

Initiative Measure No. 651 filed April 1, 2014

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: I-2841.1/14

ATTY/TYPIST: AA:akl

BRIEF DESCRIPTION:

Initiative Measure No. 651 filed April 1, 2014

AN ACT Relating to a pro se litigant's right to have all, or some controversies of fact tried by a jury trial; amending chapter 4.40.060 RCW; amending chapter 4.44.090 RCW; amending 4.44.460 RCW; and creating new sections.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** This act is necessary because the judicial branch is encroaching upon citizens' fundamental rights through the tactical use of court rules. Therefore any lawsuit, instituted and prosecuted pro se, suffering a dismissal, or any non-attorney litigant suffering a sanction under the court's rules of administration immediately raises an issue of fact. While courts have the authority to establish rules for the administration of the courts, the increasing tendency among judges and attorneys, in lawsuits filed and prosecuted pro se, is to use court rules to govern people and their grievances. For the courts and its officers to obstruct a person's fundamental right of petition, Article 1, Section 4; a person's fundamental right to an impartial judge, Article 4, Section 28, as codified in RCW 2.28.030(1); by officers of the court in self-proclaimed authority through the rules the courts establish, oppresses the rights of the people enshrined in Article 1, Section 1. It is the "people" who are the ultimate arbiters of governments "just powers", not judges in the rules judges make. By law, an impartial jury determines issues of fact. And by law a jury determines the conditions of society - not a judge under self-serving use of court rules. Until now, citizens have no authority over judicial power or any say in how court rules are established, interpreted or applied. Until now Superior Courts provide no adequate, impartial, and speedy avenue pro se litigant can pursue to escape the entrapment by the overreaching use of court rules by judicial officials.

Sec. 2. Chapter 4.40.060 RCW is amended to read as follows:

(1) An issue of fact, ~~in an action for the recovery of money only, or of specific real or personal property~~ shall be tried by a jury, unless a jury is waived, as provided by law, or a reference ordered, as provided by statute relating to referees

(2) An aggrieved non-attorney litigant who claims he or she has suffered an injustice resulting from a claimed violation of a court rule shall be proved as the first matter upon the trial by jury. Because of the inherent conflict in having judges decide the scope of their own power in the rules they establish a jury must be convened thereafter, if not already demanded, as a matter of course.

(3) If a jury returns a verdict in favor of the aggrieved with respect to any one or more court rule violation, such verdict will serve as official misconduct per se by each judicial official involved. The clerk of the court shall prepare the record and report the lawyer and or judge to the Washington state bar association or the Washington state commission on judicial conduct. The clerk shall note that under this section, discipline by the appropriate regulatory agency is mandatory and the proceedings are subject to public disclosure.

Otherwise, the court rule violation(s) will be upheld and the penalty imposed implemented.

NEW SECTION. **Sec. 3.** Construction of chapter. This chapter shall be complete authority for the accomplishment of purposes hereby authorized, and shall be liberally construed to accomplish its purposes. Any act inconsistent herewith shall be deemed modified to conform to the provisions of this chapter.

SEC. 4. Chapter 4.44.090 RCW is amended to read as follows:

(1) All questions of fact other than those mentioned in RCW 4.44.080, shall be decided by the jury, and all evidence thereon addressed to them.

(2) An aggrieved non-attorney litigant who claims he or she has suffered an injustice resulting from a claimed violation of a court

rule, such violation shall be proved as the first matter upon the trial by jury. A jury must be convened, if not already demanded as a matter of course, because of the inherent conflict in having judges decide the scope of their own power in the rules they establish.

(3) If a jury returns a verdict in favor of the aggrieved with respect to any one or more court rule violation, such verdict will serve as official misconduct per se by each judicial official involved. The clerk of the court shall prepare the record and report the lawyer and or judge to the Washington state bar association or the Washington state commission on judicial conduct. The clerk shall note that under this section, discipline by the appropriate regulatory agency is mandatory and the proceedings are subject to public disclosure.

Otherwise, the court rule violation(s) will be upheld and the penalty imposed implemented.

SEC. 5. Chapter 4.44.460 RCW and 2003 c 406 § 26 are each amended to read as follows:

Receiving verdict and discharging jury.

If the court determines that the verdict meets the requirements contained in this chapter ~~and in court rules~~, the clerk shall file the verdict. The verdict is then complete and the jury shall be discharged from the case. The verdict shall be in writing, and under the direction of the court shall be substantially entered in the record as of the day's proceedings on which it was given.

NEW SECTION. Sec. 6. Construction of chapter. This chapter shall be complete authority for the accomplishment of purposes hereby authorized, and shall be liberally construed to accomplish its purposes. Any act inconsistent herewith shall be deemed modified to conform to the provisions of this chapter.