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2D SESSION

S. 4963

To require the Secretary of Homeland Security to implement a strategy to combat the efforts of transnational criminal organizations to recruit individuals in the United States via social media platforms and other online services and assess their use of such platforms and services for illicit activities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 27, 2022

Ms. SINEMA (for herself, Mr. LANKFORD, Mr. KELLY, and Mr. HAGERTY) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To require the Secretary of Homeland Security to implement a strategy to combat the efforts of transnational criminal organizations to recruit individuals in the United States via social media platforms and other online services and assess their use of such platforms and services for illicit activities, 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 “Combating Cartels on
5 Social Media Act of 2022”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
4 **TEES.**—The term “appropriate congressional com-
5 mittees” means—

6 (A) the Committee on Homeland Security
7 and Governmental Affairs of the Senate; and

8 (B) the Committee on Homeland Security
9 of the House of Representatives.

10 (2) **COVERED OPERATOR.**—The term “covered
11 operator” means the operator, developer, or pub-
12 lisher of a covered service.

13 (3) **COVERED SERVICE.**—The term “covered
14 service” means—

15 (A) a social media platform;

16 (B) a mobile or desktop service with direct
17 or group messaging capabilities, but not includ-
18 ing text messaging services without other sub-
19 stantial social functionalities or electronic mail
20 services, that the Secretary determines is, has
21 been, or will be used by transnational criminal
22 organizations in connection with matters de-
23 scribed in section 3; and

24 (C) a digital platform, or an electronic ap-
25 plication utilizing the digital platform, involving
26 real-time interactive communication between

1 multiple individuals, including multi-player
2 gaming services and immersive technology plat-
3 forms or applications, that the Secretary deter-
4 mines is, has been, or will be used by
5 transnational criminal organizations in connec-
6 tion with matters described in section 3.

7 (4) DEPARTMENT.—The term “Department”
8 means the Department of Homeland Security.

9 (5) SECRETARY.—The term “Secretary” means
10 the Secretary of Homeland Security.

11 **SEC. 3. ASSESSMENT OF ILLICIT USAGE.**

12 (a) IN GENERAL.—Not later than 180 days after the
13 date of enactment of this Act, the Secretary shall submit
14 to the appropriate congressional committees an assess-
15 ment describing—

16 (1) the use of covered services by transnational
17 criminal organizations or criminal enterprises acting
18 on their behalf to engage in recruitment efforts, in-
19 cluding—

20 (A) the recruitment of individuals, includ-
21 ing individuals under the age of 18, located in
22 the United States to engage in or provide sup-
23 port with respect to illicit activities occurring in
24 the United States, Mexico, or otherwise in prox-

1 imity to an international boundary of the
2 United States;

3 (2) the use of covered services by transnational
4 criminal organizations to engage in other illicit ac-
5 tivities or other conduct in support of illicit activi-
6 ties, including—

7 (A) smuggling or trafficking involving nar-
8 cotics, other controlled substances, precursors
9 thereof, or other items prohibited under the
10 laws of the United States, Mexico, or another
11 relevant jurisdiction, including firearms; and

12 (B) human smuggling or trafficking;

13 (3) the existing efforts of the Secretary and rel-
14 evant government and law enforcement entities to
15 counter, monitor, or otherwise respond to the usage
16 of covered services described in paragraphs (1) and
17 (2);

18 (4) the existing efforts of covered operators to
19 counter, monitor, or otherwise respond to the usage
20 of covered services described in paragraphs (1) and
21 (2); and

22 (5) the existing cooperative efforts between the
23 Secretary, other relevant government entities, and
24 covered operators with respect to the matters de-
25 scribed in paragraphs (1) and (2).

1 **SEC. 4. STRATEGY TO COMBAT CARTEL RECRUITMENT ON**
2 **SOCIAL MEDIA AND ONLINE PLATFORMS.**

3 (a) IN GENERAL.—Not later than 1 year after the
4 date of enactment of this Act, the Secretary shall submit
5 to the appropriate congressional committees a strategy, to
6 be known as the National Strategy to Combat Illicit Re-
7 cruitment Activity by Transnational Criminal Organiza-
8 tions on Social Media and Online Platforms, to combat
9 the use of covered services by transnational criminal orga-
10 nizations or criminal enterprises acting on their behalf to
11 recruit individuals located in the United States to engage
12 in or provide support with respect to illicit activities occur-
13 ring in the United States, Mexico, or otherwise in prox-
14 imity to an international boundary of the United States.

