

Calendar No. 221

115TH CONGRESS }
1st Session }

SENATE

{ REPORT
115-157

DEPARTMENT OF HOMELAND SECURITY
BLUE CAMPAIGN AUTHORIZATION ACT OF
2017

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1103

TO AMEND THE HOMELAND SECURITY ACT OF 2002 TO REQUIRE
THE SECRETARY OF HOMELAND SECURITY TO ISSUE
DEPARTMENT-WIDE GUIDANCE AND TO DEVELOP TRAINING
PROGRAMS AS PART OF THE DEPARTMENT OF HOMELAND
SECURITY BLUE CAMPAIGN, AND FOR OTHER PURPOSES



SEPTEMBER 14, 2017.—Ordered to be printed

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DEPARTMENT OF HOMELAND SECURITY BLUE CAMPAIGN AUTHORIZATION ACT OF 2017

SEPTEMBER 14, 2017.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 1103]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1103) to amend the Homeland Security Act of 2002 to require the Secretary of Homeland Security to issue Department-wide guidance and to develop training programs as part of the Department of Homeland Security Blue Campaign, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

The purpose of S. 1103, the Department of Homeland Security Blue Campaign Authorization Act of 2017, is to codify the existing Blue Campaign within the Department of Homeland Security (“DHS” or “the Department”). The bill requires the Secretary of Homeland Security to issue Department-wide guidance and to develop training programs as a part of the program.

Since its creation in 2010, the Blue Campaign has operated on a continuing appropriation and lacked permanent leadership to oversee and coordinate related activities across DHS agencies involved in the program. S. 1103 requires the Secretary to appoint a director and establish formal Department-wide guidance and training programs.

II. BACKGROUND AND THE NEED FOR LEGISLATION

Background

Human trafficking, or trafficking in persons, is one of the most pervasive and lucrative crimes in the world.¹ Each year, human traffickers exploit tens of millions of men, women, and children.² Such modern day slavery has been estimated to generate more than \$150 billion annually.³

Although increased national and international attention has resulted in a larger number of reports of suspected human trafficking, the number of reported incidences vastly underplays the scale of the industry.⁴ According to the State Department's 2017 Trafficking in Persons (TIP) report, fewer than 10,000 human traffickers were convicted worldwide in 2016, while the estimated number of victims remains in the tens of millions.⁵

Victims are unlikely to self-report, due to fears that the victims might themselves become targets for prosecution by authorities, or fears of reprisal and intimidation from their traffickers.⁶ In addition, the public remains largely unaware of the existence, let alone the prevalence, of the problem.⁷ This has created an environment in which traffickers are able to operate under a presumption of impunity in virtually every country in the world, including the United States.⁸

¹ *What Is Human Trafficking?*, Dep't of Homeland Sec., <https://www.dhs.gov/blue-campaign/what-human-trafficking> (last visited July 24, 2017). Trafficking in persons is defined by the United Nations as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation." U.N. Off. on Drugs & Crime, United Nations Convention Against Transnational Organized Crime and the Protocols Thereto, 42 (2004), available at <https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>.

² The International Labour Organization (ILO) estimated in 2012 that around 20.9 million people live as forced laborers. See International Labour Office, ILO Global Estimate of Forced Labour: Results and Methodology, 13 (2012), available at http://www.ilo.org/global/topics/forced-labour/publications/WCMS_182004/lang-en/index.htm.

³ International Labour Office, Profits and Poverty: The Economics of Forced Labour, 13 (2014), available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_243391.pdf.

⁴ See Elzbieta Godzdzia, *Data Matters: Issues and Challenges for Research on Trafficking*, in *Global Human Trafficking, Critical Issues and Contexts* (Molly Dragiewicz ed., 2015).

⁵ Dep't. of State, Trafficking in Persons Report, 6 (June 2017), available at <https://www.state.gov/documents/organization/271339.pdf>.

