

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2658
OFFERED BY MS. CLARKE OF NEW YORK

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Protective
3 Service Reform and Enhancement Act”.

4 **SEC. 2. AUTHORIZATION OF FEDERAL PROTECTIVE SERV-**
5 **ICE.**

6 (a) **AUTHORIZATION.**—Title II of the Homeland Se-
7 curity Act of 2002 (6 U.S.C. 121 et seq.) is amended by
8 adding at the end the following:

9 **“Subtitle E—Federal Protective**
10 **Service**

11 **“SEC. 241. AUTHORIZATION OF FEDERAL PROTECTIVE**
12 **SERVICE.**

13 “(a) **AUTHORIZATION.**—There shall be in the Depart-
14 ment the Federal Protective Service.

15 “(b) **DIRECTOR.**—There shall be a Director of the
16 Federal Protective Service, who shall report to the Under
17 Secretary responsible for critical infrastructure protection.

1 “(c) DUTIES AND AUTHORITIES OF THE DIREC-
2 TOR.—

3 “(1) IN GENERAL.—The Director shall be re-
4 sponsible for the management and administration of
5 the Federal Protective Service and the employees
6 and programs of the Federal Protective Service.

7 “(2) MISSION.—The Director shall endeavor to
8 secure all facilities and surrounding Federal prop-
9 erty under the protection of the Federal Protective
10 Service, and safeguard all occupants thereof, includ-
11 ing Federal employees, officers, and visitors.

12 “(3) ENFORCEMENT POLICY.—The Director
13 shall establish and direct the implementation of the
14 policies of the Federal Protective Service, and advise
15 the Under Secretary responsible for critical infra-
16 structure protection on policy matters relating to the
17 protection of facilities.

18 “(4) UNIFORM MINIMUM STANDARDS.—The Di-
19 rector shall establish uniform minimum training and
20 annual certification standards for security guard
21 services at facilities protected by the Federal Protec-
22 tive Service and, upon establishment of minimum
23 training and certification standards, the Federal
24 Protective Service shall require that all contracts for
25 security guard services comply with these standards.

1 “(5) INFORMATION SHARING.—The Director
2 shall ensure effective coordination and liaison with
3 Federal law enforcement agencies and State and
4 local law enforcement agencies regarding threats to
5 facilities protected by the Federal Protective Service
6 and shall share information and intelligence regard-
7 ing such threats in a timely manner through the Re-
8 gional Information Sharing Plan and the Homeland
9 Secure Data Network.

10 “(6) SECURITY ASSESSMENTS.—The Director
11 shall—

12 “(A) conduct a security risk assessment
13 for each Federal facility protected by the Fed-
14 eral Protective Service; and

15 “(B) inspect and patrol such facilities on a
16 recurring basis for the purpose of detecting and
17 determining terrorist or criminal activity and
18 determining compliance with Federal security
19 standards and making appropriate risk mitiga-
20 tion recommendations to devalue any such facil-
21 ity as a terrorist target.

22 “(7) INSPECTIONS AND CONTRACT GUARD
23 OVERSIGHT.—The Director shall perform the fol-
24 lowing functions:

1 “(A) INSPECTOR FORCE.—Establish posi-
2 tions in the inspector force in the following two
3 functional categories:

4 “(i) FACILITY SECURITY ASSESS-
5 MENT.—Federal Facility Security Officers,
6 who shall be responsible for—

7 “(I) performing facility security
8 assessments, including contract guard
9 post inspections;

10 “(II) making security counter-
11 measure recommendations for facili-
12 ties;

13 “(III) participating in security
14 training and disseminating homeland
15 security information, consistent with
16 applicable protocols and protections,
17 to building occupants and facility se-
18 curity guards, including contract
19 guards; and

20 “(IV) assessing, on an ongoing
21 basis, the security of each facility pro-
22 tected by the Federal Protective Serv-
23 ice and the extent to which security
24 countermeasure recommendations

1 have been implemented for each such
2 facility.

3 “(ii) SECURITY ENFORCEMENT AND
4 INVESTIGATIONS.—Law enforcement offi-
5 cers, who shall be responsible for—

6 “(I) patrolling and on-site moni-
7 toring of the physical security, includ-
8 ing perimeter security, of each facility;

9 “(II) investigations; and

10 “(III) physical law enforcement
11 in the event of a terrorist attack, se-
12 curity incident, or other incident.

