

CREATING ADVANCED STREAMLINED ELECTRONIC
 SERVICES FOR CONSTITUENTS ACT OF 2018

JULY 16, 2018.—Committed to the Committee of the Whole House on the State of
 the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 3076]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom
 was referred the bill (H.R. 3076) to amend section 552a of title 5,
 United States Code (commonly referred to as the Privacy Act) to
 require agencies to accept electronic release forms, and for other
 purposes, 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:

SEC. 1. SHORT TITLE.

This Act may be cited as the “Creating Advanced Streamlined Electronic Services for Constituents Act of 2018” or the “CASES Act”.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

- (1) congressional offices provide crucial services to constituents by acting as a liaison between the constituents and the respective agencies;
- (2) this includes assisting constituents by making inquiries and working toward resolutions on behalf of the constituent with the respective agencies; and
- (3) this process should be simplified through the creation of electronic forms that may be submitted under section 552a of title 5, United States Code (commonly referred to as the Privacy Act), thus modernizing the process for constituents and improving access and efficiency of Government services and agencies in order to expedite the resolution of the problem for which constituents sought help.

SEC. 3. OMB GUIDANCE ON ELECTRONIC CONSENT FORMS.

(a) **GUIDANCE.**—Not later than 1 year after the date of the enactment of this Act, the Director shall issue guidance that does the following:

(1) **Establishes—**

(A) standards for each agency to develop an electronic identity proofing and authentication process for allowing an individual to provide a prior written electronic consent form for the disclosure of the individual’s record under section 552a(b) of title 5, United States Code, or for individual access to a record under section 552a(d) of such title; or

(B) a method by which each agency can electronically identity proof and authenticate an individual submitting an electronic consent form through a central online portal.

(2) Creates a template for an electronic consent form that can be properly identity proofed and authenticated in accordance with paragraph (1).

(3) Requires each agency to accept the electronic consent form described in paragraph (2) that provides consent from any individual properly identity proofed and authenticated in accordance with paragraph (1) from the individual providing consent or an entity other than the individual, including a congressional office, on behalf of the individual for the purpose of authorizing the disclosure of the individual’s record in accordance with section 552a(b) or 552a(d) of title 5, United States Code.

(4) Authorizes each agency to provide an online link to the consolidated online portal described under subsection (b)(1).

(b) **PORTAL; CONSENT IDENTIFIER; CONGRESSIONAL FUNCTION.**—

(1) **CONSOLIDATED ONLINE PORTAL.**—

(A) **OPERATION OF PORTAL.**—The Director (or a designee) shall operate (or designate the head of an agency to operate) a consolidated online portal that allows a member of the public to submit an electronic consent form in accordance with the guidance issued pursuant to subsection (a) to any agency from a single website.

(B) **PRIVACY AND OTHER FEATURES.**—The portal shall include features to protect the privacy of individuals using the portal and may include any additional functions the Director finds will improve the implementation of this section.

(C) **USE OF EXISTING WEBSITE OR PORTAL.**—The Director may use any existing website or portal to satisfy the requirements of this subsection, including the portal established under section 552(m) of title 5, United States Code.

(2) **CONSENT IDENTIFIER.**—The Director, or a designee, shall assign each consent form submitted through the portal described in paragraph (1) a consent identifier, which shall be provided to the agency and the individual or entity submitting the consent form. The agency shall track the consent form with the consent identifier.

(3) **CONGRESSIONAL ASSISTANCE FUNCTION.**—

(A) **IN GENERAL.**—The Director, or a designee, shall ensure the operation of a function that allows a congressional office to provide a publicly available online link to the portal described in paragraph (1), which shall auto-populate information about such congressional office, including an indication of consent for such office to access a record in accordance with section

552a(b) of title 5, United States Code, in the consent form accessed through the portal.

(B) NOTIFICATION OF CONSENT IDENTIFIER REQUIRED.—The Director, or a designee, shall ensure the function sends the consent identifier to the congressional office when a consent form is submitted to an agency through the portal as accessed through the function.

(c) AGENCY COMPLIANCE.—Each agency shall comply with the guidance issued pursuant to subsection (a) not later than 1 year after the date on which such guidance is issued.

