

At a Glance

H.R. 4018, an act to provide that the amount of time that an elderly offender must serve before being eligible for placement in home detention is to be reduced by the amount of good time credits earned by the prisoner, and for other purposes

As passed by the House of Representatives on December 3, 2019

By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	*	9	27
Revenues	*	*	*
Increase or Decrease (-) in the Deficit	*	9	27
Spending Subject to Appropriation (Outlays)	*	2	2

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 2031?	< \$5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

* = between -\$500,000 and \$500,000.

The act would

- Shorten certain elderly federal prisoners' sentences by applying credits earned for good conduct when determining whether those prisoners are eligible for early release into home confinement

Estimated budgetary effects would primarily stem from

- Reducing federal prison spending because some prisoners would be released from prison earlier than would occur under current law
- Increasing federal spending for health care, Social Security, and other federal benefits for such prisoners

Areas of significant uncertainty include

- Projecting the number of elderly incarcerated prisoners and the number who would meet eligibility criteria for home confinement under the act
- Projecting whether prisoners would be confined in residential reentry centers or at home, and the difference in costs between those options compared with confinement in federal prisons
- Estimating the number of offenders released under the act who would receive federal benefits

Detailed estimate begins on the next page.

Bill Summary

H.R. 4018 would make more elderly federal prisoners eligible to be placed into home confinement under the Bureau of Prisons’ (BOPs’) Elderly Offender Program. Under the program, elderly and terminally ill offenders who are incarcerated for crimes other than violent crimes or sex offenses and who have served at least two-thirds of their sentence may be released from federal prison to complete their sentence at home or in a residential reentry center (RRC) overseen by BOP.

H.R. 4018 would credit additional time for good conduct (known as GCT credits) against the term of eligible inmates’ prison sentences, thus reducing the number of years needed to reach the two-thirds threshold.

Estimated Federal Cost

The estimated budgetary effect of H.R. 4018 is shown in Table 1. The costs of the legislation fall within budget functions 550 (health), 570 (Medicare), 600 (income security), 650 (Social Security), and 750 (administration of justice).

Table 1. Estimated Budgetary Effects of H.R. 4018													
By Fiscal Year, Millions of Dollars												2020-2025	2020-2030
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030		
Increases in Direct Spending													
Estimated Budget Authority	*	1	2	2	2	2	3	3	4	4	4	9	27
Estimated Outlays	*	1	2	2	2	2	3	3	4	4	4	9	27
On-budget	*	1	1	1	2	2	2	3	3	3	3	7	21
Off-budget	*	*	*	*	1	1	1	1	1	1	1	2	6
Decreases in Revenues													
Estimated Revenues	*	*	*	*	*	*	*	*	*	*	*	*	*

Implementing the act also would increase costs to the Bureau of Prisons by \$2 million over the 2020-2030 period; any such spending would be subject to the availability of appropriated funds.

Components may not sum to totals because of rounding; * = between -\$500,000 and \$500,000.

Basis of Estimate

For this estimate, CBO assumes that the legislation will be enacted near the end of 2020. Under H.R. 4018, CBO estimates that each year hundreds of inmates would be released into confinement in their homes or in RRCs earlier than would occur under current law. CBO also expects that many of those offenders would become eligible for Medicare, Medicaid,

premium tax credits for health insurance purchased through the marketplaces established by the Affordable Care Act (ACA), Social Security, Supplemental Security Income (SSI), and the Supplemental Nutrition Assistance Program (SNAP).

In addition, CBO assumes that future appropriations for operating federal prisons would increase, over the period from 2020 to 2027, to cover the additional costs attributable to monitoring inmates placed in RRCs. Beginning in 2028, when CBO estimates the proportion of inmates confined at home would be great enough to reduce the federal government's costs relative to all elderly offenders remaining in BOP facilities, CBO assumes that appropriations beginning that year would be reduced to reflect savings in BOP's overall costs to house and monitor prisoners.

