

NO ROGUE RULINGS ACT OF 2025

MARCH 25, 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. 1526]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1526) to amend title 28, United States Code, to limit the authority of district courts to provide injunctive relief, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all that follows after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “No Rogue Rulings Act of 2025” as the “NORRA of 2025”.

SEC. 2. LIMITATION ON AUTHORITY OF UNITED STATES DISTRICT COURTS TO PROVIDE INJUNCTIVE RELIEF.

(a) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following:

“§ 1370. Limitation on authority to provide injunctive relief

“(a) Except as provided in subsection (b), notwithstanding any other provision of law, no United States district court shall issue any order providing for injunctive relief, except in the case of such an order that is applicable only to limit the actions of a party to the case before such district court with respect to the party seeking injunctive relief from such district court and non-parties represented by such a party acting in a representative capacity pursuant to the Federal Rules of Civil Procedure.

“(b) If a case is brought by two or more States located in different circuits challenging an action by the executive branch, that case shall be referred to a three-judge panel selected pursuant to section 2284, except that the selection of judges shall be random, and not by the chief judge of the circuit. The three-judge panel may issue an injunction that would otherwise be prohibited under subsection (a), and shall consider the interest of justice, the risk of irreparable harm to non-parties, and the preservation of the constitutional separation of powers in determining whether to issue such an order.

“(c) An appeal of an order granting or denying injunctive relief pursuant to subsection (b) may lie to the circuit embracing the district or to the Supreme Court, at the preference of the party.”

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

“1370. Limitation on authority to provide injunctive relief.”.

Purpose and Summary

H.R. 1526, the No Rogue Rulings Act, or NORRA, introduced by Rep. Darrell Issa (R-CA), would prohibit United States district courts from issuing any orders providing for injunctive relief that are broader in scope than restricting the actions of a party before the court with respect to the party seeking injunctive relief. The bill would allow a district court to issue a nationwide injunction in a case in which two separate states from two separate judicial circuits are parties—making clear the *nationwide* nature of the dispute. In such a case, the bill provides for the establishment of a panel of three randomly chosen judges to determine whether to issue a nationwide injunction. Such injunctions may be appealed directly to the Supreme Court.

Background and Need for the Legislation

Since President Donald Trump’s second term began in January 2025, federal district courts have issued a series of nationwide injunctions that have halted numerous executive orders, affecting a wide array of policy areas including immigration, federal spending, regulatory reforms, and social policy.¹ These court orders, each of which purport to enjoin federal actions throughout the United

¹See *Litigation Tracker: Legal Challenges to Trump Administration Actions*, JUST SECURITY (updated Feb. 27, 2025), <https://www.justsecurity.org/107087/tracker-litigation-legal-challenges-trump-administration/> [hereinafter “*Litigation Tracker*”]; see also Alex Lemonides, *Tracking the Lawsuits Against Trump’s Agenda*, N.Y. TIMES (Feb. 28, 2025).

States, have emerged from litigation challenging the Trump Administration’s agenda and role in setting Executive Branch policy, and raise substantial questions about the federal judiciary’s role in national policymaking.² These injunctions, which are part of more than 100 lawsuits against President Trump’s approximately seventy-five executive orders issued as of March 24, 2025,³ extend well beyond the immediate litigants in their respective cases and ultimately affect national policy execution.⁴

Litigation Challenging Immigration Executive Orders

President Trump’s executive orders on immigration policies have been a primary target of lawsuits seeking nationwide injunctive relief.⁵ On February 5, 2025, U.S. District Judge Deborah Boardman of the District of Maryland issued a nationwide preliminary injunction against Executive Order 14160, which sought to end birthright citizenship for children born to undocumented immigrants or those on temporary visas.⁶ In her order, Judge Boardman, in response to lawsuits from immigrant families and advocacy groups, stated that the terms of the executive order were in conflict with the 14th Amendment.⁷ Additionally, on February 6, 2025, U.S. District Judge John Coughenour in the Western District of Washington issued another nationwide injunction against the birthright citizenship order, which highlighted purported constitutional concerns with the executive order.⁸

