

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2227/P1dn
JEO:cmh:km

May 14, 1999

Jolene:

Please review this draft carefully to ensure that it is consistent with your intent. In particular, please note the following:

1. The prohibition contained in the draft will not apply to petitions of the form regularly used in legal proceedings (such as a petition for appointment of a guardian). Is this okay?

2. Under *In re Stolen*, 193 Wis. 602 (1927), a person who is not a party to a legal proceeding does not have a constitutionally protected right to petition a court in an effort to influence the court's decision in that proceeding. *See also State ex rel. Baker v. County Court*, 29 Wis. 2d 1, 10-11 (1965) (holding constitutional right to petition the government not applicable to presentation of petitions in probate proceeding by non-lawyer executor). Although courts regularly accept briefs from persons who are not parties to a case but who seek to influence its outcome (as *amicus curiae*, or a "friend of the court"), *Stolen* and *Baker* have never been overruled or limited on this issue. The draft, however, does not require that the petition be constitutionally protected or be in a certain form. In other words, even though a court may not ultimately have to accept a petition like the one that was being circulated in Big Bend, unauthorized removal, concealment, defacement or destruction of such a petition would still be prohibited under this draft.

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