

Opinion: What would a 2024 Trump coup look like? A new paper offers a worrying answer.

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As lawmakers debate how to “Trump proof” our elections against a rerun of 2020, a difficult question has emerged as pivotal to these efforts: What strategy might be most likely to succeed in subverting a future presidential election where Donald Trump’s corrupt scheme failed?

A [new paper by an election law specialist](#) seeks to answer this question with a “realistic risk assessment” of the 2024 presidential election. Even if the scenario it outlines is extreme, it deserves attention, because it raises very vexing points about weaknesses in our election system.

Understanding these weaknesses has concrete utility right now. It will help shape Congress’s efforts to shore them up via reform of the Electoral Count Act of 1887, or ECA, which governs how Congress counts presidential electors.

Here’s the unsettling reality: If the ECA isn’t revised, under certain scenarios, all it would take for a future effort to succeed is a single corrupt GOP governor and a GOP-controlled House of Representatives.

This pathway to a subverted 2024 election is spelled out in the [new paper](#) by legal scholar Matthew Seligman, who has written extensively about the [ECA’s history and weaknesses](#), and the ways Trump tried to exploit them in 2020.

There are several routes for a future effort to succeed. Considering the likelihood of each is central to getting ECA reform right.

Right now, efforts in Congress to revise the ECA are [focused mainly on the possibility](#) of a rogue House and Senate refusing to count legitimate electors, as Trump attempted to pull off in 2020.

This new paper offers another possibility. This one would simply require Republicans to capture the House and for the right Trumpist Republican to win a key swing-state governorship.

A nightmare scenario

Imagine that former senator David Perdue becomes Georgia governor, after winning a GOP primary against Gov. Brian Kemp, who is under fire from Trump supporters [precisely because he refused](#) to overturn the 2020 results. Imagine Speaker Kevin McCarthy controlling the House on Jan. 6, 2025.

If a Democrat won the state by a slim margin, and the election came down to it, Perdue could send a rogue slate of

electors based on a fake pretext of election fraud, and the GOP-controlled House could simply count those electors. A Democratic Senate might object, but under the ECA, *both* chambers must object to a slate of electors to invalidate it, so it would stand.

Would courts intervene? Yes, they might command Perdue to send the rightful electors.

But the paper suggests that at such a point, someone like Perdue — already far down the road of lawlessness — might ignore the court's command and send the fake electors anyway.

The GOP House could count them regardless of the court's command, the paper posits. At that point the Supreme Court could decide this is a political question and decline to intervene. Game over.

Is this far-fetched? True, a lot would have to fall into place. But note that Perdue has explicitly said he wouldn't have certified Joe Biden's electors in 2020. That means he's *campaigning on an implicit openness to such a scheme*. Given that implicit promise, the pressure on him to carry it out would be immense.

Also note that in swing states such as Pennsylvania, GOP candidates for governor are campaigning explicitly on their willingness to side with Trump's lies about 2020. Would one execute such a scheme where GOP legislatures refused to before? We don't know, but it's certainly plausible. And do you want to rely on someone like Florida GOP Gov. Ron DeSantis to do the right thing?

Similarly, well over 100 House Republicans already voted to invalidate Biden's electors. Some are currently vowing to turn a GOP House into a 24/7 circus of insurrectionist conspiracy-mongering. Can anyone doubt the plausibility of a GOP House counting the fake electors?

Still, the point here is not to argue this scenario is likely. It's to understand the weaknesses in the system in order to reform it. And it's obvious such glaring weaknesses are not tenable.

Reform at both ends

Here's the conclusion that emerges: Reform must thwart corruption at both the state and congressional ends. At the state end, one emerging solution in the Senate would trigger heightened judicial review when a state government fails to follow preexisting procedures in appointing electors.

But as noted, a GOP governor could ignore this, and a GOP House could play along. So Seligman suggests a second backstop: In an ECA reform bill, Congress could explicitly direct the Supreme Court to review Congress' count after the fact, making it less likely to decline to intervene.

Other reforms to the state certification process are also worth considering. The imperative is to take potential corruption of the certification of electors seriously.

Meanwhile, at the congressional end, reform must address the other possible scenario floated above: a corrupt House *and* Senate refusing to count the correct electors sent by a non-corrupt governor and legislature.

Guarding against *that* requires raising the threshold for Congress to object to and invalidate electors, and making it ironclad that Congress *must* count electors that were legitimately certified.

Ultimately, getting ECA reform right will require balancing efforts to address all these threats. This is an extremely difficult problem. Some pundits are having a grand old time mocking those who are thinking through such scenarios.

Their time would be more productively devoted to figuring out how to fix the system to avert such a meltdown, however unlikely it seems.

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