

Lawsuit filed against voter-passed ballot measure LR-121

Posted on [December 10, 2012](#) by [Dan Boyce](#)

A Montana immigration rights group is filing a lawsuit against a ballot measure passed by voters in this November's election.

LR-121 denies certain state-funded services to illegal aliens. Voters passed the measure by nearly 80 percent of the vote.

Plaintiffs in the lawsuit believe it's unconstitutional.





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The Montana Immigrant Justice Alliance (or MIJA) is filing the lawsuit against LR-121 along with the state teachers union, the MEA-MFT. The groups are focusing the suit on the bill's requirement that Montanans present proof of citizenship before accessing services like unemployment insurance, receiving certain state licenses or before they can work for a state agency.

Outgoing Victor Montana Republican State Senator Jim Shockley advocated in favor of LR 121 in the election. Shockley points to the overwhelming voter approval for the measure as the will of the people.

"Quite clearly the voters want the law enforced and the people of Montana want people to prove that they have government services coming," Shockley said.

Plaintiffs say the law puts an undue burden on people to prove citizenship. Brian Miller is one of the plaintiff attorneys in the suit. He says this is not only an inconvenience, it is against the Constitution.

“One concern we have is from a privacy perspective,” he said. “You know, courts have recognized that inquiring into someone’s citizenship status is generally protected privacy interest. In Montana we have a right to privacy that is stronger than what’s recognized in the Federal Government.”

Miller cites studies showing up to seven percent of legal Montanans may not have the appropriate identification to access these services on them at all times. He says the law as it stands does not lay out due process for people to challenge wrongful denials of services. Miller does not think this lawsuit disrespects the will of the people.

“I don’t think it’s disrespecting anyone who when you vote on any piece of legislation to see if it’s constitutional or not,” he said.

Republican State Senator Jim Shockley is still not buying the plaintiffs argument. He says he doesn’t understand legal Montanans saying they don’t have an ID card.

“You can’t do anything without getting an ID card,” Shockley said. “You can’t cash a check a lot of times you can’t even use your credit card without an ID card, virtually everyone has an ID card.”

Shockley says this measure is a way for the state to save money by not giving these services to people they are not intended for. Plaintiffs say the process for proving citizenship will actually cost the state money and Montana does not have a demonstrated problem with undocumented immigrants illegally drawing on state services.

Also, plaintiffs argue ID cards like a driver’s license really doesn’t prove citizenship, and they say this means Montanans would need to have their passport or birth certificate on them.

The law goes into effect in January first. Plaintiffs are asking the courts put the law on hold while the suit is pending.

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