Moreover, on February 25, 2025, U.S. District Judge Jamal N. Whitehead, also of the Western District of Washington, issued a preliminary injunction that blocks the implementation of Executive Order 14163, which sought to suspend the admission of refugees into the country under the U.S. Refugee Admissions Program (USRAP).⁹ Judge Whitehead, who was appointed by President Joe Biden, stated that it appeared “likely that [President Trump] exceeded [his] lawful authority by suspending [USRAP,]” which was established by Congress in 1980.¹⁰ Judge Whitehead further stated that President Trump’s executive orders was an “effective nullification of congressional will[.]”¹¹

Litigation Challenging Executive Orders Regarding Federal Resources

Recently, several individuals and left-wing groups have filed lawsuits challenging the establishment and actions of the Department of Government Efficiency (DOGE), with the plaintiffs alleging vio-

² *Chapter Four District Court Reform: Nationwide Injunctions*, 137 HARV. L. REV. 1701, 1707–13 (2024) [hereinafter “*Nationwide Injunctions*”]; see generally JOANNA R. LAMPE, CONG. RESEARCH SERV., LSB10664, NATIONWIDE INJUNCTIONS: RECENT LEGAL DEVELOPMENTS 3–4 (2021) [hereinafter “*Developments*”].

³ 2025 *Donald J. Trump Executive Orders*, FED. REG. (last accessed Feb. 28, 2025), <https://www.federalregister.gov/presidential-documents/executive-orders/donald-trump/2025>; see Nigel Chiwaya, *Tracking Trump’s executive orders*, NBC NEWS (Feb. 5, 2025), <https://www.nbcnews.com/data-graphics/tracking-trumps-executive-orders-rcna189571>; *Trump Administration Litigation Tracker*, LAWFARE, <https://www.lawfaremedia.org/projects-series/trumps-first-100-days/tracking-trump-administration-litigation> (last accessed Mar. 24, 2025).

⁴ See *Nationwide Injunctions*, *supra* note 2, at 1712.

⁵ See *Litigation Tracker*, *supra* note 1.

⁶ *Order, Casa, Inc., et al., v. Trump, et al.*, No. 8:25-CV-00201-DLB (Feb. 5, 2025).

⁷ *Id.*

⁸ *Order, State of Washington, et al., v. Trump, et al.*, No. 2:25-CV-00127-JCC (Jan. 23, 2025).

⁹ Mattathias Schwartz, *Judge Blocks Trump Executive Order to Suspend Refugee Program*, N.Y. TIMES (Feb. 25, 2025); Executive Order 14163 (2025).

¹⁰ Schwartz, *supra* note 9.

¹¹ *Id.*

lations of the Federal Advisory Committee Act (FACA) and the Administrative Procedure Act (APA). These cases involve various organizations and government entities contesting DOGE's access to government records, its influence on federal agencies, and its effect on employees, with multiple motions for temporary restraining orders and injunctions under consideration.¹²

On February 25, 2025, Judge Loren AliKhan of the U.S. District Court for the District of Columbia, blocked a January 27, 2025, memorandum from the Office of Management and Budget (OMB) freezing certain federal grants and loans.¹³ Intended to pause federal disbursements while they were examined to ensure compliance with the Trump Administration's priorities, the directive was contested by an array of nonprofits and businesses.¹⁴ Additionally, on February 21, 2025, Judge Adam B. Abelson of the District of Maryland, who was appointed by President Biden, issued a nationwide injunction against parts of Executive Order 14151, establishing DOGE.¹⁵ In that case, groups of retirees and unions challenged the executive order's agency restructuring plans, leading to a broad suspension of its implementation.¹⁶

