

118TH CONGRESS  
1ST SESSION

# H. R. 3359

To require the Secretary of Defense to develop a strategy to counter fentanyl trafficking in the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2023

Mrs. BICE (for herself, Mrs. KIGGANS of Virginia, and Mr. CARBAJAL) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committees on the Judiciary, and Foreign Affairs, 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

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## A BILL

To require the Secretary of Defense to develop a strategy to counter fentanyl trafficking in the United States, 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 section may be cited as the “Disrupt Fentanyl  
5 Trafficking Act of 2023”.

6 **SEC. 2. DISRUPT FENTANYL TRAFFICKING ACT OF 2023.**

7 (a) SENSE OF CONGRESS.—It is the sense of Con-  
8 gress that—

1           (1) fentanyl trafficking across the borders of  
2 the United States, and the consequences of that  
3 trafficking, constitute an unprecedented, nontradi-  
4 tional, and long-term threat to the national security  
5 of the United States;

6           (2) transnational criminal organizations have  
7 established effective control over significant areas  
8 within Mexico, which has enabled the development of  
9 fentanyl production and trafficking infrastructure;

10          (3) combating fentanyl trafficking demands—

11           (A) improved interagency command, con-  
12 trol, communications, and intelligence sharing  
13 to enhance the effectiveness of the interdiction  
14 of fentanyl at the borders of the United States;  
15 and

16           (B) whole-of-government solutions com-  
17 prised of an integrated and synchronized inter-  
18 agency organizational construct committed to  
19 dismantling the process of trafficking fentanyl  
20 from chemical precursor to production to deliv-  
21 ery in the United States and enabling partner  
22 nations to do the same;

23          (4) it is within the national security interest of  
24 the United States for Federal, State, and local law  
25 enforcement agencies, the Department of Defense,

1 the Department of State, other counter-drug agen-  
2 cies, and stakeholders to effectively communicate  
3 and that the failure of effective communication af-  
4 fects the prevention, interdiction, and prosecution of  
5 fentanyl trafficking and distribution into and within  
6 the United States; and

7 (5) the United States must partner with Mexico  
8 and Canada to combat fentanyl trafficking through  
9 institution building, the dismantling of cartels, and  
10 seizures of fentanyl in Mexico, Canada, and intra-  
11 state transit zones.

12 (b) DEVELOPMENT OF STRATEGY TO COUNTER  
13 FENTANYL TRAFFICKING AND REPORT.—

14 (1) STRATEGY.—

15 (A) IN GENERAL.—Not later than 120  
16 days after the date of the enactment of this  
17 Act, the Secretary of Defense, in coordination  
18 with other Federal agencies as the Secretary  
19 considers appropriate, shall develop and submit  
20 to the appropriate congressional committees a  
21 strategy to use existing authorities, including  
22 the authorities under section 124 of title 10,  
23 United States Code, as appropriate, to target,  
24 disrupt, or degrade threats to the national secu-

1           rity of the United States caused or exacerbated  
2           by fentanyl trafficking.

3           (B) CONTENTS.—The strategy required by  
4           subparagraph (A) shall outline how the Sec-  
5           retary of Defense will—

6                   (i) leverage existing authorities re-  
7                   garding counterdrug and counter-  
8                   transnational organized crime activities  
9                   with a counter-fentanyl nexus to detect  
10                  and monitor activities related to fentanyl  
11                  trafficking;

12                  (ii) support operations to counter  
13                  fentanyl trafficking carried out by other  
14                  Federal agencies, State, Tribal, and local  
15                  law enforcement agencies, or foreign secu-  
16                  rity forces;

17                  (iii) coordinate efforts of the Depart-  
18                  ment of Defense for the detection and  
19                  monitoring of aerial, maritime, and surface  
20                  traffic suspected of carrying fentanyl  
21                  bound for the United States, including ef-  
22                  forts to unify the use of technology, sur-  
23                  veillance, and related resources across air,  
24                  land, and maritime domains to counter  
25                  fentanyl trafficking, including with respect

1 to data collection, data processing, and in-  
2 tegrating sensors across such domains;

