

.....  
(Original Signature of Member)

119TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend the Homeland Security Act of 2002 to make certain improvements in the Office for Civil Rights and Civil Liberties of the Department of Homeland Security, and for other purposes.

\_\_\_\_\_  
IN THE HOUSE OF REPRESENTATIVES

Mr. GREEN of Texas introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend the Homeland Security Act of 2002 to make certain improvements in the Office for Civil Rights and Civil Liberties of the Department of Homeland Security, 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 “Department of Home-  
5 land Security Office for Civil Rights and Civil Liberties  
6 Authorization Act”.

1 **SEC. 2. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.**

2 (a) IN GENERAL.—Section 705 of the Homeland Se-  
3 curity Act of 2002 (6 U.S.C. 345) is amended—

4 (1) in the section heading, by striking “**ESTAB-**  
5 **LISHMENT OF**”; and

6 (2) by striking subsections (a) and (b) and in-  
7 serting the following new subsections:

8 “(a) ESTABLISHMENT.—

9 “(1) IN GENERAL.—There is established within  
10 the Department an Office for Civil Rights and Civil  
11 Liberties (referred to in this section as the ‘Office’).  
12 The head of the Office is the Officer for Civil Rights  
13 and Civil Liberties (referred to in this section as the  
14 ‘Officer’), who shall report directly to the Secretary.

15 “(2) DUTIES.—The Secretary and the head of  
16 each component shall—

17 “(A) ensure that the Officer for Civil  
18 Rights and Civil Liberties of the Department  
19 and the Officer for Civil Rights and Civil Lib-  
20 erties of such component—

21 “(i) have the information, materials,  
22 and resources, including appropriate staff-  
23 ing, necessary to carry out the functions of  
24 the Office;

25 “(ii) are consulted in advance of new  
26 or proposed changes to policies, programs,

1 initiatives, or activities impacting civil  
2 rights or civil liberties; and

3 “(iii) are given full and complete ac-  
4 cess to all materials and personnel nec-  
5 essary to carry out the functions of the Of-  
6 fice; and

7 “(B) consider advice and recommendations  
8 from the Officer for Civil Rights and Civil Lib-  
9 erties of the Department in the development  
10 and implementation of policies, programs, ini-  
11 tiatives, and activities impacting civil rights or  
12 civil liberties.

13 “(b) RESPONSIBILITIES.—The Officer shall carry out  
14 the following responsibilities:

15 “(1) Oversee compliance with constitutional,  
16 statutory, regulatory, policy, and other requirements  
17 relating to the civil rights or civil liberties of individ-  
18 uals affected by the policies, programs, initiatives, or  
19 activities of the Department.

20 “(2) Review and assess information concerning  
21 abuses of civil rights or civil liberties, and profiling  
22 on the basis of race, ethnicity, national origin, reli-  
23 gion, sex, sexual orientation, gender identity, dis-  
24 ability, or other characteristics, by employees or offi-  
25 cials of the Department.

1           “(3) Integrate civil rights and civil liberties pro-  
2           tections into all policies, programs, initiatives, and  
3           activities of the Department.

4           “(4) Conduct civil rights and civil liberties as-  
5           sessments, as appropriate, prior to the implementa-  
6           tion of new Department regulations, policies, pro-  
7           grams, initiatives, or activities.

8           “(5) Conduct periodic reviews and assessments  
9           of policies, programs, initiatives, and activities of the  
10          Department relating to civil rights and civil liberties,  
11          including reviews and assessments.

12          “(6) Provide to the Secretary, the heads of  
13          components, and other personnel within the Depart-  
14          ment policy advice, recommendations, and other  
15          technical assistance relating to civil rights and civil  
16          liberties.

17          “(7) Investigate complaints and information in-  
18          dicating possible abuses of civil rights or civil lib-  
19          erties by employees or officials of the Department,  
20          unless the Inspector General of the Department de-  
21          termines that any such complaint should be inves-  
22          tigated by the Inspector General.

23          “(8) Initiate reviews and assessments of the ad-  
24          ministration of the policies, programs, initiatives,

1 and activities of the Department relating to civil  
2 rights and civil liberties.

3 “(9) Coordinate with the Privacy Officer ap-  
4 pointed under section 222 to ensure the following:

5 “(A) Policies, programs, initiatives, or ac-  
6 tivities involving civil rights, civil liberties, or  
7 privacy considerations are addressed in an inte-  
8 grated and comprehensive manner.

9 “(B) Congress receives appropriate reports  
10 regarding such policies, programs, initiatives,  
11 and activities.

