

Union Calendar No. 122

116TH CONGRESS
1ST SESSION

H. R. 2203

[Report No. 116–163, Part I]

To increase transparency, accountability, and community engagement within the Department of Homeland Security, provide independent oversight of border security activities, improve training for agents and officers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2019

Ms. ESCOBAR (for herself, Mr. CASTRO of Texas, Mr. ESPAILLAT, and Ms. GARCIA of Texas) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on the Judiciary, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JULY 19, 2019

Additional sponsors: Ms. BARRAGÁN, Mr. VELA, Mr. STANTON, Mr. KHANNA, Ms. KUSTER of New Hampshire, Ms. MCCOLLUM, Mr. MCGOVERN, Mr. SUOZZI, Ms. MATSUI, Mr. KILMER, Mr. VEASEY, Mrs. WATSON COLEMAN, Mr. TRONE, Mr. CISNEROS, Ms. NORTON, Mr. PAPPAS, Mr. HIMES, Mr. CORREA, Ms. UNDERWOOD, Mr. VARGAS, Ms. ESHOO, Mr. LUJÁN, Mr. CARBAJAL, Ms. JACKSON LEE, and Mr. LEVIN of California

JULY 19, 2019

Reported from the Committee on Homeland Security with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

JULY 19, 2019

The Committees on the Judiciary and Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on April 10, 2019]

A BILL

To increase transparency, accountability, and community engagement within the Department of Homeland Security, provide independent oversight of border security activities, improve training for agents and officers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SEC. 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Homeland Security Improvement Act”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 7 *this Act is as follows:*

Sec. 1. Short title; table of contents.

**TITLE I—NATIONAL COMMISSION TO INVESTIGATE THE TREAT-
 MENT OF THE MIGRANT FAMILIES AND CHILDREN BY THE
 TRUMP ADMINISTRATION**

- Sec. 101. Establishment of commission.*
- Sec. 102. Purposes.*
- Sec. 103. Composition of the Commission; qualifications.*
- Sec. 104. Functions of commission.*
- Sec. 105. Powers of commission.*
- Sec. 106. Public meetings and release of public version of reports.*
- Sec. 107. Staff of commission.*
- Sec. 108. Compensation and travel expenses.*
- Sec. 109. Security clearances for commission members and staff.*
- Sec. 110. Reports of commission; termination.*
- Sec. 111. Funding.*

**TITLE II—OMBUDSMAN, BORDER COMMUNITY LIAISONS, TRAINING
 AND MANAGEMENT**

- Sec. 201. Establishment of the Office of the Ombudsman for Border and Immigra-
 tion Related Concerns.*
- Sec. 202. Establishment of border community stakeholder advisory committee.*
- Sec. 203. Training and continuing education.*
- Sec. 204. Body-worn cameras.*
- Sec. 205. Limitation on the separation of families.*
- Sec. 206. Prohibition on exceeding 72 hours in short-term detention.*
- Sec. 207. Electronic tracking.*
- Sec. 208. Preventing implementation of anti-asylum access interim final rule;
 Termination of remain in Mexico protocol and metering policy.*
- Sec. 209. Surge support for care of families and unaccompanied children.*
- Sec. 210. Port of entry temporary duty assignments.*
- Sec. 211. Prohibition on physical restraints for women who are pregnant or post-
 delivery.*

TITLE III—OVERSIGHT

- Sec. 301. GAO report on the extent of CBP activities, operations, and claimed
 authority.*
- Sec. 302. Migrant deaths reporting.*

Sec. 303. Review of the use of force.

Sec. 304. Accountability and transparency within the border zone.

Sec. 305. Audit and inspections of detention facilities.

1 **TITLE I—NATIONAL COMMIS-**
2 **SION TO INVESTIGATE THE**
3 **TREATMENT OF THE MI-**
4 **GRANT FAMILIES AND CHIL-**
5 **DREN BY THE TRUMP ADMIN-**
6 **ISTRATION**

7 **SEC. 101. ESTABLISHMENT OF COMMISSION.**

8 *There is established in the legislative branch the Na-*
9 *tional Commission to Investigate the Treatment of Migrant*
10 *Families and Children By the Trump Administration (in*
11 *this Act referred to as the “Commission”).*

12 **SEC. 102. PURPOSES.**

13 *The purposes of the Commission are to—*

14 *(1) examine the handling of migrant families*
15 *and children apprehended along the United States-*
16 *Mexico border by U.S. Customs and Border Protec-*
17 *tion since January 2017;*

18 *(2) ascertain, evaluate, and report on the evi-*
19 *dence developed by all relevant governmental agencies*
20 *regarding the facts and circumstances surrounding*
21 *the handling by the Departments of Homeland Secu-*
22 *rity and Health and Human Services of migrant*
23 *families and children who were apprehended at the*
24 *southern border since January 2017;*

1 (3) *build upon the investigations of other enti-*
2 *ties, and avoid unnecessary duplication, by reviewing*
3 *the findings, conclusions, and recommendations of—*

4 (A) *Department of Homeland Security Of-*
5 *fice of Inspector General;*

6 (B) *Department of Health and Human*
7 *Services Office of Inspector General; and*

8 (C) *other executive branch, congressional, or*
9 *independent investigations into the treatment of*
10 *and detention conditions for migrant families*
11 *and children apprehended at the southern border*
12 *by the Department of Homeland Security since*
13 *January 2017;*

14 (4) *make a full and complete accounting of the*
15 *handling of the migrant families and children appre-*
16 *hended at the southern border since January 2017;*
17 *and*

18 (5) *investigate and report to the President and*
19 *Congress on its findings, conclusions, and rec-*
20 *ommendations for corrective measures.*

21 **SEC. 103. COMPOSITION OF THE COMMISSION; QUALIFICA-**
22 **TIONS.**

23 (a) *MEMBERS.—The Commission shall be composed of*
24 *10 members, of whom—*

1 (1) *one member shall be appointed by the leader*
2 *of the Democratic Party (majority or minority leader,*
3 *as the case may be) in the House of Representatives,*
4 *with the concurrence of the leader of the Democratic*
5 *party (majority or minority leader as the case may*
6 *be) in the Senate, who shall serve as chairman of the*
7 *Commission;*

8 (2) *two members shall be appointed by the senior*
9 *member of the leadership of the Democratic party in*
10 *Senate;*

11 (3) *three members shall be appointed by the sen-*
12 *ior member of the leadership of the Republican party*
13 *in the Senate;*

14 (4) *three members shall be appointed by the sen-*
15 *ior member of the leadership of the Democratic party*
16 *in the House of Representatives; and*

17 (5) *one member shall be appointed by the senior*
18 *member of the leadership of the Republican party in*
19 *of the House of Representatives.*

20 (b) *QUALIFICATIONS.—Each individual appointed to*
21 *the Commission shall have expertise and experience in at*
22 *least one of the following areas:*

23 (1) *Immigration law, particularly experience*
24 *representing asylees.*

25 (2) *Public health.*

1 (3) *Child welfare.*

2 (4) *Civil rights.*

3 (5) *As a representative of a humanitarian orga-*
4 *nization that gives assistance to individuals crossing*
5 *the southern border.*

6 (6) *As a local official from a border community*
7 *on the southern border of the United States.*

8 **SEC. 104. FUNCTIONS OF COMMISSION.**

9 *The functions of the Commission are to—*

10 (1) *investigate the relevant facts and cir-*
11 *cumstances related to the handling by the Depart-*
12 *ments of Homeland Security and Health and Human*
13 *Services of the migrant families and children appre-*
14 *hended at the southern border since January 2017,*
15 *including any relevant legislation, Executive order,*
16 *regulation, plan, policy, practice, or procedure;*

17 (2) *identify, review, and evaluate the lessons*
18 *learned from the handling by the Departments of*
19 *Homeland Security and Health and Human Services*
20 *of the migrant families and children apprehended at*
21 *the southern border since January 2017, regarding*
22 *the structure, coordination, management policies, and*
23 *procedures of the Federal Government, and, if appro-*
24 *priate, State and local governments and nongovern-*
25 *mental entities, relative to providing timely, effective*

1 *and humane treatment of migrant families and unac-*
2 *companied alien children seeking asylum in the*
3 *United States; and*

4 *(3) submit to the President and Congress such*
5 *reports as are required by this title containing such*
6 *findings, conclusions, and recommendations as the*
7 *Commission shall determine, including proposing or-*
8 *ganization, coordination, planning, management ar-*
9 *rangements, procedures, rules, and regulations.*

10 **SEC. 105. POWERS OF COMMISSION.**

11 *(a) IN GENERAL.—*

12 *(1) HEARINGS AND EVIDENCE.—The Commission*
13 *or, on the authority of the Commission, any sub-*
14 *committee or member thereof, may, for the purpose of*
15 *carrying out this title—*

