576

Eastman stuff:

Friday pleadings including some that were insane

<https://openargs.com/wp-content/uploads/185eastmanreply.pdf>

Court stepped in that Friday and said we’re not continuing, you’re not getting “exculpatory” evidence

<https://openargs.com/wp-content/uploads/185eastmanreply.pdf>

Live-tweet thread

<https://twitter.com/openargs/status/1501249025105821699>

Ruling: -- based on third party and no anticipation of litigation, court will review in camera – reserve right to hold not privileged on other grounds.

<https://s3.documentcloud.org/documents/21402817/eastman-v-thompson-ruling.pdf>

1/6 brief

<https://storage.courtlistener.com/recap/gov.uscourts.cacd.841840/gov.uscourts.cacd.841840.160.0.pdf>

There are a lot of legal arguments – and a lot of legal arguments with consequences and we’re going to talk about NONE of them

1. P. 20: we don’t know that you have attorney-client privilege. You haven’t shown us a signed engagement letter. Weirdly – no affidavit from Trump that you represented him.
2. P. 22: you’ve disclosed your stuff to third parties. This isn’t an attorney-client relationship. They don’t have a *legal* interest, just a political/strategic one.
3. P. 25: You used your college server and email address and Eastman’s College is one of a minority that has an absolute no-privacy clause

That policy is clear: “Users should not expect privacy in the contents of University-owned computers or e-mail messages.” Policies and Procedures: Computer and Network Acceptable Use Policy, Chapman University, https://perma.cc/7ZUA-ZALN (last visited Mar. 2, 2022) (emphasis added). The policy also expressly bans personal use on its network and computing systems. Id. (all university computing and network systems and services are a “University-owned resource and business tool to be used only by authorized persons for educational purposes or to carry out the legitimate business of the University”). And through its policy, Chapman reserves “the right to retrieve the contents of University-owned computers and e-mail messages for legitimate reasons.”

1. P. 29: Your client, Trump, multiply waived the privilege including to Bob Woodward and Lessig
2. P. 31: Not work product because they were not prepared in anticipation of litigation – privilege log shows one document (redacted) over which Eastman claims privilege despite the fact that he sent copies to a journalist “who could well have published the exchange.” (Would love to know who that is.)
3. P. 34: Fairness – you’re the only source

Interview with Lessig

-set out theory: after the Bob Woodward book came out and the 1/4 memo came out, Eastman released the second (6-page) memo and then did a media blitz, which included your podcast, to do damage control.

Memo 1 (2 pages)

<https://s3.documentcloud.org/documents/21066248/eastman-memo.pdf>

-says the Electoral Count Act, 3 U.S.C. § 15, is “likely unconstitutional”

<https://www.law.cornell.edu/uscode/text/3/15>

-then says “so here’s what we propose”: then sets out a six-step process for Pence to declare 7 states of electors invalid, throw them out, and just count up Trump as the winner 232-222 among the “valid” votes. Concludes with paragraph 6: “The main thing here is that Pence should do this without asking for permission – either from a vote of the joint session or from the Court. Let the other side challenge his actions in court … We should take all of our actions with that in mind.”

So that looked like seditious conspiracy, and in damage control, Eastman released a longer, six-page memo which he said provided the full context

<http://cdn.cnn.com/cnn/2021/images/09/21/privileged.and.confidential.--.jan.3.memo.on.jan.6.scenario.pdf>

-that memo begins with a longer recitation of bullshit about supposed election fraud, including the outright false claim that 7 states submitted alternate slates of electors. They did not. Insurrectionists met in the parking lot and faked certificates; we’ve talked about that on the show.

-then it repeats the ‘ECA is unconstitutional” argument

-then in place of the “so here’s what we propose,” it has three pages entitled “War Gaming the Alternatives”

-includes the “just declare ‘em”

-also includes “send it to the house”

-and “well, maybe we just delay for a while and see what the states do, and maybe they’ll throw out the electors if they find enough evidence of fraud”

CRUCIAL LIE: Eastman went on our buddy Lawrence Lessig’s “Another Way” podcast on Sep. 27, 2021 (and a bunch of other shows and said, publicly, that the memo needed context. “I’m just the lawyer, and I wanted to run through all the other possibilities, no matter how remote, and – and this is the crucial part – when he talked to Pence, he said ‘obviously you shouldn’t do this one.’”

Everywhere (including to you) he said the same thing: Hey, it’s my job as a lawyer to walk through everything, no matter how remote, and the memo even says “wargaming” – it has 9 scenarios in it! What you didn’t see, what you couldn’t know, was that I told my client “hey, the Pence deciding electoral votes invalid on his own, that was a super terrible argument, and – **his words** – “it would be foolish to pursue it.”

On your show, he says that at the 1:15:20 – for 40 seconds – this is the lie.

On that basis, I thought there’s no chance we were ever going to hold Trump accountable for 1/6; Eastman, would say that he thought it was a good but remote argument, he tried to talk Trump out of it, but Trump sincerely believed it, and that would save Trump from being indicted because a prosecutor would look at it and say, “yeah, I can’t prove intent, I can’t prove that Trump ‘corruptly’ interfered with an official proceeding – that’s what you need for 18 USC 1512(c), or that he used dishonest means – that’s what you need for the 18 USC 371 conspiracy,” and you know, Trump would just get away with it.

That changed last week when I emailed you and we learned that Pence’s former chief counsel Greg Jacob is cooperating with the 1/6 Committee, and he tells a very different story, and he has the documents to back it up, so I want us to evaluate what we know, what we don’t know, what we would need to find out in order to be confident that we can hold Trump accountable.

THRESHOLD QUESTIONS

1. Waiver – 4:57 on your show – Eastman says “I’ve done this show in consultation with the former President of the United States as my client.” - this was clear? Were there any restrictions beforehand?

<https://openargs.com/wp-content/uploads/185eastmanreply.pdf>

In his reply brief in support of exculpatory evidence (?), Eastman says:

The first—the “talk about these things” statement made during a podcast with Harvard Law Professor Lawrence Lessig—quite explicitly referenced the constitutional authority of the Vice President under Article II and the 12th Amendment that was discussed in the scenarios memos, not election litigation or electoral college disputes more broadly.

1. Are you a material witness? – is there anything else he said to you that didn’t make it on the show?

GOING BACK TO THE MERITS – WE THEN LEARNED 2 things from Greg Jacob

1. Eastman was pushing the “just declare the electoral votes invalid – just throw them out” HARD, up until 1/5 – and it’s only when he realized that he wasn’t going to persuade Jacob or Pence on “throw them out” that he engaged in what Jacob calls “the pivot” to “well, okay, just delay for 10 days.”
2. Jacob spent a day in “socratic dialogue” with Eastman, getting him to admit that his arguments lacked serious legal merit, and you can see that in Eastman’s post-insurrection emails – what we call the smoking gun, which is Exhibit N, “hey, now that we’ve all broken the law, let’s break it a little bit more.”

EASTMAN QUESTIONS

-set out scenario: Eastman lied to you, lied to all of us

1. Did you think he might be lying to you at the time?
2. How do you evaluate the argument we have now in terms of holding Trump accountable for 1/6?
3. What else do we need?
4. How do you respond to Eastman throwing you under the bus? – this is the same as Lessig trying to get faithless electors

p.20:

[E]ven if Mr. Jacob’s characterizations are assumed arguendo, they do not create a criminal issue when the advice was grounded on a good faith interpretation of the Constitution. (In contrast, the effort undertaken by Harvard Law Professors Tribe and Lessig in 2016 to encourage Trump electors to not vote for Trump was more problematic, to the extent the effort encouraged conduct that would have been contrary to state laws against faithless electors that exist in 33 states—one of which was upheld by the Supreme Court in Chiafalo v. Washington, 140 S. Ct. 2316 (2020). See Kyle Cheney, Lessig: 20 Trump electors could flip, Politico (Dec. 13, 2016) (describing efforts by Lessig’s “anti-Trump group, ‘Electors Trust,’” to provide pro bono legal counsel to Trump electors “considering ditching Trump”); Jamie D. Halper, Law School Professor Says 20 Republican Electors May Vote Against Trump, The Harvard Crimson (Dec. 18, 2016) (describing Lessig’s effort but also a letter co-signed by Harvard Law Professor Lawrence Tribe encouraging electors not to vote for Trump); 12 Daniel Brezenoff, et al. (including Professor Tribe), Letter to Electors (Dec. 14, 2016) (encouraging electors to vote against President-elect Trump because “extraordinary circumstances call for extraordinary measures”).