15 (b) ELEMENTS.—

16 (1) IN GENERAL.—The strategy required under
17 subsection (a) shall, at a minimum, include the fol-
18 lowing:

19 (A) A proposal to improve cooperation and
20 thereafter maintain cooperation between the
21 Secretary, relevant law enforcement entities,
22 and appropriate covered operators with respect
23 to the matters described in subsection (a).

24 (B) Recommendations to implement the re-
25 quirement under section 5(a)(2) to establish a
26 centralized mechanism for reporting informa-

1 tion regarding the United States recruitment
2 efforts of transnational criminal organizations
3 involving covered services.

4 (C) A proposal to improve
5 intragovernmental coordination with respect to
6 the matters described in subsection (a), includ-
7 ing between the Department and State, Tribal,
8 and local governments.

9 (D) A proposal to improve coordination
10 within the Department and between the compo-
11 nents of the Department with respect to the
12 matters described in subsection (a).

13 (E) Activities to facilitate increased intel-
14 ligence analysis for law enforcement purposes of
15 efforts of transnational criminal organizations
16 to utilize covered services for recruitment pur-
17 poses.

18 (F) Activities to foster international part-
19 nerships and enhance collaboration with foreign
20 governments and, as applicable, multilateral in-
21 stitutions with respect to the matters described
22 in subsection (a).

23 (G) Activities to facilitate proactive law en-
24 forcement and other governmental efforts relat-
25 ing to the efforts of transnational criminal or-

1 organizations to utilize covered services for re-
2 cruitment purposes, including activities in-
3 tended to preempt through outreach and en-
4 gagement the commission of criminal offenses
5 by individuals located in the United States who
6 are targeted for recruitment by those
7 transnational criminal organizations.

8 (H) Activities to specifically increase en-
9 gagement and outreach with youth in border
10 communities, including regarding the recruit-
11 ment tactics of transnational criminal organiza-
12 tions and the consequences of participation in
13 illicit activities.

14 (2) LIMITATION.—The strategy required under
15 subsection (a) shall not include legislative rec-
16 ommendations or elements predicated on the passage
17 of legislation that is not enacted as of the date on
18 which the strategy is submitted under subsection
19 (a), including with respect to encryption policies or
20 reforms to section 230 of the Communications Act
21 of 1934 (47 U.S.C. 230).

22 (c) CONSULTATION.—In drafting and implementing
23 the strategy required under subsection (a), the Secretary
24 shall, at a minimum, consult and engage with—

1 (1) the heads of relevant components of the De-
2 partment, including—

3 (A) the Commissioner of U.S. Customs
4 and Border Protection;

5 (B) the Under Secretary for Intelligence
6 and Analysis;

7 (C) the Under Secretary for Science and
8 Technology;

9 (D) the Director of U.S. Immigration and
10 Customs Enforcement;

11 (E) the Officer for Civil Rights and Civil
12 Liberties; and

13 (F) the Privacy Officer;

14 (2) the Secretary of State;

15 (3) the Director of the Federal Bureau of In-
16 vestigation;

17 (4) the Administrator of the Drug Enforcement
18 Agency;

19 (5) representatives of border communities, in-
20 cluding representatives of—

21 (A) State, Tribal, and local governments,
22 including school districts and local law enforce-
23 ment; and

24 (B) nongovernmental organizations;

1 (6) covered operators, including representatives
2 of—

3 (A) social media platforms, including oper-
4 ators of platforms or applications—

5 (i) displaying short-form videos cre-
6 ated by users or third parties;

7 (ii) providing ephemeral content
8 transmission services; or

9 (iii) using algorithms or other means
10 of content prioritization to display a feed
11 of content or advertisements created by
12 users or third parties to other users;

13 (B) interactive entertainment platforms
14 and publishers; and

15 (C) companies developing immersive tech-
16 nology platforms and applications on those plat-
17 forms; and

18 (7) nongovernmental experts in the fields of—

19 (A) civil rights and civil liberties;

20 (B) online privacy;

21 (C) humanitarian assistance for migrants;

22 and

23 (D) youth outreach and rehabilitation.

