



Fast-Tracking H.R. 6028 Can Threaten Copyright Deposit & the Public Interest

Changing the appointment process of the Librarian of Congress may have secondary unintended consequences for the US Copyright Office.

A bipartisan congressional process to appoint the librarian would create independence from the president, and does not by itself raise serious concerns. However, the bill's proposal for ending the Library of Congress's supervisory authority over the US Copyright Office—historically, a legislative agency with some executive functions—raises questions that deserve consideration.

Ending the Library of Congress's supervisory authority over the Copyright Office raises concerns about the deposit function.

Proposals to sever the Copyright Office from the Library of Congress may interfere with the deposit of copies of works, which has contributed significantly to the development of the library's national collection. Former Librarian of Congress James Billington opposed the removal of the Copyright Office from the library, citing the centralization of copyright activities at the library as contributing to the deposit system.

Removing rulemaking functions without specifying which branch of government the Copyright Office would be part of creates ambiguity.

The bill does not specify whether the Copyright Office would become an executive branch agency, or remain a legislative branch agency with executive functions. The bill does explain that the librarian of Congress would no longer administer the Digital Millennium Copyright Act (DMCA) 1201 rulemaking, traditionally an executive branch function. The register of copyrights would have sole responsibility for examining the five factors required by the DMCA, and recommending exemptions.

It is essential that the Copyright Office reflect the interests of all US stakeholders, without bias. Although the library has always given the Copyright Office a large degree of autonomy, on occasion it has intervened in a manner that protected the public interest.

Fast-tracking this bill bypasses the Democratic process.

Advancing this bill through the suspension calendar rather than through regular order sidesteps the careful deliberation these complex issues demand, and undercuts the ability of stakeholders like libraries and archives and civil society organizations to weigh in on important public interest concerns.