13 “(B) CONTRACT OVERSIGHT FORCE.—Es-
14 tablish a contract oversight force, which shall
15 consist of full-time equivalent positions and who
16 shall be responsible for, in coordination with the
17 Federal Protective Service inspector force—

18 “(i) monitoring contracts, contractors,
19 and contract guards provided by contrac-
20 tors;

21 “(ii) performing annual evaluations of
22 the persons holding contracts for supplying
23 contract guards to the Federal Protective
24 Service; and

1 “(iii) verifying that contract guards
2 have necessary training and certification.

3 “(C) CONTRACT OVERSIGHT FUNCTIONS.—
4 Ensure that the contract oversight functions de-
5 scribed in subparagraph (B) shall not be per-
6 formed by law enforcement officers.

7 “(8) MAINTENANCE OF LAW ENFORCEMENT
8 PERSONNEL.—Notwithstanding any other provision
9 of this section, the Secretary shall maintain at each
10 highest-risk Federal facility protected by the Federal
11 Protective Service (level III and level IV facilities)
12 such number of Federal law enforcement officers as
13 is necessary to provide arrest authority and law en-
14 forcement support at that facility, including support
15 for the Federal facility security guards employed
16 under this section, in the event of a terrorist attack,
17 security incident, or other incident.

18 “(9) EMERGENCY PREPAREDNESS ASSIST-
19 ANCE.—The Director shall—

20 “(A) ensure that, for each facility pro-
21 tected by the Federal Protective Service, the
22 Federal Security Committee establish and
23 maintain adequate plans for emergency situa-
24 tions;

1 “(B) provide technical assistance to the
2 Federal Security Committee, if requested, in de-
3 veloping plans described in subparagraph (A);
4 and

5 “(C) ensure that any security exercises are
6 conducted in accordance with plans described in
7 subparagraph (A) and are carried out using
8 standards established by the Interagency Secu-
9 rity Committee.

10 “(10) SECURITY COUNTERMEASURES.—The Di-
11 rector shall ensure and supervise the maintenance
12 and operation of security countermeasures (including
13 electronic physical security systems and weapons and
14 explosives screening devices) for facilities protected
15 by the Federal Protective Service.

16 “(11) SUITABILITY OF CONTRACT GUARDS.—
17 The Director shall ensure that background investiga-
18 tions are conducted for each contract guard em-
19 ployed at facilities protected by the Federal Protec-
20 tive Service for the purpose of identifying individuals
21 who may pose a threat to Federal facility security,
22 to national security, or terrorism, that shall include,
23 at a minimum, a check against—

24 “(A) relevant Federal criminal history
25 databases;

1 “(B) the consolidated terrorist watchlist;
2 and

3 “(C) in the case of an alien (as defined in
4 section 101(a)(3) of the Immigration and Na-
5 tionality Act (8 U.S.C. 1101(a)(3))), the rel-
6 evant databases to determine the status of the
7 alien under the immigration laws of the United
8 States.

9 “(12) TERRORISM PREVENTION.—The Director
10 shall ensure that all contract guards employed at fa-
11 cilities protected by the Federal Protective Service
12 are provided training in terrorism prevention and,
13 where applicable, how canine bomb detection teams
14 can be utilized.

15 “(d) RISK MANAGEMENT.—The Under Secretary of
16 the Department who is responsible for critical infrastruc-
17 ture protection shall establish a system that includes a
18 risk assessment tool and a centralized database that com-
19 plies with Interagency Security Committee standards in
20 effect on the date of enactment of the Federal Protective
21 Service Reform and Enhancement Act in order to, at a
22 minimum—

23 “(1) assess and analyze risks posed to each
24 Federal facility protected by the Federal Protective

1 Service from terrorism, crime, natural hazards, and
2 other serious incidents;

3 “(2) centrally store, access, and report risk as-
4 sessment findings, including historical information
5 from previous assessments and other documentation;
6 and

7 “(3) manage security post inspections, con-
8 tracts, and individual guard certification compliance.

9 **“SEC. 242. CONTRACT GUARD TRAINING REQUIREMENTS.**

10 “(a) Requirements for the uniform minimum training
11 standards for all contract guards employed at facilities
12 protected by the Federal Protective Service, as required
13 under section 241(c)(4), shall include—

14 “(1) at least 16 hours of instruction dedicated
15 to x-ray and magnetometer training provided by the
16 Federal Protective Service before a contract guard
17 may stand post; and

18 “(2) uniform training in—

19 “(A) restrain and control procedures;

20 “(B) weapons training, as appropriate;

21 “(C) operation of emergency equipment;

22 “(D) prohibited item list, as required
23 under section 245;

24 “(E) uniform protocols, including collabo-
25 ration with Federal, State, and local law en-

1 forcement, in the event of a terrorist or other
2 security incident;

3 “(F) access control; and

4 “(G) cardiopulmonary resuscitation and
5 basic first aid.

