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## Legislative Issue Brief

### **The Employee Free Choice Act (H.R. 800/S. 1041) – Legislation to Protect Americans’ Right to Choose a Union**

**ISSUE:** The freedom to choose a union is a basic human right. Unions protect staff nurses by giving RNs a forum to speak out on working conditions and patient care, as well as the means to seek redress when employers fail to meet their contractual and legal obligations. Members choose their own leaders, whether to accept a contract and what other actions they may take collectively. Unions have provided working people with the means to a better life for themselves and their families, winning historic victories including overtime, sick leave, and the weekend.

Although U.S. labor laws have been designed to protect collective bargaining, these laws have been thwarted. Exercising the democratic right to choose a union can be difficult when employers engage in anti-union intimidation campaigns. When faced with unionization, 75% of employers hire outside consultants to run anti-union campaigns, often based on mass psychology and distorting the law. In 25% of organizing campaigns, employers illegally fire workers because they want to form a union. Even after workers successfully form a union, in one-third of the instances, employers never negotiate a contract.

It has been reported that half a million U.S. workers formed unions last year, but tens of millions of additional workers who say would like to join a union are unable to because employers have put in place tremendous barriers. RNs are routinely harassed, coerced, intimidated – and even terminated – to keep them from exercising their freedom to form a union. When employers violate workers’ freedom to form unions, they lower living standards for the entire community. Current labor law needs to be strengthened to protect workers’ democratic right to choose a union.

**STATUS:** Senator Ted Kennedy and Representative George Miller have reintroduced the **“Employee Free Choice Act” (H.R. 800/S. 1041)** in the 110<sup>th</sup> Congress. This legislation would ensure that when a majority of

employees in a workplace decide to form a union, they can do so without the debilitating obstacles employers now use to block their workers' free choice. This legislation would:

- **Simplify Workplace Organizing** – The bill provides a simple, fair, and direct method for workers to form unions by signing cards or petitions. When a majority of employees (50%+1) sign union authorization forms, they can file a petition with the NLRB and the NLRB must investigate the petition. If the NLRB determines that authorization forms have been signed by a majority of employees, the Board must certify the union as the employees' collective bargaining representative;
- **Provide for More Effective Remedies Against Employer Coercion** – The bill provides for three times the amount of actual backpay when a worker is fired during an organizing campaign or first-contract negotiations. It also provides for civil monetary fines during these critical periods and gives workers equal access to injunctive relief;
- **Facilitate First Contract Negotiations** – This legislation sets hard time limits for bargaining a first contract. If those time limits are not met, the bill authorizes involvement of the Federal Mediation and Conciliation Service and, if necessary, a third-party arbitrator to ensure a first contract between the new union and its employers.

**ACTION**

**NEEDED:** Members of Congress are requested to co-sponsor the Kennedy/Miller Labor Law Reform bill and work for its passage into law.

**POLICY**

**RATIONALE:**

- An August 2002 survey shows that, if given the chance, the majority of workers without a union would join one—the highest percentage answering affirmatively since 1984.
- According to Cornell University Prof. Kate Bronfenbrenner and the Commission on the Future of Worker-Management Relations:

Ninety-two percent of employers, when faced with employees who want to join together in a union, force employees to attend closed-door meetings to hear anti-union propaganda; 80 percent require immediate supervisors to attend training sessions on how to attack unions; and 79 percent have supervisors deliver anti-union messages to workers they oversee. Seventy-five percent hire outside consultants to run anti-union campaigns, often based on mass psychology and distorting the law.