

119TH CONGRESS  
2D SESSION

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To establish an independent commission within the legislative branch responsible for ensuring oversight, transparency, and accountability in immigration enforcement operations.

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IN THE SENATE OF THE UNITED STATES

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Mr. COONS (for himself and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To establish an independent commission within the legislative branch responsible for ensuring oversight, transparency, and accountability in immigration enforcement operations.

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 “ICE Accountability

5   Act”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

10 (2) COMMISSION.—The term “Commission”  
11 means the Commission for Independent Monitoring  
12 of Immigration Enforcement established under sec-  
13 tion 3.

1   **SEC. 3. COMMISSION FOR INDEPENDENT MONITORING OF**  
2                   **IMMIGRATION ENFORCEMENT.**

3           (a) **ESTABLISHMENT.**—There is hereby established in  
4   the legislative branch an independent commission, to be  
5   known as the Commission for Independent Monitoring of  
6   Immigration Enforcement.

7           (b) **PURPOSES.**—The purposes of the Commission  
8   are—

9                   (1) to ensure rigorous, independent oversight of  
10   immigration agencies' compliance with applicable re-  
11   quirements;

12                   (2) to investigate whether immigration agencies  
13   have failed to comply with applicable requirements;  
14   and

15                   (3) to ensure public transparency of immigra-  
16   tion enforcement operations.

17           (c) **DUTIES.**—The Commission shall—

18                   (1) monitor immigration agencies during immi-  
19   gration enforcement activities related to arrest, de-  
20   tention, deportation, and surveillance operations, in-  
21   cluding by—

22                           (A) observing agents during operations;  
23                           and

24                           (B) conducting on-site visits, which may be  
25   conducted without notice, provided that the  
26   Commission makes good faith efforts to provide

1           advance notice of on-site visits and activities to  
2           immigration agencies if the Commission deter-  
3           mines that advance notice is practicable, appro-  
4           priate, and would not undermine the goals of its  
5           oversight;

6           (2) review any information and data, including  
7           encounter documents, training materials, civil rights  
8           complaints, body camera footage, and other records,  
9           in possession of the Department of Homeland Secu-  
10           rity pertaining to immigration enforcement activi-  
11           ties;

12           (3) issue monthly reports to Congress that con-  
13           tain evaluations of immigration agencies' compliance  
14           with applicable requirements, and make all such re-  
15           ports publicly accessible;

16           (4) maintain a publicly accessible website  
17           that—

18               (A) allows members of the public to upload  
19               complaints;

20               (B) allows, as the Commission deems ap-  
21               propriate and consistent with applicable law,  
22               members of the public to view anonymized com-  
23               plaint information;

24               (C) contains detailed data released by the  
25               Commission related to immigration agencies'

1 enforcement actions, disaggregated by geo-  
2 graphic location; and

3 (D) contains all reports and findings  
4 issued by the Commission;

5 (5) promptly review complaints submitted by  
6 members of the public to inform findings;

7 (6) if approved by a vote of at least 3 of 4 mon-  
8 itors—

9 (A) issue formal findings of serious or will-  
10 ful violations of applicable requirements;

11 (B) refer matters to the Department of  
12 Justice recommending prosecution under sec-  
13 tion 242 of title 18, United States Code, or to  
14 a State attorney general recommending pros-  
15 ecution under State law, upon findings indi-  
16 cating potential criminal conduct;

17 (C) hold public hearings about potential  
18 violations of applicable requirements;

19 (D) initiate a civil action in accordance  
20 with section 4(b) to seek enforcement of the ap-  
21 plicable requirements; and

22 (E) make recommendations to Congress  
23 for reforms to immigration enforcement oper-  
24 ations and ways to strengthen immigration en-  
25 forcement oversight by the Department of

1           Homeland Security's Office of Inspector Gen-  
2           eral, Office for Civil Rights and Civil Liberties,  
3           and Office of the Immigration Detention Om-  
4           budsman based on the Commission's findings;  
5           and

6           (7) at the request of the Chair or Ranking  
7           Member of the Committee on the Judiciary of the  
8           Senate, the Committee on Homeland Security and  
9           Governmental Affairs of the Senate, the Committee  
10           on the Judiciary of the House of Representatives,  
11           the Committee on Homeland Security of the House  
12           of Representatives, or the Committee on Oversight  
13           and Government Reform of the House of Represent-  
14           atives, and at least quarterly, testify to Congress on  
15           the Commission's findings and recommendations.

