

105TH CONGRESS
2D SESSION

H. R. 3850

To provide reporting requirements for the assertion of executive privilege,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 13, 1998

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

A BILL

To provide reporting requirements for the assertion of
executive privilege, 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 “Executive Privilege
5 Notification Act of 1998”.

6 **SEC. 2. REPORTING REQUIREMENT.**

7 (a) INITIAL REPORT.—Whenever the President as-
8 serts executive privilege in any forum, the President shall
9 promptly report the assertion to the Speaker of the House
10 and House minority leader, and the Senate majority and

1 Senate minority leaders. The report shall state the date
2 of the assertion, the documents, testimony or other infor-
3 mation covered by the assertion, and the legal basis for
4 the assertion. The report shall also contain any written
5 legal opinion by the Attorney General regarding the law-
6 fulness of the assertion.

7 (b) REPORT BY PRESIDING JUDGE.—Whenever, in a
8 judicial action or proceeding, the President asserts execu-
9 tive privilege, it shall be the duty of the presiding judicial
10 officer in that action or proceeding promptly to report the
11 assertion to the Speaker of the House and House minority
12 leader, and the Senate majority and minority leaders. This
13 obligation is independent of the reporting obligation set
14 forth in subsection (a).

15 (c) AMICUS BRIEFS.—Any Member of either House
16 of Congress shall have the right to file an amicus brief,
17 regarding any assertion of executive privilege by the Presi-
18 dent, in any judicial action or proceeding in which that
19 assertion is made.

20 (d) PRESIDENTIAL PROTECTION PRIVILEGE.—No
21 person may, in connection with any Federal criminal in-
22 vestigation, assert a testimonial privilege alleged to arise
23 out of the function of protecting the President.

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