Initiative Measure No. 448

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, 29A.08.720, 29A.72.110, 29A.72.120, 29A.72.130, 29A.72.100, 29A.72.030, 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 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 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 PROHIBITING THE PUBLICATION AND COMMERCIAL USE OF THE NAMES AND ADDRESSES OF PETITIONS

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

No one may publish, in whole or in part, the names and home addresses on initiative or referendum petitions on a website or in an email, or any other kind of virtual publication or print publication. This section's publication prohibition applies to anyone with access to the names and home addresses on petitions prior to them being submitted to the secretary of state and anyone who receives the names and home addresses after the petitions are submitted. This section does not apply to the secretary of state when it fulfills a public records request. Measure sponsors and anyone else receiving the names and home addresses after they are submitted to the secretary of state must complete and sign an affidavit, prepared by the secretary of state, which affirms that he/she understands the restrictions on the use of the names and home addresses on the petitions and swears under penalty of perjury that he/she will not share any of the personal information on the petitions with anyone other than the secretary of state and will abide by the restrictions in this act and any other restrictions provided under law or by the secretary of state. The affidavit must include the person's name, signature, home mailing address, city, county, employer, and occupation. 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.

NEW SECTION. **Sec. 5.** A new section is added to chapter 29A.72 RCW to read as follows:

Commercial use of the names and home addresses on initiative and referendum petitions, in whole or in part, is prohibited under RCW 29A.08.720 as amended by this act. The people find that the citizens who sign initiatives and referendums should not be subjected to commercial sales or marketing resulting from their participation in the initiative and referendum process.

Sec. 6. RCW 29A.08.720 and 2009 c 369 s 34 are each amended to read as follows:

(1) In the case of voter registration records received through the department of licensing or an agency designated under RCW 29A.08.310, the identity of the office or agency at which any particular individual registered to vote is not available for public inspection and shall not be disclosed to the public. Any record of a particular individual's choice not to register to vote at an office of the department of licensing or a state agency designated under RCW 29A.08.310 is not available for public inspection and any information regarding such a choice by a particular individual shall not be disclosed to the public.

(2) Subject to the restrictions of RCW 29A.08.710 and 40.24.060, poll books, precinct lists, and current lists of registered voters are public records and must be made available for public inspection and copying under such reasonable rules and regulations as the county auditor or secretary of state may prescribe. The county auditor or secretary of state shall promptly furnish current lists of registered voters in his or her possession, at actual reproduction cost, to any person requesting such information. The lists <u>and the names and addresses on initiative and referendum petitions</u> shall not be used for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value. However, the lists and labels may be used for any political purpose. The county auditor or secretary of state must provide a copy of RCW 29A.08.740 to the person requesting the material that is released under this section.

(3) For the purposes of this section, "political purpose" means a purpose concerned with the support of or opposition to any candidate for any partisan or nonpartisan office or concerned with the support or opposition to any ballot proposition or issue. "Political purpose" includes, but is not limited to, such activities as the advertising for or against any candidate or ballot measure or the solicitation of financial support.

PROTECTING CITIZENS' RIGHT TO PARTICIPATE BY CONSOLIDATING THE WARNING ON INITIATIVE AND REFERENDUM PETITIONS

Sec. 7. RCW 29A.72.110 and 2005 c 239 s 1 are each amended to read as follows:

(1) Petitions for proposing measures for submission to the legislature at its next regular session must be substantially in the following form:

The warning prescribed by RCW 29A.72.140; followed by:

INITIATIVE PETITION FOR SUBMISSION TO THE LEGISLATURE

To the Honorable . . . . . ., Secretary of State of the State of Washington:

We, the undersigned citizens and legal voters of the State of Washington, respectfully direct that this petition and the proposed measure known as Initiative Measure No. . . . . and entitled (here set forth the established ballot title of the measure), a full, true and correct copy of which is printed on the reverse side of this petition, be transmitted to the legislature of the State of Washington at its next ensuing regular session, and we respectfully petition the legislature to enact said proposed measure into law; and each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington, in the city (or town) and county written after my name, my residence address is correctly stated, ((~~and~~)) I have knowingly signed this petition only once, and I have voluntarily signed this petition without any compensation or promise of compensation.