3 (iv) provide military-unique capabili-  
4 ties to support activities by the United  
5 States Government and foreign security  
6 forces to detect and monitor the trafficking  
7 of fentanyl and precursor chemicals used  
8 in fentanyl production, consistent with sec-  
9 tion 284(b)(10) of title 10, United States  
10 Code;

11 (v) leverage existing counterdrug and  
12 counter-transnational organized crime pro-  
13 grams of the Department to counter  
14 fentanyl trafficking;

15 (vi) assess existing training programs  
16 of the Department and provide training for  
17 Federal, State, Tribal, and local law en-  
18 forcement agencies conducted by special  
19 operations forces to counter fentanyl traf-  
20 ficking, consistent with section 284(b) of  
21 title 10, United States Code;

22 (vii) engage with foreign security  
23 forces to ensure the counterdrug and  
24 counter-transnational organized crime pro-  
25 grams of the Department—

- 1 (I) support efforts to counter  
2 fentanyl trafficking; and
- 3 (II) build capacity to interdict  
4 fentanyl in foreign countries, includ-  
5 ing programs to train security forces  
6 in partner countries to counter  
7 fentanyl trafficking, including coun-  
8 tering illicit flows of fentanyl precur-  
9 sors, consistent with sections 284(c)  
10 and 333 of title 10, United States  
11 Code;
- 12 (viii) use the North American Defense  
13 Ministerial and the bilateral defense work-  
14 ing groups and bilateral military coopera-  
15 tion round tables with Canada and Mexico  
16 to increase domain awareness to detect and  
17 monitor fentanyl trafficking; and
- 18 (ix) evaluate existing policies, proce-  
19 dures, processes, and resources that affect  
20 the ability of the Department to counter  
21 fentanyl trafficking consistent with existing  
22 counterdrug and counter-transnational or-  
23 ganized crime authorities.

1 (C) FORM.—The strategy required by sub-  
2 paragraph (A) shall be submitted in unclassi-  
3 fied form, but may include a classified annex.

4 (D) BRIEFING.—Not later than 45 days  
5 after the submission of the strategy required by  
6 subparagraph (A), the Secretary shall provide  
7 to the appropriate congressional committees a  
8 briefing on the strategy and plans for its imple-  
9 mentation.

10 (2) REPORT ON LAW ENFORCEMENT REIM-  
11 BURSEMENT.—The Secretary of Defense shall sub-  
12 mit to the appropriate congressional committees a  
13 report on—

14 (A) any goods or services provided under  
15 section 1535 of title 31, United States Code  
16 (commonly known as the “Economy Act”), dur-  
17 ing the period beginning on January 1, 2010,  
18 and ending on the date on which the report is  
19 submitted, by the Department of Defense to  
20 Federal civilian law enforcement agencies for  
21 counterdrug and counter-transnational orga-  
22 nized crime operations on the southern border  
23 of the United States; and

24 (B) any payments made for such goods or  
25 services under such section during such period.

1 (c) COOPERATION WITH MEXICO.—

2 (1) IN GENERAL.—The Secretary of Defense  
3 shall seek to enhance cooperation with defense offi-  
4 cials of the Government of Mexico to target, disrupt,  
5 and degrade transnational criminal organizations  
6 within Mexico that traffic fentanyl.

7 (2) REPORT ON ENHANCED SECURITY CO-  
8 OPERATION.—

9 (A) IN GENERAL.—Not later than 180  
10 days after the date of the enactment of this  
11 Act, the Secretary of Defense shall submit to  
12 the appropriate congressional committees a re-  
13 port on efforts to enhance cooperation with de-  
14 fense officials of the Government of Mexico  
15 specified in paragraph (1).