12 “(10) Lead the equal employment opportunity  
13 programs of the Department, including complaint  
14 management and adjudication, workforce diversity,  
15 and promotion of merit system principles.

16 “(11) Make publicly available through acces-  
17 sible communications channels, including the website  
18 of the Department, the following:

19 “(A) Information on the responsibilities  
20 and functions of, and how to contact, the Of-  
21 fice.

22 “(B) Summaries of investigations carried  
23 out pursuant to paragraph (7) that result in  
24 recommendations.

1           “(C) Summaries of assessments and re-  
2           views carried out pursuant to paragraphs (4),  
3           (5), or (8), as the case may be.

4           “(12) Engage with individuals, stakeholders,  
5           and communities the civil rights and civil liberties of  
6           which may be affected by the policies, programs, ini-  
7           tiatives, or activities of the Department, including by  
8           carrying out the following:

9           “(A) Informing such individuals, stake-  
10          holders, and communities concerning such poli-  
11          cies, programs, initiatives, or activities, as the  
12          case may be.

13          “(B) Providing information regarding how  
14          to report and access redress processes.

15          “(C) Providing Department leadership and  
16          other personnel within the Department feed-  
17          back from such individuals, stakeholders, and  
18          communities regarding the civil rights and civil  
19          liberties impacts of such policies, programs, ini-  
20          tiatives, or activities, and working with State,  
21          local, Tribal, and territorial homeland security  
22          partners to enhance the Department’s policy-  
23          making and program implementation.

1           “(13) Lead the Department’s language access  
2 work to ensure the Department engages effectively  
3 with individuals, stakeholders, and communities.

4           “(14) Participate in the hiring or designation of  
5 a civil rights and civil liberties officer within each  
6 component and participate in the performance re-  
7 view process for each such officer.

8           “(c) AUTHORITY TO INVESTIGATE.—

9           “(1) IN GENERAL.—For the purposes of para-  
10 graph (7) of subsection (b), the Officer shall—

11           “(A) have timely access to all materials  
12 and personnel necessary to carry out the func-  
13 tions of the Office;

14           “(B) issue such reports as are necessary or  
15 appropriate in accordance with subsection (g);

16           “(C) conduct an investigation in such man-  
17 ner as the Secretary directs; and

18           “(D) administer to or take from any per-  
19 son an oath, affirmation, or affidavit, whenever  
20 necessary to perform the responsibilities of the  
21 Officer.

22           “(2) EFFECT OF OATHS.—Any oath, affirma-  
23 tion, or affidavit administered or taken pursuant to  
24 subparagraph (D) of paragraph (1) by or before an  
25 employee of the Office designated for such purpose

1 by the Officer shall have the same force and effect  
2 as if administered or taken by or before an officer  
3 having a seal of office.

4 “(d) NOTIFICATION REQUIREMENT.—In the case of  
5 a complaint made concerning allegations of an abuse of  
6 civil rights or civil liberties under paragraph (7) of sub-  
7 section (b), the Officer shall carry out the following:

8 “(1) Provide to the individual who made such  
9 complaint notice of the receipt of such complaint  
10 within 30 days of receiving such complaint.

11 “(2) Inform the individual of the determination  
12 of the Office regarding the following:

13 “(A) The initiation of a review, investiga-  
14 tion, or assessment, as the case may be, by the  
15 Office.

16 “(B) A referral to the Inspector General of  
17 the Department.

18 “(C) Any other action taken.

19 “(e) COORDINATION WITH INSPECTOR GENERAL.—

20 “(1) IN GENERAL.—

21 “(A) REFERRAL.—Before initiating an in-  
22 vestigation initiated by the Officer pursuant to  
23 paragraph (7) of subsection (b), the Officer  
24 shall refer the matter at issue to the Inspector  
25 General of the Department.

1           “(B) DETERMINATIONS AND NOTIFICA-  
2           TIONS BY INSPECTOR GENERAL.—Not later  
3           than seven days after the receipt of a matter at  
4           issue under subparagraph (A), the Inspector  
5           General shall carry out the following:

6                   “(i) Determine whether the Inspector  
7                   General intends to initiate an investigation  
8                   of such matter.

9                   “(ii) Notify the Officer of such deter-  
10                  mination.

11           “(C) INVESTIGATIONS.—The Secretary  
12           may authorize the Officer to conduct an inves-  
13           tigation pursuant to paragraph (7) of sub-  
14           section (b) if the Secretary determines that a  
15           complaint warrants both the Officer and the In-  
16           spector General conducting investigations con-  
17           currently or in some other manner.

