

Calendar No. 494

118TH CONGRESS
2D SESSION

S. 4973

To reassert the constitutional authority of Congress to determine the general applicability of the criminal laws of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2024

Mr. SCHUMER (for himself, Ms. HIRONO, Mr. SCHATZ, Mr. LUJÁN, Mr. REED, Mr. BLUMENTHAL, Mr. CARPER, Mr. WELCH, Mr. HICKENLOOPER, Mr. CASEY, Mr. COONS, Mrs. SHAHEEN, Ms. BALDWIN, Mr. MERKLEY, Mr. CARDIN, Mr. DURBIN, Ms. WARREN, Mrs. MURRAY, Mr. VAN HOLLEN, Mr. MARKEY, Ms. DUCKWORTH, Ms. KLOBUCHAR, Ms. BUTLER, Mr. WHITEHOUSE, Mr. SANDERS, Mr. BOOKER, Mrs. GILLIBRAND, Mr. WYDEN, Mr. KING, Mr. HEINRICH, Ms. STABENOW, Mr. PADILLA, Mr. PETERS, Mr. WARNOCK, Ms. SMITH, Mr. KELLY, and Ms. CANTWELL) introduced the following bill; which was read the first time

SEPTEMBER 9, 2024

Read the second time and placed on the calendar

A BILL

To reassert the constitutional authority of Congress to determine the general applicability of the criminal laws of the United States, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “No Kings Act”.

3 **SEC. 2. FINDINGS AND PURPOSES.**

4 (a) FINDINGS.—Congress finds that—

5 (1) no person, including any President, is above
6 the law;

7 (2) Congress, under the Necessary and Proper
8 Clause of section 8 of article I of the Constitution
9 of the United States, has the authority to determine
10 to which persons the criminal laws of the United
11 States shall apply, including any President;

12 (3) the Constitution of the United States does
13 not grant to any President any form of immunity
14 (whether absolute, presumptive, or otherwise) from
15 criminal prosecution, including for actions com-
16 mitted while serving as President;

17 (4) in The Federalist No. 69, Alexander Ham-
18 iltion wrote that there must be a difference between
19 the “sacred and inviolable” king of Great Britain
20 and the President of the United States, who “would
21 be amenable to personal punishment and disgrace”
22 should his actions violate the laws of the United
23 States;

24 (5) the United States District Court for the
25 District of Columbia correctly concluded in United
26 States v. Trump, No. 23–257 (TSC), 2023 WL

1 8359833 (D.D.C. December 1, 2023) that “former
2 Presidents do not possess absolute federal criminal
3 immunity for any acts committed while in office”,
4 that former Presidents “may be subject to federal
5 investigation, indictment, prosecution, conviction,
6 and punishment for any criminal acts undertaken
7 while in office”, and that a “four-year service as
8 Commander in Chief [does] not bestow on [a Presi-
9 dent] the divine right of kings to evade the criminal
10 accountability that governs his fellow citizens”;

11 (6) similarly, the United States Court of Ap-
12 peals for the District of Columbia Circuit correctly
13 affirmed in *United States v. Trump*, 91 F.4th 1173
14 (D.C. Cir. 2024) that “separation of powers doctrine
15 does not immunize former Presidents from federal
16 criminal liability” for their official actions that “al-
17 legedly violated generally applicable criminal laws”
18 and acknowledged that the Founding Fathers
19 “stresse[d] that the President must be unlike the
20 ‘king of Great Britain,’ who was ‘sacred and invio-
21 lable.’ *The Federalist No. 69*, at 337–38”;

22 (7) the Supreme Court of the United States,
23 however, vacated the judgment of the court of ap-
24 peals and incorrectly declared in *Trump v. United*
25 *States*, No. 23–939, 2024 WL 3237603 (U.S. July

1 1, 2024) that “the President is absolutely immune
2 from criminal prosecution for conduct within his ex-
3 clusive sphere of constitutional authority” and that
4 a President “is entitled, at a minimum, to a pre-
5 sumptive immunity from prosecution for all his offi-
6 cial acts”, assertions at odds with the plain text of
7 the Constitution of the United States; and

8 (8) Congress has explicit and broad authority to
9 make exceptions and regulations to the appellate ju-
10 risdiction of the Supreme Court of the United States
11 under clause 2 of section 2 of article III of the Con-
12 stitution of the United States.

13 (b) PURPOSES.—The purposes of this Act are to—

14 (1) reassert the constitutional authority of Con-
15 gress to determine the general applicability of the
16 criminal laws of the United States, including to
17 Presidents and Vice Presidents;

18 (2) clarify that a President or Vice President is
19 not entitled to any form of immunity from criminal
20 prosecution for violations of the criminal laws of the
21 United States unless specified by Congress; and

22 (3) impose certain limitations on the appellate
23 jurisdiction of the Supreme Court of the United
24 States to decide questions related to criminal immu-
25 nity for Presidents and Vice Presidents.

1 **SEC. 3. NO PRESIDENTIAL IMMUNITY FOR CRIMES.**

2 (a) IN GENERAL.—

3 (1) NO IMMUNITY.—A President, former Presi-
4 dent, Vice President, or former Vice President shall
5 not be entitled to any form of immunity (whether
6 absolute, presumptive, or otherwise) from criminal
7 prosecution for alleged violations of the criminal
8 laws of the United States unless specified by Con-
9 gress.

