

115TH CONGRESS
2D SESSION

H. R. 7213

To amend the Homeland Security Act of 2002 to establish the Countering Weapons of Mass Destruction Office, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 3, 2018

Mr. DONOVAN (for himself and Mr. McCAUL) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Energy and Commerce, 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 establish the Countering Weapons of Mass Destruction Office, 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 “Countering Weapons
5 of Mass Destruction Act of 2018”.

1 **SEC. 2. COUNTERING WEAPONS OF MASS DESTRUCTION**
 2 **OFFICE.**

3 (a) IN GENERAL.—Title XIX of the Homeland Secu-
 4 rity Act of 2002 (6 U.S.C. 591 et seq.) is amended—

5 (1) in the title heading, by striking “**DOMES-**
 6 **TIC NUCLEAR DETECTION OFFICE**” and
 7 inserting “**COUNTERING WEAPONS OF**
 8 **MASS DESTRUCTION OFFICE**”;

9 (2) by striking section 1901 and inserting the
 10 following:

11 **“SEC. 1900. DEFINITIONS.**

12 “In this title:

13 “(1) ASSISTANT SECRETARY.—The term ‘As-
 14 sistant Secretary’ means the Assistant Secretary for
 15 the Countering Weapons of Mass Destruction Office.

16 “(2) INTELLIGENCE COMMUNITY.—The term
 17 ‘intelligence community’ has the meaning given such
 18 term in section 3(4) of the National Security Act of
 19 1947 (50 U.S.C. 3003(4)).

20 “(3) OFFICE.—The term ‘Office’ means the
 21 Countering Weapons of Mass Destruction Office es-
 22 tablished under section 1901(a).

23 “(4) WEAPON OF MASS DESTRUCTION.—The
 24 term ‘weapon of mass destruction’ has the meaning
 25 given the term in section 101 of the Foreign Intel-
 26 ligence Surveillance Act of 1978 (50 U.S.C. 1801).

1 **“Subtitle A—Countering Weapons**
2 **of Mass Destruction Office**

3 **“SEC. 1901. COUNTERING WEAPONS OF MASS DESTRUC-**
4 **TION OFFICE.**

5 “(a) ESTABLISHMENT.—There is established in the
6 Department a Countering Weapons of Mass Destruction
7 Office.

8 “(b) ASSISTANT SECRETARY.—The Office shall be
9 headed by an Assistant Secretary for the Countering
10 Weapons of Mass Destruction Office, who shall be ap-
11 pointed by the President.

12 “(c) RESPONSIBILITIES.—The Assistant Secretary
13 shall serve as the Secretary’s principal advisor on—

14 “(1) weapons of mass destruction matters and
15 strategies; and

16 “(2) coordinating the efforts of the Department
17 to counter weapons of mass destruction.

18 “(d) DETAILS.—The Secretary may request that the
19 Secretary of Defense, the Secretary of Energy, the Sec-
20 retary of State, the Attorney General, the Nuclear Regu-
21 latory Commission, and the heads of other Federal agen-
22 cies, including elements of the intelligence community,
23 provide for the reimbursable detail of personnel with rel-
24 evant expertise to the Office.

1 “(e) TERMINATION.—The Office shall terminate on
2 the date that is 5 years after the date of the enactment
3 of the Countering Weapons of Mass Destruction Act of
4 2018.”;

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

6 **“Subtitle B—Mission of the Office**

7 **“SEC. 1921. MISSION OF THE OFFICE.**

8 “The Office shall be responsible for coordinating with
9 other Federal efforts and developing a strategy and policy
10 for the Department to plan for, detect, and protect against
11 the importation, possession, storage, transportation, devel-
12 opment, or use of unauthorized chemical, biological, radio-
13 logical, or nuclear materials, devices, or agents in the
14 United States and to protect against an attack using such
15 materials, devices, or agents against the people, territory,
16 or interests of the United States.

