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## Gazette Opinion: CI-98 would undermine Montana justice

Justice isn't a popularity contest.

Montanans elect judges to uphold the law. They must do this with fairness, impartiality, honesty and integrity. They must make decisions based on what is right and lawful - even if that decision isn't popular with powerful or vocal people.

If a judge fails to follow the law or fails to follow the Canon of Judicial Ethics, Montanans can file a complaint with the Judicial Standards Commission mandated by the Montana Constitution or they can organize a recall campaign under the Montana Recall Act.

In fact, Montanans can go to the state court Web site ([montanacourts.org](http://montanacourts.org)) and find the form and information needed to file a complaint with the Judicial Standards Commission. The panel includes two judges (Ed McLean of Missoula and Gary Day of Miles City), an attorney (Victor Valgenti of Missoula) and two members who are neither judges nor attorneys (Patty Jo Henthorn of Big Timber and John Murphy of Great Falls). The judges were chosen by their peers; the latter three members were appointed by the governor for four-year terms.

### Recall already in law

The Montana Recall Act covers every person elected or appointed to public office in Montana. The act, which has been in state law for 30 years, specifies grounds for recall:

*"Physical or mental lack of fitness, incompetence, violation of his oath of office, official misconduct or conviction of a felony offense enumerated in Title 45 is the only basis for recall. No person may be recalled for performing a mandatory duty of the office he holds or for not performing an act that, if performed, would subject him to prosecution for official misconduct."*

That's straight forward. Officials can be recalled for doing something wrong under the law. They can't be recalled for following the law. This is the way Montana's recall law should be.

However, a small group of Montanans, backed by out-of-state funders who haven't been publicly identified, think that they should be able to recall judges for any reason at all. That is the essence of Constitutional Initiative 98. CI-98 would permit a recall petition to remove a judge from the bench because he or she made a decision that displeased the petitioners.

The effect of CI-98 would be to strip away the independence of the judiciary. If a judge could be subject to recall for making anybody angry, he would be under pressure to make rulings popular with those

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most likely to organize a recall.

### Worse than nonsense

Montana law already offers a remedy that has been used to get rid of public officials who fail to uphold the law. Amending the Montana Constitution to allow judges to be recalled for upholding the law is worse than nonsense.

CI-98 is one of three initiatives that have been invalidated because of fraud in signature gathering. That case is on appeal to the Montana Supreme Court. Meanwhile CI-98 is on the printed ballots.

Please vote against this initiative that aims to undermine the fundamental concept of an impartial rule of law in Montana.

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