⁶ International Organization for Migration, *Data and Research on Human Trafficking: A Global Survey*, 12, 43 in *International Migration* (Frank Laczko and Elzbieta Godzdzia eds., Vol. 43 [1/2] 2005), available at http://publications.iom.int/system/files/pdf/global_survey.pdf.

⁷ Dep't. of Justice, Dep't. of Health & Human Serv's., Dep't. of Homeland Sec., Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States 2013–2017, 25 (2014), available at <https://www.ovc.gov/pubs/FederalHumanTraffickingStrategicPlan.pdf>.

⁸ U.N. Off. on Drugs and Crime, Global Report on Trafficking in Persons, 51 (2016), available at http://www.unodc.org/documents/data-and-analysis/glotip/2016_Global_Report_on_Trafficking_in_Persons.pdf.

Trafficking in the United States

In 2000, Congress passed the Trafficking Victims Protection Act (TVPA).⁹ The TVPA defined human trafficking as “the illicit enslavement of individuals into labor or commercial sex through means of force, fraud, or coercion.”¹⁰ The State Department has characterized the United States as a source, transit, and destination country for trafficking victims.¹¹ With no formal estimate of the total number of victims in the United States, it is difficult to define the scope of domestic human trafficking. However, DHS and its partners have identified cases of trafficking in all 50 states, where victims, including citizens and non-citizens, are defrauded, threatened, and coerced into forced labor or commercial sex on a daily basis.¹² Victims can be found working in both legitimate and illegitimate fields of employment including the hospitality, agriculture, construction, and restaurant industries, as well as in sweatshops, massage parlors, and in domestic service.¹³

In the past, the Department of Justice (DOJ) has estimated that as many as 600,000 to 800,000 victims are trafficked across international borders annually.¹⁴ The majority of victims are women and young girls, most of whom are exploited as sex workers.¹⁵ Although the exact numbers are uncertain, DOJ estimated that anywhere from 14,500 to 17,500 victims are trafficked into the United States;¹⁶ however, unlike other Western democracies, where the majority of sex trafficking victims are foreign, most sex trafficking victims in the United States are U.S.-born minors.¹⁷ A 2016 DOJ-funded study estimated the total number of juveniles in the sex trade in the United States to be between 9,000 and 10,000.¹⁸

The DHS Blue Campaign

DHS utilizes a victim-centered strategy to confront domestic human trafficking and is dually committed to identifying victims and to finding and prosecuting traffickers.¹⁹ In 2010, DHS Secretary Janet Napolitano launched the Blue Campaign program to serve as the Department’s unified voice in the fight against human

⁹ Victims of Trafficking and Violence Prevention Act of 2000, Pub. L. No. 106–386 (2000); Trafficking Victims Protection Act of 2000, 22 U.S.C. §§ 7101–7112 (2000).

¹⁰ TVPA was reauthorized in 2006, 2008, and in 2013. See Pub. L. No. 108–64 (2006); Pub. L. No. 110–457 (2008); as an amendment of the Violence Against Women Act, Pub. L. No. 113–4 Title XII (2013).

¹¹ Department of State, *supra* note 5, at 420.

¹² Department of Justice, Department of Health and Human Services, Homeland Security, *supra* note 5, at 5.

¹³ *Id.*

¹⁴ Dep’t. of Justice, Attorney General’s Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2005, 3 (June 2006), available at <https://www.justice.gov/archive/ag/annualreports/tr2005/agreporthumantrafficking2005.pdf>.

¹⁵ DOJ estimates that as many as 80 percent of individuals trafficked internationally are women and young girls and that 70 percent are trafficked for the purpose of sexual exploitation. *Id.*, at 5.

¹⁶ Dep’t. of Justice, Attorney General’s Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2005, 3 (June 2006), available at <https://www.justice.gov/archive/ag/annualreports/tr2005/agreporthumantrafficking2005.pdf>.

¹⁷ Louise Shelley, Human Trafficking: A Global Perspective, 262 (Eric Crahan ed., 2010).