17 **“SEC. 1922. RELATIONSHIP TO OTHER DEPARTMENT COM-
18 PONENTS AND FEDERAL AGENCIES.**

19 “(a) IN GENERAL.—The authority of the Assistant
20 Secretary under this title shall not affect or diminish the
21 authority or the responsibility of any officer of the Depart-
22 ment or any officer of any other Federal agency with re-
23 spect to the command, control, or direction of the func-
24 tions, personnel, funds, assets, or liabilities of any compo-
25 nent of the Department or any other Federal agency.

1 “(b) OFFICE FOR STRATEGY, POLICY, AND PLANS.—
2 Not later than one year after the date of the enactment
3 of the Countering Weapons of Mass Destruction Act of
4 2018, the Assistant Secretary shall, in coordination with
5 the Under Secretary for Strategy, Policy, and Plans, sub-
6 mit to the appropriate congressional committees a strategy
7 and implementation plan to direct programs within the Of-
8 fice and to integrate those programs with other programs
9 and activities of the Department.

10 “(c) FEDERAL EMERGENCY MANAGEMENT AGEN-
11 CY.—Nothing in this title or any other provision of law
12 may be construed to affect or reduce the responsibilities
13 of the Federal Emergency Management Agency or the Ad-
14 ministrator of the Agency, including the diversion of any
15 asset, function, or mission of the Agency or the Adminis-
16 trator of the Agency.”;

17 (4) by striking section 1905;

18 (5) by redesignating sections 1902, 1903, 1904,
19 1906, and 1907 as sections 1923, 1924, 1925, 1926,
20 and 1927, respectively, and transferring such sec-
21 tions to appear after section 1922, as added by
22 paragraph (3);

23 (6) in section 1923, as redesignated—

1 (A) in the section heading, by striking
2 “**MISSION OF OFFICE**” and inserting “**RE-**
3 **SPONSIBILITIES**”; and

4 (B) in subsection (a)(11), by striking “Do-
5 mestic Nuclear Detection Office” and inserting
6 “Office”;

7 (7) in section 1925, as redesignated, in sub-
8 section (a), in the first sentence, by striking “section
9 1902” and inserting “section 1923”;

10 (8) in section 1926, as redesignated—

11 (A) in the matter preceding paragraph
12 (1)—

13 (i) by striking “Director for Domestic
14 Nuclear Detection” and inserting “Assist-
15 ant Secretary”; and

16 (ii) by striking “paragraphs (6) and
17 (7) of section 1902(a)” and inserting “sec-
18 tion 1923”; and

19 (B) in paragraph (2), by striking “para-
20 graphs (6) and (7) of section 1902(a)” and in-
21 serting “section 1923”;

22 (9) in section 1927, as redesignated—

23 (A) in subsection (a)(1)(C), in the matter
24 preceding clause (i), by striking “Director of

1 the Domestic Nuclear Detection Office” and in-
2 serting “Assistant Secretary”; and

3 (B) in subsection (c), by striking “section
4 1902” and inserting “section 1923”; and

5 (10) by inserting after section 1927, as redesign-
6 nated, the following:

7 **“SEC. 1928. SECURING THE CITIES PROGRAM.**

8 “(a) ESTABLISHMENT.—The Secretary, through the
9 Assistant Secretary, shall establish a program, to be
10 known as the ‘Securing the Cities’ or ‘STC’ program, to
11 enhance the ability of the United States to detect and pre-
12 vent terrorist attacks and other high-consequence events
13 utilizing nuclear or other radiological materials that pose
14 a high risk to homeland security in high-risk urban areas.

15 “(b) ELEMENTS.—Through the STC program the
16 Secretary shall—

17 “(1) assist State, local, Tribal, and territorial
18 governments in designing and implementing, or en-
19 hancing existing, architectures for coordinated and
20 integrated detection and interdiction of nuclear or
21 other radiological materials that are out of regu-
22 latory control;

23 “(2) support the development of an operating
24 capability to detect and report on nuclear and other
25 radiological materials out of regulatory control;

1 “(3) provide resources to enhance detection,
2 analysis, communication, and coordination to better
3 integrate State, local, Tribal, and territorial assets
4 into Federal operations;

