119TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
119–28

PROMPTLY ENDING POLITICAL PROSECUTIONS AND EXECUTIVE RETALIATION ACT OF 2025

MARCH 21, 2025.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. JORDAN, from the Committee on the Judiciary, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1789]

The Committee on the Judiciary, to whom was referred the bill (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, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary	3
Background and Need for the Legislation	3
Hearings	15
Committee Consideration	16
Committee Votes	16
Committee Oversight Findings	21
New Budget Authority and Tax Expenditures	21
Congressional Budget Office Cost Estimate	21
Committee Estimate of Budgetary Effects	21
Duplication of Federal Programs	21
Performance Goals and Objectives	21
Advisory on Earmarks	22
Federal Mandates Statement	22
Advisory Committee Statement	22
Applicability to Legislative Branch	22
Section-by-Section Analysis	22
Changes in Existing Law Made by the Bill, as Reported	23
Dissenting Views	26

59–006

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Promptly Ending Political Prosecutions and Executive Retaliation Act of 2025".

SEC. 2. REMOVAL OF CERTAIN ACTIONS.

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

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting ", upon a prima facie showing by the removing party that the standards for removal are met," after "removed by them"; and

(B) in paragraph (1)—

(i) by striking "or any officer (or any person acting under that officer) of the United States or of any agency thereof," and inserting "or any person who, at the time of removal, is an officer of the United States (or any person acting under that officer) or of any agency thereof, or was previously such an officer,"; and

(ii) by inserting "(including a discretionary exercise of any authority of such office)" after "color of such office"; and

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

"(5) The President or Vice President for or relating to any act while in office or where the State court's consideration of the claim or charge may interfere with, hinder, burden, or delay the execution of the duties of the President or the Vice President.

"(6) A former President or Vice President for or relating to any act while in office.".

(b) APPLICATION.—The amendments made by subsection (a) shall apply to a civil action or criminal prosecution pending on the date of enactment of this Act or commenced on or after such date.

SEC. 3. PROCEDURE FOR REMOVAL OF CRIMINAL CASES.

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

(1) in paragraph (3)—

(A) by striking "shall not" and inserting "shall"; and

(B) by striking "except that a judgment of conviction shall not be entered unless the prosecution is first remanded" and inserting "and no judgment of conviction shall be entered unless the prosecution is remanded";

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

(3) in paragraph (5)—

(A) by inserting "summary dismissal or the" after "does not order the";

(B) by striking "an evidentiary hearing" and inserting "a hearing";

(C) by inserting "including dismissal under section 1456" after "require"; and

(D) by inserting "or dismissal ordered" after "permitted".

(b) APPLICATION.—The amendments made by subsection (a) shall apply to criminal prosecutions pending on the date of enactment of this Act or commenced on or after such date.

SEC. 4. OFFICIAL IMMUNITY.

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

"§ 1456. Official Immunity

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

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

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

"(2) An act alleged to be official that is not the subject of the charge or claim made by or under authority of State law.

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

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

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

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

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

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

"1456. Official immunity.".

(c) APPLICATION.—The amendments made by this section shall apply to civil actions or criminal prosecutions pending on the date of enactment of this Act or commenced on or after such date.

Purpose and Summary

H.R. 1789, the Promptly Ending Political Prosecutions and Executive Retaliation Act of 2025, introduced by Representative Russell Fry (R–SC), would give current and former Presidents and Vice Presidents, current and former officers of the United States, and current and former officers of any agency the ability to remove a civil or criminal case against them in a state court to a federal district court under 28 U.S.C. § 1442(a). In addition, the bill provides greater procedural protections for when a federal official's case is removed pursuant to § 1442(a).

The bill also adds a new section to Title 28, United States Code, which would codify the immunity recognized by the U.S. Supreme Court in *Trump v. United States* for official acts carried out by a federal official during their federal duties. The section also prohibits the court, during its immunity determination, from examining official acts that are not the subject of the charge or claim brought in state court. Finally, the section further permits the Attorney General to provide representation to any individual whose case is subject to removal based upon their current or past federal government service, prohibits state courts from defining the duties of federal officers, and requires that a federal court dismiss a pending case if it would interfere with the execution of the President's or Vice President's official duties.

Background and Need for the Legislation

During the 118th Congress, the Committee investigated the Biden-Harris Justice Department's two-tiered justice system—one for the politically favored and one for the Administration's political opponents—that extended to Democrat local and state offices. Rather than debate political opponents on substance, the Democrats' strategy to win the 2024 election was through the use of partisan lawfare tactics.[1] The criminal indictments brought by left-wing, activist state prosecutors showed that this two-tiered system of justice was not just limited to the federal government. Prior to

[1] Lawfare has been defined as "the strategic use of legal proceedings to intimidate or hinder an opponent." William Holmes, *'Lawfare' among six new words added to Collins Dictionary*, LEGAL CHEEK (Nov. 1, 2022).

the 2024 election, President Donald Trump was criminally indicted an unprecedented four times after he announced his run for President, and he faced other civil lawsuits that exposed him to hundreds of millions of dollars in liability. Several of these cases came before hostile judges and biased jury pools.

Current law does not adequately protect federal officials, especially current and former Presidents and Vice Presidents, from these rogue state and local attorneys who bring unwarranted charges against their political opponents. Under current law, the ability to remove civil or criminal cases from a state court to a federal court is limited to current federal agency officials, and legislative and judicial officers.[2] This legislation would ensure that all the nation's leaders are protected from partisan lawfare tactics by giving current and former Presidents, Vice Presidents, and federal officials the ability to remove cases against them.

The legislation would further extend protections for the nation's leaders by codifying the immunity recognized by the U.S. Supreme Court. In *Trump v. United States* the Supreme Court held that "the nature of Presidential power entitles a former President to absolute immunity from criminal prosecution for actions within his conclusive and preclusive constitutional authority."[3] In *Nixon v. Fitzgerald*, the Supreme Court also held that "the threat of future civil liability for official acts—including years after the President left office—could deter the President from the 'bold and unhesitating action' required for his official responsibilities."[4] The Supreme Court has repeatedly held that "there exists the greatest public interest in providing" the President with "the maximum ability to deal fearlessly and impartially with the duties of his office."[5] In essence, knowing that official acts could lead to future liability "could distract [a President] from his public duties to the detriment of not only the President and his office but also the Nation."[6] These "same concerns apply to the threat of criminal prosecution" and are in fact "dramatically enhanced."[7]

District Attorneys' Politicized Investigations Against President Trump

The rogue state and local prosecutors at the front lines in the lawfare against President Trump made their intentions clear from the start. When campaigning for office, New York County District Attorney (DA) Alvin Bragg ran on a platform of going after Donald Trump. Bragg would often boast about how many times he had sued President Trump when working in the New York Attorney General's Office, stating, "It is a fact that I have sued Trump more than a hundred times . . . I can't change that fact, nor would I."[8] Bragg ran on being the candidate most able to continue and initiate lawsuits against President Trump.[9] In addition, in Georgia, Fulton County DA Fani Willis—just four days before indicting

[2] 28 U.S.C. § 1442(a).
[3] *Trump v. United States*, 603 U.S. 593, 1 (2024).
[4] *Id.* at 26 (citing *Nixon v. Fitzgerald*, 457 U.S. 731, 745 (1982)).
[5] *Id.*
[6] *Id.*
[7] *Id.* at 27.
[8] Jonah E. Bromwich et al., *2 Leading Manhattan D.A. Candidates Face the Trump Question*, N.Y. TIMES (Jun. 2, 2021) (internal quotations omitted).
[9] *Id.*

President Trump—launched a new fundraising website highlighting her investigation.[10]

The 2024 lawfare strategy was a microcosm of the treatment President Trump and other Republicans have faced for years. Despite their failure to prevent President Trump from winning the 2024 Presidential Election, Democrats seem intent to continue to use lawfare to undermine other legitimate candidates and weaponize the justice system. This rise in state litigation against federal officials, particularly those who have served in conservative administrations or have taken actions that are unpopular with radical left-wing state governments, disrupts the efficient operation of the federal government and may lead to officials not fulfilling the roles and responsibilities of their office out of fear of criminal prosecution, civil suits, and harassment.

Fulton County District Attorney Fani Willis's Politicized Investigation

On August 14, 2023, Fulton County DA Fani Willis brought a 41-count indictment against 19 defendants—including President Trump, his attorneys, former White House Chief of Staff Mark Meadows, and a former DOJ official—related to the 2020 election for President of the United States.[11] The politicized nature of this prosecution is hard to ignore. Just four days before the indictment, Willis launched a new campaign fundraising website highlighting her investigation into President Trump.[12] Willis's investigation into President Trump was first reported in February 2021;[13] however, she did not bring charges until two and a half years later—after President Trump had announced his candidacy for the 2024 presidential election.[14] Willis requested that the trial begin on March 4, 2024, the day before Super Tuesday and eight days before the Georgia presidential primary.[15]

Central to Willis's case was a radical interpretation of Georgia's Racketeer Influenced and Corrupt Organization (RICO) law, which is intended to be used to prosecute criminal enterprises that infiltrate legitimate businesses and use interstate commerce.[16] In the indictment, Willis alleged that the 19 individuals, 30 unindicted coconspirators, and others involved were part of a "criminal enterprise" that engaged in unlawful activity that can be prosecuted under RICO.[17] However, the actions that Willis alleged to have

---

[10] Tim Darnell, *'We have an announcement'—Fulton DA Willis launches fundraising website*, ATLANTA NEWS FIRST (Aug. 10, 2023); *Meet Fani Willis*, FANIFORDA.COM (last visited Aug. 18, 2023) (highlighting an article from the New York Times with the headline "In Atlanta, a Local Prosecutor Takes on Murder, Street Gangs and a President").

[11] Indictment, *Georgia v. Donald John Trump et al.*, No. 23SC188947 (Aug. 14, 2023, Fulton Co. Sup. Ct.).

[12] Tim Darnell, *'We have an announcement'—Fulton DA Willis launches fundraising website*, ATLANTA NEWS FIRST (Aug. 10, 2023); *Meet Fani Willis*, FANIFORDA.COM (last visited Aug. 18, 2023) (highlighting an article from the New York Times with the headline "In Atlanta, a Local Prosecutor Takes on Murder, Street Gangs and a President").

[13] Graham Kates, *Timeline: The Trump investigation in Fulton County, Georgia*, CBS NEWS (Aug. 15, 2023).

[14] Steve Holland and Andy Sullivan, *Trump launches 2024 U.S. presidential run, getting jump on rivals*, REUTERS (Nov. 16, 2022).

[15] Olivia Rubin, *Willis proposes March 4 start date for Trump's Georgia election interference trial*, CBS NEWS (Aug. 16, 2023).

[16] Jabari Simama, *The Misuse of a Powerful Prosecutorial Weapon*, GOVERNING (Feb. 20, 2024).

