

114TH CONGRESS
1ST SESSION

H. R. 877

To amend the Homeland Security Act of 2002 to establish United States Immigration and Customs Enforcement, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2015

Mrs. MILLER of Michigan (for herself, Mr. McCAUL, and Mr. VELA) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on Ways and Means and the Judiciary, 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 United States Immigration and Customs Enforcement, 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 “United States Immi-
5 gration and Customs Enforcement Authorization Act”.

1 **SEC. 2. ESTABLISHMENT OF UNITED STATES IMMIGRATION**
2 **AND CUSTOMS ENFORCEMENT.**

3 (a) IN GENERAL.—Section 442 of the Homeland Se-
4 curity Act of 2002 (6 U.S.C. 252) is amended to read
5 as follows:

6 **“SEC. 442. ESTABLISHMENT OF UNITED STATES IMMIGRA-**
7 **TION AND CUSTOMS ENFORCEMENT.**

8 “(a) ESTABLISHMENT.—There is established within
9 the Department an agency to be known as United States
10 Immigration and Customs Enforcement.

11 “(b) DIRECTOR OF UNITED STATES IMMIGRATION
12 AND CUSTOMS ENFORCEMENT.—There shall be at the
13 head of United States Immigration and Customs Enforce-
14 ment a Director of United States Immigration and Cus-
15 toms Enforcement (in this section referred to as the ‘Di-
16 rector’), who shall be appointed by the President, by and
17 with the advice and consent of the Senate.

18 “(c) DUTIES AND QUALIFICATIONS.—The Director
19 shall—

20 “(1) have a minimum of five years professional
21 experience in law enforcement, and a minimum of
22 five years management experience;

23 “(2) have the power to investigate and, where
24 appropriate, refer for prosecution, any criminal vio-
25 lation of Federal law relating to or involving—

1 “(A) border control and security, including
2 the prevention of the entry or residence of ter-
3 rorists, criminals, and human rights violators;

4 “(B) customs, trade, or import or export
5 control, including the illicit possession, move-
6 ment of, or trade in goods, services, property,
7 contraband, arms, instruments of terrorism,
8 items controlled or prohibited from export, por-
9 nography, intellectual property, or monetary in-
10 struments;

11 “(C) transnational money laundering or
12 bulk cash smuggling;

13 “(D) immigration or naturalization;

14 “(E) gangs or criminal syndicates engaged
15 in transnational criminal activity;

16 “(F) chapter 40 or 44 of title 18, United
17 States Code, or other violation relating to fire-
18 arms, explosives, or other destructive devices in-
19 volving an alien;

20 “(G) the employment or abuse of an alien,
21 including trafficking and peonage, labor viola-
22 tions, sexual exploitation, pornography, pros-
23 titution, or sex tourism;

24 “(H) identification, travel, or employment
25 documents;

1 “(I) unlawful use of personal information,
2 including immigration document fraud, when
3 such use relates to or affects border security,
4 terrorism, customs, immigration, naturalization,
5 trade, travel, or transportation security; and

6 “(J) travel security;

7 “(3) coordinate with Federal, State, local, trib-
8 al, and foreign agencies to promote the efficient—

9 “(A) investigation of criminal violations of
10 the border security, terrorism, customs, immi-
11 gration, naturalization, trade, travel, and trans-
12 portation laws of the United States; and

13 “(B) civil enforcement of immigration
14 laws, as such term is defined in paragraph (17)
15 of section 101(a) of the Immigration and Na-
16 tionality Act (8 U.S.C. 1101(a));

17 “(4) in coordination with the Department of
18 State and the Office of International Affairs of the
19 Department, establish staff liaison offices and vetted
20 units in appropriate foreign countries to support the
21 counterterrorism efforts and other international ac-
22 tivities and relationships of United States Immigra-
23 tion and Customs Enforcement;

24 “(5) establish, maintain, and administer appro-
25 priate interagency law enforcement centers in fur-

1 therance of the Director's assigned duties, including
2 the Centers specified in subparagraphs (B) and (C)
3 of subsection (f)(3); and

4 “(6) carry out the duties and powers prescribed
5 by law or delegated by the Secretary.

