

**H.R. 5546, Effective Assistance of Counsel in the Digital Era Act**

As ordered reported by the House Committee on the Judiciary on February 12, 2020

By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	52	not estimated
Statutory pay-as-you-go procedures apply?	No	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	No	Contains intergovernmental mandate?	<b>Excluded from UMRA</b>
		Contains private-sector mandate?	<b>Excluded from UMRA</b>

Under current law, the Bureau of Prisons (BOP) operates an electronic communication system known as TRULINCS that inmates in federal prisons use to send emails to approved contacts, such as family members and legal counsel. In 2020, BOP spent \$14 million to operate TRULINCS, largely through a contract with a private vendor. For security and other purposes, inmates and their contacts must consent to having those communications monitored by BOP before using the system.

H.R. 5546 would require BOP to create a new email system that excludes communications between inmates and their attorney or legal representative from monitoring. The bill would apply the protections of attorney-client privilege to communications sent through the new system and would require the Attorney General to obtain a warrant to access the contents of these communications.

TRULINCS is designed to monitor all communications, both legal and personal; therefore, CBO expects that the agency would need to create a new software system to meet the bill's monitoring restrictions. As with TRULINCS, CBO expects that BOP would contract with a private vendor to develop and maintain the new email system.

Using information from BOP, CBO estimates that the total cost to design, develop, and install the new monitoring system would be \$33 million, and expects the project would take three years to complete. Because of the broad base of users in more than 120 prisons across the country, and heightened security and confidentiality requirements, CBO estimates that it

would cost about \$10 million annually for ongoing operations and maintenance costs (about half of the annual cost to maintain BOP’s telephone system for inmates). In total, CBO estimates that implementing H.R. 5546 would cost \$52 million over the 2021-2025 period, assuming appropriation of the estimated amounts. Those costs are uncertain, because CBO does not know how long it would take to develop and install the system.

CBO also expects that BOP would need to create a registry of certified legal representatives who are authorized to communicate with inmates. To do so, CBO estimates that BOP would partner with a third-party organization to develop and maintain that registry at a cost of about \$150,000 each year.

The costs of the legislation (detailed in Table 1) fall under budget function 750 (administration of justice).

<b>Table 1. Estimated Increases in Spending Subject to Appropriation Under H.R. 5546</b>							
	By Fiscal Year, Millions of Dollars						2020-2025
	2020	2021	2022	2023	2024	2025	
Estimated Authorization	0	11	11	11	9	10	52
Estimated Outlays	0	11	11	11	9	10	52

The CBO staff contact for this estimate is Jon Sperl. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.