¹⁸ Citing limitations in data, the authors of the study reported a wider range of 4,457–20,995 victims. Center for Court Innovation, Youth Involvement in the Sex Trade: A National Study, 88 (June 2016), available at <https://www.ncjrs.gov/pdffiles1/ojjdp/grants/249952.pdf?ed2f26df2d9c416fbddddd2330a778c6=jaccjssvkj-jdvsadwa>.

¹⁹ *Blue Campaign*, Dep’t. of Homeland Sec., <https://www.dhs.gov/blue-campaign> (last visited July 24, 2017).

trafficking and to raise public awareness about human trafficking taking place within the United States' national borders.²⁰

Through the Blue Campaign, DHS provides formal training on indicators of human trafficking to people who are most likely to encounter a victim or a trafficker, including first responders, healthcare providers, social workers, community volunteers, and law enforcement officers.²¹ The program includes formal training on methods and techniques to recognize and report possible instances of human trafficking.²²

Section 902 of the Justice for Victims of Trafficking Act of 2015²³ requires mandatory human trafficking awareness and training for "relevant personnel" working for the Transportation Security Administration (TSA), Customs and Border Protection (CBP), and any other appropriate Department personnel.²⁴ DHS issued a directive requiring mandatory human trafficking awareness training on an annual basis for CBP and TSA employees, as well as on an annual basis for relevant personnel at the Federal Emergency Management Agency, Federal Law Enforcement Training Centers, U.S. Citizenship and Immigration Services (USCIS), Immigration and Customs Enforcement (ICE), U.S. Coast Guard (USCG), and U.S. Secret Service.²⁵ The Blue Campaign provides updated information and training strategies to ensure all relevant personnel remain informed of the latest anti-human trafficking trends and policies.²⁶ As a result, the Blue Campaign reported that over 130,000 DHS employees and 319 USCG units completed human trafficking training, in 2016.²⁷

As of 2015, the DHS Blue Campaign had provided training to Federal human trafficking task forces in all 50 states, educating more than 10,000 state, local, and campus law enforcement professionals, and over 2,000 foreign law enforcement partners.²⁸ More than 70,000 aviation industry personnel completed anti-human trafficking training through the Blue Campaign's Blue Lightning Initiative.²⁹

In fiscal year (FY) 2016, ICE's Homeland Security Investigations unit opened 1,029 investigations possibly involving human trafficking.³⁰ These investigations led to 1,952 arrests, 631 convictions of perpetrators, and ultimately the rescue of over 2,000 human trafficking victims.³¹ A total of 437 victims were identified and assisted.³² USCIS, granted immigration relief through T visas for

²⁰ *Blue Campaign: About*, Dep't. of Homeland Sec., <https://www.dhs.gov/blue-campaign/about-blue-campaign> (last visited July 24, 2017).

²¹ *Blue Campaign: Partnerships*, Dep't. of Homeland Sec., <https://www.dhs.gov/blue-campaign/partnerships> (last visited July 31, 2017).

²² See *Combating Human Trafficking: Federal, State, and Local Perspectives: Hearing Before the S. Comm. On Homeland Sec. & Governmental Affairs*, 113th Cong. (2013), available at <https://www.hsgac.senate.gov/hearings/combating-human-trafficking-federal-state-and-local-perspectives>.

²³ Justice for Victims of Trafficking Act, Pub. L. No. 114–22 (2015).

²⁴ *Id.* at Title IX, § 902.

²⁵ Dep't. of Homeland Sec., Dir. 045–03, Justice for Victims of Trafficking Act (Mar. 22, 2016).

²⁶ Dep't. of Homeland Sec., *Human Trafficking Awareness Training for Department of Homeland Security Personnel* (2017) (on file with Committee staff).

²⁷ *Id.* at 6.

²⁸ *DHS Blue Campaign Five Year Milestone*, U.S. Dep't. of Homeland Sec. (July 22, 2015, 2:31 PM), <https://www.dhs.gov/blog/2015/07/22/dhs-blue-campaign-five-year-milestone>.

²⁹ *Blue Lightning*, U.S. Customs and Border Protection (Nov. 7, 2016), <https://www.cbp.gov/border-security/human-trafficking/blue-lightning>.

