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OPINION LETTER NO. 127-93

The Honorable Judith K. Moriarty
Secretary of State
State Capitol Building
Jefferson City, Missouri 65101

Dear Secretary Moriarty:

This opinion letter is in response to your request for our review under Sections 116.332 and 116.334, RSMo 1986, for sufficiency as to form of an initiative petition relating to the amendment of the Missouri Constitution by adding a new article prohibiting special privilege laws based on sexual orientation. A copy of the initiative petition and the proposed amendment which you submitted to this office on June 30, 1993, is attached for reference.

We conclude that the petition must be rejected as to form for the following reasons:

1. The standard form for initiative petitions, as set out in Section 116.040, RSMo 1986, requires that the "county" followed by a blank appear at the top of each page of the petition. The initiative petition as proposed does not include this material. Section 116.060, RSMo 1986, states that "each page of an initiative petition or referendum petition shall include signatures of voters from only one county." The absence of a county designation on each page of the petition may make it more difficult to assure compliance with this requirement.

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2. The initiative petition does not contain an enacting clause. Article III, Section 50 of the Missouri Constitution requires and sets forth the form of the enacting clause for proposed constitutional amendments and proposed laws. The mandatory nature of this language was addressed in State ex rel. Scott v. Kirkpatrick, 484 S.W.2d 161 (Mo. banc 1972).

Because of our rejection of the form of the petition for the reasons itemized above, we have not reviewed the petition to determine if additional deficiencies may exist.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure