To provide protections for children in immigration custody, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Merkley (for himself, Mrs. Gillibrand, Mr. Durbin, Mr. Schatz, Ms. Warren, Mr. Markey, Mr. Sanders, Ms. Hirono, Mrs. Feinstein, Mrs. Murray, Mr. Wyden, Ms. Rosen, and Mr. Casey) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To provide protections for children in immigration custody, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Children’s Safe Welcome Act of 2022”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
TITLE I—PROCEDURES AND TEMPORARY PLACEMENTS FOLLOWING APPREHENSION

Sec. 101. Prohibition on family separation.
Sec. 102. Protections for noncitizen children.
Sec. 103. Nonadversarial asylum processing for noncitizen children.
Sec. 104. Standards for U.S. Customs and Border Protection detention of noncitizen children.
Sec. 105. Standards for U.S. Customs and Border Protection facilities housing noncitizen children.
Sec. 106. Modification of term “asylum officer” to exclude officers of U.S. Customs and Border Protection.

TITLE II—STANDARDS FOR DEPARTMENT OF HEALTH AND HUMAN SERVICES CUSTODY OF UNACCOMPANIED NONCITIZEN CHILDREN

Subtitle A—Standards for Foster Care Homes and Childcare Facilities
Sec. 201. Operation of foster care homes and childcare facilities.
Sec. 203. Staffing and training.

Subtitle B—Services for Unaccompanied Noncitizen Children
Sec. 211. Required services.
Sec. 212. Evaluation for disability.
Sec. 213. Education.
Sec. 214. Recreation.

Subtitle C—Placement of Children
Sec. 221. Phasing out large congregate care facilities.
Sec. 222. Least restrictive setting.
Sec. 223. Foster family care.
Sec. 224. Additional requirements relating to children with disabilities and children with mental health needs.
Sec. 225. Minimizing transfers.
Sec. 226. Restrictive placements.

Subtitle D—Family Reunification and Standards Relating to Sponsors
Sec. 231. Family reunification efforts by Office of Refugee Resettlement.
Sec. 232. Standards relating to sponsors.
Sec. 233. Special considerations relating to release of children with disabilities.

Subtitle E—Release
Sec. 241. Procedures for release.
Sec. 242. Post-release services.
Sec. 243. Individuals attaining 18 years of age.
Sec. 244. Custody review by Ombudsperson.

TITLE III—EMERGENCIES AND INFLUXES

Sec. 301. Sense of Congress.
Sec. 302. Definitions.
Sec. 303. Placement.
Sec. 304. Planning for emergencies and influxes.
Sec. 305. Influx facility standards and staffing.
Sec. 306. Monitoring and oversight.

TITLE IV—LEGAL REPRESENTATION FOR UNACCOMPANIED NONCITIZEN CHILDREN

Sec. 401. Legal orientation presentations and legal screenings.
Sec. 402. Legal representation.

TITLE V—APPOINTMENT OF CHILD ADVOCATES AND IMPROVEMENTS TO IMMIGRATION COURTS

Sec. 501. Appointment of child advocates.
Sec. 502. Immigration court improvements.

TITLE VI—OVERSIGHT, MONITORING, AND ENFORCEMENT

Sec. 602. Data collection and reporting.
Sec. 603. Enforcement.
Sec. 604. Protection from retaliation.
Sec. 605. Mandatory access to detention facilities for Members of Congress.

TITLE VII—Nondiscrimination

Sec. 701. Fair and equal treatment.
Sec. 702. Responsibilities of care providers.

TITLE VIII—INFORMATION SHARING AND DATA PROTECTION

Sec. 801. Separation of records.
Sec. 802. Prohibition on use for denial of relief or in removal proceedings.
Sec. 803. Disclosure.
Sec. 804. Prohibition on information sharing.
Sec. 805. Counseling records.
Sec. 806. Data protection for sponsors.

TITLE IX—MISCELLANEOUS PROVISION

Sec. 901. Rule of construction.

1 SEC. 2. DEFINITIONS.

2 In this Act:

3 (1) ACCOMPANIED NONCITIZEN CHILD.—The term “accompanied noncitizen child” means a non-
4 citizen under the age of 18 years who—
5 (A) has no lawful immigration status in
6 the United States; and
(B) is detained in immigration custody while traveling with a parent or legal guardian, including an adoptive parent and a stepparent.

(2) BEST INTERESTS OF THE CHILD.—With respect to an accompanied noncitizen child or unaccompanied noncitizen child, the term “best interests of the child” means a consideration, informed to the extent practicable by the child and the parents or guardian and extended family of the child, that takes into account—

(A) the safety and well-being of the child;

(B) the expressed interests of the child, taking into account the child’s age and stage of development;

(C) the physical and mental health of the child;

(D) the right of the child to—

(i) family integrity;

(ii) liberty; and

(iii) development; and

(E) the identity of the child, including religious, ethnic, linguistic, gender, sexual orientation, and cultural identity.

(3) CHILDCARE FACILITY.—The term “childcare facility” means a facility operated by the
Department of Health and Human Services, or a contractor of the Department of Health and Human Services, that—

(A) is a State-licensed program; and

(B) provides residential care for unaccompanied noncitizen children.

(4) DIRECTOR.—The term “Director” means the Director of the Office of Refugee Resettlement.

(5) EARLY CHILDHOOD MINOR.—The term “early childhood minor” means an individual who is 12 years of age or younger or has the developmental age of such an individual.

(6) FLORES SETTLEMENT AGREEMENT.—The term “Flores settlement agreement” means the stipulated settlement agreement in Reno v. Flores, as filed in the United States District Court for the Central District of California on January 17, 1997 (CV–85–4544–RJK), including all subsequent court decisions, orders, agreements, and stipulations.

(7) IMMIGRATION CUSTODY.—The term “immigration custody” means the physical custody of the Secretary of Health and Human Services or the Secretary of Homeland Security (or the head of any successor agency of the Department of Health and
Human Services or the Department of Homeland Security).

(8) **Influx.**—The term “influx” means a period during which—

(A) not less than 95 percent of the available beds in permanent childcare facilities are occupied; and

(B) the average length of care for unaccompanied noncitizen children in the custody of the Secretary of Health and Human Services exceeds 35 days.

(9) **Influx Facility.**—The term “influx facility” means any public or private facility established to provide temporary emergency shelter and services for unaccompanied noncitizen children during an influx or emergency.

(10) **Noncitizen.**—The term “noncitizen” means an individual who is not a citizen or national of the United States.

(11) **Nonparent Family Member.**—With respect to an unaccompanied noncitizen child apprehended with a nonparent family member, the term “nonparent family member” means an individual who is—

(A) 18 years of age or older; and
(B) a relative of such child, including a
grandparent, aunt, uncle, first cousin, sibling,
and fictive kin.

(12) **OMBUDSPERSON.**—The term
“Ombudsperson” means the Ombudsperson of the
Office of the Ombudsperson for Unaccompanied
Noncitizen Children established under section 601.

(13) **OUT-OF-NETWORK FACILITY.**—The term
“out-of-network facility” means any public or private
facility, including a mental health facility, or any
other location that—

(A) is used to provide residential care for
unaccompanied nonecitizen children; and

(B) is not an Office of Refugee Resettle-
ment facility.

(14) **PROSPECTIVE SPONSOR.**—The term “pro-
spective sponsor” means an individual or entity who
applies for custody of an unaccompanied nonecitizen
child.

(15) **SECRETARY.**—The term “Secretary”
means the Secretary of Health and Human Services.

(16) **SECURE FACILITY.**—The term “secure fa-
cility” means any public or private facility that is
opened by a program, agency, or organization that
is licensed by an appropriate State agency to provide
residential care for children who have been adjudicated delinquent.

(17) SPECIAL NEEDS NONCITIZEN CHILD.—The term “special needs noncitizen child”—

(A)(i) means a noncitizen under the age of 18 years, the mental or physical condition of whom requires special services or medical equipment and special treatment by the staff of a childcare facility; and

(ii) includes such an individual who—

(I) has special needs due to drug or alcohol abuse, serious emotional disturbance, mental illness, developmental or cognitive delay, or a physical condition or chronic illness that requires special services or treatment;

(II) is an individual with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)); or

(III) requires special services or treatment as a result of neglect or abuse; and

(B) in the case of a child who is 12 years of age or older, means such a child who con-
sents to such designation, services, and treat-
ment.

(18) SPONSOR.—The term “sponsor” means an
individual or entity who has been approved by the
Director to assume custody of an unaccompanied
noncitizen child on release from the custody of the
Secretary.

(19) STAFF-SECURE FACILITY.—The term
“staff-secure facility”—

(A) means any public or private facility
that is licensed by an appropriate State agency
to provide residential care for children who have
been determined to require close or intensive
care in accordance with section 226(c)(3); and

(B) does not include a facility that pro-
vides residential care to children who have been
adjudicated delinquent.

(20) STATE-LICENSED PROGRAM.—The term
“State-licensed program” means any public or pri-
ivate program, agency, or organization licensed by an
appropriate State agency to provide residential,
group, or foster care services for unaccompanied
noncitizen children (including a program operating
group homes, foster homes, or facilities for special
needs noncitizen children) that complies with applicable—

(A) State child welfare laws, regulations, and policies;

(B) State and local building, fire, health, and safety laws and regulations;

(C) Federal, State, and local human rights and privacy laws, as applicable; and

(D) State staffing and training requirements.

(21) UNACCOMPANIED NONCITIZEN CHILD.—The term “unaccompanied noncitizen child” has the meaning given the term “unaccompanied alien child” in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)).

TITLE I—PROCEDURES AND TEMPORARY PLACEMENTS FOLLOWING APPREHENSION

SEC. 101. PROHIBITION ON FAMILY SEPARATION.

(a) IN GENERAL.—An accompanied noncitizen child shall remain physically together with their parent or legal guardian at all times while in the custody of the Secretary of Homeland Security or the Secretary of Health and Human Services, unless—
(1) the accompanied noncitizen child requests privacy temporarily;

(2) during the screening process, a determination is made based on clear and convincing evidence that the parent or legal guardian of the accompanied noncitizen child, or the adult caregiver of the child who has been determined by a child welfare expert to be suitable to provide care and physical custody of the child in the United States, presents an imminent threat to United States national security or is inadmissible under subparagraphs (C)(i), (E), (G), or (I) of section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)); or

(3) the child protection professional documents based on clear and convincing evidence that the continued care of the accompanied noncitizen child by the parent or legal guardian is likely to result in serious emotional or physical damage to the child.

(b) TERMINATION OF SEPARATION.—In the case of a separation under paragraph (2) or (3) of subsection (a), as soon as practicable after the potential damage to the child is sufficiently mitigated or remedied—

(1) in the case of a child in the custody of the Secretary of Health and Human Services, the Secretary of Health and Human Services shall return
the child to the individual from whom they were separated; and

(2) in the case of a child in the custody of the Secretary of Homeland Security, the Secretary of Homeland Security shall release the individual in accordance with subsection (a)(5) of section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232), as amended by section 102.

(c) CHALLENGE TO SEPARATION.—In the case of a separation under paragraph (2) or (3) of subsection (a), the Secretary of Homeland Security shall—

(1) notify the parents, legal guardians, and accompanied children concerned of their—

(A) right to challenge such separation under titles VI and VII; and

(B) private right of action to seek review before a district court of the United States; and

(2) provide a copy of any determination, evidence, arrest warrants, or other documentation supporting such separation to such individuals and their attorneys.

(d) TREATMENT OF UNACCOMPANIED CHILDREN TRAVELING WITH CERTAIN CAREGIVERS.—Unaccompanied children traveling with nonparent or nonlegal
guardian caregivers shall be treated by the Secretary of Health and Human Services in accordance with paragraph (3)(C) of section 235(b) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(b)), as amended by section 102.

SEC. 102. PROTECTIONS FOR NONCITIZEN CHILDREN.

Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232) is amended—

(1) by striking “unaccompanied alien child” each place it appears and inserting “unaccompanied noncitizen child”;

(2) by striking “unaccompanied alien child’s” each place it appears and inserting “unaccompanied noncitizen child’s”;

(3) by striking “unaccompanied alien children” each place it appears and inserting “unaccompanied noncitizen children”;

(4) by striking “unaccompanied alien children’s” each place it appears and inserting “unaccompanied noncitizen children’s”;

(5) in subsection (a)—

(A) by striking paragraphs (2) and (4);

(B) by redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively;
(C) in paragraph (2), as redesignated, in the paragraph heading, by striking “OTHER” and inserting “UNACCOMPANIED NONCITIZEN”;

(D) in paragraph (3), as redesignated—

(i) in subparagraph (C), in the subparagraph heading, by striking “UNACCOMPANIED ALIEN CHILDREN” and inserting “UNACCOMPANIED NONCITIZEN CHILDREN”;

(ii) in subparagraph (D), in the matter preceding clause (i), by striking “, except for an unaccompanied alien child from a contiguous country subject to exceptions under subsection (a)(2),”; and

(E) by inserting after paragraph (3), as redesignated, the following:

“(4) CHILD PROTECTION PROFESSIONALS AT THE BORDER.—

“(A) IN GENERAL.—The Secretary of Homeland Security shall ensure that a licensed child protection professional is physically present to provide onsite expertise at each—

“(i) land port of entry at which non-citizen children are most likely to enter;
“(ii) Border Patrol station on the southern border; and

“(iii) U.S. Customs and Border Protection processing facility and reception center, regardless of whether such facility or center is temporary in nature.

“(B) QUALIFICATIONS.—

“(i) IN GENERAL.—Such a child protection professional shall—

“(I) be licensed in social work;

“(II) have direct experience providing trauma-informed care to children who have experienced trauma; and

“(III) subject to clause (ii), be proficient in Spanish or 1 of the top 5 most common languages spoken by noncitizen children in the past 5 years.

“(ii) PHASE-IN OF LANGUAGE PROFICIENCY.—During the 3-year period beginning on the date of the enactment of the Children’s Safe Welcome Act of 2022, 25 percent of the child protection professionals hired by the Secretary of Homeland
Security to carry out the duties under this section shall be exempt from clause (i)(III).

“(C) OVERSIGHT OF CARE.—Such a child protection professional shall oversee the care of noncitizen children in U.S. Customs and Border Protection facilities, consistent with the standards established under sections 104 and 105 of the Children’s Safe Welcome Act of 2022, including by ensuring access to adequate food, hydration, hygiene necessities, medical care, and other services the child protection professional considers necessary.

“(5) RELEASE OF CHILDREN APPREHENDED WITH PARENTS, ADOPTIVE PARENTS, OR LEGAL GUARDIANS.—In the case of a child apprehended with a parent, adoptive parent, or legal guardian, the Secretary of Homeland Security shall—

“(A) release the child together with the parent, adoptive parent, or legal guardian, as applicable; and

“(B) ensure that the child is provided with support from a qualified nongovernmental community-based organization with experience pro-
providing services to immigrant, refugee, and asylum-seeking populations.