16 *(A) hold such hearings and sit and act at*
17 *such times and places, take such testimony, re-*
18 *ceive such evidence, administer such oaths; and*

19 *(B) subject to paragraph (2)(A), require, by*
20 *subpoena or otherwise, the attendance and testi-*
21 *mony of such witnesses and the production of*
22 *such books, records, correspondence, memoranda,*
23 *papers, and documents, as the Commission or*
24 *such designated subcommittee or designated*
25 *member may determine advisable.*

1 (2) *SUBPOENAS.*—

2 (A) *ISSUANCE.*—

3 (i) *IN GENERAL.*—*A subpoena may be*
4 *issued under this subsection only—*

5 (I) *by the agreement of the chair-*
6 *man and the vice chairman; or*

7 (II) *by the affirmative vote of 6*
8 *members of the Commission.*

9 (ii) *SIGNATURE.*—*Subject to clause (i),*
10 *subpoenas issued under this subsection may*
11 *be issued under the signature of the chair-*
12 *man or any member designated by a major-*
13 *ity of the Commission, and may be served*
14 *by any person designated by the chairman*
15 *or by a member designated by a majority of*
16 *the Commission.*

17 (B) *ENFORCEMENT.*—

18 (i) *IN GENERAL.*—*In the case of contu-*
19 *macy or failure to obey a subpoena issued*
20 *under subsection (a), the United States dis-*
21 *trict court for the judicial district in which*
22 *the subpoenaed person resides, is served, or*
23 *may be found, or where the subpoena is re-*
24 *turnable, may issue an order requiring such*
25 *person to appear at any designated place to*

1 *testify or to produce documentary or other*
2 *evidence. Any failure to obey the order of*
3 *the court may be punished by the court as*
4 *a contempt of that court.*

5 *(ii) ADDITIONAL ENFORCEMENT.—In*
6 *the case of any failure of any witness to*
7 *comply with any subpoena or to testify*
8 *when summoned under authority of this sec-*
9 *tion, the Commission may, by majority*
10 *vote, certify a statement of fact constituting*
11 *such failure to the appropriate United*
12 *States attorney, who may bring the matter*
13 *before the grand jury for its action, under*
14 *the same statutory authority and procedures*
15 *as if the United States attorney had re-*
16 *ceived a certification under sections 102*
17 *through 104 of the Revised Statutes of the*
18 *United States (2 U.S.C. 192 through 194).*

19 *(b) CONTRACTING.—The Commission may, to such ex-*
20 *tent and in such amounts as are provided in appropriation*
21 *Acts, enter into contracts to enable the Commission to dis-*
22 *charge its duties under this title.*

23 *(c) INFORMATION FROM FEDERAL AGENCIES.—*

24 *(1) IN GENERAL.—The Commission is authorized*
25 *to secure directly from any executive department, bu-*

1 *reau, agency, board, commission, office, independent*
2 *establishment, or instrumentality of the Government,*
3 *information, suggestions, estimates, and statistics for*
4 *the purposes of this title. Each department, bureau,*
5 *agency, board, commission, office, independent estab-*
6 *lishment, or instrumentality shall, to the extent au-*
7 *thorized by law, furnish such information, sugges-*
8 *tions, estimates, and statistics directly to the Commis-*
9 *sion, upon request made by the chairman, the chair-*
10 *man of any subcommittee created by a majority of the*
11 *Commission, or any member designated by a major-*
12 *ity of the Commission.*

13 (2) *RECEIPT, HANDLING, STORAGE, AND DIS-*
14 *SEMINATION.—Information shall only be received,*
15 *handled, stored, and disseminated by members of the*
16 *Commission and its staff consistent with all applica-*
17 *ble statutes, regulations, and Executive orders.*

18 (d) *ASSISTANCE FROM FEDERAL AGENCIES.—*

19 (1) *GENERAL SERVICES ADMINISTRATION.—The*
20 *Administrator of General Services shall provide to the*
21 *Commission on a reimbursable basis administrative*
22 *support and other services for the performance of the*
23 *Commission's functions.*

24 (2) *OTHER DEPARTMENTS AND AGENCIES.—In*
25 *addition to the assistance prescribed in paragraph*

1 (1), departments and agencies of the United States
2 may provide to the Commission such services, funds,
3 facilities, staff, and other support services as they
4 may determine advisable and as may be authorized
5 by law.

6 **SEC. 106. PUBLIC MEETINGS AND RELEASE OF PUBLIC**
7 **VERSION OF REPORTS.**

8 (a) *PUBLIC MEETINGS AND RELEASE OF PUBLIC*
9 *VERSIONS OF REPORTS.*—*The Commission shall—*

10 (1) *hold public hearings and meetings to the ex-*
11 *tent appropriate; and*

12 (2) *release public versions of the reports required*
13 *under section 110(a) and (b).*

14 (b) *PUBLIC HEARINGS.*—*Any public hearings of the*
15 *Commission shall be conducted in a manner consistent with*
16 *the protection of information provided to or developed for*
17 *or by the Commission as required by any applicable statute,*
18 *regulation, or Executive order.*

19 **SEC. 107. STAFF OF COMMISSION.**

20 (a) *IN GENERAL.*—

21 (1) *APPOINTMENT AND COMPENSATION.*—*The*
22 *chairman, in consultation with vice chairman, in ac-*
23 *cordance with rules agreed upon by the Commission,*
24 *may appoint and fix the compensation of a staff di-*
25 *rector and such other personnel as may be necessary*

1 to enable the Commission to carry out its functions,
2 without regard to the provisions of title 5, United
3 States Code, governing appointments in the competi-
4 tive service, and without regard to the provisions of
5 chapter 51 and subchapter III of chapter 53 of such
6 title relating to classification and General Schedule
7 pay rates, except that no rate of pay fixed under this
8 subsection may exceed the equivalent of that payable
9 for a position at level V of the Executive Schedule
10 under section 5316 of title 5, United States Code.

11 (2) *PERSONNEL AS FEDERAL EMPLOYEES.*—

12 (A) *IN GENERAL.*—The executive director
13 and any personnel of the Commission who are
14 employees shall be employees under section 2105
15 of title 5, United States Code, for purposes of
16 chapters 63, 81, 83, 84, 85, 87, 89, and 90 of
17 that title.

18 (B) *MEMBERS OF COMMISSION.*—Subpara-
19 graph (A) shall not be construed to apply to
20 members of the Commission.

21 (b) *DETAILEES.*—Any Federal Government employee
22 may be detailed to the Commission without reimbursement
23 from the Commission, and such detailee shall retain the
24 rights, status, and privileges of his or her regular employ-
25 ment without interruption.

1 (c) *CONSULTANT SERVICES.*—*The Commission is au-*
2 *thorized to procure the services of experts and consultants*
3 *in accordance with section 3109 of title 5, United States*
4 *Code, but at rates not to exceed the daily rate paid a person*
5 *occupying a position at level IV of the Executive Schedule*
6 *under section 5315 of title 5, United States Code.*

7 **SEC. 108. COMPENSATION AND TRAVEL EXPENSES.**

8 *Each member of the Commission may be compensated*
9 *at not to exceed the daily equivalent of the annual rate of*
10 *basic pay in effect for a position at level IV of the Executive*
11 *Schedule under section 5315 of title 5, United States Code,*
12 *for each day during which that member is engaged in the*
13 *actual performance of the duties of the Commission.*

14 **SEC. 109. SECURITY CLEARANCES FOR COMMISSION MEM-**
15 **BERS AND STAFF.**

16 *The appropriate Federal agencies or departments shall*
17 *cooperate with the Commission in expeditiously providing*
18 *to the Commission members and staff appropriate security*
19 *clearances to the extent possible pursuant to existing proce-*
20 *dures and requirements, except that no person shall be pro-*
21 *vided with access to classified information under this title*
22 *without the appropriate security clearances.*

23 **SEC. 110. REPORTS OF COMMISSION; TERMINATION.**

24 (a) *INTERIM REPORTS.*—*The Commission may submit*
25 *to the President and Congress interim reports containing*

1 *such findings, conclusions, and recommendations for correc-*
2 *tive measures as have been agreed to by a majority of Com-*
3 *mission members.*

4 (b) *REPORT.*—*Not later than 18 months after the date*
5 *of the enactment of this Act, the Commission shall submit*
6 *to the President and Congress a final report containing*
7 *such findings, conclusions, and recommendations for correc-*
8 *tive measures as have been agreed to by a majority of Com-*
9 *mission members.*

10 (c) *TERMINATION.*—

11 (1) *IN GENERAL.*—*The Commission, and all the*
12 *authorities of this title, shall terminate 60 days after*
13 *the date on which the final report is submitted under*
14 *subsection (b).*

15 (2) *ADMINISTRATIVE ACTIVITIES BEFORE TERMI-*
16 *NATION.*—*The Commission may use the 60-day period*
17 *referred to in paragraph (1) for the purpose of con-*
18 *cluding its activities, including providing testimony*
19 *to committees of Congress concerning its reports and*
20 *disseminating the final report.*

21 **SEC. 111. FUNDING.**

22 (a) *IN GENERAL.*—*There is authorized \$3,000,000 for*
23 *purposes of carrying out the activities of the Commission*
24 *under this title.*

1 (b) *DURATION OF AVAILABILITY.*—Amounts made
 2 available to the Commission under subsection (a) shall re-
 3 main available until the termination of the Commission.