Application of Good Conduct Time Credits to Elderly Offenders

The Elderly Offender Program allows elderly and terminally ill inmates at BOP facilities to finish the end of their sentences in other settings. To be eligible, an inmate must be at least 60 years old, must have served at least two-thirds of a sentence for a crime that was not a violent crime or a sex offense, must meet certain behavioral requirements, and must not present a substantial risk of engaging in criminal conduct or endangering any person or the public. Under current law, although federal inmates can earn GCT credits that can be applied to shorten their sentences, those credits cannot be used to calculate eligibility for release under the current home confinement program for elderly offenders.¹

Eligibility for Home Confinement. H.R. 4018 would increase eligibility for home confinement among elderly inmates by counting GCT credits against inmates' sentences, thus reducing the number of years that constitute the two-thirds threshold for release under the program. Using information from BOP and the U.S. Sentencing Commission, CBO estimates that about 11,250 elderly inmates are in federal prisons; about 6,000 are serving sentences for crimes that would meet the program's criteria and about 1,300 inmates meet all of the behavioral criteria for release. In total, CBO estimates that less than 15 percent of current elderly inmates meet all of the program's requirements before considering whether or not they have served at least two-thirds of their sentence.

Application of GCT Credits. CBO estimates that under current law, about a third of inmates who meet the program's other criteria in any given year have already served at least two-thirds of their sentence. By applying GCT credits against the term of their sentences, CBO estimates that the share of those inmates eligible for release each year would increase to 43 percent. In addition, CBO expects that the number and proportion of elderly inmates in federal prisons will increase significantly over the next decade, relative to current law. Accordingly, CBO estimates that the number of inmates released under H.R. 4018 would rise every year over the 2020-2030 period.

1. Under the First Step Act of 2018, offenders can earn up to 54 days of GCT credits per year. If the full amount is earned, those credits can reduce the time served by an offender by about 15 percent of the full sentence.

BOP has approved the release of more than 300 elderly inmates since the First Step Act of 2018 became law in December 2018. Under current law, CBO estimates that the number of elderly inmates released will increase from 350 in 2020 to roughly 850 in 2030. That estimate is based on current trends and our expectation that the proportion of inmates who meet the program's criteria—other than the age limit—will remain constant. Under H.R. 4018, CBO estimates, about 450 inmates would be released in 2020 and more than 1,100 would be released in 2030—an increase of 100 to 250 inmates annually over the next decade, totaling an additional 1,500 inmates released by 2030.

Reduction in Person-Years Served in BOP Facilities. Using data from the U.S. Sentencing Commission, CBO estimates that, on average, elderly inmates are sentenced to an average term of about 12 years in prison. Under H.R. 4018, an inmate with that sentence could reach the two-thirds mark about 15 months earlier than under current law because of the application of GCT credits. For all eligible inmates, the legislation could effectively shorten the period served by 15 percent. For this estimate, CBO aggregated individual inmates' expected reductions in time served in BOP facilities, across all lengths of sentence, as measured in person-years. For example, time served would be shortened by 1.25 person-years for an inmate released 15 months earlier than under current law. In total, CBO estimates, H.R. 4018 would reduce time served by roughly 2,000 person-years over the 2020-2030 period.

Spending Subject to Appropriation

Because inmates would be released from prison sooner, the costs that BOP incurs to house and provide care for inmates in federal facilities would be reduced under H.R. 4018. However, the agency also incurs costs to care for and monitor offenders serving the remainder of their sentences outside of BOP facilities, either at home or in residential reentry centers (RRCs, sometimes called halfway houses). The costs under the act would depend on the type of confinement an offender enters after leaving a BOP facility and on how many former inmates are placed in each type of confinement.

Using information from BOP, CBO estimates that the average daily cost to house an elderly, nonviolent inmate in a federal facility is \$80.² Under the current program, BOP places 98 percent of elderly offenders in RRCs that provide housing, counseling, and job placement services at an average daily cost of about \$95. About 2 percent of offenders are released to their own homes, where it costs BOP about \$47 per day to monitor the prisoner, typically using a private contractor.