³⁰ Department of Homeland Security, *supra* note 24, at 8.

³¹ Briefing between Dep't of Homeland Sec. and S. Comm. of Homeland Sec. and Governmental Affairs (2017).

³² *Id.*

nonimmigrant status to 750 victims and 986 family members in FY2016, an increase from FY2015 when T visas were granted to 610 victims and 694 family members.³³

S. 1103

S. 1103, the Department of Homeland Security Blue Campaign Authorization Act of 2017, formally authorizes the Blue Campaign within DHS. Additionally, the bill requires the Secretary of DHS to appoint a Director to manage the Blue Campaign, which has operated without statutorily-formalized leadership or structure since its inception.

The bill also requires the Department to improve information sharing between components to prevent trafficking to address a recommendation provided by the DHS Inspector General. A 2016 DHS Office of Inspector General (OIG) report identified inefficiencies in information sharing within DHS components that hinder the Department's ability to identify and prevent human trafficking.³⁴ The Inspector General identified "known human traffickers used work and fiancé visas to bring victims into the country."³⁵ The Inspector General also found that "274 subjects of ICE human trafficking investigations successfully petitioned USCIS to bring 425 family members and fiancés into the United States."³⁶ Since the DHS OIG report, DHS has attempted to modernize information technology systems and information sharing capacity.³⁷ S. 1103 requires the Department to complete these efforts by requiring the Secretary of DHS ensure the integration of technology systems utilized within the Department to record and track information regarding individuals suspected or convicted of human trafficking.

Under S. 1103, the Secretary and Blue Campaign director are required to ensure information sharing is consistent across DHS. The information relied upon by DHS components must be as accurate and accessible as possible, particularly when the information is being used to track down and prosecute perpetrators of human trafficking, and protect their victims from further harm or mistreatment.

According to the State Department's 2016 and 2017 TIP reports, survivor advocates continued to report cases of local and state authorities detaining or prosecuting trafficking victims for conduct committed as a direct result of being subjected to trafficking.³⁸ This bill seeks to address those concerns by granting DHS permanent authority to continue its education and outreach efforts to promote understanding and awareness of human trafficking. It also prevents victims from being treated as criminals rather than victims by law enforcement and social services.

Finally, the bill requires the Secretary to submit an annual report describing the overall effectiveness of the Blue Campaign and the changes required by the bill.

³³ Dep't. of State, *supra* note 5, at 418.

³⁴ U.S. Department of Homeland Security Office of Inspector General, OIG-16-17, ICE and USCIS Could Improve Data Quality and Exchange to Help Identify Potential Human Trafficking Cases (2016), available at <https://www.oig.dhs.gov/assets/Mgmt/2016/OIG-16-17-Jan16.pdf>.

³⁵ *Id.* at 7.

³⁶ *Id.* at 2.

³⁷ Briefing, *supra* note 29.

³⁸ Dep't. of State, *supra* note 5, at 416; see also Dep't. of State, Trafficking in Persons Report 391 (June 2016), available at <https://www.state.gov/documents/organization/271339.pdf>.

III. LEGISLATIVE HISTORY

Chairman Ron Johnson (R–WI) and Ranking Member Claire McCaskill (D–MO) introduced S. 1103, the Department of Homeland Security Blue Campaign Authorization Act of 2017, on May 11, 2017. The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 1103 at a business meeting on May 17, 2017. The legislation was reported favorably by voice vote *en bloc*. Senators Johnson, McCain, Portman, Lankford, Enzi, Hoeven, Daines, McCaskill, Tester, Heitkamp, Peters, Hassan, and Harris were present.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section provides the bill’s short title, the “Department of Homeland Security Blue Campaign Authorization Act of 2017.”

Section 2. Enhanced Department of Homeland Security coordination through the Blue Campaign

Subsections (a), (b), and (c) of this section define the term “human trafficking” and establish the Blue Campaign within the Department of Homeland Security for the purpose of coordinating the Department’s human trafficking efforts.

