



## H.R. 5925 — CRISIS Act (Rep. Gowdy, R-SC)

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### FLOOR SCHEDULE:

Expected to be considered June 20, 2018, under suspension of the rules, which requires a 2/3 majority for passage.

### TOPLINE SUMMARY:

[H.R. 5925](#) would create a new chapter in the U.S. Code for the Office of National Drug Control (called the Office of National Drug Control Policy under current law). The bill would also require the Director to designate opioids as an emerging drug threat and publish a National Opioid Crisis Response Plan.

### COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 5925 would cost \$1.7 billion over the 2019-2023 period, assuming appropriation of the specified amounts. Of that, \$1.1 billion would result from the High-Intensity Drug Trafficking Areas program. Net direct spending would be negligible and the bill would not significantly increase on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

### CONSERVATIVE VIEWPOINTS:

**Expand the Size and Scope of the Federal Government?** The bill would require the director of the National Drug Control Program to designate a Treatment Coordinator, create a Treatment Committee, establish an Advisory Committee on Substance Use Disorder Treatment Standards, establish a National Drug Control Fusion Center, and require an assessment on the feasibility of federal block grants to states to combat the opioid crisis.

- **Encroach into State or Local Authority?** Some conservatives may believe these activities would be more appropriately handled by state and local governments, or by civil society.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

### DETAILED SUMMARY AND ANALYSIS:

H.R. 5925 would reauthorize, recodify and modify provisions of law related to the Office of National Drug Control Policy.

The bill would redesignate the Office of National Drug Control Policy as the Office of National Drug Control. The office is currently codified under [21 U.S.C. Ch. 22](#).

The bill would update the definitions of illicit and illegal drug use to include prescription drugs. The definition section is currently codified under [21 U.S.C. 1701](#).

The updated description of the Office of National Drug Control, currently codified under [21 U.S.C. 1702](#), would require the office to identify and respond to emerging threats related to drug use, facilitate broad-scale information sharing and data standardization among federal, state and local entities to support national drug control efforts, and administer grant programs. The office would continue to be required to lead national drug control efforts.

The bill would relocate the provision codified under [21 U.S.C. 1703](#) requiring the director of the Office of National Drug Control to be appointed by the President, with the advice and consent of the Senate. The bill would require the deputy director to carry out responsibilities delegated by the director and to coordinate with the deputy directors for Demand Reduction, Supply Reduction, State, Local, and Tribal Affairs.

The bill would add a new provision prohibiting funds authorized for this chapter from being obligated for the purpose of influencing any election or ballot initiative. The bill would relocate the provisions codified under the [chapter](#) that prohibit the director and deputy directors from campaigning.

The bill would relocate provisions related to compensation and evaluations codified under [21 U.S.C. 1703](#).

The bill would relocate provisions related to the National Drug Control Program budget process, codified under [21 U.S.C. 1703](#).

The bill would require the director to submit certifications, decertifications and justifications to congress based on the budgets submitted through the Office of Management and Budget.

**National Drug Control Strategy:** Current [law](#) requires the National Drug Control Strategy be submitted every year. The bill would amend this so the strategy is updated every four years. In addition, the director would be required to release a statement of drug policy priorities in the first calendar year of a presidential inauguration. The bill would establish the process for the director of the Office of National Drug Control to develop and promulgate the National Drug Control Strategy, including contents for what must be included. The bill would require the director to include an annual performance supplement to congress. The bill would relocate the provision currently codified under [21 U.S.C. 1705\(b\)](#), which allows for the president to submit a revised strategy at any time.

**Annual Drug Control Assessment:** The bill would relocate provisions related to the annual drug control assessment, currently codified under [21 U.S.C. 1703](#), requiring the director submit a report to congress evaluating the effectiveness in achieving the National Drug Control Strategy, and requiring National Drug Control Program agencies to submit progress reports and evaluations to the director. The assessments must also include evaluations of grant programs, a detailed accounting of obligated funds and the effectiveness of any Emerging Threat Response Plans.