On January 28, 2025, a coalition of 22 states, along with the District of Columbia, brought suit against President Trump and, among other agencies, OMB and the Treasury Department, alleging that President Trump's executive order directing all executive agencies to "pause all activities related to obligation or disbursement of all Federal financial assistance, and other relevant agency activities that [include] financial assistance for foreign aid, non-governmental organizations, DEI, woke gender ideology, and the green new deal" is unconstitutional and violates the APA.¹⁷ On January 31, 2025, Judge John J. McConnell, Jr., of the District of Rhode Island, who was appointed by President Obama, issued a temporary restraining order barring the enforcement of the OMB directive.¹⁸ On February 10, 2025, Judge McConnell granted Plaintiffs' motion to enforce the restraining order and stated that the White House failed to comply with the court's order.¹⁹ Further, on February 11, 2025, the U.S. Court of Appeals for the First Circuit denied defendants' request for an administrative stay pending resolution of their motion for a stay pending appeal, but did not rule on whether to issue a stay pending appeal,²⁰ and on February 12, 2025, Judge McConnell denied defendants' motion to stay the temporary restraining order and enforcement order pending appeal.²¹

¹² See *Litigation Tracker*, *supra* note 1.

¹³ Memorandum Opinion, *Nat'l Council of Nonprofits, et al., v. Office of Mgmt. & Budget, et al.*, No. 1:25-CV-00239-LLA (Feb. 25, 2025).

¹⁴ *Id.*

¹⁵ Memorandum Opinion, *Nat'l Ass'n of Diversity Officers in Higher Ed., Inc., et al. v. Trump, et al.*, No. 1:25-CV-00333-ABA (Feb. 21, 2025).

¹⁶ See *id.*

¹⁷ Complaint, *State of New York, et al., v. Trump, et al.*, No.1:25-CV-00039-JJM-PAS (D.R.I. Jan. 28, 2025).

¹⁸ Temporary Restraining Order, *State of New York, et al., v. Trump, et al.*, No.1:25-CV-00039-JJM-PAS (D.R.I. Jan. 31, 2025).

¹⁹ Order, *State of New York, et al., v. Trump, et al.*, No.1:25-CV-00039-JJM-PAS (D.R.I. Feb. 10, 2025).

²⁰ See Judgment, *State of New York, et al., v. Trump, et al.*, No. 25-1128 (1st Cir. Feb. 13, 2025).

²¹ Order, *State of New York, et al., v. Trump, et al.*, No.1:25-CV-00039-JJM-PAS (D.R.I. Feb. 12, 2025). On February 13, 2025, defendants moved to voluntarily dismiss their appeal challenging the temporary restraining order and enforcement order, which the First Circuit so-ordered the same day. Judgment, *State of New York, et al., v. Trump, et al.*, No. 25-1128 (1st Cir. Feb. 13, 2025).

Litigation Challenging Executive Orders Regarding Social Policy Initiatives

President Trump’s regulatory and social policy initiatives have encountered similar obstruction. For example, on February 14, 2025, Judge Brendan Hurson of the District of Maryland, who was appointed by President Biden, issued a nationwide preliminary injunction blocking President Trump’s executive order aimed at protecting children from chemical and surgical mutilation.²² According to the Heritage Foundation, Judge Hurson’s order “ignore[d] a correct application of guiding law that gives the president the authority to halt further governmental federal funding” of such treatments.²³ Additionally, on February 14, 2025, following litigation from civil rights organizations questioning its alignment with federal law, Judge Lauren King of the Western District of Washington issued another nationwide preliminary injunction halting the same executive order.²⁴

Litigation Challenging Removal of Federal Employees

President Trump’s efforts to reduce federal employee headcounts have received similar attention from some activist judges. For example, on March 13, 2025, Judge William Alsup of the Northern District of California, who was appointed by President Clinton, issued a nationwide preliminary injunction through an oral order from the bench requiring President Trump to reinstate all probationary employees who were fired from the Departments of Veterans Affairs, Agriculture, Defense, Energy, Interior and Treasury.²⁵ Judge Alsup indicated he may extend the order to cover other agencies at a later time.²⁶ Judge Alsup stated that “[t]he court finds that Office of Personnel Management did direct all agencies to terminate probationary employees with the exception of mission critical employees,” and called the President’s efforts a “sham.”²⁷

The Necessity for NORRA and Legislative Reform

NORRA will amend Chapter 85 of Title 28, United States Code, to restrict the ability of federal district courts to provide injunctive relief to only the parties directly involved in a case. This legislation responds to concerns that nationwide injunctions disrupt the constitutional separation of powers, impede lawful administrative activities, and unduly impede the authority of elected officials to determine questions of policy,²⁸ as demonstrated by recent judicial actions against President Trump’s executive orders.²⁹

The scope of nationwide injunctions highlights the necessity for reform. Nationwide injunctions frequently extend far beyond the immediate parties in a lawsuit, affecting entire populations and ju-

²²Memorandum Opinion, *PFLAG, Inc., et al., v. Trump, et al.*, No. 8:25-CV-00337-BAH (Feb. 14, 2025).