(d) DEFINITIONS.—In this section:

(1) AGENCY; INDIVIDUAL; RECORD.—The terms “agency”, “individual”, and “record” have the meanings given those terms in section 552a(a) of title 5, United States Code.

(2) CONSENT IDENTIFIER.—The term “consent identifier” means a nonproprietary, unique identification number.

(3) DIRECTOR.—The term “Director” means the Director of the Office of Management and Budget.

Amend the title so as to read:

A bill to require the Director of the Office of Management and Budget to issue guidance on electronic consent forms, and for other purposes.

SUMMARY AND PURPOSE OF LEGISLATION

The Creating Advanced Streamlined Electronic Services for Constituents Act of 2018, or CASES Act, facilitates congressional casework by requiring federal agencies to accept electronic privacy release forms.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3076 allows members of Congress to better fulfill an important duty of their office. Since the early American republic, constituents have requested Congress’s assistance in their interactions with the Executive Branch. In 1794, the House established a select committee for private claims to help sort out requests related to Revolutionary War pensions.¹ Today, individual Members and congressional staff handle constituent services or casework. Though Members have significant flexibility in resources they devote to casework, most see it as a one of their most important responsibilities. As one former Congressman recalled, “you learn more about the job by doing constituent service work than anything else.”²

When casework involves personally-identifiable information at an executive agency, the *Privacy Act of 1974* prohibits the agency from providing access to an individual member of Congress without a release form signed by the constituent.³ Under the current process, a constituent cannot complete and submit a release form entirely online. Instead, a constituent must print the form, sign it, and then deliver or fax it or scan and email it to the congressional office. Once received by the congressional office, a staff member in the office submits the form to the individual agency with which a constituent is requesting assistance.

The process works, but it is slow and cumbersome, often to the point of frustrating constituents. It can present particular challenges for constituents without access to printing or scanning serv-

¹Sarah J. Eckman, Cong. Research Serv., R44726, *Constituent Services: Overview and Resources* (2017).

²*Id.*

³R. Eric Petersen and Sarah J. Eckman, Cong. Research Serv., RL33209, *Casework in a Congressional Office: Background, Rules, Laws, and Resources* (2017).

ices, but who would be able to complete and submit the release if it were entirely online, such as during the aftermath of a natural disaster.

H.R. 3076 addresses this problem by allowing constituents to complete and submit a *Privacy Act* release online directly to each agency. Under the proposed system, agencies will notify the respective congressional office when a constituent successfully submits a release form. After receiving the notification, the Member office can then submit a casework request to the agency.

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 previous section.

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 for this bill is to require federal agencies to accept Privacy Act release forms electronically from constituents.

LEGISLATIVE HISTORY

On June 27, 2017, Representative Garret Graves (R-LA) introduced H.R. 3076, the Creating Advanced Streamlined Electronic Services (CASES) for Constituents Act of 2017, with Representative Joseph P. Kennedy, III (D-MA). H.R. 3076 was referred to the Committee on Oversight and Government Reform. The Committee considered H.R. 3076 at a business meeting on February 6, 2018 and ordered the bill favorably reported, as amended, by voice vote.

COMMITTEE CONSIDERATION

On February 6, 2018, the Committee met in open session and, with a quorum being present, ordered the bill favorably reported, as amended, by voice vote.

ROLL CALL VOTES

There were no roll call votes requested or conducted during Committee consideration of H.R. 3076.

EXPLANATION OF AMENDMENTS

During Committee consideration of the bill, Representative Mark Meadows (R-NC), Chair of the Subcommittee on Government Operations, offered an amendment in the nature of a substitute. The amendment in the nature of a substitute included a Sense of Congress, expressing the importance of the congressional office in casework. In addition, it required the Office of Management and Budget to issue guidance to federal agencies to accept electronically submitted *Privacy Act* waivers. Agencies can either use a single portal created and maintained by the Office of Management and Budget or a designee, such as the General Services Administration, to accept these forms or another mechanism to authenticate individuals.

Each submission will receive a consent identifier in order to track requests through the casework process.

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. The purpose of this bill is to require federal agencies to accept *Privacy Act* release forms electronically from constituents. As such, this bill does not relate to employment or access to public services and accommodations.

DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 2(c)(5) of rule XIII 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

This bill directs the Office of Management and Budget to promulgate guidance on federal agencies' implementation of the requirement of this bill within one year of enactment.

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 Section 5(b) of the appendix to title 5, United States Code.

UNFUNDED MANDATES STATEMENT

Pursuant to section 423 of the Congressional Budget and Impoundment Control Act (Pub. L. 113–67) the Committee has included a letter received from the Congressional Budget Office below.

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 of the House of Representatives.

COMMITTEE ESTIMATE

Pursuant to clause 3(d)(2)(B) of rule XIII of the Rules of the House of Representatives, the Committee includes below a cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST
ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 402 of the Congressional Budget Act of 1974 is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 4, 2018.

Hon. TREY GOWDY,
*Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3076, the CASES 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,
Director.

Enclosure.

H.R. 3076—CASES Act

H.R. 3076 would require the Office of Management and Budget to create an electronic form that would allow individual users to consent to have a Member of Congress act on their behalf in matters concerning any federal agency. Under current law, most constituent services performed by federal agencies are provided using a paper process.

CBO is unaware of any electronic authentication program currently under development or planned in the near term that features three-person authentication (constituent, agency, and Congressional staff). In addition, CBO is unaware of any comprehensive information on the amount of work that legislative branch employees provide for constituent services.

Login.gov—an online system that offers about 4 million users secure, private access to 10 participating federal programs—cost about \$15 million to develop. On that basis, CBO estimates that implementing H.R. 3076 by adding another secure access point to login.gov would cost less than \$1 million per major federal agency. Estimated costs over the 2019–2023 period, most of which would be subject to the availability of appropriated funds, would total about \$15 million.

Enacting H.R. 3076 could affect direct spending by some agencies because they are authorized to use receipts from the sale of goods and from fees and other collections to cover operating costs. Therefore, pay-as-you-go procedures apply. Because most agencies can adjust the amounts collected as their operating costs change, CBO estimates any net changes in direct spending by those agencies would be insignificant. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 3076 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 3076 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 establishes the short title of the bill.

Sec. 2. Sense of Congress

Section 2 provides a sense of congress related to the intent of the bill.

Sec. 3. OMB guidance on electronic consent forms

Section 3 directs the Office of Management and Budget (OMB), within one year of enactment, to issue guidance establishing either standards for agencies to create electronic identity proofing and authentication processes or a central online consent portal through which agencies can electronically identity proof and authenticate individuals.

If OMB chooses to establish standards for agencies to develop electronic identity proofing and authentication processes, then OMB will create a template consent form in accordance with the set standards. Agencies will accept consent forms from the individuals or other entities, including congressional offices, on behalf of the individual in accordance with the *Privacy Act of 1974*.

Additionally, OMB or a designated agency such as the General Services Administration will ensure the operation of a consolidated online portal that allows individuals to submit consent forms that meet the OMB standards for identity proofing and authentication to any agency. This portal can be the existing portal, including the portal established for *Freedom of Information Act* requests. The portal will assign each consent form submitted through the portal a nonproprietary, unique identification number to be called a consent identifier. The consent identifier will be provided to the agency, individual, and entity submitting the identifier on behalf of the individual. Agencies will track the consent form with the consent identifier. The portal will include features to protect the privacy of individuals using the portal.

OMB will ensure that the portal has an operational tool to allow congressional offices to link to the portal with information about the congressional office auto-populating the fields to indicate consent for such office to access the records in accordance with the *Privacy Act*. The tool will ensure the consent identifier is sent to the congressional office.

To the extent user authentication is necessary to achieve the requirements of this bill, the Committee intends the Office of Management and Budget or its designee to comply with section 225(b)(1)(D) of the *Federal Cybersecurity Enhancement Act of 2015*

in implementing this requirement, namely by utilizing the General Services Administration's single-sign on platform, login.gov.⁴

Agencies have one year to implement the form after guidance is issued.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 3076 would make no changes to existing law.



⁴Pub. L. 114–113 (2015), Div. N, Title II, Subtitle B, Sec. 225, 129 Stat. 2242, 2968 (6 U.S.C. § 1523).