

117TH CONGRESS  
2D SESSION

# S. 3894

To amend the Homeland Security Act of 2002 to authorize the Secretary of Homeland Security to establish a continuous diagnostics and mitigation program in the Cybersecurity and Infrastructure Security Agency of the Department of Homeland Security, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 22, 2022

Mr. CORNYN (for himself and Ms. HASSAN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To amend the Homeland Security Act of 2002 to authorize the Secretary of Homeland Security to establish a continuous diagnostics and mitigation program in the Cybersecurity and Infrastructure Security Agency of the Department of Homeland Security, 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 “Advancing Cybersecu-  
5 rity Through Continuous Diagnostics and Mitigation  
6 Act”.

1 **SEC. 2. ESTABLISHMENT OF FEDERAL INTRUSION DETEC-**  
2 **TION AND PREVENTION SYSTEM AND CON-**  
3 **TINUOUS DIAGNOSTICS AND MITIGATION**  
4 **PROGRAM IN THE CYBERSECURITY AND IN-**  
5 **FRASTRUCTURE SECURITY AGENCY.**

6 (a) IN GENERAL.—Section 2213 of the Homeland  
7 Security Act of 2002 (6 U.S.C. 663) is amended by adding  
8 at the end the following:

9 “(g) CONTINUOUS DIAGNOSTICS AND MITIGATION.—

10 “(1) PROGRAM.—

11 “(A) IN GENERAL.—The Secretary, acting  
12 through the Director, shall, with or without re-  
13 imbursement, deploy, operate, and maintain a  
14 continuous diagnostics and mitigation program  
15 for agencies under which the Secretary shall—

16 “(i) assist agencies to continuously di-  
17 agnose and mitigate cyber threats and  
18 vulnerabilities;

19 “(ii) develop and provide the capa-  
20 bility to collect, analyze, and visualize in-  
21 formation relating to security data and cy-  
22 bersecurity risks at agencies;

23 “(iii) employ shared services, collective  
24 purchasing, blanket purchase agreements,  
25 and any other economic or procurement  
26 models the Secretary determines appro-

1           appropriate to maximize the costs savings asso-  
2           ciated with implementing the program;

3           “(iv) assist agencies in setting infor-  
4           mation security priorities and assessing  
5           and managing cybersecurity risks;

6           “(v) develop policies and procedures  
7           for reporting systemic cybersecurity risks  
8           and potential incidents based upon data  
9           collected under the program; and

10          “(vi) promote the adoption of a zero  
11          trust security model in improving agency  
12          cybersecurity readiness.

13          “(B) REGULAR IMPROVEMENT.—The Sec-  
14          retary shall regularly—

15          “(i) deploy new technologies and mod-  
16          ify existing technologies to the continuous  
17          diagnostics and mitigation program re-  
18          quired under subparagraph (A), as appro-  
19          priate, to improve the program; and

20          “(ii) update the technical require-  
21          ments documentation of the continuous  
22          diagnostics and mitigation program re-  
23          quired under subparagraph (A) to account  
24          for emerging technology capabilities such

1 as cloud computing and comprehensive  
2 cloud security controls.

3 “(2) AGENCY RESPONSIBILITIES.—Notwith-  
4 standing any other provision of law, each agency  
5 that uses the continuous diagnostics and mitigation  
6 program under paragraph (1) shall, continuously  
7 and in real time, provide to and allow access for the  
8 Secretary to collect all information, assessments,  
9 analyses, and raw data collected by the program, in  
10 a manner specified by the Secretary.

