

118TH CONGRESS
1ST SESSION

S. 1619

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

IN THE SENATE OF THE UNITED STATES

MAY 16, 2023

Ms. ERNST (for herself and Mr. KAINE) introduced the following bill; which was read twice and referred to the Committee on Armed Services

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 Act may be cited as the “Disrupt Fentanyl Traf-
5 ficking Act of 2023”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

8 (a) fentanyl trafficking across the borders of the
9 United States, and the consequences of that trafficking,

1 constitute an unprecedented, nontraditional, and long-
2 term threat to the national security of the United States;

3 (b) transnational criminal organizations have estab-
4 lished effective control over significant areas within Mex-
5 ico, which has enabled the development of fentanyl produc-
6 tion and trafficking infrastructure;

7 (c) combating fentanyl trafficking demands—

8 (1) improved interagency command, control,
9 communications, and intelligence sharing to enhance
10 the effectiveness of the interdiction of fentanyl at
11 the borders of the United States; and

12 (2) whole-of-government solutions comprised of
13 an integrated and synchronized interagency organi-
14 zational construct committed to dismantling the
15 process of trafficking fentanyl from chemical pre-
16 cursor to production to delivery in the United States
17 and enabling partner nations to do the same;

18 (d) it is within the national security interest of the
19 United States for Federal, State, and local law enforce-
20 ment agencies, the Department of Defense, the Depart-
21 ment of State, other counter-drug agencies, and stake-
22 holders to effectively communicate and that the failure of
23 effective communication affects the prevention, interdic-
24 tion, and prosecution of fentanyl trafficking and distribu-
25 tion into and within the United States; and

1 (e) the United States must partner with Mexico and
2 Canada to combat fentanyl trafficking through institution
3 building, the dismantling of cartels, and seizures of
4 fentanyl in Mexico, Canada, and intrastate transit zones.

5 **SEC. 3. DEVELOPMENT OF STRATEGY TO COUNTER**
6 **FENTANYL TRAFFICKING AND REPORT.**

7 (a) STRATEGY.—

8 (1) IN GENERAL.—Not later than 120 days
9 after the date of the enactment of this Act, the Sec-
10 retary of Defense, in coordination with other Federal
11 agencies as the Secretary considers appropriate,
12 shall develop and submit to the appropriate congres-
13 sional committees a strategy to use existing authori-
14 ties, including the authorities under section 124 of
15 title 10, United States Code, as appropriate, to tar-
16 get, disrupt, or degrade threats to the national secu-
17 rity of the United States caused or exacerbated by
18 fentanyl trafficking.

19 (2) CONTENTS.—The strategy required by
20 paragraph (1) shall outline how the Secretary of De-
21 fense will—

22 (A) leverage existing authorities regarding
23 counterdrug and counter-transnational orga-
24 nized crime activities with a counter-fentanyl

1 nexus to detect and monitor activities related to
2 fentanyl trafficking;

3 (B) support operations to counter fentanyl
4 trafficking carried out by other Federal agen-
5 cies, State, Tribal, and local law enforcement
6 agencies, or foreign security forces;

7 (C) coordinate efforts of the Department
8 of Defense for the detection and monitoring of
9 aerial, maritime, and surface traffic suspected
10 of carrying fentanyl bound for the United
11 States, including efforts to unify the use of
12 technology, surveillance, and related resources
13 across air, land, and maritime domains to
14 counter fentanyl trafficking, including with re-
15 spect to data collection, data processing, and in-
16 tegrating sensors across such domains;

17 (D) provide military-unique capabilities to
18 support activities by the United States Govern-
19 ment and foreign security forces to detect and
20 monitor the trafficking of fentanyl and pre-
21 cursor chemicals used in fentanyl production,
22 consistent with section 284(b)(10) of title 10,
23 United States Code;

24 (E) leverage existing counterdrug and
25 counter-transnational organized crime programs

1 of the Department to counter fentanyl traf-
2 ficking;

3 (F) assess existing training programs of
4 the Department and provide training for Fed-
5 eral, State, Tribal, and local law enforcement
6 agencies conducted by special operations forces
7 to counter fentanyl trafficking, consistent with
8 section 284(b) of title 10, United States Code;

9 (G) engage with foreign security forces to
10 ensure the counterdrug and counter-
11 transnational organized crime programs of the
12 Department—

