

maritime security strategic guidance and how that work fits with the Maritime Operations Coordination Plan.

(Pub. L. 107-296, title IV, § 435, as added Pub. L. 115-254, div. J, § 1807(a), Oct. 5, 2018, 132 Stat. 3536.)

§ 244. Maritime security capabilities assessments

Not later than 180 days after October 5, 2018, and annually thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives, an assessment of the number and type of maritime assets and the number of personnel required to increase the Department's maritime response rate pursuant to section 223 of this title.

(Pub. L. 107-296, title IV, § 436, as added Pub. L. 115-254, div. J, § 1811(a), Oct. 5, 2018, 132 Stat. 3538.)

§ 245. Operational data sharing capability

(a) In general

Not later than 18 months after December 23, 2022, the Secretary shall, consistent with the ongoing Integrated Multi-Domain Enterprise joint effort by the Department of Homeland Security and the Department of Defense, establish a secure, centralized capability to allow real-time, or near real-time, data and information sharing between Customs and Border Protection and the Coast Guard for purposes of maritime boundary domain awareness and enforcement activities along the maritime boundaries of the United States, including the maritime boundaries in the northern and southern continental United States and Alaska.

(b) Priority

In establishing the capability under subsection (a), the Secretary shall prioritize enforcement areas experiencing the highest levels of enforcement activity.

(c) Requirements

The capability established under subsection (a) shall be sufficient for the secure sharing of data, information, and surveillance necessary for operational missions, including data from governmental assets, irrespective of whether an asset located in or around mission operation areas belongs to the Coast Guard, Customs and Border Protection, or any other partner agency.

(d) Elements

The Commissioner of Customs and Border Protection and the Commandant shall jointly—

- (1) assess and delineate the types of data and quality of data sharing needed to meet the respective operational missions of Customs and Border Protection and the Coast Guard, including video surveillance, seismic sensors, infrared detection, space-based remote sensing, and any other data or information necessary;
- (2) develop appropriate requirements and processes for the credentialing of personnel of

Customs and Border Protection and personnel of the Coast Guard to access and use the capability established under subsection (a); and

- (3) establish a cost-sharing agreement for the long-term operation and maintenance of the capability and the assets that provide data to the capability.

(e) Report

Not later than 2 years after December 23, 2022, the Secretary shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives a report on the establishment of the capability under this section.

(f) Rule of construction

Nothing in this section may be construed to authorize the Coast Guard, Customs and Border Protection, or any other partner agency to acquire, share, or transfer personal information relating to an individual in violation of any Federal or State law or regulation.

(Pub. L. 117-263, div. K, title CXII, § 11264, Dec. 23, 2022, 136 Stat. 4062.)

Editorial Notes

CODIFICATION

Section was enacted as part of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, and not as part of the Homeland Security Act of 2002 which comprises this chapter.

Statutory Notes and Related Subsidiaries

RULE OF CONSTRUCTION

Pub. L. 117-263, div. K, § 11003, Dec. 23, 2022, 136 Stat. 4003, provided that:

“(a) IN GENERAL.—Nothing in this division [div. K (§§ 11001–11808) of Pub. L. 117-263, see Tables for classification] may be construed—

“(1) to satisfy any requirement for government-to-government consultation with Tribal governments; or

“(2) to affect or modify any treaty or other right of any Tribal government.

“(b) TRIBAL GOVERNMENT DEFINED.—In this section, the term ‘Tribal government’ means the recognized governing body of any Indian or Alaska Native Tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of the enactment of this Act [Dec. 23, 2022] pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).”

DEFINITIONS

For definitions of “Secretary” and “Commandant” as referred to in this section, see section 11002 of div. K of Pub. L. 117-263, set out as a note under section 106 of Title 14, Coast Guard.

PART D—IMMIGRATION ENFORCEMENT FUNCTIONS

§ 251. Transfer of functions

In accordance with subchapter XII (relating to transition provisions), there shall be transferred from the Commissioner of Immigration and Naturalization to the Secretary all functions per-

formed under the following programs, and all personnel, assets, and liabilities pertaining to such programs, immediately before such transfer occurs:

- (1) The Border Patrol program.
- (2) The detention and removal program.
- (3) The intelligence program.
- (4) The investigations program.
- (5) The inspections program.

