

117TH CONGRESS
2D SESSION

H. R. 7906

To establish a civil action for disqualification under section 3 of the 14th Amendment to the Constitution, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 27, 2022

Ms. WASSERMAN SCHULTZ (for herself and Mr. RASKIN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To establish a civil action for disqualification under section 3 of the 14th Amendment to the Constitution, and for other purposes.

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. CIVIL ACTIONS FOR DISQUALIFICATION UNDER**

4 **SECTION 3 OF THE 14TH AMENDMENT.**

5 (a) RESPONSIBILITIES OF THE ATTORNEY GEN-
6 ERAL.—The Attorney General is authorized to—

7 (1) investigate conduct that would constitute
8 cause for a disqualification pursuant to section 3 of
9 the 14th Amendment; and

(2) bring an action in the United States district court for the District of Columbia seeking declaratory and injunctive relief providing that a candidate seeking an office described in section 3 of the 14th Amendment is disqualified from holding office under section 3 of the 14th Amendment, and preventing that candidate's name from appearing on a ballot in an election for Federal or State office.

(b) ACTIONS BY PRIVATE PERSONS.—

(1) IN GENERAL.—A person may bring an action in the United States district court for the District of Columbia seeking the relief described in subsection (a)(2) against an individual described in paragraph (2) who is a candidate for public office if the person is eligible to vote in an election in which the candidate is seeking office and is harmed by the individual's candidacy.

(2) INDIVIDUAL DESCRIBED.—An individual described in this subsection is an individual who has engaged in insurrection or rebellion against the United States, or has given aid or comfort to the enemies of the United States.

(3) NOTICE TO GOVERNMENT.—In the case of an action brought under subsection (b), a copy of the complaint and written disclosure of substantially

1 all material evidence and information the person
2 possesses shall be served on the Government pursu-
3 ant to Rule 4(d)(4) of the Federal Rules of Civil
4 Procedure. The Government may elect to intervene
5 and proceed with the action within 60 days after it
6 receives both the complaint and the material evi-
7 dence and information.

8 (4) EXTENSION.—The Government may, for
9 good cause shown, move the court for extensions of
10 the time to review the complaint, material evidence
11 and information.

12 (5) DETERMINATION OF GOVERNMENT.—Be-
13 fore the expiration of the 60-day period or any ex-
14 tensions obtained under paragraph (4), the Govern-
15 ment shall—

16 (A) proceed with the action, in which case
17 the action shall be conducted by the Govern-
18 ment; or

19 (B) notify the court that it declines to take
20 over the action, in which case the person bring-
21 ing the action shall have the right to conduct
22 the action.

23 (c) 3-JUDGE PANEL; APPEALS.—An action under
24 this section shall be heard and determined by a court of
25 three judges in accordance with the provisions of section

1 2284 of title 28, United States Code, and any appeal shall
2 lie to the Supreme Court. It shall be the duty of the judges
3 designated to hear the case to assign the case for hearing
4 at the earliest practicable date, to participate in the hear-
5 ing and determination thereof, and cause the case to be
6 in every way expedited.

7 (d) STANDARD OF PROOF.—The court shall grant the
8 relief described in subsection (a)(2) in an action under
9 subsection (a) or (b) upon a showing, by a preponderance
10 of the evidence, that the defendant should be disqualified
11 from holding office pursuant to section 3 of the 14th
12 Amendment.

13 (e) CHIEF STATE ELECTION OFFICIALS.—The court
14 may require the joinder, and shall permit the intervention,
15 of a chief State election official (as such term is defined
16 in section 2) having an interest in the action under this
17 section.

18 (f) RIGHTS OF THE GOVERNMENT.—

19 (1) SERVICE OF PROCESS.—If the Government
20 elects not to proceed with the action, the person who
21 initiated the action shall have the right to conduct
22 the action. If the Government so requests, it shall be
23 served with copies of all pleadings filed in the action
24 and shall be supplied with copies of all deposition
25 transcripts (at the Government's expense). When a

1 person proceeds with the action, the court, without
2 limiting the status and rights of the person initiating
3 the action, may nevertheless permit the Government
4 to intervene at a later date upon a showing of good
5 cause.

6 (2) STAY OF DISCOVERY.—Whether or not the
7 Government proceeds with the action, upon a show-
8 ing by the Government that certain actions of dis-
9 covery by the person initiating the action would
10 interfere with the Government’s investigation or
11 prosecution of a criminal or civil matter arising out
12 of the same facts, the court may stay such discovery
13 for a period of not more than 60 days. Such a show-
14 ing shall be conducted in camera. The court may ex-
15 tend the 60-day period upon a further showing in
16 camera that the Government has pursued the crimi-
17 nal or civil investigation or proceedings with reason-
18 able diligence and any proposed discovery in the civil
19 action will interfere with the ongoing criminal or
20 civil investigation or proceedings.