“(6) RELEASE OF CHILDREN APPREHENDED WITH NONPARENT FAMILY MEMBERS.—In the case of a child apprehended with a nonparent family member determined under subsection (b)(3)(C)(iii) to be an appropriate sponsor for the child, the Secretary of Health and Human Services shall—

“(A) release the child together with the nonparent family member; and

“(B) ensure that the child is provided with support from a qualified nongovernmental community-based organization with experience providing services to immigrant, refugee, and asylum-seeking populations.

“(7) PROHIBITION ON OPERATION OF FAMILY DETENTION FACILITIES.—The Federal Government may not operate, under any circumstance, a family detention facility.”;

(6) in subsection (b)—

(A) in paragraph (1), in the paragraph heading, by striking “UNACCOMPANIED ALIEN CHILDREN” and inserting “UNACCOMPANIED NONCITIZEN CHILDREN”; 

(B) in paragraph (3)—
(i) in the paragraph heading, by striking “UNACCOMPANIED ALIEN CHILDREN” and inserting “UNACCOMPANIED NONCITIZEN CHILDREN”;

(ii) by striking “Except in the case of exceptional circumstances,” and inserting the following:

“(A) IN GENERAL.—Except in the case of exceptional circumstances, subject to subparagraph (B),”; and

(iii) by adding at the end the following:

“(B) LIMITATION ON U.S. CUSTOMS AND BORDER PROTECTION CUSTODY.—Under no circumstance may the Commissioner hold an unaccompanied or accompanied noncitizen child in custody for more than 72 hours.

“(C) RECEPTION CENTERS.—

“(i) DESIGNATION.—The Commissioner shall designate 1 or more reception centers located within 100 miles of each port of entry and each Border Patrol Station on the southern border for the purpose of conducting expedited evaluations described in clause (iii).
“(ii) Transfer.—In the case of an unaccompanied noncitizen child apprehended with a nonparent family member, the Commissioner shall immediately transfer the child and his or her 1 or more nonparent family members, as applicable, to a reception center designated under clause (i) for the purpose of an evaluation under clause (iii).

“(iii) Expedited Evaluations.—

“(I) In general.—On the arrival of an unaccompanied noncitizen child apprehended with a nonparent family member at a designated reception center, a Federal field specialist of the Department of Health and Human Services shall evaluate the child to determine whether he or she may be released safely from U.S. Customs and Border Protection custody to the nonparent family member with whom the child was apprehended.

“(II) Private space.—The Commissioner shall make available in each designated reception center a
private space in which such Federal field specialists may carry out such evaluations.

“(iv) STAFFING.—

“(I) FEDERAL FIELD SPECIALISTS.—

“(aa) IN GENERAL.—Federal field specialists of the Department of Health and Human Services shall be detailed to designated reception centers for brief periods to ensure the independence of Department of Health and Human Services staff from the duties and functions of U.S. Customs and Border Protection.

“(bb) DUTIES.—A Federal field specialist detailed to a designated reception center shall verify family relationships and screen each unaccompanied non-citizen child apprehended with a nonparent family member for safety concerns using existing or
newly developed Department of Health and Human Services tools and skills, including document review, observation, and interviews of the child and family members.

“(II) CASE MANAGERS AND CASE COORDINATORS.—

“(aa) IN GENERAL.—Case managers and case coordinators of the Department of Health and Human Services shall be detailed to designated reception centers for brief periods to ensure the independence of Department of Health and Human Services staff from the duties and functions of U.S. Customs and Border Protection.

“(bb) DUTIES.—A case manager or case coordinator detailed to a designated reception center shall assist the Federal field specialist at the reception center in verifying family relationships and screening each un-
accompanied noncitizen child apprehended with a nonparent family member for safety concerns using existing or newly developed Department of Health and Human Services tools and skills, including document review, observation, and interviews of the child and family members.

“(III) LEGAL SERVICES PROVIDERS.—The Secretary of Health and Human Services shall enter into 1 or more contracts with nongovernmental legal services providers to provide legal orientation presentations to accompanied noncitizen children and unaccompanied noncitizen children apprehended with nonparent family members and their parents or legal guardians or nonparent family members, as applicable, under consideration for expedited release under this subparagraph.

“(v) RELEASE DECISION.—The Secretary of Health and Human Services shall
make a determination with respect to expedited release under this subparagraph not later than 72 hours after the child has been determined to be an unaccompanied noncitizen child.

“(vi) Release of Nonparent Family Member.—

“(I) In general.—If the Secretary of Health and Human Services determines that the nonparent family member of an unaccompanied noncitizen child apprehended with a nonparent family member is a safe sponsor, and the applicable Federal field specialist and case manager or case coordinator have verified the family relationship, the Commissioner shall approve the release of the nonparent family member for the purpose of reunification with the child.

“(II) Retention of Unaccompanied Noncitizen Child Determination.—An unaccompanied noncitizen child released to a nonparent family member who is released under
subclause (I) shall retain his or her determination as an unaccompanied noncitizen child.

“(III) POST-RELEASE COUNSEL AND SERVICES.—The Secretary of Health and Human Services shall provide to each child released to a non-parent family member who is released under subclause (I) post-release counsel and services, such as legal counsel, in the location in which the child’s removal proceedings are scheduled.

“(vii) TRANSFER TO OFFICE OF REFUGEE RESETTLEMENT CUSTODY.—

“(I) IN GENERAL.—If the Secretary of Health and Human Services cannot make a determination with respect to whether a nonparent family member is an imminent substantial and credible threat to a child within 72 hours after the Commissioner has made the unaccompanied noncitizen child determination, or if an unaccompanied noncitizen child apprehended with a nonparent family member is
denied expedited release under this subparagraph—

“(aa) such child shall be placed in the least restrictive setting;

“(bb) notice shall be provided to the nonparent family member with respect to—

“(AA) the reason for the inability to timely make such determination or for the denial; and

“(BB) the location of the child’s transfer and any subsequent transfer; and

“(cc) the family relationship shall be documented.

“(II) APPOINTMENT OF CHILD ADVOCATE.—In the case of a child denied expedited release under this subparagraph, the Secretary of Health and Human Services shall appoint a child advocate for the child.

“(viii) PROHIBITION.—The adjudication of asylum applications shall not be
26 carried out in a reception center designated under this subparagraph.

“(D) TRANSPORTATION.—

“(i) IN GENERAL.—Except as provided in clause (ii), the Commissioner may not transport any unaccompanied noncitizen child in a vehicle with a detained adult who is not related to the child.

“(ii) EXCEPTION.—

“(I) IN GENERAL.—The Commissioner may transport an unaccompanied noncitizen child in a vehicle with such an adult only from the place of arrest or apprehension to a U.S. Customs and Border Protection facility.

“(II) PRECAUTIONS.—In transporting an unaccompanied noncitizen child under subclause (I), the Commissioner shall take necessary precautions for the protection and well-being of the unaccompanied noncitizen child.”; and

(C) by adding at the end the following:
“(5) Substantive and procedural protections.—

“(A) In general.—On a determination that a child is an unaccompanied noncitizen child, the unaccompanied noncitizen child shall be afforded, for the duration of the unaccompanied noncitizen child’s removal proceedings, all substantive and procedural protections provided under this section and any other applicable Federal law.

“(B) Unaccompanied noncitizen child determination.—No Federal agency, officer, or personnel may—

“(i) reevaluate or revoke a determination that a child is an unaccompanied noncitizen child; or

“(ii) deny or impede access to any protection provided for unaccompanied noncitizen children under Federal law, including on the basis of—

“(I) the reunification of an unaccompanied noncitizen child with a parent or legal guardian;

“(II) the release of an unaccompanied noncitizen child to a nonparent
family member in accordance with subsection (b)(3)(C)(vi); or

“(III) an unaccompanied noncitizen child having attained 18 years of age.”;

(7) in subsection (d)(8), in the paragraph heading, by striking “UNACCOMPANIED ALIEN CHILDREN” and inserting “UNACCOMPANIED NONCITIZEN CHILDREN”;

(8) by striking subsection (g);

(9) by redesignating subsections (h) and (i) as subsections (g) and (h), respectively; and

(10) by adding at the end the following:

“(i) **Access to Counsel, Legal Orientation, and Child Advocates for All Children in Custody.**—Each child in immigration custody, including accompanied noncitizen children, shall receive a legal orientation presentation and have access to legal counsel and child advocates.

“(j) **Treatment of Adult Family Members Apprehended With Children.**—

“(1) **In general.**—A parent or legal guardian or a nonparent family member who is apprehended with a child shall be placed in removal proceedings

“(2) REQUIREMENT.—Such a parent or legal guardian or nonparent family member and the child concerned shall be provided an opportunity—

“(A) to consult, independently and jointly, legal counsel; and

“(B) to request such measures as may be necessary to ensure—

“(i) full and fair consideration of their cases for relief from removal; and

“(ii) the best interests of the child.

“(k) REMOVAL PROCEEDINGS FOR ACCOMPANIED NONCITIZEN CHILDREN.—With respect to an accompanied noncitizen child, the child and their parent or legal guardian may only be placed in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

“(l) DEFINITIONS.—In this section:

“(1) ACCOMPANIED NONCITIZEN CHILD.—The term ‘accompanied noncitizen child’ means a noncitizen under 18 years of age who—

“(A) has no lawful immigration status in the United States; and
“(B) is apprehended while traveling with a parent, adoptive parent, or legal guardian.

“(2) COMMISSIONER.—The term ‘Commissioner’ means the Commissioner of U.S. Customs and Border Protection.

“(3) DANGER OF ABUSE OR NEGLECT AT THE HANDS OF THE PARENT, LEGAL GUARDIAN, OR NON-PARENT FAMILY MEMBER.—The term ‘danger of abuse or neglect at the hands of the parent, legal guardian, or nonparent family member’ shall not mean migrating to or crossing the United States border.

“(4) NONPARENT FAMILY MEMBER.—With respect to an unaccompanied noncitizen child apprehended with a nonparent family member, the term ‘nonparent family member’ means an individual who is—

“(A) 18 years of age or older; and

“(B) a relative of such child, including a grandparent, aunt, uncle, first cousin, sibling, and fictive kin.

“(5) UNACCOMPANIED NONCITIZEN CHILD.—The term ‘unaccompanied noncitizen child’ has the meaning given the term ‘unaccompanied alien child’
in section 462(g) of the Homeland Security Act of
2002 (6 U.S.C. 279(g)).

“(6) UNACCOMPANIED NONCITIZEN CHILD AP-
PREHENDED WITH A NONPARENT FAMILY MEM-
BER.—The term ‘unaccompanied noncitizen child
apprehended with a nonparent family member’
means an unaccompanied noncitizen child who is ap-
prehended while traveling with a nonparent family
member.”.

SEC. 103. NONADVERSARIAL ASYLUM PROCESSING FOR
NONCITIZEN CHILDREN.

Section 208(b)(3)(C) of the Immigration and Nation-
ality Act (8 U.S.C. 1158(b)(3)(C)) is amended to read as
follows:

“(C) NONADVERSARIAL ASYLUM PROC-
ESSING FOR CHILDREN.—The Director of U.S.
Citizenship and Immigration Services shall have
jurisdiction over the asylum application of an
individual who—

“(i) has been classified as an unac-
accompanied noncitizen child (as defined in
section 235 of the William Wilberforce
Trafficking Victims Protection Reauthor-
ization Act of 2008 (8 U.S.C. 1232)), re-
gardless of the age or marital status of the
individual on the date on which he or she files an asylum application;

“(ii) was a child apprehended with a parent, adoptive parent, or legal guardian, regardless of the age or marital status of the individual on the date on which he or she files an asylum application; or

“(iii) is the parent or legal guardian of an individual described in clause (ii).”.

SEC. 104. STANDARDS FOR U.S. CUSTOMS AND BORDER PROTECTION DETENTION OF NONCITIZEN CHILDREN.

(a) INITIAL PROCESSING OF NONCITIZEN CHILDREN AND FAMILIES WITH NONCITIZEN CHILDREN.—

(1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection (referred to in this title as the “Commissioner”) may only detain a non-citizen child for the purpose of initial processing.

(2) TIME LIMITATION.—Under no circumstance may the Commissioner detain a family with a non-citizen child for more than 72 hours.

(b) PRIORITIZATION OF BEST INTERESTS OF THE CHILD AND FAMILY UNITY.—In all decisions undertaken by the Commissioner with respect to the detention of a noncitizen child, the Commissioner shall prioritize—
(1) the best interests of the noncitizen child;
and
(2) in the case of a noncitizen child apprehended with a parent, legal guardian, or any other adult family member, family unity.

SEC. 105. STANDARDS FOR U.S. CUSTOMS AND BORDER PROTECTION FACILITIES HOUSING NONCITIZEN CHILDREN.

(a) IN GENERAL.—A noncitizen child may not be housed in a U.S. Customs and Border Protection facility that is not in compliance with this Act or the amendments made by this Act.

(b) NATIONAL STANDARDS ON TRANSPORT, ESCORT, DETENTION, AND SEARCH.—

(1) REVIEW.—Not later than 180 days after the date of the enactment of this Act, the Commissioner, in consultation with stakeholder organizations that serve immigrant and refugee children and families, shall conduct a review of the U.S. Customs and Border Protection standards entitled “National Standards on Transport, Escort, Detention, and Search” issued in October 2015, to identify necessary improvements with respect to the treatment and care of noncitizen children in U.S. Customs and Border Protection custody.
(2) Revision.—Not later than 90 days after the date on which the review required by paragraph (1) is completed, the Commissioner shall revise such standards to incorporate the improvements identified by the review.

(3) Compliance.—Not later than 180 days after the revision under paragraph (2), each U.S. Customs and Border Protection facility that houses 1 or more noncitizen children shall attain compliance with the revised standards.

(c) Facility Requirements.—

(1) In General.—The Commissioner shall ensure that each U.S. Customs and Border Protection facility that houses 1 or more noncitizen children is safe and sanitary and promotes an appropriate and healthy environment for children.

(2) Children’s Area.—

(A) In General.—The Commissioner shall ensure that each U.S. Customs and Border Protection facility that houses 1 or more noncitizen children includes a dedicated physical environment that is appropriate for children of all ages and stages of development (referred to in this paragraph as a “children’s area”).
(B) ELEMENTS.—Each children’s area shall be colorful and include—

(i) low, warm lights;

(ii) child-sized furniture and equipment, including developmentally appropriate books and toys that facilitate structured and unstructured play;

(iii) child-friendly images and displays;

(iv) a children’s bathroom;

(v) a diaper-changing area and access to sanitation;

(vi) nursing chairs for breastfeeding mothers; and

(vii) an area in which children may sit and rest comfortably.

(C) STAFFING.—Each children’s area shall be staffed by 1 or more individuals who are professionally trained and licensed to provide services to children, including licensed childcare workers, licensed pediatric health professionals, and licensed child welfare professionals.

