

9-2-1999

Spousal Infidelity. Civil Liability.

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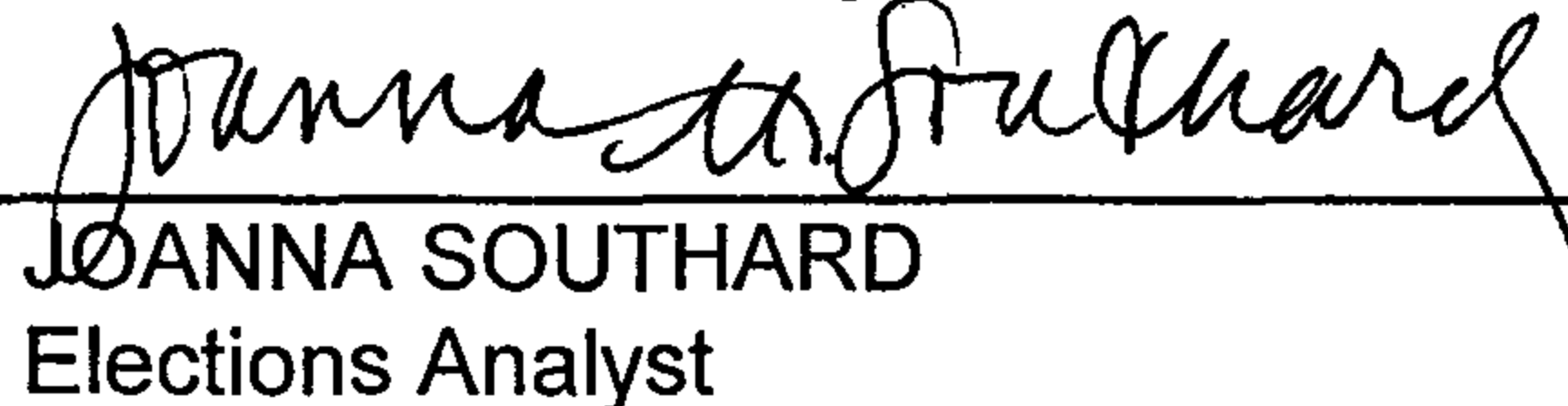
BILL JONES
Secretary of State
State of California

ELECTIONS DIVISION
(916) 657-2166
1500 - 11th STREET
SACRAMENTO, CA 95814
Voter Registration Hotline
1-800-345-VOTE
For Hearing and Speech Impaired
Only
1-800-833-8683
e-mail: comments@ss.ca.gov

February 24, 2000

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS AND
PROPOSERS (00067)

FROM:



JOANNA SOUTHARD
Elections Analyst

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FEB 29 2000

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100/111111111111

SUBJECT: INITIATIVE #853

Pursuant to Elections Code section 9030(b), you are hereby notified that the total number of signatures to the hereinafter named proposed INITIATIVE STATUTE filed with all county elections officials is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has **failed**.

TITLE: SPOUSAL INFIDELITY. CIVIL LIABILITY. INITIATIVE STATUTE.

SUMMARY DATE: September 2, 1999

PROPOSER: Laura Onate-Palacios

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September 2, 1999

TO: ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENTS (99178)

FROM: *Deirdre Avent*
DEIRDRE AVENT
ELECTIONS ANALYST

SUBJECT: INITIATIVE #853

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**SPOUSAL INFIDELITY. CIVIL LIABILITY.
INITIATIVE STATUTE.**

The proponent of the above-named measure is:

Laura Onate-Palacios
1415 Custozza Avenue
Rowland Heights, CA 91748
(323) 730-8860

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#853
SPOUSAL INFIDELITY. CIVIL LIABILITY.
INITIATIVE STATUTE.

CIRCULATING AND FILING SCHEDULE

1. Minimum number of signatures required: 419,260
California Constitution, Article II, Section 8(b)

2. Official Summary Date:..... Thursday, 09/02/99
Elections Code section (EC§) 336

3. Petitions Sections:
 - a. First day Proponent can circulate Sections for
signatures (EC §336) Thursday, 09/02/99

 - b. Last day Proponent can circulate and file
with the county. All sections are to be filed at the
same time within each county (EC §336, 9030(a)) Monday, 01/31/00*

 - c. Last day for county to determine total number of
signatures affixed to petitions and to transmit total
to the Secretary of State (EC §9030(b))..... Thursday, 02/10/00

(If the Proponent files the petition with the county on a date prior to 01/31/00,
the county has eight working days from the filing of the petition to determine the
total number of signatures affixed to the petition and to transmit the total to the
Secretary of State) (EC §9030(b)).

 - d. Secretary of State determines whether the total number
of signatures filed with all county clerks/registrars of
voters meets the minimum number of required signatures,
and notifies the counties (EC §9030(c))..... Saturday, 02/19/00**

 - e. Last day for county to determine total number of qualified
voters who signed the petition, and to transmit certificate
with a blank copy of the petition to the Secretary of State
(EC §9030(d)(e)) Tuesday, 04/04/00

* Date adjusted for official deadline which falls on a Sunday. EC §15
** Date varies based on receipt of county certification.

INITIATIVE #853
Circulating and Filing Schedule continued:

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 02/19/00, the last day is no later than the thirtieth day after the county's receipt of notification). (EC §9030(d)(e)).

- f. If the signature count is more than 461,003 or less than 398,139 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 398,139 and 461,003 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures (EC §9030(f)(g); 9031(a)) Friday, 04/14/00**
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State (EC §9031(b)(c)).Friday, 05/26/00

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 04/14/00, the last day is no later than the thirtieth working day after the county's receipt of notification). EG §9031(b)(c).