(Pub. L. 107-296, title IV, § 441, Nov. 25, 2002, 116 Stat. 2192; Pub. L. 114-125, title VIII, § 802(g)(1)(B)(v)(I), Feb. 24, 2016, 130 Stat. 212.)

Editorial Notes

AMENDMENTS

2016—Pub. L. 114-125 substituted “Transfer of functions” for “Transfer of functions to Under Secretary for Border and Transportation Security” in section catchline and “Secretary” for “Under Secretary for Border and Transportation Security” in introductory provisions.

§ 252. Establishment of Bureau of Border Security

(a) Establishment of Bureau

(1) In general

There shall be in the Department of Homeland Security a bureau to be known as the “Bureau of Border Security”.

(2) Assistant Secretary

The head of the Bureau of Border Security shall be the Assistant Secretary of the Bureau of Border Security, who—

(A) shall report directly to the Under Secretary for Border and Transportation Security; and

(B) shall have a minimum of 5 years professional experience in law enforcement, and a minimum of 5 years of management experience.

(3) Functions

The Assistant Secretary of the Bureau of Border Security—

(A) shall establish the policies for performing such functions as are—

(i) transferred to the Under Secretary for Border and Transportation Security by section 251 of this title and delegated to the Assistant Secretary by the Under Secretary for Border and Transportation Security; or

(ii) otherwise vested in the Assistant Secretary by law;

(B) shall oversee the administration of such policies; and

(C) shall advise the Under Secretary for Border and Transportation Security with respect to any policy or operation of the Bureau of Border Security that may affect the Bureau of Citizenship and Immigration Services established under part E of this subchapter, including potentially conflicting policies or operations.

(4) Program to collect information relating to foreign students

The Assistant Secretary of the Bureau of Border Security shall be responsible for ad-

ministering the program to collect information relating to nonimmigrant foreign students and other exchange program participants described in section 1372 of title 8, including the Student and Exchange Visitor Information System established under that section, and shall use such information to carry out the enforcement functions of the Bureau.

(5) Managerial rotation program

(A) In general

Not later than 1 year after the date on which the transfer of functions specified under section 251 of this title takes effect, the Assistant Secretary of the Bureau of Border Security shall design and implement a managerial rotation program under which employees of such bureau holding positions involving supervisory or managerial responsibility and classified, in accordance with chapter 51 of title 5, as a GS-14 or above, shall—

- (i) gain some experience in all the major functions performed by such bureau; and
- (ii) work in at least one local office of such bureau.

(B) Report

Not later than 2 years after the date on which the transfer of functions specified under section 251 of this title takes effect, the Secretary shall submit a report to the Congress on the implementation of such program.

(b) Chief of Policy and Strategy

(1) In general

There shall be a position of Chief of Policy and Strategy for the Bureau of Border Security.

(2) Functions

In consultation with Bureau of Border Security personnel in local offices, the Chief of Policy and Strategy shall be responsible for—

(A) making policy recommendations and performing policy research and analysis on immigration enforcement issues; and

(B) coordinating immigration policy issues with the Chief of Policy and Strategy for the Bureau of Citizenship and Immigration Services (established under part E of this subchapter), as appropriate.

(c) Legal advisor

There shall be a principal legal advisor to the Assistant Secretary of the Bureau of Border Security. The legal advisor shall provide specialized legal advice to the Assistant Secretary of the Bureau of Border Security and shall represent the bureau in all exclusion, deportation, and removal proceedings before the Executive Office for Immigration Review.

(Pub. L. 107-296, title IV, § 442, Nov. 25, 2002, 116 Stat. 2193.)

Editorial Notes

REFERENCES IN TEXT

Part E of this subchapter, referred to in subsecs. (a)(3)(C) and (b)(2)(B), was in the original “subtitle E”, meaning subtitle E (§§ 451-462) of title IV of Pub. L.

107–296, Nov. 25, 2002, 116 Stat. 2195, which enacted part E (§271 et seq.) of this subchapter, amended sections 1356 and 1573 of Title 8, Aliens and Nationality, and enacted provisions set out as a note under section 271 of this title. For complete classification of subtitle E to the Code, see Tables.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Bureau of Border Security, referred to in section catchline and text, changed to Bureau of Immigration and Customs Enforcement by Reorganization Plan Modification for the Department of Homeland Security, eff. Mar. 1, 2003, H. Doc. No. 108–32, 108th Congress, 1st Session, set out as a note under section 542 of this title.

