## 108TH CONGRESS 1ST SESSION

# H. R. 1941

To enforce the guarantees of the first, fourteenth, and fifteenth amendments to the Constitution of the United States by prohibiting certain devices used to deny the right to participate in certain elections.

## IN THE HOUSE OF REPRESENTATIVES

May 1, 2003

Mr. Paul introduced the following bill; which was referred to the Committee on House Administration

## A BILL

To enforce the guarantees of the first, fourteenth, and fifteenth amendments to the Constitution of the United States by prohibiting certain devices used to deny the right to participate in certain elections.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 **SECTION 1. SHORT TITLE.**
- 4 This Act may be cited as the "Voter Freedom Act
- 5 of 2003".
- 6 SEC. 2. FINDINGS AND PURPOSES.
- 7 (a) FINDINGS.—The Congress makes the following
- 8 findings:

(1) The rights of eligible citizens to seek election to Congress, vote for candidates of their choice and associate for the purpose of taking part in elections, including the right to create and develop new political parties, are fundamental to a democracy. The rights of citizens to participate in the election process for members of Congress are set forth in article I. The United States Supreme Court has held that the states are powerless to discriminate against a class of candidates for Congress. Cook v. Gralike, \_\_\_\_ US \_\_\_ (decision of February 28, 2001). The United States Supreme Court has also held that all voters must be treated equally. Bush v. Gore, \_\_\_\_ US \_\_\_ (decision of December 12, 2000).

(2) The voters of the various states sometimes elect candidates to Congress who are neither nominees, nor members, of the two major political parties. According to the Clerk of the U.S. House of Representatives, voters have on at least 125 occasions elected someone to the U.S. House of Representatives who was neither a Republican nor a Democrat. According to a recent compilation, throughout the twentieth century, the percentage of voters who have voted for minor party and independent candidates for the U.S. House of Represent-

- atives has averaged 3.7 percent. On November 7, 2000, it was 4.2 percent. Clearly, a substantial number of voters desire to vote for candidates for the U.S. House of Representatives who are minor party nominees and/or independent candidates. Such voters have existed in fairly substantial numbers in every decade of the twentieth century, and may be expected to exist in the twenty-first century.
  - (3) Some states have enacted election laws which require minor party nominees, or independent candidates, for the U.S. House of Representatives, to submit petitions signed by more than 10,000 registered voters within a district. For example, Georgia requires such candidates to not only pay a filing fee, but to submit a petition signed by 5 percent of the number of registered voters in the district. The signatures must be notarized. By contrast, members of political parties which have polled 20 percent for President of the United States throughout the entire nation, or which have polled 20 percent for Governor of Georgia, need not submit any petition signatures. No candidate for U.S. House of Representatives from Georgia has managed to comply with the 5 percent petition requirement since 1964. North Carolina requires an independent candidate for the

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1 U.S. House of Representatives to submit a petition 2 signed by 4 percent of the number of registered vot-3 ers in the district. By contrast, members of qualified political parties need not submit any petitions in 5 North Carolina to run for Congress. No independent 6 candidate for the U.S. House of Representatives has 7 ever qualified for the North Carolina ballot. South 8 Carolina requires an independent candidate for the 9 U.S. House of Representatives to submit a petition 10 signed by 10,000 signatures. By contrast, members 11 of qualified political parties need not submit any pe-12 tition signatures in order to run for Congress. No 13 independent candidate for the U.S. House of Rep-14 resentatives has ever qualified for the South Caro-15 lina ballot. California requires an independent can-16 didate for the U.S. House of Representatives to sub-17 mit a petition signed by 3 percent of the number of 18 registered voters in the district. By contrast, mem-19 bers of qualified political parties only need to submit 20 40 signatures in order to run for U.S. House of 21 Representatives.

(4) Throughout all U.S. history, there are only four individuals who have ever successfully overcome a signature requirement greater than 10,000 signatures in order to gain a place on a ballot for U.S.

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House of Representatives. They are Frazier Reems, an independent member of the U.S. House of Representatives from Ohio who had to collect 12,920 valid signatures in the 9th district in 1954 in order to run for re-election; Jack Gargan, the Reform Party nominee for Florida's 5th district in 1998, who had to collect 12,141 valid signatures; Steven Wheeler, an independent candidate in California's 22nd district in 1996, who had to collect 10,191 valid signatures; and Steve Kelly, independent candidate for Montana's At-Large seat in 1994, who had to collect 10,186 valid signatures.

(5) Other states do not require independent candidates, or the candidates of unqualified parties, to submit large numbers of signatures in order to run for the U.S. House of Representatives, and yet they do not suffer from a crowded ballot. Florida no longer requires any signatures on a petition for anyone to run for Congress, yet in 2000 there was no U.S. House race in Florida with more than 4 candidates on the ballot. Florida requires a filing fee instead of a petition for ballot access for everyone. Hawaii and Tennessee only require 25 signatures for anyone to run for Congress. Washington does not require any signatures for members of qualified par-

ties to run for public office, and only requires 25 signatures from other individuals to run for the United States House of Representatives. New Jersey only requires 100 signatures for any individual to run for United States House of Representatives as an independent, or 200 signatures to run in a party primary. It is clear from the experience of such states that no state needs to require as many as 10,000 or 15,000 signatures for candidates to run for the House in order to keep the ballot uncluttered.