5 “(4) facilitate alarm adjudication and provide
6 subject matter expertise and technical assistance on
7 concepts of operations, training, exercises, and alarm
8 response protocols;

9 “(5) communicate with, and promote sharing of
10 information about the presence or detection of nu-
11 clear or other radiological materials among appro-
12 priate Federal, State, local, Tribal, and territorial
13 government agencies, in a manner that ensures
14 transparency with the jurisdictions designated under
15 subsection (c);

16 “(6) provide augmenting resources, as appro-
17 priate, to enable State, local, Tribal, and territorial
18 governments to sustain and refresh their capabilities
19 developed under the STC program;

20 “(7) monitor expenditures under the STC pro-
21 gram and track performance in meeting the goals of
22 the STC program; and

23 “(8) provide any other assistance the Secretary
24 determines appropriate.

25 “(c) DESIGNATION OF JURISDICTIONS.—

1 “(1) IN GENERAL.—In carrying out the STC
2 program under subsection (a), the Secretary shall
3 designate jurisdictions from among high-risk urban
4 areas under section 2003.

5 “(2) CONGRESSIONAL NOTIFICATION.—The
6 Secretary shall notify the Committee on Homeland
7 Security and the Committee on Appropriations of
8 the House of Representatives and the Committee on
9 Homeland Security and Governmental Affairs and
10 the Committee on Appropriations of the Senate not
11 later than 3 days before the designation of a new ju-
12 risdiction under paragraph (1) or any change to a
13 jurisdiction previously designated under that para-
14 graph.

15 “(d) ACCOUNTABILITY.—

16 “(1) IMPLEMENTATION PLAN.—

17 “(A) IN GENERAL.—The Secretary shall
18 develop, in consultation with relevant stake-
19 holders, an implementation plan for carrying
20 out the STC program that includes—

21 “(i) a discussion of the goals of the
22 STC program and a strategy to achieve
23 those goals;

24 “(ii) performance metrics and mile-
25 stones for the STC program;

1 “(iii) measures for achieving and sus-
2 taining capabilities under the STC pro-
3 gram; and

4 “(iv) costs associated with achieving
5 the goals of the STC program.

6 “(B) SUBMISSION TO CONGRESS.—Not
7 later than one year after the date of the enact-
8 ment of the Countering Weapons of Mass De-
9 struction Act of 2018, the Secretary shall sub-
10 mit to the appropriate congressional committees
11 and the Comptroller General of the United
12 States the implementation plan required by
13 subparagraph (A).

14 “(2) REPORT REQUIRED.—Not later than one
15 year after the submission of the implementation plan
16 under paragraph (1)(B), the Secretary shall submit
17 to the appropriate congressional committees and the
18 Comptroller General a report that includes—

19 “(A) an assessment of the effectiveness of
20 the STC program, based on the performance
21 metrics and milestones required by paragraph
22 (1)(A)(ii); and

23 “(B) proposals for any changes to the STC
24 program, including an explanation of how those
25 changes align with the strategy and goals of the

1 STC program and, as appropriate, address any
2 challenges faced by the STC program.

3 “(3) COMPTROLLER GENERAL REVIEW.—Not
4 later than 18 months after the submission of the re-
5 port required by paragraph (2), the Comptroller
6 General of the United States shall submit to the ap-
7 propriate congressional committees a report evalu-
8 ating the implementation plan required by para-
9 graph (1) and the report required by paragraph (2),
10 including an assessment of progress made with re-
11 spect to the performance metrics and milestones re-
12 quired by paragraph (1)(A)(ii) and the sustainment
13 of the capabilities of the STC program.

14 “(4) BRIEFING AND SUBMISSION REQUIRE-
15 MENTS.—Before making any changes to the struc-
16 ture or requirements of the STC program, the As-
17 sistant Secretary shall—

18 “(A) consult with the appropriate congres-
19 sional committees; and

20 “(B) provide to those committees—

21 “(i) a briefing on the proposed
22 changes, including a justification for the
23 changes;

“(ii) documentation relating to the changes, including plans, strategies, and resources to implement the changes; and

“(iii) an assessment of the effect of the changes on the capabilities of the STC program, taking into consideration previous resource allocations and stakeholder input.”.

