

Initiative Measure No. 471

Filed October 27, 2010

Protect the Initiative Process

Establishes protections for citizens who participate in the initiative and referendum process

AN ACT Relating to establishing protections for citizens exercising their First Amendment rights by participating in the initiative and referendum process; amending RCW 9A.84.030 and 29A.72.170; adding new sections to chapter 29A.72 RCW; creating new sections; and prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

POLICIES AND PURPOSES

NEW SECTION. **Sec. 1.** Citizens want to ensure their right to participate in the initiative and referendum process is protected. As guaranteed by the Washington state Constitution: "The first power reserved by the people is the initiative." The right of the people to petition and legislate through the initiative and referendum is a fundamental right protected by the Washington state Constitution. Citizens' participation in the legislative process by initiative and referendum has been subjected to hostility, interference and threats of interference and retaliation by private and governmental actions.

Article I, section 4 of the Washington state Constitution and the First Amendment to the United States Constitution recognizes the right of the people to petition the government. This act is intended to protect the rights provided by these constitutional provisions. This measure would establish protections for citizens exercising their First Amendment rights by participating in the initiative and referendum process. The people find that the peoples' right to participate in the initiative and referendum process needs to be protected.

ESTABLISHING PROTECTIONS FOR CITIZENS EXERCISING THEIR FIRST AMENDMENT RIGHTS BY PARTICIPATING IN THE INITIATIVE AND REFERENDUM PROCESS

NEW SECTION. **Sec. 2.** A new section is added to chapter 29A.72 RCW to read as follows:

This section establishes protections for signature gathering. Interfering with signature gathering shall be illegal. Any person who is gathering signatures for an officially filed and processed initiative or referendum shall not have his or her right to petition deterred or infringed upon. Any person who is trying to sign a petition for an officially filed and processed initiative or referendum shall not have his or her right to sign a petition deterred or infringed upon. Any person who interferes with any person gathering signatures or interferes with any person trying to sign a petition or retaliates against or stalks any person who signed a petition or retaliates against or stalks any person who gathered signatures for a petition shall be subject to the anti-harassment procedures in chapter 10.14 RCW and civil penalties and shall be guilty of disorderly conduct under RCW 9A.840.030. For purposes of this section, "interfering with" includes, but is not limited to, pushing, shoving, touching, spitting, throwing objects, yelling, screaming, or being verbally abusive, or other tumultuous conduct, blocking or intimidating, or maintaining an intimidating presence within twenty-five feet of any person gathering signatures and any person trying to sign a petition. As the courts have consistently ruled, asking fellow citizens to sign a petition is core political speech, which is deserving of the highest levels of protection. Signature gathering for an officially filed and processed initiative or referendum shall be a legally protected activity on public sidewalks and walkways, and all sidewalks and walkways that carry pedestrian traffic. And also inside or outside public buildings such as public sports stadiums, convention/exhibition centers, and public fairs. Law enforcement must vigorously protect the rights of the people who want to sign initiative and referendum petitions, and the people who collect voter signatures on initiative and referendum petitions, to ensure they are not inhibited or restricted in any way.

The people find that they must be able to safely, freely, and peacefully petition their government for change without fear of retaliation or intimidation. Without the right to petition and the

right to sign petitions, there is no functioning initiative and referendum process. Maximum legal protections must be afforded persons gathering signatures and persons trying to sign petitions to protect them from interference, harassment, threat, or retaliation. Maximum penalties must be imposed against persons who interfere with the constitutionally protected right to initiative and referendum.

Sec. 3. RCW 9A.84.030 and 2007 c 2 s 1 are each amended to read as follows:

- (1) A person is guilty of disorderly conduct if the person:
 - (a) Uses abusive language and thereby intentionally creates a risk of assault;
 - (b) Intentionally disrupts any lawful assembly or meeting of persons without lawful authority;
 - (c) Intentionally obstructs vehicular or pedestrian traffic without lawful authority; (~~or~~)
 - (d) (i) Intentionally engages in fighting or in tumultuous conduct or makes unreasonable noise, within five hundred feet of:
 - (A) The location where a funeral or burial is being performed;
 - (B) A funeral home during the viewing of a deceased person;
 - (C) A funeral procession, if the person described in this subsection (1)(d) knows that the funeral procession is taking place; or
 - (D) A building in which a funeral or memorial service is being conducted; and
 - (ii) Knows that the activity adversely affects the funeral, burial, viewing, funeral procession, or memorial service; or
 - (e) Interferes with or retaliates against a person collecting signatures or signing any initiative or referendum petition by pushing, shoving, touching, spitting, throwing objects, yelling, screaming, being verbally abusive, blocking or intimidating, or other tumultuous conduct or maintaining an intimidating presence within twenty-five feet of any person gathering signatures or any person trying to sign any initiative or referendum petition.
- (2) Disorderly conduct is a misdemeanor.

