

Public Law 107–296
107th Congress

An Act

To establish the Department of Homeland Security, and for other purposes.

Nov. 25, 2002

[H.R. 5005]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

Homeland
Security Act of
2002.

6 USC 101 note.

(a) **SHORT TITLE.**—This Act may be cited as the “Homeland Security Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Construction; severability.
- Sec. 4. Effective date.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

- Sec. 101. Executive department; mission.
- Sec. 102. Secretary; functions.
- Sec. 103. Other officers.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

**Subtitle A—Directorate for Information Analysis and Infrastructure Protection;
Access to Information**

- Sec. 201. Directorate for Information Analysis and Infrastructure Protection.
- Sec. 202. Access to information.

Subtitle B—Critical Infrastructure Information

- Sec. 211. Short title.
- Sec. 212. Definitions.
- Sec. 213. Designation of critical infrastructure protection program.
- Sec. 214. Protection of voluntarily shared critical infrastructure information.
- Sec. 215. No private right of action.

Subtitle C—Information Security

- Sec. 221. Procedures for sharing information.
- Sec. 222. Privacy Officer.
- Sec. 223. Enhancement of non-Federal cybersecurity.
- Sec. 224. Net guard.
- Sec. 225. Cyber Security Enhancement Act of 2002.

Subtitle D—Office of Science and Technology

- Sec. 231. Establishment of office; Director.
- Sec. 232. Mission of office; duties.
- Sec. 233. Definition of law enforcement technology.
- Sec. 234. Abolishment of Office of Science and Technology of National Institute of Justice; transfer of functions.
- Sec. 235. National Law Enforcement and Corrections Technology Centers.
- Sec. 236. Coordination with other entities within Department of Justice.
- Sec. 237. Amendments relating to National Institute of Justice.

**TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND
SECURITY**

- Sec. 301. Under Secretary for Science and Technology.

- Sec. 302. Responsibilities and authorities of the Under Secretary for Science and Technology.
- Sec. 303. Functions transferred.
- Sec. 304. Conduct of certain public health-related activities.
- Sec. 305. Federally funded research and development centers.
- Sec. 306. Miscellaneous provisions.
- Sec. 307. Homeland Security Advanced Research Projects Agency.
- Sec. 308. Conduct of research, development, demonstration, testing and evaluation.
- Sec. 309. Utilization of Department of Energy national laboratories and sites in support of homeland security activities.
- Sec. 310. Transfer of Plum Island Animal Disease Center, Department of Agriculture.
- Sec. 311. Homeland Security Science and Technology Advisory Committee.
- Sec. 312. Homeland Security Institute.
- Sec. 313. Technology clearinghouse to encourage and support innovative solutions to enhance homeland security.

TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY

Subtitle A—Under Secretary for Border and Transportation Security

- Sec. 401. Under Secretary for Border and Transportation Security.
- Sec. 402. Responsibilities.
- Sec. 403. Functions transferred.

Subtitle B—United States Customs Service

- Sec. 411. Establishment; Commissioner of Customs.
- Sec. 412. Retention of customs revenue functions by Secretary of the Treasury.
- Sec. 413. Preservation of customs funds.
- Sec. 414. Separate budget request for customs.
- Sec. 415. Definition.
- Sec. 416. GAO report to Congress.
- Sec. 417. Allocation of resources by the Secretary.
- Sec. 418. Reports to Congress.
- Sec. 419. Customs user fees.

Subtitle C—Miscellaneous Provisions

- Sec. 421. Transfer of certain agricultural inspection functions of the Department of Agriculture.
- Sec. 422. Functions of Administrator of General Services.
- Sec. 423. Functions of Transportation Security Administration.
- Sec. 424. Preservation of Transportation Security Administration as a distinct entity.
- Sec. 425. Explosive detection systems.
- Sec. 426. Transportation security.
- Sec. 427. Coordination of information and information technology.
- Sec. 428. Visa issuance.
- Sec. 429. Information on visa denials required to be entered into electronic data system.
- ➔ Sec. 430. Office for Domestic Preparedness.