[17] Indictment, *Georgia v. Donald John Trump et al.*, No. 23SC188947 (Aug. 14, 2023, Fulton Co. Sup. Ct.).

been committed in furtherance of this purported criminal enterprise include several official and ordinary actions of senior federal officials, including: (1) the then-White House Chief of Staff asking a Member of Congress for the phone number of the Speaker of the Pennsylvania House of Representatives; (2) the President tweeting that hearings in the Georgia legislature were being aired on a news channel and commenting on those hearings; and (3) numerous acts taking place in other states not involving the conduct of the 2020 election in Georgia or the counting of the votes cast in Georgia.[18]

Willis's Coordination With Special Counsel Smith, the Biden-Harris White House, and the Partisan Democrat-led House January 6th Committee

During her investigation, Willis and her office coordinated with openly partisan actors. Prior to her decision to indict President Trump, Willis's office coordinated with Special Counsel Jack Smith while she was investigating President Trump,[19] "interview[ing] many of the same witnesses and review[ing] much of the same evidence."[20] Nathan Wade, an outside attorney who Willis hired to lead the case, also met with the Biden-Harris White House on multiple occasions over a period of several months prior to the indictment.[21] Perhaps most revealing was Willis's decision to "quietly me[e]t" with the partisan January 6th Committee before she indicted President Trump.[22] The January 6th Committee provided Willis's prosecution a "boost" as she prepared to convene a special grand jury and even "helped prosecutors prepare for interviews with key witnesses."[23] During these meetings, the January 6th Committee provided Willis with records that it withheld from Members of Congress and law enforcement entities.[24] The degree of improper coordination among politicized actors—including Jack Smith, the Biden-Harris White House, and the January 6th Committee—emphasizes the extent to which Willis's prosecution is politically motivated.

Meadows's Attempt To Remove Case Into Federal Court

On August 15, 2023, Meadows filed a Notice of Removal with the U.S. District Court for the Northern District of Georgia in an attempt to have Willis's charges against him removed from the Superior Court of Fulton County to federal court.[25] In his Notice, Meadows stated that he had the "right to remove" the case to federal court because the "conduct giving rise to the charges in the indictment all occurred during his tenure and as part of his service as [White House] Chief of Staff."[26] Meadows also specifically argued that the federal removal statute, 28 U.S.C. § 1442(a)(1), "protect[s]

---

[18] *See id.*

[19] Josh Gerstein, *Prosecutor in Trump documents case has history pursuing prominent politicians*, POLITICO (June 13, 2023).

[20] Glenn Thrush & Danny Hakim, *Georgia Case Lays the Ground for Parallel Prosecutions of Trump*, N.Y. TIMES (Aug. 15, 2023).

[21] Tanner Hallerman and David Wickert, *Trump seeks info on Fulton prosecutor's meetings with feds*, ATLANTA J. CONST. (Jan. 10, 2024).

[22] Betsy Woodruff, et al., *Jan. 6 committee helped guide early days of Georgia Trump probe*, POLITICO (Jan. 10, 2024).

[23] *Id.*

[24] *Id.*

[25] Notice of Removal, *Georgia v. Meadows, et al.*, No. 1:23–cv–03621–SCJ (N.D. Ga. Aug. 15, 2023).

[26] *Id.* at 1.

the Federal Government from the interference with its operations that would ensue were a State able, for example, to arrest and bring to trial in a State court for an alleged offense against the law of the State, officers, and agents of the Federal Government acting within the scope of their authority."[27]

However, on September 8, 2023, the federal court "decline[d] to assume jurisdiction over the State's criminal prosecution of Meadows" and found "insufficient evidence to establish that the gravamen, or a heavy majority of overt acts alleged against Meadows, relate[d] to his role as White House Chief of Staff."[28] The Court ultimately ruled that "Meadows was not acting in his scope of executive branch duties during most of the Overt Acts alleged."[29] Both the U.S. Court of Appeals for the Eleventh Circuit and the Supreme Court upheld the lower court's ruling.[30] However, in a statement to the Supreme Court, Meadows stated, "[i]f former officers cannot remove at all, and if even a current chief of staff cannot remove a case arising out of acts taken in the White House in service of the president, then the floodgates are open, and 'nightmare scenarios' will not take long to materialize."[31]

Current Status of Willis's Politicized Prosecution

Willis's prosecution of President Trump and his co-defendants were hindered by allegations that she had a romantic relationship with Wade, who allegedly used the money he received from the Fulton County DA's office to pay for lavish vacations with Willis.[32] On January 8, 2024, one of President Trump's co-defendants filed a motion to dismiss the indictment and disqualify Willis, her office, and Wade from further prosecuting the case due to the conflict arising from Willis's and Wade's romantic relationship in which they both were alleged to have created a personal financial interest in the case.[33] On March 15, 2024, after conducting an evidentiary hearing and finding that Willis's and Wade's relationship created an "odor of mendacity" around the case, the trial court gave Willis and her office an option: either Wade resign his position with the office or the office recuse itself from the prosecution.[34] Wade resigned the same day.[35] Both Willis's office and the defendants in

---

[27] *Id.* at 1–2 (quoting *Watson v. Philip Morris Companies, Inc.*, 551 U.S. 142, 150 (2007)).

[28] Order at 42, *Georgia v. Meadows, et al.*, No. 1:23–CV–03621–SCJ (N.D. Ga. Sept. 8, 2023).

[29] *Id.* at 43.

[30] *See* Devan Cole, *Appeals court rejects Mark Meadows' attempt to move Georgia election subversion case to federal court*, CNN (Dec. 18, 2023); *see* Olivia Rubin, *Supreme Court rejects Mark Meadows' request to move Georgia election interference case into federal court*, ABC NEWS (Nov. 12, 2024).

[31] Megan Butler, *Trump's former chief of staff loses final bid for federal forum on Georgia election charges*, COURTHOUSE NEWS SERVICE (Nov. 12, 2024).

[32] Marjorie Hernandez, *Inside Trump prosecutor Nathan Wade's $6,000 spending spree on luxury cruises and Caribbean resorts*, N.Y. POST (Jan. 23, 2024). According to Mr. Wade, who showed little concern for the conflict of interest created by his workplace romance, his relationship with Ms. Willis was as "American as Apple Pie." Hanna Panreck, *Nathan Wade speaks out on 'workplace romance' with Fulton County DA Fani Willis: 'American as apple pie'*, FOX NEWS (May 6, 2024).

[33] Order at 5, *Trump, et al., v. Georgia*, No. A24A1599 (Ga. App. Dec. 19, 2024). Notably, after Willis spoke publicly in a church service on Sunday, January 14, 2024, the other appellants also filed motions seeking dismissal and disqualification on the same grounds, as well as the additional ground of forensic misconduct in connection with the church speech and various other extrajudicial statements. *Id.*

[34] *Id.* at 5, 13. However, the trial court ruled that "dismissal of the indictment is not the appropriate remedy to adequately dissipate the financial cloud of impropriety and potential untruthfulness" presented during the evidentiary hearing. *Id.* at 13.

[35] Danny Halem, et al., *Nathan Wade Resigns From Trump Case After Judge's Ruling*, N.Y. TIMES (Mar. 18, 2024).

the case appealed the trial court's ruling to the Georgia Court of Appeals.[36]

Upon reviewing the trial court's evidentiary record, along with the parties' appellate briefings, on December 19, 2024, the Georgia Court of Appeals disqualified Willis from prosecuting President-elect Trump.[37] The Georgia Court of Appeals held that the trial court "erred by failing to disqualify DA Willis and her office[ ]" because the trial court's order "did nothing to address the appearance of impropriety that existed at times when DA Willis was exercising her broad pretrial discretion about who to prosecute and what charges to bring."[38] On January 8, 2025, Willis's office petitioned the Georgia Supreme Court to reverse the decision of the Court of Appeals.[39] This appeal remains pending at the time of this report, and, accordingly, the charges against President Trump and Meadows remain pending.[40] In the event that the Georgia Supreme Court upholds the appellate court's disqualification of Willis and her office, the case will be "referred to the Georgia Prosecuting Attorneys' Council for reassignment[ ]" to a new Georgia district attorney's office, who would decide the fate of the prosecution.[41]

Manhattan District Attorney Alvin Bragg's Politicized Investigation

On April 4, 2023, New York County District Attorney Alvin Bragg indicted President Trump with 34 counts of falsifying business records to an ambiguous, unknown federal crime to aggravate the charges to felonies.[42] This indictment was an "unprecedented abuse of prosecutorial authority."[43] Falsifying business records is ordinarily a misdemeanor subject to a two-year statute of limitations,[44] which would have expired long ago. However, Bragg used a novel and untested legal theory—previously declined by federal prosecutors—to bootstrap the misdemeanor allegations as a felony by alleging that records were falsified to conceal a second crime.[45] The facts surrounding Bragg's indictment of President Trump have "been known for years."[46] Michael Cohen, President Trump's disgraced former lawyer and Bragg's star trial witness, pleaded guilty over five years ago to charges based on the same facts at issue in the indictment.[47] By July 2019, however, federal prosecutors deter-

---

[36] *Id.*

[37] Order at 5, *Trump, et al., v. Georgia*, No. A24A1599 (Ga. App. Dec. 19, 2024).

[38] *Id.* at 16–17.

[39] Danny Hakim, *Atlanta D.A. Asks Georgia Court to Review Decision Kicking Her Off Trump Case*, N.Y. TIMES (Jan. 8, 2025).

[40] *See id.*

[41] Sam Gringlas, *Georgia county blocks Fulton DA Willis from Trump election interference case*, NPR (Dec. 19, 2024) ("If the Georgia Supreme Court ultimately takes up the case and upholds the decision, it would fall to the director of the Prosecuting Attorneys' Council of Georgia to appoint a new prosecutor. That prosecutor would have the discretion to decide whether to continue the case."); *see Heritage Experts: Fulton County District Attorney's Office Should Recuse Itself from Trump Case*, HERITAGE FOUND. (Mar. 15, 2024).

[42] Press Release, District Attorney Bragg Announces 34–Count Felony Indictment of Former President Donald J. Trump, N.Y. Cnty. Dist. Att'y Off. (Apr. 4, 2023).

[43] *See* Letter from Jim Jordan, Chairman, H. Comm. on the Judiciary et al. to Alvin L. Bragg, Dist. Att'y, N.Y. Cnty. (Mar. 20, 2023).

[44] *Id.*

[45] *See* id; Ben Protess, et al., *In Trump Case, Bragg Pursues a Common Charge With a Rarely Used Strategy*, N.Y. TIMES (May 7, 2023).

[46] Mark Berman et al., *The prosecutor, the ex-president and the 'zombie' case that came back to life*, WASH. POST (Mar. 17, 2023).

[47] Shawna Chen, *Timeline: The probe into Trump's alleged hush money payments to Stormy Daniels*, AXIOS (Mar. 18, 2023).

mined that no additional people would be charged alongside Cohen.[48]

Although both the U.S. Attorney's Office for the Southern District of New York and the New York County District Attorney's Office (DANY) previously declined to further investigate the alleged hush money payments to Stephanie Clifford (also known as Stormy Daniels),[49] Bragg opted to revive the DANY's investigation at a politically opportune moment—shortly after President Trump announced his White House run.[50] The timing and basis for the DANY's prosecution of President Trump provide a clear inference that Bragg was motivated by political calculations. The facts had not changed since 2018 and no new witnesses emerged between then and the date on which Bragg filed the indictment.[51] The only intervening factor, it appears, was President Trump's announcement that he would be a candidate for President in 2024.[52] After a 20-day trial, a Manhattan jury found President Trump guilty on May 31, 2024.[53]

Bragg's Pursuit To Prosecute President Trump

Throughout his campaign for district attorney, Alvin Bragg made President Trump a focal point of his campaign.[54] On March 17, 2021, Bragg indicated that, if elected as district attorney, he "will hold [Trump] accountable . . . ."[55] Just a few days later, on March 23, 2021, he again boasted that he had "sued the Trump administration over 100 times . . . ."[56] In June 2021, Bragg doubled down, stating, "It is a fact that I have sued Trump more than a hundred times. I can't change that fact, nor would I. That was important work. That's separate from anything that the D.A.'s office may be looking at now."[57] In other words, Bragg assumed office with seemingly one fundamental goal: to prosecute President Trump.