(3) MEDICAL SCREENING AND CARE.—

(A) IN GENERAL.—The Commissioner shall ensure that—
(i) except as provided in subparagraph (F)(i), not later than 6 hours after the arrival of a noncitizen child at a U.S. Customs and Border Protection facility, the child receives a medical screening conducted by a licensed physician, advanced practice provider, nurse, or physician’s assistant in accordance with this paragraph;

(ii) a noncitizen child in the custody of the Commissioner shall have unrestricted access to appropriate medication for the management of an illness or injury of the child;

(iii) in the case of such a child with a medical assistive device or other health care support item, the noncitizen child, or the parent, legal guardian, or other adult family member of the child, is permitted unrestricted access to the device or item;

(iv) on release from such custody, a noncitizen child, or the parent, legal guardian, or other adult family member of the child, is provided with documentation of the child’s medical screening and care, including the need for any followup while in
such custody, in accordance with subparagraph (B)(viii); and

(v) medication in possession of a non-citizen child, or in the possession of the child’s parent, legal guardian, or other adult family member, on arrival shall not be destroyed or discarded before the review and determination under subparagraph (B)(vi) occur.

(B) DUTIES OF MEDICAL PROFESSIONAL.—With respect to a medical screening required by subparagraph (A) and the care of a noncitizen child at a U.S. Customs and Border Protection facility, a licensed physician, advanced practice provider, nurse, or physician’s assistant attending the child at the facility shall—

(i) assess and identify any illness, condition, or physical ailment;

(ii) identify any acute condition or high-risk vulnerability;

(iii) ensure that appropriate health care is provided to the child as necessary, including pediatric and reproductive health care;
(iv) in the case of a child under 14 years of age, conduct a physical examination of the child in the presence of a parent, legal guardian, or family member;

(v) in the case of a child who is 14 years of age or older—

(I) provide the child with the choice of—

(aa) a physical examination in the presence of a parent, legal guardian, or other adult family member; or

(bb) a private physical examination without the presence of a parent, legal guardian, or other adult family member; and

(II) conduct such examination in accordance with the child’s preference;

(vi) review any medication that is in the possession of the child on arrival to determine whether the medication shall be kept by the child or the child’s parent, legal guardian, or other adult family member, as applicable;
(vii) in the case of a medication described in clause (vi) that may not be kept by the child or the child’s parent, legal guardian, or other adult family member for medical storage purposes, such as a medication that requires refrigeration, ensure storage with appropriate access for the child’s use while in U.S. Customs and Border Protection custody; and

(viii) ensure that the medical screening and care under this paragraph, and any other medical evaluation of or intervention for the child conducted while the child is in the custody of the Commissioner, is documented in accordance with commonly accepted standards in the United States for medical records documentation.

(C) PROCEDURES FOR MEDICAL SCREENINGS.—The Commissioner shall establish procedures for medical screenings and examinations under this paragraph that are consistent with—
(i) relevant guidelines set forth in the American Medical Association Code of Medical Ethics; and

(ii) the recommendations of the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

(D) LANGUAGE SERVICES.—The Commissioner shall ensure—

(i) the availability of in-person, language-appropriate interpretation services, including indigenous languages, for each noncitizen child in the custody of the Commissioner during any medical screening or examination; and

(ii) that noncitizen children in such custody are informed of the availability of such services.

(E) LOCATION OF MEDICAL SCREENINGS.—The Commissioner shall ensure that medical screenings, examinations, and any followup care under this paragraph are conducted in a location that—
(i) is private and provides a comfortable and considerate atmosphere for children;

(ii) ensures each noncitizen child’s dignity and right to privacy; and

(iii) contains all necessary and appropriate medical equipment and supplies, including basic over-the-counter medications appropriate for all age groups.

(F) ACUTE MEDICAL CONDITIONS.—

(i) IN GENERAL.—The Commissioner shall ensure that any noncitizen child exhibiting symptoms of an acute medical condition, or who is at risk for an acute medical condition, receives immediate care from a licensed physician, advanced practice provider, nurse, or physician’s assistant.

(ii) TRANSFER TO LOCAL HEALTH CARE FACILITY.—

(I) IN GENERAL.—If appropriate medical care cannot be provided for a noncitizen child described in clause (i) at a U.S. Customs and Border Protection facility, the Commissioner
shall expeditiously transfer the child
to a local medical facility.

(II) Accompaniment by Family.—In the case of a noncitizen child
transferred under subclause (I), 1 or
more parents, legal guardians, or
other adult family members, siblings,
or fictive kin shall be permitted to ac-
company the child to such medical fa-
cility.

(iii) Ongoing Availability of
transportation.—The Commissioner
shall maintain—

(I) appropriate transportation at
each U.S. Customs and Border Pro-
tection facility that houses 1 or more
noncitizen children to ensure the
availability of transport to outside
medical facilities in the case of a med-
ical emergency; or

(II) an on-call service to provide
such transportation to such a facility
within 30 minutes.

(G) Rule of Construction.—Nothing in
this paragraph shall be construed to require a
noncitizen child, parent, legal guardian, or non-
parent family member to disclose the child’s
medical history.

(4) SERVICES AND SUPPLIES.—The Commiss-
ioner shall ensure that each U.S. Customs and Bor-
der Protection facility that houses 1 or more noncit-
izen children is in compliance with the following
standards at all times:

(A) TEMPERATURE.—The temperature in-
side the facility shall be maintained between 68
and 73 degrees Fahrenheit.

(B) VENTILATION.—The facility shall com-
ply with the most recent guidance issued by the
Centers for Disease Control and Prevention
with respect to ventilation in buildings to miti-
gate the spread of COVID–19.

(C) FOOD AND WATER.—

(i) IN GENERAL.—Food shall be pro-
vided—

(I) in a manner that follows Fed-
eral food safety laws and regulations;
and

(II) according to the guidelines of
the American Association of Pediat-
rics and the American College of Ob-
stetricians and Gynecologists with respect to nutrition, consistency, calories, and portion size, consistent with the age of each child.

(ii) MEALS AND SNACKS.—

(I) ARRIVAL.—On arrival at the facility, a child shall be provided with a healthy, nutritious, and culturally appropriate meal.

(II) MEALS.—Meals shall—

(aa) be served daily to all noncitizen children for breakfast, lunch, and dinner, of which not fewer than 2 meals daily shall be served hot; and

(bb) include a variety of fresh fruit, vegetables, a protein, and grains.

(III) SNACKS.—Noncitizen children shall have unrestricted access to healthy snacks.

(IV) LIMITATION ON UNHEALTHFUL FOODS.—The availability of highly processed foods and sugars shall be limited.
(iii) **WATER.**—Each noncitizen child shall—

(I) be provided with not less than 1 gallon of drinking water or age-appropriate fluids daily; and

(II) have unrestricted access to drinking water.

(iv) **ACCOMMODATION.**—A noncitizen child’s individual dietary needs or restrictions shall be accommodated.

(v) **SPECIAL CONSIDERATIONS FOR INFANTS AND YOUNG CHILDREN.**—

(I) **BOTTLE FEEDING.**—

(aa) **IN GENERAL.**—On arrival at a facility, the parent, legal guardian, or other family member of a noncitizen child using a bottle for feeding shall be offered 2 clean baby bottles, a bottle brush, dish soap, and enough bottled water and baby formula for at least 3 bottles.

(bb) **ADDITIONAL SUPPLIES.**—Additional baby formula and bottled water shall be pro-
vided on request of the parent, legal guardian, or other family member.

(II) BREASTFEEDING.—In the case of any noncitizen child who is breastfeeding at the time of arrival at the facility—

(aa) continued breastfeeding shall be supported; and

(bb) the breastfeeding mother of each such noncitizen child shall be provided with privacy, blankets, a quiet area for breastfeeding, a nursing chair, and adequate amounts of food and water consistent with the dietary needs of a breastfeeding mother.

(D) HYGIENE.—

(i) CLOTHES AND SHOES.—Each noncitizen child shall be provided with a set of clean clothes, and on request, a pair of shoes in good condition.

(ii) SHOWERS.—
(I) **IN GENERAL.**—Each noncitizen child shall be provided access to a hot shower with a barrier for privacy.

(II) **ACCESS.**—A noncitizen child shall be provided access to additional hot showers on request.

(III) **TEMPERATURE.**—Hot water for a shower under this clause shall be set at a temperature consistent with the temperature required under childcare facility standards for childcare facilities licensed in the State in which the facility is located.

(iii) **MENSTRUATION SUPPLIES.**—Each female noncitizen child shall be offered immediately a supply of tampons and pads at no cost.

(iv) **DIAPERING.**—

(I) **IN GENERAL.**—The parent, legal guardian, or other family member of each noncitizen child using diapers shall be provided immediately with 3 size-appropriate diapers and a packet of diaper wipes.
(II) Additional Diapers.—Additional diapers and diaper wipes shall be provided on request at no cost.

(III) Diaper Changing Area.—The parent, legal guardian, or other family member of each such noncitizen child shall be provided—

(aa) access to a safe and sanitary area in which to change the child’s diaper;

(bb) a clean diaper changing pad; and

(cc) a handwashing station.

(v) Bathrooms.—Each noncitizen child shall be provided access to bathrooms.

(E) Sleep.—

(i) Mats, blankets, and pillows.—

(I) In general.—On arrival, each noncitizen child shall be provided with a clean mat that is not less than 3 inches thick, a clean cloth blanket, and a clean pillow.
(II) **ADDITIONAL BLANKETS.**—A noncitizen child shall be provided with additional blankets on request by the child or the parent, legal guardian, or other family member of the child.

(ii) **QUIET LOCATION.**—On request or if there are signs of a noncitizen child feeling tired, the child shall be provided with access to a quiet location in which to sleep that has dimmed lights.

(iii) **SCHEDULE.**—Between the hours of 9:00 p.m. and 6:00 a.m.—

(I) noncitizen children shall have access to lighting that is safe and conducive to sleep; and

(II) noise shall be at a level conducive to sleep.

(F) **RECREATION.**—

(i) **IN GENERAL.**—Noncitizen children shall have access to age-appropriate recreational activities, including indoor and outdoor spaces for physical activity, toys, art supplies, sports equipment, and books.

(ii) **OUTDOOR PLAY.**—Noncitizen children shall be allowed to play outside for
not less than 30 minutes every 3 hours
during daylight hours.

(G) RELIGIOUS PRACTICE.—Noncitizen
children shall be permitted to practice their reli-
gion or to not practice a religion, as applicable.

(5) NOTICE OF RIGHTS.—

(A) IN GENERAL.—The Ombudsperson
shall develop a notice of children’s rights, which
shall be posted in each U.S. Customs and Bor-
der Protection facility that houses children in
any location in which noncitizen children are lo-
cated.

(B) DESCRIPTION OF RIGHTS.—The notice
required by subparagraph (A) shall include—

(i) a description of—

(I) all rights afforded to a noncit-
izen child under section 235 of the
William Wilberforce Trafficking Vict-
ims Protection Reauthorization Act
of 2008 (8 U.S.C. 1232) and this Act;

(II) the right to a bond redeter-
mination hearing; and

(III) existing mechanisms by
which children may seek to enforce
their rights; and
(ii) a list of free legal services providers and contact information for such providers.

(C) FORMAT AND LANGUAGES.—

(i) IN GENERAL.—Such notice shall be—

(I) written in a manner that is child friendly and age-appropriate; and

(II) made available and posted in multiple languages, including English, Spanish, French, Hindi, Bengali, Punjabi, Swahili, Mandarin Chinese, Russian, Standard Arabic, Portuguese, Haitian Creole, K'iche', Q'eqchi', Kaqchikel, Mam, Q'anjob'al, and Ixil.

(ii) ADDITIONAL LANGUAGES.—The Ombudsperson may require such notice to be made available and posted in any additional language the Ombudsperson considers necessary based on the demographics of arriving noncitizen children.

(D) AVAILABILITY.—A child protection professional of the Department of Homeland
Security shall provide each noncitizen child with such notice on the child’s arrival at the U.S. Customs and Border Protection facility.

(d) Separation From Unfamiliar Adults.—

(1) In general.—Except as provided in paragraph (2), an unaccompanied noncitizen child in the custody of the Commissioner shall be physically separated from any adult who is not related to the child.

(2) Immediate Separation Not Feasible.—
In any circumstance in which such separation is not immediately feasible, such as during transport to a U.S. Customs and Border Protection facility, an unaccompanied noncitizen child shall not be left alone with such an adult or detained with such an adult for more than 6 hours.

(e) Staff Training.—

(1) In general.—The Commissioner shall ensure that—

(A) the staff of each U.S. Customs and Border Protection facility in which 1 or more noncitizen children are housed receives training on responding to the needs of children and families exposed to trauma, including training on—
(i) the principles and practices of trauma-informed care and psychological first aid;
(ii) vicarious traumatization and secondary stress; and
(iii) recognizing the signs of a child in medical distress; and
(B) every effort is made to ensure that the safety and well-being of noncitizen children in U.S. Customs and Border Protection custody are satisfactorily provided for by facility staff.

(2) Rulemaking.—

(A) In general.—The Commissioner shall issue regulations that require Border Patrol and Office of Field Operations officials to participate in regular training so as to ensure that such officials treat all individuals in their custody with dignity, prevent abuse, and ensure constitutionally guaranteed and humane conditions of confinement.

(B) Elements.—The regulations required by subparagraph (A) shall do the following:

(i) Prohibit U.S. Customs and Border Protection officials from—
(I) discussing immigration outcomes with detained individuals; and

(II) using derogatory language towards individuals in their custody.

(ii) Address matters of child development, mental health and trauma, children with special needs, cultural competency, and any other matter the Commissioner considers appropriate.

(iii) Require foreign language competency and interview protocols in cases in which interpretation is required.

(iv) Require continuing education in any subject necessary to ensure compliance with this Act or the amendments made by this Act.

(f) MONITORING AND OVERSIGHT.—

(1) IN GENERAL.—Compliance of U.S. Customs and Border Protection facilities with this Act and section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232) shall be monitored by the Ombudsperson, in accordance with section 601.

(2) POSTING OF OMBUDSPERSON’S CONTACT INFORMATION.—
(A) IN GENERAL.—The Commissioner shall post, in each U.S. Customs and Border Protection facility in which 1 or more noncitizen children are housed, the contact information for the Ombudsperson in multiple languages, including English, Spanish, French, Hindi, Bengali, Punjabi, Swahili, Mandarin Chinese, Russian, Standard Arabic, Portuguese, Haitian Creole, K’iche’, Q’eqchi’, Kaqchikel, Mam, Q’anjob’al, and Ixil.

(B) ADDITIONAL LANGUAGES.—The Ombudsperson may require such contact information to be posted in any additional language the Ombudsperson considers necessary based on the demographics of arriving noncitizen children.

(g) AGE ASSESSMENTS.—

(1) IN GENERAL.—Any individual who claims to be under the age of 18 years shall be presumed to be so and shall be treated according to the law and standards applicable to noncitizen children in immigration custody, unless following an age assessment, it is established by clear and convincing evidence that the individual is 18 years of age or older.

(2) REQUIREMENTS.—
(A) IN GENERAL.—An age assessment may only be conducted if the Secretary or Secretary of Homeland Security has recent, credible, and documented evidence that the individual concerned is 18 years of age or older.

(B) CONSIDERATIONS.—If an age assessment is conducted, the Secretary and the Secretary of Homeland Security shall take into consideration, to the extent such information is readily available—

   (i) written or photographic evidence;

   (ii) statements and representations of the individual concerned and of the family and community members who know such individual; and

   (iii) the relevant cultural and ethnic context.

