

**(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 performed 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. U.S. Immigration and Customs Enforcement****(a) Establishment****(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 U.S. Immigration and Customs Enforcement shall be the Assistant Secretary of U.S. Immigration and Customs Enforcement, 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 U.S. Immigration and Customs Enforcement—

(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 U.S. Immigration and Customs Enforcement affecting U.S. 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 U.S. Immigration and Customs Enforcement shall be responsible for administering 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 agency.

**(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 U.S. Immigration and Customs Enforcement shall design and