Despite campaigning heavily on his goal of prosecuting President Trump, after assuming office on January 1, 2022, Bragg realized the case against President Trump was thin.[58] On January 8, 2022, former Special Assistant District Attorney Mark Pomerantz met individually with Bragg.[59] During the one-on-one, Pomerantz told Bragg that his case against President Trump "was ready to be charged."[60] On January 11, 2022, Pomerantz and his colleague

---

[48] *Id.; see also* Berman, *supra* note 38.
[49] POMERANTZ at 39, 61; *see also* Berman, *supra* note 38.
[50] POMERANTZ at 46; *see also* William K. Rashbaum et al., *Manhattan prosecutors begin presenting Trump case to grand jury*, N.Y. TIMES (Jan. 30, 2023).
[51] Berman, *supra* note 38.
[52] Max Greenwood, *Trump announces 2024 run for president*, THE HILL (Nov. 15, 2022).
[53] *See* Aaron Katersky & Peter Charlambous, *Timeline: Manhattan DA's Stormy Daniels hush money case against Donald Trump*, ABC NEWS (Jan. 10, 2025).
[54] *See, e.g.*, Maria Ramirez Uribe & Loreben Tuquero, *Here's what Manhattan District Attorney Alvin Bragg said about Donald Trump during his DA campaign*, POLITIFACT (Apr. 12, 2023); Katelyn Caralle, *Meet the Dems competing to prosecute Trump: Manhattan DA candidate BRAGGED about suing Donald 'more than 100 times'—while his opponent interviewed to be federal judge but didn't get it*, DAILY MAIL (June 2, 2021).
[55] *Id.*
[56] Emily Ngo, *Why the Manhattan DA Candidates Say They're Ready to Take on the Trump Investigation*, SPECTRUM NEWS NY 1 (Mar. 23, 2023).
[57] Jonah E. Bromwich et al., *2 Leading Manhattan D.A. Candidates Face the Trump Question*, N.Y. Times (June 2, 2021).
[58] Michael Gold & Jonah E. Bromwich, *Who Is Alvin Bragg, the D.A. Leading the Prosecution of Trump*, N.Y. TIMES (Apr. 13, 2023).
[59] POMERANTZ at 205–07.
[60] *Id.*

Carey Dunne gave a presentation on former President Trump's financial statements to Bragg and his team.[61] At this meeting, Bragg's team expressed "considerable 'angst'" about using Cohen as a witness and sought to pivot away from Pomerantz's suggested fraud charges.[62]

On January 24, 2022, according to Pomerantz, an investigative team meeting "quickly degenerated into a whirlwind of negativity" because other DANY officials rightly questioned the credibility of Pomerantz's main witness, Michael Cohen.[63] Two days later, Pomerantz and Dunne agreed that both would resign if Bragg did not move forward with an indictment and exchanged resignation letters for the other to review.[64]

Throughout the first few weeks of February 2022, Pomerantz and Dunne held several conversations with Bragg and his team to explain their multi-faceted investigation into President Trump.[65] According to Pomerantz, the case against President Trump based upon the Clifford payment facts—familiarly known as the "zombie" case—had multiple pitfalls, and notwithstanding possible "workarounds," Pomerantz wrote that none were appealing.[66] Further, his DANY colleagues were "dubious about whether Trump had been 'extorted' in the first place."[67] Bragg therefore halted the investigation into President Trump despite "fac[ing] incredible political pressure from his Democratic base to indict [President] Trump."[68]

As a result, Pomerantz and Dunne dramatically resigned in protest "while Bragg's liberal supporters grew restless with the lack of an indictment for more than a year."[69] A copy of Pomerantz's resignation letter was leaked to the *New York Times*, which published his scathing assessment of Bragg's failures.[70] Amid the fallout from the investigation into President Trump, Bragg issued an "unusual" public statement about the DANY's investigation into President Trump, "emphasizing that the investigation into Trump and his business was far from over."[71]

After losing his two partisan prosecutors, Bragg retooled his office with more activists. In December 2022, Bragg hired Matthew Colangelo, who was at one point the third highest-ranking official

---

[61] *Id.* at 207–08.
[62] *Id.* at 208–209.
[63] *Id.* at 212 ("As I started to detain Cohen's potential testimony against Trump, Susan Hoffinger brought her phone out to play a recording of one of Cohen's recent media appearances, in which he had taken credit as the person who had first spoken about the false financial statements and had crowed about his importance as a witness in the case. This was exactly opposite to the point I was making at the meeting . . . ."); *Id.* at 213 ("Although the new team knew nothing about the underlying facts, and nothing about how the Weisselberg case had been put together, they had read the defense motion papers attributing critical importance to Cohen, dumping all over him, and claiming that he had tainted the prosecution.").
[64] *Id.* at 217.
[65] *Id.* at 221–26, 228.
[66] *Id.* at 61.
[67] *Id.*
[68] Jeff Coltin, *Alvin Bragg's about to become the most famous prosecutor in America (but no questions, please)*, POLITICO (Apr. 13, 2024); *see also* Jeff Coltin, *This reluctant prosecutor just made Donald Trump a felon*, POLITICO (June 1, 2024) ("Bragg was also criticized by many Democrats for not quickly bringing a criminal conspiracy case against Trump that assistants in the office had been building.").
[69] Jeff Coltin, *Alvin Bragg's about to become the most famous prosecutor in America (but no questions, please)*, POLITICO (Apr. 13, 2024).
[70] *Read the Full Text of Mark Pomerantz's Resignation Letter*, N.Y. TIMES (Mar. 23, 2022).
[71] Mark Berman et al., *The prosecutor, the ex-president and the 'zombie' case that came back to life*, WASH. POST (Mar. 17, 2023).

at the Biden-Harris Justice Department.[72] Colangelo previously held senior positions in the New York Attorney General's Office and has a "history of taking on Donald J. Trump and his family business."[73] Colangelo led "dozens of lawsuits against the [T]rump administration" during his time at the New York Attorney General's Office.[74]

President Trump's Trial Was Plagued With Serious Legal and Constitutional Deficiencies

On April 4, 2023, Bragg succumbed to the left-wing political pressure and filed a 34-count criminal indictment against President Trump for falsifying New York business records, allegedly "to conceal damaging information and unlawful activity from American voters before and after the 2016 election."[75] The indictment took "a single transaction—Trump's reimbursement to Michael Cohen of the $130,000 Cohen paid to [Stephanie Clifford] to stay mum about an alleged 2006 fling [pursuant to an agreed-upon non-disclosure agreement (NDA)]—and ludicrously slic[ed] it into 34 transactions, each of which [it] brands as felony falsification of business records."[76]

Legal experts explained that none of this alleged conduct amounted to a provable felony offense. First, even if the alleged bookkeeping irregularities "amount[ed] to fraud crimes . . . the transactions in question could not possibly have had the slightest impact on the 2016 election. They didn't occur until months later—specifically, from February 14 through December 5, 2017."[77] Second, "even if Bragg had jurisdiction to enforce federal campaign finance law" and "even if Bragg were correct that the . . . payments were in-kind campaign contributions that had to be disclosed," any disclosure would have been due "several months into 2017. Again, there could not conceivably have been any impact on the 2016 election."[78]

Despite these legal infirmities, Bragg ultimately tried President Trump on these charges, and, on May 30, 2024, a Manhattan jury found him guilty on all 34 counts.[79] President Trump promised to appeal, stating, "We will fight for our constitution. This is far from over."[80] Legal experts agreed that President Trump's appeal of his conviction was on solid legal grounds for several reasons.

First, the jury instructions that New York District Judge Juan Merchan read to the jurors were comprised of 55-pages of confusing and seemingly unlawful charges.[81] Specifically, Judge Merchan charged the jury that they had to agree unanimously on whether to convict President Trump on each of the 34 counts of falsifying

---

[72] Jonah E. Bromwich, *Manhattan D.A. hires ex-Justice official to help lead Trump inquiry*, N.Y. TIMES (Dec. 5, 2022).
[73] *Id.*
[74] *Id.*
[75] Press Release, N.Y. Cnty. Dist. Atty's Office, District Attorney Bragg Announces 34–County Felony Indictment of Former President Donald J. Trump (Apr. 4, 2023).
[76] Andrew C. McCarthy, *Bragg's case against Trump is utterly incoherent*, N.Y. POST (Apr. 5, 2023).
[77] *Id.*
[78] *Id.*
[79] James Lynch, *Trump Found Guilty on All Counts in Hush-Money Trial*, NAT'L REV. (May 30, 2022).
[80] *Id.* (internal quotation marks omitted).
[81] *See* Aysha Bagchi, *Read the jury instructions in Donald Trump's New York criminal hush money trial*, USA TODAY (May 20, 2024).

business records with the intent to conceal damaging information before the 2016 election.[82] This required them, unanimously, to determine that President Trump used "unlawful means" to conceal this information.[83] Judge Merchan, however, instructed the jurors that they "did not have to agree on a singular unlawful act" to convict.[84] He instructed "that they would have to find only that Mr. Trump committed bookkeeping infractions to conceal [1] a campaign finance violation, [2] tax law infraction or [3] falsification of business records," but they "didn't have to agree on the underlying crime to find the former president guilty."[85]

One New York criminal law expert reasoned that, by offering "three different theories as to how the false records could have violated state election law, limit[ing] instruction on what some of those theories required, and the fact that jurors were not required to agree on which had been proven," Judge Merchan created "a real issue for the appeal."[86] As a matter of law, Judge Merchan should have instructed the jurors "that they had to find at least one of these objective crimes and they had to be unanimous on that finding in order to convict Trump."[87]

Second, Judge Merchan allowed Bragg "to spread before the jury in his Manhattan courtroom evidence that [was] blatantly inadmissible against" President Trump.[88] Bragg intended "to use Cohen's guilty plea to establish that Trump was complicit in crimes because of the NDA payments."[89] Judge Merchan held that neither Cohen's guilty plea nor David Pecker's, former CEO of American Media, non-prosecution agreement were admissible because "evidence of another party's guilty plea is not admissible to prove the defendant's guilt."[90] Nevertheless, Judge Merchan "simultaneously ruled that prosecutors could elicit testimony about Cohen's guilty pleas on the rationale that they are relevant to his credibility as a witness," which he permitted over President Trump's objection.[91] As a result, the jury heard testimony about:

> Michael Cohen's guilty pleas to two Federal Election Campaign Act (FECA) crimes, which he claimed were established by payments to [Stephanie Clifford] and Karen McDougal for non-disclosure agreements (NDAs); and David Pecker's non-prosecution agreement with the Justice

---

[82] Erica Orden & Ben Feuerhead, *Looming over Trump's conviction: Reversal by the '13th juror,'* POLITICO (June 2, 2024).