1. Jacob’s argument from his emails seems to be that the “pivot” is the same argument as “just throw them out” – both require Pence to make a unilateral decision. How do you evaluate that? Is there a way to parse this out as a “lesser” option?
2. Jacob’s depo and supporting emails make it clear that Eastman said it was a “lesser” option in terms of public opinion, not in terms of it being more likely legal – how do you evaluate that argument?

Eastman backup materials

He is also an unapologetic racist, who not only pushed birtherism regarding Obama – On August 12, 2020, he published an article in Newsweek that made birther arguments about *Kamala Harris*, who was born in fucking Oakland. Those arguments were transparently stupid. If you’re asking, did Eastman weigh in on Ted Cruz, John McCain, who was literally born in Canada?

He did, in an article titled “Senator Ted Cruz is Eligible to be President” in the national Review

<https://www.nationalreview.com/2016/01/ted-cruz-natural-born-citizenship-eligibility-president/>

That bit of racism may have been an audition

<https://www.thedenverchannel.com/news/national/trump-tries-to-claim-kamala-harris-isnt-eligible-to-be-vp>

-1/6 Committee has now filed their opposition brief and it’s SO MUCH BETTER THAN anyone could have expected

<https://storage.courtlistener.com/recap/gov.uscourts.cacd.841840/gov.uscourts.cacd.841840.160.0.pdf>

Communications in which a “client consults an attorney for advice that will serve him in the commission of a fraud or crime” are not privileged from disclosure. In re Grand Jury Investigation, 810 F.3d 1110, 1113 (9th Cir. 2016) (internal quotations omitted). This exception to the attorney-client privilege applies where (1) “the client was engaged in or planning a criminal or fraudulent scheme when it sought the advice of counsel to further the scheme,” and (2) the attorney-client communications for which production is sought are “sufficiently related to” and were made “in furtherance of [the] intended, or present, continuing illegality.” Id. at 381-83 (internal quotation marks omitted). It bears emphasizing that this is true even if “the attorney is unaware that his advice may further an illegal purpose.” United States v. Laurins, 857 F.2d 529, 540 (9th Cir. 1988), cert. denied, 492 U.S. 906 (1989).

And it is likewise true where the crime or fraud is ultimately unsuccessful. In re Grand Jury Proceedings (Corporation), 87 F.3d 377, 382 (9th Cir. 1996). Critically for this case, an in camera review of the documents is warranted when the party seeking production has provided “a factual basis adequate to support a good faith belief by a reasonable person that in camera review of the materials may reveal evidence to establish the claim that the crime-fraud exception applies.” United States v. Zolin, 491 U.S. 554, 572 (1989) (citation omitted).

**FOR THIS TO BE CRIME-FRAUD, THE CLIENT HAS TO BE THE ONE COMMITTING THE CRIME WITH THE LAWYERS’S HELP, NOT THE OTHER WAY AROUND.** If I hire Saul Goodman in good faith, and I ask him to do something legal for me, and he does something criminal instead, I shouldn’t lose my attorney-client privilege.

So to make this argument, the 1/6 Committee must believe that TRUMP committed a crime and used EASTMAN to help him.

Lays out two charges against the President. These are the knock-down charges that have been filed against other 1/6 insurrectionists

1. 18 U.S.C. § 1512(c)(2) – Obstruction of an official proceeding

<https://www.law.cornell.edu/uscode/text/18/1512>

(c) Whoever corruptly— (2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both.

1. 18 U.S.C. § 371 – conspiracy to defraud the US

<https://www.law.cornell.edu/uscode/text/18/371>

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.

For the 1512(c), there’s no argument that Congress meeting to count the electoral votes was an official proceeding, and that the conduct of spreading the Big Lie at least attempted to obstruct and influence that official proceeding. So the question is going to be what counts as “corrupt”

Similarly, for the 371 charge,

An individual “defrauds” the government for purposes of Section 371 if he “interfere[s] with or obstruct[s] one of its lawful governmental functions by deceit, craft or trickery, or at least by means that are dishonest.”

