

117TH CONGRESS
2D SESSION

H. R. 9398

To amend the Homeland Security Act of 2002 to provide for behavioral health of U.S. Customs and Border Protection, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 1, 2022

Ms. STEFANIK (for herself, Mr. CRENSHAW, Ms. SALAZAR, Mrs. MILLER-MEEKS, Mr. VAN DREW, Mrs. KIM of California, Mr. GARBARINO, Mr. LATURNER, and Mr. GUEST) introduced the following bill; which was referred to the Committee on Homeland Security

A BILL

To amend the Homeland Security Act of 2002 to provide for behavioral health of U.S. Customs and Border Protection, 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 “U.S. Customs and Bor-
5 der Protection Behavioral Health Act”.

6 **SEC. 2. CBP BEHAVIORAL HEALTH.**

7 (a) SENSE OF CONGRESS.—It is the sense of Con-
8 gress that the Commissioner of U.S. Customs and Border
9 Protection (CBP) should foster a culture of support in the

1 provision of behavioral health care to CBP personnel in
2 order to dispel the stigma of seeking behavioral health
3 care.

4 (b) BEHAVIORAL HEALTH.—Section 411 of the
5 Homeland Security Act of 2002 (6 U.S.C. 211) is amend-
6 ed—

7 (1) by redesignating subsections (o) through (r)
8 as subsections (p) through (s), respectively; and

9 (2) by inserting after subsection (n) the fol-
10 lowing new subsection:

11 “(o) BEHAVIORAL HEALTH.—

12 “(1) ESTABLISHMENT OF OFFICE.—There is
13 established in U.S. Customs and Border Protection
14 a behavioral health readiness office to carry out this
15 subsection.

16 “(2) BEHAVIORAL HEALTH TRAINING.—All ini-
17 tial entry training sites of U.S. Customs and Border
18 Protection shall include basic behavioral health
19 awareness training to enhance awareness and de-
20 crease stigma. Such training shall include at a min-
21 imum the following:

22 “(A) Behavioral health’s impact on organi-
23 zations and mission readiness.

1 “(B) Resources available to U.S. Customs
2 and Border Protection personnel regarding be-
3 havioral health.

4 “(C) Information relating to how to recog-
5 nize common signs of behavioral health
6 stressors in oneself and colleagues.

7 “(D) Steps to take if such signs are recog-
8 nized in oneself or colleagues.

9 “(3) FITNESS FOR DUTY PROCEDURES.—

10 “(A) IN GENERAL.—If a member of U.S.
11 Customs and Border Protection personnel is de-
12 termined by the Commissioner to be perma-
13 nently unable to fulfill the duties of such a per-
14 sonnel due to behavioral health concerns in ac-
15 cordance with U.S. Customs and Border Pro-
16 tection’s Office of Human Resources Manage-
17 ment Standard Operating Procedure, Fitness
18 for Duty Evaluation (dated March 1, 2022),
19 the Commissioner shall make every effort to
20 provide such a member with alternative employ-
21 ment opportunities within U.S. Customs and
22 Border Protection at similar locations and pay
23 ranges.

24 “(B) APPEALS PROCESS.—The Commis-
25 sioner, in consultation with labor organizations

1 (as such term is defined in section 2 of the Na-
2 tional Labor Relations Act (29 U.S.C. 152))
3 representing U.S. Customs and Border Protec-
4 tion personnel, shall establish an appeals proc-
5 ess for U.S. Customs and Border Protection
6 personnel to appeal a determination under this
7 paragraph.

8 “(4) BEHAVIORAL HEALTH PRIVACY POLICY.—

9 A health care provider furnishing behavioral health
10 care to an individual who is a member of U.S. Cus-
11 toms and Border Protection personnel may not no-
12 tify the Commissioner of such member obtaining
13 such behavioral health care, unless such provider as-
14 sesses—

15 “(A) such member poses a serious risk of
16 harm to—

17 “(i) self;

18 “(ii) others; or

19 “(iii) mission;

20 “(B) there are acute medical conditions
21 that impair the ability of such member to per-
22 form the duties of such a member; or

23 “(C) there is another special circumstance
24 at issue.

1 Nothing in the previous sentence shall affect the ap-
2 plication of any other Federal or State law relating
3 to the privacy or security of information to the ex-
4 tent that such other law is at least as restrictive
5 with respect to the permissible disclosure or use of
6 information described in the previous sentence.

7 “(5) REPORTS.—Not later than one year after
8 the date of the enactment of this subsection and bi-
9 ennially thereafter, the Comptroller General of the
10 United States, in consultation with labor organiza-
11 tions (as such term is defined in section 2 of the Na-
12 tional Labor Relations Act (29 U.S.C. 152)) rep-
13 resenting U.S. Customs and Border Protection per-
14 sonnel, shall submit to the Committee on Homeland
15 Security of the House of Representatives and the
16 Committee on Homeland Security and Governmental
17 Affairs of the Senate a report on the implementation
18 of this subsection. Each such report shall include
19 recommendations to U.S. Customs and Border Pro-
20 tection regarding agency actions and Congress re-
21 garding legislative actions on how to continue to im-
22 prove behavioral health readiness within U.S. Cus-
23 toms and Border Protection.

24 “(6) AUTHORIZATION OF APPROPRIATIONS.—

1 “(A) IN GENERAL.—There is authorized to
2 be appropriated to the Commissioner
3 \$23,100,000 for each of fiscal years 2023
4 through 2028 to carry out this subsection. Such
5 amounts shall also be used to hire behavioral
6 health providers, who shall be embedded within
7 the operational units of U.S. Customs and Bor-
8 der Protection.

9 “(B) INCENTIVES.—To provide for the hir-
10 ing of behavioral health providers pursuant to
11 subparagraph (A), the Commissioner may pro-
12 vide such behavioral health providers with re-
13 cruiting and retention incentives authorized
14 under subchapter IV of chapter 57 of title 5,
15 United States Code.”.

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