

Initiative Measure No. 1390

filed January 26, 2015

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: I-2956.1/15

ATTY/TYPIST: AA:akl

BRIEF DESCRIPTION:

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AN ACT Relating to a pro se litigant's right to a jury trial; amending RCW 4.40.060, 4.44.090, and 4.44.460; adding a new section to chapter 4.40 RCW; creating new sections; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** The people find that this act is necessary because the judicial branch is encroaching upon citizens' fundamental rights through the tactical use of court rules. Therefore, the people intend that the dismissal or sanction of a lawsuit instituted by a pro se litigant under a court's rules of administration creates an issue of fact to be tried by a jury.

While courts have the authority to establish rules for the administration of the courts, the increasing tendency among judges and attorneys, in lawsuits filed and prosecuted pro se, is to use court rules to govern people and their grievances. The courts and their officers' obstruction of a person's fundamental right of petition under Article I, section 4 of the state Constitution, and a

person's fundamental right to an impartial judge under Article IV, section 28 of the state Constitution, as codified in RCW 2.28.030(1), by officers of the court in self-proclaimed authority through the rules the courts establish, oppresses the rights of the people enshrined in Article I, section 1 of the state Constitution.

It is the "people" who are the ultimate arbiters of government's "just powers," not judges and the rules judges make. By law, an impartial jury determines issues of fact. By law, a jury determines the conditions of society - not a judge under self-serving use of court rules. Until now, citizens have no authority over judicial power or any say in how court rules are established, interpreted, or applied. Until now, superior courts provide no adequate, impartial, and speedy avenue a pro se litigant may pursue to escape the entrapment by the over reaching use of court rules by judicial officials.

NEW SECTION. **Sec. 2.** A new section is added to chapter 4.40 RCW to read as follows:

(1) The dismissal or sanction of a lawsuit brought by a pro se litigant pursuant to a court's rules of administration creates an issue of fact to be tried by a jury.

(2) If a jury returns a verdict in favor of the pro se litigant, the verdict serves as evidence of official misconduct per se by each judicial official involved. The clerk of the court shall prepare a record and report the judicial officer involved to the Washington state bar association or the Washington state commission on judicial conduct. Discipline by the appropriate regulatory agency is mandatory, and the proceedings are subject to public disclosure.

(3) If a jury does not return a verdict in favor of the pro se litigant, the dismissal or sanction must be upheld.

Sec. 3. RCW 4.40.060 and 1893 c 127 s 33 are each amended to read as follows:

An issue of fact, in an action for the recovery of money only, or of specific real or personal property, or in an action pursuant to section 2 of this act, shall be tried by a jury, unless a jury is waived, as provided by law, or a reference ordered, as provided by statute relating to referees.

Sec. 4. RCW 4.44.090 and Code 1881 s 224 are each amended to read as follows:

All questions of fact, including those mentioned in section 2 of this act, other than those mentioned in RCW 4.44.080, shall be decided by the jury, and all evidence thereon addressed to them.

Sec. 5. RCW 4.44.460 and 2003 c 406 s 26 are each amended to read as follows:

If the court determines that the verdict meets the requirements contained in this chapter (~~(and in court rules)~~), the clerk shall file the verdict. The verdict is then complete and the jury shall be discharged from the case. The verdict shall be in writing, and under the direction of the court shall be substantially entered in the record as of the day's proceedings on which it was given.

NEW SECTION. **Sec. 6.** This act must be construed liberally so as to effeteuate its broad remedial purposes.

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