(b) REFERENCES AND CONSTRUCTION.—

(1) IN GENERAL.—Any reference in any law, regulation, document, paper, or other record of the United States to—

(A) the Domestic Nuclear Detection Office shall be deemed to be a reference to the Countering Weapons of Mass Destruction Office; and

(B) the Director for Domestic Nuclear Detection shall be deemed to be a reference to the Assistant Secretary for the Countering Weapons of Mass Destruction Office.

(2) CONSTRUCTION.—Sections 1923 through 1927 of the Homeland Security Act of 2002, as redesignated by subsection (a), shall be construed to cover the chemical and biological responsibilities of the Assistant Secretary for the Countering Weapons of Mass Destruction Office.

1 (3) **AUTHORITY.**—The authority of the Director
 2 of the Domestic Nuclear Detection Office to make
 3 grants or enter into cooperative agreements is trans-
 4 ferred to the Assistant Secretary for the Countering
 5 Weapons of Mass Destruction Office, and such au-
 6 thority shall be construed to include grants for all
 7 purposes of title XIX of the Homeland Security Act
 8 of 2002, as amended by this Act.

9 (c) **CHIEF MEDICAL OFFICER.**—

10 (1) **REPEAL.**—Title V of the Homeland Secu-
 11 rity Act of 2002 (6 U.S.C. 311 et seq.) is amended
 12 by striking section 516.

13 (2) **AMENDMENT.**—Title XIX of the Homeland
 14 Security Act of 2002 (6 U.S.C. 591 et seq.), as
 15 amended by subsection (a), is further amended by
 16 adding at the end the following:

17 **“Subtitle C—Chief Medical Officer**

18 **“SEC. 1931. CHIEF MEDICAL OFFICER.**

19 “(a) **IN GENERAL.**—There is in the Office a Chief
 20 Medical Officer, who shall be appointed by the President.
 21 The Chief Medical Officer shall report to the Assistant
 22 Secretary.

23 “(b) **QUALIFICATIONS.**—The individual appointed as
 24 Chief Medical Officer shall be a licensed physician pos-

1 sessing a demonstrated ability in and knowledge of medi-
2 cine and public health.

3 “(c) RESPONSIBILITIES.—The Chief Medical Officer
4 shall have the responsibility within the Department for
5 medical issues related to natural disasters, acts of ter-
6 rorism, and other man-made disasters, including—

7 “(1) serving as the principal advisor on medical
8 and public health issues to the Secretary, the Ad-
9 ministrator of the Federal Emergency Management
10 Agency, the Assistant Secretary, and other Depart-
11 ment officials;

12 “(2) providing operational medical support to
13 all components of the Department;

14 “(3) as appropriate, providing medical liaisons
15 to the components of the Department, on a reim-
16 bursable basis, to provide subject matter expertise
17 on operational medical issues;

18 “(4) coordinating with Federal, State, local,
19 and Tribal governments, the medical community,
20 and others within and outside the Department, in-
21 cluding the Centers for Disease Control and Preven-
22 tion and the Office of the Assistant Secretary for
23 Preparedness and Response of the Department of
24 Health and Human Services, with respect to medical
25 and public health matters; and

1 “(5) performing such other duties relating to
2 such responsibilities as the Secretary may require.”.

3 (3) CLERICAL AMENDMENT.—The table of con-
4 tents in section 1(b) of the Homeland Security Act
5 of 2002 is amended by striking the item relating to
6 section 516.

7 (d) WORKFORCE HEALTH AND MEDICAL SUP-
8 PORT.—Title VII of the Homeland Security Act of 2002
9 (6 U.S.C. 341 et seq.) is amended by adding at the end
10 the following:

11 **“SEC. 710. WORKFORCE HEALTH AND MEDICAL SUPPORT.**

12 “(a) IN GENERAL.—The Under Secretary for Man-
13 agement shall be responsible for workforce-focused health
14 and medical activities of the Department. The Under Sec-
15 retary for Management may further delegate responsibility
16 for those activities, as appropriate.