(C) PROHIBITED METHODS.—The Secretary or the Secretary of Homeland Security may not—

   (i) conduct any medical age assessment that consists of imaging studies, such as bone or dental radiography, dental examinations, or height, weight, skin, or sexual maturity ratings; or
(ii) rely on the physical appearance of a child to justify an age assessment.

(D) Legal Counsel.—

(i) In General.—An individual with respect to whom an age assessment is conducted shall be provided with legal counsel before receiving such assessment and may not be removed before receiving such counsel.

(ii) Evidence.—Legal counsel provided under clause (i) shall be provided with all evidence upon which the Secretary or the Secretary of Homeland Security relies to justify conducting an age assessment or to support an age assessment determination.

SEC. 106. MODIFICATION OF TERM “ASYLUM OFFICER” TO EXCLUDE OFFICERS OF U.S. CUSTOMS AND BORDER PROTECTION.

Section 235(b)(1)(E) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(E)) is amended—

(1) in clause (i), by striking “, and” and inserting a semicolon;

(2) in clause (ii), by striking the period at the end and inserting “; and”; and
(3) by adding at the end the following:

“(iii) is employed by the Refugee, Asylum, and International Operations Directorate of U.S. Citizenship and Immigration Services.”.

TITLE II—STANDARDS FOR DEPARTMENT OF HEALTH AND HUMAN SERVICES CUSTODY OF UNACCOMPANIED NON-CITIZEN CHILDREN

Subtitle A—Standards for Foster Care Homes and Childcare Facilities

SEC. 201. OPERATION OF FOSTER CARE HOMES AND CHILDCARE FACILITIES.

(a) In General.—An entity contracted by the Director to operate a childcare facility shall be licensed by an appropriate State agency to provide residential, group, or foster care services for dependent children.

(b) Operation as Nonsecure Facilities.—Each foster care home operated by a State-licensed program contracted by the Director to provide care for 1 or more unaccompanied noncitizen children, and each childcare facility, including any facility for special needs noncitizen
children, shall be maintained as a nonsecure facility, in accordance with applicable State law.

SEC. 202. NOTICE OF RIGHTS.

(a) IN GENERAL.—The Ombudsperson shall develop a notice of children’s rights in childcare facilities, which shall be—

(1) posted in each childcare facility in all locations in which unaccompanied noncitizen children are located; and

(2) distributed to each unaccompanied noncitizen child on arrival at a childcare facility.

(b) DESCRIPTION OF RIGHTS.—The notice required by subsection (a) shall include—

(1) a description of—

(A) all rights afforded to an unaccompanied noncitizen child under section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232) and this Act;

(B) the right to a bond redetermination hearing; and

(C) existing mechanisms by which children may seek to enforce their rights; and

(2) a list of free legal services providers and contact information for such providers.
(c) Format and Languages.—

(1) In General.—Such notice shall be—

(A) written in a manner that is child friendly and age-appropriate; and

(B) made available and posted in multiple languages, including English, Spanish, French, Hindi, Bengali, Punjabi, Swahili, Mandarin Chinese, Russian, Standard Arabic, Portuguese, Haitian Creole, K'iiche', Q'eqchi', Kaqchikel, Mam, Q'anjob'al, and Ixil.

(2) Additional Languages.—The Ombudsperson may require that such notice be made available and posted in any additional language the Ombudsperson considers necessary based on the demographics of arriving noncitizen children.

(d) Orientation to Role of Office of the Ombudsperson.—Each State-licensed program that operates a childcare facility shall provide to each unaccompanied noncitizen child in its care—

(1) information about the Office of the Ombudsperson; and

(2) the contact information for the Office of the Ombudsperson.
SEC. 203. STAFFING AND TRAINING.

(a) Federal Field Specialists.—The Director shall—

(1) maintain for each childcare facility a reasonable Federal field specialist-to-unaccompanied noncitizen child ratio;

(2) hire additional Federal field specialists as necessary to ensure that, for the majority of unaccompanied noncitizen children in the custody of the Secretary, a decision regarding their release can be made by Federal field specialists not later than 48 hours after the approval of a release recommendation to a sponsor; and

(3) develop and manage a plan for expeditiously placing unaccompanied noncitizen children who have no identified sponsor in the least restrictive setting that most approximates a family.

(b) Case Management Specialists.—The Director shall ensure that each State-licensed program that operates a childcare facility—

(1) maintains a ratio of 8 unaccompanied noncitizen children to each case management specialist;

(2) provides training for case management specialists that enables the Department of Health and Human Services to meet required timelines for the
reunification of unaccompanied noncitizen children
in accordance with section 231(c); and

(3) develops accountability measures with re-
spect to the adherence of case management special-
ists to such timelines.

(c) CONTINGENCY FUND TO ADDRESS EMERGENT
NEEDS.—

(1) IN GENERAL.—In addition to amounts oth-
erwise available, there is appropriated to the Sec-
retary of Health and Human Services, out of any
money in the Treasury not otherwise appropriated,
$46,500,000, to remain available until expended, for
a contingency fund (referred to in this section as the
“Fund”) for the hiring of case management special-
ists as required by an influx or any other emergent
situation for the purpose of facilitating the release
process and minimizing the risk that childcare facili-
ties reach full capacity.

(2) USE OF FUND.—

(A) DISCRETIONARY USE.—The Director
may draw upon the Fund to reduce the ratio to
6 unaccompanied noncitizen children for each
case management specialist if—

(i) the national utilization rate (ex-
cluding funded but unplaceable beds and
calculated as the number of filled beds divided by the number of beds available for placement, expressed as a percentage) reaches or exceeds 65 percent in any week; or

(ii) the Director certifies to Congress that the rate of increase in childcare facility usage, as calculated by the Director for purposes of section 602(b)(3)(F)(i)(VI), has led the Director to believe that such national utilization rate will reach 90 percent in any week during the subsequent 10-week period.

(B) MANDATORY USE.—The Director shall draw upon the Fund to reduce the ratio to 6 unaccompanied noncitizen children for each case management specialist if such national utilization rate reaches or exceeds 90 percent in any week.

(d) TRAINING.—

1. IN GENERAL.—With respect to the personnel of a State-licensed program that operates a childcare facility, the Director shall provide regular in-person training, and a coaching plan with support for 30 days, for such personnel who interact with
unaccompanied noncitizen children, including youth care workers, that is—

(A) specific to the age and gender of the unaccompanied noncitizen children at the specific childcare facility; and

(B) consistent across the Office of Refugee Resettlement’s network of State-licensed programs.

(2) Topics.—The training required by paragraph (1) shall address the following topics:

(A) Ethical standards of conduct based on accepted child welfare principles with respect to the care of unaccompanied noncitizen children.

(B) Mental health and trauma.

(C) Child development.

(D) Prevention of sexual abuse and harassment.

(E) Cultural humility.

(F) Racial sensitivity.

(G) De-escalation techniques to avert unnecessary involvement of local law enforcement prior to exhaustion of alternative, trauma-informed care, treatment, and restorative responses.

(H) Disabilities.
(3) **Specific training for staff working with early childhood minors.**—The Director shall ensure that personnel who interact with unaccompanied noncitizen children who are early childhood minors receive specialized training relevant to the needs and capacities of such children.

(4) **Development of training materials.**—The Director, in collaboration with stakeholders who have expertise in child migration, child mental health, and child development, shall—

(A) develop written, audio, or visual materials with which training under this subsection may be conducted; and

(B) before distribution to personnel of such State-licensed programs, provide the Ombudsperson with such materials.

(5) **Department of Health and Human Services staff.**—Not later than 90 days after the date of the enactment of this Act, the Secretary shall provide appropriate guidance and training for all Department of Health and Human Services employees with respect to the requirements of this Act.
Subtitle B—Services for Unaccompanied Noncitizen Children

SEC. 211. REQUIRED SERVICES.

(a) Provision of Required Services.—A State-licensed program that operates a childcare facility shall provide the following services for each unaccompanied noncitizen child in its care:

(1) On admission to the childcare facility, a comprehensive orientation regarding—

(A) the rights of the unaccompanied noncitizen child;

(B) the role of the State-licensed program;

(C) the services, rules, procedures, and expectations of the State-licensed program; and

(D) the availability of legal assistance.

(2) Proper physical care and maintenance, including suitable living accommodations, food, appropriate clothing, and personal hygiene items.

(3) Not later than 2 business days after admission to the childcare facility, a comprehensive medical examination that includes screening for infectious disease.

(4) Appropriate, ongoing, and routine medical and dental care, as prescribed by a licensed physi-
cian, advanced practice provider, nurse, or physician assistant, including—

(A) reproductive health and family planning services;

(B) emergency health care services;

(C) immunizations in accordance with the Centers for Disease Control and Prevention guidelines;

(D) administration of prescribed medication and special diets; and

(E) mental health screening and intervention, including referrals.

(5) An individualized needs assessment, which shall include the following:

(A) Collection of essential data relating to the identification and history of the unaccompanied noncitizen child and family.

(B) Identification of any special needs of the unaccompanied noncitizen child, including any need that requires immediate intervention.

(C) An educational assessment and plan.

(D) An assessment of family relationships.

(E) A statement of religious preference and practice.
(F) An assessment of the personal goals, strengths, and weaknesses of the unaccompanied noncitizen child.

(G) Collection of identifying information regarding immediate family members, other relatives, godparents, or friends who may be residing in the United States and who may be able to assist in family reunification.

(6) A comprehensive individual plan for the care of the unaccompanied noncitizen child, which shall be—

(A) developed in accordance with the child’s needs, as determined by the individualized needs assessment under paragraph (5); and

(B) implemented and closely coordinated through an operative case management system.

(7) Education services, as described in section 213.

(8) Recreational activities, as described in section 214.

(9) Counseling services, including—

(A) not fewer than 2 weekly individual counseling sessions conducted by licensed men-
tal health professionals, including social workers, psychologists, and psychiatric staff; and

(B) not fewer than 1 weekly group counseling session conducted by licensed mental health professionals, including social workers, psychologists, or psychiatric staff.

(10) Acculturation and adaptation services, including the provision of information regarding the development of social and interpersonal skills.

(11) Religious and spiritual services of the unaccompanied noncitizen child’s choice, if any.

(12) Case management services designed to identify relatives or prospective sponsors in the United States and ensure the quick release of the unaccompanied noncitizen child from the custody of the Secretary.

(13) Visitation and contact with family members, regardless of the immigration status of the family members. An unaccompanied noncitizen child and family members of such a child shall be provided with a private, confidential space to meet in during such visitation. The Secretary of Homeland Security may not pursue enforcement actions against such family members during or immediately before or after such visitation.
(14) Telephone and video access for contacting parents, family members, and caregivers, in a private space that ensures confidentiality, at no cost to the unaccompanied noncitizen child, family member, or caregiver. An unaccompanied noncitizen child shall be permitted such access not fewer than 4 times weekly for a period of not less than 30 minutes each time.

(15) A reasonable right to privacy, including the right of the unaccompanied noncitizen child—

(A) to wear the child’s own clothes, as available;

(B) to retain a private space in the childcare facility for the storage of personal belongings;

(C) to talk privately on the telephone, as permitted by the rules and regulations of the State-licensed program;

(D) to visit privately with guests, as permitted by such rules and regulations; and

(E) to receive and send uncensored correspondence.

(16) Legal services information regarding the availability of free legal assistance, the right to be represented by counsel, screenings and legal orienta-
tion presentations, and facilitated, confidential access to counsel, as described in title IV.

(b) CONSIDERATIONS FOR PROVISION OF SERVICES.—A State-licensed program that operates a childcare facility shall provide the services described in subsection (a) in a manner that is sensitive to the age, culture, native language, and complex needs of each unaccompanied noncitizen child.

(e) RULES AND DISCIPLINE STANDARDS.—

(1) IN GENERAL.—The rules and discipline standards of such a State-licensed program shall be—

(A) formulated with consideration given to the age ranges, developmental stages, and degree of trauma experienced by the unaccompanied noncitizen children in the applicable childcare facility; and

(B) culturally sensitive to the needs of such children.

(2) PROHIBITED MEASURES.—Such a State-licensed program may not subject any unaccompanied noncitizen child to—

(A) corporal punishment, physical or chemical restraint, seclusion, humiliation, verbal or mental abuse, or punitive interference with the
daily functions of living, such as eating, sleeping, or bathroom access; or

(B) any disciplinary measure that—

(i) adversely affects the health or physical or psychological well-being of the unaccompanied noncitizen child; or

(ii) denies an unaccompanied noncitizen child regular meals, water, sleep, exercise, medical care, correspondence privileges, legal assistance, education, recreation, bathroom access, or any other service described in subsection (a).

(d) RECORDKEEPING.—

(1) INDIVIDUAL CASE RECORDS.—The operator of each childcare facility and influx facility shall develop, maintain, and safeguard individual client case records on each unaccompanied noncitizen child in care at the facility.

(2) CONFIDENTIALITY.—The operator of each childcare facility and influx facility shall develop and maintain a system of accountability that preserves the confidentiality of client information and protects such records from unauthorized use or disclosure in accordance with section 804.
(3) REPORTING.—The operator of each childcare facility and influx facility shall maintain adequate records and make regular reports, as required by the Ombudsperson, that permit the Ombudsperson to monitor and enforce this Act, the amendments made by this Act, and any other requirement or standard determined by the Ombudsperson to be in the best interests of unaccompanied noncitizen children.

SEC. 212. EVALUATION FOR DISABILITY.

(a) IN GENERAL.—The Director shall provide unaccompanied noncitizen children who present an indication of a disability with an evaluation for services under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and provide unaccompanied noncitizen children with disabilities with services (including accommodations) through an individualized plan that includes a plan for prompt release.

(b) RECORDS.—Any record of a screening or an evaluation conducted under this section, and any record related to a decision with respect to the release of an unaccompanied noncitizen child with a disability, shall be maintained separately from the unaccompanied noncitizen child’s immigration file (commonly known as an “A-File”).
SEC. 213. EDUCATION.

(a) CURRICULUM.—

(1) STATE STANDARDS.—A State-licensed program shall provide educational instruction to unaccompanied noncitizen children using a curriculum that—

(A) includes access to physical education, art, and other electives; and

(B) is consistent with the licensing and academic standards of the State in which the State-licensed program is located.

(2) BASIC ACADEMIC AREAS.—The basic academic areas covered by such curriculum shall include science, social studies, math, reading, and writing.

(b) LICENSING AND CERTIFICATION REQUIREMENTS.—

(1) IN GENERAL.—Teachers, administrators, counselors, and support staff providing education to unaccompanied noncitizen children at a childcare facility shall—

(A) meet local and State certification or licensure requirements; and

(B) in the case of an unaccompanied noncitizen child in custody for a period longer than 60 days or who was previously attending school
in the United States, ensure that the child receives transferable credit.

(c) Instruction.—

(1) In General.—Educational instruction at a childcare facility shall be—

(A) appropriate to the level of development and communication skills of an unaccompanied noncitizen child; and

(B) provided in a structured classroom setting on a weekly basis Monday through Friday.