18           “(D) NOTIFICATION BY THE OFFICER.—If  
19           the Officer does not receive notification of a de-  
20           termination pursuant to subparagraph (B)(ii),  
21           the Officer shall notify the Inspector General of  
22           whether the Officer intends to initiate an inves-  
23           tigation into the matter at issue.

24           “(f) RECOMMENDATIONS; RESPONSE.—

1           “(1) IN GENERAL.—In the case of an investiga-  
2           tion initiated by the Officer pursuant to paragraph  
3           (7) of subsection (b), if such an investigation results  
4           in the issuance of recommendations, the Officer shall  
5           produce a report that—

6                   “(A) includes the final findings and rec-  
7                   ommendations of the Officer;

8                   “(B) is made publicly available in sum-  
9                   mary form;

10                   “(C) does not include any personally iden-  
11                   tifiable information; and

12                   “(D) may include a classified annex.

13           “(2) TRANSMISSION.—The Officer shall trans-  
14           mit to the Secretary and the head of the relevant  
15           component a copy of each report under paragraph  
16           (1).

17           “(3) RESPONSE.—

18                   “(A) IN GENERAL.—Not later than 45  
19                   days after the date on which the Officer trans-  
20                   mits to the head of a component a copy of a re-  
21                   port pursuant to paragraph (2), such head shall  
22                   submit to the Secretary and the Officer a re-  
23                   sponse to such report.

24                   “(B) RULE OF CONSTRUCTION.—In the re-  
25                   sponse submitted pursuant to subparagraph

1 (A), each recommendation contained in the re-  
2 port transmitted pursuant to paragraph (2)  
3 with which the head of the component at issue  
4 concurs shall be deemed an accepted rec-  
5 ommendation of the Department.

6 “(C) NONCONCURRENCE; APPEAL.—If the  
7 head of a component does not concur with a  
8 recommendation contained in the report trans-  
9 mitted pursuant to paragraph (2), or if such  
10 head does not respond to a recommendation  
11 within 60 days in accordance with subpara-  
12 graph (A), the Officer may appeal to the Sec-  
13 retary.

14 “(D) RESULT.—If the Officer appeals to  
15 the Secretary pursuant to subparagraph (C),  
16 the Secretary shall, not later than 60 days after  
17 the date on which the Officer appeals—

18 “(i) accept the Officer’s recommenda-  
19 tion, which recommendation shall be  
20 deemed the accepted recommendation of  
21 the Department; or

22 “(ii) accept the nonconcurrence of the  
23 head of the component at issue if trans-  
24 mitted in accordance with subparagraph  
25 (A).

1 “(g) REPORTING.—

2 “(1) IN GENERAL.—In the case of an investiga-  
3 tion initiated by the Officer pursuant to paragraph  
4 (7) subsection (b), if such an investigation resulted  
5 in the issuance of recommendations, the Officer  
6 shall, on an annual basis, make publicly available  
7 through accessible communications channels, includ-  
8 ing the website of the Department, the following:

9 “(A) The accepted recommendations of the  
10 Department, if any.

11 “(B) A summary of investigations that re-  
12 sult in final recommendations that are issued  
13 by the Officer.

14 “(2) PROHIBITION.—Materials made publicly  
15 available pursuant to paragraph (1) may not include  
16 any personally identifiable information related to any  
17 individual involved in the investigation at issue.

18 “(h) COMPONENT CIVIL RIGHTS AND CIVIL LIB-  
19 ERTIES OFFICERS.—

20 “(1) IN GENERAL.—Any component that has an  
21 Officer for Civil Rights and Civil Liberties of such  
22 component shall ensure that such Officer for Civil  
23 Rights and Civil Liberties of such component shall  
24 coordinate with and provide information to the Offi-  
25 cer for Civil Rights and Civil Liberties of the De-

1       partment on matters related to civil rights or civil  
2       liberties within each such component.

3               “(2) OFFICERS OF OPERATIONAL COMPO-  
4       NENTS.—The head of each operational component,  
5       in consultation with the Officer for Civil Rights and  
6       Civil Liberties of the Department, shall hire or des-  
7       ignate a career appointee (as such term is defined  
8       in section 3132 of title 5, United States Code) from  
9       such component as the Officer for Civil Rights and  
10      Civil Liberties of such operational component.

