

ELIMINATING PORNOGRAPHY FROM AGENCIES ACT

FEBRUARY 4, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CHAFFETZ, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

[To accompany H.R. 901]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 901) to prohibit accessing pornographic web sites from Federal computers, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

H.R. 901, the Eliminating Pornography from Agencies Act prohibits the access of pornographic or explicit websites on a federal computer, with an exception for an investigative purpose that re-

quires accessing such sites. The bill gives the Office of Management and Budget 90 days to develop guidelines for this policy.

#### BACKGROUND AND NEED FOR LEGISLATION

In September 2013, the Environmental Protection Agency (EPA) Office of Environmental Information informed the EPA Office of the Inspector General (OIG) that an EPA employee had been viewing pornography at work.<sup>1</sup> When the OIG went to investigate this employee at his office, the OIG found him viewing pornography.<sup>2</sup> The employee subsequently told the OIG that he viewed pornography for an average of two to six hours a day while at work.<sup>3</sup> The OIG also found that the employee had about 20,000 adult pornographic images on his government-issued laptop.<sup>4</sup> The case was ultimately referred to the U.S. Attorney's Office, who declined to prosecute in March 2015.<sup>5</sup>

Additional cases of employees viewing pornography at the EPA have also surfaced. The EPA OIG investigated one EPA employee in the Office of the Administrator for watching pornography on his government issued computer during the workday, after an individual reportedly saw him viewing pornography at work in April 2014.<sup>6</sup> The subsequent investigation found that the employee typically viewed pornography at work for one to four hours a day and that 30–40 percent of the electronic media on his computer was pornography.<sup>7</sup> The case was ultimately referred to the U.S. Attorney's Office, who declined to prosecute in March 2015.<sup>8</sup>

In 2010, the Securities and Exchange Commission (SEC) OIG provided Senator Charles Grassley (R-IA) a summary of investigations from the past five years of employees who used their work computer to view pornography at the SEC.<sup>9</sup> The summary demonstrated that 33 cases had occurred, some involving senior employees.

There have been many other instances of federal employees accessing pornography across the federal government. For example, cases have been reported at the Department of Housing and Urban Development, the Department of Commerce, the Federal Communications Commission, the General Services Administration,<sup>10</sup> and the National Science Foundation.<sup>11</sup>

<sup>1</sup>“The Office of Inspector General’s Cases of Employee Misconduct at the Environmental Protection Agency,” Statement of Allan Williams, Deputy Assistant Inspector General for Investigations, Before the Committee on Oversight and Government Reform, U.S. House of Representatives, May 7, 2014, (4), <http://oversight.house.gov/wp-content/uploads/2014/05/Williams-Statement.pdf>.

<sup>2</sup>*Id.*

<sup>3</sup>*Id.*

<sup>4</sup>“Employee Misconduct at the U.S. Environmental Protection Agency,” Statement of Patrick Sullivan, Assistant Inspector General for Investigations, before the Committee on Oversight and Government Reform, U.S. House of Representatives, April 30, 2015, (2), <http://oversight.house.gov/wp-content/uploads/2015/04/Final-Statement-of-Sullivan-for-HOGR-Hearing-04-30-2015.pdf>.

<sup>5</sup>*Id.*

<sup>6</sup>*Id.*

<sup>7</sup>*Id.*

<sup>8</sup>*Id.* at 3.

<sup>9</sup>“Summary of Pornography-Related Investigations Conducted by the Securities and Exchange Commission Office of Inspector General,” <http://www.washingtonpost.com/wp-srv/politics/documents/SECPornSummary.pdf>.

<sup>10</sup>“Porn-surfing Feds Blame Boredom, Lack of Work for Misbehavior,” Jim McElhatton, The Washington Times, July 31, 2014, <http://www.washingtontimes.com/news/2014/jul/31/feds-accept-boredom-lack-of-work-as-excuses-for-sur/>.

<sup>11</sup>“Porn Crisis Hits Government Agencies,” Judicial Watch, Liberty News Now, February 25, 2015, <http://www.libertynewsnow.com/crisis-hits-government-agencies/article955>.

The cases mentioned above and the many others that are not discussed here are evidence of the need for action. H.R. 901 addresses the issue of federal employees accessing pornography on their federal computers, making it clear that accessing pornographic or explicit sites on a government computer is completely unacceptable.

#### LEGISLATIVE HISTORY

Congressman Mark Meadows (R–NC) introduced H.R. 5628, the “Eliminating Pornography from Agencies Act,” in the 113th Congress on September 18, 2014. The bill text is identical to the current legislation, H.R. 901. H.R. 5628 was referred to the Committee on Oversight and Government Reform. No action was taken on the bill.

Congressman Meadows reintroduced the legislation as H.R. 901 in the 114th Congress on February 11, 2015. The bill was referred to the Committee on Oversight and Government Reform.

On March 25, 2014, the Committee held a Full Committee Business Meeting to consider H.R. 901. The bill was ordered favorably reported, without amendment, by voice vote.

#### SECTION-BY-SECTION

##### *Section 1. Short title*

Designates the short title of the bill as the “Eliminating Pornography from Agencies Act”.

##### *Section 2. Prohibition on accessing pornographic web sites from federal computers*

Requires the Director of the Office of Management and Budget to create guidelines that prohibit access of pornographic or explicit web sites from a Federal computer.

Provides an exception to the prohibition for investigative purposes.

#### EXPLANATION OF AMENDMENTS

No amendments were offered during Full Committee consideration of H.R. 901.

#### COMMITTEE CONSIDERATION

On March 25, 2015 the Committee met in open session and ordered reported favorably the bill, H.R. 901, by voice vote, a quorum being present.

#### ROLL CALL VOTES

There were no recorded votes during Full Committee consideration of H.R. 901.

#### APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill directs the Director of the Office of Management and Budget to issue guidelines that pro-

hibit the access of a pornographic or other explicit website from a federal computer, except any federal computer that is used for an investigative purpose that requires accessing such a website. Thus, the bill does not relate to employment or access to public services and accommodations.

#### STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goal or objective of the bill is to prohibit accessing pornographic web sites from Federal computers.

#### DUPLICATION OF FEDERAL PROGRAMS

No provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting this bill does not direct the completion of any specific rule makings within the meaning of 5 U.S.C. 551. However, the Director of the Office of Management and Budget is directed to issue guidelines that prohibit the access of a pornographic or other explicit web site from a Federal computer.

#### FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

#### UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104-4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

#### EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

## COMMITTEE ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST  
ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of Congressional Budget Office:

*H.R. 901—Eliminating Pornography From Agencies Act*

H.R. 901 would require the Office of Management and Budget to issue guidelines to prohibit federal computers from accessing pornographic and other explicit websites. CBO estimates that implementing the bill would not have a significant cost because the use of government property for unauthorized purposes is already prohibited. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 901 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by Theresa Gullo, Assistant Director for Budget Analysis.