

Law to Allow President to Send Armed Secret Service to Polling Places

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“SECRET SERVICE PROTECTION AT POLLING PLACES. This section shall not prevent any officer or agent of the United States Secret Service from providing armed protective services authorized under section 3056 or pursuant to a Presidential memorandum at any place where a general or special election is held. [emphasis added] – [H.R. 2825, section 4012](#)”

The single sentence above, which amends current federal law, would give the president unprecedented authority to send armed Secret Service agents to *any* US polling place for any reason. The law allows the president to send armed Secret Service agents to every US polling place if he has enough agents.

The 250-page bill containing this new authority, H.R. 2825, is the [Department of Homeland Security Authorization Act](#), introduced in the House on June 8, 2017, by Texas Rep. Michael McCaul with eleven fellow Republican co-sponsors. On July 20, with little notice, the bill passed the House by a vote of 386 to 41 (32 Democrats and 9 Republicans), after less than an hour of scheduled debate, and went to the Senate.

The issue broke through to public attention on March 9, with a letter to the Senate’s party leaders, Republican Mitch McConnell and Democrat Chuck Schumer, from [secretaries of state of both parties](#) in 19 states, calling the Senate’s attention to “unprecedented and shocking language currently included in Section 4012 of HR 2825” that:

... allows Secret Service personnel unlimited access to polling places pursuant to the President’s direction. This is an alarming proposal which raises the possibility that armed federal agents will be patrolling neighborhood precincts and vote centers.

The signatory secretaries of state represent California, Washington, New Mexico, North Dakota, Minnesota, Missouri, Louisiana, Arkansas, Georgia, Tennessee, West Virginia, Indiana, Ohio, Delaware, and all the New England states except New Hampshire. Their letter points out that the federal statute the bill amends ([Title 18, US Code, section 592](#)) is intended to keep “troops or armed men” away from every “place where a general or special election is held, unless such force be necessary to repel armed enemies of the United States.” The secretaries’ letter argues:

This longstanding and carefully crafted statute ensures the right of voters to cast their ballots under the limited authority of civil officers rather than law enforcement. Secretaries of State across the country agree that there is no

discernible need for federal Secret Service agents to intrude, at the discretion of the president, who may also be a candidate in that election, into the thousands of citadels where democracy is enshrined. [emphasis added]

The secretaries' letter concludes with the "humble request" that the senators remove the unchecked presidential authority from the legislation. According to the secretaries, the Senate Homeland Security and Government Affairs Committee listened to their concerns, but told them that it "did not have the authority to address this important issue."

The secretaries' March 9 letter sparked same-day coverage in [the Boston Globe](#) that began:

President Trump would be able to dispatch Secret Service agents to polling places nationwide during a federal election, a vast expansion of executive authority, if a provision in a Homeland Security reauthorization bill remains intact.

The Globe went on to quote Massachusetts secretary of state William F. Galvin, a Democrat, castigating the proposal:

This is worthy of a Third World country.... I'm not going to tolerate people showing up to our polling places. I would not want to have federal agents showing up in largely Hispanic areas. The potential for mischief here is enormous.

The [Globe followed up](#) on March 10 with Secret Service spokesperson Catherine Milhoan, who said that the Secret Service had sought only "clarifying language" to allow agents to do their job. Milhoan referred to a non-specific incident in 2016 when armed Secret Service agents were allegedly prevented from entering a polling place. Milhoan did not explain the blanket authority granted the president to send armed Secret Service agents to any polling place.

Two days later, the Secret Service issued an [unsigned, dishonest press release](#) that relied on a false premise. The Secret Service asserted:

The intent of the U.S. Secret Service is grossly mischaracterized in a recent Boston Globe article. Our mission is apolitical as is the carrying out of our duties. The intent of a provision in a Homeland Security reauthorization bill is to simply allow us to protect those we are mandated to do so under [Title 18 USC 3056](#) when at the election polls, and not violate the law.

This is itself a gross mischaracterization. The Globe does not address the "intent" of the Secret Service except insofar as that intent is expressed by the Secret Service's Milhoan. No one in the Globe article accuses the Secret Service of trying to violate the law. The Secret Service obfuscates (or outright lies) about its intent by failing to explain why the president should have the power to send armed Secret Service agents to any polling place.

Then the Secret Service sort of admits that it did, maybe, sort of seek to violate the law, perhaps unwittingly. The press release gives a second version of the alleged 2016 incident where election officials questioned the lawfulness of their behavior:

In November of 2016 leading up to Election Day, while attempting to conduct a protective assignment at a polling location, Secret Service personnel encountered some reluctance to our presence and the carrying of weapons.

So if this event was *before* election day, the Secret Service agents were at a polling place *without* any protectee who was trying to vote. This circumstance would fall *outside* Title 18 USC 3056 cited by the Secret Service above. This is tantamount to an admission by the Secret Service that it probably was in violation of 18 USC 592, as poll workers suggested. And still none of this explains why the Secret Service think the president needs the authority to send armed Secret Service agents to any polling place anywhere.

[Follow-up coverage](#) of the letter from the secretaries of state doesn't get to the source of this power play. [ACLU lawyer Kristen Clarke](#) compares the use of Secret Service agents at the polls to law enforcement "tactics that we saw during the Jim Crow era." She doesn't remind us that Florida governor Jeb Bush used the same law enforcement intimidation tactics to suppress the Florida vote in the 2000 election that made his brother president.

The likelihood that the presidential authority in the bill passed by the House was created by anything but the intent to expand the power of the presidency is almost nil. The phrase "pursuant to a Presidential memorandum" just isn't the sort of thing people casually and unconsciously just toss off. Apparently the effort to modify the law came from the Secret Service, but they're acting like someone else made up the language. Maybe it came from Rep. McCaul or his co-sponsors, they haven't said. The White House hasn't said anything, referring inquiries to the Secret Service. Senators McConnell and Schumer haven't said anything that matters, which surprises no one. Armed Secret Service agents at polling places, who cares?

This grant of police state authority passed the House in July without a single House member speaking out, not then, or ever since. No senator has yet to raise an alarm. This is all of a piece with the political establishment's long war on voters. The Bush voter suppression tactics of 2000 are still widespread, the Supreme Court has gutted the Voting Rights Act, and Congress has done nothing to restore it. Only a minority of Democrats show any serious care for voting rights. The result is a slow but real coup d'état against democratic processes. There is another federal law, [18 USC section 594](#) that makes intimidation, threatening, or coercion of voters punishable by up to one year in jail. Who in the federal government should not be incarcerated?

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This article was originally published on [Reader Supported News](#).

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