

BATHROOMS ACCESSIBLE IN EVERY SITUATION ACT

SEPTEMBER 20, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 5147]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 5147) to amend title 40, United States Code, to require that male and female restrooms in public buildings be equipped with baby changing facilities, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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The amendments are as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Bathrooms Accessible in Every Situation Act” or “BABIES Act”.

**SEC. 2. BABY CHANGING FACILITIES IN RESTROOMS IN PUBLIC BUILDINGS.**

(a) IN GENERAL.—Chapter 33 of title 40, United States Code, is amended—

- (1) by redesignating sections 3314, 3315, and 3316 as sections 3315, 3316, and 3317, respectively; and
- (2) by inserting after section 3313 the following new section:

**“§ 3314. Baby changing facilities in restrooms**

“(a) ADDITIONAL REQUIREMENT FOR THE CONSTRUCTION, ALTERATION, AND ACQUISITION OF PUBLIC BUILDINGS.—Except as provided in subsection (b) and subject to any reasonable accommodations that may be made for individuals in accordance with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) restrooms in a public building shall be equipped with baby changing facilities that the Administrator determines are physically safe, sanitary, and appropriate.

“(b) EXCEPTIONS.—The requirement under subsection (a) shall not apply—

- “(1) to a restroom in a public building that is not available or accessible for public use;
- “(2) to a restroom in a public building that contains clear and conspicuous signage indicating where a restroom with a baby changing table is located on the same floor of such public building;
- “(3) if new construction would be required to install a baby changing facility in the public building and the cost of such construction is unfeasible; or
- “(4) to a building not subject to an alteration as set forth in section 3307.

“(c) DEFINITIONS.—In this section:

- “(1) BABY CHANGING FACILITY.—The term ‘baby changing facility’ means a table or other device suitable for changing the diaper of a child age 3 or under.
- “(2) PUBLIC BUILDING.—The term ‘public building’ means a public building as defined in section 3301 and controlled by the Public Building Service of the General Services Administration.”

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by striking the items relating to sections 3314, 3315, and 3316 and inserting the following:

“3314. Baby changing facilities in restrooms.

“3315. Delegation.

“3316. Report to Congress.

“3317. Certain authority not affected.”

(c) APPLICABILITY.—The requirement under section 3314(a) of title 40, United States Code, shall apply in the case of a public building constructed, altered, or acquired by the Administrator of General Services on or after the date that is 1 year after the date of the enactment of this Act, beginning on that date.

Amend the title so as to read:

A bill to amend title 40, United States Code, to require restrooms in public buildings to be equipped with baby changing facilities.

**PURPOSE OF LEGISLATION**

H.R. 5147, as amended, amends title 40, United States Code, to require that male and female restrooms in public buildings be equipped with baby changing facilities.

**BACKGROUND AND NEED FOR LEGISLATION**

H.R. 5147, the Bathrooms Accessible in Every Situation (BABIES) Act, as amended, would require that both male and female restrooms in a public building be equipped with baby changing facilities that are physically safe, sanitary, and appropriate.

This provision is intended to cover buildings controlled by the General Services Administration’s (GSA) Public Building Service. The intent of the legislation is to ensure there are appropriate and sanitary facilities in publicly accessible federal buildings for parents and caretakers to

change the diapers of infants and toddlers. In Washington, D.C. alone, there are millions of tourists who visit federal facilities annually. Despite the fact that the cost of a baby changing station is nominal, some federal buildings do not have them. As a result of this, many caretakers are forced to change their children on the floor or on the countertop of public restrooms creating potentially unsanitary conditions.

Access to baby changing stations in restrooms in federal buildings will help in protecting the health and safety of children and will encourage a family-friendly environment. Various cities and counties in the United States have passed similar laws requiring changing tables in men's and women's restrooms, including San Francisco and Miami-Dade County. Current GSA policy requires that the planning of new construction, modernization, and alteration projects include family restrooms. GSA family restrooms contain baby changing facilities and GSA's policy is to include one family restroom on each floor of a federal building whenever possible.

It is the intent of this legislation that baby changing facilities be included in both male and female restrooms.

#### HEARINGS

No hearings were held on H.R. 5147, as amended.

#### LEGISLATIVE HISTORY AND CONSIDERATION

On April 29, 2016, Representative David N. Cicilline (D-RI) introduced H.R. 5147, the Bathrooms Accessible in Every Situation (BABIES) Act.

On September 14, 2016, the Committee on Transportation and Infrastructure met in open session. An amendment, offered by Representative André Carson (D-IN), was offered and adopted by voice vote. The Committee ordered the bill, as amended, reported favorably to the House by voice vote with a quorum present.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no record votes taken in connection with consideration of H.R. 5147, as amended.

#### COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement 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 enclosed cost estimate for H.R. 5147, as amended, from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 20, 2016.*

Hon. BILL SHUSTER,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5147, the BABIES Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

KEITH HALL.

Enclosure.

*H.R. 5147—BABIES Act*

H.R. 5147 would require that any buildings controlled by the General Services Administration's (GSA) Public Building Service (PBS) that are accessible to the general public and are undergoing a congressionally approved alteration be equipped with baby changing facilities.

GSA standards currently require the installation of one family bathroom with a baby changing station for each floor of a federal building. That requirement applies to all new construction and to existing buildings where major repairs or alterations to restrooms are being undertaken. Based on information from PBS, CBO estimates that implementing H.R. 5147 would cost less \$500,000 annually; such spending would be subject to the availability of appropriated funds. We estimate that amount would cover installation costs for up to 10 facilities per year in PBS buildings undergoing congressionally approved alterations that would not otherwise be covered by the GSA standards.