6 “(b) TRAINING AND SECURITY ASSESSMENT PRO-
7 GRAM.—

8 “(1) ESTABLISHMENT.—Not later than 180
9 days after the date of enactment of the Federal Pro-
10 tective Service Reform and Enhancement Act, the
11 Director shall establish a program to periodically as-
12 sess—

13 “(A) the training of contract guards for
14 the security and protection of facilities pro-
15 tected by the Federal Protective Service; and

16 “(B) the security of facilities protected by
17 the Federal Protective Service.

18 “(2) PROGRAM.—The program under this sub-
19 section shall include an assessment of—

20 “(A) methods to test the training and cer-
21 tifications of contract guards;

22 “(B) procedures for taking personnel ac-
23 tions against, or for providing recommendations
24 regarding, contract guards; and

1 “(C) a covert testing program, that shall
2 be conducted without prior notice to the facility
3 concerned and in a manner that does not affect
4 the security or safety of the property or employ-
5 ees, in order to evaluate—

6 “(i) the ability of the Federal Protec-
7 tive Service security and contract guards
8 to prevent an incident that applicable secu-
9 rity performance standards are intended to
10 prevent; and

11 “(ii) any weaknesses in the security
12 plan of a facility.

13 “(3) REPORTS.—The Secretary shall annually
14 submit a report to the Committee on Homeland Se-
15 curity of the House of Representatives and the Com-
16 mittee on Homeland Security and Governmental Af-
17 fairs of the Senate, in a classified manner, if nec-
18 essary, on the results of the assessment of the overt
19 and covert testing program of the Federal Protective
20 Service.

21 **“SEC. 243. STRATEGIC PLAN REQUIREMENT.**

22 “(a) IN GENERAL.—Not later than 1 year after the
23 date of enactment of the Federal Protective Service Re-
24 form and Enhancement Act, the Secretary shall submit
25 to Congress a 5-year budget outlook and strategic plan

1 for the Federal Protective Service that includes the fol-
2 lowing:

3 “(1) Estimates of staffing and associated costs
4 the Federal Protective Service requires in order to
5 provide counterterrorism and homeland security
6 functions.

7 “(2) Estimates of staffing and associated costs
8 the Federal Protective Service requires in order to
9 assess the need for and, as appropriate, provide
10 building specific security countermeasures.

11 “(3) Estimates of staffing and associated cost
12 the Federal Protective Service requires for reimburs-
13 able agency-specific security work authorization
14 functions.

15 “(4) Reviews of the performance of contractor-
16 provided security guards that assesses both quality
17 and cost of individual private contract guard pro-
18 viders performing Federal Protective Service guard
19 functions under contract.

20 “(5) Status of efforts to respond to outstanding
21 recommendations of the Comptroller General of the
22 United States and the Inspector General of the De-
23 partment for enhancing the management, oversight,
24 and operations of the Federal Protective Service.

1 “(b) UPDATES.—The Secretary shall include an an-
2 nual update of such plan with the President’s annual
3 budget submission to the Congress.

4 **“SEC. 244. PROMOTION OF COMMON STANDARDS FOR FED-
5 ERAL PROTECTIVE SERVICE SECURITY
6 EQUIPMENT.**

7 “Within 6 months after the date of enactment of the
8 Federal Protective Service Reform and Enhancement Act,
9 the Director of the Federal Protective Service, in consulta-
10 tion with the Under Secretary for Science and Technology,
11 shall establish common standards for the acquisition of se-
12 curity equipment for use at facilities protected by the Fed-
13 eral Protective Service.

14 **“SEC. 245. PROHIBITED ITEMS LIST.**

15 “(a) IN GENERAL.—

16 “(1) LIST OF PROHIBITED ITEMS.—Not later
17 than the end of the 180-day period beginning on the
18 date of enactment of the Federal Protective Service
19 Reform and Enhancement Act, the Secretary, acting
20 through the Under Secretary responsible for critical
21 infrastructure protection, shall issue and implement
22 a list of items, including component parts, that are
23 prohibited from being brought into facilities pro-
24 tected by the Federal Protective Service, unless an
25 exemption is granted under paragraph (2).

