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(Original Signature of Member)

119TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

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.

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IN THE HOUSE OF REPRESENTATIVES

Mr. FRY introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend title 28, United States Code, to clarify the removability of certain actions against current and former Presidents and other senior Executive officials, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Promptly Ending Po-  
5 litical Prosecutions and Executive Retaliation Act”.

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

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

4 (1) in subsection (a)—

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

9 (B) in paragraph (1)—

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

18 (ii) by inserting “(including a discre-  
19 tionary exercise of any authority of such  
20 office)” after “color of such office”; and

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

23 “(5) The President or Vice President for or re-  
24 lating to any act while in office or where the State  
25 court’s consideration of the claim or charge may

1       interfere with, hinder, burden, or delay the execution  
2       of the duties of the President or the Vice President.

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

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

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

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

12               (1) in paragraph (3)—

13                       (A) by striking “shall not” and inserting  
14                       “shall”; and

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

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

24               (3) in paragraph (5)—

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

3 (B) by striking “an evidentiary hearing”  
4 and inserting “a hearing”;

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

7 (D) by inserting “or dismissal ordered”  
8 after “permitted”.”.

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

13 **SEC. 4. OFFICIAL IMMUNITY.**

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

17 **“§ 1456. Official Immunity**

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

1 any Act of Congress for the apprehension or punishment  
2 of criminals or the collection of the revenue.

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

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

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

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

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

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

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

24 “(e) DISMISSAL.—In any action subject to removal  
25 under paragraph (5) or (6) of section 1442(a), such case

1 shall be dismissed unless rebutted by clear and convincing  
2 evidence establishing that the continued pendency of the  
3 State claim or charge would not in any way interfere,  
4 hinder, burden, or delay the execution of the duties of the  
5 President or Vice President.”.

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