

HR 35

Presidential Records Act Amendments of 2009

Congress: 111 (2009–2011, Ended)

Chamber: House

Policy Area: Government Operations and Politics

Introduced: Jan 6, 2009

Current Status: Placed on Senate Legislative Calendar under General Orders. Calendar No. 64.

Latest Action: Placed on Senate Legislative Calendar under General Orders. Calendar No. 64. (May 19, 2009)

Official Text: <https://www.congress.gov/bill/111th-congress/house-bill/35>

Sponsor

Name: Rep. Towns, Edolphus [D-NY-10]

Party: Democratic • **State:** NY • **Chamber:** House

Cosponsors (5 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Burton, Dan [R-IN-5]	R · IN		Jan 6, 2009
Rep. Clay, Wm. Lacy [D-MO-1]	D · MO		Jan 6, 2009
Rep. Issa, Darrell E. [R-CA-49]	R · CA		Jan 6, 2009
Rep. Sherman, Brad [D-CA-27]	D · CA		Jan 6, 2009
Rep. Waxman, Henry A. [D-CA-30]	D · CA		Jan 6, 2009

Committee Activity

Committee	Chamber	Activity	Date
Homeland Security and Governmental Affairs Committee	Senate	Reported By	May 19, 2009
Oversight and Government Reform Committee	House	Referred To	Jan 6, 2009

Subjects & Policy Tags

Policy Area:

Government Operations and Politics

Related Bills

No related bills are listed.

Presidential Records Act Amendments of 2009 - (Sec. 2) Amends the Presidential Records Act to require the Archivist of the United States, when making available any presidential record not previously made available publicly, to: (1) promptly provide written notice of such determination to the former President during whose term of office the record was created and the incumbent President; and (2) make the notice available to the public.

Requires such a record to be made available upon the expiration of the 60-day period after the Archivist provides notice, except any record with respect to which the Archivist receives notification of a claim of constitutionally based privilege against disclosure from a former or incumbent President.

Authorizes a former or an incumbent President to extend the period for not more than 30 additional days by filing a statement that such an extension is necessary to allow an adequate review of the record. Provides that if the period, or any extension of that period, would otherwise expire after January 19 and before July 20 of the year in which the incumbent President first takes office, then such period or extension shall expire on July 20 of that year.

Requires that: (1) any claim of constitutionally based privilege against disclosure of a presidential record must be asserted personally by a former or incumbent President; and (2) a former or incumbent President must notify the Archivist and specified congressional committees of a privilege claim on the day it is asserted. Requires the Archivist to: (1) consult with the incumbent President to determine whether the incumbent President will uphold any claim of constitutionally based privilege against disclosure made by a former President; and (2) notify the former President and the public regarding such determination. Prohibits the Archivist from making publicly available a presidential record that is subject to a privilege claim asserted by a former President until the expiration of the 90-day period beginning on the date the Archivist is notified of the claim. Requires the Archivist, upon the expiration of such period, to make the record publicly available unless otherwise directed by a court order in an action initiated by the former President.

Prohibits the Archivist from making publicly available a presidential record that is subject to a privilege claim asserted by the incumbent President unless: (1) the incumbent President withdraws the privilege claim; or (2) the Archivist is otherwise directed by a final court order that is not subject to appeal. Makes this provision inapplicable with respect to any presidential record required to be made available: (1) pursuant to a subpoena or other judicial process issued by a court for purposes of a civil or criminal investigation; or (2) to either House of Congress because such records contain information needed for the conduct of business that is otherwise not available.

Directs the Archivist to adjust any otherwise applicable time period as necessary to comply with the return date of any congressional subpoena, judicial subpoena, or judicial process.

Prohibits the Archivist from making available any original presidential records to anyone claiming access to them as a designated representative of a President or former President if that individual has been convicted of a crime relating to the review, removal, or destruction of the Archives' records.

(Sec. 3) Nullifies Executive Orders 12667, dated January 1, 1989, and 13233, dated November 1, 2001 (both establishing a process for review of presidential records and assertion of privilege claims).

Actions Timeline

- **May 19, 2009:** Committee on Homeland Security and Governmental Affairs. Reported by Senator Lieberman with an amendment in the nature of a substitute. With written report No. 111-21.
- **May 19, 2009:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 64.
- **Apr 1, 2009:** Committee on Homeland Security and Governmental Affairs. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **Jan 8, 2009:** Received in the Senate and Read twice and referred to the Committee on Homeland Security and Governmental Affairs.
- **Jan 7, 2009:** Mr. Towns moved to suspend the rules and pass the bill.
- **Jan 7, 2009:** Considered under suspension of the rules. (consideration: CR H42-45)
- **Jan 7, 2009:** DEBATE - The House proceeded with forty minutes of debate on H.R. 35.
- **Jan 7, 2009:** At the conclusion of debate, the Yeas and Nays were demanded and ordered. Pursuant to the provisions of clause 8, rule XX, the Chair announced that further proceedings on the motion would be postponed.
- **Jan 7, 2009:** Considered as unfinished business. (consideration: CR H49)
- **Jan 7, 2009:** Passed/agreed to in House: On motion to suspend the rules and pass the bill Agreed to by the Yeas and Nays: (2/3 required): 359 - 58 (Roll no. 5).(text: CR H42-43)
- **Jan 7, 2009:** On motion to suspend the rules and pass the bill Agreed to by the Yeas and Nays: (2/3 required): 359 - 58 (Roll no. 5). (text: CR H42-43)
- **Jan 7, 2009:** Motion to reconsider laid on the table Agreed to without objection.
- **Jan 6, 2009:** Introduced in House
- **Jan 6, 2009:** Referred to the House Committee on Oversight and Government Reform.