

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—118th Cong., 1st Sess.

S. 61

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.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Ms. SINEMA (for herself and Mr.
LANKFORD)

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Combating Cartels on
5 Social Media Act of 2023”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

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

4 (A) the Committee on Homeland Security
5 and Governmental Affairs of the Senate; and

6 (B) the Committee on Homeland Security
7 of the House of Representatives.

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

11 (3) COVERED SERVICE.—The term “covered
12 service” means—

13 (A) a social media platform;

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

22 (C) a digital platform, or an electronic ap-
23 plication utilizing the digital platform, involving
24 real-time interactive communication between
25 multiple individuals, including multi-player

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

6 (4) CRIMINAL ENTERPRISE.—The term “crimi-
7 nal enterprise” has the meaning given the term
8 “continuing criminal enterprise” in section 408 of
9 the Controlled Substances Act (21 U.S.C. 848).

10 (5) DEPARTMENT.—The term “Department”
11 means the Department of Homeland Security.

12 (6) ILLICIT ACTIVITIES.—The term “illicit ac-
13 tivities” means the following criminal activities that
14 transcend national borders:

15 (A) A violation of section 401 of the Con-
16 trolled Substances Act (21 U.S.C. 841).

17 (B) Narcotics trafficking, as defined in
18 section 808 of the Foreign Narcotics Kingpin
19 Designation Act (21 U.S.C. 1907).

20 (C) Trafficking of weapons, as defined in
21 section 922 of title 18, United States Code.

22 (D) Migrant smuggling, defined as a viola-
23 tion of section 274(a)(1)(A)(ii) of the Immigra-
24 tion and Nationality Act (8 U.S.C.
25 1324(a)(1)(A)(ii)).

1 (E) Human trafficking, defined as—

2 (i) a violation of section 1590, 1591,
3 or 1592 of title 18, United States Code; or

4 (ii) engaging in severe forms of traf-
5 ficking in persons, as defined in section
6 103 of the Victims of Trafficking and Vio-
7 lence Protection Act of 2000 (22 U.S.C.
8 7102).

9 (F) Cyber crime, defined as a violation of
10 section 1030 of title 18, United States Code.

11 (G) A violation of any provision that is
12 subject to intellectual property enforcement, as
13 defined in section 302 of the Prioritizing Re-
14 sources and Organization for Intellectual Prop-
15 erty Act of 2008 (15 U.S.C. 8112).

16 (H) Bulk cash smuggling of currency, de-
17 fined as a violation of section 5332 of title 31,
18 United States Code.

19 (I) Laundering the proceeds of the crimi-
20 nal activities described in subparagraphs (A)
21 through (H).

22 (7) SECRETARY.—The term “Secretary” means
23 the Secretary of Homeland Security.

24 (8) TRANSNATIONAL CRIMINAL ORGANIZA-
25 TION.—The term “transnational criminal organiza-

1 tion” means groups, networks, and associated indi-
2 viduals who operate transnationally for the purposes
3 of obtaining power, influence, or monetary or com-
4 mercial gain, wholly or in part by certain illegal
5 means, while advancing their activities through a
6 pattern of crime, corruption, or violence, and while
7 protecting their illegal activities through a
8 transnational organizational structure and the ex-
9 ploitation of public corruption or transnational logis-
10 tics, financial, or communication mechanisms.

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 behalf of transnational criminal organizations, to
19 engage in recruitment efforts, including the recruit-
20 ment of individuals, including individuals under the
21 age of 18, located in the United States to engage in
22 or provide support with respect to illicit activities oc-
23 curring in the United States, Mexico, or otherwise in
24 proximity to an international boundary of the United
25 States;

1 (2) the use of covered services by transnational
2 criminal organizations to engage in illicit activities
3 or conduct in support of illicit activities, including—

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

9 (B) human smuggling or trafficking, in-
10 cluding the exploitation of children; and

11 (C) transportation of bulk currency or
12 monetary instruments in furtherance of smug-
13 gling activity; and

14 (3) the existing efforts of the Secretary and rel-
15 evant government and law enforcement entities to
16 counter, monitor, or otherwise respond to the usage
17 of covered services described in paragraphs (1) and
18 (2).

19 **SEC. 4. STRATEGY TO COMBAT CARTEL RECRUITMENT ON**
20 **SOCIAL MEDIA AND ONLINE PLATFORMS.**

21 (a) IN GENERAL.—Not later than 1 year after the
22 date of enactment of this Act, the Secretary shall submit
23 to the appropriate congressional committees a strategy, to
24 be known as the National Strategy to Combat Illicit Re-
25 cruitment Activity by Transnational Criminal Organiza-

1 tions on Social Media and Online Platforms, to combat
2 the use of covered services by transnational criminal orga-
3 nizations, or criminal enterprises acting on behalf of
4 transnational criminal organizations, to recruit individuals
5 located in the United States to engage in or provide sup-
6 port with respect to illicit activities occurring in the
7 United States, Mexico, or otherwise in proximity to an
8 international boundary of the United States.

9 (b) ELEMENTS.—

10 (1) IN GENERAL.—The strategy required under
11 subsection (a) shall, at a minimum, include the fol-
12 lowing:

13 (A) A proposal to improve cooperation and
14 thereafter maintain cooperation between the
15 Secretary and relevant law enforcement entities
16 with respect to the matters described in sub-
17 section (a).

