

RESCINDED

DE 91-01 - February 4, 1991

Clarification of Opinions Relating to Verification of Signatures on Petitions
This opinions partially rescinds DE 87-16
Section 97.091(1), (2)(a), F.S.

TO: Honorable Dorothy Walker Ruggles, Supervisor of Elections, Pinellas County, 315 Court Street, Clearwater, Florida 34616-5190

Prepared by: Division of Elections

This is in reference to your letter of December 19, 1990, requesting clarification of DE 87-16 and 90-29 relating to the verification of electors' signatures on petitions. You are the supervisor of elections for Pinellas County and pursuant to Section 106.23(2), Florida Statutes, the Division of Elections has authority to issue an advisory opinion to you relating to the Florida Election Code, Chapters 97-106, Florida Statutes.

You ask:

Should the supervisor of elections verify the signature of a voter whose address on a petition is different than the address on the registration book?

In DE 90-29, the Division opined that when the address of an elector on the petition is different than the address on the registration book, the signature of the elector should be verified unless the supervisor has reason to believe that the address on the petition is not the elector's correct address. This opinion is applicable when an elector has moved into the district in question, or when the elector's new address is in the same district as the address on the registration book.

In DE 87-16, the Division of Elections opined that the signature of an elector is not verified when:

- 1) The address on the petition is different than the address on the registration books; and
- 2) The address on the petition is in a different precinct and would change the eligibility of the elector's signature to be counted on the petition.

This opinion addresses verification of the signature of an elector who was once eligible to sign the petition; however, because the elector has moved to an area outside the district, he is no longer eligible to sign the petition.

In addition, the Division of Elections opined that if an elector has moved to another precinct without notifying the supervisor of elections, the elector's name may not be counted on a petition. Op. Div. Elect. Fla. 87-16. We hereby rescind this portion of DE 87-16.

The First Amendment to the United States Constitution provides that Congress shall make no law abridging the right of the people to peaceably assemble and to petition the government for a redress of grievances. The Declaration of Rights in the Florida Constitution also specifically provides that the people of Florida shall have the right peaceably to assemble, to instruct their representatives, and to petition for redress of grievances. Art. I, Section 5, Fla. Const. Thus, the right to petition the government is an inherent and absolute right.

In contrast, the right to vote is not conferred by the United States Constitution and is not an "inherent or absolute right reserved in bills of rights, but its possession is dependent upon constitutional or statutory grant." Lamar v. Dillon, 32 Fla. 545, 14 So. 383 (1893). The general rule of statutory construction of statutes relating to elections is that the election law should be construed liberally in favor of the citizen whose right to vote will be restricted in order to uphold the will of the electorate and to prevent disfranchisement. See Boardman v. Esteva 323 So.2d 259 (Fla. 1975). Along the same line, provisions relating to the right to petition the government should also be construed liberally to preserve an individual's absolute right to petition their government.

Section 97.091(1), Florida Statutes, provides that no person shall be permitted to vote in any election precinct or district other than the one in which he has his legal residence and in which he is registered to vote. However, an elector is permitted to vote in the precinct to which he has moved his residence, provided that the elector furnishes, at the polls, proof of his new residence and executes an affidavit to that effect. Section 97.091(2)(a), Fla. Stat. (Emphasis added.) Applying this idea to the right to petition the government, the act of signing the petition constitutes notice that the elector has moved to a new residence within the county and is eligible to sign the petition, and the elector's signature should be verified on the petition.

Therefore, as stated in DE 90-29, when the address of an elector on a petition is different than the address on the registration books, the signature of the elector should be verified unless the supervisor has reason to believe that the address on the petition is not the elector's correct address.

SUMMARY

When the address of an elector on a petition is different than the address on the registration books, the signature of the elector should be verified unless the supervisor has reason to believe that the address on the petition is not the elector's correct address.