

ELIMINATING PORNOGRAPHY FROM AGENCIES ACT

APRIL 6, 2017.—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. 680]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 680) 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. 680, the Eliminating Pornography from Agencies Act requires guidelines to prohibit the access of pornographic or explicit websites on a federal computer. The bill does provide an exception

from this prohibition where there is an investigative purpose that requires accessing such sites from a federal computer. The bill gives the Office of Management and Budget (OMB) 90 days to develop guidelines.

BACKGROUND AND NEED FOR LEGISLATION

The Committee has identified multiple cases of federal employees viewing pornography at work.

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.¹ When OIG personnel investigated this employee at his office, OIG staff found him viewing pornography.² The employee subsequently told the OIG that he viewed pornography for an average of two-to-six hours a day while at work.³ The OIG also found the employee had about 20,000 adult pornographic images on his government-issued laptop.⁴ The OIG referred the case to the U.S. Attorney's Office, which declined to prosecute in March 2015.⁵

In another example, 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 2014.⁶ The subsequent investigation found the employee typically viewed pornography at work for 1-to-4 hours a day and that 30–40 percent of the electronic media on his computer was pornography.⁷ The OIG referred the case to the U.S. Attorney's Office, which declined to prosecute in March 2015.⁸

In 2010, the Securities and Exchange Commission (SEC) OIG provided Senator Charles Grassley a summary of investigations from the prior five years on federal employees using work computers to view pornography at the SEC.⁹ The summary detailed 33 cases, some involving senior employees.¹⁰

In February 2017, a Washington, D.C.-based news station reviewed records received from Freedom of Information Act requests that revealed almost 100 cases of federal employees viewing pornography while on government computers across the federal government.¹¹ These cases occurred at 12 major federal government agencies over the past 5 years.¹²

¹Is EPA Leadership Obstructing Its Own Inspector General?: Hearing Before the H. Comm. on Oversight & Gov't Reform, 113th Cong. 22 (2014) (written statement of Allan Williams, Deputy Assistant Inspector General for Investigations, Office of Inspector General, U.S. Environmental Protection Agency).

²Id.

³EPA Mismanagement: Hearing Before the H. Comm. on Oversight & Gov't Reform, 114th Cong. 16 (2015) (written statement of Patrick Sullivan, Assistant Inspector General for Investigations, Office of Inspector General, U.S. Environmental Protection Agency).

⁴Id. at 17.

⁵Id.

⁶Id.

⁷Id.

⁸Id. at 18.

⁹Report: SEC Staffers Watched Porn as Economy Crashed, CNN (Apr. 23, 2010), available at <http://www.cnn.com/2010/POLITICS/04/23/sec.porn/>.

¹⁰Id.

¹¹Scott MacFarlane, Rick Yarborough & Jeff Piper, *Dozens of Federal Employees Watched Abundance of Porn on the Job in Recent Years*, NBC-4 I TEAM (Feb. 27, 2017), available at <http://www.nbcwashington.com/investigations/Dozens-of-Federal-Employees-Watched-Abundance-of-Porn-on-the-Job-in-Recent-Years-414743293.html>.

¹²Id.

These cases demonstrate that current prohibitions on unauthorized use of federal computers are not sufficient to prevent some employees from accessing pornographic materials while at work. These situations not only contribute to lowering agency morale, but they also raise cybersecurity concerns for vulnerable agency computer systems. H.R. 680 sends a clear signal across the federal government that watching pornography on federal computers will not be tolerated.

LEGISLATIVE HISTORY

On January 24, 2017, the Chair of the Subcommittee on Government Operations, Representative Mark Meadows (R-NC) introduced H.R. 680, with Representative Walter Jones (R-NC). H.R. 680 was referred to the Committee on Oversight and Government Reform. The Committee considered H.R. 680 at a business meeting on March 8, 2017 and ordered the bill favorably reported by voice vote.

There have been two bills identical to H.R. 680 introduced in previous Congresses. In the 114th Congress, Representative Meadows introduced H.R. 901 on February 11, 2015. The bill was referred to the Committee and ordered favorably reported by voice vote on March 25, 2015. The text of H.R. 901 was included as part of H.R. 4361, the Government Reform and Improvement Act, which passed the House of Representatives on July 7, 2016 by a vote of 241–181.

In the 113th Congress, Representative Meadows introduced H.R. 5628 on September 18, 2014. The bill was referred to the Committee on Oversight and Government Reform.

SECTION-BY-SECTION

Section 1. Short title

Section 1 designates the title as the “Eliminating Pornography from Agencies Act.”

Section 2. Prohibition on accessing pornographic web sites from Federal computers

Section 2 requires the Director of the Office of Management and Budget to issue guidelines not later than 90 days after the date of enactment that prohibit access to pornographic or explicit websites from a Federal computer.

Section 2 provides an exception to this prohibition for investigative purposes.

EXPLANATION OF AMENDMENTS

There were no amendments offered during Committee consideration of H.R. 680.

COMMITTEE CONSIDERATION

On March 8, 2017, the Committee met in open session and ordered reported favorably the bill, H.R. 680, by voice vote, a quorum being present.

ROLL CALL VOTES

No roll call votes were requested or conducted during Full Committee consideration of H.R. 680.

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 requires OMB to issue guidelines prohibiting the access of pornographic or explicit websites on a federal computer, with an exception to this prohibition for an investigative purpose. As such, this 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 this bill is to prohibit accessing pornographic web sites from federal computers, and for other purposes.

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 Director of the Office of Management and Budget is directed to issue guidelines within 90 days of enactment of this act to prohibit the access of a pornographic or other explicit website 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 Section 5(b) of the appendix to title 5, United States Code.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement as to whether the provisions of the reported bill include unfunded mandates. In

compliance with this requirement, the Committee has included below a letter received from the Congressional Budget Office.

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, which the Committee has included below.

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:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 21, 2017.

Hon. JASON CHAFFETZ,
*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. 680, the Eliminating Pornography from Agencies Act.

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

Sincerely,

MARK P. HADLEY
(For Keith Hall, *Director*).

Enclosure.

H.R. 680—Eliminating Pornography from Agencies Act

H.R. 680 would require the Office of Management and Budget to issue guidelines to prohibit federal computers from accessing pornographic and other explicit websites. Several federal laws, regulations and policies prohibit the use of government property for unauthorized purposes such as viewing pornography. According to several agency officials that CBO consulted, government information technology systems generally block access to pornographic ma-

terial. CBO estimates that implementing the bill would not have a significant cost because the viewing of pornography using government computers is already prohibited.

Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 680 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 680 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 H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

