



NEW YORK STATE SENATOR

Todd Kaminsky

## Sen. Kaminsky Pushes Bill to Ensure Trump Associates Can Be Prosecuted in NY

TODD KAMINSKY March 13, 2019

| ISSUE: **PRESIDENT TRUMP, ATTORNEY GENERAL, CRIMINAL JUSTICE, DOUBLE JEOPARDY**

(New York) -- Following the sentencing of former Trump campaign manager Paul Manafort today, State Senator Todd Kaminsky called for quick passage of his bill to close New York's "double jeopardy loophole", which exempts convicted criminals pardoned by the president from State prosecution for the same crimes. New York Attorney General Letitia James and leaders of the State Assembly and Senate announced yesterday that they had come to an agreement on the legislation.

"Every day it seems there is more and more evidence that the President and his underlings intend to corruptly use the pardon power to undermine the rule of law," said Kaminsky, a former federal corruption prosecutor. "We must move quickly to close the double jeopardy loophole so those who broke New York laws may be held accountable. If we do not close this loophole, and close it soon, New Yorkers may never realize the justice they deserve."

The Double Jeopardy clause of the Fifth Amendment of U.S. Constitution protects individuals from being prosecuted twice for the same federal offense. In 1969, the U.S. Supreme Court held in *Benton v. Maryland* that the Double Jeopardy clause also applies to the states. However, the Dual Sovereignty Doctrine, holds that there is no constitutional bar under Double Jeopardy to someone being prosecuted by the federal and state government

for offenses arising from the same conduct. Notwithstanding the Dual Sovereignty Doctrine, Article 40 of New York's Criminal Law grants additional protections for people already having been prosecuted by the federal government. Over the years, the state has created several exemptions to Article 40, today's legislation would be one such exemption that would fix New York's antiquated criminal law by creating an exemption from Article 40 for someone who was granted a pardon or commutation by the United States President.

About Todd Kaminsky:

As a federal prosecutor representing Long Island, Brooklyn and Queens, and as Acting Deputy Chief of the Public Integrity Section, Kaminsky took down corrupt elected officials who used taxpayer dollars to fund lavish lifestyles. His successful prosecutions include State Senate Majority Leader Pedro Espada, Jr., Congressman Michael Grimm, and Assemblyman Jimmy Meng.

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#### RELATED LEGISLATION

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### **2019-S85**

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- Introduced
- - In Committee Assembly
  - In Committee Senate
- - On Floor Calendar Assembly

- On Floor Calendar Senate

- ◦ Passed Assembly

- Passed Senate

- Delivered to Governor

- Signed By Governor

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Relates to the prosecution of certain offenses when a reprieve, pardon or other form of clemency for such offense has been granted

December 26, 2018

In Senate Committee [Codes](#)

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Do you support this bill?