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(Original Signature of Member)

116TH CONGRESS
1ST SESSION

H. R. 4713

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 of Civil Rights and Civil Liberties Au-
6 thorization 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) IN GENERAL.—There is established within the
9 Department an Office for Civil Rights and Civil Liberties.
10 The head of such Office is the Officer for Civil Rights
11 and Civil Liberties, who shall report directly to the Sec-
12 retary.

13 “(b) RESPONSIBILITIES.—The Officer for Civil
14 Rights and Civil Liberties shall carry out the following re-
15 sponsibilities:

16 “(1) Oversee compliance with constitutional,
17 statutory, regulatory, policy, and other requirements
18 relating to the civil rights and civil liberties of indi-
19 viduals affected by the programs and activities of
20 the Department.

21 “(2) Integrate civil rights and civil liberties into
22 all programs and activities of the Department.

23 “(3) Conduct civil rights and civil liberties im-
24 pact assessments, as appropriate.

25 “(4) Conduct periodic reviews of policies and
26 activities of the Department.

1 “(5) Provide policy advice, recommendations,
2 and other technical assistance to the Secretary and
3 to heads of components, directorates, and offices and
4 other personnel within the Department.

5 “(6) Review, assess, and investigate complaints,
6 including complaints filed by members of the public,
7 and information indicating possible abuses of civil
8 rights or civil liberties, unless the Inspector General
9 of the Department determines that any such com-
10 plaint or information should be investigated by the
11 Inspector General.

12 “(7) Initiate reviews, assessments, and inves-
13 tigations of the administration of the programs and
14 activities by the Department, as the Officer deter-
15 mines necessary.

16 “(8) Coordinate with the Privacy Officer to en-
17 sure that—

18 “(A) programs, policies, and procedures in-
19 volving civil rights, civil liberties, and privacy
20 considerations are addressed in an integrated
21 and comprehensive manner; and

22 “(B) Congress receives appropriate reports
23 regarding such programs, policies, and proce-
24 dures.

1 “(9) Lead the equal employment opportunity
2 programs of the Department, including complaint
3 management and adjudication, and promote work-
4 force diversity and merit system principles.

5 “(10) Make publicly available through acces-
6 sible communications channels, including the website
7 of the Department—

8 “(A) information on the responsibilities
9 and functions of, and how to contact, the Offi-
10 cer; and

11 “(B) reports that are issued by the Officer
12 upon completion of investigations carried out
13 pursuant to paragraph (6) or (7).

14 “(11) Engage with individuals and communities
15 whose civil rights and civil liberties may be affected
16 by programs and activities of the Department, in-
17 cluding by informing such individuals and commu-
18 nities about redress processes and advising the Sec-
19 retary and heads of components, directorates, of-
20 fices, and other personnel within the Department of
21 any concerns raised by such individuals and commu-
22 nities.

23 “(c) TRANSPARENCY.—

24 “(1) COMPLAINTS.—In the case of a complaint
25 made concerning allegations of abuses of civil rights

1 and civil liberties under paragraph (6) of subsection
2 (b), the Officer for Civil Rights and Civil Liberties
3 shall—

4 “(A) provide to the individual who made
5 the complaint notice of the receipt of such com-
6 plaint within 30 days of receiving the com-
7 plaint; and

8 “(B) inform the complainant of the deter-
9 mination of the Officer regarding the initiation
10 of a review, assessment, or investigation within
11 the Office or a referral to the Inspector General
12 of the Department.

13 “(2) INVESTIGATIONS.—In the case of an inves-
14 tigation initiated by the Officer pursuant to para-
15 graph (6) or (7) of subsection (b), upon the conclu-
16 sion of the investigation, the Officer shall produce a
17 report on the investigation which—

18 “(A) shall include the findings and rec-
19 ommendations of the Officer;

20 “(B) shall be made publicly available; and

21 “(C) may include a classified appendix, as
22 the Officer determines appropriate.

23 “(3) SUBMITTAL TO HEADS OF OPERATIONAL
24 COMPONENTS.—The Officer shall transmit a copy
25 of each report produced under paragraph (2) to the

1 Secretary and to the relevant head of each relevant
2 the operational component of the Department.

3 “(d) COMPONENT CIVIL RIGHTS AND CIVIL LIB-
4 ERTIES OFFICER.—The head of each of the operational
5 components of the Department shall designate a career
6 appointee (as such term is defined in section 3132 of title
7 5, United States Code) from such component as the Offi-
8 cer for Civil Rights and Civil Liberties of that component.
9 The Officer for Civil Rights and Civil Liberties of each
10 such component shall report to the Officer for Civil Rights
11 and Civil Liberties of the Department.

12 “(e) ACCESS TO INFORMATION.—The Officer for
13 Civil Rights and Civil Liberties of the Department shall—

14 “(1) have access to all records, reports, audits,
15 reviews, documents, papers, recommendations, and
16 other materials available to the Department that re-
17 late to programs and operations with respect to the
18 responsibilities of the Officer under subsection (b);

19 “(2) subject to the approval of the Secretary,
20 may, to the extent the Officer determines necessary,
21 issue a subpoena to require the production, by any
22 person other than a Federal agency, of all informa-
23 tion, documents, reports, answers, records, accounts,
24 papers, and other data or documentary evidence nec-

1 essary to the performance of the responsibilities of
2 the Officer under this section; and

3 “(3) administer to or take from any person an
4 oath, affirmation, or affidavit whenever necessary in
5 the performance of the responsibilities of the Officer
6 under this section.

7 “(f) ANNUAL REPORT.—Not later than March 31 of
8 each year, the Officer for Civil Rights and Civil Liberties
9 of the Department shall submit directly to the President,
10 the President of the Senate, the Speaker of the House of
11 Representatives, and the appropriate committees and sub-
12 committees of Congress, without any prior comment or
13 amendment by the Secretary, Deputy Secretary, or any
14 other officer or employee of the Department, a report on
15 the implementation of this section during the year pre-
16 ceding the year during which the report is submitted.
17 Each such report shall include, for the year covered by
18 the report—

19 “(1) any allegations of abuse described under
20 subsection (b)(6) and any actions by the Depart-
21 ment or a component, directorate, or office of the
22 Department that the Officer identifies as responsive
23 to such allegations;

24 “(2) a list of Department programs and activi-
25 ties for which civil rights and civil liberties impact

1 assessments were conducted, or policy advice, rec-
2 ommendations, or other technical assistance was
3 provided;

4 “(3) any recommendations issued by the Officer
5 to the Secretary or the head of a component, direc-
6 torate, or office, together with information on the
7 status of the implementation of such recommenda-
8 tions;

9 “(4) information on the diversity and equal em-
10 ployment opportunity activities of the Department,
11 including information on complaint management and
12 adjudication of equal employment opportunity com-
13 plaints and efforts to ensure compliance throughout
14 the Department with equal employment opportunity
15 requirements;

16 “(5) a description of any efforts to engage with
17 individuals and communities whose civil rights and
18 civil liberties may be affected by activities carried
19 out by the Department, including public meetings;
20 and

21 “(6) information on total staffing for the Office
22 of Civil Rights and Civil Liberties, including—

23 “(A) the number of full-time, part-time
24 and contract support personnel; and

1 “(B) information on the number of em-
2 ployees whose primary responsibilities include
3 supporting the Officer in carrying out para-
4 graph (9) of subsection (b).”.

5 (b) CLERICAL AMENDMENT.—The item relating to
6 section 705 in section 1(b) of the Homeland Security Act
7 of 2002 is amended to read as follows:

“Sec. 705. Officer for civil rights and civil liberties.”.