

108TH CONGRESS
2D SESSION

H. R. 5182

To amend the Homeland Security Act of 2002 to clarify the mission and responsibilities of the Department of Homeland Security with respect to the protection of civil rights and civil liberties, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2004

Mr. THOMPSON of Mississippi (for himself, Mr. TURNER of Texas, Mrs. CHRISTENSEN, Ms. MCCARTHY of Missouri, Ms. JACKSON-LEE of Texas, Ms. NORTON, and Mr. MEEK of Florida) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Select Committee on Homeland Security, 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

A BILL

To amend the Homeland Security Act of 2002 to clarify the mission and responsibilities of the Department of Homeland Security with respect to the protection of civil rights and civil liberties, 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 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Homeland Security
5 Civil Rights and Civil Liberties Protection Act of 2004”.

1 **SEC. 2. MISSION OF DEPARTMENT OF HOMELAND SECUR-**
2 **RITY.**

3 Section 101(b)(1) of the Homeland Security Act of
4 2002 (6 U.S.C. 111(b)(1)) is amended—

5 (1) in subparagraph (F), by striking “and”
6 after the semicolon;

7 (2) by redesignating subparagraph (G) as sub-
8 paragraph (H); and

9 (3) by inserting after subparagraph (F) the fol-
10 lowing:

11 “(G) ensure that the civil rights and civil
12 liberties of persons are not diminished by ef-
13 forts, activities, and programs aimed at secur-
14 ing the homeland; and”.

15 **SEC. 3. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.**

16 Section 705(a) of the Homeland Security Act of 2002
17 (6 U.S.C. 345(a)) is amended—

18 (1) in the matter preceding paragraph (1), by
19 inserting “report directly to the Secretary and shall”
20 after “who shall”;

21 (2) in paragraph (1)—

22 (A) by striking “alleging” and inserting
23 “concerning”;

24 (B) by striking “racial and ethnic”;

25 (C) by inserting “on the basis of race, eth-
26 nicity, or religion,” after “profiling”; and

1 (D) by striking “and” after the semicolon
2 at the end;

3 (3) in paragraph (2), by striking the period at
4 the end and inserting a semicolon; and

5 (4) by adding at the end the following:

6 “(3) assist the Secretary, directorates, and of-
7 fices of the Department to develop, implement, and
8 periodically review Department policies and proce-
9 dures to ensure that the protection of civil rights
10 and civil liberties is appropriately incorporated into
11 Department programs and activities;

12 “(4) oversee compliance with constitutional,
13 statutory, regulatory, policy, and other requirements
14 relating to the civil rights and civil liberties of indi-
15 viduals affected by the programs and activities of
16 the Department;

17 “(5) coordinate with the official appointed
18 under section 222 to ensure that—

19 “(A) programs, policies, and procedures in-
20 volving civil rights, civil liberties, and privacy
21 considerations are addressed in an integrated
22 and comprehensive manner; and

23 “(B) the Congress receives appropriate re-
24 ports regarding such programs, policies, and
25 procedures; and

1 “(6) investigate complaints and information in-
 2 dicating possible abuses of civil rights or civil lib-
 3 erties, unless the Inspector General of the Depart-
 4 ment determines that any such complaint or infor-
 5 mation should be investigated by the Inspector Gen-
 6 eral.”.

7 **SEC. 4. PROTECTION OF CIVIL RIGHTS AND CIVIL LIB-**
 8 **ERTIES BY OFFICE OF INSPECTOR GENERAL.**

9 (a) DESIGNATION AND FUNCTIONS OF SENIOR OFFI-
 10 CIAL.—The Homeland Security Act of 2002 (Public Law
 11 107–296) is amended by inserting after section 812 the
 12 following:

13 **“SEC. 813. PROTECTION OF CIVIL RIGHTS AND CIVIL LIB-**
 14 **ERTIES BY OFFICE OF INSPECTOR GENERAL.**

15 “(a) DESIGNATION OF SENIOR OFFICIAL.—The In-
 16 spector General of the Department of Homeland Security
 17 shall designate a senior official within the Office of Inspec-
 18 tor General who is a career member of the civil service
 19 at the equivalent to the GS–15 level or a career member
 20 of the Senior Executive Service, to perform the functions
 21 described in subsection (b).

22 “(b) FUNCTIONS.—The senior official designated
 23 under subsection (a) shall—

1 “(1) coordinate the activities of the Office of
2 Inspector General with respect to investigations of
3 abuses of civil rights or civil liberties;

4 “(2) receive and review complaints and infor-
5 mation from any source alleging abuses of civil
6 rights and civil liberties by employees or officials of
7 the Department of Homeland Security or by employ-
8 ees or officials of independent contractors or grant-
9 ees of the Department;

10 “(3) initiate investigations of alleged abuses of
11 civil rights or civil liberties by employees or officials
12 of the Department of Homeland Security or by em-
13 ployees or officials of independent contractors or
14 grantees of the Department;

15 “(4) ensure that personnel within the Office of
16 Inspector General receive sufficient training to con-
17 duct effective civil rights and civil liberties investiga-
18 tions;

19 “(5) consult with the Officer for Civil Rights
20 and Civil Liberties of the Department of Homeland
21 Security regarding—

22 “(A) alleged abuses of civil rights or civil
23 liberties; and

24 “(B) any policy recommendations regard-
25 ing civil rights and civil liberties that may be

1 founded upon an investigation by the Office of
2 Inspector General;

3 “(6) provide the Officer for Civil Rights and
4 Civil Liberties with information regarding the out-
5 come of investigations of alleged abuses of civil
6 rights and civil liberties;

7 “(7) refer civil rights and civil liberties matters
8 that the Inspector General decides not to investigate
9 to the Officer for Civil Rights and Civil Liberties;

10 “(8) ensure that the Office of the Inspector
11 General publicizes and provides convenient public ac-
12 cess to information regarding—

13 “(A) the procedure to file complaints or
14 comments concerning civil rights and civil lib-
15 erties matters; and

16 “(B) the status of investigations initiated
17 in response to public complaints; and

18 “(9) inform the Officer for Civil Rights and
19 Civil Liberties of any weaknesses, problems, and de-
20 ficiencies within the Department relating to civil
21 rights or civil liberties.”.

22 (b) CLERICAL AMENDMENT.—The table of contents
23 in section 1(b) of such Act is amended by inserting after
24 the item relating to section 812 the following:

“Sec. 813. Protection of civil rights and civil liberties by Office of Inspector
General.”.

1 **SEC. 5. PRIVACY OFFICER.**

2 Section 222 of the Homeland Security Act of 2002
3 (6 U.S.C. 142) is amended—

4 (1) in the matter preceding paragraph (1), by
5 inserting “, who shall report directly to the Sec-
6 retary,” after “in the Department”;

7 (2) in paragraph (4), by striking “and” after
8 the semicolon at the end;

9 (3) by redesignating paragraph (5) as para-
10 graph (6); and

11 (4) by inserting after paragraph (4) the fol-
12 lowing:

13 “(5) coordinating with the Officer for Civil
14 Rights and Civil Liberties to ensure that—

15 “(A) programs, policies, and procedures in-
16 volving civil rights, civil liberties, and privacy
17 considerations are addressed in an integrated
18 and comprehensive manner; and

19 “(B) the Congress receives appropriate re-
20 ports on such programs, policies, and proce-
21 dures; and”.

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