4 **TITLE II—OMBUDSMAN, BORDER**
 5 **COMMUNITY LIAISONS,**
 6 **TRAINING AND MANAGEMENT**

7 **SEC. 201. ESTABLISHMENT OF THE OFFICE OF THE OM-**
 8 **BUDSMAN FOR BORDER AND IMMIGRATION**
 9 **RELATED CONCERNS.**

10 (a) *IN GENERAL.*—Subtitle C of title IV of the Home-
 11 land Security Act of 2002 (6 U.S.C. 231 et seq.) is amended
 12 by adding at the end the following new section:

13 **“SEC. 437. ESTABLISHMENT OF THE OFFICE OF OMBUDS-**
 14 **MAN FOR BORDER AND IMMIGRATION RE-**
 15 **LATED CONCERNS.**

16 “(a) *IN GENERAL.*—The Secretary shall appoint an
 17 Ombudsman for Border and Immigration Related Concerns
 18 (hereinafter referred to as the ‘Ombudsman’), who shall—

19 “(1) be independent of Department agencies and
 20 officers;

21 “(2) report directly to the Secretary; and

22 “(3) have a background in immigration, civil
 23 rights, and law enforcement.

24 “(b) *FUNCTIONS.*—The functions of the Ombudsman
 25 shall be to—

1 “(1) establish an independent, neutral, and con-
2 fidential process to receive, investigate, resolve, and
3 provide redress, including referral for investigation to
4 the Office of the Inspector General, referral to the Of-
5 fice of Civil Rights and Civil Liberties to investigate
6 complaints and information indicating possible
7 abuses of civil rights or civil liberties, referral to U.S.
8 Citizenship and Immigration Services for immigra-
9 tion relief, or any other action determined appro-
10 prium, in cases in which Department employees, or
11 subcontracted or cooperating entity personnel, are al-
12 leged to have engaged in misconduct or violated the
13 rights of individuals, associations, or employers;

14 “(2) establish an accessible and standardized
15 complaint process regarding complaints against any
16 employee of U.S. Customs and Border Protection or
17 U.S. Immigration and Customs Enforcement, or any
18 subcontracted or cooperating entity personnel, for vio-
19 lations of law or violations of standards of profes-
20 sional conduct pertaining to interaction with a
21 United States citizen or non-United States citizen in
22 the course of carrying out any duty under law; and

23 “(3) identify and thereafter review, examine, and
24 make recommendations to the Secretary or designee to
25 address chronic concerns in border security and en-

1 *forcement activities of U.S. Customs and Border Pro-*
2 *tection and U.S. Immigration and Customs Enforce-*
3 *ment.*

4 “(c) *ANNUAL REPORT.*—*On an annual basis, starting*
5 *one year after the date of the enactment of this section, the*
6 *Secretary shall submit to the Committee on Homeland Se-*
7 *curity and the Committee on the Judiciary of the House*
8 *of Representatives and the Committee on Homeland Secu-*
9 *rity and Governmental Affairs and the Committee on the*
10 *Judiciary of the Senate a report prepared by the Ombuds-*
11 *man that provides information regarding the Office of the*
12 *Ombudsman’s activities for the prior year, including infor-*
13 *mation relating to the following:*

14 “(1) *The number of complaints received in the*
15 *period, with information on each complaint including*
16 *whether it is against any employee of U.S. Customs*
17 *and Border Protection or U.S. Immigration and Cus-*
18 *toms Enforcement, or any subcontracted or cooper-*
19 *ating entity personnel, for violations of law or viola-*
20 *tions of standards of professional conduct pertaining*
21 *to interaction with a United States citizen or non-*
22 *United States citizen in the course of carrying out*
23 *any duty under law, when and where the incident*
24 *that gave rise to the complaint occurred, including,*
25 *where possible, identification of the port of entry,*

1 *U.S. Border Patrol station, or detention facility*
2 *where the alleged incident occurred.*

3 “(2) *The number of investigations commenced or*
4 *carried out in the period, with information on each*
5 *investigation including whether it involves any em-*
6 *ployee of U.S. Customs and Border Protection or U.S.*
7 *Immigration and Customs Enforcement, or any sub-*
8 *contracted or cooperating entity personnel, for viola-*
9 *tions of law or violations of standards of professional*
10 *conduct pertaining to interaction with a United*
11 *States citizen or non-United States citizen in the*
12 *course of carrying out any duty under law.*

13 “(3) *The number of complaints resolved in the*
14 *period, with information on how each complaint was*
15 *resolved, including for those complaints that were—*

16 “(A) *referred for investigation to the Office*
17 *of the Inspector General;*

18 “(B) *referred to the Office of Civil Rights*
19 *and Civil Liberties;*

20 “(C) *referred to U.S. Citizenship and Immi-*
21 *gration Services for immigration relief; and*

22 “(D) *resolved in some other manner.*

23 “(4) *Findings and recommendations for the pe-*
24 *riod that address chronic concerns in border security*
25 *and enforcement activities of U.S. Customs and Bor-*

1 *der Protection and U.S. Immigration and Customs*
2 *Enforcement, including the impact of such activities*
3 *on border communities and the civil rights, property*
4 *rights, privacy rights, and civil liberties of residents*
5 *of such communities.*

6 “(5) *Any actions taken by the Department to*
7 *implement recommendations that address chronic con-*
8 *cerns in border security and enforcement activities.*

9 “(d) *PUBLICATION.—Not later than 30 days after re-*
10 *ceiving the annual report required pursuant to subsection*
11 *(c), the Secretary shall publish the annual report on the*
12 *website of the Department and in the Federal Register, to-*
13 *gether with any feedback from the Secretary regarding the*
14 *report.*

15 “(e) *CONFIDENTIALITY.—In the absence of the written*
16 *consent of an individual who submits a complaint, the Om-*
17 *budsman shall keep confidential the identity of and any*
18 *identifying information relating to that individual.”.*

19 (b) *CLERICAL AMENDMENT.—The table of contents in*
20 *section 1(b) of the Homeland Security Act of 2002 is*
21 *amended by striking the items relating to sections 435 and*
22 *436 and inserting the following new items:*

“Sec. 435. *Maritime operations coordination plan.*

“Sec. 436. *Maritime security capabilities assessments.*

“Sec. 437. *Establishment of the Office of Ombudsman for Border and Immigration*
Related Concerns.”.

1 **SEC. 202. ESTABLISHMENT OF BORDER COMMUNITY STAKE-**
2 **HOLDER ADVISORY COMMITTEE.**

3 (a) *IN GENERAL.*—Subtitle C of title IV of the Home-
4 land Security Act of 2002, as amended by section 201 of
5 this Act, is further amended by adding at the end the fol-
6 lowing new section:

7 **“SEC. 438. ESTABLISHMENT OF BORDER COMMUNITY**
8 **STAKEHOLDER ADVISORY COMMITTEE.**

9 “(a) *ESTABLISHMENT.*—The Secretary shall establish
10 within the Department a border community stakeholders
11 advisory committee pursuant to section 871 of this Act.

12 “(b) *DUTIES.*—

13 “(1) *IN GENERAL.*—The Secretary shall consult
14 with the Advisory Committee, as appropriate, on bor-
15 der security and immigration enforcement matters,
16 including on the development, refinement, and imple-
17 mentation of policies, protocols, programs, and rule-
18 making pertaining to border security and immigra-
19 tion enforcement that may impact border commu-
20 nities.

21 “(2) *RECOMMENDATIONS.*—The Advisory Com-
22 mittee shall develop, at the request of the Secretary,
23 recommendations regarding policies, protocols, pro-
24 grams and rulemaking pertaining to border security
25 and immigration enforcement that may impact bor-
26 der communities.

