



Written by [Joe Wolverton, II, J.D.](#) on March 1, 2012

Congress Passes Bill Severely Curtailing First Amendment Liberties

A bill has just passed the House and the Senate that criminalizes protests anywhere near the presence of a designated government official. On Monday, the U.S. House of Representatives voted nearly unanimously (388-3) in favor of H.R. 347, the Federal Restricted Buildings and Grounds Improvement Act of 2011.



As part of this legislation, Congress expressly forbids trespass onto the grounds of the White House. Many likely believe that such a law already existed and they are right. The controversial aspect of this bill's restatement of that statute is that it expands the scope of the federal government's authority to bring charges against those deemed trespassers at any location placed provisionally under the jurisdiction of the Secret Service.

The present state of the law prosecutes White House trespassers under a local Washington, D.C. ordinance. Prior to this latest federal action, violation of this ordinance was a misdemeanor.

Under HR 347, however, the Congress endows itself with the unbounded power to impose federal criminal charges on not only those who enter the White House grounds without prior permission, but on anyone who participates in protests at or near a location falling within the greatly enlarged scope of this new prohibited zone.

The situation is serious and is a legislative end-around the First Amendment's protection of the right to assemble and the right to speak freely. A [story at RT.com](#) accurately sets the scene:

The new legislation allows prosecutors to charge anyone who enters a building without permission or with the intent to disrupt a government function with a federal offense if Secret Service is on the scene, but the law stretches to include not just the president's palatial Pennsylvania Avenue home. Under the law, any building or grounds where the president is visiting — even temporarily — is covered, as is any building or grounds “restricted in conjunction with an event designated as a special event of national significance.”

Section (c) of the act defines the key phrase “restricted buildings” as follows:

“[R]estricted buildings or grounds” means any posted, cordoned off, or otherwise restricted area —

- (A) of the White House or its grounds, or the Vice President's official residence or its grounds;
- (B) of a building or grounds where the President or other person protected by the Secret Service



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is or will be temporarily visiting; or

(C) of a building or grounds so restricted in conjunction with an event designated as a special event of national significance

Under the terms of the existing law amended by this act, the Department of Homeland Security is tasked with deciding which events will qualify as being of “national significance.”

According to [one report](#):

[N]early three dozen events in all have been considered a National Special Security Event (NSSE) since the term was created under President Clinton. Among past events on the DHS-sanctioned NSSE list are Super Bowl XXXVI, the funerals of Ronald Reagan and Gerald Ford, most State of the Union addresses and the 2008 Democratic and Republican National Conventions.

As the foregoing quoted sections of the bill evince, the Federal Restricted Buildings and Grounds Improvement Act, as with so many other recent laws, contains paragraph after paragraph of vague terms that can be wrested to suit the mercurial whims of our federal overlords.

In addition to control over the fluid and fickle designation of “restricted buildings” afforded to the Congress, the bill endows the President with the power to extend Secret Service protection to anyone he deems worthy. The President accomplishes such an act by way of issuing a memo.

As the aforementioned Section (c) explains:

[T]he term “other person protected by the Secret Service” means any person whom the United States Secret Service is authorized to protect under section 3056 of this title or by Presidential memorandum, when such person has not declined such protection....

When read together, these two subsections make it a federal crime punishable by up to 10 years in prison to “enter or remain” in any designated area without permission, and, that forbidden zone may shift from here to there without prior notice depending on the presence of any person the President has placed under the protection of the Secret Service.

Supporters of this measure insist that “loopholes in the law” needed to be closed in order to guarantee the safety of the President, the Vice President, and other government VIPs.

Who might qualify for this vaunted status? Consider this information:

Hours after the act passed, presidential candidate Rick Santorum was granted Secret Service protection. For the American protester, this indeed means that glitter-bombing the former Pennsylvania senator is officially a very big no-no, but it doesn't stop with just him. Santorum's coverage under the Secret Service began on Tuesday, but fellow GOP hopeful Mitt Romney has already been receiving such security. A campaign aide who asked not to be identified confirmed last week to CBS News that former House Speaker Newt Gingrich has sought Secret Service protection as well. Even former contender Herman Cain received the armed protection treatment when he was still in the running for the Republican Party nod.

The sponsor of the companion measure introduced in the Senate is Senator Richard Blumenthal (D-Conn.). [During deliberations](#) on the measure, Blumenthal explained the purpose behind the proposal:

This bill will improve the law enforcement tools available to the Secret Service in its attempts to protect the President, the Vice President, and others on a day-to-day basis by closing loopholes in the current federal law. The new law should punish and deal more effectively with anyone who



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illegally enters restricted areas to threaten the President, Vice President, or other Secret Service protectees.

There are, however, a few members of Congress (three, in the House of Representatives, to be precise: Justin Amash [R-Mich.], Paul Broun [R-Ga.], and Keith Ellison [Democratic-Farmer-Labor -Minn.]) who recognize deprivation of fundamental First Amendment rights lurking in the gray areas of this ill-defined law.

For example, the bill does require “willful” encroachment into a restricted area. It is possible that a person could attend a political speech by one of the GOP contenders, for example, and unintentionally find himself within the prohibited parameters and be subject to federal fines and imprisonment.

One of the people’s representatives who has consistently opposed these “gradual and silent encroachments” on constitutionally-protected liberties has spoken out against this latest abridgement, as well.

As is customary these days, Congressman Amash (pictured above) published his reproach on [his Facebook page](#).

“The bill expands current law to make it a crime to enter or remain in an area where an official is visiting even if the person does not know it’s illegal to be in that area and has no reason to suspect it’s illegal,” Amash wrote.

“Some government officials may need extraordinary protection to ensure their safety. But criminalizing legitimate First Amendment activity — even if that activity is annoying to those government officials — violates our rights,” he added.

Representative Amash’s concerns are valid. A straightforward reading of the bill reveals the real threat to the freedoms of association and speech. As written and passed by the Congress, there is nothing that would prevent the application of the relevant provisions of this new act to an innocent person protesting against this or that policy position of a presidential candidate while standing outside a debate venue.

The climate created by the Federal Restricted Buildings and Grounds Improvement Act of 2011 is inhospitable to protest and demonstration, thus it is the very definition of the “chilling effect” on speech that should concern all citizens, regardless of party affiliation.

The bill will now proceed to the President for his signature or veto.



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