The bill would relocate provisions codified under [21 U.S.C. 1705\(c\)](#) related to the performance measurement system and [21 U.S.C. 1703\(b\)\(19\)](#), related to the Office of National Drug Control Policy's consultation with state and local governments.

The bill would require the director to designate or appoint a U.S. Performance Budget Coordinator to ensure the director has enough information on agencies and federal funding and advise the director on agency budgets and performance targets.

**Monitoring and Evaluation of the National Drug Control Program:** The bill would relocate provisions codified under [21 U.S.C. 1703](#) related to the monitoring and evaluation of the National Drug Control Program. The provisions require the director to monitor implementation of the program by conducting evaluations and audits. The director would also be required to notify an agency, the president, and congressional committees if that agency's activities are not in compliance with the strategy. The director is further required

to make recommendations to the president and congress regarding organization, management, personnel and budget changes to the National Drug Control Program agencies.

**Coordination and Oversight of the National Drug Control Program:** The bill would relocate provisions codified under [21 U.S.C. 1703](#) and [21 U.S.C. 1704](#) related to the control and oversight of the National Drug Control program. The director is allowed to request the temporary detail of personnel to other agencies, to transfer funds to other accounts, with exceptions, and to issue fund control notices. Agencies are required to notify the director of any proposed policy changes. The director is also required to work with the Assistant to the President for National Security Affairs.

**Emerging Threats Task Force:** The bill would require the director to designate or appoint an Emerging and Continuing Threats Coordinator and appoint members of the Emerging Threats Task Force. The task force would be required to disseminate information related to drug supply, overdoses, demand for disorder treatment, and state and local trends in drug interdiction, supply and demand. The director is allowed to designate or remove the designation of an emerging drug threat. The director is required to publish an Emerging Threat Response Plan, and implement the plan, in consultation with the President, Congress and National Drug Control Program agencies. The director is required to establish and implement evidence-based substance use prevention education and public awareness campaigns in response to emerging drug threats. The director must include a performance evaluation in the annual assessment and designate an independent entity to evaluate the campaign's effectiveness of the campaign every two years. Funds may not be used to supplant community-based coalitions, pro bono public service time, for partisan political purposes, for advocacy to support a particular company or their policy positions, to direct individuals to a specific type of drug control treatment, or to fund advertising with elected officials or candidates. The bill authorizes \$25 million for this section.

**National and International Coordination:** The bill would relocate provisions codified under [21 U.S.C. 1703\(b\)](#) requiring the director to disseminate information to state and local governments and nongovernment entities. The bill would require the director to coordinate the development of evidence-based standards for drug control policies, practices and procedures. The director would be required to promote the implementation of the standards by providing the standards to state and local governments and facilitating the use of standards.

The bill would require the director to coordinate with the private sector to promote private research and development of medications to treat or prevent addiction. The director may also establish a working group of National Drug Control program agencies, state and local governments, and private sector stakeholders to discuss and disseminate best practices and R&D.

The director would be required to enter into an agreement with a nonprofit to advise states on establishing law addressing illicit drug use. The bill would authorize \$1,250,000 for each fiscal year from 2019 through 2023.

The bill would authorize \$2 million in each fiscal year beginning in 2019, through 2023 for the drug court training and technical assistance program.

The bill would require the director to appoint a U.S. State, Local and Tribal Affairs Coordinator.

**Interdiction:** The bill would relocate provisions related to interdiction currently codified under [21 U.S.C. 1710](#). The provisions require the director to designate or appoint an interdiction coordinator to coordinate efforts to interdict illicit drugs from entering the U.S. The interdiction coordinator would be required to develop a National Interdiction Command and Control Plan and assess the sufficiency of assets committed to illicit drug interdiction by relevant agencies.

**Treatment Coordinator:** The bill would require the director to designate or establish a treatment coordinator to expand the availability of substance use disorder treatment with the goal of eliminating the unmet treatment need. The treatment coordinator would be required to develop and issue a National Treatment Plan and submit a report to congress. The bill would also establish a treatment committee, which must submit an annual report to congress.

