

Union Calendar No. 18

119TH CONGRESS
1ST SESSION

H. R. 1789

[Report No. 119–28]

To amend title 28, United States Code, to clarify the removability of certain actions against current and former Presidents and other senior Executive officials, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2025

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

MARCH 21, 2025

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on March 3, 2025]

A BILL

To amend title 28, United States Code, to clarify the removability of certain actions against current and former Presidents and other senior Executive officials, 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 “Promptly Ending Polit-*
 5 *ical Prosecutions and Executive Retaliation Act of 2025”.*

6 **SEC. 2. REMOVAL OF CERTAIN ACTIONS.**

7 *(a) IN GENERAL.—Section 1442 of title 28, United*
 8 *States Code, is amended—*

9 *(1) in subsection (a)—*

10 *(A) in the matter preceding paragraph (1),*
 11 *by inserting “, upon a prima facie showing by*
 12 *the removing party that the standards for re-*
 13 *moval are met,” after “removed by them”; and*

14 *(B) in paragraph (1)—*

15 *(i) by striking “or any officer (or any*
 16 *person acting under that officer) of the*
 17 *United States or of any agency thereof,”*
 18 *and inserting “or any person who, at the*
 19 *time of removal, is an officer of the United*
 20 *States (or any person acting under that of-*
 21 *ficer) or of any agency thereof, or was pre-*
 22 *viously such an officer,”; and*

23 *(ii) by inserting “(including a discre-*
 24 *tionary exercise of any authority of such of-*
 25 *fice)” after “color of such office”; and*

1 (2) *by adding at the end of subsection (a) the fol-*
 2 *lowing:*

3 “(5) *The President or Vice President for or relat-*
 4 *ing to any act while in office or where the State*
 5 *court’s consideration of the claim or charge may*
 6 *interfere with, hinder, burden, or delay the execution*
 7 *of the duties of the President or the Vice President.*

8 “(6) *A former President or Vice President for or*
 9 *relating to any act while in office.”.*

10 (b) *APPLICATION.—The amendments made by sub-*
 11 *section (a) shall apply to a civil action or criminal prosecu-*
 12 *tion pending on the date of enactment of this Act or com-*
 13 *menced on or after such date.*

14 **SEC. 3. PROCEDURE FOR REMOVAL OF CRIMINAL CASES.**

15 (a) *IN GENERAL.—Section 1455(b) of title 28, United*
 16 *States Code, is amended—*

17 (1) *in paragraph (3)—*

18 (A) *by striking “shall not” and inserting*
 19 *“shall”; and*

20 (B) *by striking “except that a judgment of*
 21 *conviction shall not be entered unless the pros-*
 22 *ecution is first remanded” and inserting “and*
 23 *no judgment of conviction shall be entered unless*
 24 *the prosecution is remanded”;*

1 (2) in paragraph (4), by striking “promptly. If”
 2 and inserting “promptly and where a prima facie
 3 showing demonstrating the basis for removal is made,
 4 the matter shall be removed. Only if”; and

5 (3) in paragraph (5)—

6 (A) by inserting “summary dismissal or
 7 the” after “does not order the”;

8 (B) by striking “an evidentiary hearing”
 9 and inserting “a hearing”;

10 (C) by inserting “including dismissal under
 11 section 1456” after “require”; and

12 (D) by inserting “or dismissal ordered”
 13 after “permitted”.

14 (b) *APPLICATION.*—The amendments made by sub-
 15 section (a) shall apply to criminal prosecutions pending on
 16 the date of enactment of this Act or commenced on or after
 17 such date.

18 **SEC. 4. OFFICIAL IMMUNITY.**

19 (a) *IN GENERAL.*—Chapter 89 of title 28, United
 20 States Code, is amended by adding at the end the following:

21 **“§ 1456. Official Immunity**

22 “(a) *IMMUNITY.*—In any case that is subject to re-
 23 moval under section 1442(a), a Federal official shall be pre-
 24 sumed to have immunity under article VI, clause 2 of the
 25 Constitution of the United States from any charge or claim

1 *made by or under authority of State law which may only*
 2 *be rebutted by clear and convincing evidence that the offi-*
 3 *cial was not acting under the color of such office or on ac-*
 4 *count of any right, title or authority claimed under any*
 5 *Act of Congress for the apprehension or punishment of*
 6 *criminals or the collection of the revenue.*

7 “(b) *DETERMINATION OF IMMUNITY.—For purposes of*
 8 *making a determination of immunity under subsection (a),*
 9 *the following may not be admitted into evidence:*

10 “(1) *The nature, elements or any other aspect of*
 11 *the charge or claim made by or under authority of*
 12 *State law.*

13 “(2) *An act alleged to be official that is not the*
 14 *subject of the charge or claim made by or under au-*
 15 *thority of State law.*

16 “(c) *REPRESENTATION.—In any case that is subject to*
 17 *removal under section 1442(a) that names a Federal official*
 18 *as a party, the Attorney General may—*

19 “(1) *represent such Federal official for any*
 20 *charge or claim made by or under authority of State*
 21 *law; or*

22 “(2) *compensate private counsel retained by such*
 23 *official at a reasonable prevailing rate for any such*
 24 *charge or claim.*

1 “(d) *PROHIBITION ON LIMITATION OF SCOPE.*—No
2 *court may define or limit the scope of the duties of an offi-*
3 *cial of the Executive Office of the President.*

4 “(e) *DISMISSAL.*—*In any action subject to removal*
5 *under paragraph (5) or (6) of section 1442(a), such case*
6 *shall be dismissed unless rebutted by clear and convincing*
7 *evidence establishing that the continued pendency of the*
8 *State claim or charge would not in any way interfere,*
9 *hinder, burden, or delay the execution of the duties of the*
10 *President or Vice President.”.*

11 (b) *TABLE OF SECTIONS.*—*The table of sections for*
12 *such chapter is amended by adding at the end the following:*

“1456. *Official immunity.*”.

13 (c) *APPLICATION.*—*The amendments made by this sec-*
14 *tion shall apply to civil actions or criminal prosecutions*
15 *pending on the date of enactment of this Act or commenced*
16 *on or after such date.*

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