6 “(d) GENERAL ENFORCEMENT POWERS.—The Di-
7 rector may authorize agents and officers of United States
8 Immigration and Customs Enforcement to—

9 “(1) execute any warrants issued under the
10 laws of the United States;

11 “(2) issue and serve administrative or judicial
12 subpoenas and summonses;

13 “(3) carry firearms;

14 “(4) make arrests without warrant for any of-
15 fense against the United States committed in their
16 presence, or for any felony cognizable under the laws
17 of the United States if they have reasonable grounds
18 to believe that the person to be arrested has com-
19 mitted or is committing such felony;

20 “(5) seize any property, whether real or per-
21 sonal, that is involved in any violation or attempted
22 violation, or which constitutes proceeds traceable to
23 a violation, of those provisions of law which United
24 States Immigration and Customs Enforcement is au-
25 thorized to enforce;

1 “(6) offer and pay rewards for services and in-
2 formation leading to the apprehension of persons in-
3 volved in the violation or attempted violation of
4 those provisions of law which United States Immi-
5 gration and Customs Enforcement is authorized to
6 enforce; and

7 “(7) issue civil detainers for purposes of immi-
8 gration enforcement.

9 “(e) DEPUTY DIRECTOR.—There shall be in United
10 States Immigration and Customs Enforcement a Deputy
11 Director who shall assist the Director in the management
12 of United States Immigration and Customs Enforcement.

13 “(f) OFFICE OF HOMELAND SECURITY INVESTIGA-
14 TIONS.—

15 “(1) IN GENERAL.—There is established in
16 United States Immigration and Customs Enforce-
17 ment the Office of Homeland Security Investiga-
18 tions.

19 “(2) EXECUTIVE ASSOCIATE DIRECTOR.—There
20 shall be at the head of the Office of Homeland Secu-
21 rity Investigations an Executive Associate Director,
22 who shall report to the Director.

23 “(3) DUTIES.—The Office of Homeland Secu-
24 rity Investigations shall—

1 “(A) serve as the law enforcement office of
2 United States Immigration and Customs En-
3 forcement with primary responsibility to con-
4 duct investigations of terrorist organizations
5 and other criminal organizations that threaten
6 homeland or border security;

7 “(B) administer the program to collect in-
8 formation relating to nonimmigrant foreign stu-
9 dents and other exchange program participants
10 described in section 641 of the Illegal Immigra-
11 tion Reform and Immigrant Responsibility Act
12 of 1996 (8 U.S.C. 1372), including the Student
13 and Exchange Visitor Information System es-
14 tablished under such section, and use such in-
15 formation to carry out the enforcement func-
16 tions of United States Immigration and Cus-
17 toms Enforcement;

18 “(C) administer a National Intellectual
19 Property Rights Coordination Center, which
20 shall serve as the primary information sharing
21 forum within the Federal Government to coordi-
22 nate, promote, and assist Federal and inter-
23 national investigations of intellectual property
24 offenses;

1 “(D) administer a National Export En-
2 forcement Coordination Center, which shall
3 serve as the primary information sharing forum
4 within the Federal Government to coordinate,
5 promote, and assist Federal and international
6 investigations of Export Control offenses;

7 “(E) enforce Federal law relating to—

8 “(i) the unlawful employment of
9 aliens; and

10 “(ii) immigration document fraud;
11 and

12 “(F) carry out other duties and powers
13 prescribed by the Director.

14 “(g) OFFICE OF ENFORCEMENT AND REMOVAL OP-
15 ERATIONS.—

16 “(1) IN GENERAL.—There is established in
17 United States Immigration and Customs Enforce-
18 ment the Office of Enforcement and Removal Oper-
19 ations.

20 “(2) EXECUTIVE ASSOCIATE DIRECTOR.—There
21 shall be at the head of the Office of Enforcement
22 and Removal Operations an Executive Associate Di-
23 rector, who shall report to the Director.

