



COMMITTEE ON HOMELAND SECURITY

Ranking Member Bennie G. Thompson

H.R. 8081: the DISGRACED Former Protectees Act – or the Denying Infinite Security and Government Resources Allocated toward Convicted and Extremely Dishonorable Former Protectees Act

Fact Sheet

The United States government has long recognized the need to protect Presidents, former Presidents, other high-level officials, and select family members of those officials from harm. Since 1901, that protective mission has been fulfilled by the U.S. Secret Service. Periodically, Congress has reformed the Secret Service's protective mission, often in response to exigent circumstances. For example, protection was expanded to major party presidential nominees following the assassination of Senator Robert F. Kennedy in 1968. Former President Donald J. Trump's unprecedented 91 felony charges in Federal and State courts across the country have created a new exigency that Congress must address to ensure Secret Service protection does not interfere with the criminal judicial process and the administration of justice.

The *DISGRACED Former Protectees Act* would terminate Secret Service protection for individuals who otherwise qualify for it upon sentencing following conviction for a Federal or State felony.

Under current law, Secret Service protection is authorized for some current and former high-level officials and their immediate families. Current law does not contemplate how such protection would occur—or whether it should occur—if a protectee is sentenced to prison following conviction for a felony. As a result, current law may serve as an impediment to the equal administration of justice and present logistical difficulties for both the Secret Service and prison authorities at the Federal and State levels.¹

This bill would remove the potential for conflicting lines of authority within prisons and allow judges to weigh the sentencing of individuals without having to factor in the logistical concerns of convicts with Secret Service protection.

Is this bill ex post facto and therefore in violation of the Constitution?

No. The Supreme Court in *Flemming v. Nestor*² suggested that there could be situations where the termination of a benefit may raise *ex post facto* concerns. However, such a law would have to be shown to have an unlawful, punitive purpose.³ This bill raises no punitive concern. The purpose of this bill is to hand off inmate protection to relevant prison authorities rather than involve the Secret Service. Further, the removal of Secret Service protection does not change the criminal statutes or alter the penalty for crimes.

Will this bill apply to former President Trump if he is convicted of a felony?

This measure would apply to former President Trump. It also would apply to all Secret Service protectees convicted and sentenced under felony charges.

¹ Spencer S. Hsu, Carol D. Leonnig & Tom Jackman, *If Trump is convicted, Secret Service protection may be obstacle to imprisonment*, WASH. POST, Aug. 4, 2023, <https://www.washingtonpost.com/dc-md-va/2023/08/04/trump-criminal-cases-prison-secret-service/>.

² 363 U.S. 603 (1960).

³ *Id.* at 616–17.