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (EC §9031(d); 9033).....Tuesday, 05/30/00**

* Date adjusted for official deadline which falls on Saturday. EC §15

** Date varies based upon receipt of county certification.

IMPORTANT POINTS

- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 123 Cal. App. 3d 825, 177 Cal. Rptr. 621; 63 Ops. Cal. Atty. Gen. 37 (1980).
- Please refer to Elections Code sections 100,101,104,9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation in printing, typing and otherwise preparing your initiative petition for circulation and signatures, Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq. A brief summary is attached for your reference.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

Enclosures

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 1200
P.O. BOX 9447
SACRAMENTO, CA 94244-2547
Public: (916) 445-9555

Facsimile: (916) 323-2137
(916) 324-5490

September 2, 1999

Bill Jones
Secretary of State
1500 - 11th Street, 5th Floor
Sacramento, California 95814

FILED
In the office of the Secretary of State
of the State of California

SEP 02 1999

RE: INITIATIVE TITLE AND SUMMARY
SUBJECT: SPOUSAL INFIDELITY. CIVIL LIABILITY.
INITIATIVE STATUTE.
FILE NO: SA1999RF0029

BILL JONES, Secretary of State
By *Deirdre Avent*
Deputy Secretary of State

Dear Mr. Jones:

Pursuant to the provisions of sections 9004 and 336 of the Elections Code, you are hereby notified that on this day we mailed to the proponent of the above-identified proposed initiative our title and summary.

Enclosed is a copy of our transmittal letter to the proponent, a copy of our title and summary, a declaration of service thereof, and a copy of the proposed measure.

According to information available in our records, the name and address of the proponent is as stated on the declaration of service.

Sincerely,
Connie Lemus
CONNIE LEMUS
Initiative Coordinator

For BILL LOCKYER
Attorney General

CL:tk
Enclosures

Date: September 2, 1999
File No.: SA1999RF0029

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

SPOUSAL INFIDELITY. CIVIL LIABILITY. INITIATIVE STATUTE. Imposes civil liability for infidelity. Defines "infidelity" as voluntary sexual intercourse or oral sex between one spouse and a third person without other spouse's knowledge and consent. Defines "spouse" as husband, wife, or person cohabiting with member of opposite sex presenting themselves as married. Innocent spouse's remedies include damages for alienation of affections, lost wages and expenses due to emotional distress, abandonment, humiliation. Innocent spouse is eligible for divorce resulting in a 65% community property share, award of benefits, child custody and support. Couples may choose other remedies including an apology and counseling. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: The measure could result in costs to state government to process additional court cases. The magnitude of the costs is unknown and would depend on the number of such cases that are brought to court.

SA 1999 RF0029
Amdt.: #1-S

INITIATIVE: Proposal to Make Infidelity Illegal

Office of the Attorney General
Attn: Initiative Coordinator
Mrs. Connie Lemus
Sacramento, CA. 94244-2550

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AUG 04 1999

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Dear Madam:

Enclosed in this letter you will find my amended initiative measure. Please prepare a Title and Summary as a proposed measure indicated above.

This initiative is intended to be put on the November 2000 Election.

Thank you,



Laura Onate- Palacios
323-730-8860 (office)
626-913-7586 (home)

Any correspondence may be mailed to:
1415 Custozza Avenue
Rowland Heights, CA. 91748

August 2, 1999

PAGE 1

**INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO
THE VOTERS**

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the Attorney General. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

TO THE HONORABLE SECRETARY OF STATE OF CALIFORNIA

We, the undersigned, registered, qualified voters of California, residents of _____ County, hereby propose amendments to the Family Code, relating to infidelity, and petition the Secretary of State to submit the same to voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to that general election or otherwise provided by law. The proposed statutory amendments read as follows:

SECTION 1. Section 722 is added to the Family Code, to read:

722. (a) Every spouse owes the other spouse the duty to refrain from infidelity.

(b) As used in this section, "infidelity" means that a spouse has voluntary sexual intercourse or oral sex with a third person without the knowledge and consent of the other spouse.

(c) As used in this section only, "spouse" means a husband, a wife, or a person who cohabits with another person of the opposite sex in a relationship in which they both hold themselves out to the community as husband and wife.

(d) On and after the effective date of this section, every spouse who commits infidelity in violation of subdivision (a), and the third person with whom he or she commits infidelity, shall be jointly and severally liable to the spouse of either or both of them, the exception being that the third person be not liable if that person has no knowledge of the infidelity being committed by their partner, as applicable, for all of the following, in addition to any other obligation under this code:

- 1. The affected party may collect compensation for lost wages or income resulting from emotional distress, abandonment and/or humiliation. The party has the right to claim up to 40% of both offenders' total assets and recover any legal expenses.**
- 2. The affected party may collect damages for costs incurred for needed therapy and physical illness, to be incurred for a reasonable time required for recovery of the affected party (and children) from emotional distress. Damages may include financial support such as medical, educational, and health costs for children to the age of 21, for an amount that a court deems reasonable in the specific circumstances.**
- 3. If infidelity is the cause of separation, the affected party may seek an at-fault divorce, allowing the party to collect up to 65% of community assets and maintain custody of children.**
- 4. After 5 years of co-habitation, the affected party may have the right to claim up to 30% of the offender's social security benefits and health insurance benefits.**
- 5. An affected party may have the right to recover damages from the third party under the terms of alienation of affection, which will be administered by the current statute of this law.**
- 6. Couples may choose other legal remedies such as an apology or court ordered counseling.**