24 “(3) DUTIES.—The Office of Enforcement and
25 Removal Operations shall—

1 “(A) identify, arrest, detain, and remove
2 aliens who—

3 “(i) engage in terrorist activities, are
4 affiliated with a terrorist organization, or
5 otherwise present a national security or
6 public safety risk to the United States;

7 “(ii) undermine the border security ef-
8 forts and operations of the United States;

9 “(iii) enter the United States in viola-
10 tion of Federal law; or

11 “(iv) are otherwise subject to exclu-
12 sion, deportation, or removal from the
13 United States; and

14 “(B) carry out other duties and powers
15 prescribed by the Director.

16 “(h) OFFICE OF THE PRINCIPAL LEGAL ADVISOR.—

17 “(1) IN GENERAL.—There is established in
18 United States Immigration and Customs Enforce-
19 ment the Office of the Principal Legal Advisor.

20 “(2) PRINCIPAL LEGAL ADVISOR.—There shall
21 be at the head of the Office the Principal Legal Ad-
22 visor a Principal Legal Advisor, who shall report to
23 the General Counsel of the Department.

24 “(3) DUTIES.—The Office of the Principal
25 Legal Advisor shall provide specialized legal advice

1 and policy guidance to the Director and shall rep-
2 resent the Department in all exclusion, deportation,
3 and removal proceedings before the Executive Office
4 for Immigration Review.

5 “(i) OFFICE OF PROFESSIONAL RESPONSIBILITY.—

6 “(1) IN GENERAL.—There is established in the
7 United States Immigration and Customs Enforce-
8 ment the Office of Professional Responsibility.

9 “(2) ASSISTANT DIRECTOR.—There shall be at
10 the head of the Office of Professional Responsibility
11 an Assistant Director, who shall report to the Direc-
12 tor.

13 “(3) DUTIES.—The Office of Professional Re-
14 sponsibility shall—

15 “(A) investigate allegations of administra-
16 tive, civil, and criminal misconduct involving
17 any employee or contractor of United States
18 Immigration and Customs Enforcement, or, as
19 delegated by the Secretary, any employee or
20 contractor of the Department that are not sub-
21 ject to investigation by the Inspector General of
22 the Department;

23 “(B) inspect and review United States Im-
24 migration and Customs Enforcement’s offices,
25 operations, and processes, including detention

1 facilities operated or used by United States Im-
2 migration and Customs Enforcement, and pro-
3 vide an independent review of United States
4 Immigration and Customs Enforcement's organi-
5 zational health, effectiveness, and efficiency of
6 mission; and

7 “(C) provide and manage the security pro-
8 grams and operations for United States Immi-
9 gration and Customs Enforcement.

10 “(j) OTHER AUTHORITIES.—

11 “(1) IN GENERAL.—The Secretary may estab-
12 lish such other Executive Associate Directors, As-
13 sistant Directors, agents, officers, or other offices as
14 the Secretary determines necessary to carry out the
15 missions, duties, functions, and authorities of United
16 States Immigration and Customs Enforcement.

17 “(2) NOTIFICATION.—If the Secretary exercises
18 the authority provided pursuant to paragraph (1),
19 the Secretary shall notify the Committee on Home-
20 land Security of the House of Representatives and
21 the Committee on Homeland Security and Govern-
22 mental Affairs of the Senate not later than 30 days
23 before exercising the authority described in para-
24 graph (1).

1 “(k) OTHER FEDERAL AGENCIES.—Nothing in this
2 section shall be construed to limit the existing authority
3 of any other Federal agency.”.

4 (b) SPECIAL RULES.—

5 (1) TREATMENT.—Section 442 of the Home-
6 land Security Act of 2002, as amended by subsection
7 (a) of this section, shall be treated as if included in
8 such Act as of the date of the enactment of such
9 Act, and, in addition to the functions, missions, du-
10 ties, and authorities specified in such amended sec-
11 tion 442, United States Immigration and Customs
12 Enforcement shall continue to perform and carry out
13 the functions, missions, duties, and authorities
14 under section 442 of such Act as in existence on the
15 day before such date of enactment.