1 “(3) *PERIODIC REPORTS.*—*The Advisory Com-*
2 *mittee shall periodically submit to the Secretary—*

3 “(A) *reports on matters identified by the*
4 *Secretary; and*

5 “(B) *reports on other matters identified by*
6 *a majority of the members of the Advisory Com-*
7 *mittee.*

8 “(4) *ANNUAL REPORT.*—*The Advisory Committee*
9 *shall submit to the Secretary an annual report pro-*
10 *viding information on the activities, findings, and*
11 *recommendations of the Advisory Committee, includ-*
12 *ing its subcommittees, for the preceding year. Not*
13 *later than six months after the date on which the Sec-*
14 *retary receives the annual report, the Secretary shall*
15 *publish a public version describing the Advisory Com-*
16 *mittee’s activities and such related matters as would*
17 *be informative to the public, consistent with section*
18 *552(b) of title 5, United States Code.*

19 “(5) *FEEDBACK.*—*Not later than 90 days after*
20 *receiving recommendations transmitted by the Advi-*
21 *sory Committee under paragraph (4), the Secretary*
22 *shall respond in writing to the Advisory Committee*
23 *with feedback on each of the recommendations, an ac-*
24 *tion plan to implement any of the recommendations*
25 *with which the Secretary concurs, and a justification*

1 *for why any of the recommendations have been re-*
2 *jected.*

3 “(6) *CONGRESSIONAL NOTIFICATION.*—*Not later*
4 *than 30 days after providing written feedback to the*
5 *Advisory Committee under paragraph (5), the Sec-*
6 *retary shall notify the Committee on Homeland Secu-*
7 *rity of the House of Representatives and the Com-*
8 *mittee on Homeland Security and Governmental Af-*
9 *airs of the Senate on such feedback, and provide a*
10 *briefing upon request.*

11 “(7) *REPORT TO CONGRESS.*—*Prior to briefing*
12 *the Committee on Homeland Security of the House of*
13 *Representatives and the Committee on Homeland Se-*
14 *curity and Governmental Affairs of the Senate under*
15 *paragraph (6), the Secretary shall submit to such*
16 *committees a report containing information relating*
17 *to the recommendations transmitted by the Advisory*
18 *Committee in accordance with paragraph (4).*

19 “(c) *MEMBERSHIP.*—

20 “(1) *APPOINTMENT.*—

21 “(A) *IN GENERAL.*—*Not later than 90 days*
22 *after the date of enactment of this section, the*
23 *Secretary shall appoint the members of the Advi-*
24 *sory Committee.*

1 “(B) *COMPOSITION.*—*The membership of*
2 *the Advisory Committee shall consist of a border*
3 *community stakeholder from each of the nine*
4 *U.S. Border Patrol sectors and three individuals*
5 *with significant expertise and experience in im-*
6 *migration law, civil rights, and civil liberties,*
7 *particularly as relates to interests of residents of*
8 *border communities.*

9 “(2) *TERM OF OFFICE.*—

10 “(A) *TERMS.*—*The term of each member of*
11 *the Advisory Committee shall be two years. A*
12 *member of the Advisory Committee may be re-*
13 *appointed.*

14 “(B) *REMOVAL.*—*The Secretary may review*
15 *the participation of a member of the Advisory*
16 *Committee and remove such member for cause at*
17 *any time.*

18 “(3) *PROHIBITION ON COMPENSATION.*—*The*
19 *members of the Advisory Committee shall not receive*
20 *pay, allowances, or benefits from the Government by*
21 *reason of their service on the Advisory Committee.*

22 “(4) *MEETINGS.*—

23 “(A) *IN GENERAL.*—*The Secretary shall re-*
24 *quire the Advisory Committee to meet at least*

1 *semiannually and may convene additional meet-*
2 *ings as necessary.*

3 “(B) *PUBLIC MEETINGS.*—*At least one of*
4 *the meetings described in subparagraph (A) shall*
5 *be within a Border Patrol sector and open to the*
6 *public.*

7 “(C) *ATTENDANCE.*—*The Advisory Com-*
8 *mittee shall maintain a record of the persons*
9 *present at each meeting.*

10 “(5) *MEMBER ACCESS TO SENSITIVE SECURITY*
11 *INFORMATION.*—*Not later than 60 days after the date*
12 *of a member’s appointment, the Secretary shall deter-*
13 *mine if there is cause for the member to be restricted*
14 *from possessing sensitive security information. With-*
15 *out such cause, and upon the member voluntarily*
16 *signing a non-disclosure agreement, the member may*
17 *be granted access to sensitive security information*
18 *that is relevant to the member’s advisory duties. The*
19 *member shall protect the sensitive security informa-*
20 *tion in accordance with part 1520 of title 49, Code*
21 *of Federal Regulations.*

22 “(6) *CHAIRPERSON.*—*A stakeholder representa-*
23 *tive on the Advisory Committee who is elected by the*
24 *appointed membership of the Advisory Committee*
25 *shall chair the Advisory Committee.*

1 “(d) *NONAPPLICABILITY OF FACA.*—*The Federal Ad-*
2 *visory Committee Act (5 U.S.C. App.) shall not apply to*
3 *the Advisory Committee and its subcommittees.*

4 “(e) *DEFINITIONS.*—*In this section:*

5 “(1) *ADVISORY COMMITTEE.*—*The term ‘Advi-*
6 *sory Committee’ means the border community stake-*
7 *holder advisory committee established under sub-*
8 *section (a).*

9 “(2) *BORDER COMMUNITY STAKEHOLDER.*—*The*
10 *term ‘border community stakeholder’ means individ-*
11 *uals who have ownership interests or reside in the*
12 *land borders of the United States and who have not*
13 *publicly taken positions on the Trump Administra-*
14 *tion’s border security and immigration enforcement*
15 *actions, including—*

16 “(A) *a landowner within 10 miles of a land*
17 *border of the United States;*

18 “(B) *a business leader in a company oper-*
19 *ating within 10 miles of a land border of the*
20 *United States;*

21 “(C) *a local official from a community on*
22 *a land border of the United States; and*

23 “(D) *a representative of Indian tribes on a*
24 *land border of the United States.”.*

1 **(b) CLERICAL AMENDMENT.**—*The table of contents in*
2 *section 1(b) of the Homeland Security Act of 2002, as*
3 *amended by section 201 of this Act, is further amended by*
4 *inserting after the item relating to section 437 the following*
5 *new item:*

*“Sec. 438. Establishment of Border Community Stakeholder Advisory Com-
mittee.”.*

6 **SEC. 203. TRAINING AND CONTINUING EDUCATION.**

7 **(a) MANDATORY TRAINING AND CONTINUING EDU-**
8 **CATION TO PROMOTE CBP AGENT AND OFFICER SAFETY**
9 **AND PROFESSIONALISM.**—*The Secretary of Homeland Se-*
10 *curity shall establish policies and guidelines to ensure that*
11 *every agent and officer of U.S. Customs and Border Protec-*
12 *tion and U.S. Immigration and Customs Enforcement re-*
13 *ceives a minimum of 20 weeks of training upon onboarding*
14 *that is directly related to the mission and 40 hours of train-*
15 *ing and continuing education annually thereafter, to in-*
16 *clude personnel in a supervisory or management position.*
17 *Such training shall include training provided by attorneys*
18 *outside of the Department of Homeland Security.*

19 **(b) CURRICULUM.**—*The Secretary of Homeland Secu-*
20 *rity shall establish policies and guidelines governing train-*
21 *ing and continuing education of agents and officers of U.S.*
22 *Customs and Border Protection and U.S. Immigration and*
23 *Customs Enforcement regarding accountability, standards*

1 *for professional and ethical conduct, and oversight. Such*
2 *training shall address the following:*

3 (1) *Community relations, including the fol-*
4 *lowing:*

5 (A) *Best practices in community policing,*
6 *cultural awareness, and carrying out enforce-*
7 *ment actions near sensitive locations such as*
8 *places of worship or religious ceremony, school or*
9 *education-related place or event, courthouse or*
10 *other civic building providing services accessible*
11 *to the public, hospital, medical treatment, or*
12 *health care facility, a public demonstration, or*
13 *an attorney's office, including a public defender*
14 *or legal aid office.*

15 (B) *Policies limiting location of enforcement*
16 *and cooperation with local law enforcement.*

17 (C) *Best practices in responding to griev-*
18 *ances and how to refer complaints to the Om-*
19 *budsman for Border and Immigration Related*
20 *Concerns in accordance with section 437 of the*
21 *Homeland Security Act of 2002, as added by sec-*
22 *tion 201 of this Act.*

23 (2) *Interaction with vulnerable populations, in-*
24 *cluding instruction on screening, identifying, and re-*

1 *sponding to vulnerable populations, such as children,*
2 *victims of human trafficking, and the acutely ill.*

3 (3) *Standards of professional and ethical con-*
4 *duct, including the following:*

5 (A) *Lawful use of force, de-escalation tac-*
6 *tics, and alternatives to the use of force.*

7 (B) *Complying with chain of command and*
8 *lawful orders.*

9 (C) *Conduct and ethical behavior toward*
10 *the public in a civil and professional manner.*

11 (D) *Civil rights and legal protections.*

12 (E) *Non-racially biased questioning.*

13 (F) *De-escalation tactics and alternatives to*
14 *use of force.*

15 (G) *Permissible and impermissible social*
16 *media activity.*

17 (c) *PERFORMANCE REVIEW PROCESS.—The Secretary*
18 *of Homeland Security shall establish a review process to*
19 *ensure that port supervisors and managers of U.S. Customs*
20 *and Border Protection and U.S. Immigration and Customs*
21 *Enforcement, as the case may be, are evaluated annually*
22 *on their actions and standards of conduct, and on the ac-*
23 *tions, situational and educational development, and stand-*
24 *ards of conduct of their staffs.*