21 (g) INSURRECTION AGAINST THE UNITED STATES.—

22 For purposes of this section—

23 (1)(A) the January 6, 2021, attack on the
24 United States Capitol Buildings constitutes an in-
25 surrection against the United States;

1 (B) the attempt to bypass constitutional order
2 and obstruct through corrupt means the counting of
3 certified electoral votes of the several States under
4 section 15 of title 3, United States Code, on Janu-
5 ary 6, 2021, with intent to displace the lawfully
6 elected President of the United States or thwart the
7 will of the majority of electors, constitutes an insur-
8 rection against the United States; and

9 (C) any person who was a participant in an ac-
10 tivity described in paragraph (1) is deemed to have
11 engaged in insurrection.

12 (h) DEFINITIONS.—In this section:

13 (1) The term “participant” means, with respect
14 to the activity described in subsection (g)(1), any
15 person who—

16 (A) was physically present within the Cap-
17 itol Buildings on January 6, 2021, without au-
18 thorization, who knew or reasonably should
19 have known that their actions would have the
20 effect of disrupting Congressional proceedings
21 or intimidating Members of Congress, the Vice
22 President, or Congressional personnel;

23 (B) gave direction, information, funding,
24 or otherwise provided aid to facilitate access to
25 the Capitol Buildings on January 6, 2021, and

1 knew or should have known there was a reason-
2 able likelihood that the person to whom such di-
3 rection, information, funding, or other aid was
4 provided, would enter the Capitol Buildings un-
5 lawfully for the purpose of disrupting Congres-
6 sional proceedings or intimidating Members of
7 Congress, the Vice President, or Congressional
8 personnel, from executing of their duties;

9 (C) incited, or attempted to persuade, an-
10 other to gain unauthorized access to the Capitol
11 Buildings on January 6, 2021, and knew or
12 should have known that the individual incited
13 or persuaded would likely attempt to disrupt
14 Congressional proceedings or intimidate Mem-
15 bers of Congress, the Vice President, or Con-
16 gressional personnel from executing their du-
17 ties;

18 (D) had the duty or authority to halt the
19 attack on January 6, 2021, but knowingly
20 failed, refused, delayed, or obstructed others in
21 doing so; or

22 (E) conspired or attempted to bypass con-
23 stitutional order and obstruct through corrupt
24 means the counting of certified electoral votes
25 of the several States under section 15 of title

1 3, United States Code, on January 6, 2021,
2 with intent to displace the lawfully elected
3 President of the United States or thwart the
4 will of the majority of electors.

5 (2) The term “candidate” means an individual
6 who—

7 (A) uses general public political advertising
8 to publicize his or her intention to campaign for
9 office;

10 (B) raises funds in excess of what could
11 reasonably be expected to be used for explor-
12 atory activities or undertakes activities designed
13 to amass campaign funds that would be spent
14 after he or she becomes a candidate;

15 (C) makes or authorizes written or oral
16 statements that refer to him or her as a can-
17 didate for a particular office;

18 (D) conducts activities in close proximity
19 to the election or over a protracted period of
20 time; or

21 (E) has taken action to qualify for the bal-
22 lot under State law.

23 (3) The term “office, civil or military, under the
24 United States” includes the Office of the President
25 and Vice President.

1 (4) The term “officer of the United States” in-
2 cludes the President and Vice President.

3 (5) The term “Capitol Buildings” has the
4 meaning given such term in section 5101 of title 40,
5 United States Code.

6 **SEC. 2. FEDERAL OFFENSE.**

7 (a) IN GENERAL.—Whoever, being a chief State elec-
8 tion official, places on a ballot in an election for Federal
9 or State office the name of an individual who has been
10 found, pursuant to this Act, to be disqualified from hold-
11 ing public office under section 3 of the 14th Amendment,
12 shall be fined under title 18, United States Code, or im-
13 prisoned not more than one year, or both.

14 (b) DEFINITION.—In this section, the term “chief
15 State election official” means the individual designated by
16 the State under section 10 of the National Voter Registra-
17 tion Act of 1993 (52 U.S.C. 20509) to be responsible for
18 coordination of the State’s responsibilities under such Act.

19 **SEC. 3. SEVERABILITY.**

20 If any provision of this Act, or any application of such
21 provision to any person or circumstance, is held to be un-
22 constitutional, the remainder of this Act and the applica-
23 tion of this Act to any other person or circumstance shall
24 not be affected.

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