16 (B) CONTENTS.—The report required by  
17 subparagraph (A) shall include—

18 (i) an assessment of the impact of the  
19 efforts to enhance cooperation described in  
20 paragraph (1) on targeting, disrupting,  
21 and degrading fentanyl trafficking;

22 (ii) a description of limitations on  
23 such efforts, including limitations imposed  
24 by the Government of Mexico;



1 (iii) recommendations by the Sec-  
2 retary on actions to further improve co-  
3 operation with defense officials of the Gov-  
4 ernment of Mexico;

5 (iv) recommendations by the Secretary  
6 on actions of the Department of Defense  
7 to further improve the capabilities of the  
8 Government of Mexico to target, disrupt,  
9 and degrade fentanyl trafficking; and

10 (v) any other matter the Secretary  
11 considers relevant.

12 (C) FORM.—The report required by sub-  
13 paragraph (A) may be submitted in unclassified  
14 form but shall include a classified annex.

15 (d) DEFINITIONS.—In this section:

16 (1) APPROPRIATE CONGRESSIONAL COMMIT-  
17 TEES.—The term “appropriate congressional com-  
18 mittees” means—

19 (A) the Committee on Armed Services of  
20 the Senate; and

21 (B) the Committee on Armed Services of  
22 the House of Representatives.

23 (2) FENTANYL.—The term “fentanyl” means  
24 fentanyl and any fentanyl-related substance.

1           (3) FENTANYL-RELATED SUBSTANCE.—The  
2 term “fentanyl-related substance”—

3           (A) means any substance that is struc-  
4 turally related to fentanyl by 1 or more modi-  
5 fications of—

6           (i) replacement of the phenyl portion  
7 of the phenethyl group by any monocycle,  
8 whether or not further substituted in or on  
9 the monocycle;

10          (ii) substitution in or on the phenethyl  
11 group with alkyl, alkenyl, alkoxy,  
12 hydroxyl, halo, haloalkyl, amino, or nitro  
13 groups;

14          (iii) substitution in or on the piper-  
15 idine ring with alkyl, alkenyl, alkoxy,  
16 ester, ether, hydroxyl, halo, haloalkyl,  
17 amino, or nitro groups;

18          (iv) replacement of the aniline ring  
19 with any aromatic monocycle whether or  
20 not further substituted in or on the aro-  
21 matic monocycle; and

22          (v) replacement of the N-propionyl  
23 group with another acyl group; and

24          (B) does not include a substance described  
25 in subparagraph (A) that is—

1 (i) controlled by action of the Attor-  
2 ney General pursuant to section 201 of the  
3 Controlled Substances Act (21 U.S.C.  
4 811);

5 (ii) expressly listed in Schedule I of  
6 section 202(c) of that Act (21 U.S.C. 812)  
7 or another schedule by a statutory provi-  
8 sion; or

9 (iii) removed from Schedule I, or re-  
10 scheduled to another schedule, pursuant to  
11 section 201(k) of that Act (21 U.S.C.  
12 811(k)).

13 (4) ILLEGAL MEANS.—The term “illegal  
14 means” includes the trafficking of money, human  
15 trafficking, illicit financial flows, illegal trade in nat-  
16 ural resources and wildlife, trade in illegal drugs and  
17 weapons, and other forms of illegal means deter-  
18 mined by the Secretary of Defense.

19 (5) SECURITY COOPERATION PROGRAM.—The  
20 term “security cooperation program” has the mean-  
21 ing given that term in section 301 of title 10, United  
22 States Code.

23 (6) TRANSNATIONAL CRIMINAL ORGANIZA-  
24 TION.—

1           (A)       IN       GENERAL.—The       term  
2           “transnational criminal organization” means a  
3           group, network, and associated individuals who  
4           operate transnationally for the purpose of ob-  
5           taining power, influence, or monetary or com-  
6           mercial gain, wholly or in part by illegal means,  
7           while advancing their activities through a pat-  
8           tern of crime, corruption, or violence and pro-  
9           tecting their illegal activities through a  
10          transnational organizational structure and the  
11          exploitation of public corruption or  
12          transnational logistics, financial, or communica-  
13          tion mechanisms.

14          (B)       ADDITIONAL ORGANIZATIONS.—The  
15          term “transnational criminal organization” in-  
16          cludes any transnational criminal organization  
17          identified in the most recent Drug Threat As-  
18          sessment of the Drug Enforcement Agency.

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