

**INITIATIVE PETITION SIGNATURES -- PUBLIC NATURE OF**

Signatures on initiative and referendum petitions are not public records. The secretary of state should only permit inspection of such petitions by persons authorized to attend the canvass of the names and prosecuting attorneys contemplating criminal prosecutions.

May 28, 1956

Honorable Herb Hanson
State Representative, 39th District
1005 Alice
Snohomish, Washington
Cite as: AGO 55-57 No. 274

Dear Sir:

In your letter of April 30, 1956, you requested our opinion on the following question:

After the secretary of state has counted the signatures on an initiative petition and found it to be sufficient, are the bound volumes of such signatures public records which should be available for public inspection?

In our opinion to regard such signatures as public records would be contrary to public policy.

ANALYSIS

If the secretary of state refuses to file an initiative or referendum and no successful appeal is taken from such refusal, the secretary of state is required by law to destroy the petition. RCW 29.79.180.

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Each voter is required to sign in triplicate a registration card containing his full name and address and listing the precinct in which he is registered. RCW 29.07.090. The third copy of registration cards is filed with the secretary of state

"* * * for the sole purpose of, checking initiative and referendum petitions and mailing pamphlets required for constitutional amendments and by the initiative and referendum procedure. They shall not be open to public inspection or be used for any other purpose." (RCW 29.07.130)

Under RCW 29.79.220 the count of signatures on initiative and referendum petitions is made in the same manner as the count of signatures on petitions to the legislature but within sixty days after filing.

RCW 29.79.200 provides in part:

"Upon filing the volumes of an initiative petition proposing a measure for submission to the legislature at its next regular session, the secretary of state shall forthwith in the presence of at least one person representing the advocates and one person representing the opponents of the proposed measure, should either desire to be present, proceed to canvass and count the names of the registered voters thereon.
* * *"

During the count of the signatures representatives of the public are entitled to be present. We are convinced that this provision in the law is designed to satisfy interested persons that there is an accurate canvass of the names appearing on the petitions.

While there is no specific statute on the precise question presented, the above statutes demonstrate, in our view, a tendency on the part of the legislature to regard the signing of an initiative petition as a matter concerning only the individual signers except in so far as necessary to safeguard against abuses of the privilege.

RCW 29.79.240 provides as follows:

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"The secretary of state shall, while making the canvass, keep a record of all names appearing on an initiative or referendum petition which are not registered voters and of all names appearing thereon more than once, and shall report the same to the prosecuting attorneys of the respective counties where the names were signed to the end that prosecutions may be had for such violations of this chapter."

Willful violations of statutes pertaining to signing of initiative petitions carry penalties ranging from gross misdemeanor to felony. RCW 29.79.440 through

29.79.470. To permit public access to signatures on initiative petitions would tend to hamper the preservation of evidence essential to secure convictions under these sections.

On August 25, 1938, this office advised the secretary of state as follows (OAG 1938, 377 [[1938 OAG 377]]):

"We are of the opinion that these petitions are not public records and that your office should refuse to permit them to be inspected and copied."

With the exception of representatives of the public entitled to be present during the canvass of the signatures, we reaffirm our previous opinion. We conclude that to regard the names appearing on such petitions as public records for any purpose other than to assure an accurate canvass and to permit prosecuting attorneys to prosecute violations is contrary to public policy.

We hope the foregoing analysis will prove helpful.

Very truly yours,

DON EASTVOLD
Attorney General

ANDY G. ENGBRETSSEN
Assistant Attorney General