25 (d) *CONTINUING EDUCATION.—*

1 (1) *IN GENERAL.*—*The Secretary of Homeland*
2 *Security shall annually require all agents and officers*
3 *of U.S. Customs and Border Protection and U.S. Im-*
4 *migration and Customs Enforcement who are re-*
5 *quired to undergo training under subsections (a)*
6 *through (c) to participate in continuing education to*
7 *maintain and update understanding of Federal legal*
8 *rulings, court decisions, and Department of Home-*
9 *land Security policies, procedures, and guidelines re-*
10 *lated to the subject matters described in such sub-*
11 *sections.*

12 (2) *CONSTITUTIONAL AUTHORITY SUBJECT MAT-*
13 *TER.*—*Continuing education under this subsection*
14 *shall include a course on protecting the civil, constitu-*
15 *tional, human, and privacy rights of individuals,*
16 *with special emphasis on the scope of enforcement au-*
17 *thority, including chain of evidence practices and*
18 *document seizure, and use of force policies available*
19 *to agents and officers.*

20 (3) *ADDITIONAL SUBJECT MATTERS.*—*Con-*
21 *tinuing education under this subsection shall also in-*
22 *clude a course on the following:*

23 (A) *Scope of authority to conduct immigra-*
24 *tion enforcement activities, including interviews,*
25 *interrogations, stops, searches, arrests, and de-*

1 *tentions, in addition to identifying and detecting*
2 *fraudulent documents.*

3 *(B) Identifying, screening, and responsi-*
4 *bility for vulnerable populations, such as chil-*
5 *dren and victims of trafficking.*

6 *(C) Permissible and impermissible social*
7 *media activity.*

8 *(4) ADMINISTRATION.—Courses offered as part of*
9 *continuing education under this subsection shall be*
10 *administered by the Federal Law Enforcement Train-*
11 *ing Centers.*

12 *(e) TRAINING ASSESSMENT.—Not later than three*
13 *years after the date of the enactment of this Act, the Comp-*
14 *troller General of the United States shall submit to the Com-*
15 *mittee on Homeland Security of the House of Representa-*
16 *tives and the Committee on Homeland Security and Gov-*
17 *ernmental Affairs of the Senate a report that assesses the*
18 *training and education, including continuing education,*
19 *required under this section as well as its implementation.*

20 **SEC. 204. BODY-WORN CAMERAS.**

21 *(a) REQUIREMENT.—Not later than 60 days after the*
22 *date of enactment of this Act, the Secretary of Homeland*
23 *Security, shall submit to the Committees on Homeland Se-*
24 *curity and Judiciary of the House of Representatives and*
25 *the Committees on Homeland Security and Governmental*

1 *Affairs and Judiciary of the Senate a plan for requiring*
2 *not later than one year after such date of enactment the*
3 *use of body-worn cameras by U.S. Border Patrol agents and*
4 *U.S. Immigration and Customs Enforcement officers when-*
5 *ever engaged in border security or immigration enforcement*
6 *activities.*

7 (b) *ELEMENTS.—The plan shall include the following:*

8 (1) *Benchmarks for implementation within U.S.*
9 *Customs and Border Protection and U.S. Immigra-*
10 *tion and Customs Enforcement.*

11 (2) *Policies, procedures, and training modules*
12 *for the use of body-worn cameras by agents and offi-*
13 *cers, including training modules relating to the ap-*
14 *propriate use of such cameras and adverse action for*
15 *non-compliance.*

16 (3) *Mechanisms for enforcement of body-worn*
17 *camera policies and procedures by agents and officers*
18 *within U.S. Customs and Border Protection and U.S.*
19 *Immigration and Customs Enforcement.*

20 **SEC. 205. LIMITATION ON THE SEPARATION OF FAMILIES.**

21 (a) *IN GENERAL.—Notwithstanding any other provi-*
22 *sion of law, a child may not be removed from a parent,*
23 *legal guardian, or family member of such child, at or near*
24 *the port of entry or within 100 miles of a border of the*
25 *United States, unless one of the following has occurred:*

1 (1) *A State court, authorized under State law,*
2 *terminates the rights of the parent or legal guardian,*
3 *determines that it is in the best interests of the child*
4 *to be removed from the parent or legal guardian, in*
5 *accordance with the Adoption and Safe Families Act*
6 *of 1997 (Public Law 105–89), or makes any similar*
7 *determination that is legally authorized under State*
8 *law.*

9 (2) *An official from the State or county child*
10 *welfare agency with expertise in child trauma and de-*
11 *velopment makes a best interests determination that*
12 *it is in the best interests of the child to be removed*
13 *from the parent, legal guardian, or family member*
14 *because the child is in danger of abuse or neglect at*
15 *the hands of the parent, legal guardian, or family*
16 *member or is a danger to herself or others.*

17 **(b) PROHIBITION ON SEPARATION.—**

18 (1) *IN GENERAL.—A designated agency may not*
19 *remove a child from a parent, legal guardian, or fam-*
20 *ily member solely for the policy goal of deterring in-*
21 *dividuals from migrating to the United States or for*
22 *the policy goal of promoting compliance with civil*
23 *immigration laws.*

24 (2) *PENALTY FOR FAMILY SEPARATION.—Any*
25 *person who knowingly separates a child from his or*

1 *her parent, legal guardian, or family member in vio-*
2 *lation of this section, shall be fined not more than*
3 *\$10,000.*

4 *(c) FAMILY MEMBER DEFINED.—For purposes of this*
5 *section, the term “family member” means an individual*
6 *who is any of the following:*

7 *(1) A parent or legal guardian.*

8 *(2) A spouse.*

9 *(3) A child.*

10 *(4) A step-family member.*

11 *(5) An immediate family member, to include*
12 *adult siblings.*

13 *(6) An extended family member, to include*
14 *aunts, uncles, adult cousins, and grandparents.*

15 **SEC. 206. PROHIBITION ON EXCEEDING 72 HOURS IN**
16 **SHORT-TERM DETENTION.**

17 *Notwithstanding any other provision of law, the Sec-*
18 *retary of Homeland Security shall ensure that each indi-*
19 *vidual apprehended by U.S. Customs and Border Protection*
20 *is released, paroled, or transferred to an appropriate long-*
21 *term facility operated by a non-profit organization, U.S.*
22 *Immigration and Customs Enforcement, or the Department*
23 *of Health and Human Services not later than 72 hours after*
24 *such apprehension absent an exigent circumstance that is*
25 *beyond the Secretary’s control, such as a natural disaster.*

1 *The Secretary shall inform the Committees on Homeland*
2 *Security and the Judiciary of the House of Representatives*
3 *and Committees on Homeland Security and Governmental*
4 *Affairs and the Judiciary of the Senate within three days*
5 *of the Secretary determining such an exigent circumstance*
6 *exists, and provide information on when the impacted indi-*
7 *viduals will be so released, paroled, or transferred.*

8 **SEC. 207. ELECTRONIC TRACKING.**

9 (a) *ESTABLISHMENT.*—*The Secretary of Homeland*
10 *Security and the Secretary of Health and Human Services*
11 *shall establish an electronic tracking system on a single*
12 *interface, which shall be—*

13 (1) *accessible to agents and officials of U.S. Cus-*
14 *toms and Border Protection, U.S. Immigration and*
15 *Customs Enforcement, and the Office of Refugee Re-*
16 *settlement; and*

17 (2) *used to track the location of a child who has*
18 *been separated under section 205 and the parent or*
19 *legal guardian of the child.*

20 (b) *TRACKING NUMBER.*—*The Secretary of Homeland*
21 *Security shall assign to a child who has been separated*
22 *under section 205 and the parent or legal guardian of the*
23 *child a tracking number that—*

24 (1) *is transferrable;*

1 (2) *may be shared easily on the electronic track-*
2 *ing system described in subsection (a) by agents and*
3 *officials of—*

4 (A) *U.S. Customs and Border Protection;*

5 (B) *U.S. Immigration and Customs En-*
6 *forcement; and*

7 (C) *the Office of Refugee Resettlement; and*

8 (3) *is included on the paperwork of the child and*
9 *the parent or legal guardian of the child.*

10 (c) *CONTACT INFORMATION.—The Secretary of Home-*
11 *land Security and the Secretary of Health and Human*
12 *Services shall advise a child who has been separated under*
13 *section 205 and the parent or legal guardian of the child*
14 *on the manner in which the child and the parent or legal*
15 *guardian may be contacted during the term of the separa-*
16 *tion .*

