

June 24, 2025

Senator John Thune
Minority Leader
United States Senate
511 Dirksen Senate Office Building
Washington, DC 20510

Senator Chuck Schumer
Majority Leader
United States Senate
322 Hart Senate Office Building
Washington, DC 20510

Senator Chuck Grassley
Chairman
Judiciary Committee
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Senator Dick Durbin
Ranking Member
Judiciary Committee
United States Senate
224 Hart Senate Office Building
Washington, DC 20

RE: Opposition to Section 203 of Senate Judiciary Reconciliation Package

Dear Majority Leader Thune, Minority Leader Schumer, Chairman Grassley, and Ranking Member Durbin:

The undersigned allied organizations, representing millions of people across America, write to strongly oppose the inclusion of provisions in the reconciliation bill that would undermine access to the courts and harm the judiciary's ability to promptly address lawless behavior by the federal government. The proposed provision would require litigants seeking preliminary injunctions or restraining orders to post exorbitant bonds in order to vindicate their rights against likely unlawful or unconstitutional actions by the federal government. The Senate Parliamentarian ruled that Section 203 of the Senate Judiciary reconciliation provisions violated the Byrd Rule, and we ask that you remain committed to removing any similar language that may be proposed. Courts routinely waive any requirement for bonds pertaining to preliminary injunctions in suits against the government for good reason – they limit access to the courts and to justice. Instead, Section 203 would mandate prohibitive fees that prevent anyone but billionaires from taking action to enjoin unlawful federal actions. There is no justification for eliminating courts' discretion in this area, especially as a policy provision to a budget reconciliation package.

Crucially, this language is nothing more than a thinly veiled attempt to shield the executive branch from being held accountable by those injured by the government's actions and the public interest groups across the political spectrum that represent them. Further, the provision would limit the power of the judiciary to fulfill its constitutional responsibility and act as a check and balance to co-equal branches of government. A hallmark of a robust democracy includes the public's ability to have meaningful, affordable access to courts to vindicate their rights, especially against politically and economically powerful interests, including against unlawful actions by the federal government itself. This right is a core value embedded in our Constitution, and it is essential to maintain our fundamental rights and freedoms.

The language in the reconciliation package introduced by the Senate Judiciary Committee Republicans on June 12, 2025, would undermine the federal judiciary's role to administer the law as a check on the abuse of power by current and future presidential administrations. Few litigants challenging unlawful federal actions would have capacity to post a bond for millions or even billions of dollars, and therefore, courts would not issue preliminary injunctions in most cases, even when severe and irreversible harm may occur to the injured parties. Instead, those harmed by the government's illegal actions would need to wait months or even years for legal proceedings to be completed before the court could issue an injunction. In many cases, this would mean the harm is already done and no remedy is possible. Section 203 also provides that a bond determination is "appealable... under an abuse of discretion standard." This would give the executive branch yet another way to delay action by the courts while it continues its unlawful activities. Moreover, it would encourage judges to set truly onerous bonds, knowing that they lack discretion and that higher courts will consider only "the value of the costs and damages sustained" by the federal government, not the harm and damages caused to the injured litigants.

In conclusion, the reconciliation provisions in Section 203 of the Senate Judiciary proposal, requiring costly bonds before a court can enjoin executive actions, are an affront to our constitutional rights to hold our government accountable to the people. Requiring costly bonds before illegal federal government actions can be enjoined makes our federal courts inaccessible for everyday people in America and shields abuses of power by the executive branch. We urge you to oppose this measure or any similar measures.

Sincerely,

American Association for Justice (AAJ)
Accountable.US/Accountable.NOW
AFL-CIO
Alliance for Justice
American Federation of State, County and Municipal Employees (AFSCME)
American Oversight
Americans United for Separation of Church and State
Bend the Arc: Jewish Action
Center for Biological Diversity
Clearinghouse on Women's Issues
Climate Justice Alliance
Common Cause
Communication Workers of America (CWA)
Demand Justice
DemCast
Democracy 21
Democracy Defenders Action
Earthjustice Action
Endangered Species Coalition
Enough of Gun Violence: Non-Violence is Life
The Faithful Democracy Coalition
Faiths for Safe Water

Feminist Majority Foundation
FFRF Action Fund
Free Speech for People
Government Information Watch
Impact Fund
Indivisible
Jewish Council for Public Affairs (JCPA)
Lawyers for Good Government
The Leadership Conference on Civil and Human Rights
League of Conservation Voters
League of Women Voters of the United States
MALDEF (Mexican American Legal Defense and Educational Fund)
MomsRising
National Association of Consumer Advocates
National Council of Jewish Women
National Education Association
National LGBTQ+ Bar Association
National Urban League
National Wildlife Federation
National Women's Law Center Action Fund
NETWORK Lobby for Catholic Social Justice
Nuclear Information and Resource Service
People For the American Way
People Power United
People's Parity Project
Project Coyote
Project On Government Oversight
Public Citizen
Public Justice
RepresentUS
Secure Elections Network
Silvix Resources
Southern Poverty Law Center
Stand Up America
T'ruah: The Rabbinic Call for Human Rights
True North Research
Western Watersheds Project
Wildlife for All
The Workers Circle
Young, Gifted & Green