11 “(3) RESPONSIBILITIES OF THE SECRETARY.—  
12 In carrying out the continuous diagnostics and miti-  
13 gation program under paragraph (1), the Secretary,  
14 acting through the Director, shall—

15 “(A) share with agencies relevant analysis  
16 and products developed under the program;

17 “(B) provide regular reports on cybersecu-  
18 rity risks to agencies;

19 “(C) provide comparative assessments of  
20 cybersecurity risks for agencies;

21 “(D) oversee the integration of continuous  
22 diagnostics and mitigation products and serv-  
23 ices into agency systems;

24 “(E) establish performance requirements  
25 for product integrators;

1           “(F) at the request of an agency, provide  
2           technical assistance in selecting, procuring, and  
3           integrating continuous diagnostics and mitiga-  
4           tion products and services;

5           “(G) not less than once each fiscal year,  
6           submit to the appropriate committees of Con-  
7           gress a report that includes—

8                   “(i) the progress made by each agency  
9                   to meet continuous diagnostics and mitiga-  
10                  tion benchmarks from the beginning of the  
11                  implementation through the date of the re-  
12                  port; and

13                   “(ii) a summary of the efforts of each  
14                   agency to account for emerging technology  
15                   capabilities; and

16           “(H) take steps to ensure that the security  
17           data collected through the program is aggre-  
18           gated with other Government-wide cybersecurity  
19           programs to better automate defensive capabili-  
20           ties.”.

21           (b) CONTINUOUS DIAGNOSTICS AND MITIGATION  
22           STRATEGY.—

23                   (1) IN GENERAL.—Not later than 180 days  
24                   after the date of the enactment of this Act, the Sec-  
25                   retary of Homeland Security shall develop a com-

1       prehensive continuous diagnostics and mitigation  
2       strategy to carry out the continuous diagnostics and  
3       mitigation program required under subsection (g) of  
4       section 2213 of the Homeland Security Act of 2002  
5       (6 U.S.C. 663), as added by subsection (a).

6               (2) SCOPE.—The strategy required under para-  
7       graph (1) shall include the following:

8                       (A) A description of the coordination and  
9                       funding required to deploy, install, and main-  
10                      tain the tools, capabilities, and services that the  
11                      Secretary of Homeland Security determines to  
12                      be necessary to satisfy the requirements of such  
13                      program.

14                     (B) A description of any obstacles facing  
15                     the deployment, installation, and maintenance  
16                     of tools, capabilities, and services under such  
17                     program.

18                     (C) Guidelines to help maintain and con-  
19                     tinuously upgrade tools, capabilities, and serv-  
20                     ices provided under such program.

21                     (D) A plan for using the data collected by  
22                     such program for creating a common frame-  
23                     work for data analytics, visualization of enter-  
24                     prise-wide risks, and real-time reporting, and  
25                     comparative assessments for cybersecurity risks.

1 (E) Recommendations for using the data  
 2 to enable the Cybersecurity and Infrastructure  
 3 Security Agency to engage in cyber hunt and  
 4 detection and response activities.

5 (F) Recommendations for future efforts  
 6 and activities, including for the rollout of new  
 7 and emerging tools, capabilities and services,  
 8 proposed timelines for delivery, and whether to  
 9 continue the use of phased rollout plans, related  
 10 to securing networks, devices, data, and infor-  
 11 mation and operational technology assets  
 12 through the use of such program.

13 (G) Recommendations for improving the  
 14 integration process of continuous diagnostics  
 15 and mitigation products and capabilities within  
 16 agency systems.

17 (3) FORM.—The strategy required under para-  
 18 graph (1) shall be submitted in an unclassified form,  
 19 but may contain a classified annex.

20 **SEC. 3. FEDERAL INTRUSION DETECTION AND PREVEN-**  
 21 **TION SYSTEM AND CONTINUOUS**  
 22 **DIAGNOSTICS AND MITIGATION PILOT PRO-**  
 23 **GRAM FOR STATE, LOCAL, TRIBAL, AND TER-**  
 24 **RITORIAL GOVERNMENTS.**

25 (a) DEFINITIONS.—In this section—

1           (1) the terms “local government” and “State”  
2           have the meanings given those terms in section 3 of  
3           the Homeland Security Act of 2002 (6 U.S.C. 101);

4           (2) the term “Secretary” means the Secretary  
5           of Homeland Security; and

6           (3) the term “Tribal government” means the  
7           recognized governing body of any Indian or Alaska  
8           Native Tribe, band, nation, pueblo, village, commu-  
9           nity, component band, or component reservation,  
10          that is individually identified (including parentheti-  
11          cally) in the most recent list published pursuant to  
12          section 104 of the Federally Recognized Indian  
13          Tribe List Act of 1994 (25 U.S.C. 5131).