11              “(3) RESPONSIBILITIES.—Each Officer for Civil  
12      Rights and Civil Liberties of each operational com-  
13      ponent—

14              “(A) shall have access in a timely manner  
15      to the information, materials, and information  
16      necessary to carry out the functions of such of-  
17      ficer;

18              “(B) shall be consulted in advance of new  
19      or proposed changes to component policies, pro-  
20      grams, initiatives, or activities impacting civil  
21      rights or civil liberties;

22              “(C) shall be given full and complete ac-  
23      cess to all component materials and component  
24      personnel necessary to carry out the functions  
25      of such officer;

1           “(D) may, to the extent the Officer for  
2           Civil Rights and Civil Liberties of the Depart-  
3           ment determines necessary, and subject to the  
4           approval of the Secretary, administer to or take  
5           from any person an oath, affirmation, or affi-  
6           davit, whenever necessary in the performance of  
7           the responsibilities of each such component Of-  
8           ficer under this section; and

9           “(E) may administer any oath, affirma-  
10          tion, or affidavit, and such oath, affirmation,  
11          shall have the same force and effect as if ad-  
12          ministered or taken by or before an officer hav-  
13          ing a seal of office.

14          “(i) ANNUAL REPORT.—Not later than June 30 of  
15          each year, the Officer shall submit to the Committee on  
16          Homeland Security of the House of Representatives, the  
17          Committee on Homeland Security and Governmental Af-  
18          fairs of the Senate, and any other committee of the House  
19          of Representatives or the Senate, as the case may be, the  
20          Officer determines relevant, a report on the implementa-  
21          tion of this section during the immediately preceding fiscal  
22          year. Each such annual report shall be prepared and sub-  
23          mitted for supervisory review and appropriate comment or  
24          amendment by the Secretary prior to submission to such  
25          committees, and the Officer shall consider and incorporate

1 any comments or amendments as a result of such review.

2 Each such report shall include, for the year covered by

3 such report, the following:

4           “(1) A list of Department regulations, policies,  
5           programs, initiatives, and activities for which civil  
6           rights or civil liberties assessments were conducted,  
7           or policy advice, recommendations, or other technical  
8           assistance was provided.

9           “(2) An assessment of the efforts of the De-  
10          partment to effectively communicate with individ-  
11          uals, stakeholders, or communities impacted by poli-  
12          cies, programs, initiatives, or activities of the De-  
13          partment, including the individuals, stakeholders,  
14          and communities referred to in subsection (b)(12).

15          “(3) A summary of recommendations issued  
16          pursuant to subsection (f) regarding investigations  
17          under paragraph (7) of subsection (b), together with  
18          information on the status of the implementation of  
19          such recommendations by the component at issue.

20          “(4) Information on the diversity and equal em-  
21          ployment opportunity activities of the Department,  
22          including information on complaint management and  
23          adjudication of equal employment opportunity com-  
24          plaints, and efforts to ensure compliance throughout

1 the Department with equal employment opportunity  
2 requirements.

3 “(5) A description of any efforts, including pub-  
4 lic meetings, to engage with individuals, stake-  
5 holders, and communities the civil rights and civil  
6 liberties of which may be affected by policies, pro-  
7 grams, initiatives, or activities of the Department.

8 “(6) Information regarding total staffing for  
9 the Office, including regarding the following:

10 “(A) The number of full-time, part-time,  
11 and contract support personnel.

12 “(B) Information on the number of em-  
13 ployees whose primary responsibilities include  
14 supporting the Officer in carrying out para-  
15 graph (10) of subsection (b).

16 “(7) If required, a classified annex.

17 “(j) DEFINITION.—In this section, the term ‘compo-  
18 nent’ means any operational component, non-operational  
19 component, directorate, or office of the Department.”.

20 (b) REPORTING TO CONGRESS.—Section  
21 1062(f)(1)(A)(i) of the Intelligence Reform and Terrorism  
22 Prevention Act of 2004 (42 U.S.C. 2000ee–1(f)(1)(A)(i))  
23 is amended by striking “the Committee on Oversight and  
24 Government Reform of the House of Representatives” and  
25 inserting “the Committee on Homeland Security of the

1 House of Representatives, the Committee on Oversight  
2 and Accountability of the House of Representatives”.

3 (c) **COMPROLLER GENERAL REVIEW.**—Not later  
4 than two years after the date of the enactment of this Act,  
5 the Comptroller General of the United States shall submit  
6 to Congress a report on the implementation of subsection  
7 (b)(12) of section 705 of the Homeland Security Act of  
8 2002 (6 U.S.C. 345), as amended by subsection (a).

9 (d) **CLERICAL AMENDMENT.**—The table of contents  
10 in section 1(b) of the Homeland Security Act of 2002 is  
11 amended by amending the item relating to section 705 to  
12 read as follows:

“Sec. 705. Officer for Civil Rights and Civil Liberties.”.