

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 4138) TO PROTECT THE SEPARATION OF POWERS IN THE CONSTITUTION OF THE UNITED STATES BY ENSURING THAT THE PRESIDENT TAKES CARE THAT THE LAWS BE FAITHFULLY EXECUTED, AND FOR OTHER PURPOSES, AND PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 3973) TO AMEND SECTION 530D OF TITLE 28, UNITED STATES CODE

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MARCH 11, 2014.—Referred to the House Calendar and ordered to be printed

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Mr. NUGENT, from the Committee on Rules,  
submitted the following

## R E P O R T

[To accompany H. Res. 511]

The Committee on Rules, having had under consideration House Resolution 511, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

### SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 4138, the ENFORCE the Law Act of 2014, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for the purpose of amendment an amendment in the nature of a substitute consisting of the text of Rules Committee Print 113-43 and provides that it shall be considered as read. The resolution waives all points of order against that amendment in the nature of a substitute. The resolution makes in order only those further amendments printed in part A of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in part A of this report. The resolution provides one motion to recommit with or without instructions.

Section 2 of the resolution provides for consideration of H.R. 3973, the Faithful Execution of the Law Act of 2014, under a structured rule. The resolution provides one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary. The resolution waives all points of order against consideration of the bill. The resolution provides that the amendment in the nature of a substitute consisting of the text of Rules Committee Print 113–42 shall be considered as adopted and the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution makes in order only the further amendment printed in part B of this report, if offered by Representative Ellison of Minnesota or his designee. The amendment shall be considered as read, shall be separately debatable for 10 minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question. The resolution waives all points of order against the amendment printed in part B of this report. The resolution provides one motion to recommit with or without instructions.

#### EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of H.R. 4138 includes a waiver of clause 3(d)(1) of rule XIII, which requires the inclusion of a committee cost estimate. It is important to note that while a Congressional Budget Office (CBO) cost estimate on H.R. 4138 was not available at the time the Committee on the Judiciary filed its report, a CBO cost estimate has since been made publically available.

Although the resolution waives all points of order against the amendment in the nature of a substitute to H.R. 4138 made in order as original text, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against amendments to H.R. 4138 printed in part A of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

The waiver of all points of order against consideration of H.R. 3973 includes a waiver of clause 3(d)(1) of rule XIII, which requires the inclusion of a committee cost estimate. It is important to note that while a Congressional Budget Office (CBO) cost estimate on H.R. 3973 was not available at the time the Committee on the Judiciary filed its report, a CBO cost estimate has since been made publically available.

Although the resolution waives all points of order against provisions in H.R. 3973, as amended, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendment to H.R. 3973 printed in part B of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

## COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

*Rules Committee record vote No. 116*

Motion by Mr. McGovern to make in order and provide the appropriate waivers for amendment #8, offered by Rep. Gibson (NY), which clarifies that the civil authority provided to Congress in the underlying bill extends to the Executive Branch's compliance with the War Powers Resolution (50 U.S.C. et seq.). Defeated: 3–9

Majority Members	Vote	Minority Members	Vote
Ms. Foxx .....	Nay	Ms. Slaughter .....	Yea
Mr. Bishop of Utah .....	Nay	Mr. McGovern .....	Yea
Mr. Cole .....	Nay	Mr. Hastings of Florida .....	Yea
Mr. Woodall .....	Nay	Mr. Polis .....	Yea
Mr. Nugent .....	Nay		
Mr. Webster .....	Nay		
Ms. Ros-Lehtinen .....	Nay		
Mr. Burgess .....	Nay		
Mr. Sessions, Chairman .....	Nay		

## SUMMARY OF THE AMENDMENTS TO H.R. 4138 IN PART A MADE IN ORDER

1. Conyers (MI): Excludes from the bill's scope any executive actions taken to combat discrimination or to protect civil rights. (10 minutes)

2. Nadler (NY): Clarifies that nothing in the act limits or otherwise affects the constitutional authority of the executive branch to exercise prosecutorial discretion. (10 minutes)

3. Jackson Lee (TX): Protects the ability of the Executive Branch to comply with judicial decisions interpreting the Constitution or Federal laws. (10 minutes)

4. Cicilline (RI): Provides for transparent accounting of the costs of litigation, by requiring the Comptroller General of the United States to issue quarterly reports to the House and Senate Judiciary Committees on the costs of civil actions, including any attorney fees, brought pursuant to this Act. (10 minutes)

## SUMMARY OF THE AMENDMENT TO H.R. 3973 IN PART B MADE IN ORDER

1. Ellison (MN): Waives reporting requirements provided in the bill if sufficient funds are not available to generate the increased volume of reports. (10 minutes)

## PART A—TEXT OF AMENDMENTS TO H.R. 4138 MADE IN ORDER

## 1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CONYERS JR. OF MICHIGAN OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Add, at the end of the bill, the following:

(d) LIMITATION.—Nothing in this Act limits or otherwise affects any action taken by the President, the head of a department or agency of the United States, or any other officer or employee of the United States in order to—

- (1) combat discrimination; or
- (2) protect the civil rights of the people of the United States.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE NADLER OF NEW YORK OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Add, at the end of the bill, the following:

(d) LIMITATION.—Nothing in this Act limits or otherwise affects the constitutional authority of the executive branch to exercise prosecutorial discretion.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Add, at the end of the bill, the following:

(d) LIMITATION.—Nothing in this Act limits or otherwise affects the ability of the executive branch to comply with judicial decisions interpreting the Constitution or Federal laws.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CICILLINE OF RHODE ISLAND OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Add, at the end of the bill, the following:

**SEC. 3. REPORT.**

Not later than the last day of the first fiscal year quarter that begins after the date of the enactment of this Act, and quarterly thereafter, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the House of Representatives and the Senate, a report on the costs of any civil action brought pursuant to this Act, including any attorney fees of any attorney that has been hired to provide legal services in connection with a civil action brought pursuant to this Act.

PART B—TEXT OF AMENDMENT TO H.R. 3973 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ELLISON OF MINNESOTA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Add, at the end of the bill, the following:

**SEC. 3. EFFECTIVE DATE.**

Section 2, and the amendments made by section 2, shall take effect only beginning on the date that the Attorney General finds that sufficient amounts have been appropriated to cover the costs of additional reports that the Attorney General is required to submit by reason of such amendments, including costs to Federal agencies and to Congress.