The contributing partner is to be treated as having acquired by virtue of the contribution a share or an enlarged share (as the case may be) in the beneficial interest of such an extent—
 - a. as may have been then agreed, or
 - b. in default of such agreement, as may seem in all the circumstances just to any court before which the question of the existence or extent of the beneficial interest of either of the civil partners arises (whether in proceedings between them or in any other proceedings).
- 3) Subsection (2) is subject to any agreement (express or implied) between the civil partners to the contrary.

26. Disputes between civil partners about property

- 1) In any question between the civil partners in a Civil Partnership as to title to or possession of property, either civil partner may apply to—
 - a. the County Court, or
 - b. such County Court as may be prescribed by rules of court.
- 2) On such an application, the court may make such orders with respect to the property as it thinks fit (including an order for the sale of the property).
- 3) Rules of court made for the purposes of this section may confer jurisdiction on county courts whatever the situation or value of the property in dispute.

27. Applications where property not in possession etc.

- 1) The right of a civil partner ("A") to make an application includes the right to make such an application where A claims that the other civil partner ("B") has had in his possession or under his control—
 - a. money to which, or to a share of which, A was beneficially entitled, or
 - b. property (other than money) to which, or to an interest in which, A was beneficially entitled, and that either the money or other property has ceased to be in B's possession or under B's control or that A does not know whether it is still in B's possession or under B's control.
- 2) For the purposes of subsection (1)(a) it does not matter whether A is beneficially entitled to the money or share—
 - a. because it represents the proceeds of property to which, or to an interest in which, A was beneficially entitled, or
 - b. for any other reason.
- 3) Subsection (4) apply if, on such an application being made, the court is satisfied that B—
 - a. has had in his possession or under his control money or other property as mentioned in subsection (1)(a) or (b), and
 - b. has not made to A, in respect of that money or other property, such payment or disposition as would have been appropriate in the circumstances.
- 4) The power of the court to make orders includes power to order B to pay to A—
 - a. in a case falling within subsection (1)(a), such sum in respect of the money to which the application relates, or A's s share of it, as the court considers appropriate, or
 - b. in a case falling within subsection (1)(b), such sum in respect of the value of the property to which the application relates, or A's interest in it, as the court considers appropriate.

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