**National Drug Control Fusion Center:** The bill would require the director to designate an agency to establish a National Drug Control Fusion Center to collect and analyze the sharing of data on the use of illicit drugs, treatment for substance use disorder, and interdiction of illicit drugs. The center may establish a toxicology screening program. The center may establish a program that allows state and local jurisdictions to submit up to 20 urine samples a year for analysis for the purpose of identifying substances in those who died of a drug overdose.

The director would be required to submit a Critical Drug Control Information and Evidence Plan to congress. The plan must aim to increase data collection to enable real-time surveillance of drug control threats, developing analysis and monitoring capabilities, and identifying relevant policy questions.

The bill would prohibit funds from being used to fund a study related to the legalization of a schedule I substance. The bill would remove a provision currently codified under [21 U.S.C. 1703\(b\)\(12\)](#) to require the office to take necessary actions to oppose the attempt to legalize a schedule I drug.

The bill would require policies, including those related to syringe exchange programs, to be evidence-based.

**Office Access to Information from Drug Control Agencies:** The bill would relocate provisions related to the information collected by the National Drug Control Program agencies, currently codified under [21 U.S.C. 1704](#).

**Date Exchange Standards for Improved Interoperability:** The bill would require the director to establish a working group to develop consensus data exchange standards for necessary categories of information that allow for effective electronic exchange of information. The standards must be nonproprietary and interoperable. The director would be allowed to designate data exchange standards for National Drug Control programs.

**Authorization:** The bill would authorize \$18.4 million for the Office of National Drug Control Policy for each fiscal year from 2019 through 2023.

**High Intensity Drug Trafficking Areas Program:** The bill would relocate provisions related to the High Intensity Drug Trafficking Areas (HIDTA) [program](#). The bill would make several changes to the law. Current law prohibits funds from being expended for drug treatment programs. The bill would allow up to five percent of funds to be used for substance use disorder treatment programs. The bill would require the director to work with HIDTAs to develop best practice models to assist state and local governments in addressing witness safety, relocation, and other services related to witness protection in cases of illegal drug distribution. The bill would reauthorize the program at \$280 million for each fiscal year beginning in 2019, through 2023.

**Drug Free Communities:** The bill would reauthorize the Drug Free Communities Program currently codified under [21 U.S.C. 1531](#) at \$99 million for each fiscal year beginning in 2019, through 2023. The bill would also authorize a \$2 million grant to the [National Community Anti-Drug Coalition Institute](#).

**Opioid Crisis Response:** The bill would require the director to designate opioids and opioid analogues as emerging drug threats and publish a National Opioid Crisis Response Plan. The plan must include: (1) an initiative to ensure U.S. mail is effectively screened for illicit drugs; (2) a program to monitor the prescription drug market; (3) an initiative to coordinate federal and state government initiatives to evaluate the benefits

of drug courts; (4) a program, in coordination with the private sector, to facilitate the development of treatment and abuse-deterrent products and encourage medical disposal program expansion; (5) a program to identify successful college recovery programs; (6) the convening working groups; (7) research initiatives to evaluate the uses and efforts to improve medication assisted treatment and data collection systems to confirm opioid use; and, (8) the establishment of an Advisory Committee on Substance Use Disorder Treatment Standards.

The bill would require the director to submit the plan to the appropriate congressional committees. The director must also submit an assessment on the feasibility of federal block grants to states.

**GAO Audit and Reports:** The bill would require the GAO to audit the Office of National Drug Control and its programs, and submit a report to congress.

**COMMITTEE ACTION:**

H.R. 5925 was introduced on May 23, 2018, and referred to the committee on Oversight and Government Reform. The committee held a mark-up on May 23, 2018, and the bill was reported by voice vote.

**ADMINISTRATION POSITION:**

A Statement of Administration Policy is not available.

**CONSTITUTIONAL AUTHORITY:**

According to the bill’s sponsor: Congress has the power to enact this legislation pursuant to the following “U.S. Const. Art. I, Sec. 8, cl. 14, relating to the Congress's power “to make rules for the Government...”; U.S. Const. Art. I, Sec. 8, cl. 3, relating to the Congress's power “to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes”; and U.S. Const. Art. I, Sec. 8, cl. 18 relating to the Congress's power “to make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States or in any Department or Officer thereof.”

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