-this is the subject of Wednesday’s Cleanup – Judge Nichols just released an incomprehensible ruling that ignores the word “or,” and yes, Eastman’s team is already trying to rely on it.

**Were these means corrupt, dishonest, or deceitful?**

Two clips:

1. 4:57 – just 10 seconds – this is Eastman’s voice

I’ve done this show in consultation with the President of the United States as my client. (This is super bad for the waiver argument I told you to put a pin in.)

1. 1:15:20 – for 40 seconds – this is the lie.

**Jacob’s testimony**

Portions of his deposition are attached to the pleading – these are not otherwise public documents.

Ex. F

<https://openargs.com/wp-content/uploads/Wood-Decl.-Ex.-N.pdf>

page 90, he’s asked about Eastman’s lie.

“War Gaming the Alternatives” – can you tell us whether Dr. Eastman went through these alternatives with the President on the meeting on the 4th?

A: “I don’t think he said”

“OK, can you tell us whether he went through *some* of these alternatives in the meeting with the President on the 4th?”

A: “Not at length.”

Then they play a radio interview with Peter Boyles where Eastman gives the same canned answer that he does to Lessig. “Oh, I was just laying out the alternatives, but it would be foolish to reject the electors.” And Jacob is asked “do you think that’s an accurate description of the advice Eastman gave to the President and Vice-President?”

A: “Not all of it.” And then I want to read you verbatim what Jacob says, because it shows how rehearsed Eastman’s lie is. Remember this was on a different radio show:

Well, it's the part where he -- up to the point where he says, "Open question," that sounds -- he might have used those words. I don't recall whether he used them specifically.

[[As I've noted before, he thought that the more prudent course was a procedural send it back to the States, rather than reject electors.]]

**But I do not recognize the statements that he makes thereafter where he says that it would be foolish to reject the slates. I don't recall him using that word, and I would be shocked if he had. And I don't recall any of that sequence that sort of goes from that point forward.**

Q: And what he describes there as being a foolish move, meaning the Vice President unilaterally rejecting electors, is that exactly what he urged the Vice President to do when he met with you on the 5th?

**A: When he met on the 5th -- and I have contemporaneous notes of that meeting that reflect this -- he came in and said, "I'm here asking you to reject the electors." That's how he opened at the meeting.**

Those notes were not attached to the motion, by the way, so everything we have here is actually WAY worse. And I’m about to show you how bad it is for Eastman and Trump just now.

Jacob’s testimony is this, it’s crystal clear, on page 96

A: So on the 5th we have the meeting that starts late morning because he was delayed for the Georgia proceedings, and there he makes it clear: Reject. When he comes back with the procedural theory later [that day], at that point he's very clear, "I know you are not going to just reject. Would you consider this?" – and “this” is “okay, instead of rejecting, just delay it for a while to see if the states will certify alternate slates or whatever.”

So that’s Jacob’s testimony. It would mean not certifying the electors pursuant to the Electoral Count Act despite the fact that it says the VP as President of the Senate

Congress shall be in session on the sixth day of January succeeding every meeting of the electors. The Senate and House of Representatives shall meet in the Hall of the House of Representatives at the hour of 1 o’clock in the afternoon on that day, and the President of the Senate shall be their presiding officer. Two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the[States,](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=3-USC-80204913-1227756099&term_occur=999&term_src=title:3:chapter:1:section:15) beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, **shall make a list of the votes as they *shall* appear from the said certificates**; **and the votes having been ascertained and counted according to the rules in this subchapter provided,** -- that means you resolve all the objections, which comes next -- **the result of the same *shall* be delivered to the President of the Senate, who *shall* thereupon announce the**[**state**](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=3-USC-80204913-1227756099&term_occur=999&term_src=title:3:chapter:1:section:15)**of the vote, which announcement *shall* be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United**[**States,**](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=3-USC-80204913-1227756099&term_occur=999&term_src=title:3:chapter:1:section:15) and, together with a list of the votes, be entered on the Journals of the two Houses.

In other words, the ECA says “you have to do this,” and in fact they did this. After the insurrection, the Senate and House reconvened, ascertained the votes, went back to the VP, who announced the results.