²³Sarah Parshall Perry, *Follow the Law*, HERITAGE FOUND. (Feb. 27, 2025), <https://www.heritage.org/gender/commentary/follow-the-law>.

²⁴Order, *State of Washington, et al., v. Trump, et al.*, No. 2:25-CV-00244-LK (Feb. 14, 2025).

²⁵Devan Cole, *Judge orders Trump administration to reinstate thousands of fired employees at VA, Defense Department and other agencies*, CNN (Mar. 13, 2025).

²⁶*Id.*

²⁷*Id.*

²⁸See JOANNA R. LAMPE, CONG. RESEARCH SERV., R46902, NATIONWIDE INJUNCTIONS: LAW, HISTORY, AND PROPOSALS FOR REFORM 10–15 (2021) [hereinafter “Proposals”].

²⁹See *Litigation Tracker*, *supra* note 1.

risdictions not involved in the original dispute.³⁰ This expansive reach often results from strategic filings in districts chosen for their likelihood to grant favorable outcomes, a practice of forum and judge shopping that concentrates significant policymaking power in individual, ideologically reliable judges.³¹ Such a trend shifts the policymaking power away from the legislative and executive branches, raising fundamental questions about the judiciary's role in our constitutional system.³² This trend is also in conflict with former Supreme Court Justice Lewis Powell's admonition that judges should only "decide the case before the court."³³

Moreover, the practice of issuing nationwide injunctions also creates substantial challenges for effective governance.³⁴ When multiple district courts issue injunctions on the same issue, the potential for conflicting rulings fosters legal uncertainty, complicating the uniform application of federal policy.³⁵ Furthermore, the immediate nationwide enforcement of these orders delays resolution by higher courts, stalling the implementation of executive and legislative initiatives and leaving critical policies in limbo.³⁶ NORRA seeks to restore district courts to their traditional function of resolving specific disputes between parties appearing before them, ensuring that broader policy determinations remain the responsibility of the democratically elected branches of government, i.e., Congress and the President.

Opponents may argue that restricting nationwide injunctions limits the judiciary's ability to serve as a check on executive actions perceived as overreaching or harmful.³⁷ However, NORRA would serve to enhance democratic accountability by ensuring that significant policy decisions align with the authority of the legislative and executive branches, which are directly accountable to the electorate, rather than resting on the unilateral rulings of individual judges. With the current administration facing an unprecedented volume of litigation challenging its executive actions, NORRA presents a critical opportunity to reinforce constitutional principles, promote consistency within the judicial system, and support the effective execution of federal governance.

Further, as modified by Rep. Derek Schmidt's amendment to NORRA, nationwide injunctions would still be available where the facts of the case make clear the nationwide nature of the dispute. To establish that a matter in fact has nationwide implications, the amendment focuses on those cases where at least two separate states in different federal judicial circuits are parties. In such situations, a panel of three randomly chosen judges would be established to determine whether to issue a nationwide injunction. The historical basis for requiring three judge panels is well established in federal law under 28 U.S.C. 2284, which explicitly provides that "[a] district court of three judges shall be convened when otherwise required by Act of Congress." Under 28 U.S.C. § 2284, when a district court judge receives a request for a three-judge panel, the

³⁰ Proposals, *supra* note 28, at 12.

³¹ Developments, *supra* note 2, at 4.

³² See *id.*

³³ LEWIS F. POWELL, JR. STARE DECISIS AND JUDICIAL RESTRAINT, 47 WASH. & LEE L. REV. 281, 288 (1990).

³⁴ *Nationwide Injunctions*, *supra* note 2, at 1724.

³⁵ See *id.*

³⁶ Developments, *supra* note 2, at 4–5.