((~~The following declaration must be printed on the reverse side of the petition:~~

~~I, ..., swear or affirm under penalty of law that I circulated this sheet of the foregoing petition, and that, to the best of my knowledge, every person who signed this sheet of the foregoing petition knowingly and without any compensation or promise of compensation willingly signed his or her true name and that the information provided therewith is true and correct.~~)) I further acknowledge that under chapter 29A.84 RCW, forgery of signatures on this petition constitutes a class C felony, and that offering any consideration or gratuity to any person to induce them to sign a petition is a gross misdemeanor, such violations being punishable by fine or imprisonment or both.

RCW 9A.46.020 applies to any conduct constituting harassment against a petition signature gatherer. This penalty does not preclude the victim from seeking any other remedy otherwise available under law.

(2) The petition must include a place for each petitioner to

sign and print his or her name, and the address, city, and county at which he or she is registered to vote.

Sec. 8. RCW 29A.72.120 and 2005 c 239 s 2 are each amended to read as follows:

(1) Petitions for proposing measures for submission to the people for their approval or rejection at the next ensuing general election must be substantially in the following form:

The warning prescribed by RCW 29A.72.140; followed by:

INITIATIVE PETITION FOR SUBMISSION TO THE PEOPLE

To the Honorable . . . . . ., Secretary of State of the State of Washington:

We, the undersigned citizens and legal voters of the State of Washington, respectfully direct that the proposed measure known as Initiative Measure No. . . . . ., entitled (here insert the established ballot title of the measure), a full, true and correct copy of which is printed on the reverse side of this petition, be submitted to the legal voters of the State of Washington for their approval or rejection at the general election to be held on the . . . . . day of November, (year); and each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington, in the city (or town) and county written after my name, my residence address is correctly stated, ((~~and~~)) I have knowingly signed this petition only once, and I have voluntarily signed this petition without any compensation or promise of compensation.

((~~The following declaration must be printed on the reverse side of the petition:~~

~~I, ..., swear or affirm under penalty of law that I circulated this sheet of the foregoing petition, and that, to the best of my knowledge, every person who signed this sheet of the foregoing petition knowingly and without any compensation or promise of compensation willingly signed his or her true name and that the information provided therewith is true and correct.~~)) I further acknowledge that under chapter 29A.84 RCW, forgery of signatures on this petition constitutes a class C felony, and that offering any consideration or gratuity to any person to induce them to sign a petition is a gross misdemeanor, such violations being punishable by fine or imprisonment or both.

RCW 9A.46.020 applies to any conduct constituting harassment against a petition signature gatherer. This penalty does not preclude the victim from seeking any other remedy otherwise available under

law.

(2) The petition must include a place for each petitioner to sign and print his or her name, and the address, city, and county at which he or she is registered to vote.

Sec. 9. RCW 29A.72.130 and 2005 c 239 s 3 are each amended to read as follows:

(1) Petitions ordering that acts or parts of acts passed by the legislature be referred to the people at the next ensuing general election, or special election ordered by the legislature, must be substantially in the following form:

The warning prescribed by RCW 29A.72.140; followed by:

PETITION FOR REFERENDUM

To the Honorable . . . . . ., Secretary of State of the State of Washington:

We, the undersigned citizens and legal voters of the State of Washington, respectfully order and direct that Referendum Measure No. . . . . ., filed to revoke a (or part or parts of a) bill that (concise statement required by RCW 29A.36.071 and that was passed by the . . . . . legislature of the State of Washington at the last regular (special) session of said legislature, shall be referred to the people of the state for their approval or rejection at the regular (special) election to be held on the . . . . day of November, (year); and each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington, in the city (or town) and county written after my name, my residence address is correctly stated, ((~~and~~)) I have knowingly signed this petition only once, and I have voluntarily signed this petition without any compensation or promise of compensation.

