

111TH CONGRESS
1ST SESSION

H. R. 258

To prevent the President from encroaching upon the Congressional prerogative to make laws, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2009

Ms. JACKSON-LEE of Texas introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To prevent the President from encroaching upon the Congressional prerogative to make laws, 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 “Congressional Law-
5 making Authority Protection Act of 2009”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress makes the following
8 findings:

9 (1) The Framers of the Constitution under-
10 stood that the power to make laws is such an awe-

1 some power that they intended it to be exercised by
2 the most democratic branch of government.

3 (2) To ensure that the lawmaking power would
4 be exercised by the branch of government that is the
5 closest and most accountable to the people the Con-
6 stitution provides that “All legislative power herein
7 granted shall be vested in a Congress of the United
8 States, which shall consist of a Senate and House of
9 Representatives.”.

10 (3) The Constitution limits the role of the
11 President in the lawmaking process to—

12 (A) giving Congress information on the
13 State of the Union;

14 (B) recommending to Congress for consid-
15 eration such measures as the President deems
16 necessary and expedient; and

17 (C) approving or vetoing bills and joint
18 resolutions presented to him for signature.

19 (4) Statements made by the President contem-
20 poraneously with the signing of a bill or joint resolu-
21 tion that express the President’s interpretation of
22 the scope, constitutionality, and intent of Congress
23 in enacting the bill or joint resolution presented for
24 signature encroach upon the power to make laws
25 that the Framers vested solely in the Congress.

1 (5) According to a May 5, 2006, editorial in the
2 New York Times, the current President of the
3 United States has issued more than 750 “presi-
4 dential signing statements” declaring he would not
5 do what the laws required, the most notorious exam-
6 ple of which is the signing statement issued by the
7 President asserting he was not bound by the Con-
8 gressional ban on the torture of prisoners.

9 (6) On June 5, 2006, the American Bar Asso-
10 ciation created a 10-member Blue-Ribbon “Task
11 Force on Presidential Signing Statements and the
12 Separation of Powers Doctrine” to take a balanced,
13 scholarly look at the use and implications of signing
14 statements, and to propose appropriate ABA policy
15 consistent with the ABA’s commitment to safe-
16 guarding the rule of law and the separation of pow-
17 ers in our system of government.

18 (7) On July 24, 2006, the Task Force deter-
19 mined that signing statements that signal the presi-
20 dent’s intent to disregard laws adopted by Congress
21 undermine the separation of powers by depriving
22 Congress of the opportunity to override a veto, and
23 by shutting off policy debate between the two
24 branches of government. According to the Task
25 Force, such presidential signing statements operate

1 as a “line item veto,” which the U.S. Supreme Court
2 has ruled unconstitutional. The Task Force strongly
3 recommended the Congress to enact appropriate leg-
4 islation to ensure that such presidential signing
5 statements do not undermine the rule of law and the
6 constitutional system of separation of powers.

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

8 (1) to preserve the separation of powers in-
9 tended by the Framers by preventing the President
10 from encroaching upon the Congressional preroga-
11 tive to make law; and

12 (2) to ensure that no Federal or State executive
13 or independent agency, and no Federal or State
14 judge, can attach legal significance to any presi-
15 dential signing statement when construing any law
16 enacted by the Congress.

17 **SEC. 3. LIMITATION ON USE OF FUNDS.**

18 (a) LIMITATION ON USE OF FUNDS.—None of the
19 funds made available to the Executive Office of the Presi-
20 dent, or to any Executive agency (as defined in section
21 105 of title 5 of the United States Code), from any source
22 may be used to produce, publish, or disseminate any state-
23 ment made by the President contemporaneously with the
24 signing of any bill or joint resolution presented for signing
25 by the President.

1 (b) APPLICATION OF LIMITATION.—Subsection (a)
2 shall apply only to statements made by the President re-
3 garding the bill or joint resolution presented for signing
4 that contradict, or are inconsistent with, the intent of Con-
5 gress in enacting the bill or joint resolution or that other-
6 wise encroach upon the Congressional prerogative to make
7 laws.

8 **SEC. 4. CONSTRUCTION AND APPLICATION OF ACTS OF**
9 **CONGRESS.**

10 For purposes of construing or applying any Act en-
11 acted by the Congress, a governmental entity shall not
12 take into consideration any statement made by the Presi-
13 dent contemporaneously with the President's signing of
14 the bill or joint resolution that becomes such Act.

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