[83] *Id.*

[84] *Id.*

[85] Alex Swoyer, *Here are Trump's top three arguments for appeal after guilty verdict in hush money trial*, WASH. EXAM. (May 30, 2024).

[86] Erica Orden & Ben Feuerhead, *Looming over Trump's conviction: Reversal by the '13th juror,'* POLITICO (June 2, 2024) (internal quotation marks omitted).

[87] Andrew C. McCarthy, *The 'Other Crime' in the Trump Trial: Conflating Ends and Means*, NAT'L REV. (June 3, 2024).

[88] Andrew McCarthy, *Undercover Prosecutor Merchan Helps Bragg Lawlessly Stress Cohen's Guilty Plea*, NAT'L REV. (May 25, 2024); *see People v. Davis*, 43 N.Y.2d 17, 27, 371 N.E.2d 456 (1977) (holding that relevant evidence is inadmissible if "its probative value is outweighed by the danger that its admission would prolong the trial to an unreasonable extent without any corresponding advantage; or would confuse the main issue and mislead the jury; or unfairly surprise a party; or create substantial danger of undue prejudice to one of the parties").

[89] Andrew C. McCarthy, *How Judge Merchan Is Orchestrating Trump's Conviction*, NAT'L REV. (Apr. 29, 2024).

[90] *United States v. Werne*, 939 F.2d 108, 113 (3rd Cir. 1991). *See also People v. Blades*, 93 N.Y.2d 166, 175–76 (1999) (cautioning that "rubrics must not be extended and applied as a blueprint for generalized admission of guilty plea colloquies into evidence, in lieu of live, confronted, cross-examinable trial testimony").

[91] McCarthy, *supra* note 80.

> Department, which he executed out of fear that he'd be indicted over the McDougal NDA (he wasn't, although his former company, AMI, agreed to pay the Federal Election Commission a fine—a disposition that allowed AMI to get out from under the federal government's investigation so it could sell the *National Enquirer*.)[92]

Although inadmissible, this was the "evidence" that President Trump violated campaign laws—if Cohen pleaded guilty to violating FECA, and Pecker was concerned that he might be charged with violating FECA, then President Trump must have violated FECA when he allegedly paid off Clifford and McDougal.[93] Judge Merchan compounded this reversible error by refusing to allow President Trump's defense to call former Federal Election Commission (FEC) Commissioner Bradley Smith as a witness to testify that none of President Trump's alleged conduct violated FECA.[94]

Third, Judge Merchan unfairly prejudiced the jury against President Trump by permitting Clifford to testify about an alleged past encounter with President Trump because it had no relevance to the falsified business recordkeeping charges at issue in the trial.[95] This showing of unfair prejudice would be sufficient for the appeals court to vacate the guilty verdict and order a new trial.[96]

Finally, just before the trial, the judge granted the prosecutors' request for an unconstitutional gag order on President Trump. On February 22, 2024, Bragg's office filed a motion seeking to restrict President Trump's "extrajudicial statements . . . for the duration of the trial" following several public comments made by President Trump regarding his pending trial in New York.[97] President Trump argued that as the "presumptive Republican nominee and leading candidate in the 2024 election" he should have been able to "criticize these public figures" and respond to their attacks.[98] Judge Merchan found that President Trump's statements "went far beyond defending himself against 'attacks' by 'public figures.'"[99]

On March 26, 2024, Judge Merchan prohibited President Trump from making any public statements regarding "witnesses, prosecutors, jurors and court staff."[100] The gag order did not restrict President Trump's comments about Bragg or Judge Merchan.[101] On April 1, 2024, Judge Merchan extended the gag order to prohibit comments made by President Trump about the District Attorney's or Judge's family members (Judge Merchan's daughter is a Democrat political operative).[102] If President Trump violated the gag

---

[92] Andrew McCarthy, *How Merchan Enabled Prosecutors' Effort to Convict Trump Based on Improper Evidence*, NAT'L REV. (May 26, 2024).
[93] McCarthy, *supra* note 80.
[94] *Id.*
[95] Swoyer, *supra* note 76.
[96] *People v. Weinstein*, No. 24, 2024 WL 1773181, at *1 (Apr. 25, 2024) (revering guilty verdict and ordering new trial where the defendant "was judged, not on the conduct for which he was indicted, but on irrelevant, prejudicial, and untested allegations of prior bad acts").
[97] Decision and Order, *People v. Donald J. Trump*, No. 71543–34 at 1 (N.Y. Co. Mar. 26, 2024).
[98] *Id.* at 2.
[99] *Id.*
[100] Jesse McKinley, et al., *Gag Order Against Trump Is Expanded to Bar Attacks on Judge's Family*, N.Y. TIMES (Apr. 1, 2024).
[101] *Id.*
[102] *Id.*

order, the court would have been able to impose fines or "in extraordinary circumstances" jail time.[103]

President Trump's legal team argued that the amended gag order was unconstitutional because it prohibited him from engaging in political speech.[104] At the time, his campaign spokesman stated, "The voters of America have a fundamental right to hear the uncensored voice of the leading candidate for the highest office in the land."[105] Professor Jonathan Turley stated Judge Merchan's gag orders "raise[d] very serious free speech questions" as the orders prohibited President Trump from criticizing "central figures in this political campaign" such as Michael Cohen, Stephanie Clifford, and Matthew Colangelo.[106] Judge Merchan fined President Trump roughly $10,000 for posts on Truth Social and his campaign website and had threatened President Trump with jail time during the trial for allegedly violating the gag order.[107]

Judge Juan Merchan's Political Bias

The judge who presided over President Trump's trial, Juan Merchan, and his family have close ties to the Democrat party. Not only did Judge Merchan's daughter, Loren Merchan, work on Vice President Kamala Harris's 2020 presidential campaign, but until December 2024, she served as the president and Chief Operating Officer of Authentic Campaigns, a "Chicago-based progressive political consulting firm" that worked with Democrat Party candidates, including President Biden and Vice President Kamala Harris.[108] According to Judge Merchan, prior to the trial he obtained an opinion from New York's Advisory Committee on Judicial Ethics regarding his daughter's employment.[109] The Advisory Committee reportedly stated: "We see nothing in the inquiry to suggest that the outcome of the case could have any effect on the judge's relative, the relative's business or any of their interest."[110]

However, two of Authentic Campaigns' top clients—then-Congressman Adam Schiff and the Senate Majority PAC—raised "at least $93 million in campaign donations" while using President Trump's New York indictments in their solicitation emails.[111] Notably, Congressman Schiff's campaign for U.S. Senate received "$20 million in aid since he began soliciting donations off the presumptive GOP presidential front-runner's unprecedented 34-count indictment last April, according to Federal Election Commission records."[112] The Senate Majority PAC "pocketed $73.6 million since

---

[103] *Id.*
[104] *Id.*
[105] *Id.*
[106] Prof. Jonathan Turley, Res Ipsa Loquitur, *The Gag and the Goad: Trump Should Appeal Latest Gag Order* (Mar. 27, 2024).
[107] Graham Kates and Katrina Kaufman, *Trump held in contempt for violating gag order in "hush money" trial. Here's how much he owes.*, CBS NEWS Apr. 30, 2024). *See also* Jeremy Herb et al., *Judge finds Donald Trump in contempt for 10th time over gag order and threatens jail time*, CNN (May 6, 2024).
[108] Jon Levine & Rich Calder, *Dem clients of daughter of NY judge in Trump hush-money trial raised $93M off the case*, N.Y. POST (Mar. 30, 2024); Priscilla DeGregory, *NY judge denies Trump's bid for recusal in 'hush money' case, says he's 'certain' he can be impartial*, N.Y. POST (Aug. 14, 2023).
[109] Erica Orden, *Judge overseeing Trump's hush money case won't recuse himself*, POLITICO (Aug. 14, 2023).
[110] *Id.*
[111] Jon Levine & Rich Calder, *Dem clients of daughter of NY judge in Trump hush-money trial raised $93M off the case*, N.Y. POST (Mar. 30, 2024).
[112] Jon Levine & Rich Calder, *Dem clients of daughter of NY judge in Trump hush-money trial raised $93M off the case*, N.Y. POST (Mar. 30, 2024).

it also began firing off fundraising emails following the ex-president's indictment."[113] In 2020, Judge Merchan himself made donations to Democrat causes—including to President Biden's campaign and a group called Stop Republicans.[114] According to Judge Merchan, the Advisory Committee found that his donations were "modest political contributions made more than two years ago [that] cannot reasonably create an impression of bias."[115] Despite these conflicts, Judge Merchan denied President Trump's recusal request in August 2023.[116]

Bragg's case against President Trump came to an end on January 10, 2025, when New York Judge Juan Merchan sentenced President Trump to an unconditional discharge,[117] which "waives legal penalties for a crime but does not negate the conviction."[118] President Trump will not serve any jail time, serve any probation, or pay any fines.[119]

Protecting Our Nation's Leaders

A prosecutor's job is to do justice. However, in their political pursuit against President Trump, state and local prosecutors abused their power. Current law does not adequately protect current and former Presidents and Vice Presidents from politically motivated state and local prosecutions. H.R. 1789 is designed to protect the nation's leaders from lawfare tactics used against them by state and local prosecutors. The bill provides an avenue for federal officials to have their cases moved to less biased federal courts. When considering removal, federal courts should exercise their jurisdiction to the fullest extent of their Article III authority. In addition, the bill extends protections to federal officials by codifying case law that already extends Supremacy Clause immunity to those acting within the bounds or their federal duties. Finally, the bill gives greater legal support from the Justice Department or government-funded private counsel to prevent state prosecutors from bankrupting federal officials.

Hearings

For the purposes of clause 3(c)(6)(A) of House rule XIII, the following hearings were used to develop H.R. 1789: "Legislative Reforms to End Lawfare by State and Local Prosecutors" a hearing held on March 4, 2025, before the Subcommittee on the Constitution and Limited Government of the Committee on the Judiciary. The Subcommittee heard testimony from the following witnesses:

---

[113] Jon Levine & Rich Calder, *Dem clients of daughter of NY judge in Trump hush-money trial raised $93M off the case*, N.Y. POST (Mar. 30, 2024).

[114] William Rashbaum, et al., *Ethics Panel Cautions Judge in Trump Trial Over Political* Donations, N.Y. TIMES (May 17, 2024); Priscilla DeGregory, *NY judge denies Trump's bid for recusal in 'hush money' case, says he's 'certain' he can be impartial*, N.Y. POST (Aug. 14, 2023); *see also* Victor Nava, *Judge Juan Merchan, who is overseeing Trump case, donated to Biden campaign in 2020*, N.Y. POST (Apr. 7, 2023).

[115] Michael R. Sisak, Judge in Donald Trump's hush-money case denies bias claim, won't step aside, ASSOC. PRESS (Aug. 14, 2023).