(2) Class Size.—An unaccompanied noncitizen child may not be placed in a class in which the teacher-to-student ratio exceeds the applicable State maximum ratio.

(d) Language Access and Educational Environment.—The educational program at a childcare facility shall—

(1) include instruction and reading materials, educational and otherwise, in the primary languages of the unaccompanied noncitizen children at the childcare facility; and

(2) be provided in an emotionally, culturally, and physically safe environment.

(e) Individual Education Program.—A State-licensed program that operates a childcare facility shall pro-
vide any eligible unaccompanied noncitizen child who is
a child with a disability (as defined in section 602 of the
Individuals with Disabilities Education Act (20 U.S.C.
1401)) with special education and related services pursu-
ant to an individualized education program that is devel-
oped for the unaccompanied noncitizen child and is con-
sistent with the requirements provided under the Individ-
uals with Disabilities Education Act (20 U.S.C. 1401 et
seq.).

(f) OTHER EDUCATIONAL OPPORTUNITIES.—The
educational program of such a State-licensed program
shall include educational opportunities addressing per-
sonal, social, emotional, intellectual, and employment
skills.

SEC. 214. RECREATION.

(a) IN GENERAL.—A State-licensed program that op-
erates a childcare facility shall provide recreational oppor-
tunities that meet or exceed—

(1) the guidelines of the Department of Health
and Human Services entitled “2018 Physical Activity
Guidelines for Americans”; and

(2) the guidelines of the President’s Council on
Sports, Fitness, and Nutrition.

(b) ACTIVITIES.—
(1) IN GENERAL.—Activities for recreation and leisure time, which shall include daily outdoor activity, weather permitting, shall include—

(A) not less than 1 hour daily of large-muscle activity; and

(B) not less than 1 hour daily of structured leisure time activities, which shall not include time spent watching television or video.

(2) DAYS ON WHICH SCHOOL IS NOT IN SESSION.—The periods scheduled for activities described in paragraph (1) shall be increased to a total of 3 hours daily on any day on which school is not in session.

(3) LANGUAGE-APPROPRIATE READING MATERIALS.—A State-licensed program shall provide appropriate reading materials in the primary languages of unaccompanied noncitizen children for use during leisure time.

Subtitle C—Placement of Children

SEC. 221. PHASING OUT LARGE CONGREGATE CARE FACILITIES.

(a) DEFINITION OF LARGE CONGREGATE CARE FACILITY.—In this section, the term “large congregate care facility” means a facility intended to house more than 25 individuals at a time.
(b) PHASEOUT.—

(1) IN GENERAL.—Beginning on the date that

is 2 years after the date of the enactment of this

Act—

(A) the Director may not place an unac-

companied noncitizen child in a large con-

gregate care facility; and

(B) no Federal funds shall be made avail-

able for the purpose of—

(i) housing an unaccompanied noncit-

izen child in such a facility; or

(ii) placing an unaccompanied noncit-

izen child in any congregate care facility

for a period longer than 14 days.

(2) EXCEPTION.—Paragraph (1) shall not

apply to any of the following:

(A) An influx facility.

(B) A setting specializing in prenatal,

postpartum, or parenting support for youth.

(C) A supervised independent living setting

under the post-18 program described in section

243(c).

(D) A program addressing the needs of

victims of trafficking.
(E) A qualified residential treatment program specifically designed to meet the needs of a child with serious emotional or behavioral health needs.

(c) PLAN REQUIRED.—

(1) IN GENERAL.—The Director shall develop a plan to eliminate the use of large congregate care facilities by the date that is 2 years after the date of the enactment of this Act.

(2) ELEMENTS.—The plan required by paragraph (1) shall include the following:

(A) Specific measures the Director will take to eliminate the use of such facilities.

(B) Performance benchmarks that require the Director to place unaccompanied noncitizen children in compliant congregate care facilities as follows:

(i) 25 percent of such children not later than the date that is 1 year after the date of the enactment of this Act.

(ii) 75 percent of such children not later than 545 days after such date of enactment.
(iii) 100 percent of such children not later than 2 years after such date of enactment.

(3) **Submital to Congress.**—Not later than 90 days after the date of the enactment of this Act, the Director shall submit to Congress the plan developed under paragraph (1).

(d) **Transitional Support for Nongovernmental Organizations.**—To the extent that the transition to childcare facilities housing 25 unaccompanied noncitizen children or fewer affects nongovernmental organizations that provide services to such children, the Director shall increase funding to such organizations—

(1) to prevent a disruption or decrease in services;

(2) to establish centralized locations for unaccompanied noncitizen children to receive services from such organizations; and

(3) to increase funding for representation of released children.

**SEC. 222. LEAST RESTRICTIVE SETTING.**

An unaccompanied noncitizen child in the custody of the Secretary shall be placed in the least restrictive setting that most approximates a family and in which the child’s
special needs, if any, may be met consistent with the best interests and special needs of the child.

SEC. 223. FOSTER FAMILY CARE.

(a) Preference for Foster Family Care.—

(1) In general.—With respect to an unaccompanied noncitizen child in the custody of the Secretary, the Director shall make active efforts to place the child in the least restrictive setting that most approximates a family and in which the child’s special needs, if any, may be met.

(2) Additional consideration.—Such an unaccompanied noncitizen child shall be placed within reasonable proximity to the location of the child’s immigration proceedings, taking into account any special needs of the child before placing the child in a childcare facility.

(b) Transitional Foster Care.—

(1) In general.—An unaccompanied noncitizen child whose length of care in the custody of the Secretary is anticipated to be not more than 30 days shall be eligible for a transitional foster care placement in a family home licensed to provide such shorter term care.
(2) PRIORITY.—The Director shall prioritize for placement in transitional foster care the following categories of unaccompanied noncitizen children:

(A) Unaccompanied noncitizen children under 13 years of age.

(B) Sibling groups with 1 or more siblings who are under 13 years of age.

(C) Unaccompanied noncitizen children who are pregnant or parenting.

(D) Unaccompanied noncitizen children with special needs, including any unaccompanied noncitizen child with a disability.

(e) STAYS EXPECTED TO EXTEND MORE THAN 30 DAYS.—

(1) IN GENERAL.—An unaccompanied noncitizen child whose length of care in the custody of the Secretary is anticipated to be more than 30 days, or a noncitizen who entered the custody of the Secretary as a child and who has reached the age of 18 years, shall be eligible for a long-term foster care placement in the least restrictive setting that most approximates a family and in which the child’s best interests and any special needs may be met.

(2) CONTRACTING REQUIREMENTS.—The Director shall—
(A) seek to enter into 1 or more contracts with State-licensed foster care providers for the provision of long-term foster care placements for all eligible unaccompanied noncitizen children; and

(B) ensure that such providers accept unaccompanied noncitizen children for placement in a timely manner.

(d) Access to Foster Care for Children With Disabilities or Mental or Behavioral Health-Related Needs.—

(1) In general.—The Director shall—

(A) ensure access to transitional and long-term foster care placements for unaccompanied noncitizen children notwithstanding—

(i) disabilities;

(ii) behavioral concerns or involvement in the juvenile justice system;

(iii) prior incident reports; or

(iv) prior or current restrictive placements (as defined in section 226); and

(B) seek to enter into 1 or more contracts with foster care providers that have the documented capacity and commitment to accept
children regardless of disabilities or mental or behavioral health-related needs.

(2) Equal Access.—

(A) In General.—An unaccompanied noncitizen child with mental or behavioral health-related needs who does not pose a documented, imminent threat to himself or herself, to others, or to the community shall be eligible for, and shall be provided equal access to, a foster care placement.

(B) Eligibility for Transfer.—If such a child is in a restrictive placement, he or she shall be eligible for direct transfer to a foster care placement.

(3) Limitation on Refusal of Placement.—A State-licensed program that operates a childcare facility may not refuse placement of an unaccompanied noncitizen child based on a disability or a mental or behavioral health-related need absent individualized documentation that—

(A) State licensing requirements bar acceptance of the specific unaccompanied noncitizen child based on the child’s individual needs; and
(B) a request for a variance from such a requirement has been denied or is unavailable under State law.

(e) BACKGROUND CHECKS.—

(1) IN GENERAL.—The Director shall ensure that a Federal Bureau of Investigation background check and, in any applicable State, a child abuse or neglect registry check, has been conducted for each resident of a foster care placement for an unaccompanied noncitizen child.

(2) LIMITATION ON DENIAL OF PLACEMENT.— A criminal history of a resident of a potential foster care placement shall not be the basis for a denial of the foster care placement for an unaccompanied noncitizen child unless the Director demonstrates that such history—

(A) includes a conviction for child abuse or trafficking; or

(B)(i) is less than 10 years old; and

(ii) has a direct and immediate impact on the safety of the unaccompanied noncitizen child.
SEC. 224. ADDITIONAL REQUIREMENTS RELATING TO CHILDREN WITH DISABILITIES AND CHILDREN WITH MENTAL HEALTH NEEDS.

(a) Prioritization of Release.—The Director shall prioritize the release to sponsors of unaccompanied noncitizen children with disabilities so that such children may receive, in the community rather than in immigration custody, evidence-based, trauma-informed services tailored to their needs.

(b) Access to Services While in Custody.—In the case of an unaccompanied noncitizen child with disabilities who cannot be expeditiously released, the Director shall provide access to any necessary service in the least restrictive integrated setting possible until a family-based placement is secured.

(c) Support.—The Director shall support unaccompanied noncitizen children with disabilities by—

(1) contracting with a range of placements so as to ensure that integrated settings are available for such children;

(2) providing resources to support placement, such as by connecting providers with community-based services or assisting with licensing variances; and

(3) developing and delivering trauma-informed disability-related training to all frontline care pro-
vider staff, in collaboration with stakeholders who
have expertise in serving children with disabilities.
(d) NETWORK CAPACITY.—Not less than 75 percent
of all childcare facilities and foster care placements shall
have appropriate State licensing and documented capa-
bility to house unaccompanied noncitizen children with
disabilities.

SEC. 225. MINIMIZING TRANSFERS.

(a) IN GENERAL.—The Director shall—

(1) minimize transfer of unaccompanied nonecit-
izen children among childcare facilities and between
short-term and long-term foster care placements;

and

(2) ensure that—

(A) the Ombudsperson tracks any third or
subsequent transfer of a child between childcare
facilities or placements;

(B) unaccompanied nonecitizen children re-
main in the least restrictive settings that most
approximate a family; and

(C) unaccompanied nonecitizen children who
are siblings are housed together in the same
childcare facility unless there is an extraor-
dinary need for specialized care, such as inpa-
tient health care services.
(b) NOTICE.—

(1) IN GENERAL.—In the case of an unaccompanied noncitizen child who is transferred to another childcare facility or foster family home placement, not less than 48 hours before the transfer occurs, the Director shall—

(A) notify the child in a language and format the child understands; and

(B) notify and provide a justification for the transfer to the child's sponsor, legal counsel or local legal services provider, and child advocate, as applicable.

(2) EXCEPTION.—

(A) IN GENERAL.—Paragraph (1) shall not apply in an unusual and compelling circumstance, such as—

(i) a circumstance in which—

(I) the safety of the unaccompanied noncitizen child or any other individual is threatened; or

(II) the child has previously attempted to abscond from custody; or

(ii) a case in which the unaccompanied noncitizen child's legal counsel has waived notice under that paragraph.
(B) Notice after Transfer.—In the case of a circumstance or waiver described in subparagraph (A), notice shall be provided to the unaccompanied noncitizen child’s legal counsel or local legal services provider, and child advocate, as applicable, not later than 24 hours after the transfer.

(c) Possessions and Legal Papers.—The Director shall ensure that any unaccompanied noncitizen child is transferred with all of his or her possessions and legal papers.

SEC. 226. Restrictive Placements.

(a) Definitions.—In this section:

(1) Restrictive Placement.—The term “restrictive placement” means—

(A) a staff-secure facility;

(B) a therapeutic staff-secure facility; and

(C) a placement in any setting other than a childcare facility, an influx facility, or licensed foster care placement.

(2) Therapeutic Childcare Facility.—The term “therapeutic childcare facility” means a—

(A) congregate care facility for the purpose of rehabilitation or residential treatment; and
(B) an out-of-network facility or group home the staff of which has specialized training to care for children and adolescents with significant emotional, behavioral, social, or medical needs.

(b) **Placement Review Hearings for Transfers to Restrictive Placements.**

(1) **In General.**—In the case of transfer of an unaccompanied noncitizen child to a restrictive placement, the Director shall provide an administrative placement review hearing conducted in accordance with sections 554 through 557 of title 5, United States Code.

(2) **Notice.**—

   (A) **In General.**—Except as provided in subparagraph (B), the Director shall provide written notice of intent to transfer an unaccompanied noncitizen child to a restrictive placement to the child concerned and the child’s legal counsel and child advocate.

   (B) **Exception.**—The Director may transfer an unaccompanied noncitizen child to a restrictive placement without providing notice under subparagraph (A) only if the Director has a reasonable belief, based on clearly
articulable facts, that the child is a present, imminent danger to himself or herself or to others.

(C) ELEMENTS.—A notice required by subparagraph (A) shall include, in a language and format the unaccompanied noncitizen child understands, the following:

(i) The time, date, and location of the hearing under paragraph (1).

(ii) A description of the individualized allegations relied on by the Director in support of such transfer, including all supporting evidence.

(iii) An explanation that the unaccompanied noncitizen child—

(I) has a right to contest such transfer at such hearing; and

(II) may submit additional evidence, including witness testimony.

(3) TIMING OF HEARING.—A hearing under this subsection shall occur not less than—

(A) 72 hours after the unaccompanied noncitizen child concerned receives notice under paragraph (2); and
(B) 5 business days before the transfer to
the restrictive placement is scheduled to occur.

(4) PROCEDURAL MATTERS.—

(A) NEUTRAL FACT FINDER.—A hearing
under this subsection shall be presided over by
a neutral fact finder who—

(i) is not an employee of the Office of
Refugee Resettlement; and

(ii) has expertise in child welfare.

(B) RIGHTS OF CHILD.—

(i) IN GENERAL.—At a hearing under
this subsection, an unaccompanied noncit-
izen child shall have—

(I) the right to counsel; and

(II) the right and opportunity to
confront, inspect, and rebut the evi-
dence alleged to justify the transfer to
a restrictive placement.

(ii) WAIVER OF PRESENCE.—With the
assistance of counsel, an unaccompanied
noncitizen child may waive his or her pres-
ence at a hearing under this subsection.

(C) AVAILABILITY OF OFFICE OF REFUGEE
RESETTLEMENT RECORDS.—The Director shall
disclose to the unaccompanied noncitizen child
concerned and the legal counsel and child advocate of the child, as applicable, the child’s entire case file and all evidence supporting the determination to transfer the child to a restrictive placement—

(i) not later than 24 hours after such determination is made; and

(ii) not less than 2 days before the date of the hearing under this subsection.

(D) INTERPRETATION SERVICES.—An interpreter in the preferred language of the unaccompanied noncitizen child shall be made available for a hearing under this subsection.

