

Calendar No. 704

108TH CONGRESS
2D SESSION

S. 2536

[Report No. 108–350]

To enumerate the responsibilities of the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security, to require the Inspector General of the Department of Homeland Security to designate a senior official to investigate civil rights complaints, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 17, 2004

Ms. COLLINS (for herself and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs.

SEPTEMBER 20, 2004

Reported by Ms. COLLINS, with an amendment

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To enumerate the responsibilities of the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security, to require the Inspector General of the Department of Homeland Security to designate a senior official to investigate civil rights complaints, 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”.

6 **SEC. 2. MISSION OF DEPARTMENT OF HOMELAND SECU-**
 7 **RITY.**

8 Section 101(b)(1) of the Homeland Security Act of
 9 2002 (6 U.S.C. 111(b)(1)) is amended—

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

12 (2) by redesignating subparagraph (G) as sub-
 13 paragraph (H); and

14 (3) by inserting after subparagraph (F) the fol-
 15 lowing:

16 “(G) ensure that the civil rights and civil
 17 liberties of persons are not diminished by ef-
 18 forts, activities, and programs aimed at secur-
 19 ing the homeland; and”.

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

21 Section 705(a) of the Homeland Security Act of 2002
 22 (6 U.S.C. 345(a)) is amended—

23 ~~(1) in the matter preceding paragraph (1), by~~
 24 ~~inserting “report directly to the Secretary and shall”~~
 25 ~~after “who shall”;~~

1 ~~(2) in paragraph (1), by striking “and” at the~~
 2 ~~end;~~

3 *(1) by amending the matter preceding paragraph*
 4 *(1) to read as follows:*

5 “(a) *IN GENERAL.—The Officer for Civil Rights and*
 6 *Civil Liberties, who shall report directly to the Secretary,*
 7 *shall—”;*

8 *(2) by amending paragraph (1) to read as fol-*
 9 *lows:*

10 “(1) *review and assess information concerning*
 11 *abuses of civil rights, civil liberties, and profiling on*
 12 *the basis of race, ethnicity, or religion, by employees*
 13 *and officials of the Department;”;*

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

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

17 “(3) assist the Secretary, directorates, and of-
 18 fices of the Department to develop, implement, and
 19 periodically review Department policies and proce-
 20 dures to ensure that the protection of civil rights
 21 and civil liberties is appropriately incorporated into
 22 Department programs and activities;

23 “(4) oversee compliance with constitutional,
 24 statutory, regulatory, policy, and other requirements
 25 relating to the civil rights and civil liberties of indi-

1 viduals affected by the programs and activities of
2 the Department;

3 “(5) coordinate with the Privacy Officer to en-
4 sure that—

5 “(A) programs, policies, and procedures in-
6 volving civil rights, civil liberties, and privacy
7 considerations are addressed in an integrated
8 and comprehensive manner; and

9 “(B) Congress receives appropriate reports
10 regarding such programs, policies, and proce-
11 dures; and

12 “(6) investigate complaints and information in-
13 dicating possible abuses of civil rights or civil lib-
14 erties, unless the Inspector General of the Depart-
15 ment determines that any such complaint or infor-
16 mation should be investigated by the Inspector Gen-
17 eral.”.

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

20 Section 8I of the Inspector General Act of 1978 (5
21 U.S.C. App.) is amended by adding at the end the fol-
22 lowing:

23 “(f)(1) The Inspector General of the Department of
24 Homeland Security shall designate a senior official within
25 the Office of Inspector General, who shall be a career

1 member of the civil service at the equivalent to the GS–
2 15 level or a career member of the Senior Executive Serv-
3 ice, to perform the functions described in paragraph (2).

4 “(2) The senior official designated under paragraph
5 (1) shall—

6 “(A) coordinate the activities of the Office of
7 Inspector General with respect to investigations of
8 abuses of civil rights or civil liberties;

9 “(B) receive and review complaints and infor-
10 mation from any source alleging abuses of civil
11 rights and civil liberties by employees or officials of
12 the Department and employees or officials of inde-
13 pendent contractors or grantees of the Department;

14 “(C) initiate investigations of alleged abuses of
15 civil rights or civil liberties by employees or officials
16 of the Department and employees or officials of
17 independent contractors or grantees of the Depart-
18 ment;

19 “(D) ensure that personnel within the Office of
20 Inspector General receive sufficient training to con-
21 duct effective civil rights and civil liberties investiga-
22 tions;

23 “(E) consult with the Officer for Civil Rights
24 and Civil Liberties regarding—

1 “(i) alleged abuses of civil rights or civil
2 liberties; and

3 “(ii) any policy recommendations regarding
4 civil rights and civil liberties that may be found-
5 ed upon an investigation by the Office of In-
6 spector General;

7 “(F) provide the Officer for Civil Rights and
8 Civil Liberties with information regarding the out-
9 come of investigations of alleged abuses of civil
10 rights and civil liberties;

11 “(G) refer civil rights and civil liberties matters
12 that the Inspector General decides not to investigate
13 to the Officer for Civil Rights and Civil Liberties;

14 “(H) ensure that the Office of the Inspector
15 General publicizes and provides convenient public ac-
16 cess to information regarding—

17 “(i) the procedure to file complaints or
18 comments concerning civil rights and civil lib-
19 erties matters; and

20 “(ii) the status of investigations initiated
21 in response to public complaints; and

22 “(I) inform the Officer for Civil Rights and
23 Civil Liberties of any weaknesses, problems, and de-
24 ficiencies within the Department relating to civil
25 rights or civil liberties.”.

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” at the
8 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) Congress receives appropriate reports
20 on such programs, policies, and procedures;
21 and”.

Calendar No. 704

108TH CONGRESS
2D Session

S. 2536

[Report No. 108-350]

A BILL

To enumerate the responsibilities of the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security, to require the Inspector General of the Department of Homeland Security to designate a senior official to investigate civil rights complaints, and for other purposes.

SEPTEMBER 20, 2004

Reported with an amendment