Because the daily costs of housing offenders in RRCs exceed those for BOP facilities, CBO estimates that enacting H.R. 4018 would increase the agency's costs to house offenders for several years, but those costs would total less than \$500,000 each year. However, using

2. More than 80 percent of elderly inmates who qualify for release under the program are housed in minimum- and low-security facilities operated by BOP at a cost of \$70 to \$90 per day. Smaller segments of the elderly prison population are housed in higher-security facilities—and, periodically, in medical centers—at a cost of up to \$200 per day.

information from BOP about its long-term plans for home confinement under the First Step Act of 2018, CBO expects that over the next 10 years, the number of offenders residing at home, rather than in RRCs, will gradually increase from 2 percent to about 35 percent. Beginning in 2028, CBO estimates, the proportion of inmates confined at home will be great enough to reduce the federal government’s costs relative to all elderly offenders remaining in BOP facilities. On net, CBO estimates that implementing H.R. 4018 would cost BOP \$2 million over the 2020-2030 period; any spending would be subject to the availability of appropriated funds.

Direct Spending and Revenues

Under current law, federal prisoners generally cannot receive federal benefits while they are incarcerated in federal prisons. By accelerating the release of prisoners into home confinement, CBO estimates that the legislation would increase the number of beneficiaries in those programs and thus increase direct spending by \$27 million over the 2020-2030 period (see Table 2). CBO calculated that change in costs in person-years—the costs associated with providing benefits for one additional person for one year. Revenues would decline by an insignificant amount because of the effects on the health insurance marketplaces established under the ACA.

Table 2.
Estimated Increases in Direct Spending Under H.R. 4018

	By Fiscal Year, Millions of Dollars											2020-2025	2020-2030
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030		
Increases in Direct Spending													
Medicaid	*	*	*	1	1	1	1	1	2	2	2	4	12
Premium Tax Credits	*	*	*	*	*	*	*	*	*	*	1	1	3
Social Security (Off-budget)	*	*	*	*	1	1	1	1	1	1	1	2	6
Medicare	*	*	*	*	*	*	*	*	1	*	*	1	3
SSI	*	*	*	*	*	*	*	*	*	*	*	1	2
SNAP	*	*	*	*	*	*	*	*	*	*	*	*	1
Total Changes in Outlays	*	1	2	2	2	2	3	3	4	4	4	9	27
On-budget	*	1	1	1	2	2	2	3	3	3	3	7	21
Off-budget	*	*	*	*	1	1	1	1	1	1	1	2	6

For these programs, budget authority is equal to outlays. Components may not sum to totals because of rounding. SNAP = Supplemental Nutrition Assistance Program; SSI = Supplemental Security Income; * = between zero and \$500,000.

Medicaid. Using research on the postincarceration income of felons, CBO estimates that about half of the prisoners released under H.R. 4018 would have an income below 138 percent of the federal poverty level, the upper threshold for adults made newly eligible for Medicaid under the ACA. Of those who would qualify for Medicaid and choose to enroll,

slightly fewer than half would be eligible under pre-ACA eligibility categories and would qualify for the standard federal Medicaid matching rates (which average 57 percent nationally); slightly more than half would be eligible for the expansion category under the ACA and qualify for a federal matching rate of 90 percent. Data on health care costs per capita among similar groups indicate that costs for former prisoners would be about three times those for the average adult Medicaid beneficiary, mainly because of the incarcerated population's greater need for mental health care, higher rate of substance use disorders, and higher rates of HIV and Hepatitis C infections. CBO estimates that Medicaid spending for those former prisoners would total \$12 million over the 2020-2030 period.

Premium Tax Credits. CBO and the staff of the Joint Committee on Taxation estimate that about 15 percent of the prisoners released under the act would obtain premium tax credits for health insurance purchased through the marketplaces. Those estimates were calculated using information on the age employment status, and post incarceration income of felons. About 75 percent of those people would be single adults enrolling on their own and the other 25 percent would be added to a current family plan. In total, the act would increase direct spending by about \$3 million over the 2020-2030 period. In addition, CBO estimates that revenues would decrease by an insignificant amount.³

Social Security and Medicare. Based on information about the age of elderly prisoners and rules about Social Security eligibility for prisoners released into home confinement, CBO estimates that about 20 percent of the eligible group of inmates would receive Social Security benefits. On that basis, CBO estimates that enacting H.R. 4018 would increase Social Security spending by \$6 million over the 2020-2030 period (such spending is classified as off-budget). Most prisoners who gained eligibility for Social Security upon release under the act's provisions also would become eligible for Medicare benefits, at an estimated cost of \$3 million over the 2020-2030 period (that spending is classified as on-budget).