(6) Some states have enacted laws which require new political parties, or independent candidates, to file a substantial number of petitions as much as ten months or more before a general election. Illinois requires independent candidates for Congress to file a petition in December of the year before the general election. Such petitions must be signed by 5 percent of the last vote cast for the seat they are seeking. Although members of qualified parties must also submit petitions by the same early date, members of qualified parties only need one-tenth as many signatures. For mid-term election years, Ohio requires new political parties to submit a petition equal to 1 percent of the last vote cast,

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by January. In presidential election years, Ohio requires such a petition by November of the year before the election. California requires a new political party to have registered members equal to 1 percent of the last vote cast by October of the year before an election. Mississippi requires independent candidates for Congress to file a petition by January of an election year.

(7) Some states print partisan ballot labels on the general election ballot for some candidates for Congress, yet refuse to print such labels for other candidates for Congress. Virginia prints party labels on the ballot if the candidate is the nominee of a party which polled 10 percent of the statewide vote at a previous election. Other candidates must be labelled "independent", whether they are the nominees of a minor or new party or whether they really are independents. Louisiana prints party labels for candidates who are members of a party that has registration membership of 5 percent, or which polled 5 percent for president at the last election. Other candidates may not have any partisan label printed on the ballot next to their names, not even the term "independent".

- 1 (8) The establishment of fair and uniform na-2 tional standards for access to the ballot in elections 3 for the U.S. House of Representatives would remove 4 barriers to the participation of citizens in the elec-5 toral process and thereby facilitate such participa-6 tion and maximize the rights identified in this sub-7 section.
  - (9) The Congress has authority, under the provisions of the Constitution of the United States in sections 4 and 8 of article I, to protect and promote the exercise of the rights identified in this subsection.

## (b) Purposes.—The purposes of this Act are—

- (1) to establish fair and uniform standards regulating access to the ballot by eligible citizens who desire to seek election to the U.S. House of Representatives and political parties, bodies and groups which desire to take part in elections to the U.S. House of Representatives; and
- 20 (2) to maximize the participation of eligible citi-21 zens in elections for Federal office.

### 22 SEC. 3. BALLOT ACCESS RIGHTS.

23 (a) IN GENERAL.—An individual shall have the right 24 to be placed as a candidate on, and to have such individ-25 ual's political party, body, or group affiliation in connec-

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- 1 tion with such candidacy placed on, a ballot or similar vot-
- 2 ing materials to be used in a Congressional election, if—
- 3 (1) such individual presents a petition stating
- 4 in substance that its signers desire such individual's
- 5 name and political party, body or group affiliation,
- 6 if any, to be placed on the ballot or other similar
- 7 voting materials to be used in the election with re-
- 8 spect to which such rights are to be exercised;
- 9 (2) such petition has at least 1,000 signatures
- of persons who are registered to vote in the district,
- or, if the State in which the district is located does
- 12 not provide for voter registration, such petition must
- bear the signatures of at least 1,000 persons who
- are eligible to vote in that State and that district;
- 15 (3) with respect to an election the date of which
- was fixed 345 or more days in advance, such peti-
- tion was circulated during a period beginning on the
- 18 345th day and ending on the 75th day before the
- date of the election; and
- 20 (4) with respect to an election the date of which
- was fixed less than 345 days in advance, such peti-
- 22 tion was circulated during a period established by
- 23 the State holding the election, or, if no such period
- was established, during a period beginning on the
- day after the date the election was scheduled and

- 1 ending on the thirtieth day before the date of the
- election.
- 3 (b) Savings Provision.—Subsection (a) shall not
- 4 apply with respect to any State that provides by law for
- 5 greater ballot access rights than the ballot access rights
- 6 provided for under such subsection.

#### 7 SEC. 4. RULEMAKING.

- 8 The Attorney General shall make rules to carry out
- 9 this Act.

#### 10 SEC. 5. GENERAL DEFINITIONS.

- 11 As used in this Act—
- 12 (1) the term "Congressional election" means a
- general or special election for the office of Rep-
- resentative in, or Delegate or Resident Commis-
- sioner to, the Congress;
- 16 (2) the term "State" means a State of the
- 17 United States, the District of Columbia, the Com-
- monwealth of Puerto Rico, and any other territory
- or possession of the United States;
- 20 (3) the term "individual" means an individual
- 21 who has the qualifications required by law of a per-
- son who holds the office for which such individual
- 23 seeks to be a candidate;
- 24 (4) the term "petition" includes a petition
- which conforms to section 3(a)(1) and upon which

- signers' addresses and/or printed names are required
  to be placed;
  - (5) the term "signer" means a person whose signature appears on a petition and who can be identified as a person qualified to vote for an individual for whom the petition is circulated, and includes a person who requests another to sign a petition on his or her behalf at the time when, and at the place where, the request is made;
    - (6) the term "signature" includes the incomplete name of a signer, the name of a signer containing abbreviations such as first or middle initial, and the name of a signer preceded or followed by titles such as "Mr.", "Ms.", "Dr.", "Jr.", or "III"; and
    - (7) the term "address" means the address which a signer uses for purposes of registration and voting.

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