[116] Priscilla DeGregory, NY judge denies Trump's bid for recusal in 'hush money' case, says he's 'certain' he can be impartial, N.Y. POST (Aug. 14, 2023).

[117] Kate Christobek, *Trump Received an Unconditional Discharge. What Does That Mean?*, N.Y. TIMES (Jan., 10, 2025).

[118] Steph Whiteside, *What is an unconditional discharge?*, NEWSNATION, (Jan., 10, 2025).

[119] *Id*.

- George J. Terwilliger, III, Former Deputy Attorney General, U.S. Department of Justice; Counsel to former Congressman and Chief of Staff Mark Meadows;
- Daniel Epstein, Vice President of America First Legal; Professor of Law, St. Thomas University;
- Elizabeth Price Foley, Of Counsel at BakerHostetler; Professor of Law, Florida International University College of Law;
- Elizabeth Earle Beske, Professor of Law, Washington College of Law.

The hearing examined the use of lawfare tactics by the Biden-Harris Administration to weaponize the rule of law against political opponents. The hearing also highlighted legislative reforms to end politically motivated state and local prosecutions.

Committee Consideration

On March 5, 2025, the Committee met in open session and ordered the bill, H.R. 1789, favorably reported with an amendment in the nature of a substitute, by a roll call vote of 14–11, a quorum being present.

Committee Votes

In compliance with clause 3(b) of House rule XIII, the following roll call votes occurred during the Committee's consideration of H.R. 1789:

1. Vote on Amendment #1 to the H.R. 1789 ANS, offered by Mr. Raskin—failed 11 ayes to 14 nays.
2. Vote on Amendment #2 to the H.R. 1789 ANS, offered by Mr. Nadler—failed 8 ayes to 11 nays.
3. Vote on Amendment #3 to the H.R. 1789 ANS, offered by Ms. Balint—failed 10 ayes to 10 nays
4. Vote on favorably reporting H.R. 1789, as amended—passed 14 ayes to 11 nays.

COMMITTEE ON THE JUDICIARY

119th CONGRESS

25-19

ROLL CALL

Date: 3/5/25

Vote on: Raskin Amndt(#1)to HR 1789 ANS

Roll Call #: 1

REPUBLICANS	AYE	NO	PRESENT	DEMOCRATS	AYE	NO	PRESENT
MR. JORDAN (OH) *Chairman*				MR. RASKIN (MD) *Ranking Member*	✓		
MR. ISSA (CA)		✓		MR. NADLER (NY)	✓		
MR. BIGGS (AZ)				MS. LOFGREN (CA)	✓		
MR. McCLINTOCK (CA)		✓		MR. COHEN (TN)			
MR. TIFFANY (WI)				MR. JOHNSON (GA)	✓		
MR. MASSIE (KY)		✓		MR. SWALWELL (CA)			
MR. ROY (TX)		✓		MR. LIEU (CA)			
MR. FITZGERALD (WI)				MS. JAYAPAL (WA)	✓		
MR. CLINE (VA)				MR. CORREA (CA)			
MR. GOODEN (TX)				MS. SCANLON (PA)			
MR. VAN DREW (NJ)		✓		MR. NEGUSE (CO)			
MR. NEHLS (TX)		✓		MS. McBATH (GA)			
MR. MOORE (AL)		✓		MS. ROSS (NC)	✓		
MR. KILEY (CA)				MS. BALINT (VT)	✓		
MS. HAGEMAN (WY)		✓		MR. GARCIA (IL)	✓		
MS. LEE (FL)		✓		MS. KAMLAGER-DOVE (CA)	✓		
MR. HUNT (TX)				MR. MOSKOWITZ (FL)	✓		
MR. FRY (SC)		✓		MR. GOLDMAN (NY)	✓		
MR. GROTHMAN (WI)				MS. CROCKETT (TX)			
MR. KNOTT (NC)		✓					
MR. HARRIS (NC)		✓					
MR. ONDER (MO)		✓					
MR. SCHMIDT (KS)		✓					
MR. GILL (TX)							
MR. BAUMGARTNER (WA)							

Roll Call Totals: Ayes: 11 Nays: 24 Present:

Passed: _____ Failed: _____

COMMITTEE ON THE JUDICIARY

Date: 3/5/25

119th CONGRESS

25-19

ROLL CALL

Vote on: Nadler Amndt (#12) to HR 1789 ANS

Roll Call #: 2

REPUBLICANS	AYE	NO	PRESENT	DEMOCRATS	AYE	NO	PRESENT
MR. JORDAN (OH) *Chairman*		✓		MR. RASKIN (MD) *Ranking Member*	✓		
MR. ISSA (CA)		✓		MR. NADLER (NY)	✓		
MR. BIGGS (AZ)		✓		MS. LOFGREN (CA)			
MR. McCLINTOCK (CA)		✓		MR. COHEN (TN)			
MR. TIFFANY (WI)				MR. JOHNSON (GA)	✓		
MR. MASSIE (KY)		✓		MR. SWALWELL (CA)			
MR. ROY (TX)				MR. LIEU (CA)			
MR. FITZGERALD (WI)				MS. JAYAPAL (WA)	✓		
MR. CLINE (VA)				MR. CORREA (CA)			
MR. GOODEN (TX)				MS. SCANLON (PA)	✓		
MR. VAN DREW (NJ)		✓		MR. NEGUSE (CO)			
MR. NEHLS (TX)				MS. McBATH (GA)			
MR. MOORE (AL)				MS. ROSS (NC)	✓		
MR. KILEY (CA)		✓		MS. BALINT (VT)	✓		
MS. HAGEMAN (WY)				MR. GARCIA (IL)			
MS. LEE (FL)		✓		MS. KAMLAGER-DOVE (CA)			
MR. HUNT (TX)				MR. MOSKOWITZ (FL)	✓		
MR. FRY (SC)		✓		MR. GOLDMAN (NY)			
MR. GROTHMAN (WI)				MS. CROCKETT (TX)			
MR. KNOTT (NC)							
MR. HARRIS (NC)		✓					
MR. ONDER (MO)		✓					
MR. SCHMIDT (KS)							
MR. GILL (TX)							
MR. BAUMGARTNER (WA)							

Roll Call Totals: Ayes: 8 Nays: 11 Present:

Passed: _____ Failed: X

COMMITTEE ON THE JUDICIARY

119th CONGRESS

25-19

ROLL CALL

Date: 3/5/25

Vote on: Baldwin Amndt (#3) to HR 1789 ANS

Roll Call #: 3

REPUBLICANS	AYE	NO	PRESENT	DEMOCRATS	AYE	NO	PRESENT
MR. JORDAN (OH) *Chairman*		✓		MR. RASKIN (MD) *Ranking Member*	✓		
MR. ISSA (CA)		✓		MR. NADLER (NY)	✓		
MR. BIGGS (AZ)				MS. LOFGREN (CA)			
MR. McCLINTOCK (CA)		✓		MR. COHEN (TN)	✓		
MR. TIFFANY (WI)				MR. JOHNSON (GA)			
MR. MASSIE (KY)		✓		MR. SWALWELL (CA)			
MR. ROY (TX)				MR. LIEU (CA)			
MR. FITZGERALD (WI)				MS. JAYAPAL (WA)	✓		
MR. CLINE (VA)		✓		MR. CORREA (CA)	✓		
MR. GOODEN (TX)				MS. SCANLON (PA)	✓		
MR. VAN DREW (NJ)		✓		MR. NEGUSE (CO)			
MR. NEHLS (TX)				MS. McBATH (GA)			
MR. MOORE (AL)				MS. ROSS (NC)	✓		
MR. KILEY (CA)				MS. BALINT (VT)	✓		
MS. HAGEMAN (WY)				MR. GARCIA (IL)			
MS. LEE (FL)				MS. KAMLAGER-DOVE (CA)			
MR. HUNT (TX)				MR. MOSKOWITZ (FL)	✓		
MR. FRY (SC)				MR. GOLDMAN (NY)	✓		
MR. GROTHMAN (WI)		✓		MS. CROCKETT (TX)			
MR. KNOTT (NC)		✓					
MR. HARRIS (NC)		✓					
MR. ONDER (MO)		✓					
MR. SCHMIDT (KS)							
MR. GILL (TX)							
MR. BAUMGARTNER (WA)							

Roll Call Totals: Ayes: 19 Nays: 10 Present:

Passed: _____ Failed: X

COMMITTEE ON THE JUDICIARY

Date: 3/5/25

119th CONGRESS

25-19

ROLL CALL

Vote on: Final Passage of HR 1789, as amended

Roll Call #: 4

REPUBLICANS	AYE	NO	PRESENT	DEMOCRATS	AYE	NO	PRESENT
MR. JORDAN (OH) *Chairman*	✓			MR. RASKIN (MD) *Ranking Member*		✓	
MR. ISSA (CA)	✓			MR. NADLER (NY)		✓	
MR. BIGGS (AZ)				MS. LOFGREN (CA)			
MR. McCLINTOCK (CA)	✓			MR. COHEN (TN)		✓	
MR. TIFFANY (WI)				MR. JOHNSON (GA)			
MR. MASSIE (KY)	✓			MR. SWALWELL (CA)			
MR. ROY (TX)				MR. LIEU (CA)			
MR. FITZGERALD (WI)				MS. JAYAPAL (WA)		✓	
MR. CLINE (VA)	✓			MR. CORREA (CA)		✓	
MR. GOODEN (TX)				MS. SCANLON (PA)		✓	
MR. VAN DREW (NJ)	✓			MR. NEGUSE (CO)			
MR. NEHLS (TX)				MS. McBATH (GA)			
MR. MOORE (AL)	✓			MS. ROSS (NC)		✓	
MR. KILEY (CA)				MS. BALINT (VT)		✓	
MS. HAGEMAN (WY)				MR. GARCIA (IL)			
MS. LEE (FL)	✓			MS. KAMLAGER-DOVE (CA)			
MR. HUNT (TX)	✓			MR. MOSKOWITZ (FL)		✓	
MR. FRY (SC)	✓			MR. GOLDMAN (NY)		✓	
MR. GROTHMAN (WI)	✓			MS. CROCKETT (TX)		✓	
MR. KNOTT (NC)	✓						
MR. HARRIS (NC)	✓						
MR. ONDER (MO)	✓						
MR. SCHMIDT (KS)							
MR. GILL (TX)							
MR. BAUMGARTNER (WA)							

Roll Call Totals: Ayes: 14 Nays: 11 Present:

Passed: ✓ Failed:

Committee Oversight Findings

In compliance with clause 3(c)(1) of House rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974* and with respect to the requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has requested but not received a cost estimate for this bill from the Director of the Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Chairman of the Committee shall cause such estimate and statement to be printed in the *Congressional Record* upon its receipt by the Committee.

Congressional Budget Office Cost Estimate

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the *Congressional Budget Act of 1974* was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

Committee Estimate of Budgetary Effects

With respect to the requirements of clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the *Congressional Budget Act of 1974*.

Duplication of Federal Programs

Pursuant to clause 3(c)(5) of House rule XIII, no provision of H.R. 1879 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of House rule XIII, H.R. 1789 would clarify when a current or former President or Vice President, or a current or former federal officer, may remove a civil or criminal case brought against them in state court to federal court. The bill would also codify the immunity recognized by the U.S. Supreme Court in *Trump v. United States* for official acts carried out in the course of official duties.