Enacting H.R. 5147 would not affect direct spending or revenues; therefore, pay-as-you go procedures do not apply. CBO estimates that enacting H.R. 5147 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 5147 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on 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.

#### PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to require that male and female restrooms in public buildings be equipped with baby changing facilities.

#### ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee finds that no provision of H.R. 5147, as amended, 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

Pursuant to section 3(i) of H. Res. 5, 114th Cong. (2015), the Committee finds that enacting H.R. 5147, as amended, does not direct the completion of a specific rule making within the meaning of section 551 of title 5, United States Code.

#### FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104-4).

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 5147, as amended, does not preempt any state, local, or tribal law.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

## APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

## SECTION-BY-SECTION ANALYSIS OF LEGISLATION, AS AMENDED

*Section 1. Designation*

Section 1 entitles the Act as the “Bathrooms Accessible in Every Situation Act” or “BABIES Act”.

*Section 2. Baby changing facilities in restrooms in public buildings*

Subsection (a) re-designates sections in Chapter 33 of title 40, United States Code and inserts a new section 3314 entitled “Baby changing facilities in restrooms.”

The new section 3314 requires restrooms in public buildings to be equipped with baby changing facilities that the Administrator of General Services determines are physically safe, sanitary, and appropriate. This requirement is subject to any reasonable accommodations that may be made for individuals in accordance with the Americans with Disabilities Act.

The requirement excludes restrooms not available or accessible to the public; restrooms in public buildings that have clear and conspicuous signage indicating the location of another restroom with a baby changing table on the same floor; situations where new construction would be required and the cost is unfeasible; or situations where the alteration of the building does not require Congressional approval pursuant to title 40, United States Code, section 3307.

The new section also includes definitions for “baby changing facility” and “public building.”

Subsection (b) makes clerical amendments to the analysis of the chapter.

Subsection (c) establishes that the requirements of the bill only apply to a public building constructed, altered, or acquired by the Administrator of General Services on or after that date that is one year after the date of enactment of the new section.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omit-

ted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

**TITLE 40, UNITED STATES CODE**

\* \* \* \* \*

**SUBTITLE II—PUBLIC BUILDINGS AND WORKS**

\* \* \* \* \*

**PART A—GENERAL**

\* \* \* \* \*

**CHAPTER 33—ACQUISITION, CONSTRUCTION, AND ALTERATION**

Sec.

3301. Definitions and nonapplication.

\* \* \* \* \*

[3314. Delegation.

[3315. Report to Congress.

[3316. Certain authority not affected.]

3314. *Baby changing facilities in restrooms.*

3315. *Delegation.*

3316. *Report to Congress.*

3317. *Certain authority not affected.*

\* \* \* \* \*

**§ 3314. *Baby changing facilities in restrooms***

(a) *ADDITIONAL REQUIREMENT FOR THE CONSTRUCTION, ALTERATION, AND ACQUISITION OF PUBLIC BUILDINGS.—Except as provided in subsection (b) and subject to any reasonable accommodations that may be made for individuals in accordance with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) restrooms in a public building shall be equipped with baby changing facilities that the Administrator determines are physically safe, sanitary, and appropriate.*

(b) *EXCEPTIONS.—The requirement under subsection (a) shall not apply—*

*(1) to a restroom in a public building that is not available or accessible for public use;*

*(2) to a restroom in a public building that contains clear and conspicuous signage indicating where a restroom with a baby changing table is located on the same floor of such public building;*

*(3) if new construction would be required to install a baby changing facility in the public building and the cost of such construction is unfeasible; or*

*(4) to a building not subject to an alteration as set forth in section 3307.*

(c) *DEFINITIONS.—In this section:*

*(1) BABY CHANGING FACILITY.—The term “baby changing facility” means a table or other device suitable for changing the diaper of a child age 3 or under.*

(2) *PUBLIC BUILDING.*—The term “public building” means a public building as defined in section 3301 and controlled by the Public Building Service of the General Services Administration.

**§ [3314.] 3315. Delegation**

(a) *WHEN ALLOWED.*—The carrying out of the duties and powers of the Administrator of General Services under this chapter, in accordance with standards the Administrator prescribes—

(1) shall, except for the authority contained in section 3305(b) of this title, be delegated on request to the appropriate executive agency when the estimated cost of the project does not exceed \$100,000; and

(2) may be delegated to the appropriate executive agency when the Administrator determines that delegation will promote efficiency and economy.

(b) *NO EXEMPTION FROM OTHER PROVISIONS OF CHAPTER.*—Delegation under subsection (a) does not exempt the person to whom the delegation is made, or the carrying out of the delegated duty or power, from any other provision of this chapter.

**§ [3315.] 3316. Report to Congress**

(a) *REQUEST BY EITHER HOUSE OF CONGRESS OR ANY COMMITTEE.*—Within a reasonable time after a request of either House of Congress or any committee of Congress, the Administrator of General Services shall submit a report showing the location, space, cost, and status of each public building the construction, alteration, or acquisition of which—

(1) is to be under authority of this chapter; and

(2) was uncompleted as of the date of the request, or as of another date the request may designate.

(b) *REQUEST OF COMMITTEE ON PUBLIC WORKS AND ENVIRONMENT OR COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE.*—The Administrator and the United States Postal Service shall make building project surveys requested by resolution by the Committee on Environment and Public Works of the Senate or the Committee on Transportation and Infrastructure of the House of Representatives, and within a reasonable time shall make a report on the survey to Congress. The report shall contain all other information required to be included in a prospectus of the proposed public building project under section 3307(b) of this title.

**§ [3316.] 3317. Certain authority not affected**

This chapter does not limit or repeal the authority conferred by law on the United States Postal Service.

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