

116TH CONGRESS
1ST SESSION

H. R. 197

To ensure independent investigations and judicial review of the removal of
a special counsel, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

Mr. NADLER (for himself, Ms. JACKSON LEE, Mr. COHEN, Ms. SPEIER, Mrs. LAWRENCE, Ms. WATERS, Mr. BERA, Mr. SMITH of Washington, Mr. ESPAILLAT, Mrs. CAROLYN B. MALONEY of New York, Mr. HUFFMAN, Mr. LOWENTHAL, Mr. GARAMENDI, Mrs. DEMINGS, Mr. JOHNSON of Georgia, Mr. PRICE of North Carolina, Ms. KUSTER of New Hampshire, Ms. SÁNCHEZ, Mr. DANNY K. DAVIS of Illinois, Mr. SCHNEIDER, Mr. LIPINSKI, Ms. ESHOO, Mr. BRENDAN F. BOYLE of Pennsylvania, Ms. BARRAGÁN, Mr. KILMER, Mr. TONKO, Ms. MENG, Mr. RYAN, Ms. PIN-GREE, Mrs. DAVIS of California, Mr. AGUILAR, Mr. VELA, Mrs. NAPOLI-TANO, Mr. MEEKS, Mr. FOSTER, Mr. COOPER, Mr. LOEBSACK, Ms. MCCOLLUM, Mr. POCAN, Mr. BEYER, Mr. SERRANO, Ms. SCHAKOWSKY, Mr. PALLONE, Mr. QUIGLEY, Mr. HASTINGS, Mrs. LOWEY, Mr. CARBAJAL, Mr. CLAY, Ms. CASTOR of Florida, Ms. WASSERMAN SCHULTZ, Ms. LEE of California, Mr. PAYNE, Ms. KAPTUR, Mr. SWALWELL of California, Mr. RICHMOND, Mr. JEFFRIES, Ms. LOFGREN, Mr. CICILLINE, Ms. JAYAPAL, Mr. TED LIEU of California, Mr. RASKIN, Mr. CRIST, Mr. MOULTON, Miss RICE of New York, Ms. ROYBAL-ALLARD, Ms. NORTON, Mr. LANGEVIN, Ms. BROWNLEY of California, Mr. CARSON of Indiana, Ms. DEGETTE, Ms. CLARK of Massachusetts, Mr. EVANS, Mr. SCOTT of Virginia, Ms. FRANKEL, Mr. PERLMUTTER, Ms. MATSUI, Ms. BONAMICI, Mr. SCHIFF, Ms. VELÁZQUEZ, Ms. WILSON of Florida, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. DEFazio, Ms. ADAMS, Mr. GOMEZ, Mr. BROWN of Maryland, Mrs. DINGELL, Mr. WELCH, Mr. CUMMINGS, Mr. SHERMAN, Mrs. BUSTOS, Mr. TAKANO, Mr. YARMUTH, Mr. COURTNEY, Mr. MCEACHIN, Mr. KENNEDY, Mr. PETERS, Ms. JUDY CHU of California, Mrs. MURPHY, Mr. CONNOLLY, Mr. DEUTCH, Mr. SOTO, Mr. LARSON of Connecticut, Mr. VARGAS, Mr. HECK, Mr. KRISHNAMOORTHY, Mr. MCGOVERN, Mr. SARBANES, Mr. SIREs, Ms. CLARKE of New York, Ms. DELBENE, Mr. DESAULNIER, Mr. LAMB, Mr. PASCRELL, Mr. PANETTA, Mr. THOMPSON of California, Mr. KIND, Ms. SCANLON, Mr. HIGGINS of New York, Mr. RUSH, and Ms. TITUS) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To ensure independent investigations and judicial review of the removal of a special counsel, 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 “Special Counsel Inde-
5 pendence and Integrity Act”.

6 **SEC. 2. LIMITATION ON REMOVAL OF SPECIAL COUNSEL.**

7 (a) IN GENERAL.—A special counsel appointed by the
8 Attorney General, or any other official appointed by the
9 Attorney General who exercises a similar degree of inde-
10 pendence from the normal Department of Justice chain
11 of command, may be removed from office only by the per-
12 sonal action of an Attorney General who has been con-
13 firmed by the Senate, or, if the Attorney General is
14 recused from the matter, the most senior Department of
15 Justice official who has been confirmed by the Senate and
16 is not recused from the matter.

17 (b) REMOVAL FOR CAUSE.—A special counsel or
18 other appointed official described in subsection (a) may
19 be removed only for misconduct, dereliction of duty, inca-
20 pacity, conflict of interest, or other good cause, including
21 violation of policies of the Department of Justice.

22 (c) NOTICE OF REMOVAL.—

1 (1) IN GENERAL.—The Attorney General or
2 other Department of Justice official described in
3 subsection (a), as the case may be, shall provide
4 written notice to the special counsel or other ap-
5 pointed official described in subsection (a) of the
6 specific reason or reasons for the removal.

7 (2) EFFECTIVE DATE OF REMOVAL.—Except as
8 provided in subsection (e), removal under this sec-
9 tion shall become effective on the date that is 10
10 days after the date on which the written notice was
11 provided under paragraph (1).

12 (d) TIMING.—Not later than 10 days after the date
13 on which written notice was provided under subsection
14 (c)(1), the special counsel or other appointed official de-
15 scribed in subsection (a), as the case may be, may file
16 an action challenging the removal in accordance with sub-
17 section (e).

18 (e) REVIEW.—

19 (1) IN GENERAL.—An individual that received
20 written notice under subsection (c)(1) may file an
21 action in accordance with paragraph (2) that the re-
22 moval was in violation of this Act.

23 (2) REQUIREMENTS.—Any action filed under
24 this subsection shall be heard and determined by a
25 court of 3 judges not later than 14 days after the

1 date on which the action is filed in accordance with
2 the provisions of section 2284 of title 28, United
3 States Code, and any appeal shall lie to the Supreme
4 Court.

5 (3) RELIEF.—If a court determines that the re-
6 moval of the individual who filed an action under
7 this subsection violates this Act, the removal shall
8 not take effect. The court may also provide other ap-
9 propriate relief.

10 (4) STATUS DURING PROCEEDINGS.—

11 (A) IN GENERAL.—At the request of the
12 individual who filed an action under this sub-
13 section, the court shall determine whether the
14 individual shall remain in office during the
15 pendency of the action described in paragraph
16 (2).

17 (B) PRESERVATION OF MATERIALS.—Dur-
18 ing the pendency of an action filed under this
19 subsection, the staff, documents, and materials
20 of the special counsel or other appointed official
21 described in subsection (a) shall be preserved.

22 (C) LIMITATION.—During the pendency of
23 an action filed under this subsection, a replace-
24 ment for the special counsel or other appointed

1 official described in subsection (a) who is chal-
2 lenging the removal shall not be designated.

3 (f) EFFECTIVE DATE.—This Act shall apply to any
4 special counsel or other appointed official described in sub-
5 section (a) appointed on or after January 1, 2017.

6 (g) SEVERABILITY.—If any provision of this Act or
7 the application of such provision to any person or cir-
8 cumstance is held to be invalid or unconstitutional, the
9 remainder of this Act and the application of the provisions
10 of this Act to any person or circumstance shall remain
11 and shall not be affected thereby.

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