24 (d) IMPLEMENTATION.—

1 (1) IN GENERAL.—Not later than 90 days after
2 the date on which the strategy required under sub-
3 section (a) is submitted to the appropriate congress-
4 sional committees, the Secretary shall commence im-
5 plementation of the strategy.

6 (2) REPORT.—

7 (A) IN GENERAL.—Not later than 180
8 days after the date on which the strategy re-
9 quired under subsection (a) is implemented
10 under paragraph (1), and semiannually there-
11 after for 5 years, the Secretary shall submit to
12 the appropriate congressional committees a re-
13 port describing the efforts of the Secretary to
14 implement the strategy required under sub-
15 section (a) and the progress of those efforts,
16 which shall include a description of—

17 (i) the recommendations, and cor-
18 responding implementation of those rec-
19 ommendations, with respect to the matters
20 described in subsection (b)(1)(B) relating
21 to the mechanism required under section
22 5(a)(2);

23 (ii) the interagency posture with re-
24 spect to the matters covered by the strat-
25 egy required under subsection (a), which

1 shall include a description of collaboration
2 between the Secretary, other Federal enti-
3 ties, State, local, and Tribal entities, and
4 foreign governments;

5 (iii) actions taken pursuant to sub-
6 section (c) that occurred between the Sec-
7 retary and the entities described in para-
8 graphs (5) through (7) of that subsection,
9 provided that such summaries are provided
10 only in a classified or other non-public
11 manner; and

12 (iv) the threat landscape, including
13 new developments related to the United
14 States recruitment efforts of transnational
15 criminal organizations and the use by
16 those organizations of new or emergent
17 covered services and recruitment methods.

18 (B) FORM.—Each report required under
19 subparagraph (A) shall be submitted in unclas-
20 sified form, but may contain a classified annex.

21 **SEC. 5. INTELLIGENCE COLLECTION AND DISSEMINATION.**

22 (a) IN GENERAL.—Not later than 90 days after the
23 date on which the strategy required under section 4(a) is
24 required to be submitted to the appropriate congressional
25 committees, the Secretary shall identify a designee—

1 (1) to receive, process, and disseminate infor-
2 mation and communications involving the use of cov-
3 ered services by transnational criminal organizations
4 or criminal enterprises acting on their behalf to re-
5 cruit individuals located in the United States to en-
6 gage in or provide support with respect to illicit ac-
7 tivities occurring in the United States, Mexico, or
8 otherwise in proximity to an international boundary
9 of the United States; and

10 (2) to establish a mechanism, or if the designee
11 determines appropriate, multiple mechanisms, for
12 covered operators to voluntarily report relevant in-
13 formation or communications described in paragraph
14 (1).

15 (b) PROCEDURE.—Upon the identification of the des-
16 ignee and the establishment of the voluntary reporting
17 mechanism required under subsection (a)(2), the Sec-
18 retary shall notify appropriate covered operators in writing
19 regarding the voluntary reporting mechanism, including
20 information regarding how to contact the designee and uti-
21 lize the voluntary reporting mechanism.

22 (c) PLACEMENT.—The designee identified under sub-
23 section (a) shall be located in U.S. Customs and Border
24 Protection.

1 (d) DISSEMINATION.—The designee identified under
2 subsection (a) shall utilize the information and commu-
3 nications received pursuant to this section to—

4 (1) provide Federal, Tribal, State, and local en-
5 tities with intelligence to assist with outreach and
6 engagement efforts intended to preempt the commis-
7 sion of criminal offenses by individuals located in the
8 United States who are targeted by transnational
9 criminal organizations for recruitment;

10 (2) provide Federal, Tribal, State, and local law
11 enforcement with actionable intelligence for law en-
12 forcement relating to the United States recruitment
13 efforts of transnational criminal organizations; and

14 (3) further other appropriate government func-
15 tions involving efforts to prevent the recruitment of
16 individuals located in the United States by
17 transnational criminal organizations.

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