1 “(2) EXEMPTIONS AND EXCEPTIONS.—An ex-
2 emption or exception to the list of prohibited items
3 under paragraph (1) may be granted that is tem-
4 porary and effective for a specific period of time, or
5 is permanent until rescinded, by—

6 “(A) the Secretary; or

7 “(B) the Director of the Federal Protective
8 Service or the Facility Security Committee for
9 the Federal facility, if authorized by the Sec-
10 retary.

11 “(b) ADDITIONAL ITEMS.—Nothing in this section
12 prohibits a facility security committee from prohibiting
13 items that are not included on such list from being
14 brought into the facility of that committee.

15 “(c) FAILURE TO ISSUE LIST.—If the Secretary fails
16 to implement a prohibited items list in accordance with
17 subsection (a), then the Director shall report to Congress,
18 on the last day of the period referred to in subsection (a),
19 on the impediments to performance within such period.

20 “(d) FACILITY SECURITY COMMITTEE DEFINED.—In
21 this section the term ‘facility security committee’ means
22 a facility security committee established pursuant to the
23 report entitled ‘Vulnerability Assessment of Federal Fa-
24 cilities’, issued by the Interagency Security Committee es-
25 tablished by Executive Order 12977.

1 **“SEC. 246. BASELINE STANDARDS FOR CONTRACTS FOR SE-**
2 **CURITY SERVICES.**

3 “(a) IN GENERAL.—Not later than 180 days after
4 the date of enactment of the Federal Protective Service
5 Reform and Enhancement Act, the Director shall require
6 each contract for contract guard services for security serv-
7 ices at a Federal facility protected by the Federal Protec-
8 tive Service to include, at a minimum, uniform baseline
9 security performance standards and provisions on correc-
10 tive and enforcement actions, including debarment, termi-
11 nation, and suspension, when there has been a terrorist
12 incident, security incident, or other noncompliance with
13 the performance standards, or when a covert test by the
14 Director, the Comptroller General of the United States,
15 or the Inspector General of the Department of Homeland
16 Security documents that security services provided pursu-
17 ant to the contract do not meet the performance standards
18 set forth in the contract.

19 “(b) VIOLATIONS.—The Director shall maintain
20 records of each terrorist incident, security incident or
21 other noncompliance with the performance standards or
22 when a covert test by the Director, Comptroller General,
23 or the Inspector General of the Department of Homeland
24 Security documents that security services provided pursu-
25 ant to the contract do not meet the performance standards
26 set forth in the contract and details on what corrective

1 or enforcement action was taken by the Director in re-
2 sponse to the non-compliance.

3 “(c) COMPTROLLER GENERAL REVIEW.—Not later
4 than 1 year after the date of enactment of the Federal
5 Protective Service Reform and Enhancement Act, the
6 Comptroller General shall transmit to Congress a review
7 of the adequacy of the baseline security performance
8 standards and provisions on corrective and enforcement
9 actions included in contracts for security services estab-
10 lished by the Director and review the extent to which the
11 Director has enforced these contract provisions.”.

12 (b) CLERICAL AMENDMENT.—The table of contents
13 in section 2 of such Act is amended by adding at the end
14 of the items relating to title II the following:

“Subtitle E—Federal Protective Service

“Sec. 241. Authorization of Federal Protective Service.

“Sec. 242. Contract guard training requirements.

“Sec. 243. Strategic plan requirement.

“Sec. 244. Promotion of common standards for Federal Protective Service se-
curity equipment.

“Sec. 245. Prohibited items list.

“Sec. 246. Baseline standards for contracts for security services.”.

15 **SEC. 3. REPORT REQUIREMENT.**

16 Not later than 180 days after the date of enactment
17 of this Act, the Secretary shall submit to Congress the
18 following:

19 (1) A strategy for more effectively managing
20 the contract guard program of the Federal Protec-

1 tive Service that ensures there is adequate oversight
2 and monitoring of training for such program.

3 (2) The status of efforts to implement the risk
4 management system required under section 241 of
5 the Homeland Security Act of 2002, as amended by
6 this Act, including how the system addresses rec-
7 ommendations issued by the Comptroller General of
8 the United States and the Inspector General of the
9 Department of Homeland Security for developing
10 and implementing such a system.