(E) BURDENS OF PRODUCTION AND PROOF.—The Director shall have the burden of production and the burden of proof, by clear and convincing evidence, to establish that—

(i) the unaccompanied noncitizen child is a present danger to himself or herself or to others;

(ii) a restrictive placement is consistent with the best interests of the child;

(iii) there is no viable alternative to a restrictive placement to ensure the best interests of the child; and
(iv) the child’s placement in a facility
that is not a restrictive placement would
not provide the services or resources nec-
essary.

(F) RECORD OF PROCEEDINGS.—The
record of proceedings for a hearing under this
subsection, and all related documentation—

(i) shall be maintained separately and
apart from the unaccompanied noncitizen
child’s immigration file (commonly called
the “A-File”); and

(ii) shall not form any part of, and
shall not be relied upon, in any removal
proceedings or any adjudication carried out
by U.S. Citizenship and Immigration Serv-
ices, including with respect to final deci-
sions and discretionary factors.

(5) WRITTEN DECISION.—

(A) IN GENERAL.—Not later than 2 busi-
ess days before the date on which the unac-
accompanied noncitizen child concerned is sched-
uled to be transferred to a restrictive place-
ment, the fact finder shall issue a written deci-
sion approving or denying such transfer, which
shall be binding on the Office of Refugee Resettlement.

(B) Consideration of best interest recommendation.—In making a decision on such a transfer, the fact finder shall consider, and respond in writing to, the recommendation of the child advocate of the unaccompanied non-citizen child concerned.

(C) Elements.—A written decision under this paragraph shall—

(i) set forth a detailed, specific, and individualized justification for the decision;

and

(ii) notify the unaccompanied non-citizen child of the child’s—

(I) right to placement review hearings under subsection (e);

(II) right to seek review of the decision by the Ombudsperson under paragraph (6); and

(III) right to seek judicial review of the decision.

(D) Language access.—The decision shall be made available in a language and in a
format the unaccompanied noncitizen child understands.

(E) Submission to Ombudsperson.— Not later than 72 hours after a decision in a placement review hearing is issued under this paragraph, the fact finder shall submit the decision to the Ombudsperson.

(6) Review by Ombudsperson.—

(A) In general.— On request by an unaccompanied noncitizen child or the legal counsel or child advocate of the child, the Ombudsperson shall carry out a review of a decision under paragraph (5), which shall be completed not later than 15 days after the date on which the request for review is made.

(B) Recommendation.—

(i) In general.— In carrying out a review under this paragraph, the Ombudsperson may make a recommendation with respect to whether such decision should be modified.

(ii) Finding of erroneous decision.—

(I) In general.— If the Ombudsperson determines that the
decision under paragraph (5) was erroneous, the Ombudsperson shall submit to the Director a recommendation for further action.

(II) Written Statement.—

(aa) In general.—If the Director declines to follow the recommendation of the Ombudsperson, the Director shall provide a detailed written justification to the child, the prospective sponsor, the legal counsel and the child advocate of the child, and the legal counsel of the prospective sponsor, as applicable.

(bb) Nondelegation.—The Director may not delegate the requirement to issue such a written statement to any other individual.

(c) Limitations on Placement in Secure Facilities and Staff-Secure Facilities.—

(1) In general.—The Director may not place an unaccompanied noncitizen child in a staff-secure
facility based solely on a risk of self-harm or behavior related to the child’s trauma or mental health that could be addressed in a less restrictive setting with additional accommodations or rehabilitative care.

(2) Secure Facilities.—The Director may never hold or place an unaccompanied noncitizen child in a secure facility.

(3) Staff-Secure Facilities.—

(A) In General.—The Director may only hold or place an unaccompanied noncitizen child in a staff-secure facility if—

(i) there is clear and convincing evidence that the child poses a serious and imminent danger to others at the time of placement; and

(ii) upon holistic review of the child’s file, there is clear and convincing evidence that the assessed danger does not stem from the child’s trauma or mental health conditions; and

(iii) even with additional accommodations and de-escalation measures, the child cannot be adequately cared for in a less restrictive setting or rehabilitative care.
(B) DURATION.—The Director may only hold an unaccompanied noncitizen child in a staff-secure facility under subparagraph (A) during the period in which the Director can demonstrate that the conditions described in that subparagraph exist.

(C) TRANSFER.—The Director shall consider transfer of the child to a less restrictive placement as soon as these requirements are no longer met, even if the child has been in the placement for less than 30 days.

(4) PROHIBITION ON PLACEMENT IN U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT FACILITIES.—The Director may not place any accompanied noncitizen child or unaccompanied noncitizen child in—

(A) a U.S. Immigration and Customs Enforcement facility; or

(B) a facility operated by contract with U.S. Immigration and Customs Enforcement.

(d) PLACEMENT IN THERAPEUTIC CHILDMIND CARE FACILITIES.—

(1) LIMITATION.—The Director may place an unaccompanied noncitizen child in a therapeutic childcare secure facility only if—
(A) the unaccompanied noncitizen child
has received a detailed, individualized evalua-
tion by a licensed psychologist or psychiatrist
who is experienced in the care of children; and
(B) the mental health professional con-
ducting the evaluation under subparagraph (A)
has determined that—

(i) the child poses a substantial risk
of harm to himself or herself or to others;
(ii) such placement is in the best in-
terests of the child; and
(iii) even with additional accommoda-
tions or rehabilitative care, at the time of
placement, the child cannot be adequately
cared for in a less restrictive setting until
the child receives services provided in such
a placement.

(2) PREFERENCE FOR COMMUNITY-BASED
THERAPEUTIC FOSTER CARE.—Before placing an
unaccompanied noncitizen child in a therapeutic
childcare facility, the Director shall first seek to
place the child in a family-based therapeutic foster
care placement.

(3) APPLICABILITY OF OTHER PROVISIONS.—
The procedures relating to transfers, notice, and
placement review hearings under this title apply equally to unaccompanied noncitizen children placed in residential treatment centers and other therapeutic childcare facilities.

(4) Services to be provided.—

(A) Evaluation.—

(i) In general.—An unaccompanied noncitizen child placed in a therapeutic childcare facility shall be evaluated by a licensed psychologist or psychiatrist who is experienced in the care of children.

(ii) Report.—The mental health professional conducting the evaluation under clause (i) for an unaccompanied noncitizen child shall—

(I) issue a written report that sets forth—

(aa) the reasons for such placement;

(bb) treatment goals; and

(cc) a plan specific to the child for transition to a less restrictive setting; and
(II) make such report available to the unaccompanied noncitizen child and the child advocate of the child.

(B) ACCESS TO COUNSEL.—The operator of a residential treatment center or any other therapeutic childcare facility for unaccompanied noncitizen children shall provide access to—

(i) legal services; and

(ii) existing legal counsel and child advocates of such children, as applicable.

(e) MONTHLY REVIEW HEARING.—

(1) IN GENERAL.—Not less frequently than monthly, each unaccompanied noncitizen child in a restrictive placement shall be afforded a placement review hearing to determine whether continued placement in the restrictive placement is appropriate.

(2) CONDUCT OF HEARINGS.—A hearing under this subsection shall be conducted in accordance with the procedures and standards for placement review hearings under subsection (b).

(3) REPORT BY MENTAL HEALTH PROVIDER.—With respect to an unaccompanied noncitizen child who is in a therapeutic childcare facility not later than 5 days before a hearing under this subsection,
a licensed psychologist or psychiatrist who is experienced in the care of children shall submit to the fact finder a detailed report on the mental health needs of the unaccompanied noncitizen child concerned.

(4) Written decision.—

(A) In general.—The fact finder shall issue a written decision continuing or terminating the restrictive placement of the unaccompanied noncitizen child concerned, which shall be binding on the Office of Refugee Resettlement.

(B) Consideration of best interest recommendation.—In making a decision on such placement, the fact finder shall consider—

   (i) the best interest recommendation of the child advocate with respect to the unaccompanied noncitizen child concerned; and

   (ii) the findings contained in the report submitted under paragraph (3).

(C) Elements.—A written decision under this paragraph shall—

   (i) set forth a detailed, specific, and individualized justification for the decision; and
(ii) notify the unaccompanied noncitizen child of—

(I) the right to further placement review hearings under this subsection;

and

(II) the right to seek judicial review of the decision.

(D) LANGUAGE ACCESS.—The decision shall be made available in a language and in a format the unaccompanied noncitizen child understands.

(5) RECORD OF PROCEEDINGS.—The record of proceedings for a hearing under this subsection, and all related documentation—

(A) shall be maintained separately and apart from the unaccompanied noncitizen child’s immigration file (commonly called the “A-File”); and

(B) shall not form any part of, and shall not be relied upon, in any removal proceedings or any adjudication carried out by U.S. Citizenship and Immigration Services, including with respect to final decisions and discretionary factors.
(f) Placement of Unaccompanied Noncitizen Children With Disabilities in Restrictive Placements.—

(1) In general.—An unaccompanied noncitizen child who is receiving services under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall not be placed in a facility that does not have access to such services.

(2) Needs determination.—

(A) In general.—Before placing such an unaccompanied noncitizen child in a restrictive setting, the Director shall make a determination as to whether the needs of the child can be met in a more integrated setting.

(B) Elements.—A determination under subparagraph (A) shall include—

(i) an identification of the relevant trauma-informed, evidence-based services and accommodations that have been identified as potentially relevant;

(ii) a description of any such service or accommodation that has been provided and the period of time in which the service or accommodation has been provided;
(iii) if any such service or accommodation has been ineffective, an assessment of the reason; and

(iv) an assessment of whether additional services or accommodations could be provided at the child’s current placement.

(3) SERVICES AVAILABLE IN A LESS RESTRICTIVE PLACEMENT.—

(A) IN GENERAL.—If services are identified that have the potential to maintain such an unaccompanied noncitizen child in a less restrictive placement, the Director shall ensure that the child receives such services before the Director considers a transfer to a restrictive placement.

(B) IDENTIFICATION OF SERVICES AND ACCOMMODATIONS.—

(i) IN GENERAL.—For each such unaccompanied noncitizen child, at each placement review hearing under subsection (e), the Director shall explicitly identify services and accommodations that could be made available in a less restrictive placement.
(ii) JUSTIFICATION.—A recommendation by the Director against placing such an unaccompanied noncitizen child in a less restrictive placement shall be supported by specific documentation as to the reasons that, even with such accommodations, the child cannot be safely placed in a less restrictive placement.

(4) INDEPENDENT REVIEW.—

(A) IN GENERAL.—In the case of such an unaccompanied noncitizen child whom the Director intends to transfer to a restrictive placement, before the child’s placement review hearing, the decision to so transfer shall be reviewed by an independent third-party licensed psychologist or psychiatrist who is experienced in the care of children in accordance with a standardized process for evaluating the data and presented rationale, including a consideration of accommodations that could avoid the need for restrictive placement.

(B) CONTINUED RESTRICTIVE PLACEMENT.—In the case of such an unaccompanied noncitizen child in a restrictive placement whom the Director does not intend to transfer to a
less restrictive placement, before the child’s next placement review hearing, the decision shall be reviewed by an independent third-party licensed psychologist or psychiatrist who is experienced in the care of children, in accordance with a standardized process for evaluating the data and presented rationale, including a consideration of accommodations that could avoid the need for restrictive placement.

(C) REPORT.—Not later than 45 days after conducting a review under this paragraph, the independent third-party mental health professional shall issue a written report describing the results of the review to the fact finder, the child concerned, the legal counsel and child advocate of such child, and the Director.

SEC. 227. JUDICIAL REVIEW OF PLACEMENT.
(a) IN GENERAL.—An unaccompanied noncitizen child or the parent, legal guardian, or prospective sponsor of such a child may seek judicial review in a district court of the United States of—

(1) a determination with respect to the type of childcare facility in which the child is placed; or

(2) a sponsorship determination.
(b) **Venue.**—Venue for judicial review under subsection (a) may be found in—

(1) the district in which the original childcare facility in which the unaccompanied noncitizen child concerned was placed is located; or

(2) the district in which the childcare facility to which the unaccompanied noncitizen child was transferred is located.

(e) **Limited Review.**—Review under this section shall be limited to entering an order solely affecting the individual claims of the unaccompanied noncitizen child or the parent, legal guardian, or prospective sponsor seeking such review.

(d) **Agency Exercise of Discretion Reviewed De Novo.**—The exercise of discretion by the Secretary or the Secretary of Homeland Security in making a placement decision reviewed under this section shall be reviewed de novo.

(e) **Bond Redetermination.**—An unaccompanied noncitizen child in removal proceedings shall be afforded a bond redetermination hearing before an immigration judge in every case, unless the child indicates on the notice of custody determination form that he or she waives the right to such a hearing.
Subtitle D—Family Reunification and Standards Relating to Sponsors

SEC. 231. FAMILY REUNIFICATION EFFORTS BY OFFICE OF REFUGEE RESETTLEMENT.

(a) In General.—During the period in which an unaccompanied noncitizen child is in the custody of the Secretary, the Director shall—

(1) provide individualized, onsite case management and family reunification services;

(2) ensure that—

(A) a case manager contacts the child not later than 48 hours after the child is transferred to the custody of the Secretary; and

(B) in the case of case manager reassignment, the case manager reassigned to the child contacts the child not later than 24 hours after such reassignment;

(3) make and document prompt, active, and continuous efforts towards family reunification and release; and

(4) work diligently—

(A) to review family reunification applications from prospective sponsors; and
(B) to assist prospective sponsors in completing such applications and complying with sponsor requirements.

(b) PREFERENCE FOR RELEASE.—The Director may release an unaccompanied noncitizen child from the custody of the Secretary to a sponsor who is, in the order of preference, any of the following:

1. A parent.
2. A legal guardian.
3. An adult relative.
4. An adult individual, or an entity, designated by the parent or legal guardian of the unaccompanied noncitizen child as capable and willing to care for the child’s well-being, which designation is supported by—
   (A) a declaration signed by the parent or legal guardian under penalty of perjury before an immigration or consular officer; or
   (B) such other document that makes such a designation and establishes the affiant’s parentage or guardianship.
5. A licensed program willing to accept legal custody of the child.
6. An adult individual or entity seeking custody of the child.
(c) TIMELINES FOR REUNIFICATION.—The Director shall use the information collected under, and data requirements described in, section 602(b)—

(1) to determine the characteristics that exert significant effect on the reunification of unaccompanied noncitizen children with a sponsor;

(2) to establish categories of children who exhibit such characteristics, which categories shall distinguish between—

(A)(i) children released to parents or legal guardians; and

(ii) children released to other sponsors; and

(B)(i) children who have home studies mandated by section 235 of the Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232);

(ii) children granted home studies through the discretion of the Director; and

(iii) other children;

(3) to establish timelines for reunification appropriate to each such category of children;

(4) to monitor ongoing reunification efforts for compliance with such timelines; and
(5) to identify systematic barriers to release for children in such categories.

(d) Systematic Barriers to Release.—The Director shall eliminate any administrative hindrance identified as a systemic barrier to release under subsection (c)(4).

