CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

May 20, 2016

H.R. 4889
Kelsey Smith Act

As ordered reported by the House Committee on Energy and Commerce on April 28, 2016

H.R. 4889 would require telecommunications providers, upon request, to share data about the location of a call placed from a mobile phone or through an Internet voice service under certain circumstances. Under the bill, such requests for location information could only be made by a law enforcement officer who is responding to an emergency call or an emergency situation where a person is in serious physical danger. Furthermore, governmental entities would not be allowed to pursue civil or administrative actions against entities or individuals that provide such information in good faith.

Based on information from the Federal Communications Commission (FCC), CBO estimates that the regulatory activities necessary to implement H.R. 4889 would have no significant effect on the agency's workload or costs. Moreover, under current law, the FCC is authorized to collect fees sufficient to offset the cost of its regulatory activities each year. Therefore, CBO estimates that the net cost to implement H.R. 4889 would be negligible, assuming annual appropriation actions consistent with the agency's authorities.

Because enacting H.R. 4889 would not affect direct spending or revenues, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 4889 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 4889 would impose an intergovernmental mandate as defined in the Unfunded Mandate Reform Act (UMRA) by prohibiting public entities from initiating civil or administrative proceedings against service providers that relay requested information and other assistance. CBO estimates that the cost, if any, for public entities to comply with the mandate would be minimal and well below the annual threshold established in UMRA ($77 million in 2016, adjusted annually for inflation).

H.R. 4889 would impose a private-sector mandate as defined in UMRA by requiring telecommunications providers to share the location of cell phones in emergency situations. Currently, telecommunications providers supply cell phone location data upon request when certain internal criteria of the providers are met or when law enforcement officials present a warrant for the information. This bill would require telecommunications providers to supply the call location data immediately at the request of law enforcement officials when the cell phone has been used to place a 9-1-1 call requesting emergency assistance, or when the cell phone is believed to be in the possession of someone law enforcement believes is in a serious emergency situation. Because telecommunications companies already frequently supply location information to law enforcement officials, the incremental cost of the mandate would be small.

In addition, the bill would prohibit plaintiffs from filing a civil action against telecommunication providers for supplying location information in compliance with the bill. By eliminating an existing right to seek compensation for damages, the bill would impose a private-sector mandate. The cost of the mandate would be the forgone net value of awards and settlements that would have been awarded for such claims in the absence of the bill. A search of the available literature suggests that few of those specific types of lawsuits have been brought against providers under current law, and that most cases involving the release of location information have been brought against the government or government officials. Although there is some uncertainty about the number of claims against telecommunications providers that would be successful and about the value of awards or settlements in those cases, because of the narrow scope of the cases involved CBO expects that the costs in any one year would probably fall below the annual threshold established in UMRA for private-sector mandates ($154 million, in 2016, adjusted annually for inflation).

The CBO staff contacts for this estimate are Kathleen Gramp (for federal costs), Rachel Austin (for state and local mandates), and Logan Smith (for private-sector mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director of Budget Analysis.