³⁷ Proposals, *supra* note 28, at 13–14.

chief judge of the relevant circuit is tasked with selecting the two additional judges who will join the district court judge who received the request. To prevent gamesmanship and forum shopping, all three judges are selected randomly under the procedure set forth in Rep. Schmidt’s amendment. Further, any injunctions issued by the panel may be appealed directly to the Supreme Court.

Hearings

For the purposes of clause 3(c)(6)(A) of House rule XIII, the following hearings were used to develop H.R. 1526: “Justice Delayed: The Crisis of Undermanned Federal Courts” a hearing held on February 25, 2025, before the Subcommittee on Courts, Intellectual Property, Artificial Intelligence, and the Internet of the Committee on the Judiciary. The Subcommittee heard testimony from the following witnesses:

- The Honorable Timothy Tymkovich, Circuit Judge, United States Court of Appeals for the Tenth Circuit.

The hearing addressed, among other topics, injunctive relief in federal courts and the lack of clear standards for the issuance of nationwide injunctions.

Committee Consideration

On March 5, 2025, the Committee met in open session and ordered the bill, H.R. 1526, favorably reported with an amendment in the nature of a substitute, by a roll call vote of 14–9, 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. 1526:

- 1. Vote on favorably reporting H.R. 1526, as amended—passed 14 ayes to 9 nays.

COMMITTEE ON THE JUDICIARY

119th CONGRESS

25-19

ROLL CALL

Date: 3/5/21

Vote on: Final Passage of HR 1526, as amended.

Roll Call #: 7

REPUBLICANS	AYE	NO	PRESENT	DEMOCRATS	AYE	NO	PRESENT
MR. JORDAN (OH) <i>Chairman</i>	✓			MR. RASKIN (MD) <i>Ranking Member</i>		✓	
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:

9

Present:

Passed:

X

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. 1526 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. 1526 would limit when United States district courts may issue an order providing for injunctive relief that is broader in scope than restricting the actions of a party before the court with respect to the party seeking injunctive relief.

Advisory on Earmarks

In accordance with clause 9 of House rule XXI, H.R. 1526 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. This Act may be cited as the “No Rogue Rulings Act of 2025.”

Section 2. Limitation on Authority of United States District Courts to Provide Injunctive Relief. This section amends Chapter 85 of title 28 of the United States Code to limit the ability of a United States district court to issue an order that provides for injunctive relief, except for such orders that are applicable only to limit the actions of a party to the case with respect to the party who sought the injunctive relief.

This section also would permit a district court to issue a nationwide injunction where at least two state attorneys general from different judicial districts are plaintiffs and provides that such a case must be heard by a three-judge panel. In such a case, the court must consider certain enumerated factors, and the parties may appeal the granting or denial of the nationwide injunction to the Supreme Court.

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 (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 85—DISTRICT COURTS; JURISDICTION

Sec.

1330. Actions against foreign states.

* * * * *

1370. *Limitation on authority to provide injunctive relief.*

* * * * *

§ 1370. *Limitation on authority to provide injunctive relief*

(a) *Except as provided in subsection (b), notwithstanding any other provision of law, no United States district court shall issue any order providing for injunctive relief, except in the case of such an order that is applicable only to limit the actions of a party to the case before such district court with respect to the party seeking injunctive relief from such district court and non-parties represented by such a party acting in a representative capacity pursuant to the Federal Rules of Civil Procedure.*

(b) *If a case is brought by two or more States located in different circuits challenging an action by the executive branch, that case shall be referred to a three-judge panel selected pursuant to section 2284, except that the selection of judges shall be random, and not by the chief judge of the circuit. The three-judge panel may issue an injunction that would otherwise be prohibited under subsection (a), and shall consider the interest of justice, the risk of irreparable harm to non-parties, and the preservation of the constitutional separation of powers in determining whether to issue such an order.*

(c) *An appeal of an order granting or denying injunctive relief pursuant to subsection (b) may lie to the circuit embracing the district or to the Supreme Court, at the preference of the party.*

* * * * *

Dissenting Views

H.R. 1526, the “No Rogue Rulings Act,” would prohibit any federal district court from issuing injunctive relief that extends beyond the parties to a case. This bill would prevent federal district courts from imposing universal injunctive relief, or “nationwide injunctions,” even when that court is tasked with ruling on the validity of certain federal policies with nationwide effects.