Supplemental Security Income. Using data on age distribution, rules related to disability assessments, and information on SSI beneficiaries whose benefits were suspended when they were incarcerated, CBO estimates that about 20 percent of eligible inmates could receive SSI benefits, which would increase SSI spending by \$2 million over the 2020-2030 period.

Supplemental Nutrition Assistance Program. CBO estimates that enacting the legislation would increase spending on SNAP benefits by approximately \$1 million over the 2020-2030 period. That estimate is based on information about average monthly benefits for elderly SNAP recipients and estimated edibility and participation rates for felons after incarceration.

3. Premium tax credits, which are refundable credits, are federal subsidies for health insurance purchased through the marketplaces established by the Affordable Care Act. Refundable tax credits reduce a taxpayer's overall income tax liability; if those credits exceed other tax liabilities, the taxpayer may receive the excess in a refund. Such refunds are classified as outlays in the federal budget. Provisions of the ACA that reduce tax payments are classified as reductions in revenues.

It also accounts for the fact that most states have taken the option under current law to modify or opt out of the ban on drug felons’ receiving SNAP benefits.

Uncertainty

Several areas of uncertainty affect CBO’s estimates of the budgetary consequences of H.R. 4018. CBO anticipates that the average age of the prison population will increase over the coming decade, but the number of elderly offenders who will remain in BOP facilities—both new and current inmates—is uncertain. In addition, CBO cannot predict how many inmates will meet all of the program’s eligibility requirements.

The projections of the proportions of inmates that would be released to in-home confinement relative to RCC placement is also uncertain. The availability of space in RRCs and the costs to the federal government will depend in part on BOP’s contracting decisions.

Finally, the extent to which offenders released into home confinement would qualify for and receive certain federal benefits is subject to uncertainty. For example, the cost of subsidized insurance coverage through the marketplaces would depend on individuals’ income, employment status, health, family structure, and other sources of insurance coverage.

Pay-As-You-Go Considerations

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures (on-budget costs) are shown in Table 3.

Table 3.
CBO’s Estimate of the Statutory Pay-As-You-Go Effects of H.R. 4018, an act to provide that the amount of time that an elderly offender must serve before being eligible for placement in home detention is to be reduced by the amount of good time credits earned by the prisoner, and for other purposes, as Passed by the House of Representatives on December 3, 2019

	By Fiscal Year, Millions of Dollars											2020-2025	2020-2030
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030		
	Net Increase in the On-Budget Deficit												
Pay-As-You-Go Effect	0	1	1	1	2	2	2	3	3	3	3	7	21

Enacting the legislation also would decrease revenues by less than \$500,000 in every year and over the 2020-2030 period.

Increase in Long-Term Deficits

CBO estimates that enacting H.R. 4018 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2030.

Mandates: None.

Estimate Prepared By

Federal Costs: Jon Sperl (Bureau of Prisons)
Robert Stewart (Medicaid)
Kevin McNellis (health insurance marketplaces)
Staff of the Joint Committee on Taxation (health insurance marketplaces)
Noah Meyerson (Social Security)
Lori Housman (Medicare)
Justin Latus (Supplemental Security Income)
Jennifer Gray (Supplemental Nutrition Assistance Program)

Revenues: Staff of the Joint Committee on Taxation

Mandates: Lilia Ledezma

Estimate Reviewed By

Kim P. Cawley
Chief, Natural and Physical Resources Cost Estimates Unit

Chad Chirico
Chief, Low-Income Health Programs and Prescription Drugs Cost Estimates Unit

Sheila Dacey
Chief, Income Security and Education Cost Estimates Unit

Paul Masi
Chief, Health Systems and Medicare Cost Estimates Unit

H. Samuel Papenfuss
Deputy Director of Budget Analysis

Theresa Gullo
Director of Budget Analysis