



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

October 3, 2000

H.R. 5018

Electronic Communications Privacy Act of 2000

As ordered reported by the House Committee on the Judiciary on September 26, 2000

Based on information from the Department of Justice, CBO estimates that implementing the reporting requirements of H.R. 5018 would cost federal law enforcement agencies about \$1 million a year. Enacting H.R. 5018 could affect direct spending and receipts; therefore, pay-as-you-go procedures would apply to the bill. However, CBO estimates that any impact on direct spending and receipts would not be significant.

H.R. 5018 would require greater judicial oversight when law enforcement officials monitor the electronic communications (such as e-mail) of suspected criminals. The bill would require law enforcement officials who request court orders to monitor these communications to provide evidence of a crime and show that information related to the crime is likely to be contained in such communications. (Under current law, officials need to certify that these communications are related to a criminal investigation.) The bill would prohibit illegally obtained electronic communications from being used as evidence in trials. In addition, the bill would require federal law enforcement agencies to report annually to the Congress on the number and nature of their requests for such orders.

The bill would increase penalties for certain crimes, and establish federal crimes related to the unauthorized disclosure or destruction of certain electronic information. As a result, the federal government might be able to pursue cases that it otherwise would not be able to prosecute. CBO expects that any increase in federal costs for law enforcement, court proceedings, or prison operations would not be significant, however, because of the small number of cases likely to be involved. Any such additional costs would be subject to the availability of appropriated funds.

Because those prosecuted and convicted under H.R. 5018 could be subject to criminal fines, and increased fines and penalties, the federal government might collect additional fines if the bill is enacted. Collections of such fines are recorded in the budget as governmental receipts (revenues), which are deposited in the Crime Victims Fund and spent in subsequent years. CBO expects that any additional receipts and direct spending would be less than \$500,000 each year.

H.R. 5018 also would increase judicial oversight of efforts by state and local law enforcement agencies to monitor certain electronic communications. Such requirements would constitute intergovernmental mandates (on both courts and law enforcement agencies) as defined in the Unfunded Mandates Reform Act (UMRA). Based on information from state and local public safety officials, however, CBO estimates that the costs of complying with these new requirements would not likely be significant, and would not exceed the threshold established in UMRA (\$55 million in 2000, adjusted annually for inflation). The bill contains no new private-sector mandates as defined by UMRA.

The CBO staff contacts are Mark Hadley (for federal costs), and Theresa Gullo (for the impact on state and local governments). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.