Subsection (d) of this section outlines the responsibilities of the Secretary—acting through the Director—in carrying out the Blue Campaign program: issuing Department-wide guidance; developing training programs; and coordinating the Department’s training efforts.

Finally, subsection (e) of this section mandates that the Blue Campaign provide guidance and training to appropriate DHS, Federal, state, tribal, and law enforcement personnel, including regarding: how to identify human traffickers and human trafficking victims; how to collect information that can be utilized to help identify human traffickers; and proper information sharing.

Section 3. Information technology systems

This section directs the Secretary of Homeland Security to ensure the integration of information technology systems utilized within the Department to record and track information regarding individuals suspected or convicted of human trafficking.

Section 4. Report

This section requires the Secretary of Homeland Security to submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives on (1) the effectiveness of the Blue Campaign and (2) the appropriate office within DHS to place the Blue Campaign.

This report must be issued no later than 18 months after the date of the enactment of this bill.

Section 5. Authorization of appropriations

This section authorizes \$819,000 to be appropriated to carry out the requirements of this bill.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

AUGUST 17, 2017.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1103, the Department of Homeland Security Blue Campaign Authorization Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

KEITH HALL.

Enclosure.

S. 1103—Department of Homeland Security Blue Campaign Authorization Act of 2017

S. 1103 would authorize the Department of Homeland Security (DHS) to implement a program to combat human trafficking; this program would be known as the Blue Campaign. (DHS currently carries out a similar program, which includes activities to raise awareness of human trafficking and training for law enforcement personnel.) The bill would authorize a total appropriation of \$819,000 for the campaign. Assuming appropriation of that amount, CBO estimates that implementing the bill would cost \$819,000.

Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 1103 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 1103 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by Theresa Gullo, Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1103 as reported, are shown as follows (existing law proposed to be omitted

is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

* * * * *

TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY

* * * * *

Subtitle C—Miscellaneous Provisions

* * * * *

SEC. 434. DEPARTMENT OF HOMELAND SECURITY BLUE CAMPAIGN.

(a) *DEFINITIONS.*—*In this section, the term ‘human trafficking’ means an act or practice described in paragraph (9) or (10) of section 103 of the Trafficking Victims Protection Act of 2002 (22 U.S.C. 7102).*

(b) *ESTABLISHMENT.*—*There is established within the Department a program, which shall be known as the ‘Blue Campaign.’ The Blue Campaign shall be headed by a Director, who shall be appointed by the Secretary.*

(c) *PURPOSE.*—*The purpose of the Blue Campaign shall be to unify and coordinate Department efforts to address human trafficking.*

(d) *RESPONSIBILITIES.*—*The Secretary, working through the Director, shall, in accordance with subsection (e)—*

(1) *issue Department-wide guidance to appropriate Department personnel;*

(2) *develop training programs for such personnel; and*

(3) *coordinate departmental efforts, including training for such personnel.*

(e) *GUIDANCE AND TRAINING.*—*The Blue Campaign shall provide guidance and training to appropriate Department personnel and other Federal, State, tribal, and law enforcement personnel, as appropriate regarding—*

(1) *programs to help identify instances of human trafficking;*

(2) *the types of information that should be collected and recorded in information technology systems utilized by the Department to help identify individuals suspected or convicted of human trafficking;*

(3) *systematic and routine information sharing within the Department and among Federal, State, tribal, and local law enforcement agencies regarding—*

(A) *individuals suspected or convicted of human trafficking; and*

(B) *patterns and practices of human trafficking;*

(4) *techniques to identify suspected victims of trafficking along the United States border and at airport security checkpoints;*

(5) *methods to be used by the Transportation Security Administration and personnel from other appropriate agencies—*

- (A) to educate partners and stakeholders;*
- (B) to increase public awareness of human trafficking;*
- (7) leveraging partnerships with State and local governmental, nongovernmental, and private sector organizations to raise public awareness of human trafficking; and*
- (8) any other activities the Secretary determines necessary to carry out the Blue Campaign.*

* * * * *

