



2011 ASSEMBLY BILL 441

December 23, 2011 – Introduced by Representatives J. FITZGERALD, TAUCHEN, LEMAHIEU, TIFFANY, KRUG, A. OTT, NASS, HONADEL, BROOKS, KLEEFISCH, SEVERSON, MEYER, KNODL and CRAIG, cosponsored by Senators DARLING and LASEE. Referred to Committee on Election and Campaign Reform.

1 **AN ACT to amend** 9.10 (2) (a), 12.60 (1) (a), 12.60 (4) and 978.05 (1); and **to create**
2 12.13 (3) (zp) of the statutes; **relating to:** signing a petition to recall the same
3 officer more than once and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits any person from signing a petition for the recall of the same officer more than once during the same 60-day circulation period. Violators are guilty of a Class I felony and may be fined not more than \$10,000 or imprisoned for not more than three years and six months, or both. Currently, no such prohibition applies.

Currently, with limited exceptions, alleged criminal violations of the election laws are investigated by the Government Accountability Board or the district attorney for the appropriate county and are prosecuted by the district attorney. The bill provides that any resident of this state who believes that a violation of the prohibition created by this bill has occurred may petition the attorney general to investigate and prosecute the violation.

In addition, the bill requires each recall petition to state at the top of the petition “Signing of a petition to recall the same officer more than once during the same circulation period is a felony under Wisconsin law.”

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a

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report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 9.10 (2) (a) of the statutes is amended to read:

2 9.10 (2) (a) Every recall petition shall have on the face at the top in bold print
3 the words "RECALL PETITION" and directly below shall state "Signing of a petition
4 to recall the same officer more than once during the same circulation period is a
5 felony under Wisconsin law.". Other requirements as to preparation and form of the
6 petition shall be governed by s. 8.40.

7 **SECTION 2.** 12.13 (3) (zp) of the statutes is created to read:

8 12.13 (3) (zp) Sign a petition for the recall of the same officer more than once
9 during the same circulation period under s. 9.10 (2) (d).

10 **SECTION 3.** 12.60 (1) (a) of the statutes is amended to read:

11 12.60 (1) (a) Whoever violates s. 12.09, 12.11 or 12.13 (1), (2) (b) 1. to 7. or (3)
12 (a), (e), (f), (j), (k), (L), (m), (y) ~~or~~, (z), or (zp) is guilty of a Class I felony.

13 **SECTION 4.** 12.60 (4) of the statutes is amended to read:

14 12.60 (4) Prosecutions under this chapter shall be conducted in accordance
15 with s. 11.61 (2) except that in addition to the remedy provided in s. 5.05 (2m) (c), any
16 resident of this state who believes that a violation of s. 12.13 (3) (zp) has occurred may
17 petition the attorney general to investigate and prosecute the violation. The
18 attorney general may then investigate and prosecute the violation.

19 **SECTION 5.** 978.05 (1) of the statutes is amended to read:

20 978.05 (1) CRIMINAL ACTIONS. Except as provided in s. 12.60 (4) and as otherwise
21 provided by law, prosecute all criminal actions before any court within his or her

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1 prosecutorial unit and have sole responsibility for prosecution of all criminal actions
2 arising from violations of chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19 and
3 from violations of other laws arising from or in relation to the official functions of the
4 subject of the investigation or any matter that involves elections, ethics, or lobbying
5 regulation under chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, that are
6 alleged to be committed by a resident of his or her prosecutorial unit, or if alleged to
7 be committed by a nonresident of this state, that are alleged to occur in his or her
8 prosecutorial unit unless another prosecutor is substituted under s. 5.05 (2m) (i) or
9 this chapter or by referral of the government accountability board under s. 5.05 (2m)
10 (c) 15. or 16. For purposes of this subsection, a person other than a natural person
11 is a resident of a prosecutorial unit if the person's principal place of operation is
12 located in that prosecutorial unit.

13 **SECTION 6. Initial applicability.**

14 (1) The treatment of section 9.10 (2) (a) of the statutes first applies with respect
15 to recall petitions for which circulation begins on or after the effective date of this
16 subsection.

17 (END)