



**CHRISTI JACOBSEN**  
MONTANA SECRETARY OF STATE



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# *Signature Gathering Guidelines*

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***Montana Secretary of State Elections and Voter Services Division***

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# Montana Petition Facts and History

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

There are different types of statewide petitions relating to statutory initiatives, constitutional initiatives, and initiative referendums. This presentation does not cover candidate petitions, party petitions, recall petitions, or local petitions.

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

***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!***

# Rights of Signature Gatherers

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[13-27-611, MCA](#). **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 statewide ballot issue or physically intimidate another individual when that individual is obtaining or attempting to obtain signatures on a petition for a statewide 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.

# Rights of Signature Gatherers (cont.)

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- ☐ 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 hours worked in a work week.
- ☐ If you believe you have not been paid correctly, contact the Montana 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.

# Sponsor Responsibilities

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**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](#).

It is also recommended to review recent legislation passed in 2023 affecting the process ([SB 93](#), [SB 56](#)).

Information on the ballot issue process is on the Secretary of State's (SOS) website at [sosmt.gov/elections/ballot\\_issues](https://sosmt.gov/elections/ballot_issues).



# The Constitution of Montana

ARTICLE III. GENERAL GOVERNMENT

Part III. GENERAL GOVERNMENT



## Initiative definition:

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

### 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-third of the legislative representative districts 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; amd. Const. Amend. No. 47, approved Nov. 3, 2020.

# Referendum definition:

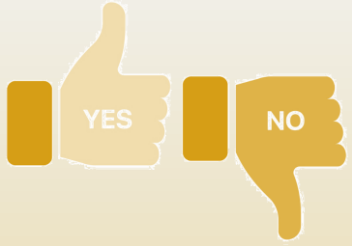
A referendum is when a person or group seeks to overturn a law that has just been passed by the Montana Legislature.



## 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.



## How do initiatives and referendums end up on the ballot?

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- ☐ 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.
- ☐ For a constitutional [initiative](#), the statewide percentage is 5%, and 5% of the voters in each of at least 1/3 of the 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 at least 1/3 of the legislative representative districts.
- ☐ The percentage required for a referendum to suspend an act referred to the people is 15% of the voters in a majority of the legislative representative districts.



# Required Reports and Signature Gatherers

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- ❑ Employers of paid signature gatherers must follow [13-27-112, MCA](#).
- ❑ The 2023 Legislature passed [SB 93](#) and [SB 56](#) which made changes to the way petitions are handled. One such change was [13-27-112\(1\)\(a\), MCA](#) which requires employers of paid signature gatherers to register with the Secretary of State prior to gathering signatures.
- ❑ Backers of a petition may be required to file financial reports with the Commissioner of Political Practices. For more information, contact: (406)444-2942 or <http://politicalpractices.mt.gov/>
- ❑ Another change to the law made by SB 93 provided definitions for ballot issues and changed various ballot issue laws. This included establishing a non-refundable fee for filing ballot issues and providing a waiver, [13-27-215, MCA](#).  
***(Note: The fee for submitting a ballot issue is currently enjoined by a district court order.)***
- ❑ Another change was [13-27-103, MCA](#) which prohibits electronic signatures. A signature on a petition must be “...the original signature of the elector in ink.”



# Signature Gatherers of Statewide Ballot Issues

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.

# Responsibilities of Signature Gatherers

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- ❑ While gathering signatures, ensure 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.
- ❑ Provide an affidavit of the signature gatherer with each petition sheet or section (up to 25 petition sheets may be fastened together per affidavit).
- ❑ There are 2 versions of the signature gatherer affidavit:
  - ***Affidavit of Petition Signature Gatherer*** which must be signed in front of a notary.
  - ***Unsworn Declaration of Petition Gatherer*** which does not require signature notarization.

# Responsibilities of Signature Gatherers (cont.)

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- ☐ Clearly print your name and address on the affidavit.
  - ☐ Follow the instructions provided by the ballot issue sponsor.
  - ☐ Petition signatures are gathered and submitted by county ([13-27-303, MCA](#)).
  - ☐ Ask the petition signer which county they are registered in to ensure their signature is submitted to the correct county.
  - ☐ The county election officials will verify the voter registration and signature of the signer.
- (Note: If the signer is not registered in the county, the signature will be rejected.)***
- ☐ Give accurate information to anyone who signs, attempts to sign, or requests information.

# Responsibilities of signature gatherers (cont.)

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- ☐ Check to ensure signers provide the correct date; if they do not, have the signer change the date and place their initials next to the change.
- ☐ After the last signature gathered is attached to the affidavit, write in the date on which you gathered the first signature attached to the affidavit.
- ☐ Sign the affidavit after you gather the last signature on the petition sheet(s) you attach to it.
- ☐ After you sign the affidavit, use a new affidavit for any additional signatures gathered.
- ☐ Do not attach additional signatures after signing the affidavit.
- ☐ Submit petition sheets to the sponsor and/or to the appropriate county election offices by applicable deadlines.

