Access to Justice

DEFENDING THE PUBLIC'S RIGHT TO SEEK JUSTICE IN COURT

A report by Earthjustice Action

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Introduction

January 2026 marks one year of the second Trump Administration and a Republican-controlled Congress as well as almost a decade since the release of the original Access to Justice report in 2018. The original report documented an unprecedented wave of legislative and administrative attacks on the public's ability to access the courts to challenge unlawful government actions, enforce environmental protections, and hold corporations accountable.

Those attacks have not subsided; they have evolved. What began as a broad assault on civil rights, environmental safeguards, and consumer protections now features an intensified focus on judicial review, with mounting legislation targeting the process along every step of the way. These attacks are often framed under the guise of "permitting reform," but rather than increasing efficiency, they merely serve to silence affected communities.

This updated report reflects these shifts. It retains the core framework of the 2018 report while refining the categories to capture the increasingly sophisticated ways Congress and the Trump administration are seeking to close the courthouse doors to the public. For example, while citizen suit provisions have long been essential to enforcing environmental laws, recent legislative proposals have targeted these tools more directly, warranting clearer distinction in this update.

Across the many bills and executive actions highlighted here, this report identifies five primary ways the public's ability to seek justice is being weakened. For each category, current legislative proposals from the 119th Congress and Trump administration actions are highlighted. A comprehensive table of current legislative threats can be found in the Appendix. The five categories of threats to the public's access to the courts include:

1. **Eliminating or Undermining Judicial Review,** effectively preventing people from challenging unlawful government decisions.
2. **Limiting Who Can Sue Wrongdoers,** including polluters that violate the law or federal agencies that fail to properly enforce the law.
3. **Making It Too Expensive to Sue and Harder to Win,** deterring communities from pursuing legitimate legal challenges.
4. **Limiting Judicial Discretion** so that even when cases reach court, judges cannot meaningfully correct or remedy the harm.
5. **Blocking Meaningful Case Settlements,** preventing agencies and communities from resolving disputes on fair, enforceable terms.

Taken together, these five areas reveal a systematic effort to weaken the rule of law by making it harder for people to challenge unlawful actions and seek relief in the courts. Although these escalating attacks are alarming, organizations and individuals across the country stand united, backed by a simple principle: that every person in America deserves access to justice.

I. Eliminating or Undermining Judicial Review

Judicial review is one of the most important checks and balances in our democracy. It's the primary mechanism people and communities use to challenge a federal agency when it takes illegal actions, such as shortcutting an environmental review or issuing a permit that threatens public health. Without judicial review, harmful and unlawful agency decisions could simply go forward unchecked.

In recent years, however, judicial review has become an especially vulnerable target of

polluting industries that want agencies to issue permits more quickly and with less oversight. Under the banner of "permitting reform," polluters and their political allies are quietly burying provisions into a growing multitude of bills that undermine, if not eliminate, judicial review. These provisions do not simply reduce "red tape;" they strip communities of the ability to protect their air, their water, and themselves from undue harm. Many of these legislative attacks are aimed at bedrock environmental statutes, namely the National Environmental Policy Act (NEPA).

Legislative proposals to restrict judicial review come in many forms, from eliminating it entirely to upending the regular judicial process. Regardless of the type of attack, the result is that unlawful decisions go unchallenged, polluters face less accountability, and the public loses one of its only tools to hold the government accountable to the law.

Follow the Money: Who is Bankrolling the Attack on Judicial Review?

- Koch Brothers Network: A major funder of deregulation campaigns, the Koch network backs groups that push for shortened filing deadlines, restricted standing, and other limits that shield polluters from accountability.
- American Petroleum Institute & other industry groups: Fossil fuel trade associations heavily lobby for "permitting reform" provisions that shortcut permitting processes and curb oversight.
- Project 2025's Heritage Foundation: Project 2025's policy agenda includes sweeping limits on judicial review, from curbing injunctions to raising burdens of proof. Their model language frequently appears in congressional proposals.

1. Eliminating Judicial Review Entirely

The most extreme attack is a flat-out ban on judicial review of certain types of agency actions. This means that even if an agency ignores science or puts communities directly in harm's way with a dangerous permit, people have no legal avenue to challenge the decision. Eliminating judicial review entirely is nothing short of suspending the rule of law for certain agency actions, often to the benefit of polluting industries.

For example, early versions of the One Big Beautiful Bill Act (OBBB; H.R. 1, Arrington) included a "pay-to-play permitting" provision that eliminated judicial review for certain expedited approvals. Although the provision was removed from the final bill, it represents an ongoing threat.

2. Mandating Fast-Tracked Judicial Review

Some proposals dangerously force courts to push permitting cases to the very front of the line, putting them above civil rights, criminal cases, national security, civil liberties, or other urgent matters. These mandates ignore how overburdened the U.S. court system already is and the harms that would be exacerbated even further.

In practice, fast-tracked judicial review overwhelmingly benefits industry project developers while disadvantaging communities and public interest litigants. Permitting cases often involve administrative records spanning tens of thousands of pages with complex technical information. Imposing rigid, accelerated deadlines makes meaningful judicial review nearly impossible and turns what should be careful legal scrutiny into a box to be checked.

For example, the SPEED Act (H.R. 4776, Westerman), House Republicans' keystone permitting reform bill for energy projects, requires courts to expedite permitting cases and resolve them within 180 days of the agency record being filed, putting permitting disputes ahead of civil

rights, criminal cases, human trafficking, voting rights, and other matters. This all but guarantees that judges will not have sufficient time to examine massive administrative records or thoroughly review the evidence.

