



Corey Stapleton

MONTANA SECRETARY OF STATE

Guidelines on Signature Gathering

Montana Secretary of State

Elections & Voter Services Division

State Capitol Building, 1301 E. 6th Ave Room 260

PO Box 202801

Helena, MT 59620

sosmt.gov soselections@mt.gov 406-444-9608

Revised April 29th, 2019



Corey Stapleton

MONTANA SECRETARY OF STATE

Your Rights and Responsibilities – Submitting Petitions in Montana

Congratulations, we hope you find this guide a useful tool to submit a petition in Montana!

This guide is meant to assist users with this complicated process. If you have questions, please consult legal counsel.



Corey Stapleton

MONTANA SECRETARY OF STATE

Important Notice

Up-to-date information on the ballot issue process is on the Secretary of State's (SOS) website at sosmt.gov/Elections.

It is the responsibility of the sponsor to ensure all applicable laws are followed, including those governing signature gathering activities and deadlines. In addition, each ballot issue sponsor should review [MCA Title 13, Chapter 27](#) and [Article III](#), [Article IV](#) and [Article XIV](#) of the [Montana Constitution](#).



Corey Stapleton

MONTANA SECRETARY OF STATE

Montana petition facts and history

In **1906** Montana voters approved the creation of **initiative** and **referendum** – a system of making laws by the people.

This presentation does not cover **candidate petitions, party petitions, recall petitions, or local petitions.**

There are different types of statewide petitions relating to statutory **initiatives, constitutional initiatives, and initiative referendums.**

As a signature gatherer, paid or voluntary, you are on the front lines of the system and are helping to amend or create a state law.

All signature gatherers should know and follow all guidelines and applicable laws.



Corey Stapleton

MONTANA SECRETARY OF STATE

Initiative definition:

[THE CONSTITUTION OF THE STATE OF MONTANA](#)

[ARTICLE III. GENERAL GOVERNMENT](#)

[Part III. GENERAL GOVERNMENT](#)

Initiative

Section 4. Initiative. (1) The people may enact laws by initiative on all matters except appropriations of money and local or special laws.

(2) Initiative petitions must contain the full text of the proposed measure, shall be signed by at least five percent of the qualified electors in each of at least one-half of the counties and the total number of signers must be at least five percent of the total qualified electors of the state. Petitions shall be filed with the secretary of state at least three months prior to the election at which the measure will be voted upon.

(3) The sufficiency of the initiative petition shall not be questioned after the election is held.

History: Amd. Const. Amend. No. 38, approved Nov. 5, 2002.

An **initiative** is when a citizen or group starts a petition for an idea that they would like to change or become a law or an amendment to the state constitution.



Corey Stapleton

MONTANA SECRETARY OF STATE

Referendum definition:

THE CONSTITUTION OF THE STATE OF MONTANA

ARTICLE III. GENERAL GOVERNMENT

Part III. GENERAL GOVERNMENT

Referendum

Section 5. Referendum. (1) The people may approve or reject by referendum any act of the legislature except an appropriation of money. A referendum shall be held either upon order by the legislature or upon petition signed by at least five percent of the qualified electors in each of at least one-third of the legislative representative districts. The total number of signers must be at least five percent of the qualified electors of the state. A referendum petition shall be filed with the secretary of state no later than six months after adjournment of the legislature which passed the act.

(2) An act referred to the people is in effect until suspended by petitions signed by at least 15 percent of the qualified electors in a majority of the legislative representative districts. If so suspended the act shall become operative only after it is approved at an election, the result of which has been determined and declared as provided by law.

A **referendum** is when a person or group seeks to overturn a law that has just been passed by the Montana Legislature.



Corey Stapleton

MONTANA SECRETARY OF STATE

How do initiatives and referendums end up on the ballot?

- To place an initiative or referendum on the ballot, petitioners must obtain a **specified number of valid signatures of Montana registered voters.**
- The total number of valid signatures required is determined by the state constitution.
- The number of valid signatures required is based upon a percentage of the total votes cast for all candidates for Governor at the most recent election.



Corey Stapleton

MONTANA SECRETARY OF STATE

How do initiatives and referendums end up on the ballot?

- ❑ For a constitutional [initiative](#), the statewide percentage is 10%, and 10% of the voters in each of at least 40 legislative representative districts.
- ❑ The percentage for a **statutory initiative** or [referendum](#) to qualify for the ballot is 5% statewide, and 5% of the qualified voters in each of 34 legislative representative districts.