18 (B) Recommendations to implement a
19 process for the voluntary reporting of informa-
20 tion regarding the recruitment efforts of
21 transnational criminal organizations in the
22 United States involving covered services.

23 (C) A proposal to improve
24 intragovernmental coordination with respect to
25 the matters described in subsection (a), includ-

1 ing between the Department and State, Tribal,
2 and local governments.

3 (D) A proposal to improve coordination
4 within the Department and between the compo-
5 nents of the Department with respect to the
6 matters described in subsection (a).

7 (E) Activities to facilitate increased intel-
8 ligence analysis for law enforcement purposes of
9 efforts of transnational criminal organizations
10 to utilize covered services for recruitment to en-
11 gage in or provide support with respect to illicit
12 activities.

13 (F) Activities to foster international part-
14 nerships and enhance collaboration with foreign
15 governments and, as applicable, multilateral in-
16 stitutions with respect to the matters described
17 in subsection (a).

18 (G) Activities to specifically increase en-
19 gagement and outreach with youth in border
20 communities, including regarding the recruit-
21 ment tactics of transnational criminal organiza-
22 tions and the consequences of participation in
23 illicit activities.

24 (H) A detailed description of the measures
25 used to ensure—

1 (i) law enforcement and intelligence
2 activities focus on the recruitment activi-
3 ties of transitional criminal organizations
4 not individuals the transnational criminal
5 organizations attempt to or successfully re-
6 cruit; and

7 (ii) the privacy rights, civil rights, and
8 civil liberties protections in carrying out
9 the activities described in clause (i), with a
10 particular focus on the protections in place
11 to protect minors and constitutionally pro-
12 tected activities.

13 (2) LIMITATION.—The strategy required under
14 subsection (a) shall not include legislative rec-
15 ommendations or elements predicated on the passage
16 of legislation that is not enacted as of the date on
17 which the strategy is submitted under subsection
18 (a).

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

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

24 (A) the Under Secretary for Intelligence
25 and Analysis;

1 (B) the Under Secretary for Strategy, Pol-
2 icy, and Plans;

3 (C) the Under Secretary for Science and
4 Technology;

5 (D) the Commissioner of U.S. Customs
6 and Border Protection;

7 (E) the Director of U.S. Immigration and
8 Customs Enforcement;

9 (F) the Officer for Civil Rights and Civil
10 Liberties;

11 (G) the Privacy Officer; and

12 (H) the Assistant Secretary of the Office
13 for State and Local Law Enforcement;

14 (2) the Secretary of State;

15 (3) the Attorney General;

16 (4) the Secretary of Health and Human Serv-
17 ices; and

18 (5) the Secretary of Education; and

19 (6) as selected by the Secretary or his or her
20 designee in the Office of Public Engagement, rep-
21 resentatives of border communities, including rep-
22 resentatives of—

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

1 (B) nongovernmental experts in the fields
2 of—

3 (i) civil rights and civil liberties;

4 (ii) online privacy;

5 (iii) humanitarian assistance for mi-
6 grants; and

7 (iv) youth outreach and rehabilitation.

8 (d) IMPLEMENTATION.—

9 (1) IN GENERAL.—Not later than 90 days after
10 the date on which the strategy required under sub-
11 section (a) is submitted to the appropriate congres-
12 sional committees, the Secretary shall commence im-
13 plementation of the strategy.

14 (2) REPORT.—

15 (A) IN GENERAL.—Not later than 180
16 days after the date on which the strategy re-
17 quired under subsection (a) is implemented
18 under paragraph (1), and semiannually there-
19 after for 5 years, the Secretary shall submit to
20 the appropriate congressional committees a re-
21 port describing the efforts of the Secretary to
22 implement the strategy required under sub-
23 section (a) and the progress of those efforts,
24 which shall include a description of—

1 (i) the recommendations, and cor-
2 responding implementation of those rec-
3 ommendations, with respect to the matters
4 described in subsection (b)(1)(B);

5 (ii) the interagency posture with re-
6 spect to the matters covered by the strat-
7 egy required under subsection (a), which
8 shall include a description of collaboration
9 between the Secretary, other Federal enti-
10 ties, State, local, and Tribal entities, and
11 foreign governments; and

12 (iii) 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 (3) CIVIL RIGHTS, CIVIL LIBERTIES, AND PRI-
22 VACY ASSESSMENT.—Not later than 2 years after
23 the date on which the strategy required under sub-
24 section (a) is implemented under paragraph (1), the
25 Office for Civil Rights and Civil Liberties and the

1 Privacy Office of the Department shall submit to the
2 appropriate congressional committees a joint report
3 that includes—

4 (A) a detailed assessment of the measures
5 used to ensure the protection of civil rights,
6 civil liberties, and privacy rights in carrying out
7 this section; and

8 (B) recommendations to improve the im-
9 plementation of the strategy required under
10 subsection (a).

11 **SEC. 5. RULE OF CONSTRUCTION.**

12 Nothing in this Act shall be construed to expand the
13 statutory law enforcement or regulatory authority of the
14 Department.