



H.R. 5698 – Protect and Serve Act of 2018 (Rep. Rutherford, R-FL)

CONTACT: [Jennifer Weinhart](#), 202-226-0706

FLOOR SCHEDULE:

Expected to be considered May 16, 2018, under a [structured rule](#). The rule provides for consideration of a managers amendment, which is described below.

The rule also provides for consideration of S. 2372, the VA MISSION Act of 2018, and the beginning of consideration of H.R. 2, the 2018 Farm Bill.

TOPLINE SUMMARY:

[H.R. 5698](#) would expand title 18 to allow for the federal prosecution of those who knowingly cause bodily harm or attempt to cause bodily harm to law enforcement officers.

COST:

The Congressional Budget Office (CBO) [estimates](#) “that the bill would apply to a relatively small number of offenders, however, so any increase in costs for law enforcement, court proceedings, or prison operations would not be significant. Any such spending would be subject to the availability of appropriated funds.”

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** The bill would expand the federal criminal code by making it a federal crime to attack a law enforcement officer under certain circumstances.

- **Encroach into State or Local Authority?** The bill would allow for federal prosecution if the Attorney General certifies that: (1) the state does not have jurisdiction; (2) the state has requested the federal government assume jurisdiction; (3) the verdict or the sentence obtained through the state’s legal recourse left demonstratively unvindicated the federal interest in the protection of public safety; or (4) a prosecution by the federal government is necessary to secure substantial justice and is in the public interest.

- **Delegate Any Legislative Authority to the Executive Branch?** No.

- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

H.R. 5698 would expand Title 18, adding a new statute, to allow for the federal prosecution of those who knowingly cause or attempt to cause bodily harm or death to a member of law enforcement. It would impose a maximum penalty of 10 years and/or a fine for an assault on an officer that does not include the killing,

intent to kill, kidnapping, or attempt to kidnap. It would provide for imprisonment of any term and/or a fine for the killing, intent to kill, kidnapping, or attempt to kidnap an officer.

To qualify for federal prosecution, the victim of assault must be a federal law enforcement officer. If the victim is a state or local officer, the new statute would require there to be a nexus to interstate commerce.

In order to pursue prosecution, the Attorney General would be required to certify that: (1) the state does not have jurisdiction; (2) the state has requested the federal government assume jurisdiction; (3) the verdict or the sentence obtained through the state's legal recourse left demonstratively unvindicated the federal interest in the protection of public safety; or (4) a prosecution by the federal government is necessary to secure substantial justice and is in the public interest.

This legislation would include a rule of construction, stating that this bill could not be construed as to limit the authority of a federal officer or grand jury to investigate violations of the new statute.

According to the [Committee Report](#), attacks targeting police officers are at an all-time high, fueled by anti-police sentiment, some of which has arisen from the August 2014 events in Ferguson, Missouri. While efforts have been made to rebuild trust between police officers and the communities they serve, ambush attacks on police officers have continued to undermine the relationship-building efforts.

AMENDMENTS:

[Goodlatte \(R-VA\)](#) Manager's Amendment – This amendment would add clarifying language to that only those who intentionally cause injury, rather than accidentally cause injury are subject to the statute. It would also amend the definition of "law enforcement officer" so that correctional officers are covered by the definition.

COMMITTEE ACTION:

H.R. 5698 was introduced on May 8, 2018, and was referred to the House Committee on the Judiciary. It was ordered [reported](#) by voice vote on May 9, 2018.

ADMINISTRATION POSITION:

According to the [Statement of Administration Policy](#), "If H.R. 5698 were presented to the President, his advisors would recommend that he sign the bill into law."

CONSTITUTIONAL AUTHORITY:

According to the sponsor, Congress has the power to enact H.R. 5698 pursuant to: Article I, Section 8 of the U.S. Constitution.

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