3. Restricting Court Jurisdiction and Venue

Another tactic is to limit which courts may hear certain challenges, or to funnel all cases into a single court (e.g., DC Circuit) that is perceived as more favorable to industry. These provisions deprive communities of access to local courts and reduce the number of judges who may review a case, making it far harder for communities to obtain meaningful oversight of unlawful agency actions. These venue restrictions can also slow down the resolution of cases and delay relief for communities, as judges unfamiliar with the local facts or impacts may face a steep learning curve.

For example, the Protect LNG Act (H.R. 3592, Hunt; S. 1901, Cruz) channels all challenges against liquefied natural gas (LNG) export approvals directly into the federal courts of appeals, eliminating district court review entirely. This venue restriction reduces the number of judges who can hear these cases and makes it far harder for affected communities to challenge unlawful approvals.

The Trump Administration's Attack on Judicial Review

While Congress has led the push to limit judicial review, the Trump administration has also taken executive action and held legal positions that undermine judicial review and make it harder for the public to challenge unlawful agency decisions in court.

- ***Placing major permitting decisions outside judicial review.*** Under the Trump administration, the Department of Justice (DOJ) has increasingly advanced the argument that presidential permit decisions are not subject to judicial review. At the same time, President Trump's "Unleashing American Energy" executive order and the subsequent rescission of NEPA regulations have led agencies to expand categorical exclusions and reduce public input opportunities. Together, these actions both narrow which decisions courts may review and erode the environmental record that judicial review depends on.

II. Limiting Who Can Sue Wrongdoers

Access to the courts is largely shaped by who is allowed to bring a case in the first place. Polluting industries and their political allies have increasingly advanced proposals that narrow the set of people and communities who can sue corporations that break the law or agencies that fail to enforce it. These attacks take different forms, but the goal is the same: make it harder for impacted people to come together and seek justice in the face of wrongdoing.

1. Limiting Standing to Sue

Some bills narrow who is allowed to bring a case by imposing new or heightened standing requirements, such as demanding unusually strict standards of "direct harm" or preventing nonprofit organizations from representing their own members. These proposals limit who can sue both government agencies and corporate wrongdoers, even when unlawful conduct is causing widespread harm.

These restrictions are especially damaging in environmental and public health cases, where harms are often shared across communities, making community organizations frequently the only practical vehicle for impacted individuals to seek relief.

For example, the REPAIR Act (S. 1355, Cassidy) sharply restricts who may bring a case by allowing only individuals who can show they will suffer a narrowly defined "direct and tangible harm," which is restricted to physical injury or uncompensated economic loss. This effectively eliminates organizational standing, preventing nonprofits, Tribes, or other groups from bringing legal challenges. The bill further requires that the alleged harm was not analyzed in the agency's original approval.

2. Forced Arbitration

Forced arbitration clauses, which prevent people from taking corporations to court when they are harmed, are buried in everything from consumer contracts to employment agreements. By agreeing to these take-it-or-leave-it terms, victims are denied the chance to appear before an impartial judge and are instead routed into a private system where the corporation selects (and often pays for) the arbitrator, proceedings are secretive, and outcomes are unsurprisingly tilted in favor of industry. As the New York Times reported in 2016, forced arbitration clauses have allowed corporations to "opt out of the legal system" and avoid accountability even when their actions cause serious harm.[1]

Past legislation shows how sweeping the consequences can be. In 2017, then-President Trump signed into law a measure overturning a Consumer Financial Protection Bureau (CFPB) rule that would have allowed customers to bring class action lawsuits against financial institutions that cheated them. Doing so meant that companies like Equifax and Wells Fargo could continue relying on forced arbitration clauses to block millions of affected customers from seeking justice for their large-scale misconduct.

Forced arbitration clauses also have serious consequences for communities near industrial facilities. Polluting industries increasingly use these types of provisions in land use agreements, pipeline easements, and employment contracts to prevent workers and communities from suing over toxic exposure or unsafe industrial conditions. Without reforms, forced arbitration will remain a powerful tool to shield polluters and other corporate wrongdoers from accountability.

So far, no bills in the 119th Congress directly mandate forced arbitration. However, prior legislative efforts illustrate the potential for harm. For example, the **Resilient Federal Forests Act (H.R. 2936, Westerman; 115th Congress)** would have diverted certain challenges to forest management plans away from federal courts and into an agency-run arbitration process, severely limiting access to federal judicial review.

In recent years, strong opposition from environmental and civil rights organizations, as well as growing public backlash against forced arbitration more broadly, has helped curb momentum for these types of proposals. However, because forced arbitration clauses remain deeply embedded in contracts, any renewed efforts warrant continued attention.

Forced Arbitration: Letting Corporations "Opt Out" of the Law

"[Forced arbitration] is among the most profound shifts in our legal history. Ominously, business has a good chance of opting out of the legal system altogether and misbehaving without reproach."

William G. Young, a federal judge appointed by President Ronald Reagan[2]

[2] https://www.nytimes.com/2015/11/01/business/dealbook/arbitration-everywhere-stacking-the-deck-of-justice.html

3. Restricting Class Action Lawsuits

Class actions are one of the most important tools available to people who have been harmed

[1] https://www.nytimes.com/2015/11/01/business/dealbook/arbitration-everywhere-stacking-the-deck-of-justice.html

by corporate misconduct. They allow individuals to band together and bring a case that would otherwise be impossible to pursue alone.