Advisory on Earmarks

In accordance with clause 9 of House rule XXI, H.R. 1789 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clauses 9(d), 9(e), or 9(f) of House rule XXI.

Federal Mandates Statement

An estimate of federal mandates prepared by the Director of the Congressional Budget office pursuant to section 423 of the *Unfunded Mandates Reform Act* was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

Advisory Committee Statement

No advisory committees within the meaning of section 5(b) of the *Federal Advisory Committee Act* were created by this legislation.

Applicability to Legislative Branch

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the *Congressional Accountability Act* (Pub. L. 104–1).

Section-by-Section Analysis

Section 1. Short title

The Act is the "*Promptly Ending Political Prosecutions and Executive Retaliation Act of 2025*."

Section 2. Removal of certain actions

This section clarifies the requirements to move a civil or criminal case from a state court to a district court.

This section also extends eligibility to include current and former officers of the United States, current and former officers of any agency, the President, the Vice President, a former President, and a former Vice President.

Section 3. Procedure for removal of criminal cases

This section provides greater procedural protections for when a federal official's case is removed.

Section 4. Official immunity

This section adds a new section to Title 28, United States Code, which would codify the immunity recognized by the U.S. Supreme Court for official acts carried out by a federal official during the course of their federal duties.

This section also prohibits the court, during its immunity determination, from examining officials acts that are not the subject of the charge or claim brought in state court.

This section further permits the Attorney General to provide representation to any individual whose case is subject to removal based upon their current or past federal government service, pro-

hibits state courts from defining the duties of federal officers, and requires that a federal court dismiss a pending case if it would interfere with the execution of the President's or Vice President's official duties.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

TITLE 28, UNITED STATES CODE

* * * * * * *

PART IV—JURISDICTION AND VENUE

* * * * * * *

CHAPTER 89—DISTRICT COURTS; REMOVAL OF CASES FROM STATE COURTS

Sec.

* * * * * * *

1456. Official immunity.

* * * * * * *

§ 1442. Federal officers or agencies sued or prosecuted

(a) A civil action or criminal prosecution that is commenced in a State court and that is against or directed to any of the following may be removed by them*, upon a prima facie showing by the removing party that the standards for removal are met,* to the district court of the United States for the district and division embracing the place wherein it is pending:

(1) The United States or any agency thereof [or any officer (or any person acting under that officer) of the United States or of any agency thereof,] *or any person who, at the time of removal, is an officer of the United States (or any person acting under that officer) or of any agency thereof, or was previously such an officer,* in an official or individual capacity, for or relating to any act under color of such office *(including a discretionary exercise of any authority of such office)* or on account of any right, title or authority claimed under any Act of Congress for the apprehension or punishment of criminals or the collection of the revenue.

(2) A property holder whose title is derived from any such officer, where such action or prosecution affects the validity of any law of the United States.

(3) Any officer of the courts of the United States, for or relating to any act under color of office or in the performance of his duties;

(4) Any officer of either House of Congress, for or relating to any act in the discharge of his official duty under an order of such House.

(5) The President or Vice President for or relating to any act while in office or where the State court's consideration of the claim or charge may interfere with, hinder, burden, or delay the execution of the duties of the President or the Vice President.

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

(b) A personal action commenced in any State court by an alien against any citizen of a State who is, or at the time the alleged action accrued was, a civil officer of the United States and is a nonresident of such State, wherein jurisdiction is obtained by the State court by personal service of process, may be removed by the defendant to the district court of the United States for the district and division in which the defendant was served with process.

(c) Solely for purposes of determining the propriety of removal under subsection (a), a law enforcement officer, who is the defendant in a criminal prosecution, shall be deemed to have been acting under the color of his office if the officer—

(1) protected an individual in the presence of the officer from a crime of violence;

(2) provided immediate assistance to an individual who suffered, or who was threatened with, bodily harm; or

(3) prevented the escape of any individual who the officer reasonably believed to have committed, or was about to commit, in the presence of the officer, a crime of violence that resulted in, or was likely to result in, death or serious bodily injury.

(d) In this section, the following definitions apply:

(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. If removal is sought for a proceeding described in the previous sentence, and there is no other basis for removal, only that proceeding may be removed to the district court.

(2) The term "crime of violence" has the meaning given that term in section 16 of title 18.

(3) The term "law enforcement officer" means any employee described in subparagraph (A), (B), or (C) of section 8401(17) of title 5 and any special agent in the Diplomatic Security Service of the Department of State.

(4) The term "serious bodily injury" has the meaning given that term in section 1365 of title 18.

(5) The term "State" includes the District of Columbia, United States territories and insular possessions, and Indian country (as defined in section 1151 of title 18).

(6) The term "State court" includes the Superior Court of the District of Columbia, a court of a United States territory or insular possession, and a tribal court.

* * * * * * *

§ 1455. Procedure for removal of criminal prosecutions

(a) NOTICE OF REMOVAL.—A defendant or defendants desiring to remove any criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such prosecution is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.

(b) REQUIREMENTS.—(1) A notice of removal of a criminal prosecution shall be filed not later than 30 days after the arraignment in the State court, or at any time before trial, whichever is earlier, except that for good cause shown the United States district court may enter an order granting the defendant or defendants leave to file the notice at a later time.

(2) A notice of removal of a criminal prosecution shall include all grounds for such removal. A failure to state grounds that exist at the time of the filing of the notice shall constitute a waiver of such grounds, and a second notice may be filed only on grounds not existing at the time of the original notice. For good cause shown, the United States district court may grant relief from the limitations of this paragraph.

(3) The filing of a notice of removal of a criminal prosecution [shall not] *shall* prevent the State court in which such prosecution is pending from proceeding further, [except that a judgment of conviction shall not be entered unless the prosecution is first remanded] *and no judgment of conviction shall be entered unless the prosecution is remanded*.

(4) The United States district court in which such notice is filed shall examine the notice [promptly. If] *promptly and where a prima facie showing demonstrating the basis for removal is made, the matter shall be removed. Only if* it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand.

(5) If the United States district court does not order the *summary dismissal or the* summary remand of such prosecution, it shall order [an evidentiary hearing] *a hearing* to be held promptly and, after such hearing, shall make such disposition of the prosecution as justice shall require *including dismissal under section 1456*. If the United States district court determines that removal shall be permitted *or dismissal ordered*, it shall so notify the State court in which prosecution is pending, which shall proceed no further.

(c) WRIT OF HABEAS CORPUS.—If the defendant or defendants are in actual custody on process issued by the State court, the district court shall issue its writ of habeas corpus, and the marshal shall thereupon take such defendant or defendants into the marshal's custody and deliver a copy of the writ to the clerk of such State court.

§ 1456. Official Immunity

(a) IMMUNITY.—In any case that is subject to removal under section 1442(a), a Federal official shall be presumed to have immunity under article VI, clause 2 of the Constitution of the United States from any charge or claim made by or under authority of State law

which may only be rebutted by clear and convincing evidence that the official was not acting under the color of such office or on account of any right, title or authority claimed under any Act of Congress for the apprehension or punishment of criminals or the collection of the revenue.

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

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

(2) An act alleged to be official that is not the subject of the charge or claim made by or under authority of State law.

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

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

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

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

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

* * * * * * *

Dissenting Views

H.R. 1789, the so-called "Promptly Ending Political Prosecutions and Executive Retaliation Act," represents yet another example of how House Republicans are attempting to rig the rules to protect President Donald Trump and his cronies.[1] This problematic bill would amend 28 U.S.C. §1442(a), the federal officer removal statute, to provide, among other things, for the removal of any state criminal or civil case to federal court that was brought against a current or former President or Vice President "for or relating to any act while in office or where the State court's consideration of the claim or charge may interfere with, hinder, burden, or delay the execution of the duties of the President or Vice President."[2]

In other words, Republicans want to make sure no state court can ever again consider any violation of state law that Mr. Trump engages in while President, even if that conduct has no relation to

[1] Congressional Republicans have attempted to misuse their power in other ways to help President Trump. For example, several House Republicans, egged on by Elon Musk and other Trump allies, have sought to intimidate federal judges by introducing or threatening to introduce articles of impeachment against those judges that rule against the Trump Administration. Carl Hulse, *Musk and Republican Lawmakers Pressure Judges with Impeachment Threats*, N.Y. TIMES (Mar. 1, 2025), https://www.nytimes.com/2025/03/01/us/politics/trump-musk-republicans-congress-judge-impeachment.html. In a similar vein, congressional Republicans are now seeking to advance legislation to create many new judgeships so that President Trump can pack the federal courts with loyalist judges. SEE The JUDGES Act, H.R. 1702, 119th Cong. (2025).

[2] Promptly Ending Political Prosecutions and Executive Retaliation Act, H.R. 1789 §2(a)(2), 119th Cong. (2025) [hereinafter "H.R. 1789"].

his official acts. Furthermore, the bill seeks to provide presumptive immunity for the President, Vice President, and federal officers in cases subject to removal. The bill would also allow any former federal officer other than a former President or Vice President to remove state cases for their acts under color of office. Notably this bill would apply to pending cases against federal officials named as co-defendants in President Trump's criminal case in Georgia, such as former Trump White House Chief of Staff Mark Meadows.

This bill, which should really be called the "Donald J. Trump Relief Act," is a gift to the President and his co-conspirators—who have failed again and again to remove their state criminal cases from New York and Georgia to federal courts where it might be harder to hold them accountable for their actual or alleged criminal conduct. To be clear, every federal court that has examined the facts and the law determined that neither President Trump's nor his co-conspirator Mr. Meadows's state criminal cases qualified for removal under the current incarnation of the federal officer removal statute because the conduct for which they were charged were not official acts made pursuant to their duties as federal officers.[3]

Amending federal removal statutes primarily because one individual, Donald Trump, wants to falsely assert that multiple state officials were hostile to him and his cronies in the past because of his policies would be an egregious misuse of congressional authority. H.R. 1789 would undermine our system of federalism and the rule of law simply to benefit President Trump and his cronies.

I. H.R. 1789 IS PART OF HOUSE REPUBLICANS' EFFORT TO PROMOTE PRESIDENT TRUMP'S FALSE NARRATIVE THAT HE IS THE VICTIM OF POLITICAL PERSECUTION TO JUSTIFY HIS SUBVERSION OF THE RULE OF LAW

Since the 2024 presidential election, President Trump no longer appears to be in immediate legal jeopardy in New York and Georgia. Republicans, however, are still so eager to prove their loyalty to President Trump that they continue to promote H.R. 1789 as a "remedy" to the false narrative that these state charges were "politically motivated." Moreover, Mr. Meadows's case, and those of the remaining Georgia defendants, are still pending, and H.R. 1789 would apply "to civil actions or criminal prosecutions pending on the date of enactment of this Act or commenced on or after such date."[4] To be clear, every federal court that examined the facts and the law determined that neither President Trump's nor his co-conspirators' state criminal cases qualified for removal under the current federal officer removal statute because the conduct for which they were charged did not constitute official acts made pursuant to their duties as federal officers.[5] This false political narrative, then, is simply a pretext for H.R. 1789's proposed expanded removal jurisdiction for federal officers. The bill is ultimately designed to benefit President Trump and some of his allies who are still facing

[3] *See People v. Trump*, 683 F. Supp. 3d 334, 342 (S.D.N.Y. 2023); *State v. Meadows*, 88 F.4th 1331 (2023).