17 **SEC. 208. PREVENTING IMPLEMENTATION OF ANTI-ASYLUM**
18 **ACCESS INTERIM FINAL RULE; TERMINATION**
19 **OF REMAIN IN MEXICO PROTOCOL AND ME-**
20 **TERING POLICY.**

21 (a) *PREVENTION OF IMPLEMENTATION OF ANTI-ASY-*
22 *LUM ACCESS RULE.—Notwithstanding any other provision*
23 *of law, the joint interim final rule published in the Federal*
24 *Register on July 16, 2019, by the Secretary of Homeland*
25 *Security and Attorney General that would restrict eligi-*

1 *bility for aliens seeking asylum in the United States may*
2 *not be implemented, enforced, or otherwise carried out by*
3 *the Secretary or the Attorney General.*

4 *(b) MPP AND METERING TERMINATION.—Not later*
5 *than 30 days after enactment of this Act, the following shall*
6 *terminate:*

7 *(1) The Migrant Protection Protocols that were*
8 *announced by the Secretary of Homeland Security on*
9 *December 20, 2018, any subsequent revisions to such*
10 *protocols, or any successor protocols in which certain*
11 *individuals seeking asylum in the United States are*
12 *required to wait outside of the United States for the*
13 *duration of their immigration proceedings.*

14 *(2) The U.S. Customs and Border Protection me-*
15 *tering policy to regulate the flow of asylum seekers at*
16 *ports of entry by denying asylum seekers access to*
17 *ports of entry or any successor policy that impedes*
18 *access to ports of entry.*

19 *(c) ADDITIONAL CAPACITY AT PORTS OF ENTRY.—For*
20 *the purposes of increasing processing capacity at ports of*
21 *entry, the Commissioner of U.S. Customs and Border Pro-*
22 *tection shall every fiscal year hire, train, and assign not*
23 *fewer than 600 new officers above the level as of September*
24 *30 of the immediately preceding fiscal year until the total*
25 *number of such officers equals the requirements identified*

1 *each year in the Workload Staffing Model developed by the*
2 *Commissioner.*

3 (d) *PROHIBITION ON CERTAIN INTERVIEWS.*—No per-
4 *sonnel employed by U.S. Customs and Border Protection*
5 *may carry out credible fear interviews pursuant to the Im-*
6 *migration and Nationality Act.*

7 (e) *OFFICE OF PROFESSIONAL RESPONSIBILITY.*—The
8 *Commissioner of U.S. Customs and Border Protection shall*
9 *every fiscal year hire, train, and assign 30 new full-time*
10 *investigators within the Office of Professional Responsi-*
11 *bility of U.S. Customs and Border Protection until the total*
12 *number of investigators enables the Office to fulfill its mis-*
13 *sion proportionate to the number of new personnel hired*
14 *in accordance with subsection (c).*

15 (f) *TRAFFIC FORECASTS.*—In calculating the number
16 *of Office of Field Operations officers needed at each port*
17 *of entry through the Workload Staffing Model, the Office*
18 *of Field Operations shall—*

19 (1) *rely on data collected regarding the inspec-*
20 *tions and other activities conducted at each such port*
21 *of entry; and*

22 (2) *consider volume associated with the increase*
23 *in the volume of individuals from El Salvador, Gua-*
24 *temala, and Honduras seeking asylum in the United*
25 *States and seasonal surges, other projected changes in*

1 *commercial and passenger volumes, the most current*
2 *commercial forecasts, and other relevant information.*

3 (g) *AMENDMENT.*—Subparagraph (A) of section
4 411(g)(5) of the Homeland Security Act of 2002 (6 U.S.C.
5 211(g)(5)) is amended—

6 (1) *by striking “model” and inserting “models”;*
7 *and*

8 (2) *by inserting before the period at the end the*
9 *following: “, and information concerning the progress*
10 *made toward meeting officer hiring targets, while ac-*
11 *counting for attrition”.*

12 **SEC. 209. SURGE SUPPORT FOR CARE OF FAMILIES AND UN-**
13 **ACCOMPANIED CHILDREN.**

14 (a) *IN GENERAL.*—Not later than 60 days after the
15 date of the enactment of this Act, the Secretary of Homeland
16 Security shall enter into memoranda of understanding with
17 appropriate Federal agencies and applicable emergency
18 government relief services, and contracts with State-li-
19 censed, vetted, and qualified contractors with health care,
20 public health, social work, and transportation professionals,
21 for purposes of providing care for individuals, including
22 unaccompanied alien children, apprehended at the southern
23 border during the period of increased volume since January
24 2017.

1 (b) *STRATEGIC DEPLOYMENT.*—*The Secretary of*
2 *Homeland Security shall ensure that the memoranda of un-*
3 *derstanding and contracts entered into pursuant to sub-*
4 *section (a) ensure core capacity within the Department of*
5 *Homeland Security to provide adequate care to individuals*
6 *in short-term detention that includes physicians special-*
7 *izing in pediatrics, family medicine, emergency medicine,*
8 *obstetrics and gynecology, geriatric medicine, internal med-*
9 *icine, and infectious diseases, nurse practitioners, other*
10 *nurses, physician assistants, licensed social workers, mental*
11 *health professionals, public health professionals, and dieti-*
12 *cians.*

13 (c) *PROCESSING COORDINATOR.*—*The Commissioner*
14 *of U.S. Customs and Border Protection may, on a case-*
15 *by-case basis, hire and train a processing coordinator to*
16 *operate within U.S. Border Patrol station to—*

17 (1) *facilitate the provision of services pursuant*
18 *to a memorandum of understanding or contract en-*
19 *tered into pursuant to subsection (a) within a U.S.*
20 *Border Patrol station;*

21 (2) *perform administrative tasks related to the*
22 *intake and processing of individuals apprehend by*
23 *U.S. Border Patrol agents, where necessary;*

24 (3) *transport individuals in U.S. Border Patrol*
25 *custody, where necessary; and*

1 (4) *perform custodial watch duties of individuals*
2 *in such custody who have been admitted to a hospital,*
3 *except that neither the coordinator nor a U.S. Border*
4 *Patrol agent may be physically present in a hospital*
5 *room of such an individual.*

6 (d) *MONTHLY REPORTS.*—*Not later than 90 days after*
7 *the date of the enactment of this Act, the Secretary of Home-*
8 *land Security shall submit to the Committee on Homeland*
9 *Security of the House of Representatives and the Committee*
10 *on Homeland Security and Governmental Affairs of the*
11 *Senate a monthly report on the memoranda of under-*
12 *standing and contracts entered into pursuant to subsection*
13 *(a) as of such date, together with the following:*

14 (1) *Information on the deployment of physicians*
15 *specializing in pediatrics, family medicine, emer-*
16 *gency medicine, obstetrics and gynecology, geriatric*
17 *medicine, internal medicine, and infectious diseases,*
18 *nurse practitioners, other nurses, physician assist-*
19 *ants, licensed social workers, mental health profes-*
20 *sionals, public health professionals, and dieticians*
21 *within each U.S. Border Patrol sector.*

22 (2) *For each U.S. Border Patrol sector, the de-*
23 *gree to which responsibilities have been transferred*
24 *from Department of Homeland Security personnel,*
25 *particularly law enforcement personnel, for the provi-*

1 *sion of care of migrant families and unaccompanied*
2 *alien children apprehended at the southern border of*
3 *the United States to personnel under a memorandum*
4 *of understanding or contract.*

5 **SEC. 210. PORT OF ENTRY TEMPORARY DUTY ASSIGN-**
6 **MENTS.**

7 *(a) QUARTERLY REPORT.—Not later than 60 days*
8 *after the date of the enactment of this Act and quarterly*
9 *thereafter, the Commissioner of U.S. Customs and Border*
10 *Protection shall submit to the appropriate congressional*
11 *committees a report that includes, for each such reporting*
12 *period, the following:*

13 *(1) The number of temporary duty assignments*
14 *of U.S. Customs and Border Protection officers and*
15 *support personnel from a port of entry to a tem-*
16 *porary duty assignment in response to the Northern*
17 *Triangle Migrant Surge.*

18 *(2) The ports of entry from which such employees*
19 *were reassigned.*

20 *(3) The ports of entry to which such employees*
21 *were reassigned.*

22 *(4) The ports of entry at which reimbursable*
23 *service agreements have been entered into that may be*
24 *affected by such temporary duty assignments.*

1 (5) *The duration of each temporary duty assign-*
2 *ment.*

3 (6) *The specific duties personnel will be under-*
4 *taking during each temporary duty assignment.*

5 (7) *The cost of each temporary duty assignment.*

6 (b) *NOTICE.—Not later than 10 days before rede-*
7 *ploying employees from one port of entry to another in re-*
8 *sponse to the Northern Triangle Migrant Surge, absent*
9 *emergency circumstances—*