§ 253. Professional responsibility and quality review

The Secretary shall be responsible for—

(1) conducting investigations of noncriminal allegations of misconduct, corruption, and fraud involving any employee of U.S. Immigration and Customs Enforcement that are not subject to investigation by the Inspector General for the Department;

(2) inspecting the operations of U.S. Immigration and Customs Enforcement and providing assessments of the quality of the operations of such bureau as a whole and each of its components; and

(3) providing an analysis of the management of U.S. Immigration and Customs Enforcement.

(Pub. L. 107–296, title IV, §443, Nov. 25, 2002, 116 Stat. 2194; Pub. L. 114–125, title VIII, §802(g)(1)(B)(v)(II), Feb. 24, 2016, 130 Stat. 212.)

Editorial Notes

AMENDMENTS

2016—Pub. L. 114–125 substituted “Secretary” for “Under Secretary for Border and Transportation Security” in introductory provisions and “U.S. Immigration and Customs Enforcement” for “the Bureau of Border Security” in pars. (1) to (3).

§ 254. Employee discipline

Notwithstanding any other provision of law, the Secretary may impose disciplinary action on any employee of U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection who willfully deceives Congress or agency leadership on any matter.

(Pub. L. 107–296, title IV, §444, Nov. 25, 2002, 116 Stat. 2194; Pub. L. 114–125, title VIII, §802(g)(1)(B)(v)(III), Feb. 24, 2016, 130 Stat. 212.)

Editorial Notes

AMENDMENTS

2016—Pub. L. 114–125 amended section generally. Prior to amendment, text read as follows: “The Under Secretary for Border and Transportation Security may, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, on any employee of the Bureau of Border Security who willfully deceives the Congress or agency leadership on any matter.”

§ 255. Report on improving enforcement functions

(a) In general

The Secretary, not later than 1 year after being sworn into office, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report with a plan detailing how the Bureau of Border Security, after the transfer of functions specified under section 251 of this title takes effect, will enforce comprehensively, effectively, and fairly all the enforcement provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) relating to such functions.

(b) Consultation

In carrying out subsection (a), the Secretary of Homeland Security shall consult with the Attorney General, the Secretary of State, the Director of the Federal Bureau of Investigation, the Secretary of the Treasury, the Secretary of Labor, the Commissioner of Social Security, the Director of the Executive Office for Immigration Review, and the heads of State and local law enforcement agencies to determine how to most effectively conduct enforcement operations.

(Pub. L. 107–296, title IV, §445, Nov. 25, 2002, 116 Stat. 2194.)

Editorial Notes

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (a), is act June 27, 1952, ch. 477, 66 Stat. 163, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Bureau of Border Security, referred to in subsec. (a), changed to Bureau of Immigration and Customs Enforcement by Reorganization Plan Modification for the Department of Homeland Security, eff. Mar. 1, 2003, H. Doc. No. 108–32, 108th Congress, 1st Session, set out as a note under section 542 of this title.

§ 256. Sense of Congress regarding construction of fencing near San Diego, California

It is the sense of the Congress that completing the 14-mile border fence project required to be carried out under section 102(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) should be a priority for the Secretary.

(Pub. L. 107–296, title IV, §446, Nov. 25, 2002, 116 Stat. 2195.)

Editorial Notes

REFERENCES IN TEXT

Section 102(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, referred to in text, is section 102(b) of title I of div. C of Pub. L. 104–208, which is set out as a note under section 1103 of Title 8, Aliens and Nationality.

§ 257. Report

(a) In general

The Secretary of Homeland Security shall submit an annual report to the congressional com-

mittees set forth in subsection (b) that includes a description of—

- (1) the cross-border tunnels along the border between Mexico and the United States discovered during the preceding fiscal year; and
- (2) the needs of the Department of Homeland Security to effectively prevent, investigate and prosecute border tunnel construction along the border between Mexico and the United States.

