

FORMER VICE PRESIDENT PROTECTION ACT OF 2008

JUNE 5, 2008.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 5938]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 5938) to amend title 18, United States Code, to provide secret service protection to former Vice Presidents, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

CONTENTS

	Page
Purpose and Summary	1
Background and Need for the Legislation	2
Hearings	4
Committee Consideration	4
Committee Votes	4
Committee Oversight Findings	4
New Budget Authority and Tax Expenditures	4
Congressional Budget Office Cost Estimate	4
Performance Goals and Objectives	5
Constitutional Authority Statement	5
Advisory on Earmarks	6
Section-by-Section Analysis	6
Changes in Existing Law Made by the Bill, as Reported	6

PURPOSE AND SUMMARY

H.R. 5938, the “Former Vice President Protection Act,” would amend title 18 of the United States Code to authorize the United States Secret Service to provide temporary protection for a former Vice President of the United States, including his or her spouse and children under the age of 16 years. The protection would last for up to 6 months after the Vice President leaves office, with the

Secretary of Homeland Security (or designee of the Secretary) authorized to extend the protection should the Secretary determine an extension to be warranted by information or conditions.

BACKGROUND AND NEED FOR THE LEGISLATION

Section 3056(a) of title 18 of the United States Code authorizes the United States Secret Service, under the direction of the Secretary of Homeland Security, to protect the President, the Vice President, the President-elect, and the Vice President-elect, as well as their immediate families.¹ Former Presidents are authorized to receive such protection for their lifetimes.²

The statute provides no such protection, however, for former Vice Presidents and their families.³ In recent years, a number of Vice Presidents have received Secret Service protection, for various periods, under various forms of ad hoc transitory authority—generally either by a public law passed for the particular person, or by Executive Order or other presidential directive. On at least one occasion, the authority has been less than clear. See table provided by the Secret Service, that follows.

¹ 18 U.S.C. § 3056(a)(1)–(2) (2007).

² 18 U.S.C. § 3056(a)(3) (2007).

³ 18 U.S.C. § 3056(a) enumerates who the Secret Service is authorized to protect; 18 U.S.C. authorizes the Secret Service to investigate threats against protectees covered by § 3056. Former Vice Presidents are not included in the enumeration, nor are members of their families.

Who received coverage?	Dates of coverage after leaving	Under what authority?	Summary comment
Hubert H. Humphrey (not spouse Muriel and not children Hubert, Robert, Douglas or Nancy).	1/20/69 to 7/20/69 (6 mos.)	Letter of January 27, 1969 from Counsel to the President Ehrlichman to Director USSS "The President has directed me to request you to provide former Vice President Hubert H. Humphrey with Secret Service Protection until July 20, 1969."	Humphrey covered full 6 months, nothing for spouse or children.
Spiro T. Agnew (not spouse Elinor and not children James, Pamela, Susan, or Kimberly).	10/10/73 to 2/17/74 (4.25 mos)	(No record of authority available)	Agnew covered 4.25 months, nothing for spouse or children.
[Note: Gerald R. Ford became President]	not applicable	Not applicable	Ford became President.
Nelson Rockefeller	1/20/77 to 2/22/77 (1 mo.)	Public Law 95-1: protect former Vice President and "member of such official's immediate family" who has been receiving USSS protection. "If the President determines that such person may thereafter be in significant danger" and "only for such period as the President determines and shall not continue beyond July 20, 1977".	Rockefeller, spouse, and two children covered for 1 month.
spouse Margaretta	1/20/77 to 2/22/77 (1 mo.)		
child Nelson	1/20/77 to 2/22/77 (1 mo.)		
child Mark	1/20/77 to 2/22/77 (1 mo.)		
Walter Mondale	1/20/81 to 7/20/81 (6 mos.)	Public Law 96-503: protection for former Vice President or spouse, "if the President determines that such person may thereafter be in significant danger" and "only for such period as the President determines and shall not continue beyond July 20, 1981" plus President Carter written determination of 11/18/80.	Mondale and spouse covered for 6 months, nothing for children.
spouse Joan (not children Eleanor, Theodore, or William).	1/20/81 to 7/20/81 (6 mos.)		
[Note: George H.W. Bush became President]	GHW Bush became President.
J. Danforth Quayle (not spouse Marilyn and not children Tucker, Ben and Connie).	1/20/93 to 7/20/93 (6 mos.)	Public Law 103-1: protection for former Vice President or spouse, "if the President determines that such person may thereafter be in significant danger" and "only for such period as the President determines and shall not continue beyond July 20, 1993" plus President GHW Bush memorandum of January 15, 1993.	Quayle covered six months, spouse authority not used, nothing for children.
Albert Gore	1/20/01 to 7/20/01 (6 mos.)	President Clinton memorandum of January 19, 2001 directing 6 months' USSS coverage for Vice President and Mrs. Gore.	Gore and spouse covered for 6 months, nothing for children.
spouse Mary "Tipper" (not children Karenna, Kristin, Sarah, or Al).	1/20/01 to 7/20/01 (6 mos.)		