10 (1) *the Commissioner of U.S. Customs and Bor-*
11 *der Protection shall notify the director of the port of*
12 *entry from which employees will be reassigned of the*
13 *intended redeployments; and*

14 (2) *the port director shall notify impacted facili-*
15 *ties (including airports, seaports, and land ports) of*
16 *the intended redeployments.*

17 (c) *WORKFORCE BRIEFING.—The Commissioner of*
18 *U.S. Customs and Border Protection shall brief all affected*
19 *U.S. Customs and Border Protection employees regarding*
20 *plans to mitigate vulnerabilities created by any planned*
21 *staffing reductions at ports of entry.*

1 **SEC. 211. PROHIBITION ON PHYSICAL RESTRAINTS FOR**
2 **WOMEN WHO ARE PREGNANT OR POST-DELIV-**
3 **ERY.**

4 (a) *IN GENERAL.*—*Except as provided in subsection*
5 *(b), no officer or agent of the U.S. Customs and Border Pro-*
6 *tection or Immigration and Customs Enforcement may*
7 *place physical restraints on a woman in the custody of the*
8 *Department of Homeland Security (including during*
9 *transport, in a detention facility, or at an outside medical*
10 *facility) who is pregnant or in post-delivery recuperation.*

11 (b) *EXCEPTION.*—*Subsection (a) shall not apply with*
12 *respect to a pregnant woman if—*

13 (1) *a supervisory official of the Department of*
14 *Homeland Security makes an individualized deter-*
15 *mination that the woman—*

16 (A) *is a serious flight risk, and such risk*
17 *cannot be prevented by other means; or*

18 (B) *poses an immediate and serious threat*
19 *to harm herself or others that cannot be pre-*
20 *vented by other means; or*

21 (2) *a medical professional responsible for the*
22 *care of the pregnant woman determines that the use*
23 *of therapeutic restraints is appropriate for the med-*
24 *ical safety of the woman.*

25 (c) *LIMITATIONS.*—*If a pregnant woman is restrained*
26 *pursuant to subsection (b), only the safest and least restric-*

1 *tive restraints, as determined by the appropriate medical*
2 *professional treating the woman, may be used. In no case*
3 *may restraints be used on a woman who is in active labor*
4 *or delivery, and in no case may a pregnant woman be re-*
5 *strained in a face-down position with four-point restraints,*
6 *on her back, or in a restraint belt that constricts the area*
7 *of the pregnancy. A pregnant woman who is immobilized*
8 *by restraints shall be positioned, to the maximum extent*
9 *feasible, on her left side.*

10 (d) *RECORDKEEPING.—If a pregnant woman is re-*
11 *strained pursuant to subsection (b), the supervisory official*
12 *of the Department of Homeland Security shall document*
13 *the basis for an individualized determination that re-*
14 *straints should be used in the Departmental records main-*
15 *tained on that woman.*

16 **TITLE III—OVERSIGHT**

17 **SEC. 301. GAO REPORT ON THE EXTENT OF CBP ACTIVITIES,** 18 **OPERATIONS, AND CLAIMED AUTHORITY.**

19 *Not later than one year after the date of the enactment*
20 *of this subsection, the Comptroller General of the United*
21 *States shall submit to the Committee on Homeland Security*
22 *and the Committee on the Judiciary of the House of Rep-*
23 *resentatives and the Committee on Homeland Security and*
24 *Governmental Affairs and the Committee on the Judiciary*
25 *of the Senate a report that assesses the following issues:*

1 (1) *How far into the United States interior the*
2 *current activities, operations (including checkpoints),*
3 *and claimed authority of U.S. Customs and Border*
4 *Protection extend.*

5 (2) *The extent to which the area of activities, op-*
6 *erations, and claimed authority referred to in para-*
7 *graph (1) is necessary.*

8 (3) *The effectiveness of U.S. Customs and Border*
9 *Protection's interior enforcement and its impact on*
10 *civil, constitutional, and private property rights.*

11 **SEC. 302. MIGRANT DEATHS REPORTING.**

12 (a) *IMMEDIATE REPORTS.*—*Not later than 24 hours*
13 *after a migrant death, the Secretary of Homeland Security*
14 *shall report such death to the Committees on Homeland Se-*
15 *curity and Judiciary of the House of Representatives and*
16 *the Committees on Homeland Security and Governmental*
17 *Affairs and Judiciary of the Senate.*

18 (b) *ANNUAL REPORT ON MIGRANT DEATHS.*—*Not*
19 *later than 180 days after the date of the enactment of this*
20 *Act and annually thereafter, the Commissioner of U.S. Cus-*
21 *toms and Border Protection and the Director of U.S. Immi-*
22 *gration and Customs Enforcement shall jointly submit to*
23 *the Comptroller General of the United States, the Commit-*
24 *tees on Homeland Security and Judiciary of the House of*
25 *Representatives, and the Committees on Homeland Security*

1 *and Governmental Affairs and Judiciary of the Senate a*
2 *report on migrant deaths that occurred in the preceding*
3 *year along the United States-Mexico border, including in-*
4 *formation on the following:*

5 (1) *The total number of documented migrant*
6 *deaths within the preceding year of the report.*

7 (2) *A geographical breakdown of where such mi-*
8 *grant deaths occur.*

9 (3) *To the extent possible, the cause of death for*
10 *each migrant.*

11 (4) *A detailed description of U.S. Customs and*
12 *Border Protection and U.S. Immigration and Cus-*
13 *tom Enforcement programs or plans to reduce the*
14 *number of migrant deaths along the border, including*
15 *an assessment on the effectiveness of water supply*
16 *sites and rescue beacons.*

17 (5) *Criteria and methodology for collecting such*
18 *data within each sector.*

19 (c) *GAO REPORT ON MIGRANT DEATHS.—Not later*
20 *than one year after the submission of the first report re-*
21 *quired under subsection (a), the Comptroller General of the*
22 *United States shall publish a review on the extent to which*
23 *U.S. Customs and Border Protection and U.S. Immigration*
24 *and Customs Enforcement have—*

1 (1) *adopted measures, such as programs or*
2 *plans, to reduce migrants deaths;*

3 (2) *the effectiveness of its efforts to reduce mi-*
4 *grant deaths; and*

5 (3) *collected data and information sharing as*
6 *well as cooperation between U.S. Customs and Border*
7 *Protection, U.S. Immigration and Customs Enforce-*
8 *ment, local and State law enforcement, foreign diplo-*
9 *matic and consular posts, and nongovernmental orga-*
10 *nizations to accurately identify deceased individuals*
11 *and notify family members and compare information*
12 *to missing persons registries.*

13 **SEC. 303. REVIEW OF THE USE OF FORCE.**

14 *Not later than one year after the date of the enactment*
15 *of this Act, the Comptroller General of the United States*
16 *shall examine the extent to which U.S. Customs and Border*
17 *Protection and U.S. Immigration and Customs Enforce-*
18 *ment have trained their workforces regarding use of force*
19 *policies, including the following (and any recommendations*
20 *related to the following):*

21 (1) *Implementation of new training to improve*
22 *use of force policies, including how the use of force*
23 *policy conforms to Department of Homeland Security*
24 *and Federal law enforcement best practices.*

1 (2) *Identified additional or alternative weapons*
2 *and equipment to improve agents' and officers' abili-*
3 *ties to de-escalate confrontations, including protective*
4 *gear.*

5 (3) *Established metrics to track the effectiveness*
6 *of use of force training and to ensure the reporting*
7 *of all incidents of use of force to determine whether*
8 *such force was justified.*

9 **SEC. 304. ACCOUNTABILITY AND TRANSPARENCY WITHIN**
10 **THE BORDER ZONE.**

11 (a) *DEFINITIONS.—In this section:*

12 (1) *BORDER SECURITY.—The term “border secu-*
13 *rity” means the prevention of unlawful entries into*
14 *the United States, including entries by individuals,*
15 *instruments of terrorism, narcotics, and other contra-*
16 *band.*

17 (2) *BORDER ZONE.—The term “border zone”*
18 *means the 100-mile of land from a United States*
19 *international land and coastal border into the inte-*
20 *rior of the United States, as established by Federal*
21 *regulation in 1953.*

22 (3) *CHECKPOINT.—The term “checkpoint” means*
23 *a location—*

24 (A) *at which vehicles or individuals trav-*
25 *eling through the location are stopped by a law*

1 *enforcement official for the purposes of enforce-*
2 *ment of United States laws and regulations; and*

3 *(B) that is not located at a port of entry*
4 *along an international border of the United*
5 *States.*

6 *(4) LAW ENFORCEMENT OFFICIAL.—The term*
7 *“law enforcement official” means—*

8 *(A) an agent or officer of U.S. Customs and*
9 *Border Protection;*

10 *(B) an agent or officer of U.S. Immigration*
11 *and Customs Enforcement; or*

12 *(C) an officer or employee of a State, or a*
13 *political subdivision of a State, who is carrying*
14 *out the functions of an immigration officer pur-*
15 *suant to—*

16 *(i) an agreement entered into under*
17 *section 287(g) of the Immigration and Na-*
18 *tionality Act (8 U.S.C. 1357(g));*

19 *(ii) authorization under title IV of the*
20 *Tariff Act of 1930 (19 U.S.C. 1401 et seq.);*
21 *or*

22 *(iii) any other agreement with the De-*
23 *partment of Homeland Security, including*
24 *any Federal grant program.*

1 (5) *PATROL STOP*.—The term “patrol stop”
2 means search, seizure, or interrogation of a motorist,
3 passenger, or pedestrian initiated anywhere except as
4 part of an inspection at a port of entry or a primary
5 inspection at a checkpoint.