[4] H.R. 1789 §§ 2(b), 4(b). *See also* H.R. 1789 § 3(b) (applying section 3 of the bill to state criminal actions pending on or commenced after the enactment date.).

[5] *See People v. Trump*, 683 F. Supp. 3d 334, 342 (S.D.N.Y. 2023); *State v. Meadows*, 88 F.4th 1331 (2023).

criminal charges. H.R. 1789 is an attempt to place them beyond the reach of state courts, even for state criminal charges or civil claims stemming from their purely personal conduct.

A. STATE CRIMINAL CASES AGAINST PRESIDENT TRUMP AND HIS CO-CONSPIRATORS

Prior to the 2024 presidential election, then-former President Trump faced multiple criminal charges, including in two state criminal cases filed in New York and Georgia, as well as civil claims filed under state law.[6] On March 30, 2023, Manhattan District Attorney Alvin Bragg indicted then-former President Trump on 34 felony counts of falsifying business records for Mr. Trump's efforts to conceal information that could have been harmful to his 2016 presidential campaign.[7] Mr. Trump's unlawful activity included a "catch and kill" operation to "identify, purchase, and bury negative information about him and boost his electoral prospects."[8]

Mr. Trump unsuccessfully sought to have his New York criminal case removed to federal court pursuant to 28 U.S.C. § 1442(a), the federal statute that governs the removal of state cases against federal officers to federal court. Federal district court Judge Alvin K. Hellerstein ruled that the case could not be removed, stating: "Hush money paid to an adult film star is not related to a president's official acts. It does not reflect in any way the color of the president's official duties."[9] In May 2024, Mr. Trump was convicted of 34 felony counts in the New York case, becoming the first American president ever tried and convicted of a crime.[10] At his sentencing hearing on January 10, 2025, following the results of the 2024 presidential election, Judge Juan Merchan granted then-President-elect Trump an unconditional discharge, reasoning that this was the only sentence that would not encroach on the Office of the President.[11]

On August 14, 2023, a Georgia jury indicted Mr. Trump and 18 of his associates on 41 felony criminal charges under numerous state racketeering, fraud, and conspiracy statutes related to their attempts to overturn the lawful results of the 2020 presidential election throughout the state. Mr. Trump was charged on 13 of these counts, including violation of the Georgia RICO statute. Fani Willis, the District Attorney for Fulton County, Georgia, opened this investigation into Mr. Trump after the release of a recording of a January 2021 phone call between then-President Trump and

---

[6] Politico Staff, *Tracking the Trump Criminal Cases*, POLITICO (Nov. 6, 2024), https://www.politico.com/interactives/2023/trump-criminal-investigations-cases-tracker-list/.

[7] Shayna Jacobs, Josh Dawsey, Devlin Barrett & Jacqueline Alemany, *Trump Indicted by N.Y. Grand Jury, First Ex-president Charged with Crime*, WASH. POST (Mar. 30, 2023), https://www.washingtonpost.com/national-security/2023/03/30/trump-ny-indictment/.

[8] Press Release, *District Attorney Bragg Announces 34-Count Felony Indictment of Former President Donald J. Trump*, MANHATTAN DIST. ATT'Y'S OFF. (Apr. 4, 2023), https://manhattanda.org/district-attorney-bragg-announces-34-count-felony-indictment-of-former-president-donald-j-trump/. This allegedly included hush money payments to a woman who claimed to have a sexual affair with Mr. Trump ($150,000), to a doorman who allegedly had information about Mr. Trump having fathered an illegitimate child ($30,000), and to adult film actress Stormy Daniels not to disclose her sexual relationship with Mr. Trump ($130,000). *Id.*

[9] Jonah E. Bromwich, *Trump Hush Money Case Will Remain in New York State Court, Judge Rules*, N.Y. TIMES (Jul. 19, 2023), https://www.nytimes.com/2023/07/19/nyregion/trump-hush-money-case-court.html.

[10] Peter Charalambous & Ivan Pereira, *Donald Trump Becomes 1st US President Tried and Convicted of Crimes*, ABC NEWS (May 30, 2024), https://abcnews.go.com/US/former-president-donald-trump-found-guilty-manhattan-hush/story?id=110647273.

[11] Ximena Bustillo, *Trump is Sentenced in Hush Money Case—But Gets No Penalty or Fine*, NPR (Jan. 10, 2025), https://www.npr.org/2025/01/10/nx-s1-5253927/trump-sentencing-new-york.

Georgia's Secretary of State, Brad Raffensperger, in which Mr. Trump told Mr. Raffensperger to "find" the votes for Mr. Trump to win the state's electoral votes and overturn his narrow loss to Joe Biden.[12] The 18 charged Trump associates included Mr. Meadows, his former Chief of Staff; Rudolph Guiliani, his lawyer; John Eastman, the lawyer who helped originate the theories under which Mr. Trump sought to overturn election results; and 15 others.[13]

Notably, Mr. Meadows and four other defendants filed motions to have their cases removed to federal court pursuant to 28 U.S.C. § 1442, where they likely hoped to have a more sympathetic jury pool and to have the case delayed.[14] Federal district court Judge Steven Jones denied Mr. Meadows's motion for removal, finding that Mr. Meadows "failed to demonstrate how the election-related activities that serve as the basis for the charges in the Indictment are related to any of his official acts."[15] Mr. Trump filed a notice to the state court on September 7, 2023, stating that he "may" request removal to federal court.[16] On September 28, 2023, however, Mr. Trump's lawyers dropped his removal request and, a day later, Judge Jones denied the remaining four defendants' request to remove their state criminal cases to federal court.[17] On December 18, 2023, the U.S. Court of Appeals for the Eleventh Circuit upheld Judge Jones' order remanding Mr. Meadows's case to state court, holding that the federal officer removal statute did not apply to former federal officers and, even if the statute did apply to former officers, the acts for which prosecutors charged Mr. Meadows with violating state law were not for or related to his "color of office."[18] While four of President Trump's co-defendants have so-far pleaded guilty to state charges related to Mr. Trump's attempts to overturn the results of the 2020 election in Georgia,[19] the case remains in legal limbo as of this writing.

II. Taking Their Cues From President Trump, Republicans Want To Pass H.R. 1789 To Rig The Rules, Making It Easier Not Only for President Trump, but His Cronies, To Evade Justice in State Court

H.R. 1789 would effectively strip states of their sovereign power to prosecute current or former Presidents or Vice Presidents for

---

[12] Stephen Fowler, *Georgia District Attorney is Investigating Trump's Call to Overturn Election*, NPR (Feb. 10, 2021), https://www.npr.org/2021/02/10/966332808/georgia-district-attorney-is-investigating-trumps-call-to-overturn-election.

[13] *Trump and 18 allies charged in Fulton County grand jury indictment: Highlights*, NBC News (Aug. 15, 2023), https://www.nbcnews.com/politics/donald-trump/live-blog/trump-georgia-indictment-rcna98900.

[14] Alexander Hutzler, *Why Trump, Other Georgia Defendants Might Try to Get Cases Removed to Federal Court*, ABC News (Sep. 7, 2023), https://abcnews.go.com/Politics/trump-georgia-defendants-move-case-federal-court/story?id=102311382.

[15] Olivia Rubin, *Judge Denies Mark Meadows' Bid to Remove His Georgia Election Case to Federal Court*, ABC News (Sep. 8, 2023), https://abcnews.go.com/US/judge-denies-mark-meadows-bid-remove-georgia-election/story?id=103041811.

[16] Jacob Knutson, *Trump Tells Judge He "May" Ask to Move Georgia Case to Federal Court*, Axios (Sep. 7, 2023), https://www.axios.com/2023/09/07/trump-georgia-may-move-federal-court.

[17] Olivia Raben, *Trump Drops Bid to Move Georgia Election Case to Federal Court; Remaining 4 Bids Are Denied*, ABC News (Sep. 29, 2023), https://abcnews.go.com/US/trump-filing-seek-remove-georgia-election-case-federal/story?id=103580385. The remaining four defendants were former Justice Department official Jeffrey Clark and so-called "alternate electors" David Shafer, Cathy Latham and Shawn Still. *Id.*

[18] *See State v. Meadows*, 88 F.4th 1331 (2023).

[19] Clare Hymes & Graham Kates, *Why Guilty Pleas in Georgia 2020 Election Interference Case Pose Significant Risk to Donald Trump*, CBS News (Oct. 30, 2023), https://www.cbsnews.com/news/trump-codefendants-guilty-pleas-georgia-criminal-case-2020-election/.

violations of state laws, and seeks to put a thumb on the scale in favor of removal of state cases not only against the President and Vice President, but against all federal officers, both current and former. The Supreme Court has made clear that the federal officer removal statute is intended to balance the interests of protecting federal officers from states seeking to unduly interfere with federal government operations, on the one hand,[20] with the authority of states to apply, shape, and enforce their laws, on the other.[21] Yet Republicans seek to amend the federal officer removal statute not because the states have proven eager to stymie the operations of the federal government or federal law through the prosecution of federal officers, but because state prosecutors had the audacity to prosecute President Trump and his cronies for *unofficial* acts committed during the course of criminal conduct.

A. H.R. 1789 SEEKS TO PROVIDE IMMUNITY FOR ALL FEDERAL OFFICERS FACING STATE CIVIL CLAIMS AND CRIMINAL CHARGES

Section 4(a) of the bill, which purports to grant "presumptive" immunity to state civil claims and criminal charges for *all* federal officials in cases subject to removal under 28 U.S.C. § 1442(a) based on the Supremacy Clause is likely constitutionally deficient.[22] The Supremacy Clause is effectively a choice-of-law provision that provides no substantive rights, let alone criminal or civil immunity for federal officials.[23] This appears to be a transparent attempt to provide a "catchall" federal defense for all federal officers to undergird the expanded removal jurisdiction provided under the bill, though its reliance on the Supremacy Clause likely means that it fails to actually achieve that end.

Under 28 U.S.C. § 1442(a), an officer of the United States, an officer of either house of Congress, or an officer of the courts of the United States may move to have state criminal or civil cases against them removed from state to federal court if the civil claim or criminal prosecution is "for or relating to any act under color of such office."[24] The Constitution prohibits Congress from expanding the scope of cases that can be removed to federal court to the extent that a case falls outside of the federal courts' Article III subject matter jurisdiction. Although Article III authorizes Congress to create inferior federal courts, it also limits the "original Jurisdiction" of federal courts to certain cases "arising under this Constitu-

---

[20] *See Tennessee v. Davis*, 100 U.S. 257, 263 (1880) (noting that if a state can compel a federal officer to stand trial "for an alleged offense against the law of the State, yet warranted by the Federal authority they possess," then there is a risk that "the operations of the general government may at any time be arrested at the will of one of its members."). *See also People v. Trump*, 683 F. Supp. 3d 334, 342 (S.D.N.Y. 2023) (noting that the aim of the federal officer removal statute was to prevent individual states "from using their laws to hinder the federal government from exercising its lawful authority.").