14          (b) ESTABLISHMENT.—The Secretary shall conduct  
15          a Continuous Diagnostics and Mitigation Pilot Program  
16          with not less than 5 State, local, Tribal, or territorial gov-  
17          ernments to—

18               (1) promote the use of technologies and services  
19               in the continuous diagnostics and mitigation pro-  
20               gram described in subsection (g) of section 2213 of  
21               the Homeland Security Act of 2002 (6 U.S.C. 663),  
22               as added by section 2 of this Act, at the State, local,  
23               Tribal, and territorial government level;

24               (2) with or without reimbursement, make ac-  
25               cessing the technologies and services described in



1 paragraph (1) by State, local, Tribal, and territorial  
2 governments as affordable and simple as possible;

3 (3) promote the adoption of a zero trust secu-  
4 rity model in improving cybersecurity readiness at  
5 the State, local, Tribal, and territorial government  
6 level; and

7 (4) provide technical assistance in integrating  
8 continuous diagnostics and mitigation technologies  
9 and products into State, local, Tribal, and territorial  
10 government systems.

11 (c) CONSIDERATIONS.—In selecting a State, local, or  
12 Tribal government for participation in the pilot program  
13 established under subsection (b), the Secretary shall con-  
14 sider—

15 (1) the extent to which the State, local, Tribal,  
16 or territorial government aligns its cybersecurity  
17 policies with the Center for Internet Security Crit-  
18 ical Security Controls, the National Institute of  
19 Standards and Technology Cybersecurity Frame-  
20 work, or other widely accepted cybersecurity frame-  
21 works; and

22 (2) the capability of the State, local, Tribal, or  
23 territorial government to deploy and maintain over  
24 time continuous diagnostics and mitigation products  
25 and services.

1 (d) PROGRAM REQUIREMENTS.—The pilot program  
2 established under this section—

3 (1) may not require participants to utilize cer-  
4 tain strategies or tools, and shall allow participants  
5 to select and integrate tools for meeting the objec-  
6 tives of the pilot program; and

7 (2) shall include comprehensive training cur-  
8 riculum and integration assistance to close the tech-  
9 nical expertise gap between employees of State,  
10 local, Tribal, and territorial governments and em-  
11 ployees of the Cybersecurity and Infrastructure Se-  
12 curity Agency.

13 (e) REPORT.—Not later than 180 days after the date  
14 on which the pilot program terminates under this section,  
15 the Secretary shall submit to Congress a report that in-  
16 cludes—

17 (1) an assessment of the replicability and the  
18 costs and benefits of conducting a permanent State,  
19 local, Tribal, and territorial government continuous  
20 diagnostics and mitigation program as described in  
21 subsection (g) of section 2213 of the Homeland Se-  
22 curity Act of 2002 (6 U.S.C. 663), as added by sec-  
23 tion 2 of this Act;

24 (2) the extent to which State, local, Tribal, and  
25 territorial governments in the pilot program adhere

1 to widely accepted cybersecurity standards and  
2 frameworks and the impact that those policies have  
3 on potential widespread sub-Federal continuous  
4 diagnostics and mitigation integration; and

5 (3) an assessment of the cybersecurity readi-  
6 ness of participants in the pilot program established  
7 under this section prior to participation in the pilot  
8 program as compared to after completion of the pilot  
9 program.

10 (f) TERMINATION.—The authority to conduct the  
11 pilot program under subsections (a) through (d) shall ter-  
12minate on the date that is 3 years after the date of enact-  
13ment of this Act.

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