The percentage required for a [referendum](#) to suspend an act referred to the people is 15% of the voters in each of at least 51 legislative representative districts.



Corey Stapleton

MONTANA SECRETARY OF STATE

How do initiatives and referendums end up on the ballot?

Example:

- ❑ For the 2018 General Election ballot, petitioners were required to obtain 50,936 valid signatures to qualify an initiative that amends the state constitution, as well as 10% of the voters in each of 40 legislative districts.



Constitutional Initiative: 50,936 valid signatures



Corey Stapleton

MONTANA SECRETARY OF STATE

How do initiatives and referendums end up on the ballot?

Example:

- ❑ For the 2018 General Election ballot, petitioners were required to obtain 25,468 valid signatures to qualify an initiative that creates or amends state law or a referendum that refers a bill to voters, and 5% of the voters in each of at least 34 legislative districts.



Constitutional Initiative: 50,936 valid signatures



Statutory Referendum: 25,468 valid signatures



Corey Stapleton

MONTANA SECRETARY OF STATE

How do initiatives and referendums end up on the ballot?

Example:

- For the 2018 General Election ballot, petitioners with intent to suspend a law passed by the Legislature were required to obtain signatures equal to 15% of the voters in each of 51 of 100 legislative representative districts.
- The total required varies by the number of voters in the legislative districts and depending on the districts chosen.



Corey Stapleton

MONTANA SECRETARY OF STATE

Financial reporting requirements

- ❑ People who employ paid signature gatherers must follow MCA [13-27-112](#) and [13-27-113](#).
- ❑ Contact the [Commissioner of Political Practices](#) for questions on compliance: 406-444-2942, <http://politicalpractices.mt.gov/>.



Corey Stapleton

MONTANA SECRETARY OF STATE

Signature gatherers of statewide ballot issues

- ❑ A signature gatherer for a statewide ballot issue must be a **resident of Montana**, as defined in [MCA 1-1-215](#).
- ❑ Signature gatherers may be volunteers, or they may be paid.
 - If paid, a signature gatherer for a statewide ballot issue **may not** be paid anything of value based upon the **number of signatures** gathered
- ❑ There is no statutory age restriction for signature gathering.



Corey Stapleton

MONTANA SECRETARY OF STATE

Signature gatherers of statewide ballot issues

An individual gathering signatures for a **candidate, political party, or recall petition** is not:

1. required to be a resident of Montana, and
2. prohibited from being paid anything of value based on the number of signatures gathered



Corey Stapleton

MONTANA SECRETARY OF STATE

Responsibilities of signature gatherers

- While gathering signatures, **ensure that the full text of the ballot issue is attached to the petition** if the full text is not already contained within each signature sheet.
 - Allow anyone to read the full text of the ballot issue
- Be in the presence of each signer** when gathering signatures.
 - Do not leave the petition unattended



Corey Stapleton

MONTANA SECRETARY OF STATE

Responsibilities of signature gatherers

- ❑ Provide an affidavit of signature gatherer with each petition sheet, or section of up to 25 sheets fastened together.
 - After you gather the last signature that you attach to the affidavit, write in the date on which you gathered the first signature that is attached to the affidavit
 - Provide your address on the affidavit



Corey Stapleton

MONTANA SECRETARY OF STATE

Responsibilities of signature gatherers

- Sign the affidavit in front of a notary **after** you gather the last signature on the petition sheet(s) that are attached to the petition.
- Do not attach additional signatures after signing the affidavit in front of a notary.
- After you sign the affidavit, use a new affidavit for any additional signatures gathered.



Corey Stapleton

MONTANA SECRETARY OF STATE

Responsibilities of signature gatherers

IMPORTANT NOTE

- A signature gatherer who signs an affidavit **before** the last signer on the attached petitions has signed cannot legally claim that all the signers knew what they were signing, as is required by law.



Corey Stapleton

MONTANA SECRETARY OF STATE

Responsibilities of signature gatherers

- Give accurate information to anyone who signs, attempts to sign, or requests information.
- Check to ensure that signers provide the correct date; if they do not, have the signer change the date initial next to the change.
- Follow instructions provided by the ballot issue sponsor.
- Submit petition sheets to sponsor and/or to county election offices by applicable deadlines.



Corey Stapleton

MONTANA SECRETARY OF STATE

Responsibilities of signature gatherers

IMPORTANT NOTE

- It is imperative you follow state law when you circulate a petition, or the signatures that you collect could be rejected.
- The laws are written to protect Montana's petition system from fraudulent signature gathering.