13 (i) support efforts to counter fentanyl
14 trafficking; and

15 (ii) build capacity to interdict fentanyl
16 in foreign countries, including programs to
17 train security forces in partner countries to
18 counter fentanyl trafficking, including
19 countering illicit flows of fentanyl precur-
20 sors, consistent with sections 284(e) and
21 333 of title 10, United States Code;

22 (H) use the North American Defense Min-
23 isterial and the bilateral defense working groups
24 and bilateral military cooperation round tables
25 with Canada and Mexico to increase domain

1 awareness to detect and monitor fentanyl traf-
2 ficking; and

3 (I) evaluate existing policies, procedures,
4 processes, and resources that affect the ability
5 of the Department to counter fentanyl traf-
6 ficking consistent with existing counterdrug and
7 counter-transnational organized crime authori-
8 ties.

9 (3) FORM.—The strategy required by para-
10 graph (1) shall be submitted in unclassified form,
11 but may include a classified annex.

12 (4) BRIEFING.—Not later than 45 days after
13 the submission of the strategy required by para-
14 graph (1), the Secretary shall provide to the appro-
15 priate congressional committees a briefing on the
16 strategy and plans for its implementation.

17 (b) REPORT ON LAW ENFORCEMENT REIMBURSE-
18 MENT.—The Secretary of Defense shall submit to the ap-
19 propriate congressional committees a report on—

20 (1) any goods or services provided under section
21 1535 of title 31, United States Code (commonly
22 known as the “Economy Act”), during the period
23 beginning on January 1, 2010, and ending on the
24 date on which the report is submitted, by the De-
25 partment of Defense to Federal civilian law enforce-

1 ment agencies for counterdrug and counter-
2 transnational organized crime operations on the
3 southern border of the United States; and

4 (2) any payments made for such goods or serv-
5 ices under such section during such period.

6 **SEC. 4. COOPERATION WITH MEXICO.**

7 (a) IN GENERAL.—The Secretary of Defense shall
8 seek to enhance cooperation with defense officials of the
9 Government of Mexico to target, disrupt, and degrade
10 transnational criminal organizations within Mexico that
11 traffic fentanyl.

12 (b) REPORT ON ENHANCED SECURITY COOPERA-
13 TION.—

14 (1) IN GENERAL.—Not later than 180 days
15 after the date of the enactment of this Act, the Sec-
16 retary of Defense shall submit to the appropriate
17 congressional committees a report on efforts to en-
18 hance cooperation with defense officials of the Gov-
19 ernment of Mexico specified in subsection (a).

20 (2) CONTENTS.—The report required by para-
21 graph (1) shall include—

22 (A) an assessment of the impact of the ef-
23 forts to enhance cooperation described in para-
24 graph (1) on targeting, disrupting, and degrad-
25 ing fentanyl trafficking;

1 (B) a description of limitations on such ef-
2 forts, including limitations imposed by the Gov-
3 ernment of Mexico;

4 (C) recommendations by the Secretary on
5 actions to further improve cooperation with de-
6 fense officials of the Government of Mexico;

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

12 (E) any other matter the Secretary con-
13 siders relevant.

14 (3) FORM.—The report required by paragraph
15 (1) may be submitted in unclassified form but shall
16 include a classified annex.

17 **SEC. 5. DEFINITIONS.**

18 In this Act:

19 (1) APPROPRIATE CONGRESSIONAL COMMIT-
20 TEES.—The term “appropriate congressional com-
21 mittees” means—

22 (A) the Committee on Armed Services of
23 the Senate; and

24 (B) the Committee on Armed Services of
25 the House of Representatives.

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

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

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

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

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

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

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

24 (v) replacement of the N-propionyl
25 group with another acyl group; and

1 (B) does not include a substance described
2 in subparagraph (A) that is—

3 (i) controlled by action of the Attor-
4 ney General pursuant to section 201 of the
5 Controlled Substances Act (21 U.S.C.
6 811);

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

11 (iii) removed from Schedule I, or re-
12 scheduled to another schedule, pursuant to
13 section 201(k) of that Act (21 U.S.C.
14 811(k)).

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

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

1 (6) TRANSNATIONAL CRIMINAL ORGANIZA-
2 TION.—

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

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

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