(e) Expedited Reunification of Early Childhood Minors.—The Director shall develop procedures to facilitate the expedited reunification of unaccompanied noncitizen children who are early childhood minors with family members seeking to serve as sponsors.

(f) Limitation on Remote Services.—Case management and family reunification services may only be provided remotely for unaccompanied noncitizen children housed in an influx facility or a childcare facility activated for use during an influx.

(g) Recordkeeping.—The Director shall maintain a written record of the efforts made by the Office of Refugee Resettlement to reunify and release each unaccompanied noncitizen child in the custody of the Secretary.

SEC. 232. STANDARDS RELATING TO SPONSORS.

(a) Procedures and Protections.—

(1) In general.—The Director shall not impose sponsor requirements (including application deadlines and requests for information or docu-
mentation about prospective sponsors, the household members of prospective sponsors, or other individ-
uals) that do not have a substantial and direct im-
 pact on child safety.

(2) NONDISCRIMINATION.—In reviewing an ap-
lication for sponsorship, the Director may not rely
on the national origin, immigration status, language,
religion, sexual orientation, sex (including gender
identity or gender expression), color, or race of the
child concerned or of the prospective sponsor to
delay or deny the application.

(3) PROHIBITION ON CERTAIN REASONS FOR
SPONSORSHIP DENIAL.—A prospective sponsor may
not be denied sponsorship solely due to—

(A) poverty, use of public assistance, lack
of employment or health insurance, or past or
current health conditions that do not have a
substantial and direct impact on child safety;

(B) absence of a pre-existing relationship
with the unaccompanied noncitizen child con-
cerned; or

(C) immigration status.

(4) LEGAL RIGHTS OF PROSPECTIVE SPON-
SORS.—
(A) IN GENERAL.—In making decisions about the sponsorship of an unaccompanied noncitizen child, the Director shall—

(i) take into consideration the legal rights of any parent, legal guardian, or family member who is seeking sponsorship of the child; and

(ii) ensure that Office of Refugee Resettlement processes for ensuring the child’s safe release do not interfere with such rights.

(B) PARENTS.—A parent shall not be denied reunification with their child absent a determination supported by clear and convincing evidence that custody of the child by the parent is likely to result in serious emotional or physical damage to the child.

(5) ASSESSMENT REQUIRED.—

(A) IN GENERAL.—The Director may only release an unaccompanied noncitizen child to an individual or a licensed program for whom a prospective sponsor assessment has been completed, consistent with the requirements of section 235(c)(3) of the William Wilberforce Traf-
ficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(c)(3)).

(B) ELEMENTS.—A sponsor assessment shall include—

(i) a completed family reunification application; and

(ii) consideration of the wishes and concerns of the unaccompanied noncitizen child concerned.

(C) OPPORTUNITY TO ADDRESS CONCERNS.—A prospective sponsor shall be afforded the opportunity to address any concern raised during the sponsor assessment process before the prospective sponsor’s application is denied.

(D) BACKGROUND CHECKS.—

(i) IN GENERAL.—Fingerprint-based checks of national crime information databases (as defined in section 534(f)(3) of title 28, United States Code) may be requested for prospective sponsors if a public records check of the sponsor reveals safety concerns or there is a documented risk to the safety of the child.
(ii) LIMITATION.—The criminal history of the prospective sponsor, or a household member of the prospective sponsor, shall not be a basis for denial of sponsorship unless the Director demonstrates that such history includes a conviction for child abuse or trafficking, or is less than 10 years old and would have a direct and immediate impact on the safety of the unaccompanied noncitizen child concerned.

(6) SAFEGUARDS.—

(A) IN GENERAL.—The Director shall implement safeguards to prevent any information obtained in the course of the sponsor assessment process from being used for any purpose other than assessing the sponsor’s fitness to care for an unaccompanied noncitizen child.

(B) APPLICABILITY.—Such safeguards shall apply regardless of the outcome of the prospective sponsor’s application.

(7) ANNUAL EVALUATION.—

(A) IN GENERAL.—Not less frequently than annually, the Director shall conduct an evaluation of Office of Refugee Resettlement policies and practices to determine whether
such policies and practices create unnecessary barriers to release or result in delays in unaccompanied noncitizen children’s prompt release to sponsors.

(B) Submission to Ombudsperson.—

The Director shall submit each evaluation conducted under subparagraph (A) to the Ombudsperson.

(b) Sponsorship Determination.—

(1) In general.—Not later than 7 days after the date on which the Director receives a family reunification application from a prospective sponsor, the Director shall make a determination with respect to whether the unaccompanied noncitizen child concerned may be placed with the sponsor.

(2) Consideration of effect of denial.—

In making a determination under paragraph (1), the Director shall take into consideration the effect a denial of the application, and continued immigration custody for the unaccompanied noncitizen child concerned, would have on—

(A) the health and well-being of the child;

and

(B) in the case of a prospective sponsor who is a parent, legal guardian, or a family
member of the child, the right of the parent, legal guardian, or family member to the care and custody of the child.

(3) Sponsorship hearing.—

(A) In general.—The Director shall provide an opportunity for an administrative hearing, conducted in accordance with sections 554 through 557 of title 5, United States Code, in the case of—

(i) a determination that a prospective sponsor is not fit to receive the unaccompanied noncitizen child concerned; or

(ii) failure by the Director to make a determination on a family reunification application within the timeframe set forth in paragraph (1). 

(B) Notice.—

(i) In general.—Not later than 24 hours after a determination or failure described in subparagraph (A), the Director shall provide notice of such a hearing to—

(I) the unaccompanied noncitizen child;

(II) the legal counsel and the child advocate of such child;
(III) the prospective sponsor; and

(IV) the legal counsel of such

prospective sponsor.

(ii) ELEMENTS.—The notice required

under clause (i) shall include, in a lan-
guage the unaccompanied noncitizen child

and the prospective sponsor understand,

the following:

(I) The time, date, and location

of the hearing.

(II) Notice with respect to the

availability of transportation to the

hearing for the child and the prospec-
tive sponsor under subparagraph

(E)(i).

(III) In the case of a determina-
tion that the prospective sponsor is

unfit—

(aa) the justification for

such determination; and

(bb) a description of any

supporting evidence and informa-
tion.
(IV) In the case of a failure to make a timely determination, a justification for such failure.

(V) Notification that the unaccompanied noncitizen child and prospective sponsor may submit additional evidence, including witness testimony, in support of the family reunification application at or before the hearing.

(C) LIMITATION ON OFFICE OF REFUGEE RESETTLEMENT EVIDENCE.—In a hearing under this paragraph, the Director may only submit evidence and information that is described on the notice provided under subparagraph (B).

(D) TIMING OF HEARING.—

(i) IN GENERAL.—Except as provided in clause (ii), a hearing under this paragraph shall occur not less than 7 days and not more than 14 days after the date on which notice under subparagraph (B) is provided.

(ii) REQUEST FOR ADDITIONAL TIME.—Such a hearing may occur on a
date that is more than 14 days after the
date such notice is provided if the prospective sponsor requests additional time.

(E) PRESENCE AT HEARING.—

(i) TRANSPORTATION.—On request by the unaccompanied noncitizen child or the prospective sponsor, the Director shall facilitate the transportation of the child and the prospective sponsor to a centralized location for the hearing.

(ii) WAIVER OF CHILD’S PRESENCE.—With the assistance of counsel, an unaccompanied noncitizen child may waive the child’s presence at a hearing under this paragraph.

(iii) VIRTUAL HEARING.—An unaccompanied noncitizen child may request a virtual hearing under this paragraph and waive the right to an in-person hearing.

(F) PROCEDURAL MATTERS.—

(i) NEUTRAL FACT FINDER.—A hearing under this paragraph shall be presided over by a neutral fact finder who—

(I) is not an employee of the Office of Refugee Resettlement; and
(II) has expertise in child welfare.

(ii) Child and Sponsor Rights.—At a hearing under this paragraph, an unaccompanied noncitizen child and the child’s prospective sponsor shall have—

(I) the right to counsel; and

(II) the right and opportunity to confront, inspect, and rebut the evidence alleged to justify a determination by the Director that the prospective sponsor is unfit.

(iii) Interpretation Services.—An interpreter in the preferred language of the unaccompanied noncitizen child and the prospective sponsor shall be made available for a hearing under this paragraph.

(iv) Burdens of Production and Proof.—The Director shall have the burden of production and the burden of proof, by clear and convincing evidence, to establish that—

(I) placement with the prospective sponsor is likely to result in seri-
ous emotional or physical damage to

the child; and

(II) continued Office of Refugee

Resettlement custody is the least re-

strictive setting that is in the best in-

terests of the child.

(v) RECORD OF PROCEEDINGS.—The

record of proceedings for a hearing under

this paragraph, and all related documenta-

tion—

(I) shall be maintained separately

and apart from the unaccompanied

nonecitizen child’s immigration file

(commonly called the “A-File”); and

(II) shall not form any part of,

and shall not be relied upon, in any

removal proceedings or any adjudica-

tion carried out by U.S. Citizenship

and Immigration Services, including

with respect to final decisions and dis-

cretionary factors.

(G) WRITTEN DECISION.—

(i) IN GENERAL.—Not later than 2

business days after the date of a hearing
under this paragraph, the fact finder shall—

(I) issue a written decision ordering the release of the unaccompanied noncitizen child to the prospective sponsor or denying such release, which shall be binding on the Office of Refugee Resettlement; and

(II) provide the written decision to—

(aa) the child and the prospective sponsor; and

(bb) the legal counsel and the child advocate of the child and the legal counsel of the prospective sponsor, as applicable.

(ii) DENIALS.—In the case of a denial of release to the prospective sponsor, the decision shall—

(I) set forth detailed, specific, and individualized reasoning for such denial; and

(II) notify the child and prospective sponsor of their right to seek review of the decision by the
Ombudsperson under subparagraph (H).

(iii) LANGUAGE ACCESS.—The decision shall be made available in a language and in a format the unaccompanied noncitizen child and the prospective sponsor understand.

(H) REVIEW BY OMBUDSPERSON.—

(i) IN GENERAL.—On request by an unaccompanied noncitizen child, the legal counsel or prospective sponsor of such child, or the legal counsel of such prospective sponsor, the Ombudsperson shall carry out a review of a decision under subparagraph (G), which shall be completed not later than 15 days after the date on which the request for review is made.

(ii) RECOMMENDATION.—

(I) IN GENERAL.—In carrying out a review under this subparagraph, the Ombudsperson may make a recommendation on the placement or sponsorship of the unaccompanied noncitizen child concerned.
(II) FINDING OF ERRONEOUS DECISION.—

(aa) IN GENERAL.—If the Ombudsperson determines that the decision under subparagraph (G) was erroneous, the Ombudsperson shall submit to the Director a recommendation for further action.

(bb) WRITTEN STATEMENT.—

(AA) IN GENERAL.—If the Director declines to follow the recommendation of the Ombudsperson, the Director shall provide a detailed written justification to the child, the prospective sponsor, the legal counsel and the child advocate of the child, and the legal counsel of the prospective sponsor, as applicable.

(BB) NONDELEGATION.—The Director may
not delegate the requirement
to issue such a written
statement to any other indi-
vidual.

(I) JUDICIAL REVIEW.—An unaccompanied
noncitizen child or a prospective sponsor may
obtain judicial review of a decision under sub-
paragraph (G) in a district court of the United
States.

(J) CONTINUED EFFORTS BY OFFICE OF
REFUGEE RESETTLEMENT.—During the pend-
ency of a hearing under this paragraph, and
any review of a decision resulting from such a
hearing under subparagraph (H) or (I), the Di-
rector shall continue to seek alternative pro-
spective sponsors for the unaccompanied noncit-
izen child concerned.

SEC. 233. SPECIAL CONSIDERATIONS RELATING TO RE-
LEASE OF CHILDREN WITH DISABILITIES.

(a) IN GENERAL.—The Director may not delay the
release of an unaccompanied noncitizen child based solely
on a pending evaluation for services under section 504 of

(b) SUPPORTING EVIDENCE REQUIRED FOR DETER-
MINATION NOT TO RELEASE.—A determination by the
Director not to release an unaccompanied noncitizen child receiving services under such section based on a prospective sponsor’s inability to meet the needs of the child shall be supported by evidence of efforts by the Director to educate, and provide concrete resources and support to, the prospective sponsor through the provision of post-release services.

(c) RELEASE TO PARENTS.—The Director may not deny the reunification of an unaccompanied noncitizen child receiving services under such section with his or her parent absent a determination supported by clear and convincing evidence that—

(1) custody of the child by the parent is likely to result in serious emotional or physical damage to the child; and

(2) continued Office of Refugee Resettlement custody is the least restrictive setting that is in the best interests of the child

(d) REVIEW.—

(1) IN GENERAL.—With respect to a determination by the Director not to release an unaccompanied noncitizen child receiving services under such section based on an assessment that the child is a danger to himself or herself or to others, a review of such determination shall be carried out by an
independent third-party licensed psychologist or psychiatrist who is experienced in the care of children before the date on which the sponsorship hearing under section 232(b)(3) occurs.

(2) **PROCEDURE.**—A review under paragraph (1) shall—

(A) be carried out using a standardized method for evaluating the data and shall include the rationale for denying release; and

(B) consider the availability of assistive services or technology that could be provided to the unaccompanied noncitizen child concerned if he or she were released.

(3) **AVAILABILITY.**—Such a review shall be made in writing and made available to the unaccompanied noncitizen child and the child’s legal counsel before the date on which a sponsorship hearing under section 232(b)(3) occurs.

(e) **Office of Refugee Resettlement Support for Sponsors.**—With respect to children with disabilities released from the custody of the Secretary, the Director shall support and assist sponsors in accessing and coordinating post-release community-based services and support or technology, to the extent such services and support are available.
(f) Alternative Placement.—If a sponsor is not identified for an unaccompanied noncitizen child who receives services under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Director shall make every effort to place the child in therapeutic foster care, foster care, or the Unaccompanied Refugee Minor program.

Subtitle E—Release

SEC. 241. PROCEDURES FOR RELEASE.

(a) In General.—The Secretary shall release an unaccompanied noncitizen child from the custody of the Secretary—

(1) without unnecessary delay; and

(2) as quickly as may be safely accomplished.

(b) Provision of Records on Release.—On release from the custody of the Secretary, including in circumstances of repatriation, the Director shall provide unaccompanied noncitizen children and their sponsors, as applicable, the unaccompanied noncitizen child’s complete Office of Refugee Resettlement case file and records, including—

(1) documentation that details the child’s medical and educational status, progress, and any related evaluations;

(2) information relating to any special needs of the child; and
(3) any other information relevant to promoting
the child’s well-being after release.

(c) Prescription Medication.—The Director shall
ensure that unaccompanied noncitizen children prescribed
medication are released with not less than a 60-day supply
of their medication and information from a physician re-
garding continuing or discontinuing the medication.

(d) Transportation.—Expenses incurred in trans-
porting unaccompanied noncitizen children and their spon-
sors for the purpose of the release of the child shall be
paid by the Office of Refugee Resettlement.