District courts across the country have universally enjoined President Trump’s most damaging executive actions, from his attempt to unilaterally end birthright citizenship and freezing congressionally appropriated funding to the mass firing of civil servants. Each of these cases have the potential to cause very real and serious harm to Americans across the country. They demonstrate how nationwide injunctions play an essential role as a check on the

political branches and can serve an important purpose that, when weighed properly by a court, outweighs their costs.¹

This legislation would ban the use of nationwide injunctions in district courts across the country. Without this form of universal injunctive relief, federal district courts would be powerless to protect thousands, sometimes millions, of Americans from the illegal and unconstitutional policies of the Trump Administration. For these reasons and others discussed below, I strongly oppose H.R. 1526 and respectfully dissent from the Committee’s views on this legislation.

I. BACKGROUND AND DESCRIPTION

An injunction is a form of equitable relief that allows a court to “control a party’s conduct”—either by prohibiting or requiring action by a party.”² Injunctions are intended to provide strong, coercive relief and as such, “courts aim to issue injunctions that are ‘no more burdensome to the defendant than necessary to provide complete relief’ to the parties before the court.”³ Depending on what stage the parties are at in the litigation, an injunction can take the form of a temporary restraining order (TRO), a preliminary injunction, or a permanent injunction.⁴

Injunctions can also take the form of a “nationwide injunction,” which is a universal form of equitable relief that “bars the defendant from acting against anyone—not just the plaintiffs in the case.”⁵ There are many reasons that a court might find it necessary to issue an injunction that protects persons not before the court, depending upon the facts of the case. Sometimes, courts determine it is not feasible, as a practical matter, to tailor relief narrowly to reach only the plaintiff; in other cases, nothing less than a nationwide injunction will fully protect the rights of the parties to the case.⁶

Many experts agree that Article III of the Constitution confers a singular “judicial power” to decide “cases in law and equity” to the courts, and that judicial power includes the power to issue injunctions that apply to nonparties, especially in cases where they are “crafted in terms of providing complete relief to the plaintiff.”⁷ For example, in a school desegregation case, the only way to alleviate the plaintiffs’ injury is to require the defendant to allow *all* nonwhite students in the jurisdiction to attend the school.⁸ This relief would be a form of a “nationwide injunction” because it applies to not just the party in the case, but all similarly situated persons. An order requiring the defendant to admit *only* the plaintiff would

¹Amanda Frost, *In Defense of Nationwide Injunctions*, 93 NEW YORK UNIVERSITY LAW REVIEW 1065–1119 at 1070 (2018).

²*District Court Reform: Nationwide Injunctions*, 137 Harv. L. Rev. 1701 (Apr. 2024) at 1703; *HIAS, Inc. v. Trump*, 985 F.3d 309, 326 (4th Cir. 2021) (quoting *Roe v. Dep’t of Def.*, 947 F.3d 207, 231 (4th Cir. 2020)).

³*District Court Reform: Nationwide Injunctions*, 137 Harv. L. Rev. 1701 (Apr. 2024) at 1703.

⁴*District Court Reform: Nationwide Injunctions*, 137 Harv. L. Rev. 1701 (Apr. 2024) at 1703.

⁵Steve Vladeck, *Justice Gorsuch and “Nationwide Injunctions,”* ONE FIRST (Apr. 22, 2024), <https://www.stevevladeck.com/p/77-justice-gorsuch-and-nationwide>.

⁶Joanna R. Lampe, *Nationwide Injunctions: Recent Legal Developments*, CONGRESSIONAL RESEARCH SERVICE (Dec. 2, 2021).

⁷Amanda Frost, *In Defense of Nationwide Injunctions*, 93 NEW YORK UNIVERSITY LAW REVIEW 1065–1119 at 1082 (2018); U.S. Const. art. III, §§ 1 and 2; Mila Sahoni, *Rule by District Judge: The Challenges of Universal Injunctions*, SENATE JUDICIARY COMMITTEE (Feb. 25, 2020).