So Eastman pivoted to a position that seemed less extreme in implementation but required the same philosophical justification; namely, that the Electoral Count Act doesn’t apply because the VP can just do whatever the hell he wants.

**You might be asking: but even if this position is super fucking stupid, so long as Eastman and Trump sincerely believe it, isn’t that a defense?** It’s not “corrupt, dishonest, or deceitful.”

Except that now we have two things. First, we have Jacob’s testimony. Not going to read all of it, you can starting at page 107 – Jacob says, “So from his perspective, his [Eastman’s] objective was to persuade me. I sort of viewed it as my challenge to use Socratic questioning during the course of the thing to see if I could persuade him that there's just no way that a small mind [what a great Freudian slip]-- a small government conservative would ever adopt the position that he was taking. So that was my basic reaction.”

Four pages describing that dialogue and then we end with this:

But he acknowledged by the end that, first of all, no reasonable person would

6 actually want that clause read that way because if indeed it did mean that the Vice

7 President had such authority, you could never have a party switch thereafter. You

8 would just have the same party win continuously if indeed a Vice President had the

9 authority to just declare the winner of every State.

10 He acknowledged that he didn't think Kamala Harris should have that authority in

11 2024; he didn't think Al Gore should have had it in 2000; and he acknowledged that no

12 small government conservative should think that that was the case.

13 And I said, **"If this case got to the Supreme Court, we'd lose 9-0, wouldn't we**, if we

14 actually took your position and it got up there?" **And he started out at 7 to 2**.

15 And I said, "Who are the two?"

16 And he said, "Well, I think maybe Clarence Thomas."

17 And I said, "Really? Clarence Thomas?"

18 And so we went through a few Thomas opinions **and, finally, he acknowledged**,

19 "**Yeah, all right, it would be 9-0**." Except that his fallback --

20 Q Did he say who the other one was?

21 A I don't recall. I don't recall.

22 But he ultimately acknowledged that none of them would actually back this

23 position when you took into account the fact that what you have is a mildly ambiguous

24 phrase, a nonsensical result that has all kinds of terrible policy implications, and uniform

25 historical practice against it. It just didn't work.

So I kind of wound up, "Can't we just acknowledge that this is a really bad idea?"

2 And he didn't quite say yes, but, he said, "Well, all right. I get everything you're

3 saying." He said, "They're going to be really disappointed."

4 I don't know who the "they" is. You can -- I know what your follow-up question

5 is going to be. He said, "They're going to be really disappointed."

6 Q My follow-up question is, who's the "they"?

7 [Laughter.]

8 A I don't know. I don't know.

9 He said, "They're going to be really disappointed that I wasn't able to persuade

10 you." And he left.

Okay, still he said/he said. Except that we have four separate exhibits of Eastman pestering Jacob to change his mind

<https://openargs.com/wp-content/uploads/Wood-Decl.-Ex.-K.pdf>

<https://openargs.com/wp-content/uploads/Wood-Decl.-Ex.-L.pdf>

<https://openargs.com/wp-content/uploads/Wood-Decl.-Ex.-M.pdf>

<https://openargs.com/wp-content/uploads/Wood-Decl.-Ex.-N.pdf>

These corroborate the Jacob position and the last two are proverbial smoking guns.

Ex K – This was sent at 9:29 PM eastern time on Tuesday, January 5th, the night before the insurrection.

It attaches a letter from the PA Republicans saying “we ask for more time given that the US Supreme Court is to hear Trump v. Boockvar in the coming days. We ask you to delay certification of the Electoral College to allow due process as we pursue election integrity in our Commonwealth.”

That’s terrifying – the Supreme Court ruled against Trump in the Boockvar case as every court but one did in every single election case, 61 times – the only exception being the “yes you can sneeze on people” PA Supreme Court decision. But as terrifying as it is, Eastman lies about it to Jacob

He says: “Greg, good talk earlier tonight. [Remember ‘tonight’ is Jan. 5th, when Jacob says that Eastman started the day with ‘reject the electors’ and then pivoted to ‘well, just delay certification’]

Major new development attached. This is huge, as it now looks like PA legislature will vote to recertify its electors if Vice President Pence **implements the plan we discussed**.”