**PROTECTING CITIZENS' RIGHT TO PARTICIPATE BY LIMITING PUBLIC ACCESS
TO PETITION SIGNERS' NAMES AND ADDRESSES**

NEW SECTION. **Sec. 4.** A new section is added to chapter 29A.72 RCW to read as follows:

In order to limit public access to the names and addresses of people who sign petitions, when initiative and referendum petitions are submitted to the secretary of state for verification, the secretary of state shall produce two scanned copies: one that contains all the information on the petitions and which can only be viewed by the secretary of state's team during the verification process and one for public access that contains only the front of the petitions containing the signers' names and addresses with the personal signatures blacked out. After the public access version of the petitions is scanned, it shall be immediately transferred to the state archives office and be made available for public access. Unless ordered by a court, the state archives office will not permit copies to be made of the public access version of the petitions. Unless ordered by a court, the secretary of state will not permit copies to be made of or public access to the verification version of the petitions. Nothing in this section prohibits a court from reviewing any petition or petitions in a legal challenge; any petition or petitions reviewed by the court must remain under seal and be subject to a protective order. The people find that citizens participating in the initiative and referendum process deserve maximum legal protection from harassment, intimidation, or retaliation for exercising their rights and peacefully petitioning our government for change.

**PROTECTING CITIZENS' RIGHT TO PARTICIPATE BY EXTENDING THE TIME FOR
SIGNATURE GATHERING ON INITIATIVES, DETERRING INTERFERENCE
IN THE SIGNATURE GATHERING PROCESS**

Sec. 5. RCW 29A.72.030 and 2003 c 111 s 1804 are each amended to read as follows:

Initiative measures proposed to be submitted to the people must be filed with the secretary of state within (~~ten~~) sixteen months prior to the election at which they are to be submitted (this act's amended change from ten months to sixteen months for filing an initiative provides the potential for an additional six months of initiative signature gathering), and the signature petitions must be filed with the secretary of state not less than four months before the next

general statewide election.

Initiative measures proposed to be submitted to the legislature must be filed with the secretary of state within (~~ten~~) sixteen months prior to the next regular session of the legislature at which they are to be submitted (this act's amended change from ten months to sixteen months for filing an initiative provides the potential for an additional six months of initiative signature gathering), and the signature petitions must be filed with the secretary of state not less than ten days before such regular session of the legislature.

A referendum measure petition ordering that any act or part of an act passed by the legislature be referred to the people must be filed with the secretary of state within ninety days after the final adjournment of the legislative session at which the act was passed. It may be submitted at the next general statewide election or at a special election ordered by the legislature.

A proposed initiative or referendum measure may be filed no earlier than the opening of the secretary of state's office for business pursuant to RCW 42.04.060 on the first day filings are permitted, and any initiative or referendum petition must be filed not later than the close of business on the last business day in the specified period for submission of signatures. If a filing deadline falls on a Saturday, the office of the secretary of state must be open for the transaction of business under this section from 8:00 a.m. to 5:00 p.m. on that Saturday.

Opponents of ballot measures sometimes try to interfere with the signature gathering process in the final months of the campaign, taking advantage of the limited time for the collection of signatures. The people find that allowing more time for citizens to participate in the signature gathering process will deter such despicable tactics.

NEW SECTION. **Sec. 6.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

NEW SECTION. **Sec. 7.** This act shall be self-executing. If any part or parts of this act are found to be in conflict with federal law, the United States Constitution, or the Washington state Constitution, the act shall be implemented to the maximum extent that federal law, the United States Constitution, and the Washington state

Constitution permit. Any provision held invalid shall be severable from the remaining portions of this act.

NEW SECTION. **Sec. 8.** This act is called "Protect the Initiative Process Act."

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