10 (2) CONSIDERATIONS.—A court of the United
11 States may not consider whether an alleged violation
12 of the criminal laws of the United States committed
13 by a President or Vice President was within the con-
14 clusive or preclusive constitutional authority of a
15 President or Vice President or was related to the of-
16 ficial duties of a President or Vice President unless
17 directed by Congress.

18 (b) RULE OF CONSTRUCTION.—Nothing in this sec-
19 tion shall be construed to immunize a President, former
20 President, Vice President, or former Vice President from
21 criminal prosecution for alleged violations of the criminal
22 laws of the States.

23 **SEC. 4. JUDICIAL REVIEW.**

24 (a) CRIMINAL PROCEEDINGS.—Notwithstanding any
25 other provision of law, for any criminal proceeding com-
26 menced by the United States against a President, former

1 President, Vice President, or former Vice President for al-
2 leged violations of the criminal laws of the United States,
3 the following rules shall apply:

4 (1) The action shall be filed in the applicable
5 district court of the United States or the United
6 States District Court for the District of Columbia.

7 (2) The Supreme Court of the United States
8 shall have no appellate jurisdiction, on the basis that
9 an alleged criminal act was within the conclusive or
10 preclusive constitutional authority of a President or
11 Vice President or on the basis that an alleged crimi-
12 nal act was related to the official duties of a Presi-
13 dent or Vice President, to (or direct another court
14 of the United States to)—

15 (A) dismiss an indictment or any other
16 charging instrument;

17 (B) grant acquittal or dismiss or otherwise
18 terminate a criminal proceeding;

19 (C) halt, suspend, disband, or otherwise
20 impede the functions of any grand jury;

21 (D) grant a motion to suppress or bar evi-
22 dence or testimony, or otherwise exclude infor-
23 mation from a criminal proceeding;

24 (E) grant a writ of habeas corpus, a writ
25 of coram nobis, a motion to set aside a verdict

1 or judgment, or any other form of post-convic-
2 tion or collateral relief;

3 (F) overturn a conviction;

4 (G) declare a criminal proceeding unconsti-
5 tutional; or

6 (H) enjoin or restrain the enforcement or
7 application of a law.

8 (b) CONSTITUTIONAL CHALLENGES.—Notwith-
9 standing any other provision of law, for any civil action
10 brought for declaratory, injunctive, or other relief to ad-
11 judge the constitutionality, whether facially or as-applied,
12 of any provision of this Act (including this section), or
13 to bar or restrain the enforcement or application of any
14 provision of this Act (including this section) on the ground
15 of its unconstitutionality, the following rules shall apply:

16 (1) A plaintiff may bring a civil action under
17 this subsection, and there shall be no other cause of
18 action available.

19 (2) Only a President, former President, Vice
20 President, or former Vice President shall have
21 standing to bring a civil action under this sub-
22 section.

23 (3) A facial challenge to the constitutionality of
24 any provision of this Act (including this section)
25 may only be brought not later than 180 days after

1 the date of enactment of this Act. An as-applied
2 challenge to the constitutionality of the enforcement
3 or application of any provision of this Act (including
4 this section) may only be brought not later than 90
5 days after the date of such enforcement or applica-
6 tion.

7 (4) A court of the United States shall presume
8 that a provision of this Act (including this section)
9 or the enforcement or application of any such provi-
10 sion is constitutional unless it is demonstrated by
11 clear and convincing evidence that such provision or
12 its enforcement or application is unconstitutional.

13 (5) The civil action shall be filed in the United
14 States District Court for the District of Columbia,
15 which shall have exclusive jurisdiction of a civil ac-
16 tion under this subsection. An appeal may be taken
17 from the district court to the United States Court
18 of Appeals for the District of Columbia Circuit,
19 which shall have exclusive jurisdiction to hear an ap-
20 peal in a civil action under this subsection.

21 (6) In a civil action under this subsection, a de-
22 cision of the United States Court of Appeals for the
23 District of Columbia Circuit shall be final and not
24 appealable to the Supreme Court of the United
25 States.

1 (7) The Supreme Court of the United States
2 shall have no appellate jurisdiction to declare any
3 provision of this Act (including this section) uncon-
4 stitutional or to bar or restrain the enforcement or
5 application of any provision of this Act (including
6 this section) on the ground of its unconstitutionality.

7 (c) CLARIFYING SCOPE OF JURISDICTION.—

8 (1) IN GENERAL.—If an action at the time of
9 its commencement is not subject to subsection (a) or
10 (b), but an amendment, counterclaim, cross-claim,
11 affirmative defense, or any other pleading or motion
12 is filed such that the action would be subject to sub-
13 section (a) or (b), the action shall thereafter be con-
14 ducted pursuant to subsection (a) or (b), as applica-
15 ble.

16 (2) STATE COURTS.—An action subject to sub-
17 section (a) or (b) may not be heard in any State
18 court.

19 (3) SUA SPONTE RELIEF.—No court may issue
20 relief sua sponte on the ground that a provision of
21 this Act (including this section), or its enforcement
22 or application, is unconstitutional.

23 **SEC. 5. SEVERABILITY.**

24 If any provision of this Act, or application of such
25 provision to any person or circumstance, is held to be un-

1 constitutional, the remainder of this Act, and the applica-
2 tion of the provisions of this Act to any person or cir-
3 cumstance shall not be affected thereby.

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