H.R. 5938 addresses this shortcoming in current law by amending section 3056(a) to authorize the United States Secret Service, under the direction of the Secretary of Homeland Security, to protect a former Vice President of the United States, including his or her spouse and children under 16 years of age, for up to 6 months after the Vice President leaves office. In addition, the bill authorizes the Secretary of Homeland Security (or designee of the Secretary) to extend such protection by the United States Secret Service should the Secretary determine that information or conditions warrant such extension. This permanent statutory approach will more efficiently and reliably meet the need for authorizing Secret Service protection for former Vice Presidents and their families.

HEARINGS

The Committee on the Judiciary held no hearings on H.R. 5938.

COMMITTEE CONSIDERATION

On May 13, 2008, the Subcommittee on Crime, Terrorism, and Homeland Security met in open session and ordered the bill, H.R. 5938, favorably reported by voice vote without amendment, a quorum being present. On May 14, 2008, the Committee met in open session and ordered the bill, H.R. 5938, favorably reported without amendment by voice vote, a quorum being present.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee's consideration of H.R. 5938.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 5938, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 16, 2008.

Hon. JOHN CONYERS, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5938, the "Former Vice President Protection Act of 2008."

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

PETER R. ORSZAG,
Director.

Enclosure.

H.R. 5938—Former Vice President Protection Act of 2008.

H.R. 5938 would provide permanent authority for the Secret Service to protect former Vice Presidents, their spouses, and their children under the age of 16 for a period of not more than six months after the Vice President leaves office. The Secret Service has protected former Vice Presidents and their families, but authority to do so was provided by temporary legislation or by executive order. The bill's provisions would apply to Vice Presidents holding office on or after the date of enactment.

Based on information provided by the Secret Service, CBO estimates that implementing H.R. 5938 would cost about \$4 million in fiscal year 2009, subject to the availability of appropriated funds. If the next Vice President leaves office after one term, then we estimate that the Secret Service would spend about \$4 million in fiscal year 2013 to protect the outgoing Vice President and his or her family. Otherwise, costs for the next Vice President would be incurred in 2017.

H.R. 5938 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on State, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 5938 will extend United States Secret Service protection to a former Vice President of the United States, including his or her spouse and children under 16 years of age, for 6 months after the Vice President leaves service.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, Section 8 of the Constitution.

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 5938 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

SECTION-BY-SECTION ANALYSIS

The following discussion describes the bill as reported by the Committee.

Section 1. Short Title. Section 1 sets forth the short title of the bill as the Former Vice President Protection Act of 2008.

Section 2. Secret Service Protection for Former Vice Presidents and Their Families. Section 2 amends section 3056(a) of title 18 of the United States Code to provide former Vice Presidents, their spouses, and their children under the age of 16 years, protection by the United States Secret Service, under the direction of the Secretary of Homeland Security, for up to 6 months after the former Vice President leaves office. In addition, section 2 authorizes the Secretary of Homeland Security to extend such protection if the Secretary determines that information or conditions warrant such extension.

Section 3. Effective Date. Section 3 provides that the amendments made by this Act apply to a Vice President holding office on or after the date of the Act's enactment.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 3056 OF TITLE 18, UNITED STATES CODE**§ 3056. Powers, authorities, and duties of United States Secret Service**

(a) Under the direction of the Secretary of Homeland Security, the United States Secret Service is authorized to protect the following persons:

(1) * * *

* * * * *

(8) *Former Vice Presidents, their spouses, and their children who are under 16 years of age, for a period of not more than six months after the date the former Vice President leaves office. The Secretary of Homeland Security shall have the authority to direct the Secret Service to provide temporary protection for any of these individuals at any time thereafter if the Secretary of Homeland Security or designee determines that information or conditions warrant such protection.*

The protection authorized in paragraphs (2) through **[(7)]** (8) may be declined.

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