

At a Glance

H.R. 5736, FAIR Act

As ordered reported by the House Committee on the Judiciary on January 18, 2024

By Fiscal Year, Millions of Dollars	2024	2024-2029	2024-2034
Direct Spending (Outlays)	0	*	*
Revenues	0	*	*
Increase or Decrease (-) in the Deficit	0	*	*
Spending Subject to Appropriation (Outlays)	0	1,389	not estimated

Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Statutory pay-as-you-go procedures apply?	Yes
	Mandate Effects		
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

The bill would

- Require law enforcement agencies within the Department of Justice (DOJ) to record all interviews of U.S. citizens who are suspected of committing a crime
- Require DOJ to preserve recordings for 10 years after an investigation or final court proceeding is completed
- Prevent information obtained in unrecorded interviews from being used as evidence in a court proceeding

Estimated budgetary effects would mainly stem from

- Hiring additional personnel to upload, maintain, and review recordings and facilitate sharing of evidence as part of the discovery process
- Procuring body-worn cameras and associated hardware and software for recording and storing data

Areas of significant uncertainty include

- Predicting how DOJ would implement the bill
- Projecting the bill's effects on the number, duration, and complexity of charges pursued for litigation

Detailed estimate begins on the next page.

See also

[CBO's Cost Estimates Explained](#), [CBO Describes Its Cost-Estimating Process](#), [Glossary](#)

Bill Summary

H.R. 5736 would require officers in law enforcement agencies within the Department of Justice (DOJ) to record interviews with U.S. citizens who are suspected of committing a crime. The bill’s requirements would apply to agents in the Bureau of Alcohol, Tobacco, Firearms and Explosives; Drug Enforcement Administration; Federal Bureau of Investigation; and U.S. Marshals Service. Recording would not be required for interviews with confidential informants, interviews conducted in exigent circumstances, and interviews where there is an immediate threat to public safety.

H.R. 5736 would require the agencies to preserve most recordings for 10 years after an investigation or judicial proceeding is completed; in some cases, however, the bill would require recordings to be kept indefinitely. Any information obtained from unrecorded interviews would be inadmissible as evidence in court. The bill would require agencies to report to the Congress every six months on all interviews that were not subject to recording requirements. Finally, DOJ would be required, within 180 days of enactment, to issue regulations for implementing the bill.

Estimated Federal Cost

The estimated budgetary effect of H.R. 5736 is shown in Table 1. The costs of the legislation fall within budget function 750 (administration of justice).

Table 1. Estimated Increases in Spending Subject to Appropriation Under H.R. 5736							
	By Fiscal Year, Millions of Dollars						2024-2029
	2024	2025	2026	2027	2028	2029	
DOJ's Law Enforcement Agencies							
Estimated Authorization	0	56	139	277	415	553	1,440
Estimated Outlays	0	44	116	241	373	512	1,286
U.S. Attorneys' Offices							
Estimated Authorization	0	4	10	21	32	44	111
Estimated Outlays	0	3	9	19	30	42	103
Total Changes							
Estimated Authorization	0	60	149	298	447	597	1,551
Estimated Outlays	0	47	125	260	403	554	1,389

DOJ = Department of Justice.
CBO estimates that H.R. 5736 would reduce revenues and direct spending by less than \$500,000 over the 2024-2034 window.

Basis of Estimate

For this estimate, CBO assumes that the bill will be enacted around the end of fiscal year 2024 and that the estimated amounts will be provided each year. CBO anticipates that DOJ would begin to incur costs in 2025 and that several years would elapse before DOJ and the

U.S. Attorneys' Offices fully meet the bill's requirements and complete the hiring of additional personnel.

Officers in DOJ's law enforcement agencies are required, during what are called custodial interviews, to record the statements of people placed under arrest in federal custody within the United States. Current policy requires such personnel to wear and activate cameras while executing search or seizure warrants and during planned arrests. H.R. 5736 would require the law enforcement agencies to record all interviews of U.S. citizens who are suspected of committing federal crimes, including cases in which a person is not in police custody and is free to leave the interrogation. The bill's requirements also would apply to interviews conducted outside the United States. Officials from DOJ indicated that H.R. 5736 would require the department to broaden the scope of its current policy.

On that basis, CBO expects that the department would expand its policy with respect to body-worn cameras. CBO's estimates are relative to the department's current policies for the recording of custodial interviews.