Subtitle D—Immigration Enforcement Functions

- Sec. 441. Transfer of functions to Under Secretary for Border and Transportation Security.
- Sec. 442. Establishment of Bureau of Border Security.
- Sec. 443. Professional responsibility and quality review.
- Sec. 444. Employee discipline.
- Sec. 445. Report on improving enforcement functions.
- Sec. 446. Sense of Congress regarding construction of fencing near San Diego, California.

Subtitle E—Citizenship and Immigration Services

- Sec. 451. Establishment of Bureau of Citizenship and Immigration Services.
- Sec. 452. Citizenship and Immigration Services Ombudsman.
- Sec. 453. Professional responsibility and quality review.
- Sec. 454. Employee discipline.
- Sec. 455. Effective date.
- Sec. 456. Transition.
- Sec. 457. Funding for citizenship and immigration services.
- Sec. 458. Backlog elimination.
- Sec. 459. Report on improving immigration services.
- Sec. 460. Report on responding to fluctuating needs.

containing the findings of the study conducted under paragraph (1) to the Committee on the Judiciary, the Committee on International Relations, and the Committee on Government Reform of the House of Representatives, and the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Government Affairs of the Senate.

(h) **REPORT.**—Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy shall submit to Congress a report on how the provisions of this section will affect procedures for the issuance of student visas. Deadline.

(i) **VISA ISSUANCE PROGRAM FOR SAUDI ARABIA.**—Notwithstanding any other provision of law, after the date of the enactment of this Act all third party screening programs in Saudi Arabia shall be terminated. On-site personnel of the Department of Homeland Security shall review all visa applications prior to adjudication.

SEC. 429. INFORMATION ON VISA DENIALS REQUIRED TO BE ENTERED INTO ELECTRONIC DATA SYSTEM. 6 USC 237.

(a) **IN GENERAL.**—Whenever a consular officer of the United States denies a visa to an applicant, the consular officer shall enter the fact and the basis of the denial and the name of the applicant into the interoperable electronic data system implemented under section 202(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1722(a)).

(b) **PROHIBITION.**—In the case of any alien with respect to whom a visa has been denied under subsection (a)—

(1) no subsequent visa may be issued to the alien unless the consular officer considering the alien's visa application has reviewed the information concerning the alien placed in the interoperable electronic data system, has indicated on the alien's application that the information has been reviewed, and has stated for the record why the visa is being issued or a waiver of visa ineligibility recommended in spite of that information; and

(2) the alien may not be admitted to the United States without a visa issued in accordance with the procedures described in paragraph (1).

➔ **SEC. 430. OFFICE FOR DOMESTIC PREPAREDNESS.** 6 USC 238.

(a) **IN GENERAL.**—The Office for Domestic Preparedness shall be within the Directorate of Border and Transportation Security.

(b) **DIRECTOR.**—There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Border and Transportation Security. President.

(c) **RESPONSIBILITIES.**—The Office for Domestic Preparedness shall have the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism, including—

(1) coordinating preparedness efforts at the Federal level, and working with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support;

(2) coordinating or, as appropriate, consolidating communications and systems of communications relating to homeland security at all levels of government;

(3) directing and supervising terrorism preparedness grant programs of the Federal Government (other than those programs administered by the Department of Health and Human Services) for all emergency response providers;

(4) incorporating the Strategy priorities into planning guidance on an agency level for the preparedness efforts of the Office for Domestic Preparedness;

(5) providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities;

(6) as the lead executive branch agency for preparedness of the United States for acts of terrorism, cooperating closely with the Federal Emergency Management Agency, which shall have the primary responsibility within the executive branch to prepare for and mitigate the effects of nonterrorist-related disasters in the United States;

(7) assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities of State, local, and tribal governments consistent with the mission and functions of the Directorate; and

(8) those elements of the Office of National Preparedness of the Federal Emergency Management Agency which relate to terrorism, which shall be consolidated within the Department in the Office for Domestic Preparedness established under this section.

(d) FISCAL YEARS 2003 and 2004.—During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and authorities, and with the required level of personnel, assets, and budget before September 11, 2001.

Subtitle D—Immigration Enforcement Functions

6 USC 251.

SEC. 441. TRANSFER OF FUNCTIONS TO UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

In accordance with title XV (relating to transition provisions), there shall be transferred from the Commissioner of Immigration and Naturalization to the Under Secretary for Border and Transportation Security 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.