6 (6) *PRIMARY INSPECTION*.—The term “primary
7 inspection” means an initial inspection of a vehicle
8 or individual at a checkpoint.

9 (7) *SECONDARY INSPECTION*.—The term “sec-
10 ondary inspection” means a further inspection of a
11 vehicle or individual that is conducted following a
12 primary inspection.

13 (b) *DATA COLLECTION BY LAW ENFORCEMENT OFFI-*
14 *CIALS FOR BORDER SECURITY AND IMMIGRATION EN-*
15 *FORCEMENT ACTIVITIES WITHIN THE BORDER ZONE*.—

16 (1) *DATA COLLECTION REGARDING STOPS AND*
17 *SEARCHES AND ACTIVITY AT INTERIOR CHECK-*
18 *POINTS*.—A law enforcement official who initiates a
19 patrol stop or who detains any individual beyond a
20 brief and limited inquiry, such as a primary inspec-
21 tion at a checkpoint, shall record the following:

22 (A) The date, time, and location of the con-
23 tact.

24 (B) The law enforcement official’s basis for,
25 or circumstances surrounding, the contact, in-

1 *cluding if such individual's perceived race or*
2 *ethnicity contributed to the basis for, and cir-*
3 *cumstances surrounding, the contact.*

4 *(C) The identifying characteristics of such*
5 *individual, including the individual's perceived*
6 *race, gender, ethnicity, and approximate age.*

7 *(D) The duration of the stop, detention, or*
8 *search, whether consent was requested and ob-*
9 *tained for the contact, including any search.*

10 *(E) A description of any articulable facts*
11 *and behavior by the individual that justify initi-*
12 *ating the contact or probable cause to justify any*
13 *search pursuant to such contact.*

14 *(F) A description of any items seized dur-*
15 *ing such search, including contraband or money,*
16 *and a specification of the type of search con-*
17 *ducted.*

18 *(G) Whether any arrest, detention, warning,*
19 *or citation resulted from such contact and the*
20 *basis for such action.*

21 *(H) The immigration status of the indi-*
22 *vidual, if obtained during the ordinary course of*
23 *the contact without additional questioning in ac-*
24 *cordance with this section, and whether removal*

1 *proceedings were subsequently initiated against*
2 *the individual.*

3 *(I) If the contact involved an individual*
4 *whose primary language of communication is*
5 *not English, the means of communication used.*

6 *(J) If the contact occurred at a location*
7 *proximate to a place of worship or religious cere-*
8 *mony, school or education-related place or event,*
9 *courthouse or other civic building providing serv-*
10 *ices accessible to the public, hospital, medical*
11 *treatment, or health care facility, at a public*
12 *demonstration, or an attorney's office, including*
13 *a public defender or legal aid office.*

14 *(K) If the contact occurred at a location de-*
15 *scribed in subparagraph (J), why that location*
16 *was chosen and any supervisory approval that*
17 *was sought to carry out the contact at the loca-*
18 *tion.*

19 *(2) GAO AUDIT.—Not later than one year after*
20 *the enactment of this Act, the Comptroller General of*
21 *the United States shall conduct an audit of the data*
22 *compiled under paragraph (1) to determine whether*
23 *law enforcement officials are complying with data*
24 *collection requirements and submit to Congress a re-*

1 *port that contains a summary of the findings of such*
2 *audit.*

3 (3) *OPEN GAO RECOMMENDATIONS.*—*Not later*
4 *than 180 days after the date of enactment of this Act,*
5 *the Commissioner of U.S. Customs and Border Pro-*
6 *tection shall submit to the Committee on Homeland*
7 *Security and the Committee on Homeland Security*
8 *and Governmental Affairs of the Senate a plan to ad-*
9 *dress any open recommendations made by the Comp-*
10 *troller General on checkpoint performance and the*
11 *impact of checkpoint operations on nearby commu-*
12 *nities. Within 180 days after the submission of the re-*
13 *port to the Committees, the Comptroller General shall*
14 *issue a report to the committees evaluating the Com-*
15 *missioner’s plan to address the open recommenda-*
16 *tions.*

17 (c) *ANNUAL REPORT.*—

18 (1) *REQUIREMENT.*—*Not later than one year*
19 *after the date of the enactment of this Act and annu-*
20 *ally thereafter, the Secretary of Homeland Security*
21 *shall submit to Congress a report on the data com-*
22 *plied under subsection (b)(1), including all such data*
23 *for the previous year.*

24 (2) *AVAILABILITY.*—*Each report submitted under*
25 *paragraph (1) shall be made available to the public,*

1 *except for particular data if the Secretary of Home-*
2 *land Security—*

3 *(A) explicitly invokes an exemption con-*
4 *tained in paragraphs (1) through (9) of section*
5 *552(b) of title 5, United States Code; and*

6 *(B) provides a written explanation for the*
7 *exemption’s applicability.*

8 *(3) PRIVACY.—The Secretary of Homeland Secu-*
9 *urity may not report unique personal identifying in-*
10 *formation of persons stopped, searched, or subjected to*
11 *a property seizure, for purposes of this section.*

12 *(4) PUBLICATION.—The data compiled under*
13 *subsection (b) shall be made available to the public to*
14 *the extent the release of such data is permissible*
15 *under Federal law.*

16 **SEC. 305. AUDIT AND INSPECTIONS OF DETENTION FACILI-**
17 **TIES.**

18 *(a) OIG AND GAO.—The Inspector General of the De-*
19 *partment of Homeland Security and the Comptroller Gen-*
20 *eral shall carry out regular audits and inspections, includ-*
21 *ing unannounced audits and inspections, of processes (in-*
22 *cluding recordkeeping) utilized by U.S. Customs and Bor-*
23 *der Protection to conduct intake and process individuals*
24 *apprehended by U.S. Customs and Border Protection, as*
25 *well as any facility operated by or for the Department of*

1 *Homeland Security used to detain or otherwise house indi-*
2 *viduals in custody of the Department of Homeland Secu-*
3 *rity. The Inspector General and Comptroller General shall,*
4 *to the extent possible, share information and coordinate to*
5 *ensure that Congress is provided timely audit and inspec-*
6 *tion information.*

7 (b) *CONGRESSIONAL ACCESS.—*

8 (1) *IN GENERAL.—The Commissioner of U.S.*
9 *Customs and Border Protection may not—*

10 (A) *prevent a Member of Congress or an*
11 *employee of the United States House of Rep-*
12 *resentatives or the United States Senate des-*
13 *ignated by such a Member for the purposes of*
14 *this section from entering, for the purpose of con-*
15 *ducting oversight, any such facility; and*

16 (B) *make any temporary modification at*
17 *any such facility that in any way alters what is*
18 *observed by a visiting member of Congress or*
19 *such designated employee, compared to what*
20 *would be observed in the absence of such modi-*
21 *fication.*

22 (2) *RULE OF CONSTRUCTION.—Nothing in this*
23 *subsection may be construed to require a Member of*
24 *Congress to provide prior notice of the intent to enter*
25 *such facility for the purpose of conducting oversight.*

1 (3) *REQUIREMENT.*—*With respect to individuals*
2 *described in paragraph (1), the Department of Home-*
3 *land Security may require that a request be made at*
4 *least 24 hours in advance of an intent to enter a fa-*
5 *ility.*

6 (c) *PHOTOGRAPHS.*—*The Inspector General of the De-*
7 *partment of Homeland Security, Comptroller General, a*
8 *Member of Congress, or an employee of the United States*
9 *House of Representatives or United States Senate shall be*
10 *authorized to take photographs or video or audio recordings*
11 *of conditions in a facility but may not publish photographs*
12 *or video or audio recordings with personally identifiable in-*
13 *formation without permission.*

Union Calendar No. 122

116TH CONGRESS
1ST Session

H. R. 2203

[Report No. 116-163, Part I]

A BILL

To increase transparency, accountability, and community engagement within the Department of Homeland Security, provide independent oversight of border security activities, improve training for agents and officers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, and for other purposes.

JULY 19, 2019

Reported from the Committee on Homeland Security
with an amendment

JULY 19, 2019

The Committees on the Judiciary and Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed