

In Pennsylvania, they invested in comprehensive programs in a hundred different localities, spent \$60 million, and they counted up a few years later and figured that they had saved over \$300 million, five times more than they spent, because they were so effective in reducing crime and other social problems.

In Virginia, they had an area where they had 19 murders one year. They came in with a comprehensive, evidence-based approach to crime reduction, and within a couple of years, they had two murders. And if you look at that \$2½ million that was invested in that program, there is no doubt that we saved at least that much in reduced medical care at the Medical College of Virginia Trauma Unit. So we know that we can reduce crime and save money.

We know that 700,000 prisoners are being released from prison—State, local, and Federal—every year, and we know that two-thirds of them are going right back to prison without intervention. So we need this opportunity for investments.

We know that the United States' incarceration rate is number 1 in the world and is already so high that the Pew Research Center says it's counterproductive. It causes more crime than it cures. And this study will show what we can do with our resources by showing what works and what does not and how we can have an intelligent focus on crime policy.

I want to thank the gentleman from Massachusetts (Mr. DELAHUNT) and my colleague from Virginia, Senator WEBB, for their vision to create a commission to outline effective strategies to reduce crime. I would hope that we adopt the bill, create the commission, and reduce crime.

I yield back the balance of my time. The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and pass the bill, H.R. 5143, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### REMOVAL CLARIFICATION ACT OF 2010

Mr. JOHNSON of Georgia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5281) to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes, as amended.

The Clerk read the title of the bill. The text of the bill is as follows:

H.R. 5281

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Removal Clarification Act of 2010".

#### SEC. 2. REMOVAL OF CERTAIN LITIGATION TO FEDERAL COURTS.

(a) CLARIFICATION OF INCLUSION OF CERTAIN TYPES OF PROCEEDINGS.—Section 1442 of title 28, United States Code, is amended by adding at the end the following:

"(c) As used in subsection (a)—

"(1) the terms 'civil action' and 'criminal prosecution' include any proceeding (whether or not ancillary to another proceeding) to the extent that in such proceeding a judicial order, including a subpoena for testimony or documents, is sought or issued; and

"(2) the term 'against' when used with respect to such a proceeding includes directed to."

(b) CONFORMING AMENDMENTS.—Section 1442(a) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "capacity for" and inserting "capacity, for or relating to"; and

(B) by striking "sued"; and

(2) in each of paragraphs (3) and (4), by inserting "or relating to" after "for".

(c) APPLICATION OF TIMING REQUIREMENT.—Section 1446 of title 28, United States Code, is amended by adding at the end the following:

"(g)(1) Where the civil action or criminal prosecution that is removable under section 1442(a) is a proceeding in which a judicial order for testimony or documents is sought or issued, the thirty-day requirement of subsections (b) and (c) is satisfied if the person or entity desiring to remove the proceeding files the notice of removal not later than thirty days after receiving, through service, notice of that proceeding.

"(2) Where the civil action or criminal prosecution that is removable under section 1442(a) is a proceeding in which a judicial order described in paragraph (1) is sought to be enforced, the thirty-day requirement of subsections (b) and (c) is satisfied if the person or entity desiring to remove the proceeding files the notice of removal not later than thirty days after receiving, through service, notice of that proceeding."

(d) REVIEWABILITY ON APPEAL.—Section 1447(d) of title 28, United States Code, is amended by inserting "1442 or" before "1443".

#### SEC. 3. PAYGO COMPLIANCE.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled "Budgetary Effects of PAYGO Legislation" for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. JOHNSON) and the gentleman from Florida (Mr. ROONEY) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

#### GENERAL LEAVE

Mr. JOHNSON of Georgia. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. JOHNSON of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Removal Clarification Act of 2010 will enable Federal officials—Federal officers, in the words of the statute—to remove cases filed against them to Federal court in accordance with the spirit and intent of the current Federal officer removal statute.

Under the Federal officer removal statute, 28 U.S.C. 1442(a), Federal officers are able to remove a case out of State court and into Federal court when it involves the Federal officer's exercise of his or her official responsibilities. However, more than 40 States have pre-suit discovery procedures that require individuals to submit to deposition or respond to discovery requests even when a civil action has not yet been filed. Courts are split on whether the current Federal officer removal statute applies to pre-suit discovery. This means that Federal officers can be forced to litigate in State court despite the Federal statute's contrary intent.

This bill will clarify that a Federal officer may remove any legally enforceable demand for his or her testimony or documents if the basis for contesting the demand has to do with the officer's exercise of his or her official responsibilities. It will also allow for appeal to the Federal circuit court if the district court remands the matter back to the State court over objection of the Federal officer.

Some clarity issues were raised by witnesses during a Courts and Competition Policy Subcommittee hearing on the bill. Since the subcommittee markup, we have worked to address those issues, and the bill before us today clarifies the bill without making substantive changes. In particular, the addition of "whether or not ancillary to another proceeding" helps clarify that the bill will not result in the removal of entire State court actions to Federal court simply because a Federal officer is sent a discovery request. In this type of situation, the Federal court is to consider the discovery request as a separate proceeding from the underlying State court case so that it will now be removed and dealt with separately without removing the underlying case.

Nor will this bill lead to cases being dismissed in Federal court on the grounds that there is no Federal corollary to pre-suit discovery. Application of the State pre-suit discovery law will be considered as substantive under the Erie doctrine. The Federal court will apply the State substantive law. This legislation does not create a substantive loophole. It merely makes a procedural clarification.