Date  
Signed

Residence Address or  
Post Office Address or  
Home Telephone Number

What should  
signature  
gatherers look  
for on the  
Petition Sheet?

**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 form 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 <u>or</u> Post Office Address <u>or</u> Home Telephone Number	Printed Last Name <u>and</u> First <u>and</u> Middle Initials	For County Election Office Use Only	
				Legis. Rep. Dist. Number	Reserved
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

Signers can write in  
a phone number, **but** an  
address makes it easier to  
identify the signer.

The printed last name  
and initials should be  
legible.

Printed Last Name  
and First and  
Middle Initials

COUNTY \_\_\_\_\_

**This page must accompany the Declaration for Nomination and Oath of Candidacy.** Submit this form to the County Election Administrator with the **Affidavit** or **Unsworn Declaration** attached to each sheet or section of up to 25 sheets.



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 signatures. Complete and attach this Affidavit to the Petition after signatures have been gathered.

#### 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 date, believe the signatures on the petition are genuine, are the signatures of the persons whose names they are, and are the signatures of Montana electors who are registered at the address or have the telephone number, and that the signers knew the contents of the petition before signing the petition.

\_\_\_\_\_  
Date on which the first signature attached was gathered

Do not sign this form before gathering the signatures on the petition(s) you attach to this affidavit.

\_\_\_\_\_  
Signature of Petition Signature Gatherer  
(Affidavit must be signed before a Notary or Public Official)

\_\_\_\_\_  
Address of Petition Signature Gatherer

\_\_\_\_\_  
City, State, and Zip Code

#### Where to file Petition and Affidavit:

County Election Office

A list of county election offices may be found at:

[sosmt.gov/elections](https://sosmt.gov/elections)

NOTARY PUBLIC 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 before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

by \_\_\_\_\_  
Printed Name of Signature Gatherer

\_\_\_\_\_  
Signature of Notary or Public Official

[SEAL/STAMP]

Updated November 21, 2023

The date you include 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

#### IMPORTANT NOTE

Do not sign the affidavit until **AFTER** you have gathered the last signature you attach to the affidavit.  
This form **MUST** be signed in front of a notary.

Check to see the notary has filled in ALL required items or used a stamp with ALL required items.



## Unsworn Declaration of Petition Signature Gatherer

Under Penalty of Perjury Pursuant to §1-6-105

An affidavit as defined by [1-1-203, MCA](#) 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 100 signatures. Complete and attach this Affidavit to the Petition after signatures have been gathered.

### SECTION 1 - 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 state of Montana, believe the signatures on the petition are genuine, are the signatures of the persons whose names are on the petition, and are the signatures of Montana electors who are registered at the address or have the telephone number listed on the petition, and that the signers knew the contents of the petition before signing the petition.

\_\_\_\_\_  
Date on which the first signature attached was gathered

Do not sign this form before gathering the signatures on the petition(s) you attach to this affidavit.

\_\_\_\_\_  
Signature of Petition Signature Gatherer

\_\_\_\_\_  
Address of Petition Signature Gatherer

\_\_\_\_\_  
City, State, and Zip Code

### SECTION 2 - UNSWORN DECLARATION EXECUTED UNDER PENALTY OF PERJURY ([1-6-105, MCA](#))

Where to file Petition and Affidavit:

County Election Office

A list of county election offices may be found at:

[sosmt.gov/elections](https://sosmt.gov/elections)

I declare under penalty of perjury the foregoing is true and correct.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

at \_\_\_\_\_  
City and State

\_\_\_\_\_  
Printed Name of Petition Signature Gatherer

\_\_\_\_\_  
Date of Birth of Petition Signature Gatherer

\_\_\_\_\_  
Phone Number of Petition Signature Gatherer

\_\_\_\_\_  
Signature of Petition Signature Gatherer

Updated November 21, 2023

What should signature gatherers look for on the *Unsworn Declaration*?

The date you include below should match the first date signed on the petition that is attached to the declaration.

\_\_\_\_\_  
Date on which the first signature attached was gathered

### IMPORTANT NOTE

Do not sign the declaration until AFTER you have gathered the last signature you attach to the declaration.

Check to see ALL the information has been filled in for ALL required items.

# Responsibilities of Signature Gatherers (cont.)

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The most common mistake made on petitions is signing and dating the signature gatherer affidavit **before** gathering signatures. Your dated signature on the gatherer affidavit must be **AFTER** the dates of the signatures on the petition or those petition signatures will be rejected.

## IMPORTANT NOTE

The laws are written to protect Montana's petition system from fraudulent signature gathering.

***It is imperative you follow state law when you circulate a petition or the signatures you collect could be rejected!***



**CHRISTI JACOBSEN**  
MONTANA SECRETARY OF STATE



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*Thank you for participating in the  
Montana petition process!*

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If you have questions, please consult legal counsel

***Montana Secretary of State Elections and Voter Services Division***

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