17 “(b) RESPONSIBILITIES.—The Under Secretary for
18 Management, in coordination with the Chief Medical Offi-
19 cer, shall—

20 “(1) provide oversight and coordinate the med-
21 ical and health activities of the Department for the
22 human and animal personnel of the Department;

23 “(2) establish medical, health, veterinary, and
24 occupational health exposure policy, guidance, strat-

1 egies, and initiatives for the human and animal per-
2 sonnel of the Department;

3 “(3) as deemed appropriate by the Under Sec-
4 retary, provide medical liaisons to the components of
5 the Department, on a reimbursable basis, to provide
6 subject matter expertise on occupational medical and
7 public health issues;

8 “(4) serve as the primary representative for the
9 Department on agreements regarding the detail of
10 Commissioned Corps officers of the Public Health
11 Service of the Department of Health and Human
12 Services to the Department, except that components
13 of the Department shall retain authority for fund-
14 ing, determination of specific duties, and supervision
15 of such detailed Commissioned Corps officers; and

16 “(5) perform such other duties relating to the
17 responsibilities described in this subsection as the
18 Secretary may require.”.

19 (e) TRANSFERS; ABOLISHMENT.—

20 (1) TRANSFERS.—The Secretary of Homeland
21 Security shall transfer to—

22 (A) the Countering Weapons of Mass De-
23 struction Office all functions, personnel, budget
24 authority, and assets of—

1 (i) the Domestic Nuclear Detection
2 Office, as in existence on the day before
3 the date of the enactment of this Act; and

4 (ii) the Office of Health Affairs, as in
5 existence on the day before the date of the
6 enactment of this Act, except for the func-
7 tions, personnel, budget authority, and as-
8 sets of such office necessary to perform the
9 functions specified in section 710 of the
10 Homeland Security Act of 2002 (relating
11 to workforce health and medical support),
12 as added by this Act; and

13 (B) the Management Directorate of the
14 Department of Homeland Security all functions,
15 personnel, budget authority, and assets of the
16 Office of Health Affairs, as in existence on the
17 day before the date of the enactment of this
18 Act, that are necessary to perform the functions
19 of such section 710.

20 (2) ABOLISHMENT.—Upon completion of all
21 transfers pursuant to paragraph (1)—

22 (A) the Domestic Nuclear Detection Office
23 of the Department of Homeland Security and
24 the Office of Health Affairs of the Department
25 of Homeland Security are abolished; and

1 (B) the positions of Assistant Secretary for
2 Health Affairs and Director for Domestic Nu-
3 clear Detection are abolished.

4 (f) CONFORMING AMENDMENTS.—

5 (1) OTHER OFFICERS.—Paragraph (4) of sec-
6 tion 103(d) of the Homeland Security Act of 2002
7 (6 U.S.C. 113(d)) is amended by striking “A Direc-
8 tor for Domestic Nuclear Detection” and inserting
9 “An Assistant Secretary for the Countering Weap-
10 ons of Mass Destruction Office”.

11 (2) NATIONAL BIOSURVEILLANCE INTEGRATION
12 CENTER.—Section 316(a) of the Homeland Security
13 Act of 2002 (6 U.S.C. 195b(a)) is amended by strik-
14 ing “Secretary shall” and inserting “Secretary, act-
15 ing through the Assistant Secretary for the Coun-
16 tering Weapons of Mass Destruction Office, shall”.

17 (3) INTERNATIONAL COOPERATION.—Section
18 317(f) of the Homeland Security Act of 2002 (6
19 U.S.C. 195c(f)) is amended by striking “the Chief
20 Medical Officer,” and inserting “the Assistant Sec-
21 retary for the Countering Weapons of Mass Destruc-
22 tion Office,”.

