

109th CONGRESS - 1st Session

H. R. 663: To Secure The Federal Voting Rights Of Certain Qualified Ex-Offenders Who Have Served Their Sentences.

IN THE HOUSE OF REPRESENTATIVES

February 8, 2005

Mr. RANGEL introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To secure the Federal voting rights of certain qualified ex-offenders who have served their sentences.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Ex-Offenders Voting Rights Act of 2005'.

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings- Congress makes the following findings:

(1) The right to vote is the most basic constitutive act of citizenship and regaining the right to vote reintegrates offenders into free society. The right to vote may not be abridged or denied by the United States or by any State on account of race, color, gender, or previous condition of servitude. Basic constitutional principles of fairness and equal protection require an equal opportunity for United States citizens to vote in Federal elections.

(2) Congress has ultimate supervisory power over Federal elections, an authority that has repeatedly been upheld by the Supreme Court.

(3) Although State laws determine the qualifications for voting in Federal elections, Congress must ensure that those laws are in accordance with the Constitution. Currently, those laws vary throughout the Nation, resulting in discrepancies regarding which citizens may vote in Federal elections.

- (4) An estimated 3,900,000 individuals in the United States, or 1 in 50 adults, currently cannot vote as a result of a felony conviction. Women represent about 500,000 of those 3,900,000.
- (5) State disenfranchisement laws disproportionately impact ethnic minorities.
- (6) Fourteen States disenfranchise ex-offenders who have fully served their sentences, regardless of the nature or seriousness of the offense.
- (7) In those States that disenfranchise ex-offenders who have fully served their sentences, the right to vote can be regained in theory, but in practice this possibility is often illusory.
- (8) In 8 States, a pardon or order from the Governor is required for an ex-offender to regain the right to vote. In 2 States, ex-offenders must obtain action by the parole or pardon board to regain that right.
- (9) Offenders convicted of a Federal offense often have additional barriers to regaining voting rights. In at least 16 States, Federal ex-offenders cannot use the State procedure for restoring their voting rights. The only method provided by Federal law for restoring voting rights to ex-offenders is a Presidential pardon.
- (10) Few persons who seek to have their right to vote restored have the financial and political resources needed to succeed.
- (11) Thirteen percent of the African-American adult male population, or 1,400,000 African-American men, are disenfranchised. Given current rates of incarceration, 3 in 10 African-American men in the next generation will be disenfranchised at some point during their lifetimes. Hispanic citizens are also disproportionately disenfranchised, since those citizens are disproportionately represented in the criminal justice system.
- (12) The discrepancies described in this subsection should be addressed by Congress, in the name of fundamental fairness and equal protection.
- (b) Purpose- The purpose of this Act is to restore fairness in the Federal election process by ensuring that ex-offenders who have fully served their sentences are not denied the right to vote.

SEC. 3. DEFINITIONS.

In this Act:

- (1) **CORRECTIONAL INSTITUTION OR FACILITY-** The term `correctional institution or facility' means any prison , penitentiary, jail, or other institution or facility for the confinement of individuals convicted of criminal offenses, whether publicly or privately operated, except that such term does not include any residential community treatment center (or similar public or private facility).

(2) ELECTION- The term `election' means--

(A) a general, special, primary, or runoff election;

(B) a convention or caucus of a political party held to nominate a candidate;

(C) a primary election held for the selection of delegates to a national nominating convention of a political party; or

(D) a primary election held for the expression of a preference for the nomination of persons for election to the office of President.

(3) FEDERAL OFFICE- The term `Federal office' means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, Congress.

(4) PAROLE- The term `parole' means parole (including mandatory parole), or conditional or supervised release (including mandatory supervised release), imposed by a Federal, State, or local court.

(5) PROBATION- The term `probation' means probation, imposed by a Federal, State, or local court, with or without a condition on the individual involved concerning--

(A) the individual's freedom of movement;

(B) the payment of damages by the individual;

(C) periodic reporting by the individual to an officer of the court; or

(D) supervision of the individual by an officer of the court.

SEC. 4. RIGHTS OF CITIZENS.

The right of an individual who is a citizen of the United States to vote in any election for Federal office shall not be denied or abridged because that individual has been convicted of a criminal offense unless, at the time of the election, such individual--

(1) is serving a felony sentence in a correctional institution or facility; or

(2) is on parole or probation for a felony offense.

SEC. 5. ENFORCEMENT.

(a) Attorney General- The Attorney General may bring a civil action in a court of competent jurisdiction to obtain such declaratory or injunctive relief as is necessary to remedy a violation of this Act.

(b) Private Right of Action-

(1) NOTICE- A person who is aggrieved by a violation of this Act may provide written notice of the violation to the chief election official of the State involved.

(2) ACTION- Except as provided in paragraph (3), if the violation is not corrected within 90 days after receipt of a notice provided under paragraph (1), or within 20 days after receipt of the notice if the violation occurred within 120 days before the date of an election for Federal office, the aggrieved person may bring a civil action in such a court to obtain the declaratory or injunctive relief with respect to the violation.

(3) ACTION FOR VIOLATION SHORTLY BEFORE A FEDERAL ELECTION- If the violation occurred within 30 days before the date of an election for Federal office, the aggrieved person shall not be required to provide notice to the chief election official of the State under paragraph (1) before bringing a civil action in such a court to obtain the declaratory or injunctive relief with respect to the violation.

SEC. 6. RELATION TO OTHER LAWS.

(a) No Prohibition on Less Restrictive Laws- Nothing in this Act shall be construed to prohibit a State from enacting any State law that affords the right to vote in any election for Federal office on terms less restrictive than those terms established by this Act.

(b) No Limitation on Other Laws- The rights and remedies established by this Act shall be in addition to all other rights and remedies provided by law, and shall not supersede, restrict, or limit the application of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.) or the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.).