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State of Louisiana
DEPARTMENT OF JUSTICE
CIVIL DIVISION
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October 28, 2016

Jon A. Gegenheimer
Clerk of Court
Jefferson Parish
P.O. Box 10
Gretna, LA 70054

Dear Mr. Gegenheimer,

You have asked about the applicability of La. R.S. 18:1462 to the circulation of a recall petition within a radius of six hundred feet of a polling place entrance. La. R.S. 18:1462(A)(5) provides:

A. The Legislature of Louisiana recognizes that the right to vote is a right that is essential to the effective operation of a democratic government. Due to a past, longstanding history of election problems, such as multiple voting, votes being recorded for persons who did not vote, votes being recorded for deceased persons, voting by non-residents, vote buying, and voter intimidation, the legislature finds that the state has a compelling interest in securing a person's right to vote in an environment which is free from intimidation, harassment, confusion, obstruction, and undue influence. The legislature, therefore, enacts this Subsection to provide for a six hundred foot campaign-free zone around polling places to provide to each voter such an environment in which to exercise his right to vote. Except as otherwise specifically provided by law, it shall be unlawful for any person, between the hours of 6:00 a.m. and 9:00 p.m., to perform or cause to be performed any of the following acts within any polling place being used in an election on election day or during early voting, or within a radius of six hundred feet of the entrance to any polling place being used in an election on election day or during early voting:

...

(5) To circulate a recall petition or seek handwritten signatures to a recall petition.

La. R.S. 18:1462(A)(5) prohibits circulating a recall petition and/or seeking handwritten signatures to a recall petition within a radius of six hundred feet of a polling place entrance between the hours of 6:00 a.m. and 9:00 p.m. La. R.S. 18:1462 does not distinguish between public and private property except in La. R.S. 18:1462(B), which

provides, "[t]he provisions hereof shall not apply to the placing and displaying, either by the owner, lessee, or lawful occupant thereof, or with the consent of such owner, lessee or occupant, of political signs or pictures on private property which is not being used as a polling place." Therefore, the only exception is for political signs and pictures, as provided by La. R.S. 18:1462(B). There is no private property exception for the circulation and solicitation of signatures for a recall petition.

You also inquired about the applicability of *State v. Schirmer*, 93-2631 (La. 11/30/94), 646 So.2d 890 to La. R.S. 18:1462. La. R.S. 18:1462 has been amended twice since *State v. Schirmer* and is presumed constitutional. The Louisiana Supreme Court made clear in *Johnson v. Welsh*, 334 So.2d 395, 396 (La.1976) that "[i]t is well settled that all laws are presumed to be constitutional until the contrary is made to appear."

La. R.S. 18:1462(G) further provides that "[w]hoever violates any provision of this Section shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both. On a second offense or any succeeding offense, the penalty shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both."

Local law enforcement officers are the proper parties to enforce the provisions of La. R.S. 18:1462 when requested to do so by a proper election official. La. R.S. 18:1462(F) provides for enforcement of the provisions of La. R.S. 18:1462:

The duly constituted law enforcement officers of the political subdivision in which any such election is being held shall enforce the provisions of this Section when requested to do so by a registrar, deputy registrar, commissioner-in-charge or commissioner. The registrar, deputy registrars, commissioners-in-charge and commissioners likewise shall enforce the provisions of this Section at the polling places.

In Jefferson Parish, the proper law enforcement official is Jefferson Parish Sheriff Newell Normand.

We hope that this letter has adequately addressed the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,

JEFF LANDRY
ATTORNEY GENERAL

BY:


Jeffrey M. Wale
Assistant Attorney General