



H. Res. 639 – Authorizing the Speaker to appear as amicus curiae on behalf of the House of Representatives in the matter of United States, et al. v. Texas, et al., No. 15-674 (Rep. Ryan, R-WI)

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FLOOR SCHEDULE:

Expected to be considered on March 17 under a closed rule.

TOPLINE SUMMARY:

[H. Res. 639](#) would authorize Speaker Paul Ryan to file a brief as amicus curiae (friend of the court) with the Supreme Court on behalf of the House of Representatives, arguing that President Obama's executive order allowing for deferred action on certain illegal immigrants is unconstitutional.

COST:

The Congressional Budget Office (CBO) estimate is not available.

CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

This legislation would allow the Speaker to appear as amicus curiae on behalf of the House of Representatives in the pending Supreme Court case, United States, et al. v. Texas, et al. It would require the Speaker to notify the House of Representatives of a decision to file one or more briefs as amicus curiae and would stipulate that the Office of General Counsel of the House of Representatives would represent the House in connection with any filing. The resolution directs that the position of the House is that the president, through his executive actions, has acted in a manner that is not consistent with his duties under the Constitution and the laws of the United States.

In [November 2014](#), the president announced a series of executive actions that could expand executive amnesty to roughly 5 million additional illegal immigrants beyond those covered under the administration's 2012 amnesty actions. Twenty-six states, led by Texas, filed a lawsuit in federal court to block the president's actions. On February 16, 2015, a federal judge in the Southern District of Texas [enjoined](#) in full the president's actions, thus temporarily prohibiting the administration from implementing

the executive orders while the case is pending. On November 9, 2015 the 5th Circuit court of appeals [again](#) ruled against Obama’s efforts to lift the injunction and allow the orders to go into force. In its ruling, the 5th Circuit’s majority affirmed that current immigration law “flatly does not permit the reclassification of millions of illegal aliens as lawfully present and thereby make them newly eligible for a host of federal and state benefits, including work authorization.”

On January 19, 2016, the Supreme Court [announced](#) its decision to hear the case challenging the legality of President Obama’s executive amnesty. In deciding to take up the case, the Justices added a question for consideration: whether the president’s actions violated the Take Care Clause of the Constitution. While many were optimistic about the prospects for a favorable decision, Senior Associate Justice Scalia’s recent death could defer the outcome to the lower court. In the event of a 4-4 decision, the lower court ruling that President Obama’s unilateral amnesty would remain enjoined would stand, though the case would not set national precedent. The courts could then return to the issue in a future case, again potentially taking the constitutionality of the executive amnesty order to the Supreme Court.

Regardless of the Courts holding in the matter of the administration’s appeal of the injunction, the case will likely still be heard on the merits at a future date.

COMMITTEE ACTION:

H. Res. 639 was introduced on March 14, 2016 and was referred to the House Committee on Rules.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not available.

CONSTITUTIONAL AUTHORITY:

A Constitutional Authority Statement has not been provided.

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