

S. 818, Sunshine in the Courtroom Act of 2021

As ordered reported by the Senate Committee on the Judiciary on June 24, 2021

By Fiscal Year, Millions of Dollars	2022	2022-2026	2022-2031
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	2	41	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

Current guidelines issued by the Judicial Conference of the United States permit appellate courts to photograph, record, broadcast, and televise court proceedings but expressly prohibit the same practice at the district court level, except in limited circumstances. S. 818 would amend current law to authorize both U.S. district and appellate courts to record and broadcast court proceedings, if such activities would not violate the due process rights of the parties involved. The authority provided to district court judges under S. 818 would expire three years after the date of enactment.

The bill also would authorize the Judicial Conference to promulgate guidelines for obscuring the identity of certain types of witnesses from a broadcast audience. Using information from the Administrative Office of the U.S. Courts (AOUSC) and businesses that provide digital services to state and local courts, CBO estimates that implementing the bill would cost about \$41 million over the 2022-2026 period; such spending would be subject to the availability of appropriated funds.

Currently, of the 13 appellate courts, 1 broadcasts oral arguments and 3 others record proceedings but do not broadcast them. Except in limited circumstances, the Judicial Conference generally does not permit district courts to record or broadcast court proceedings. From 2011 to 2015, 14 district courts participated in a pilot program that permitted the recording of proceedings. Today, 3 district courts allow video recording of some civil trials and post those videos on the judiciary's website, with permission from the Judicial Conference.

Based on the results of that pilot study and feedback from the AOUSC about the likelihood of participation by federal courts, CBO expects that most judges in the roughly 2,000 federal courtrooms nationwide would be hesitant to allow recording or broadcasting of court proceedings, in part because authority to allow these activities lasts for only three years under the bill. Using this information and data from other court systems, CBO estimates that about 10 percent of all courtrooms (about 200) would allow some form of electronic recording, audio or visual broadcasting, or televising during the period specified in the bill. CBO expects that the number of participating courts would increase gradually over that period, beginning with 20 courtrooms in 2022.

Using information provided by leading businesses that provide digital services to state and local courts throughout the country, CBO expects that those courts would procure digital recording systems—typically consisting of multiple cameras, a control panel, and supporting software—at an average cost of \$75,000. That estimate includes equipment and installation costs of \$65,000, as well as recurring maintenance costs of \$10,000 per year, provided by a private vendor. In addition, CBO expects that each court would incur additional administrative costs of \$50,000 annually, on average, to operate the systems.

The costs of the legislation, detailed in Table 1, fall within budget function 750 (administration of justice).

Table 1. Estimated Increases in Spending Subject to Appropriation Under S. 818						
	By Fiscal Year, Millions of Dollars					2022-2026
	2022	2023	2024	2025	2026	
Estimated Authorization	3	7	16	15	0	41
Estimated Outlays	2	7	15	15	2	41

CBO’s estimate is subject to significant uncertainty concerning the number of federal courts that would choose to install digital systems during the three-year period, as well as uncertainty surrounding what types of systems courts would select; those systems could vary significantly in complexity and cost. As a result, the costs of implementing the legislation could be higher or lower than estimated here.

The CBO staff contact for this estimate is Jon Sperl. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.