ALSO HELPS TO BRING UP A TIMELINE of 1/6

<https://www.npr.org/2022/01/05/1069977469/a-timeline-of-how-the-jan-6-attack-unfolded-including-who-said-what-and-when>

Ex L – this is a lengthy email chain of responses to that letter. [start at the bottom] Jacob apparently slept on the 9:30 one, because in the morning – now this is 10:44 am, we’re an hour away from the President’s speech on the Ellipse and a little over two hours away from when Pence will convene the joint session of Congress to open and count the electoral votes.

VERY lawyerly reply: Jacob says:

“Thanks, John. Will call. Is it unconstitutional for the ECA [Electoral Count Act] to direct that the members should do objections, at least in the first instance? Would the constitutional imperative you argue for not kick in only after that statutorily required mechanism has been applied, and failed to uphold the Constitution?”

-not going to not start – that was the first part of their plan

-provides motive for wanting to interrupt the process and WE’LL GET TO THAT

-until that morning, Trump & Eastman were still holding out hope that Pence might cancel or postpone or hold open or whatever

We know, because Eastman’s reply to this very lawyerly email is:

“I’m sorry, Greg, but this is small-minded. You’re sticking with minor procedural statutes while the Constitution is being shredded. I gave you the Lincoln example yesterday. Here’s another. In the situation room at the White House during the first Iraq war, the Secretary of Interior said th alw required an environmental impact assessment before the President could order the bombing of Iraq oil fields. **Technically true.** But nonsense. **Luckily, Bush got statesmanship advice and ignored that statutory requirement**.”

1 – Lincoln – suspended habeas corpus

2 – this is saying, repeatedly, break the law

[read response]

This is WHILE THE CAPITOL IS UNDER SIEGE

[read Eastman response]

NOW WE MOVE TO EXHIBIT M – this is the first smoking gun and you might miss it.

<https://openargs.com/wp-content/uploads/Wood-Decl.-Ex.-M.pdf>

Jacob tries to cool down the rhetoric

Eastman says “hey, I gave you another option”

Jacob says “yeah that’s based on the same theory and did you ever advise the president?”

EASTMAN SAYS YES BECAUSE YOU WERE ON THAT CALL

Exhibit N

<https://openargs.com/wp-content/uploads/Wood-Decl.-Ex.-N.pdf>

Eastman sends one more unsolicited email at 11:45 that night. After the violence. After Lindsey Graham says “I’m out.” After Pence says: "Today was a dark day in the history of the United States Capitol. ... Let's get back to work," he says to applause.

After Mitch McConnel says: “The United States Senate will not be intimidated," he says. "We will not be kept out of this chamber by thugs, mobs or threats.”

Formally reconvened at 11:32 pm EST –

[go through whole statement]

Pence would certify the election at 3:42 am.

577

1. State Laws – **none of these have passed yet**
2. Florida ‘don’t say gay’ bill

<https://www.flsenate.gov/Session/Bill/2022/1557/BillText/er/PDF>

Almost certainly will – legis approved, Ron DeSantis is a monster but even he has hedged his bets so far

Most evil in crafting

1557 has four operative sections – would create FL STAT 1001.42(8)(C)

1. A school district may not adopt procedures or student support forms that prohibit school district personnel from notifying a parent about his or her student's mental, emotional, or physical health or well-being, or a change in related services or monitoring, or that encourage or have the effect of encouraging a student to withhold from a parent such information. School district personnel may not discourage or prohibit parental notification of and involvement in critical decisions affecting a student's mental, emotional, or physical health or well-being.

THAT’S meant to prevent counsellors from working with LGBTQ+ kids.

1. Classroom instruction by school personnel or third parties on sexual orientation or gender identity may not occur in kindergarten through grade 3 or in a manner that is not age appropriate or developmentally appropriate for students in accordance with state standards.
2. Student support services training developed or provided by a school district to school district personnel must adhere to student services guidelines, standards, and frameworks established by the Department of Education.

Those are the “don’t say ‘gay’” provisions.

They’re upset at trying to normalize same-sex households and trans people.

1. At the beginning of the school year, each school district shall notify parents of each healthcare service offered at their student's school and the option to withhold consent or decline any specific service. Parental consent to a health care service does not waive the parent's right to access his or her student's educational or health records or to be notified about a change in his or her student's services or monitoring as provided by this paragraph.