23 (4) FUNCTIONS TRANSFERRED.—Section
24 505(b) of the Homeland Security Act of 2002 (6
25 U.S.C. 315(b)) is amended—

1 (A) by striking paragraph (4);

2 (B) by redesignating paragraph (5) as
3 paragraph (4); and

4 (C) in paragraph (4), as so redesignated,
5 by striking “through (4)” and inserting
6 “through (3)”.

7 (5) COORDINATION OF DEPARTMENT OF HOME-
8 LAND SECURITY EFFORTS RELATED TO FOOD, AGRI-
9 CULTURE, AND VETERINARY DEFENSE AGAINST
10 TERRORISM.—Section 528(a) of the Homeland Secu-
11 rity Act of 2002 (6 U.S.C. 321q(a)) is amended by
12 striking “Health Affairs,” and inserting “the Coun-
13 tering Weapons of Mass Destruction Office,”.

14 (g) DEPARTMENT OF HOMELAND SECURITY CHEM-
15 ICAL, BIOLOGICAL, RADIOLOGICAL, AND NUCLEAR AC-
16 TIVITIES.—Not later than one year after the date of the
17 enactment of this Act, and annually thereafter, the Sec-
18 retary of Homeland Security shall provide a briefing and
19 report to the appropriate congressional committees (as de-
20 fined in section 2 of the Homeland Security Act of 2002
21 (6 U.S.C. 101)) on—

22 (1) the organization and management of the
23 chemical, biological, radiological, and nuclear activi-
24 ties of the Department of Homeland Security, in-
25 cluding research and development activities, and the

1 location of each activity under the organizational
2 structure of the Countering Weapons of Mass De-
3 struction Office;

4 (2) a comprehensive inventory of chemical, bio-
5 logical, radiological, and nuclear activities, including
6 research and development activities, of the Depart-
7 ment of Homeland Security, highlighting areas of
8 collaboration between components, coordination with
9 other agencies, and the effectiveness and accomplish-
10 ments of consolidated chemical, biological, radio-
11 logical, and nuclear activities of the Department of
12 Homeland Security, including research and develop-
13 ment activities;

14 (3) information relating to how the organiza-
15 tional structure of the Countering Weapons of Mass
16 Destruction Office will enhance the development of
17 chemical, biological, radiological, and nuclear prior-
18 ities and capabilities across the Department of
19 Homeland Security;

20 (4) a discussion of any resulting cost savings
21 and efficiencies gained through activities described
22 in paragraphs (1) and (2);

23 (5) information on how the Assistant Secretary
24 for the Countering Weapons of Mass Destruction
25 Office is coordinating with the Under Secretary of

1 Science and Technology of the Department of
 2 Homeland Security on research and development ac-
 3 tivities; and

4 (6) recommendations for any necessary statu-
 5 tory changes, or, if no statutory changes are nec-
 6 essary, an explanation of why no statutory or orga-
 7 nizational changes are necessary.

8 (h) CLERICAL AMENDMENTS.—The table of contents
 9 in section 1(b) of the Homeland Security Act of 2002 is
 10 amended—

11 (1) by striking the item relating to section 516;

12 (2) inserting after the item relating to section
 13 709 the following:

“Sec. 710. Workforce health and medical support.”;

14 and

15 (3) by striking the items relating to title XIX
 16 (including items relating to section 1901 through
 17 section 1907) and inserting the following:

“TITLE XIX—COUNTERING WEAPONS OF MASS DESTRUCTION
 OFFICE

“Sec. 1900. Definitions.

“Subtitle A—Countering Weapons of Mass Destruction Office

“Sec. 1901. Countering Weapons of Mass Destruction Office.

“Subtitle B—Mission of the Office

“Sec. 1921. Mission of the Office.

“Sec. 1922. Relationship to other Department components and Federal agen-
 cies.

“Sec. 1923. Responsibilities.

“Sec. 1924. Hiring authority.

“Sec. 1925. Testing authority.

“Sec. 1926. Contracting and grant making authorities.

“Sec. 1927. Joint annual interagency review of global nuclear detection architecture.

“Sec. 1928. Securing the Cities program.

“Subtitle C—Chief Medical Officer

“Sec. 1931. Chief Medical Officer.”.