Finally, the bill makes clear that the timing requirement under 28 U.S.C., section 1446 is not affected. It restates the 30-day requirement for removing the case after the judicial order is sought as well as after the judicial

order is enforced. This addition to section 1446 is limited to only the Federal officer removal under section 1442.

This bill has strong bipartisan support. I would like to thank Chairman CONYERS, Ranking Member SMITH, and the ranking member of the Court Subcommittee, HOWARD COBLE of North Carolina, for their work on this bill, and I urge my colleagues to support this important legislation.

I reserve the balance of my time.

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Mr. ROONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Removal Clarification Act of 2010 amends the statute that allows Federal officers, under limited conditions, to remove cases filed against them in State court to the U.S. District Court for disposition. The purpose of current law is to restrict State courts' power to hold Federal officers liable for acts allegedly performed in the execution of their Federal duties. This doesn't mean Federal officers can break the law; it just means that these cases are transferred to Federal courts for determination. Federal officers and agents, even Members of Congress, should be forced to answer to Federal courts for their conduct during Federal duties.

Federal courts, however, have inconsistently interpreted the current statute, and that inconsistency can harm Federal interests. For example, this March the Court of Appeals for the Fifth Circuit upheld a district court ruling in the State of Texas that the Federal removal statute does not apply to a Texas law involving pre-suit discovery against a Federal officer. Because 46 other States have similar laws, the House general counsel's office became concerned that more Federal courts will adopt the Fifth Circuit's logic and then urge us to clarify the Federal law.

The problem occurs when a plaintiff considering a suit against a Federal officer petitions for discovery without actually filing suit in State court. Many Federal courts have held that this conduct only anticipates a suit; it isn't a cause of action as contemplated and covered by the current Federal removal statute. The problem is compounded because a separate Federal statute requires Federal courts to send any case back to State court if "at any time before final judgment it appears that the district court lacks subject matter jurisdiction."

Judicial review of remand orders is limited and does not apply to suits involving Federal officers. This means remanded cases brought against Federal officers under these conditions cannot find their way back to Federal court.

This result is at odds with the purpose of the Federal removal and remand statutes. The bill before us will clarify existing Federal law and overturn the recent Fifth Circuit ruling. It restores the core purpose of the re-

moval statute by ensuring any claim against Federal officers at any stage of a proceeding or even potential proceeding will be entertained in a Federal court.

I urge my colleagues to support H.R. 5281.

I yield back the balance of my time. Mr. JOHNSON of Georgia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. JOHNSON) that the House suspend the rules and pass the bill, H.R. 5281, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### FEDERAL RESTRICTED BUILDINGS AND GROUNDS IMPROVEMENT ACT OF 2010

Mr. SCOTT of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2780) to correct and simplify the drafting of section 1752 (relating to restricted buildings or grounds) of title 18, United States Code, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2780

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Restricted Buildings and Grounds Improvement Act of 2010".

#### SEC. 2. RESTRICTED BUILDINGS OR GROUNDS.

Section 1752 of title 18, United States Code, is amended to read as follows:

##### "§ 1752. Restricted buildings or grounds

"(a) Whoever—

"(1) knowingly enters or remains in any restricted building or grounds without lawful authority to do so;

"(2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engages in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions;

"(3) knowingly, and with the intent to impede or disrupt the orderly conduct of Government business or official functions, obstructs or impedes ingress or egress to or from any restricted building or grounds; or

"(4) knowingly engages in any act of physical violence against any person or property in any restricted building or grounds; or attempts or conspires to do so, shall be punished as provided in subsection (b).

"(b) The punishment for a violation of subsection (a) is—

"(1) a fine under this title or imprisonment for not more than 10 years, or both, if—

"(A) any person, during and in relation to the offense, uses or carries a deadly or dangerous weapon or firearm; or

"(B) the offense results in significant bodily injury as defined by section 2118(e)(3); and

"(2) a fine under this title or imprisonment for not more than one year, or both, in any other case.

"(c) In this section—

"(1) the term 'restricted buildings or grounds' means a posted, cordoned off, or otherwise restricted area of a building or grounds—

"(A) where the President or other person protected by the Secret Service is or will be temporarily visiting; or

"(B) so restricted in conjunction with an event designated as a special event of national significance; and

"(2) the term 'other person protected by the Secret Service' means any person whom the United States Secret Service is authorized to protect under section 3056 of this title when such person has not declined such protection."

#### SEC. 3. PAYGO COMPLIANCE.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled "Budgetary Effects of PAYGO Legislation" for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Florida (Mr. ROONEY) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

#### GENERAL LEAVE

Mr. SCOTT of Virginia. I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

H.R. 2780 will assist the Secret Service to perform their protective duties.

Current Federal law prohibits individuals from entering or remaining in areas cordoned off as restricted because of protection being provided by the Secret Service. This bill would simply clarify that the prohibition under the existing statute only applies to those who do not have lawful authority to be in those areas.

The men and women of the Secret Service conduct themselves with valor and professionalism while carrying out the protective function of their agency. They provide protection for a variety of people and events, including the President of the United States and national special security events. This bill will assist the men and women of the Secret Service in doing their jobs.

I commend my colleague from Florida (Mr. ROONEY) for his work on this bill, which eliminates the ambiguity in the present law. I urge my colleagues to support the bill.

I reserve the balance of my time.

Mr. ROONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the United States Secret Service began providing protective