[appears to prohibit handing out condoms]

A version introduced as GA SB 613

<https://www.legis.ga.gov/legislation/62663>

1. Idaho HB 675

<https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2022/legislation/H0675.pdf>

-out of committee, headed to a full vote in the state House

Sec. 18-1506B of the Idaho code – that’s what criminalizes female clitorendectomy (FGM) in Idaho. It’s a felony punishable by up to life in prison.

-gender reassignment surgery

Administering or supplying the following medications that induce profound morphologic changes in the genitals of a child or induce transient or permanent infertility: (i) Puberty-blocking medication to stop or delay normal puberty; (ii) Supraphysiological doses of testosterone to a female; or (iii) Supraphysiological doses of estrogen to a male

**The entirely reversible use of puberty blockers or administering testosterone or estrogen**.

Poulton et al. 2016 – ADHD meds can delay puberty

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4736299/>

They’ve talked to anti-trans doctors

1. Health exception

“except that a medical intervention that results in the impairment and mutilation of the reproductive organs and parts of a child is never necessary to the health of the child on whom it is performed if it is for the sole purpose of attempting to change or affirm the child's perception of the child's sex if that perception is inconsistent with the child's biological sex”

1. Routine medical practice in ambiguous and intersex cases

New subsection 6: the bill shall not apply to

(a) A child with external biological sex characteristics that are am18 biguous and irresolvable, such as a child born having 46, XX chromosomes 19 with virilization, 46, XY chromosomes with undervirilization, or with 20 both ovarian and testicular tissue; or 21 (b) When a physician has otherwise diagnosed a disorder of sexual de22 velopment in which the physician has determined through genetic testing 23 that the child does not have the normal sex chromosome structure for a 24 male or female

1. Missouri HB 1677

-just a dude who has proposed it – I would THINK it has no chance of getting out of committee, but…

<https://house.mo.gov/billtracking/bills221/amendpdf/4311H02.14H.pdf>

-includes mifepristone (RU 486), misoprostol (together is the ‘abortion pill’ regimen)

-bans conduct “aiding or abetting an abortion” “**regardless of where the abortion is or will be performed**”

-uses the TX-8 civil enforcement mechanism, $10,000 statutory damages

-vigilanteism

1. Republicans are Stealing Elections
2. Peters

-because the only election fraud there is, is Republicans trying to prove election fraud

-Tina Peters is a Clerk and Recorder in Mesa County, Colorado. She is running for Secretary of State because of course she is

A few days earlier, according to the indictment, the security cameras in the election office had been turned off at Ms. Knisley’s request.

Prosecutors have previously said they believe that Ms. Peters entered a secure area of a warehouse where voting machines were stored and copied hard drives and election-management software from the machines.

The indictment does not explain why prosecutors believe Ms. Peters or Ms. Knisley wanted the material.

In early August, the conservative website Gateway Pundit posted passwords for the county’s election machines. Shortly afterward, the Mesa County machines’ software showed up on large monitors at a South Dakota election symposium organized by the conspiracy theorist Mike Lindell and attended by Ms. Peters.

<https://s3.documentcloud.org/documents/21400088/indictment.pdf>

1. FL SB 524 – goon squad

<https://www.flsenate.gov/Session/Bill/2022/524/BillText/e1/PDF>

FL 101.019 – **prohibits RCV**

 (1) A ranked-choice voting method that allows voters to rank candidates for an office in order of preference and has ballots cast be tabulated in multiple rounds following the elimination of a candidate until a single candidate attains a majority may not be used in determining the election or nomination of any candidate to any local, state, or federal elective office in this state. (2) Any existing or future ordinance enacted or adopted by a county, a municipality, or any other local governmental entity which is in conflict with this section is void.

Amends existing law to say that the governor “shall” appoint special officers to investigate alleged violations of the election laws, and then creates FL Stat 97.022”

97.022 Office of Election Crimes and Security; creation;

(1) The Office of Election Crimes and Security is created within the Department of State. The purpose of the office is to aid the Secretary of State in completion of his or her duties under s. 97.012(12) and (15) by:

(a) Receiving and reviewing notices and reports generated by government officials or any other person regarding alleged occurrences of election law violations or election irregularities in this state.