Corey Stapleton
MONTANA SECRETARY OF STATE

IMPORTANT NOTE

It is essential to follow state law when circulating a petition, or the signatures collected could be rejected. The laws are written to protect Montana's petition system from fraudulent signature gathering.

What should signature gatherers look for on the *Petition Sheet*?

Date Signed

Residence Address or Post-Office Address or Home Telephone Number

Signers can write in a phone number; however, an address makes it easier to identify the signer

WARNING

A person who purposefully signs a name other than the person's own to this petition, who signs more than once for the same issue at one election or who signs when not a legally registered Montana voter is subject to a \$500 fine, 6 months in jail, or both.

Each person is required to sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter registration card or the signature will not be counted.

In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number.

Signature	Date Signed	Residence Address or Post-Office Address or Home Telephone Number	Printed Last Name and First and Middle Initials	For County Election Office Use Only	
				Legis. Rep. District Number	Reserved
1.					
2.					
3.					
4.					
5.					

(numbered lines continued to fill up page)

COUNTY: _____

(OPTIONAL: Instructions to petition signature gatherers, e.g. where to mail completed petition sheets and affidavit(s), and deadline for submission to county)

The printed last name and initials should be legible

Printed Last Name and First and Middle Initials



Corey Stapleton
MONTANA SECRETARY OF STATE

The date you put in below should match the first date signed on the petition that is attached to the affidavit

Date on which the first signature **attached** was gathered

What should signature gatherers look for on the *Affidavit*?

Affidavit of Petition Signature Gatherer
An affidavit must be attached to each sheet or section submitted to the election administrator. Separate sheets of a petition may be fastened to this affidavit in sections of not more than 25 sheets.

AFFIDAVIT FILED WITH ELECTION ADMINISTRATOR

I, _____
(Printed name of person who is the signature gatherer)

swear that I gathered the signatures on the petition to which this affidavit is attached on the stated dates, that I believe the signatures on the petition are genuine, are the signatures of the persons whose names they purport to be, and are the signatures of Montana electors who are registered at the address of have the telephone number following the person's signature, and that the signers knew the contents of the petition before signing the petition.

Date on which the first signature **attached** was gathered _____

Signature of petition signature gatherer _____
(Do not sign above before gathering the signatures on the petition(s) that you attach to this affidavit.)

Address of petition signature gatherer _____

City, state and zip code _____

NOTARY OR AUTHORIZED OFFICER – DO NOT FILL OUT THIS SECTION UNTIL AFTER THE SIGNATURES GATHERED HAVE BEEN ATTACHED TO THIS AFFIDAVIT

State of Montana
County of _____

Signed and sworn to before me this _____ day of _____, 20____ by _____
Printed Name of Signature Gatherer

Signature of Notary or Public Official _____
[Montana notaries must complete the following if not part of stamp at left]

Printed Name of Notary Public _____
Notary Public for the State of Montana
Residing at: _____
My commission expires: _____, 20____

[SEAL/STAMP]

Updated April 15, 2011

IMPORTANT NOTE
Do **not** sign the affidavit until **AFTER** you have gathered the last signature that you attach to the affidavit

Check to see if the notary has filled in all required items or used a stamp with all the required items



Corey Stapleton

MONTANA SECRETARY OF STATE

Rights of signature gatherers

MCA 13-27-210. Physical prevention of obtaining signatures or physical intimidation of signature gatherers prohibited.

- A person may not knowingly or purposefully physically prevent an individual from obtaining signatures or attempting to obtain signatures on a petition for a ballot issue or physically intimidate another individual when that individual is obtaining or attempting to obtain signatures on a petition for a ballot issue.
- A person who violates this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500, by imprisonment for not more than 90 days, or by both a fine and imprisonment.



Corey Stapleton

MONTANA SECRETARY OF STATE

Rights of signature gatherers

- If an employer promises to pay you by the hour, the employer must pay you for the number of hours you worked regardless of how many signatures you collect on petitions.
- You must be paid at least the minimum wage and must be paid overtime for any hours over 40 worked in a workweek.
- If you believe that you have not been paid correctly, contact the Department of Labor and Industry.
- Notify the Secretary of State or your county attorney if you are asked to accept payment based on the number of signatures you obtain.



Corey Stapleton

MONTANA SECRETARY OF STATE

Thank you for participating in the Montana
petition process.

Montana Secretary of State
Elections & Voter Services Division
State Capitol Building, 1301 E. 6th Ave Room 260
PO Box 202801
Helena, MT 59620
sosmt.gov soselections@mt.gov 406-444-9608