16           (d) AUTHORITIES.—

17           (1) ACCESS TO DEPARTMENT OF HOMELAND  
18           SECURITY SYSTEMS.—The Commission is entitled to  
19           access, without prior notice, in a reasonable manner  
20           that, consistent with the Commission's responsibil-  
21           ties, minimizes interference with daily operations, to  
22           monitor and observe all Department of Homeland  
23           Security records, facilities and other property,  
24           trainings, meetings, incident scenes, and personnel  
25           that—

1 (A) are relevant to immigration enforce-  
2 ment; and

3 (B) the Commission reasonably considers  
4 necessary to carry out its duties.

22 (4) CONTRACTING AUTHORITY.—The Commission  
23 may expend funds appropriated to the Commission  
24 to enter into contracts that enable the Commission  
25 to discharge its duties under this section.

4 (A) to enforce subpoenas issued pursuant  
5 to paragraph (2) and access requirements de-  
6 scribed in section 7(a); and

## 9 SEC. 4. JUDICIAL ENFORCEMENT.

10 (a) CIVIL ACTION.—

24 (b) PENALTIES.—An immigration agency that has  
25 engaged in a serious or willful violation of applicable re-

1 requirements shall be subject to a penalty equal to \$500,000  
2 for each day such agency remains out of compliance with  
3 such requirements.

4 (c) LIABILITY OF IMMIGRATION AGENCY FOR  
5 AGENTS' ACTIONS.—The noncompliance of any individual  
6 agent shall be imputed to the immigration agency that su-  
7 pervises such agent.

8 **SEC. 5. PERSONNEL.**

9 (a) APPOINTMENT OF MONITORS.—Not later than 30  
10 days after the date of the enactment of this Act, 4 mon-  
11 itors shall be appointed to the Commission, of whom—

12 (1) 1 monitor shall be appointed by the Speaker  
13 of the House of Representatives, with the consent of  
14 the minority leader of the House of Representatives;

15 (2) 1 monitor shall be appointed by the minor-  
16 ity leader of the House of Representatives, with the  
17 consent of the Speaker of the House of Representa-  
18 tives;

19 (3) 1 monitor shall be appointed by the major-  
20 ity leader of the Senate, with the consent of the mi-  
21 nority leader of the Senate; and

22 (4) 1 monitor shall be appointed by the minor-  
23 ity leader of the Senate, with the consent of the ma-  
24 jority leader of the Senate.

25 (b) QUALIFICATIONS.—

1 (1) EXPERTISE.—Each monitor shall have sig-  
2 nificant depth of experience and nationally recog-  
3 nized expertise in a relevant field, such as civil  
4 rights enforcement (including rights guaranteed  
5 under the First, Fourth, and Fourteenth Amend-  
6 ments to the Constitution of the United States), law  
7 enforcement best practices, immigration law, De-  
8 partment of Homeland Security operations, and  
9 monitoring and evaluation.

16 (3) CONFLICT OF INTEREST.—No individual  
17 serving as a monitor, no Executive Director, and no  
18 staff of the Commission may have any conflict of in-  
19 terest with respect to any aspect of performing their  
20 duties and responsibilities on the Commission.

23 (A) be eligible to receive a security clear-  
24 ance of a level adequate to access all Depart-  
25 ment of Homeland Security systems that the

1           Commission determines to be relevant to car-  
2           rying out its duties; or

3           (B) if the monitor or staff member lacks  
4           the requisite security clearance, begin the proc-  
5           ess of obtaining a security clearance upon join-  
6           ing the Commission.

7           (5) TRAINING.—Each monitor and staff mem-  
8           ber shall receive training on protecting the integrity  
9           of ongoing and future civil and criminal investiga-  
10           tions into matters under the Commission's purview.

