



H.R. 1039 – Probation Officer Protection Act of 2017 (Rep. Reichert, R-WA)

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FLOOR SCHEDULE:

Scheduled for consideration on May 19, 2017, under a structured [rule](#).

TOPLINE SUMMARY:

[H.R. 1039](#) would amend the U.S. federal criminal code to authorize U.S. probation officers to arrest a person other than the probationer without a warrant, when there is probable cause to believe the person obstructed or assaulted a probation officer performing official duties.

COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 1039 “would have no significant effect on the federal budget.”

CONSERVATIVE CONCERNS:

Some conservatives may believe this bill inappropriately expands the scope of federal probation officers' authority. Others may believe that the probable cause standard for the use of such authority appropriately constraints officers to acting within Constitutional bounds while providing sufficient authority to discharge their duties.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

[Presently](#), probation officers are authorized to arrest probationers or those on supervised release, if officers believe they have violated the conditions of their release. This arrest may be made without a warrant. This authority does not currently extend to the ability to arrest third parties that are obstructing a probation officer's official duties or are causing physical harm to an officer. Rather, according to the [committee report](#), in the event of an encounter with a violent or uncooperative party, probation officers may be forced to retreat from the scene because they lack authority to restrain the hostile third party. While local police may be called in to assist when a hostile party is encountered, this does not often present an immediate and adequate solution.

This legislation would amend the federal criminal code so that probation officers would be permitted to arrest hostile third parties interfering with the scope of the probation officer's official duties.

The committee report can be found [here](#).

AMENDMENTS:

1. [Rep. Jackson Lee](#) (D-TX) – This amendment would request a study on the probation authority within two years following enactment of the legislation. It would also sunset the arrest authority 30 months after enactment.

KEY VOTE NO:

[FreedomWorks](#)

COMMITTEE ACTION:

H.R. 1039 was introduced on February 14, 2017 and was referred to the House Committee on the Judiciary. It was ordered reported, 15-7, on May 3, 2017.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not available.

CONSTITUTIONAL AUTHORITY:

According to the bill's sponsor: Congress has the power to enact this legislation pursuant to the following: "The constitutional authority of Congress to enact this legislation is provided by Article I, section 8 of the United States Constitution, specifically clause 1 (relating to providing for the general welfare of the United States) and clause 18 (relating to the power to make all laws necessary and proper for carrying out the powers vested in Congress), and Article IV, section 3, clause 2 (relating to the power of Congress to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States)."