16 (2) RULES OF CONSTRUCTION.—

17 (A) RULES AND REGULATIONS.—Notwith-
18 standing paragraph (1), nothing in this Act
19 may be construed as affecting in any manner
20 any rule or regulation issued or promulgated
21 pursuant to any provision of law, including sec-
22 tion 442 of the Homeland Security Act of 2002
23 as in existence on the day before the date of the
24 enactment of this Act, and any such rule or

1 regulation shall continue to have full force and
2 effect on and after such date.

3 (B) OTHER ACTIONS.—Notwithstanding
4 paragraph (1), nothing in this Act may be con-
5 strued as affecting in any manner any action,
6 determination, policy, or decision pursuant to
7 section 442 of the Homeland Security Act of
8 2002 as in existence on the day before the date
9 of the enactment of this Act, and any such ac-
10 tion, determination, policy, or decision shall
11 continue to have full force and effect on and
12 after such date.

13 (c) CONTINUATION IN OFFICE.—

14 (1) DIRECTOR.—The individual serving as As-
15 sistant Secretary for United States Immigration and
16 Customs Enforcement on the day before the date of
17 the enactment of this Act may continue to serve as
18 the Director of United States Immigration and Cus-
19 toms Enforcement in accordance with section 442 of
20 the Homeland Security Act of 2002, as amended by
21 this Act until the earlier of—

22 (A) the date on which such individual is no
23 longer eligible to serve as Director; or

24 (B) the date on which a person nominated
25 by the President to be the Director is confirmed

1 by the Senate in accordance with such amended
2 section 442.

3 (2) OTHER POSITIONS.—The individuals serv-
4 ing as the Deputy Director, Executive Associate Di-
5 rectors, Assistant Directors, and other officers and
6 employees under section 442 of the Homeland Secu-
7 rity Act of 2002 on the day before the date of the
8 enactment of this Act may serve as the appropriate
9 Assistant Directors and other officers and employees
10 under such section 442 as amended by subsection
11 (a) of this section unless the Director of United
12 States Immigration and Customs Enforcement de-
13 termines that another individual should hold such
14 position.

15 (d) CLERICAL AMENDMENT.—The table of contents
16 in section 1(b) of such Act is amended by striking the
17 item relating to section 442 and inserting the following:

“Sec. 442. Establishment of United States Immigration and Customs Enforce-
ment.”.

18 (e) TRANSPORTATION.—Section 1344(b)(6) of title
19 31, United States Code, is amended by inserting “the Di-
20 rector of United States Immigration and Customs En-
21 forcement, the Commissioner of Customs and Border Pro-
22 tection,” after “the Administrator of the Drug Enforce-
23 ment Administration,”.

24 (f) CONFORMING AMENDMENTS.—

1 (1) TITLE 5.—Section 5314 of title 5, United
2 States Code, is amended by inserting after “Director
3 of the Bureau of Citizenship and Immigration Serv-
4 ices.” the following new item: “Director of United
5 States Immigration and Customs Enforcement.”.

6 (2) HOMELAND SECURITY ACT OF 2002.—The
7 Homeland Security Act of 2002 is amended—

8 (A) in subsection (a)(2)(C) of section 451
9 (6 U.S.C. 271), by striking “at the same level
10 as the Assistant Secretary of the Bureau of
11 Border Security” and inserting “in accordance
12 with section 5314 of title 5, United States
13 Code”;

14 (B) in subsection (c) of section 459 (6
15 U.S.C. 276), by striking “Assistant Secretary
16 of the Bureau of Border Security” and insert-
17 ing “Director of United States Immigration and
18 Customs Enforcement”;

19 (C) in subsection (b)(2)(A) of section 462
20 (6 U.S.C. 279), in the matter preceding clause
21 (i), by striking “Assistant Secretary of the Bu-
22 reau of Border Security” and inserting “Direc-
23 tor of United States Immigration and Customs
24 Enforcement”;

1 (D) by repealing sections 443, 445, and
2 446 (6 U.S.C. 253, 255, and 256); and

3 (E) in section 1(b), by striking the items
4 relating to sections 445 and 446.

○