((~~The following declaration must be printed on the reverse side of the petition:~~

~~I, ..., swear and affirm under penalty of law that I circulated this sheet of the foregoing petition, and that, to the best of my knowledge, every person who signed this sheet of the foregoing petition knowingly and without any compensation or promise of compensation willingly signed his or her true name and that the information provided therewith is true and correct~~)). I further acknowledge that under chapter 29A.84 RCW, forgery of signatures on this petition constitutes a class C felony, and that offering any consideration or gratuity to any person to induce them to sign a petition is a gross misdemeanor, such violations being punishable by fine or imprisonment or both.

RCW 9A.46.020 applies to any conduct constituting harassment

against a petition signature gatherer. This penalty does not preclude the victim from seeking any other remedy otherwise available under law.

(2) The petition must include a place for each petitioner to sign and print his or her name, and the address, city, and county at which he or she is registered to vote.

PROTECTING CITIZENS' RIGHT TO PARTICIPATE BY STANDARDIZING THE SIZE OF INITIATIVE AND REFERENDUM PETITIONS, MAKING THE SIGNATURE GATHERING PROCESS SAFER

Sec. 10. RCW 29A.72.100 and 2003 c 111 s 1811 are each amended to read as follows:

The person proposing the measure shall print blank petitions upon single sheets of paper of good writing quality (including but not limited to newsprint) not less than ((~~eleven~~)) eight and one half inches in width and not less than ((~~fourteen~~)) eleven inches in length. Each petition at the time of circulating, signing, and filing with the secretary of state must consist of not more than one sheet with numbered lines for not more than twenty signatures, with the prescribed warning and title, be in the form required by RCW 29A.72.110, 29A.72.120, or 29A.72.130, and have a readable, full, true, and correct copy of the proposed measure printed on the reverse side of the petition.

When opponents of ballot measures interfere with the signature gathering process, they most often do so in front of stores and other public places. Allowing a standard size petition allows more citizens to download and print petitions on their own computers providing greater safety and opportunity for citizens to participate without fear of interference and harassment.

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

Sec. 11. 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.

PROTECTING CITIZENS' RIGHT TO PARTICIPATE
BY CONTINUING THE SECRETARY OF STATE'S LONGSTANDING POLICY
AND COURT PRECEDENT TO ENSURE THAT VALID VOTER SIGNATURES COUNT

Sec. 12. RCW 29A.72.170 and 2003 c 111 s 1818 are each amended to read as follows:

The secretary of state may refuse to file any initiative or referendum petition being submitted only upon any of the following grounds:

(1) That the petition does not contain the information required by RCW 29A.72.110, 29A.72.120, or 29A.72.130.

(2) That the petition clearly bears insufficient signatures.

(3) That the time within which the petition may be filed has expired.

In case of such refusal, the secretary of state shall endorse on the petition the word "submitted" and the date, and retain the petition pending appeal.

If none of the grounds for refusal exists, the secretary of state must accept and file the petition.

Concerning individual voter signatures on an initiative or referendum petition, the secretary of state must continue its longstanding policy to accept and to not reject a valid voter signature as long as the requirements in subsections (1), (2), and (3) of this section are fulfilled. Actions or inactions by the person who gathered a voter's signature has never and must never be used as a reason to reject a valid voter signature on a petition. For purposes of this section, "valid voter signature" means a voter's signature on an initiative or referendum petition sheet which matches, using the signature verification standard under Washington Administrative Code 434-379-020, the signature on file in the voter registration records. The people find that the secretary of state's policy, maintained for the past ninety years, to always count a valid voter signature is essential to ensure that voters are not disenfranchised and their right to petition, their right to sign a petition, and/or their right to vote is not taken away from them.

NEW SECTION. **Sec. 13.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

NEW SECTION. **Sec. 14.** 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. 15.** This act is called "Protect the Initiative Process."

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