⁸Amanda Frost, *In Defense of Nationwide Injunctions*, 93 NEW YORK UNIVERSITY LAW REVIEW 1065–1119 at 1082 (2018).

not address the injury at issue. Yet if enacted, this legislation would demand the latter result, which would be ineffective to redress the injury; only nationwide relief in that context can provide proper and complete relief to the plaintiff.⁹

Nationwide injunctions play an important role in protecting both the independence of our judiciary and our system of checks and balances. This universal form of injunctive relief is sometimes the only “means to provide plaintiffs with complete relief, or to prevent harm to thousands of individuals who cannot quickly bring their own cases before the courts,” making them a useful tool to provide better access to justice for all Americans.¹⁰ Nationwide injunctions can also provide continuity among varying jurisdictions, avoid repetitive litigation on identical questions of law, and prevent piecemeal implementation of potentially harmful executive actions.¹¹

The ability to issue universal forms of injunctive relief, like nationwide injunctions, allows federal courts to play their essential role as a check on the political branches and nothing in the Constitution’s text bars federal courts from issuing a remedy that extends beyond the parties to the case. It is my strong belief that stripping federal district courts of this equitable remedy that they have used for over a century would be not only disruptive but would also deprive the judiciary of an essential remedy to check the executive branch.¹² Legislation addressing such a complex and fundamentally important subject should not be as absolute nor rushed, particularly when enactment is being sought under the mistaken belief that these judicial orders are the usurpation of the executive branch by overreaching federal judges, as the title of this bill suggests.

The enactment of such drastic legislation, particularly now, when the current administration has taken an active and detrimental role in enacting laws and implementing policies with severe and damaging nationwide effects, would be unwise. This legislation is simply an attempt to strip the judiciary of a constitutionally essential tool that it is effectively wielding against the Trump Administration.

II. CONCERNS WITH H.R. 1526

Since taking office, President Trump has sought to expand the powers of the executive branch. In response, federal courts have repeatedly placed temporary holds on some of those actions. These preliminary injunctions help the courts avoid—or at least minimize—the harm done by potentially unconstitutional or unlawful acts, not just to the plaintiffs, but often to hundreds, thousands, and even millions of Americans similarly situated to the litigants.

Injunctive relief is one of the ways courts perform their “check” in the system of “checks and balances.” The cases against the

⁹ Amanda Frost, *In Defense of Nationwide Injunctions*, 93 NEW YORK UNIVERSITY LAW REVIEW 1065–1119 at 1082 (2018).

¹⁰ Amanda Frost, *In Defense of Nationwide Injunctions*, 93 NEW YORK UNIVERSITY LAW REVIEW 1065–1119 at 1065 (2018).

¹¹ U.S. Const. art. III, §§ 1 and 2; Mila Sahoni, *Rule by District Judge: The Challenges of Universal Injunctions*, SENATE JUDICIARY COMMITTEE (Feb. 25, 2020); Amanda Frost, *In Defense of Nationwide Injunctions*, 93 NEW YORK UNIVERSITY LAW REVIEW 1065–1119 at 1065 (2018).

¹² Amanda Frost, *In Defense of Nationwide Injunctions*, 93 NEW YORK UNIVERSITY LAW REVIEW 1065–1119 at 1080 (2018); Mila Sahoni, *Rule by District Judge: The Challenges of Universal Injunctions*, SENATE JUDICIARY COMMITTEE (Feb. 25, 2020).

Trump Administration are instructive for how injunctive relief can be used to rein in an overreaching executive trying to unconstitutionally expand his presidential powers.

H.R. 1526 would allow injunctions in district court only to the extent that they apply to parties to the case. When an individual requests the court grant injunctive relief, the judge could order the administration to act, but only with respect to the movant—they could never expand the order to affect individuals in the same class or with the same injury as the movant.

If this legislation were enacted, nationwide injunctions would thus be prohibited, and the federal courts would be powerless to exercise this essential tool to protect the nonparties from the potentially illegal or unconstitutional Trump Administration policies, in effect removing a powerful check of the judicial branch against the executive.

For all these reasons, I dissent, and I urge all Members to oppose this legislation.

JAMIE RASKIN,
Ranking Member.

