

119TH CONGRESS
1ST SESSION

H. R. 1789

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

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 Po-
5 litical Prosecutions and Executive Retaliation Act”.

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

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

1 (1) in subsection (a)—

2 (A) in the matter preceding paragraph (1),
3 by inserting “, upon a prima facie showing by
4 the removing party that the standards for re-
5 moval are met,” after “removed by them”; and

6 (B) in paragraph (1)—

7 (i) by striking “or any officer (or any
8 person acting under that officer) of the
9 United States or of any agency thereof,”
10 and inserting “or any person who, at the
11 time of removal, is an officer of the United
12 States (or any person acting under that of-
13 ficer) or of any agency thereof, or was pre-
14 viously such an officer,”; and

15 (ii) by inserting “(including a discre-
16 tionary exercise of any authority of such
17 office)” after “color of such office”; and

18 (2) by adding at the end of subsection (a) the
19 following:

20 “(5) The President or Vice President for or re-
21 lating to any act while in office or where the State
22 court’s consideration of the claim or charge may
23 interfere with, hinder, burden, or delay the execution
24 of the duties of the President or the Vice President.

1 “(6) A former President or Vice President for
2 or relating to any act while in office.”.

3 (b) APPLICATION.—The amendments made by sub-
4 section (a) shall apply to a civil action or criminal prosecu-
5 tion pending on the date of enactment of this Act or com-
6 menced on or after such date.

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

8 (a) IN GENERAL.—Section 1455(b) of title 28,
9 United States Code, is amended—

10 (1) in paragraph (3)—

11 (A) by striking “shall not” and inserting
12 “shall”; and

13 (B) by striking “except that a judgment of
14 conviction shall not be entered unless the pros-
15 ecution is first remanded” and inserting “and
16 no judgment of conviction shall be entered un-
17 less the prosecution is remanded”;

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

22 (3) in paragraph (5)—

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

1 (B) by striking “an evidentiary hearing”
 2 and inserting “a hearing”;

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

5 (D) by inserting “or dismissal ordered”
 6 after “permitted”.

7 (b) APPLICATION.—The amendments made by sub-
 8 section (a) shall apply to criminal prosecutions pending
 9 on the date of enactment of this Act or commenced on
 10 or after such date.

11 **SEC. 4. OFFICIAL IMMUNITY.**

12 (a) IN GENERAL.—Chapter 89 of title 28, United
 13 States Code, is amended by adding at the end the fol-
 14 lowing:

15 **“§ 1456. Official Immunity**

16 “(a) IMMUNITY.—In any case that is subject to re-
 17 moval under section 1442(a), a Federal official shall be
 18 presumed to have immunity under article VI, clause 2 of
 19 the Constitution of the United States from any charge or
 20 claim made by or under authority of State law which may
 21 only be rebutted by clear and convincing evidence that the
 22 official was not acting under the color of such office or
 23 on account of any right, title or authority claimed under
 24 any Act of Congress for the apprehension or punishment
 25 of criminals or the collection of the revenue.

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

4 “(1) The nature, elements or any other aspect
5 of the charge or claim made by or under authority
6 of State law.

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

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

13 “(1) represent such Federal official for any
14 charge or claim made by or under authority of State
15 law; or

16 “(2) compensate private counsel retained by
17 such official at a reasonable prevailing rate for any
18 such charge or claim.

19 “(d) PROHIBITION ON LIMITATION OF SCOPE.—No
20 court may define or limit the scope of the duties of an
21 official of the Executive Office of the President.

22 “(e) DISMISSAL.—In any action subject to removal
23 under paragraph (5) or (6) of section 1442(a), such case
24 shall be dismissed unless rebutted by clear and convincing
25 evidence establishing that the continued pendency of the

1 State claim or charge would not in any way interfere,
2 hinder, burden, or delay the execution of the duties of the
3 President or Vice President.”.

4 (b) APPLICATION.—The amendments made by this
5 section shall apply to civil actions or criminal prosecutions
6 pending on the date of enactment of this Act or com-
7 menced on or after such date.

○