[21] *See Mesa v. California*, 489 U.S. 121, 138 (1989) (noting that liberal construction of the federal officer removal statute must be balanced with strong judicial policy against federal interference in state criminal proceedings).

[22] H.R. 1789 § 4(a).

[23] The Supremacy Clause reads "[t]his Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." U.S. Cont. Art. VI, Cl. 2.

[24] 28 U.S. Code § 1442(a)(1–4).

tion, the laws of the United States" and to cases "between Citizens of different states," among other limitations.[25]

The Supreme Court applied Article III's limitation on federal court jurisdiction to limit the reach of the federal officer removal statute in *Mesa v. California*, where it held that the Constitution requires that "[f]ederal officer removal under 28 U.S.C. § 1442(a) must be predicated upon averment of a federal defense."[26] To remove a civil or criminal case on the basis of section 1442(a)(1), defendants are required to show they are officers of the United States or acting under the direction of one; that they are facing charges "for or relating to any act under color of such office"; and that they raised or will raise a "colorable federal defense," such as immunity from civil liability or criminal prosecution.[27] As the *Mesa* Court explained:

> Section 1442(a), in our view, is a pure jurisdictional statute, seeking to do nothing more than grant district court jurisdiction over cases in which a federal officer is a defendant. Section 1442(a), therefore, cannot independently support Art. III "arising under" jurisdiction. Rather, it is the raising of a federal question in the officer's removal petition that constitutes the federal law under which the action against the federal officer arises for Art. III purposes.[28]

Apparently cognizant of this constitutional requirement, H.R. 1789's authors included a provision that adds a new section 1456 at the end of chapter 89 of title 28, United States Code. Chapter 89 contains the various statutes governing the removal of cases to federal court. Under the bill's proposed section 1456(a), in any case subject to removal under the federal officer removal statute, a federal "official shall be presumed to have immunity under" the Constitution's Supremacy Clause from any state criminal charge or civil claim. The Supremacy Clause, which is effectively a choice-of-law provision, is not a source of federal rights or authority for individual officials, let alone immunity of any kind. As Professor Elizabeth Beske, a former clerk for the author of the Court's unanimous decision in *Mesa*, Justice Sandra Day O'Connor, testified at a legislative hearing held the day before the markup of H.R. 1789:

> Justice Scalia—one of the best writers on the Supreme Court, then and since—stated it plainly: 'the Supremacy Clause is not the source of any federal rights.' 575 U.S. 320, 324 (2015). In other words, it lacks independent content. So, a unanimous Supreme Court has clearly told us

---

[25] Article III, Section 2 reads, in relevant part: "*The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States*, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State,—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects. In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. *In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.*" U.S. Cont. Art. III, Sec. 2. (emphases added).

[26] *Mesa*, 489 U.S. at 139.

[27] *Id.*

[28] *Id.* at 136 (emphasis added).

> we cannot look to the Supremacy Clause to find any federal rights. It just tells us what to do once we have found them. Plainly, then, Section 1456 and the Supremacy Clause themselves cannot provide content for a brand new, very expansive defense.[29]

Professor Beske concluded that "[s]ection 1456, by itself, does not solve a *Mesa* problem."[30] This section, then, appears to be a transparent, and likely constitutionally defective, attempt to provide a "catchall" federal defense for all federal officers to predicate the unjustified expansion of removal jurisdiction provided under H.R. 1789.

Perhaps more egregious, section 1456(a) further provides that this proposed, "very expansive" defense "may only be rebutted by clear and convincing evidence that the [federal] official was not acting under color of such office or on account of any right, title or authority claimed under any Act of Congress for the apprehension or punishment of criminals or the collection of the revenue." Proposed section 1456(a) seems to be intended to create a presumption *in favor* of removal, shifting the substantial burden of proof on the party *opposing* removal to demonstrate—by a heightened "clear and convincing" standard—that removal is not justified under section 1442(a)(1). This provision is just one example of many where Republicans have designed H.R. 1789 to put a thumb on the scale in favor of removal by a federal officer, regardless of whether it serves to balance the federal and state interests that the federal officer removal statute is meant to preserve.

B. H.R. 1789 IS AN ATTACK ON FEDERALISM AND STATE COURTS' PRIMARY ROLE IN ENFORCING CRIMINAL VIOLATIONS UNDER OUR CONSTITUTIONAL ORDER

H.R. 1789 would deeply and unjustifiably intrude on state courts' role in shaping state criminal law. As previously noted, the federal officer removal statute is meant to protect the operations of the federal government. Indeed, the Supreme Court, in considering the purpose behind the federal officer removal statute, has urged that it be "liberally construed."[31] The Supreme Court in *Mesa*, however, also observed the admonition of prior courts that "[i]n criminal cases . . . the Court's liberal construction of the statute should be balanced against a 'strong judicial policy against federal interference with state criminal proceedings' because 'preventing and dealing with crime is much more the business of the States than it is of the Federal Government.'"[32] Heeding the Court's warning against undue federal interference with state criminal proceedings, Democratic members offered amendments during the Committee's markup of H.R. 1789. For example, Rep. Jerrold Nadler (D–NY) offered an amendment to exempt the removal of cases alleging state criminal fraud violations. Similarly, Rep. Becca Balint (D–VT) offered an amendment to exempt alleged crimes related to sexual as-

---

[29] *Hearing on Legislative Reforms to End Lawfare by State and Local Prosecutors Before the Subcomm. on the Constitution and Limited Gov't of the H. Comm. on the Judiciary*, 119th Cong. (2025) [hereinafter "H.R. 1789 Hearing"] (written testimony of Elizabeth Beske, Professor of Law, American University Washington College of Law, at 4) [hereinafter "Beske Testimony"].

[30] *Id.*

[31] *Colorado v. Symes*, 286 U.S. 510, 517 (1932).

[32] *Mesa*, 489 U.S. at 138 (citation omitted).

sault from being removable from state court to federal court. These amendments would have exempted from removal state crimes charged against federal officers that, on their face, involve alleged acts that are clearly outside of the scope of their federal duties. Yet in pursuit of their goal to make it easier for President Trump and his cronies to remove state criminal cases to federal courts, Republicans rejected these amendments by party line votes.

Relatedly, proposed section 1456(d) prohibits a court from "defin[ing] or limit[ing] the scope of the duties of an official of the Executive Office of the President."[33] This provision may raise significant separation of powers concerns with respect to the judiciary's role in determining what the law is. Moreover, as a practical matter, it is unclear how a court should determine whether federal officer removal is appropriate without examining (and thereby potentially defining) the outer boundaries of a defendant's official duties. At the markup of H.R. 1789, during an extended colloquy with Rep. Russell Fry (R–SC), the bill's sponsor, on the purported effect of this provision and its constitutionality, Rep. Fry's responses implied that any concerns were unwarranted because the provision was meant only to limit the ability of state courts to consider the "scope of duties of an official of the Executive Office of the President," presumably because federal courts are better situated to determine an issue that may involve a federal question. When an amendment was offered, however, to expressly limit section 1456(d) to state courts, Republicans again rejected this amendment by a party line vote.

At every opportunity presented to defend federalism, once a cornerstone of conservative political ideology, Committee Republicans instead revealed that their slavish devotion to President Trump outweighed any past commitment to important constitutional principles.

C. H.R. 1789'S EXPANSION OF THE FEDERAL OFFICER REMOVAL STATUTE TO ALLOW PRESIDENTS AND VICE PRESIDENTS TO REMOVE STATE CIVIL CASES BASED ON THEIR PURELY PRIVATE CONDUCT TO FEDERAL COURT IS AN EXTRAORDINARY INTRUSION INTO STATE SOVEREIGNTY AND ERODES FEDERALISM'S BULWARK AGAINST TYRANNY

Another particularly egregious example of how H.R. 1789 seriously erodes federalism's "protection against tyranny,"[34] as Professor Beske characterized it, is its "dramatic expansion"[35] of a current or former President's ability to remove state cases to federal court to include state civil cases that are based on purely private matters. Specifically, section 2(a)(2) of the bill would add to the current federal officer removal statute a new subsection allowing a sitting President or Vice President to remove a case "for or relating to any act while in office or where the State court's consideration of the claim or charge may interfere with, hinder, burden, or delay the execution of the duties of the President or Vice President."[36] Effectively, this provision would allow a President or Vice President to remove a case to federal court for "any act," even if the act concerned only the President or Vice President's purely *pri-*

[33] H.R. 1789 § 4(a).
[34] H.R. 1789 Hearing, Unofficial Tr. at 52.
[35] Beske Testimony at 3.
[36] H.R. 1789 § 2(a)(2).

vate conduct. The bill also extends this removal authority to "any act" of a *former* President or Vice President taken while that person was in office.[37] Such an expansion of removal authority flies in the face of Supreme Court precedent holding that a President enjoys no immunity from civil liability for such kinds of lawsuits (meaning that a President enjoys no "colorable federal defense" from such a lawsuit, as the Court has said is constitutionally required in order to support federal officer removal under *Mesa*.)[38]

As Professor Beske explained in her written testimony before the Subcommittee on the Constitution and Limited Government, if

> by this provision, the bill seeks to expand removal to encompass lawsuits against Presidents and Vice Presidents involving purely private matters—the Trump University cases, the Paula Jones suits, and whatnot—this is a dramatic expansion of the removal statute and a restructuring of the state-federal balance that ought to merit [Congress's] full attention. Removal is intrusive; it divests state courts of jurisdiction. It would be surprising to see Congress make a move with such federalism implications in the absence of a clear statement, particularly because the Supreme Court has repeatedly, and recently, made clear that the Constitution provides no shield against these lawsuits.
>
> . . .
>
> Of course, even if Congress were attempting quietly to make such a far-reaching expansion of federal jurisdiction, per *Mesa*, no removal would be permissible unless the President or Vice President had in pocket a "colorable federal defense." The *Mesa* limitation, required by the Constitution, restricts all jurisdiction conferred by the statute. But it is worth flagging that the new section [expanding a President's or Vice President's ability to remove state cases to federal court for "any act" committed while in office] appears to propose something rather extraordinary.[39]

CONCLUSION

Committee Republicans seek to advance H.R. 1789 based on the false premise that state criminal and civil matters against Donald Trump were evidence of political persecution against him. I will not relitigate the merits of these matters here beyond noting that Mr. Trump was convicted by a jury of his peers of 34 state felony counts in New York. Beyond the false premise that the Republicans advance in support of H.R. 1789, the bill is deeply problematic on the merits because it upends in numerous ways the careful balance represented by the federal officer removal statute between protecting federal officers' ability to carry out their lawful duties without undue state interference, on the one hand, and states' sovereign power to shape and enforce their laws, on the other. This bill is yet another example of the fact that Congressional Republicans will stop at almost nothing to protect Mr. Trump and his cro-

---

[37] *Id.*

[38] See *Clinton* v. *Jones*, 520 US 681, 692–697 (1997) (rejecting claims of Presidential immunity from civil liability for unofficial conduct).

[39] Beske Testimony at 3–4.

nies from accountability. For these and all the foregoing reasons, I oppose this bill.

JAMIE RASKIN,
Ranking Member.

○