



Written by [Joe Wolverton, II, J.D.](#) on December 3, 2016

## Michigan Bill Would Nullify Executive Orders and Other Presidential Edicts

A nullification bill to be considered by the Michigan state legislature in 2017 would block enforcement of unconstitutional executive orders inside the borders of that sovereign state.

[House Bill 5989](#) would effectively nullify any attempt by a president of the United States to see any of his monarchical declarations afforded the color of law within the Great Lakes State.



Specifically, the measure introduced by state representative Jim Runestad and 11 other co-sponsors prohibits:

This state, any agency of this state, any political subdivision of this state, or any employee of any agency of this state or any political subdivision of this state from using personnel or financial resources to enforce, administer, or cooperate with certain executive orders or certain policy directives of the federal government.

In other words, it's not just executive orders that would be blocked by this bill; all similar executive edicts would meet a similar fate in Michigan.

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While Donald Trump has promised to rescind many of his predecessors' executive orders, the last eight years have seen the the attacks on the Constitution's separation of powers intensify, with President Obama sidestepping congressional impediments in order to achieve his legislative goals via executive orders and signing statements.

A presidential signing statement is a pronouncement that the president appends to a bill he signs into law. Nowadays, this executive addendum sets forth the president's understanding of the law and gives guidance to the myriad departments under the executive branch umbrella on how to carry out the requirements of the new legislation.

Signing statements change the laws, revoking parts of them or adding provisions to them, at the same time redefining the Constitution and nullifying its checks and balances. Using them, the president assumes all power — executive, legislative, and judicial — unto himself and does so in a manner that is beyond question, beyond debate, beyond vote, and thus beyond the reach of the American people.

Constitutionally speaking, if a president does not like a piece of legislation, the only recourse allowed him is a veto. Modern presidents, however, have two self-perpetuating habits that obviate the use of the veto: engorging themselves with power not delegated to them by the Constitution and disregarding the Constitution altogether.

Given the recent run of success that previous presidents have enjoyed by unconstitutionally converting signing statements, presidential proclamations, and executive orders into "law," it is easy to understand why a president zealous for the realization of his own vision of a greater America would be tempted to



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pick up his presidential pen and follow in the footsteps of those who held it before him.

After all, why go to all the bother of getting a pet project passed by Congress when a president can accomplish the same end by issuing a signing statement or an executive order that will never be discussed? Thus, he sits quietly and victoriously in the dark solitude of the Oval Office having his monarchical cake and eating it, too.

Notably, the Michigan bill refuses to recognize as lawful any federal action that has not been “affirmed by a vote of the Congress of the United States and signed into law as prescribed by the constitution of the United States and federal statute.”

The second section of the proposed measure is equally commendable, declaring:

This state and any political subdivision of this state is prohibited from using any personnel or financial resources to enforce, administer, or cooperate with a policy directive issued by the United States Department of Justice to law enforcement agencies in this state.

Refusing to cooperate with the agents of the federal government who are acting outside the boundaries of their constitutional authority is a tack recommended by James Madison as a way to keep the federal government from encroaching on state prerogatives. Madison, in *The Federalist*, No. 45, counseled state lawmakers to “refuse to cooperate with officers of the Union” when the federal authority attempts to enforce any act not falling within its constitutionally enumerated powers.

As we have reported on many occasions, following Madison’s advice is called anti-commandeering; it prohibits the federal government from forcing states to participate in any federal program that does not concern “international and interstate matters.”

Given the text of the Michigan bill’s explicit proscription against providing any state assistance to federal “directives,” it is likely that Representative Runestad knew of President Obama’s propensity to use secret directives to diminish the scope of American liberty.

Since being inaugurated in 2009, President Barack Obama has issued 30 Presidential Policy Directives (PPDs), 19 of which he has ordered to be kept secret from Congress and the American people.

*USA Today* called attention to these secret orders in an article published on June 24, 2015. The article explained:

Of the 30 PPDs issued by Obama, 19 have not been released. And for 11 of those, the White House has not disclosed even the subject of the order.

“It’s not only the public that doesn’t have copies. It’s also Congress that doesn’t have copies,” Aftergood said. “It’s a domain of largely unchecked presidential authority. It doesn’t mean it’s bad, but it’s lacking in independent oversight.”

But they have the same legal force as an executive order, forming a body of largely secret law, said Harold Relyea, a political scientist who advised Congress on national security directives before retiring from the Congressional Research Service.

“The difference is that while executive orders are public by law — they must be published in the *Federal Register* to be effective — PPDs are not,” he said. “It is a kind of secret law. People have to obey it. But it’s a directive that can allocate money, direct people or take a course of action.”

Even this exercise of unconstitutional deception was not enough to quench Barack Obama’s thirst for authoritarian power.



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As we [reported on November 19](#) of this year:

Barack Obama's administration set a record on November 17 by issuing 527 pages of new and proposed federal rules and regulations in one day. This increases the total number of pages in the daily chronicle of the central government's edicts, the *Federal Register*, to a shocking 81,640 pages for 2016 alone as of Nov. 17!

So, in the New Year when state legislators in Michigan get back to the business of making law for their state, they would be well advised to pass HB 5989 and get it to the governor's desk for his signature as soon as possible.

While no one knows for sure if Donald Trump will buck the trend toward totalitarianism created by past presidents, Michigan would be wise to be safe from enforcing signing statements, executive orders, and policy directives, rather than being sorry to have surrendered its sovereignty to any president's push to consolidate power in the hands of one man.

In 2017, the bill will begin its legislative journey by being considered by the state House of Representatives' Committee on Oversight and Ethics.

*Photo: Michigan state flag*



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