11           (c) TERM.—Each monitor shall serve a 5-year term.  
12           If a monitor departs before the end of his or her term,  
13           a new monitor shall be appointed in his or her place within  
14           30 days of such departure, using the same appointment  
15           process as used for the departing monitor.

16           (d) COMPENSATION.—Each monitor shall perform  
17           full-time services and be paid at the annual rate of basic  
18           pay for level I of the Executive Schedule.

19           (e) STAFFING.—

20           (1) IN GENERAL.—The Commission, at the di-  
21           rection of the Executive Director, shall hire appro-  
22           priate staff members to enable the Commission to  
23           carry out its duties.

24           (2) EXECUTIVE DIRECTOR.—Not later than 30  
25           days after all monitors have been appointed to the

1       Commission, the monitors shall jointly select an indi-  
2       vidual with demonstrated, nationally recognized ex-  
3       pertise in law enforcement best practices to serve as  
4       Executive Director of the Commission and to guide  
5       the daily operations of the Commission's monitoring  
6       functions.

7 **SEC. 6. SUNSET PROVISION.**

8       (a) IN GENERAL.—Not earlier than 4 years after the  
9       date of the enactment of this Act and not later than 180  
10      days after at least 3 of the 4 monitors of the Commission  
11      determine that the immigration agencies have all been in  
12      substantial compliance with the applicable requirements  
13      for at least 1 year, the Commission shall terminate oper-  
14      ations.

15       (b) PAUSE ON SUNSETTING.—If after a determina-  
16      tion described in subsection (a) is made and before the  
17      Commission terminates operations, the Commission deter-  
18      mines that 1 or more of the immigration agencies are no  
19      longer in substantial compliance with the applicable re-  
20      quirements, the Commission may reverse the decision to  
21      terminate operations by a vote of at least 3 of the 4 mon-  
22      itors.

23 **SEC. 7. OBLIGATIONS OF FEDERAL AGENCIES.**

24       (a) DEPARTMENT OF HOMELAND SECURITY.—The  
25      Secretary of Homeland Security shall—

14 (b) GENERAL SERVICES ADMINISTRATION.—The Ad-  
15 ministrator of General Services shall provide to the Com-  
16 mission, on a reimbursable basis, administrative support  
17 and other services for the performance of the Commis-  
18 sion's functions. Office facilities provided to the Commis-  
19 sion under this subsection may not be shared with an enti-  
20 ty of the executive branch.

21 (c) SECURITY CLEARANCES.—Any agency involved in  
22 reviewing applications for, granting, or revoking security  
23 clearances shall perform such functions for members and  
24 staff of the Commission in the same manner as they are  
25 performed for other Federal personnel.

## 1       (d) PROHIBITION AGAINST RETALIATION.—

2               (1) IN GENERAL.—A Federal employee may not  
3               (directly or indirectly) discharge, demote, suspend,  
4               threaten, blacklist, harass, or in any other manner  
5               discriminate against a whistleblower because of any  
6               lawful act done by the whistleblower in—

7                       (A) providing information to the Commis-  
8                       sion regarding any conduct that the whistle-  
9                       blower reasonably believes constitutes an alleged  
10                  violation of the applicable requirements; or

11                       (B) initiating, testifying in, or assisting in  
12                  any Commission process, or preparing to take  
13                  any such action.

14               (2) ENFORCEMENT.—In addition to any other  
15                  remedies otherwise available, the rights, procedures,  
16                  and remedies under section 5323 of title 31, United  
17                  States Code, are available and shall apply to a judi-  
18                  cial or administrative action based on or related to  
19                  information provided by a whistleblower in the same  
20                  manner as such rights, procedures, and remedies  
21                  apply to a covered judicial or administrative action  
22                  under that section.

**1 SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

2        There is authorized to be appropriated to the Com-  
3 mission such sums as may be necessary for each fiscal  
4 year during which the Commission operates.

**5 SEC. 9. SEVERABILITY.**

6        If any provision of this Act, or the application of such  
7 provision to any person or circumstance, is held to be un-  
8 constitutional, the remaining provisions of this Act, and  
9 the application of such provisions to any other person or  
10 circumstance, shall not be affected.