(b) Initiating independent inquiries and conducting preliminary investigations into allegations of election law violations or election irregularities in this state.

(2) The office may review complaints and conduct preliminary investigations into alleged violations of the Florida Election Code or any rule adopted pursuant thereto and any election irregularities.

(3) The secretary shall appoint a director of the office.

(4) The office shall be based in Tallahassee and shallemploy nonsworn investigators to conduct any investigations. The positions and resources necessary for the office to accomplish its duties shall be established through and subject to the legislative appropriations process.

(5) The office shall oversee the department’s voter fraud hotline.

 (6) This section does not limit the jurisdiction of any other office or agency of the state empowered by law to investigate, act upon, or dispose of alleged election law violations.

 (7) By January 15 of each year, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing information on investigations of alleged election law violations or election irregularities conducted during the prior calendar year. The report must include the total number of complaints received andindependent investigations initiated and the number of complaints referred to another agency for further investigation or prosecution, including the total number of those matters sent to a special officer pursuant to s. 102.091

For each alleged violation or irregularity investigated, the report must include:

(a) The source of the alleged violation or irregularity;

(b) The law allegedly violated or the nature of the irregularity reported;

(c) The county in which the alleged violation or irregularity occurred;

(d) Whether the alleged violation or irregularity was referred to another agency for further investigation or prosecution, and if so, to which agency; and

(e) The current status of the investigation or resulting criminal case.

FINALLY

the Legislature directs the Department of State to provide a plan to prescribe the use of a Florida driver license number, Florida identification card number, social security number, or any part thereof to confirm the identity of each elector returning a vote-by-mail ballot.

-also greatly increases penalties – ballot harvesting used to be ok, then it was a misdemeanor, now it’s a felony punishable by $50,000 and/or 5 years in prison

1. WILDCARD: Sidney Powell bar complaint!

<https://www.jurist.org/news/wp-content/uploads/sites/4/2022/03/Comm-for-Lawyr-Discip-v-Powell.pdf>

-Commission for Lawyer Discipline

-filed by

Paula Kerry Goldman Dec. 2 - she’s a VA lawyer

Adam Charles Reddick – MI lawyer

Eric Young (?)

Janet Louise Lachman – TX lawyer

Robert McWhirter – Arizona Democrat, candidate for Attorney General, dropped out Feb 1

David M. Rubenstein - co-founder of the Carlyle Group, billionaire

Dana Nessel – MI Atty General

Gretchen Whitmer – MI GOV

Jocelyn Benson – MI SOS

Paul Steven Zoltan – TX lawyer

1. Respondent had no reasonable basis to believe that the lawsuits she filed were not frivolous and they violated Rule 11
2. Unreasonably delayed lawsuits including failure to dismiss in Michigan
3. In Pearson v. Kemp in GA, attached a certificate from the SoS that was purportedly undated but she actually altered it
4. Was sanctioned in ED Mich

Pearson v. Kemp, 20-4809 (N.D. Ga.)

Complaint said that Kemp and Raffensperger “rushed through” the purchase of Dominion Voting Machines by

p.37 of Dominion’s defamation lawsuit:

<https://context-cdn.washingtonpost.com/notes/prod/default/documents/1d2fd01e-de09-473d-9997-0523f7797c65/note/633a5729-658e-409a-b9a0-79490fddb2e1>.

LITERALLY just used MS paint to white out the official seal that had the date on it.

YOU CAN STILL CLICK ON THIS

<https://defendingtherepublic.org/georgia/court-filings/>

It’s Exhibit 6

(SOS Certification.pdf)

ORIGINAL now gets an “Error 1020, Access denied”

Violates Model Rules of Professional conduct

3.01: Shall not bring or defend a proceeding unless you have a reasonable belief that there is a non-frivolous basis for doing so

3.02: Shall not unreasonably increase the cost or other burdens or unreasonably delay resolution

-**never seen that one**

3.03(a)(1) – shall not knowingly make a false statement; (a)(5) – shall not knowingly use evidence you know to be false

8.04(a)(3) – shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation

Request for an order of professional misconduct – yes, can include disbarment