

Calendar No. 127

116TH CONGRESS }
1st Session }

SENATE

{ REPORT
116-50

CREATING ADVANCED STREAMLINED
ELECTRONIC SERVICES FOR CONSTITUENTS
ACT OF 2019

—
R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

H.R. 1079

TO REQUIRE THE DIRECTOR OF THE OFFICE OF
MANAGEMENT AND BUDGET TO ISSUE GUIDANCE ON
ELECTRONIC CONSENT FORMS, AND FOR OTHER PURPOSES



JUNE 25, 2019.—Ordered to be printed

—
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JUNE 25, 2019.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany H.R. 1079]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (H.R. 1079) to require the Director of the Office of Management and Budget to issue guidance on electronic consent forms, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

The purpose of H.R. 1079, the Creating Advanced Streamlined Electronic Services for Constituents Act of 2019, or the “CASES Act”, is to allow constituents the option of electronically authorizing their member of Congress to engage with a Federal agency on their behalf. Currently, Federal law prohibits a Federal agency from disclosing an individual’s record to another person or agency without

written authorization or consent from the individual.¹ The legislation would require OMB to create a uniform privacy release form to be used across all agencies and to issue guidance requiring all Federal agencies to accept electronic consent forms.

II. BACKGROUND AND THE NEED FOR LEGISLATION

One of the primary responsibilities of a member of Congress is to provide assistance to constituents experiencing an issue with a Federal agency. Constituent casework varies and typically includes requests for information on government activities or decisions, assistance tracking down missing benefit payments, or relief from a Federal administrative decision, among many others.² When a constituent is unable to resolve a personal issue with an agency on their own, members and their staff often step in to serve as a liaison and help the constituent navigate the bureaucracy.

The Privacy Act of 1974 can hinder the casework process by prohibiting a Federal agency from sharing an individual's personally identifiable information with another agency or person, including a congressional office, without the individual's written authorization.³ While most Federal agencies accept any signed document from an individual granting their member of Congress access to their records, some agencies require their own forms to be submitted to initiate a casework inquiry.⁴

For the purpose of constituent casework, the Privacy Act requires a constituent to print a privacy release form, sign it, and mail, fax, email, or deliver it to their congressional office. Although this process works, constituents often reach out to their member of Congress during an emergency situation or after a natural disaster, and returning a privacy release form in this manner can become a burdensome task.⁵ H.R. 1079 would modernize and simplify this process by providing constituents access to electronic consent forms.

III. LEGISLATIVE HISTORY

Representatives Garret Graves (R-LA) and Joseph P. Kennedy, III (D-MA) introduced H.R. 1079, the Creating Advanced Streamlined Electronic Services for Constituents Act of 2019, on February 7, 2019. Companion legislation was introduced in the Senate by Senators Thomas R. Carper (D-DE) and Rob Portman (R-OH) on February 11, 2019. H.R. 1079 was referred to the Committee on Oversight and Reform, and the House of Representatives passed the bill on February 11, 2019. H.R. 1079 was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered H.R. 1079 at a business meeting on May 15, 2019. The legislation was ordered reported favorably *en bloc* by voice vote with Senators Johnson, Paul, Lankford, Scott, Peters, Carper, Hassan, and Rosen present. For the record only, Senators Portman, Romney, Hawley, and Sinema later asked to be recorded as "yes" by unanimous consent.

¹ 5 U.S.C. §552a (2012).

² Eric Petersen and Sarah J. Eckman, Cong. Research Serv., RL33209, Casework in a Congressional Office: Background, Rules, Laws, and Resources (2017).

³ *Id.* at 7.

⁴ *Id.*

⁵ 165 Cong Rec. 26, H1502-04 (daily ed. Feb. 11, 2019).

IV. SECTION-BY-SECTION ANALYSIS OF THE ACT, AS REPORTED

Section 1. Short title

This section gives the Act the short title of the “Creating Advanced Streamlined Electronic Services for Constituents Act of 2019”, or the “CASES Act”.

Section 2. Sense of Congress

This section states that it is the sense of the Congress that congressional offices provide important constituent services by acting as a liaison between constituents and respective Federal agencies. This section further states that the inquiry process should be modernized and simplified through the creation of an electronic form that may be submitted in place of the written authorization required under Section 552a(b) of Title 5.

Section 3. OMB guidance on electronic consent and access forms

This section establishes a requirement for uniform documentation for constituent privacy releases and requires agencies to accept the documentation.

Subsection (a) requires the Office of Management and Budget to issue guidance within one year of the date of enactment creating a uniform electronic consent form to authorize the disclosure of an individual’s records to another Federal agency or person. The guidance requires the electronic consent form be posted to each agency’s website and requires each agency to accept the electronic consent forms from any individual who has been properly identity proofed and authenticated. The guidance also requires each agency to accept electronic identity proofing and authentication processes.

Subsection (b) requires each agency to comply with the guidance no later than one year of the date of the guidance being issued.

Subsection (c) defines “agency,” “individual,” “record,” and “Director.”

Section 4. No additional funds authorized

This section states that no additional funds are authorized to carry out this bill.

Section 5. Determination of budgetary effects

This section states that for the purpose of complying with the Statutory Pay-As-You-Go Act, the budgetary effects of this legislation shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO legislation” for this Act, submitted by the Chairman of the House Budget Committee prior to the vote on passage.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this Act and determined that the Act will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s statement that the Act contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act

(UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 19, 2019.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1079, the CASES Act.

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

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

H.R. 1079, CASES Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on May 15, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	*	0
Revenues	0	0	0
Deficit Effect	0	*	0
Spending Subject to Appropriation (Outlays)	*	15	n.e.
Statutory Pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
n.e. = not estimated; * = between -\$500,000 and \$500,000.			

H.R. 1079 would require the Office of Management and Budget to create an electronic system to enable Members of Congress to act on behalf of consenting individuals concerning matters with any federal agency. Currently, most Congressional offices performing constituent services with federal agencies utilize a paper-based authorization process to conduct those services and to comply with privacy protection laws.

CBO estimates that creating the electronic authorization process envisioned in H.R. 1079 would be similar to the effort that was required to develop another federal system known as Login.gov. The cost of developing Login.gov—a system that offers 14 million users secure access to 18 federal agencies and more than 30 applications—was \$30 million over a four year period. CBO estimates that implementing H.R. 1079, which would require a system with a single application and that would have fewer users would cost around \$15 million, or less than \$1 million per major federal agency. Most

of those costs would be subject to the availability of appropriated funds.

Enacting this legislation could affect direct spending by some agencies because they are allowed to use receipts from the sale of goods, fees, and other collections to cover operating costs. As a result, pay-as-you-go procedures apply. CBO estimates that any net changes in direct spending by agencies would be insignificant because most agencies can adjust amounts collected to reflect changes in operating costs. Enacting the legislation would not affect revenues.

The CBO staff contacts for this estimate are Chinmayee Balabhadrapatruni and Matthew Pickford. The estimate was reviewed by Theresa Gullo, Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE ACT, AS REPORTED

Because H.R. 1079 would not repeal or amend any provision of current law, it would make no changes in existing law within the meaning of clauses (a) and (b) of paragraph 12 of rule XXVI of the Standing Rules of the Senate.