(b) Congressional committees

The congressional committees set forth in this subsection are—

- (1) the Committee on Homeland Security and Governmental Affairs of the Senate;
- (2) the Committee on the Judiciary of the Senate;
- (3) the Committee on Appropriations of the Senate;
- (4) the Committee on Homeland Security of the House of Representatives;
- (5) the Committee on the Judiciary of the House of Representatives; and
- (6) the Committee on Appropriations of the House of Representatives.

(Pub. L. 112–127, § 8, June 5, 2012, 126 Stat. 371.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Border Tunnel Prevention Act of 2012, and not as part of the Homeland Security Act of 2002 which comprises this chapter.

Statutory Notes and Related Subsidiaries

DHS ILLICIT CROSS-BORDER TUNNEL DEFENSE

Pub. L. 117–263, div. G, title LXXI, § 7134, Dec. 23, 2022, 136 Stat. 3649, provided that:

“(a) COUNTER ILLICIT CROSS-BORDER TUNNEL OPERATIONS STRATEGIC PLAN.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2022], the Commissioner of U.S. Customs and Border Protection, in coordination with the Under Secretary for Science and Technology, and, as appropriate, other officials of the Department of Homeland Security, shall develop a counter illicit cross-border tunnel operations strategic plan (in this section referred to as the ‘strategic plan’) to address the following:

“(A) Risk-based criteria to be used to prioritize the identification, breach, assessment, and remediation of illicit cross-border tunnels.

“(B) Promote the use of innovative technologies to identify, breach, assess, and remediate illicit cross-border tunnels in a manner that, among other considerations, reduces the impact of such activities on surrounding communities.

“(C) Processes to share relevant illicit cross-border tunnel location, operations, and technical information.

“(D) Indicators of specific types of illicit cross-border tunnels found in each U.S. Border Patrol sector identified through operations to be periodically disseminated to U.S. Border Patrol sector chiefs to educate field personnel.

“(E) A counter illicit cross-border tunnel operations resource needs assessment that includes consideration of the following:

“(i) Technology needs.

“(ii) Staffing needs, including the following:

“(I) A position description for counter illicit cross-border tunnel operations personnel.

“(II) Any specialized skills required of such personnel.

“(III) The number of such full time personnel, disaggregated by U.S. Border Patrol sector.

“(2) REPORT TO CONGRESS ON STRATEGIC PLAN.—Not later than one year after the development of the strategic plan, the Commissioner of U.S. Customs and Border Protection shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the implementation of the strategic plan.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Commissioner of U.S. Customs and Border Protection \$1,000,000 for each of fiscal years 2023 and 2024 to carry out—

“(1) the development of the strategic plan; and

“(2) remediation operations of illicit cross-border tunnels in accordance with the strategic plan to the maximum extent practicable.”

PART E—CITIZENSHIP AND IMMIGRATION SERVICES

§ 271. Establishment of Bureau of Citizenship and Immigration Services

(a) Establishment of Bureau

(1) In general

There shall be in the Department a bureau to be known as the “Bureau of Citizenship and Immigration Services”.

(2) Director

The head of the Bureau of Citizenship and Immigration Services shall be the Director of the Bureau of Citizenship and Immigration Services, who—

(A) shall report directly to the Deputy Secretary;

(B) shall have a minimum of 5 years of management experience; and

(C) shall be paid at the same level as the Assistant Secretary of the Bureau of Border Security.

(3) Functions

The Director of the Bureau of Citizenship and Immigration Services—

(A) shall establish the policies for performing such functions as are transferred to the Director by this section or this chapter or otherwise vested in the Director by law;

(B) shall oversee the administration of such policies;

(C) shall advise the Deputy Secretary with respect to any policy or operation of the Bureau of Citizenship and Immigration Services that may affect the Bureau of Border Security of the Department, including potentially conflicting policies or operations;

(D) shall establish national immigration services policies and priorities;

(E) shall meet regularly with the Ombudsman described in section 272 of this title to correct serious service problems identified by the Ombudsman; and

(F) shall establish procedures requiring a formal response to any recommendations submitted in the Ombudsman’s annual report to Congress within 3 months after its submission to Congress.

(4) Managerial rotation program

(A) In general

Not later than 1 year after the effective date specified in section 455,¹ the Director of

¹ See References in Text note below.