For communities facing environmental or public health harms, such as toxic spills or other unsafe chemical exposures, class actions are often the only realistic way to hold polluters accountable. Indeed, some of the most famous environmental justice cases in America were class actions. In the movie Erin Brockovich, residents of Hinkley, California, were able to come together to hold Pacific Gas & Electric accountable for contaminating the town's groundwater with cancer-causing chemicals.

In recent years, however, federal legislation has increasingly sought to limit who can join a class, increase procedural hurdles, or carve entire categories of harms out of the court system altogether. These bills do not always mention "class actions" explicitly, but they effectively shut down collective enforcement mechanisms nonetheless.

For example, the Power Plant Reliability Act (H.R. 3632, Griffith) would shield certain power plants from lawsuits, including class action lawsuits, whenever operating under a federal "reliability" directive. Eliminating the underlying right to sue is a common tactic for limiting class actions without explicitly naming them.

4. Restricting Citizen Suits

Statutes like the Clean Air Act, Clean Water Act, Endangered Species Act, and Safe Drinking Water Act contain citizen suit provisions that allow members of the public to sue polluters or agencies that fail to enforce the law. These provisions were deliberately written into environmental laws because Congress understood that government enforcement alone would not be sufficient to always protect public health and the environment.

Citizen suits have served as a powerful accountability tool, uncovering illegal dumping, forcing

The Trump Administration's Role in Limiting Who Can Sue

Over the past year, the Trump administration has taken action to narrow who can bring certain types of claims and which harms are legally recognized in court. These changes mirror congressional efforts to limit who can sue wrongdoers.

- ***Eliminating disparate impact as a basis for civil rights claims.*** In April 2025, President Trump issued an executive order on "Restoring Equality of Opportunity and Meritocracy," directing agencies to eliminate the longstanding use of disparate-impact liability in civil rights enforcement.[3] Disparate impact has long allowed communities to challenge policies that disproportionately harm protected groups even without evidence of intentional discrimination. Following the order, DOJ repealed its disparate impact regulations in December 2025.[4]
- ***Limiting standing to sue and restricting court jurisdiction.*** In multiple high-profile lawsuits, including challenges to the cancellation of major climate grants[5] and health grants,[6] DOJ has argued that plaintiffs lack standing or that federal courts lack jurisdiction to hear the claims, effectively blocking judicial review.

[3] https://www.whitehouse.gov/presidential-actions/2025/04/restoring-equality-of-opportunity-and-meritocracy/
[4] https://www.politico.com/news/2025/12/09/justice-department-discrimination-disparate-impact-00683362
[5] https://news.bloomberglaw.com/environment-and-energy/state-coalition-sues-trumps-epa-over-solar-for-all-grant-cuts
[6] https://www.jdsupra.com/legalnews/update-trump-administration-asks-2832929/

agencies to meet overdue safety standards, and compelling polluters to clean up toxic contamination. In many places, especially frontline communities, citizen suits are often the only check on chronic pollution and agency inaction.

Because they are so effective, citizen suits have become a prime target for industries seeking to avoid accountability. Recent legislative proposals attempt to weaken or eliminate these provisions by capping attorneys' fees, removing liability for entire categories of violations, or repealing citizen suit authority outright.

For example, the Fair Air Enforcement Act (S. 3049, Lee) would dangerously repeal the Clean Air Act's citizen suit provision altogether, leaving communities powerless to challenge illegal air emissions or protect themselves when state and federal regulators fall short.

III. Making It Too Expensive to Sue and Harder to Win

Even when people technically have the right to go to court, the cost of litigation or other procedural hurdles can be enough to keep them out entirely. A growing number of legislative proposals exploit these barriers by making lawsuits prohibitively expensive, procedurally complicated, or unlikely to succeed. These provisions do not ban lawsuits outright, but they do make it far less likely that anyone will ever bring one, even with a legitimate claim. These barriers are especially harmful to frontline communities and small grassroots organizations, where resources are already stretched thin.

1. Shortening Statutes of Limitations

Under many environmental laws, the public generally has six years to challenge an unlawful federal permit or approval. These proposals dramatically shorten that window to as little as 60 days, making it extremely difficult for impacted communities to mobilize, secure counsel, and review complex agency records in time. These short deadlines function as a quiet but powerful way to effectively block judicial review.

For example, the **PERMIT Act (H.R. 3898, Collins)** dramatically shortens the window for challenging certain Clean Water Act Section 404 permits to just 60 days, or about two months, after the agency's decision. Many communities will not be aware that an agency decision has been made in that timeframe, much less be able to organize resources and secure counsel.

2. Imposing Onerous Procedural Hurdles Before Suing

These proposals create new procedural barriers that require communities or individuals to meet highly technical criteria, such as specific public comment requirements, before they are permitted to challenge an agency action. Even for those that do fulfill the comment requirements, their comments can become a legal trap: if commenters do not use exact phrasing or anticipate every issue, they may be barred from raising those concerns in court.

For example, the Judicial Review Timeline Clarity Act (H.R. 3905, Burlison) allows lawsuits only from parties who submitted public comments deemed "sufficiently detailed" to put the agency on notice of the exact issue later raised in court. In other words, communities must have anticipated and precisely articulated every legal flaw during the comment period, long before they even have access to the full administrative record or analysis.

3. Requiring Plaintiffs to Post Large Bonds

Some proposals require plaintiffs to post substantial financial bonds, often before a court can even issue an injunction. Bond requirements are particularly harmful in cases involving environmental or public health harms, where delaying injunctive relief can result in irreversible damage. These types of proposals

effectively transform injunctive relief from a legal right into a pay-to-play mechanism.

For example, early versions of the OBBB Act (H.R. 1, Arrington) required plaintiffs seeking injunctions against the federal government to post substantial financial bonds. As written, these bonds could potentially reach into the millions or billions of dollars, effectively making timely court relief out of reach for most communities. Although the provision was removed from the final bill, it represents an ongoing threat.

4. Punishing Plaintiffs Through Fee-Shifting and Sanctions

Some proposals dramatically increase the financial risks of litigation by requiring challengers who lose a case to pay not only their own legal fees, but also those of the government or industry defendants. Others create sanctions regimes that make litigation so risky that even strong claims are deterred.

In environmental cases, communities often need to seek relief quickly in order to stop urgent harm (e.g., toxic pollution or excavation of a sensitive area). Because the court must make decisions on an accelerated schedule, the litigation risk is especially high. Adding fee-shifting and sanctions on top of that risk can make bringing a legal challenge simply untenable.

For example, the Lawsuit Abuse Reduction Act (H.R. 5258, Collins) would make sanctions mandatory rather than discretionary whenever a court concludes that a filing was flawed. The bill would also eliminate the 21-day "safe harbor" period that currently allows people to correct or withdraw a filing, which would make litigation dramatically riskier and deter even meritorious claims.

5. Eliminating or Capping Attorneys' Fees for Prevailing Plaintiffs

Other bills aim to eliminate or cap the ability of prevailing plaintiffs to recover attorneys' fees even when they prove that the government or a corporation has violated the law. Environmental and civil rights cases are often complex and can take years to resolve. Without the ability to recover reasonable attorneys' fees, very few community groups or public-interest lawyers could afford to take on these cases at all. In effect, enforcement of major federal laws becomes practically impossible.

For example, the Endangered Species Transparency and Reasonableness Act (H.R. 180, McClintock) places strict limits on attorneys' fees in Endangered Species Act (ESA) cases, even when plaintiffs prevail. By capping compensation well below market rates, the bill would largely prevent ESA litigation.

6. Raising the Standard of Proof

Some proposals make it significantly harder for communities to win a case even when an agency has clearly violated the law. These bills require challengers to meet unusually high evidentiary burdens before a project can be paused or overturned. By raising the standard of proof, these provisions allow unlawful agency actions to stand simply because the court is barred from applying the normal safeguards under the Administrative Procedure Act (APA).

For example, early versions of the OBBB (H.R. 1, Arrington) required courts to uphold agency decisions unless a challenger could prove that the agency "abused its substantial discretion," a far higher standard than usual. Although the provision was removed from the final bill, it represents an ongoing threat.

Emerging Threat: Renewed Attacks on EAJA

The Equal Access to Justice Act (EAJA) ensures that ordinary people, small nonprofits, Tribes, and community groups can challenge unlawful government actions by allowing the recovery of attorney's fees when they win. In doing so, EAJA helps level the playing field by preventing agencies from simply outspending the public to avoid accountability.

At a December 2025 hearing, however, House Republicans signaled new interest in attacking EAJA with previous proposals, like the ***Government Litigation Savings Act (H.R. 1996, 112th Congress)***, which would sharply limit who qualifies for fee awards.

Rolling back EAJA would drastically limit the ability of community groups, disability claimants, veterans, and environmental plaintiffs to hold federal agencies accountable, undermining one of the most important fee-shifting protections in federal law.

IV. Limiting Judicial Discretion

Even when a case survives procedural hurdles and makes it into court, many recent proposals restrict what judges are allowed to do in response. These bills do not block access to the courts outright; they simply aim to make it meaningless once you get there.

Limiting judicial discretion is a longstanding priority of polluting industries and their political allies. By limiting whether and how courts can issue injunctions, vacate unlawful permits, or require agencies to correct violations, these proposals allow harmful projects to move forward even when the government or industry has clearly broken the law.

1. Forcing Judges to Issue Sanctions

Several proposals would require courts to impose sanctions when plaintiffs do not prevail in a case. These efforts echo the 1983 amendments to Rule 11 of the Federal Rules of Civil Procedure, which required judges to impose sanctions whenever a filing was deemed improper, effectively eliminating judicial discretion.

The 1983 version of Rule 11 was widely viewed as disastrous. Mandatory sanctions were used aggressively by corporate and government defendants to intimidate public interest plaintiffs. Even reasonable claims became risky, and sanctions appeals exploded in number. Federal

The Trump Administration's Role in Making Litigation Too Costly

The Trump administration has taken action to increase the financial requirements associated with suing the government, making it significantly more expensive and riskier for communities to seek emergency relief against unlawful government action.

- ***Requiring large security bonds for injunctions.*** In March 2025, President Trump issued an executive order on "Ensuring the Enforcement of Federal Rule of Civil Procedure 65(c)," which directed DOJ to request substantial security bonds whenever a court issues a preliminary injunction or temporary restraining order against federal action.[7] Historically, courts set low or nominal bonds in public-interest cases, recognizing that communities should not have to pay large sums to temporarily halt unlawful government conduct.

[7] https://www.whitehouse.gov/presidential-actions/2025/03/ensuring-the-enforcement-of-federal-rule-of-civil- procedure-65c/

judges ultimately urged a congressional fix, and judicial discretion was later restored in 1993. However, present-day proposals threaten to revive this failed approach.

For example, the Lawsuit Abuse Reduction Act (H.R. 5258, Collins) would revive the failed 1983 version of Rule 11 by requiring federal judges to impose monetary sanctions whenever a filing is deemed improper, eliminating judicial discretion to distinguish between good-faith errors and abusive litigation tactics.

A Bad Idea, Revisited

"Indeed, there is a remarkable degree of agreement among judges, lawyers, legal scholars and litigants across the political spectrum that the 1983 amendment of Rule 11 was one of the most ill-advised procedural experiments ever tried."

Prepared Statement of Lonny Hoffman, March 11, 2011

2. Limiting Meaningful Remedies

Once a court determines that a government action is unlawful, it has two essential tools for preventing harm: (1) injunctions, which pause dangerous projects while a case is pending, and (2) vacatur, which invalidates an illegal permit after a court finds a violation. Without these tools, communities can prevail on the merits yet still suffer the very harms the law was designed to prevent.

A growing number of proposals seek to eliminate or sharply narrow these remedies. Some bills prohibit courts from vacating unlawful approvals, while others bar or constrain preliminary injunctions. These restrictions effectively allow illegal conduct to continue until a final judgment is reached, which can take months or years.

For example, the Protecting American LNG Act (H.R. 3592, Hunt; S. 1901, Cruz) sharply restricts

The Trump Administration's Role in Limiting Judicial Discretion

Over the past year, the Trump administration has pushed legal arguments that constrain the courts' ability to practice judicial discretion and provide effective remedies.

- ***Challenging universal injunction authority.*** In *Trump v. CASA, Inc.*, the Supreme Court held that federal courts likely lack authority to issue universal (e.g., nationwide) injunctions.[8] By limiting universal injunctions, this decision severely undermines a remedy long used by advocates across immigration, civil rights, environmental, and administrative cases to block harmful policies nationwide.
- ***Challenging universal vacatur authority.*** Under longstanding practice, when a court finds that an agency rule is unlawful, it may issue a universal vacatur, a remedy that sets aside the rule so it no longer applies to anyone. DOJ has argued that courts lack this authority, asserting that universal vacatur was not an available remedy when the APA was enacted, and therefore should not be allowed in practice.[9]
- ***Limiting court remedies and settlements.*** DOJ has taken steps to restrict the relief communities can obtain when federal agencies break the law. This includes terminating existing environmental justice settlements and adopting policies that are designed to make it more difficult for the government to enter into consent decrees or settlement terms that meaningfully address the harm to a community.

[8] https://apnews.com/article/supreme-court-trump-birthright-citizenship-immigration-9da9e11d83f2fd3cbf95e6a733651daf

[9] https://www.congress.gov/crs-product/LSB11357

courts' ability to pause LNG export authorizations. The bill prohibits courts from vacating approvals and allows only narrow injunctions that cannot stop construction or operation while litigation is pending.

V. Blocking Meaningful Case Settlements

Even when communities win in court, meaningful change often depends on what happens next. Federal agencies rely on settlements and consent decrees to correct violations, set enforceable timelines, improve monitoring, and ensure that impacted communities receive mitigation or relief. These agreements are especially important in environmental cases, where unlawful practices can cause ongoing damage if agencies do not act promptly and comprehensively.

However, some proposals would restrict agencies' ability to enter into these settlement agreements or limit the tools they have available to resolve cases.

1. Banning or Severely Restricting Consent Decrees

Consent decrees are one of the most important mechanisms for bringing agencies back into compliance when a court finds that they have broken the law. These agreements allow the parties to negotiate timelines, adopt corrective measures, and prevent ongoing harm—often more quickly and effectively than through continued litigation. Proposals that limit consent decrees undermine agencies' ability to ensure proper remedies.

For example, the No Regulation Through Litigation Act (H.R. 849, Cloud) prohibits federal agencies from entering into consent decrees that impose obligations beyond what a court could order on its own. This restriction would strip agencies of the flexibility they often rely on to fully remedy a violation. Doing so would

The Trump Administration's Attack on Meaningful Case Settlements

Over the past year, the Trump administration has taken action to undermine fair, effective settlement agreements. These moves weaken communities' ability to rely on negotiated remedies when agencies violate the law.

- Terminating environmental justice settlement agreements. DOJ withdrew from landmark federal environmental justice agreements with Houston, Texas,[10] and Lowndes County, Alabama,[11] two predominantly Black communities that had secured negotiated commitments from the federal government to address chronic pollution and long-standing sewage failures. The agreements established obligations, timelines, and federal oversight to remedy the ongoing harm. Terminating these agreements strips these communities of much-needed, enforceable relief signals more broadly that the administration is not willing to honor certain settlement agreements.
- Dismantling DOJ's environmental justice enforcement framework. In early 2025, Attorney General Pam Bondi ordered DOJ to eliminate certain environmental justice offices, programs, and policies.[12] By dismantling the institutional structure that supports environmental enforcement and oversight, the administration has made it far less likely that DOJ will negotiate or enforce settlement agreements that deliver relief to overburdened communities.

[10] https://apnews.com/article/houston-environmental-justice-trump-c047c05bfa81aed65ebb12538944b44
[11] https://www.theguardian.com/us-news/2025/apr/24/trump-sewage-pollution-settlement-alabama
[12] https://www.eenews.net/articles/bondi-orders-doj-to-terminate-environmental-justice-programs/

discourage settlement, pushing more disputes into costly, prolonged litigation that delays relief for communities.

2. Barring Third-Party Settlement Payments

In many cases, including those involving environmental violations, direct financial restitution alone cannot repair the harm caused by unlawful conduct. For decades, agencies have addressed this issue by including "third-party" mitigation projects in settlements, which direct violators to fund community projects, environmental restoration, public health initiatives, or other activities to meaningfully address the harm. Proposals banning these third-party provisions would dramatically limit the ability of settlements to deliver tailored, meaningful relief to communities.

For example, early versions of OBBB (H.R. 1, Arrington) included a provision prohibiting federal settlement agreements from directing any payments or benefits to non-federal third parties, such as nonprofits, schools, and community groups. This provision mirrors earlier efforts, namely the **Stop Settlement Slush Funds Act (H.R. 788, Gooden)** in the 118th Congress. Although the provision was removed from the final bill, it poses an ongoing threat.

Conclusion

Access to the courts is a cornerstone of American democracy. It allows ordinary people to stand up to large government agencies and powerful corporations when they infringe on our rights or violate the law. Yet, only one year into the second Trump administration, it is clear that this fundamental founding principle is under extraordinary strain.

Across dozens of bills and executive actions, we are witnessing a coordinated effort to limit who can enter the courthouse doors, limit the remedies judges can provide, and undermine the settlement tools needed to correct violations. Each proposal targets a different point in the legal process, but a shared goal remains: make it harder for individuals and communities to seek justice against agency or industry wrongdoing.

If these efforts succeed, the consequences will be profound. Unlawful permits will go unchallenged, discriminatory policies will hurt residents, and communities damaged by pollution or unsafe practices will struggle to find relief. Our courts will simply no longer be the safeguard against abuse and overreach they were intended to be.

But this outcome is not inevitable. Protecting access to justice requires sustained vigilance and collective action, but fortunately, there are already many public interest organizations, civil rights advocates, environmental justice communities, and others working to defend the public's right to be heard in court.

Everyone has a role to play in protecting our collective access to justice. By staying informed and speaking out against proposals that weaken judicial oversight, individuals across the country can do their part in keeping our courts open and accessible to all. For more information on this important issue and how to take action, please visit earthjusticeaction.org/accesstojustice.

APPENDIX: Current Legislative Threats

As of **January 20, 2026**, Members of Congress have already passed or introduced 45 bills in the 119th Congress that would severely restrict or weaken the public's ability to seek justice in the courts. Each bill listed below contains provisions that fall into one or more of the five categories of threats described in this report. The bills are listed numerically, with Senate-only bills listed at the end of the table.

	Bill No.	Bill Name	Sponsor	Threat Category	Sector	Description
1	H.R. 1	Early versions of the One Big Beautiful Bill Act	Arrington (R-TX)	**I.** Eliminate Judicial Review **II.** Limit Who Can Sue **III.** Harder to Sue/ Win **IV.** Limit Judicial Discretion **V.** Block Case Settlements	Environment Health Civil Rights Immigration	Earlier versions of H.R. 1 included provisions that would have sharply restricted access to the courts by shortening statutes of limitation, narrowing standing, and raising barriers to successful legal challenges of unlawful agency actions. Earlier versions also limited courts' ability to issue or enforce injunctive relief by imposing onerous bond requirements and increased the financial risks of litigation. They also would have barred third-party settlement provisions and supplemental environmental projects.
2	H.R. 21	Born-Alive Abortion Survivors Protection Act	Wagner (R-MO)	**III.** Harder to Sue/ Win	Health	Creates new civil liability provisions while imposing mandatory fee-shifting against plaintiffs if a court deems a claim "frivolous."
3	H.R. 97	Injunctive Authority Clarification Act	Biggs (R-AZ)	**IV.** Limit Judicial Discretion	Civil Rights	Prohibits federal courts from issuing injunctions that protect nonparties unless the case is certified as a class action.
4	H.R. 106	LIST Act	Biggs (R-AZ)	**I.** Eliminate Judicial Review **II.** Limit Who Can Sue	Environment	Limits judicial review of decisions to remove species from the endangered or threatened lists and imposes penalties that deter participation in the ESA petition process.
5	H.R. 116	Stopping Border Surges Act	Biggs (R-AZ)	**I.** Eliminate Judicial Review **II.** Limit Who Can Sue **III.** Harder to Sue/ Win **IV.** Limit Judicial Discretion **V.** Block Case Settlements	Immigration	Fundamentally restructures the asylum system by limiting access to courts, restricting or eliminating judicial review, raising procedural and evidentiary barriers, and overriding existing consent decrees.
6	H.R. 130	Trust the Science Act	Boebert (R-CO)	**I.** Eliminate Judicial Review	Environment	Requires the reissuance of a rule removing gray wolves from Endangered Species Act protections and explicitly bars judicial review of that action.
7	H.R. 180	Endangered Species Transparency & Reasonableness Act	McClintock (R-CA)	**III.** Harder to Sue/ Win	Environment	Makes it harder to enforce the Endangered Species Act by capping attorneys' fees in citizen suits, discouraging public-interest litigation and reducing access to legal representation.

	Bill No.	Bill Name	Sponsor	Threat Category	Sector	Description
8	H.R. 278	Broadband Leadership Act	Griffith (R-VA)	**I.** Eliminate Judicial Review **III.** Harder to Sue/ Win	Consumer	Limits judicial review of telecommunications siting decisions by imposing an extremely short statute of limitations and mandating expedited court review.
9	H.R. 281/ S.316	Grizzly Bear State	Hageman (R-WY) / Lummis (R-WY)	**I.** Eliminate Judicial Review	Environment	Exempts a federal rule removing Endangered Species Act protections for grizzly bears from judicial review entirely.
10	H.R. 281/ S.316	Fix Our Forests Act	Westerman (R-AR) / Curtis (R-UT)	**III.** Harder to Sue/ Win **IV.** Limit Judicial Discretion	Environment	Curtails access to judicial review for certain Forest Service and BLM actions by drastically shortening the time to file suit, constraining courts' ability to issue injunctions, and limiting when courts may vacate unlawful agency actions.
11	H.R. 503/ S. 122	Qualified Immunity Act	Foxx (R-NC) / Banks (R-IN)	**II.** Limit Who Can Sue	Civil Rights	Codifies qualified immunity for law enforcement officers, significantly limiting the ability of individuals to seek redress when their constitutional rights are violated.
12	H.R. 677	Expedited Appeals Review Act	Hageman (R-WY)	**I.** Eliminate Judicial Review **IV.** Limit Judicial Discretion	Civil Rights	Restructures administrative appeals by imposing rigid deadlines on Interior appeals and triggering de novo judicial review if those deadlines are missed.
13	H.R. 845/ S.1306	Pet & Livestock Protection Act	Boebert (R-CO) / Johnson (R-WY)	**I.** Eliminate Judicial Review	Environment	Requires the reissuance of a rule removing gray wolves from Endangered Species Act protections while expressly barring judicial review of that action.
14	H.R. 849	No Regulation Through Litigation Act	Cloud (R-TX)	**V.** Block Case Settlements	Civil Rights	Restricts federal agencies' ability to resolve litigation by sharply limiting the use of settlement agreements and consent decrees. It prohibits agencies from entering into consent decrees that go beyond a court's authority and bars settlements from including attorney's fees or litigation costs when they result in regulations or guidance.
15	H.R. 978	Superior National Forest Restoration Act	Stauber (R-MN)	**I.** Eliminate Judicial Review	Environment	Exempts mineral leases, permits, and related approvals in the Superior National Forest from judicial review entirely.
16	H.R. 1526	No Rogue Rulings Act	Issa (R-CA)	**IV.** Limit Judicial Discretion	Civil Rights	Sharply limits federal courts' ability to issue injunctive relief by prohibiting district courts from protecting anyone other than the named parties to a case, except in narrow circumstances.
17	H.R. 1605/ S.33	Stopping Overreach of Presidential Authority Act	Fitzgerald (R-WI) / Schmitt (R-MO)	**IV.** Limit Judicial Discretion	Civil Rights	Fundamentally alters judicial review by mandating de novo review of agency legal interpretations and limiting Congress's ability to tailor standards of review.

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18	H.R. 1879	ESA Amend-ments Act	Westerman (R-AR)	**I.** Eliminate Judicial Review	Environment	Eliminates judicial review for key Endangered Species Act decisions, including the removal of species from the endangered or threatened lists, and weakens oversight of permits that allow harm to protected species.
19	H.R. 1915	Stop the Cartels Act	Davidson (R-OH)	**I.** Eliminate Judicial Review	Immigration	Grants the Department of Homeland Security sole discretion over detention conditions for non-citizen children and bars judicial oversight of those decisions.
20	H.R. 2783	Infra-structure Project Accelera-tion Act	Langworthy (R-NY)	**I.** Eliminate Judicial Review	Environment	Exempts certain "priority manufacturing projects" from key environmental laws and eliminates judicial review of those exemptions, while confining any remaining legal challenges to a single federal court.
21	H.R. 3231	American Energy Act	Boebert (R-CO)	**IV.** Limit Judicial Discretion	Environment	Limits courts' ability to halt unlawful oil and gas leasing by restricting injunctive relief and requiring federal agencies to continue processing drilling applications even while litigation is pending.
22	H.R. 3525/ S.1708	Regulatory Account-ability Act	Van Duyne (R-TX) / Lankford (R-OK)	**IV.** Limit Judicial Discretion	Civil Rights	Fundamentally reshapes judicial review of agency actions by requiring courts to review agency interpretations of law de novo rather than deferentially and by imposing rigid procedural and analytical requirements on rulemaking.
23	H.R. 3592/ S.1901	Protect LNG Act	Hunt (R-TX) / Cruz (R-TX)	**I.** Eliminate Judicial Review **III.** Harder to Sue/ Win **IV.** Limit Judicial Discretion	Environment	Severely restricts judicial review of LNG facility approvals by imposing an extremely short statute of limitations, mandating expedited court timelines, restricting jurisdiction, and prohibiting courts from
24	H.R. 3632	No Power Plant Reliability Act	Griffith (R-VA)	**II.** Limit Who Can Sue	Environment	Shields certain power plant operators from civil liability and citizen suits for actions taken to comply with federal reliability orders, even when those actions violate environmental laws.
25	H.R. 3843	Baseload Reliability Protection Act	Fedorchak (R-ND)	**I.** Eliminate Judicial Review **III.** Harder to Sue/ Win	Environment	Restricts judicial review of federal decisions affecting electric generating facilities by sharply shortening the statute of limitations and confining challenges to select appellate courts.
26	H.R. 3898	PERMIT Act	Collins (R-GA)	**I.** Eliminate Judicial Review **II.** Limit Who Can Sue **III.** Harder to Sue/ Win **IV.** Limit Judicial Discretion	Environment	Restricts access to the courts by sharply shortening the statute of limitations, narrowing standing to only those who filed highly specific public comments, and mandating expedited judicial review. It also prevents courts from vacating unlawful permits except in extreme circumstances.
27	H.R. 3902	Restoring Federalism in Clean Water Permitting Act	Patronis (R-FL)	**I.** Eliminate Judicial Review **II.** Limit Who Can Sue **III.** Harder to Sue/ Win **IV.** Limit Judicial Discretion	Environment	Restricts access to judicial review of Clean Water Act permitting decisions by sharply shortening the statute of limitations, narrowing standing to sue, and mandating expedited court timelines.

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28	H.R. 3905	Judicial Review Timeline Clarity Act	Burlison (R-MO)	**I.** Eliminate Judicial Review **II.** Limit Who Can Sue **III.** Harder to Sue/ Win **IV.** Limit Judicial Discretion	Environment	Limits access to the courts by imposing a 60-day statute of limitations, restricting standing to parties who filed highly specific public comments, and mandating accelerated judicial review. It also prevents courts from vacating or enjoining unlawful permits except in extreme circumstances.
29	H.R. 4776	SPEED Act	Westerman (R-AR)	**I.** Eliminate Judicial Review **II.** Limit Who Can Sue **III.** Harder to Sue/ Win **IV.** Limit Judicial Discretion	Environment	Sharply restricts judicial review of major federal permitting decisions by shortening the statute of limitations, narrowing standing to sue, mandating expedited court timelines, and raising procedural hurdles for challengers. It also limits courts' ability to issue injunctive relief or fully remedy unlawful agency actions.
30	H.R. 5147	WIRELESS Leadership Act	Latta (R-OH)	**I.** Eliminate Judicial Review **III.** Harder to Sue/ Win	Environment	Curtails access to the courts for challenges to wireless facility siting by requiring expedited judicial review and imposing a 30-day statute of limitations.
31	H.R. 5258	Lawsuit Abuse Reduction Act	Collins (R-GA)	**IV.** Limit Judicial Discretion	Civil Rights	Makes sanctions mandatory whenever a court finds a filing improper by replacing judicial discretion with a requirement that courts impose monetary penalties, including attorneys' fees.
32	H.R. 5927	Securing Reliable Power for Advanced Technologies Act	Barr (R-KY)	**I.** Eliminate Judicial Review **III.** Harder to Sue/ Win **IV.** Limit Judicial Discretion	Environment	Restricts judicial review of designated energy and infrastructure projects by imposing tight filing deadlines, limiting venue, mandating expedited review, and sharply constraining courts' ability to issue injunctions or vacate unlawful approvals. It raises the evidentiary bar courts must meet before granting relief.
33	H.R. 6622	To impose certain limitations on consent decrees and settlement agreements...	Cline (R-VA)	**V.** Block Case Settlements	Civil Rights	This bill restrict federal agencies' ability to enter into consent decrees or settlement agreements that require future regulatory action.
34	H.R. 7015	Protecting Third Party Litigation Funding from Abuse Act	Issa (R-CA)	**III.** Harder to Sue/ Win	Civil Rights	Imposes new procedural burdens and mandatory disclosures on civil litigants, including public interest plaintiffs.
35	H.R. 7328	Protecting Small Businesses from Predatory Website Lawsuits Act	Graves (R-MO)	**III.** Harder to Sue/ Win	Civil Rights	Creates mandatory pre-litigation administrative barriers and extended delay periods for individuals filing certain suits under the Americans with Disabilities Act.

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36	S. 386	Critical Water Resources Prioritization Act	Lummis (R-WY)	**I.** Eliminate Judicial Review **III.** Harder to Sue/ Win	Environment	Exempts a broad range of activities from Endangered Species Act consultation and restricts judicial review to a narrow "arbitrary and capricious" standard.
37	S. 1017	Safe & Secure Transportation of American Energy Act	Sheehy (R-MT)	**III.** Harder to Sue/ Winn	Environment	Broadens federal criminal penalties for conduct related to pipeline infrastructure, increasing legal risk and potential liability for individuals engaged in protest or opposition.
38	S. 1206	Judicial Relief Clarification Act	Grassley (R-IA)	**IV.** Limit Judicial Discretion	Civil Rights	Prohibits federal courts from issuing nationwide injunctions, regardless of the scope of unlawful conduct.
39	S. 1355	REPAIR Act	Cassidy (R-LA)	**II.** Limit Who Can Sue **III.** Harder to Sue/ Win **IV.** Limit Judicial Discretion	Environment	Dramatically restricts judicial review across numerous federal environmental laws by shortening statutes of limitation, narrowing standing to only those alleging direct and unaddressed harm, and barring courts from vacating approvals except in extreme cases.
40	S. 1485	North American Energy Act	Hoeven (R-ND)	**I.** Eliminate Judicial Review **III.** Harder to Sue/ Win	Environment	Curtails judicial review of cross-border energy infrastructure by eliminating key permitting requirements, sharply shortening the time to file suit, and restricting venue to select federal appellate courts.
41	S. 2226	Necessary Environmental Exemptions for Defense Act	Cotton (R-AR)	**I.** Eliminate Judicial Review	Environment	Exempts a broad range of Department of Defense activities from foundational environmental laws and places those actions entirely beyond judicial review.
42	S. 2928	H-1B & L-1 Visa Reform Act	Grassley (R-IA)	**I.** Eliminate Judicial Review	Immigration	Exempts certain determinations by federal agencies related to employment-based visas from judicial review.
43	S. 2975	Pipeline Safety Act	Cruz (R-TX)	**III.** Harder to Sue/ Win	Environment	Restricts judicial review of pipeline-related enforcement and safety determinations by narrowing the grounds and timing for legal challenges.
44	S. 3049	Fair Air Enforcement Act	Lee (R-UT)	**II.** Limit Who Can Sue	Environment	Repeals the Clean Air Act's citizen suit provision, eliminating a key mechanism that allows communities to enforce the law.
45	S. 3366	Back the Blue Act	Bacon (R-NE)	**III.** Harder to Sue/ Win **IV.** Limit Judicial Discretion	Civil Rights	Restricts access to meaningful relief in civil actions against law enforcement by limiting injunctive relief, capping damages, restricting attorneys' fee recovery, and eliminating judicial discretion to grant equitable relief in certain cases.