Spending Subject to Appropriation

CBO estimates that implementing H.R. 5736 would cost \$1.4 billion over the 2024-2029 period, assuming appropriation of the estimated amounts.

DOJ's Law Enforcement Agencies. CBO anticipates that implementing H.R. 5736 would increase the number of interviews that DOJ's law enforcement agencies record, review, and store. Using information from DOJ, CBO estimates that the department would need an additional 600 employees to meet the bill's requirements. Those employees include law enforcement officers, attorneys to handle Freedom of Information Act requests and other legal issues, information technology staff to process recordings, and other staff to conduct training and manage evidence.

- Using information from DOJ about its current body-worn camera programs, CBO estimates that more than half of their costs are for nonpersonnel related expenses, such as upgrades to their information technology systems, new digital evidence management systems, travel, training, and contracting costs. CBO expects those expenses would take up a larger share of the total costs under the bill because the department would be required to create and store more footage. In total, CBO estimates that nonpersonnel costs would total about \$850 million over the 2024-2029 period.
- CBO estimates that in 2025, the average cost of each position would be \$250,000, including salary, benefits, equipment, and training costs. Accounting for anticipated inflation, CBO estimates that DOJ's additional personnel costs would total about \$350 million over the 2024-2029 period.



- Using information from DOJ and people familiar with these types of programs, CBO estimates that the department would need to purchase an additional 1,800 cameras and charging devices as well as software, hardware, and ancillary equipment. CBO estimates that the annual cost per camera would be about \$20,000 to make and store recordings. Accounting for anticipated inflation, CBO estimates that the cost would total about \$100 million over the 2024-2029 period.

In total, CBO estimates, DOJ's law enforcement agencies would incur costs of \$1.3 billion over the 2024-2029 period.

U.S. Attorneys' Offices. CBO anticipates that implementing H.R. 5736 would increase the workload of the U.S. Attorneys' Offices. In 2024, those offices were staffed by about 10,000 attorneys and other personnel, with roughly three-quarters of that group focused on criminal litigation. Using information from DOJ, CBO expects that implementing the bill would require more work to prosecute criminal cases, primarily by increasing the number of recorded interviews the attorneys and staff would need to review.

Based on the proportion of law enforcement officers to U.S. attorneys employed under current law and using CBO's estimate of 600 additional law enforcement personnel needed to implement the bill (estimated above), we estimate that by 2029, the U.S. Attorneys' Offices would need an additional 110 attorneys and 70 paralegals to handle the increased workload under H.R. 5736. CBO estimates that the average cost in 2025 would be \$270,000 for each attorney and \$125,000 for each paralegal. Those amounts include the technology and operating costs to review, manage, and store recordings and other information. Accounting for anticipated inflation, CBO estimates that implementing the bill would cost the U.S. Attorneys' Offices roughly \$100 million in personnel and other operating costs over the 2024-2029 period.

Direct Spending and Revenues

CBO expects that it would take several years for DOJ to fully implement the bill's requirements, which could affect criminal investigations and outcomes of criminal prosecutions. As a result, CBO estimates that enacting H.R. 5736 would reduce collections of criminal penalties by a small amount. Criminal fines are recorded as revenues, deposited into the Crime Victims Fund, and spent without further appropriation. CBO estimates that enacting H.R. 5736 would reduce revenues and the related direct spending by less than \$500,000 over the 2024-2034 window.

Uncertainty

CBO's estimate for H.R. 5736 is subject to significant uncertainty, particularly about the amount of time it would take the department and the U.S. Attorneys' Offices to meet the bill's requirements. CBO cannot predict how DOJ would implement the bill, including if the department would procure different types of technology. Depending on what equipment the department chooses to procure, the costs could be smaller or larger than CBO estimates.

For this estimate, CBO assumed that DOJ would pursue the same number of criminal investigations and prosecutions that it does under current law. However, enacting the bill could significantly affect the number, duration, and complexity of prosecutions, and the costs and effect on collections of criminal penalties could be larger or smaller than CBO estimates.

Pay-As-You-Go Considerations

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that enacting the bill would decrease direct spending and revenues by less than \$500,000 over the 2024-2034 period.

Increase in Long-Term Net Direct Spending and Deficits

CBO estimates that enacting H.R. 5736 would not increase net direct spending or deficits in any of the four consecutive 10-year periods beginning in 2035.

Mandates

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

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