

<b>At a Glance</b>			
<b>S. 3538, EARN IT Act of 2022</b>			
As ordered reported by the Senate Committee on the Judiciary on February 10, 2022			
By Fiscal Year, Millions of Dollars	2023	2023-2027	2023-2032
Direct Spending (Outlays)	*	*	*
Revenues	*	*	*
Increase or Decrease (-) in the Deficit	*	*	*
Spending Subject to Appropriation (Outlays)	<b>1</b>	<b>8</b>	not estimated
Statutory pay-as-you-go procedures apply?	<b>Yes</b>	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2033?	<b>No</b>	Contains intergovernmental mandate?	<b>No</b>
		Contains private-sector mandate?	<b>Yes, Under Threshold</b>
* = between -\$500,000 and \$500,000.			

S. 3538 would limit the immunity of providers of interactive computer services in federal lawsuits, expand reporting requirements on such providers, and establish the National Commission on Online Child Sexual Exploitation Prevention.

### Direct Spending and Revenues

S. 3538 would amend the legal framework for preventing the online sexual exploitation and trafficking of children. The bill would limit the immunity of providers of interactive computer services, such as Internet providers and social media companies, in federal civil lawsuits. Under current law, those entities cannot be held liable, with some exceptions, in lawsuits for content that is created by their users. S. 3538 would eliminate that immunity for content containing child pornography and other sexually explicit material involving a minor. CBO expects that S. 3538 would result in a small increase in the number of civil suits filed against providers of interactive computer services in federal courts. That would increase filing fees collected by federal courts, a portion of which may be spent by the judiciary without further appropriation.

In addition, S. 3538 would expand reporting requirements to the CyberTipline, the national reporting system for online child exploitation, for service providers and data storage companies. It also would lengthen the time that those entities must preserve information



about any such submissions. Based on conversations with the Department of Justice (DOJ), CBO expects that those requirements would increase the number of successful criminal prosecutions. Criminal fines are recorded in the budget as revenues, deposited into the Crime Victims Fund, and later spent without further appropriation.

Based on information from DOJ, CBO estimates that, in total, enacting S. 3538 would increase revenues and direct spending by less than \$500,000 over the 2023-2032 period.

### Spending Subject to Appropriation

As shown in Table 1, CBO estimates that implementing S. 3538 would cost \$8 million over the 2023-2027 period, subject to the availability of appropriated funds. The cost of the legislation would fall in function 750 (administration of justice).

**Table 1.**  
**Estimated Increases in Spending Subject to Appropriation Under S. 3538**

	By Fiscal Year, Millions of Dollars					2023-2027
	2023	2024	2025	2026	2027	
Estimated Authorization	2	2	2	2	2	10
Estimated Outlays	1	1	2	2	2	8

Components may not sum to totals because of rounding.

CBO estimates the bill would authorize the appropriation of whatever amounts are necessary for the following activities.

- **National Commission for Online Child Sexual Exploitation Prevention:** Based on information from DOJ regarding the costs of similar activities, CBO estimates that establishing and operating the Commission would cost DOJ \$1 million in logistics, travel, and per diem costs over the 2023-2027 period.
- **CyberTipline updates:** In fiscal year 2020, DOJ allocated \$34 million to the National Center for Missing and Exploited Children (NCMEC). Based on information from DOJ and NCMEC, CBO expects that the bill’s expanded reporting requirements for electronic communications and data storage provides would increase the number of annual submissions to the CyberTipline and the amount of information provided in each one. Using information from both agencies, CBO estimates it would cost DOJ \$3 million in personnel and data storage costs over the 2023-2027 period.
- **IT tools to combat child exploitation:** DOJ would be required to develop or acquire information technology (IT) tools to combat online child sexual exploitation. Based on information from DOJ, CBO estimates that those activities would cost \$4 million over the 2023-2027 period.



## **Mandates**

S. 3538 contains private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the aggregate cost of complying with the mandates would not exceed the annual thresholds established in UMRA (\$184 million, in 2022, adjusted annually for inflation). The bill contains no intergovernmental mandates.

The bill would impose private-sector mandates on providers of interactive computer services by expanding reporting requirements of online sexual exploitation and trafficking of minors' activities to the CyberTipline of the NCMEC. This would include doubling the amount of time that the providers would be required to store data on reported incidents from 90 days to 180 days. Using data from the NCMEC's 2019 Reports by Electronic Service Providers publication, discussions with industry experts, and publicly available information about the cost of data storage, CBO estimates that the aggregate cost of the mandates would be less than \$10 million annually.

The CBO staff contacts for this estimate are Jeremy Crimm (for federal costs) and Lilia Ledezma (for mandates). The estimate was reviewed by Leo Lex, Deputy Director of Budget Analysis.