

115TH CONGRESS
1ST SESSION

H. R. 4070

To amend title 28, United States Code, to enhance Congress' ability to defend its legislative power under Article I of the Constitution in litigation in the courts of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 2017

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

A BILL

To amend title 28, United States Code, to enhance Congress' ability to defend its legislative power under Article I of the Constitution in litigation in the courts of the United States, 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. SHORT TITLE.**

4 This Act may be cited as the “Article I Amicus and
5 Intervention Act of 2017”.

6 **SEC. 2. CONGRESSIONAL INTERVENTION AS OF RIGHT.**

7 (a) DEADLINE FOR REPORT ON LIMITATION ON EN-
8 FORCEMENT OF LAWS.—Paragraph (2) of section

1 530D(b) of title 28, United States Code, is amended to
2 read as follows:

3 “(2) under subsection (a)(1)(B), within such
4 time as will reasonably enable the House of Rep-
5 resentatives and the Senate to take action, sepa-
6 rately or jointly, to intervene in a timely fashion in
7 the proceeding, but in no event—

8 “(A) later than 30 days after the making
9 of each determination; and

10 “(B) later than 21 days before any appli-
11 cable deadline for filing any pleading nec-
12 essary—

13 “(i) to defend or assert the constitu-
14 tionality of the provision at issue; or

15 “(ii) to request review of any judicial,
16 administrative, or other determination ad-
17 versely affecting the constitutionality of
18 such provision;”.

19 (b) INTERVENTION AS OF RIGHT.—Section 530D of
20 title 28, United States Code, is amended by adding at the
21 end the following:

22 “(f) INTERVENTION AS OF RIGHT.—The Senate or
23 House of Representatives may intervene as of right in any
24 proceeding referenced in subsection (a)(1)(B) in order to
25 defend or assert the constitutionality of any provision of

1 any Federal statute, rule, regulation, program, policy, or
2 other law, or to appeal or request review of any judicial,
3 administrative, or other determination adversely affecting
4 the constitutionality of any such provision. Notwith-
5 standing any otherwise applicable time limits or other pro-
6 visions of law to the contrary, if such intervention is filed
7 not later than 21 days after receipt of the notice required
8 by this section the intervention shall be deemed timely and
9 shall preserve the right of the Senate or House of Rep-
10 resentatives to advance any applicable legal arguments in
11 favor of the constitutionality of any such provision.”.

12 **SEC. 3. INTERVENTION AND AMICUS AUTHORITY FOR**
13 **HOUSE OF REPRESENTATIVES.**

14 Section 101 of the Legislative Branch Appropriations
15 Act, 2000 (2 U.S.C. 5571), is amended—

16 (1) by striking subsection (d); and

17 (2) by inserting after subsection (b) the fol-
18 lowing (and redesignating succeeding subsections ac-
19 cordingly):

20 “(c) HOUSE OF REPRESENTATIVES INTERVENTION
21 AND AMICUS AUTHORITY.—

22 “(1) ACTIONS OR PROCEEDINGS.—When di-
23 rected to do so in accordance with the Rules of the
24 House of Representatives, the General Counsel of
25 the House of Representatives shall intervene or ap-

1 appear as amicus curiae in the name of the House, or
2 in the name of an officer, committee, subcommittee,
3 or chair of a committee or subcommittee of the
4 House, or other entity of the House, in any legal ac-
5 tion or proceeding pending in any court of the
6 United States or of a State or political subdivision
7 thereof.

8 “(2) INTERVENTION OR APPEARANCE AS OF
9 RIGHT.—Intervention as a party or appearance as
10 amicus curiae shall be of right and may be denied
11 by a court only upon an express finding that such
12 intervention or appearance is untimely and would
13 significantly delay the pending action or, in the case
14 of intervention, that standing to intervene is re-
15 quired and has not been established under section 2
16 of article III of the Constitution of the United
17 States.

18 “(3) RULE OF CONSTRUCTION.—Nothing in
19 this section shall be construed to confer standing on
20 any party seeking to bring, or jurisdiction on any
21 court with respect to, any civil or criminal action
22 against Congress, either House of Congress, a Mem-
23 ber of Congress, a committee or subcommittee of a
24 House of Congress, any office or agency of Con-

1 gress, or any officer or employee of a House of Con-
2 gress or any office or agency of Congress.”.

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