(e) Prohibition on Secretary Taking Child
Back Into Custody.—

(1) In General.—After the release of an unac-
companied noncitizen child from the custody of the
Secretary to a sponsor, the Secretary may not take
the child back into custody.

(2) Reporting to State Child Welfare
Agency.—With respect to a child released from
such custody, if the Director becomes aware of a
concern related to suspected abuse or neglect in a
sponsor’s care, the Director may report such con-
cerns to the applicable State child welfare agency.

SEC. 242. POST-RELEASE SERVICES.

(a) Required in Limited Circumstances.—
1. **In General.**—The Director may not uniformly require post-release services to be in place before releasing an unaccompanied noncitizen child to a sponsor.

2. **Case Management Specialist Determination.**—The Director may only require post-release services to be in place before releasing an unaccompanied noncitizen child to a sponsor if, after conducting an individualized assessment of the particular needs of the child, the case management specialist makes a determination that the child would be at risk of imminent physical or emotional harm if post-release services were not in place before such release.

(b) **Expansion.**—The Director shall provide post-release services to unaccompanied noncitizen children, including by—

(1) providing active assistance with school enrollment;

(2) supporting sponsors in obtaining necessary medical records, including vaccination and medication records, from the period during which the unaccompanied noncitizen children were in the custody of the Secretary;
(3) ensuring access to family reunification and medical support services, including support and trauma-informed counseling for the family and mental health counseling, through direct provision of such services or through partnerships and referrals to services in the community; and

(4) ensuring that sponsors of children with special medical needs receive Office of Refugee Resettlement support in accessing appropriate medical care.

SEC. 243. INDIVIDUALS ATTAINING 18 YEARS OF AGE.

(a) Presumption of Release on Recognizance.—

(1) In general.—If an individual in the custody of the Secretary is not released to a sponsor before the individual attains the age of 18 years, there shall be a presumption that the individual shall be released on an order of recognizance.

(2) Rebuttal.—The Secretary of Homeland Security shall bear the burden of proof, by clear and convincing evidence, in overcoming the presumption under paragraph (1) and in demonstrating that such an individual is not eligible to be released on an order of recognizance.

(3) Alternatives to Detention.—
(A) IN GENERAL.—In the case of an individual aging out of the custody of the Secretary who is not eligible to be released on an order of recognizance, the individual shall be eligible to participate in noncustodial alternatives to detention programs provided by the Department of Health and Human Services, including placement with an individual, an organizational sponsor, or a supervised group home with supportive services to facilitate access to educational and occupational opportunities.

(B) PLACEMENT PREFERENCES.—The categories of placements available to an individual described in subparagraph (A) shall be the following, in order of preference:

(i) The least restrictive family-based setting, including long-term foster care.

(ii) An independent living program.

(iii) A childcare facility that meets the particular needs of the individual.

(4) CONTINUATION OF SERVICES.—The Director shall ensure that an individual released on an order of recognizance under this subsection is provided with—
(A) continued access to counseling, case
management, legal counsel, and other support
services during the pendency of the individual's
immigration proceedings; and

(B) information on applying for special im-
migrant juvenile status under section
101(a)(27)(J) of the Immigration and Nation-
ality Act (8 U.S.C. 1101(a)(27)(J)), and re-
sources to assist the individual with applying
for such status.

(b) Post-18 Plan for Individuals Aging Out of
Custody.—

(1) In General.—The Director shall develop a
post-18 plan for each unaccompanied noneitizen
child entering Office of Refugee Resettlement cus-
tody who—

(A) is over the age of 17 years and 6
months; or

(B) is not likely to be released to a sponsor
before attaining 18 years of age.

(2) Elements.—Each plan under paragraph
(1) shall include the following:

(A) An investigation into organizational
sponsors and social support services.
(B) Coordination with the Secretary of Homeland Security to ensure the release of the unaccompanied noncitizen child on his or her own recognizance if release to an organizational or individual sponsor is not successful.

(c) Post-18 Program.—With respect to an individual in the custody of the Secretary who attains 18 years of age before reunification, placement with a sponsor, or adjudication with respect to immigration status, the Director may extend Office of Refugee Resettlement custody for a period ending not later than the date on which the individual attains 21 years of age, if the individual—

(1)(A) has not been reunified but has a family member available for reunification;

(B) has an identified sponsor;

(C) has been admitted to long-term foster care or a residential treatment center; or

(D) otherwise does not have reunification options but has not yet been adjudicated with respect to immigration status by a local court in the applicable jurisdiction; and

(2) solely at his or her discretion, without coercion and on the recommendation of his or her case manager, elects to remain in Office of Refugee Re-
settlement custody in the post-18 program until the date on which, as applicable—

(A) the screening process for reunification is completed and the individual is reunified with a family member or placed with a sponsor; or

(B) the individual is adjudicated with respect to immigration status in a local court in the applicable jurisdiction, receives relief from removal, and enters an applicable program for unaccompanied refugee minors.

(d) Consideration Relating to U.S. Immigration and Customs Enforcement Custody.—In considering a sponsorship application for an unaccompanied noncitizen child who may attain 18 years of age in the custody of the Secretary, the Director shall consider the potential for, and impact of, trauma and the risk to the safety and well-being of the child if the child were to be transferred to the custody of U.S. Immigration and Customs Enforcement on attaining such age.

(e) Prohibition on Detention and Removal.—An individual who was in the custody of the Secretary as an unaccompanied noncitizen child shall not be apprehended, arrested, transferred, or taken into the custody of U.S. Immigration and Customs Enforcement, or re-
moved from the United States, based solely on having att-
tained 18 years of age.

(f) CONTINUED ACCESS TO DUE PROCESS, LEGAL
RELIEF, AND HOUSING.—An individual who entered the
United States as a child shall not lose the opportunity for
due process and potential legal relief, or access to commu-
nity-based housing, based solely on having attained the
age of 18 years.

SEC. 244. CUSTODY REVIEW BY OMBUDSPERSON.

(a) IN GENERAL.—If an unaccompanied noncitizen
child, the legal counsel or prospective sponsor of such
child, or the legal counsel of such prospective sponsor has
reasonable cause to believe that the child should have been
released, the child, the prospective sponsor, or such legal
counsel may request an investigation by the
Ombudsperson.

(b) NOTIFICATION OF LENGTHY CUSTODY.—In the
case of any unaccompanied noncitizen child who remains
in the custody of the Secretary for 45 days or more, the
Director shall—

(1) notify the Ombudsperson of such continued
custody; and

(2) provide the Ombudsperson a complete copy
of the Office of Refugee Resettlement case file and
a detailed explanation for such continued custody.
TITLE III—EMERGENCIES AND INFLUXES

SEC. 301. SENSE OF CONGRESS.

It is the sense of Congress that before opening or expanding an influx facility, the Secretary and the Director should explore all other avenues for placing an unaccompanied noncitizen child in the least restrictive, State-licensed setting that most approximates a family and in which the special needs of the child, if any, may be met consistent with the best interests and special needs of the child.

SEC. 302. DEFINITIONS.

In this title:

(1) EMERGENCY.—The term “emergency” means an event of limited duration, such as a natural disaster, facility fire, civil disturbance, or medical concern.

(2) OPERATIONAL CAPACITY.—The term “operational capacity” means the net bed capacity of Office of Refugee Resettlement facilities and other housing operated by State-licensed programs for unaccompanied noncitizen children.

SEC. 303. PLACEMENT.

(a) IN GENERAL.—In the event of an emergency or influx that prevents the prompt placement of unaccomp-
panied noncitizen children in childcare facilities, the Director—

(1) shall make every effort—

(A) to place arriving unaccompanied non-
citizen children in other State-licensed pro-
grams; and

(B) to release unaccompanied noneitizen
children from other programs as expeditiously
as possible; and

(2) may not house an unaccompanied noncitizen
child in an influx facility or any other emergency or
temporary facility for more than 20 days.

(b) TRANSFER TO LICENSED FACILITY.—

(1) IN GENERAL.—Except as provided in para-
graph (2), in the case of an unaccompanied noncit-
izen child for whom release to a sponsor within 20
days of placement in an influx facility is not pos-
sible, the Director shall transfer the child to a
childcare facility.

(2) EXCEPTION.—The Director may not trans-
fer a child under paragraph (1) if the transfer would
prolong the child’s total length of custody by more
than 24 hours.
(c) LIMITATION ON TRANSFER TO INFUX FACILITY.—The Director may not transfer to an influx facility any unaccompanied noncitizen child—

   (1) for whom—

      (A) the influx facility would be the first shelter placement for the child on arrival in the United States;

      (B) a prospective sponsor has not been identified; or

      (C) such transfer would delay release by more than 24 hours; or

   (2) who—

      (A) has been identified by the Director as—

         (i) having a prospective sponsor who is not a parent, a legal guardian, or an im-
             mediate relative; or

         (ii) not having any identified prospective sponsor;

      (B) is younger than 16 years of age;

      (C) is part of a sibling group in the cus-
          tody of the Secretary of which 1 or more sib-
          lings are younger than 16 years of age;

      (D) speaks a language other than English or Spanish as his or her primary language;
(E) has special needs;
(F) is currently prescribed psychotropic medication;
(G) is pregnant or parenting;
(H) will attain 18 years of age on a date that is not more than 30 days after the proposed date of transfer to the influx facility;
(I) is scheduled to be released on a date that is not more than 3 days after the proposed date of the transfer;
(J) has a pending home study;
(K) has not received a legal orientation presentation or a legal screening;
(L) has a date scheduled for a hearing before an immigration court or a State court, including family and juvenile court;
(M) has a pending application for relief from removal;
(N) has legal counsel; or
(O) has a child advocate.

(d) FAMILY GROUPS.—The Director shall ensure that—

(1) unaccompanied noncitizen children with siblings or other relatives under the age of 18 in the
custody of the Secretary are not separated from each other; and

(2) such family groups have unlimited visitation with each other in influx facilities.

SEC. 304. PLANNING FOR EMERGENCIES AND INFUXES.

(a) Plan Required.—Not later than 180 days after the date of the enactment of this Act, the Director shall develop a plan for—

(1) maintaining and expanding emergency capacity in licensed foster care homes and small congregate care facilities for housing unaccompanied noncitizen children so as to eliminate the need for influx facilities; and

(2) in the case of an emergency or influx, placing unaccompanied noncitizen children with sponsors as expeditiously as possible.

(b) Supplemental Placement List.—

(1) In General.—The Director shall develop and maintain a supplemental placement list of facilities that have, in the aggregate, not fewer than 200 beds available to accept unaccompanied noncitizen children in the case of an emergency or influx, which shall be in addition to the number of beds available for placements under normal circumstances.
(2) LICENSING AND COMPLIANCE.—Any facility on the supplemental placement list shall be—

(A) licensed in the State in which it is located; and

(B) in compliance with all standards and procedures applicable to State-licensed programs under this Act.

(3) ELEMENTS.—The supplemental placement list shall include, for each facility, the following:

(A) The name of the facility.

(B) The number of beds available in the facility in the case of an emergency or influx.

(C) The name and telephone number of 1 or more contact persons, including a contact person for nights, holidays, and weekends.

(D) Any limitation on categories of child the facility may accept, such as age categories.

(E) A description of any special service available.

(4) APPROPRIATE COMMUNITY SERVICES.—To the extent practicable, the Director shall attempt to include on the supplemental placement list facilities located in geographic areas in which culturally and linguistically appropriate community services are available.
(5) **HIGH CAPACITY AT CHILDREN FACILITIES.**—If the operational capacity of all childcare facilities and foster care placements reaches or exceeds 75 percent for a period of 3 consecutive days, the Director shall contact the facilities on the supplemental placement list to determine the number of available supplemental placements.

(c) **NEED FOR SUPPLEMENTAL PLACEMENTS EXCEEDING CAPACITY.**—If the number of unaccompanied noncitizen children in need of placement in the case of an emergency or influx exceeds the available appropriate placements on the supplemental placement list, the Director shall—

(1) locate additional placements through State-licensed programs and nonprofit child and family services agencies providing placement services; and

(2) expedite the reunification and release of unaccompanied noncitizen children from U.S. Customs and Border Protection custody.

**SEC. 305. INFUX FACILITY STANDARDS AND STAFFING.**

(a) **OPERATION OF INFUX FACILITIES.**—In the event that the operation of an influx facility cannot be avoided, the Director may operate an influx facility in accordance with this section.

(b) **STANDARDS.**—
(1) IN GENERAL.—An influx facility that does not meet the standards described in this subsection may not be used to house any child, and children housed at such an influx facility shall be transferred out of the influx facility immediately.

(2) FIRST DAY OF OPERATION.—On the first day of operation, an influx facility shall be in compliance with—

(A) the staffing ratio requirements, case management requirements, telephone call access, legal services access, education and recreation requirements, and medical and mental health services requirements that apply to childcare facilities; and

(B) the facility standards under the Prison Rape Elimination Act of 2003 (34 U.S.C. 30301 et seq.).

(3) WITHIN 30 DAYS.—Not later than 30 days after the date on which an influx facility commences operation, the influx facility shall achieve compliance with all standards set forth in title II, including State licensing standards.

(e) CONTRACTOR STANDARDS.—The Director may not enter into a contract with any entity to operate an influx facility, unless the entity has each of the following:
(1) Demonstrated experience in providing services for unaccompanied noncitizen children or children in foster care.

(2) A plan for placement of children for whom no sponsor has been identified.

(3) A plan for—

   (A) identifying, and immediately notifying the Director with respect to, any child believed to have been erroneously transferred to, or in care at, the influx facility contrary to the limitations set forth in paragraphs (1) and (2) of section 303(c); and

   (B) not later than 10 days after identifying such a child, transferring the child to an appropriate placement.

(4) An emergency plan that includes protection against transmission of COVID–19 and other infectious diseases, including a plan—

   (A) to provide regular testing for any applicable disease;

   (B) to comply with service standards for quarantine with respect to any such disease that mirror the services and guidance for children and congregate care settings recommended
by the Centers for Disease Control and Prevention; and

(C) to ensure access to immunizations for unaccompanied noncitizen children in the influx facility, in accordance with any applicable guidance of the Centers for Disease Control and Prevention.

(5) Emergency response protocols for placement, care, and transfer of children, which reduce the amount of time a child is in an emergency influx facility.

(6) A clear organizational chart, reporting structure, and contact information.

(7) A staffing plan that includes maintaining specified case manager-to-child ratios and a specified number of case manager visits with a child each week.

(8) A training plan for case managers that includes in-service coaching and individual support for a case manager’s first 30 days as an employee of the entity.

(9) A written code of conduct that is—

(A) distributed to all officers, employees, and volunteers; and
(B) contains clear boundaries for working with and around children.

(10) Written ethical standards that are—

(A) distributed to all officers, employees, and volunteers; and

(B) based on accepted child welfare principles and best practices.

(11) Data systems that meet the data and quality standards described in section 602 for tracking children through intake, case management, transportation, and placement.

(d) Waiver.—

(1) In general.—In the case of an influx facility, the Director may waive compliance with a standard or procedure under title II for a period of not more than 30 days.

(2) Notice to Congress.—If the Director waives compliance with the requirement that an influx facility shall be licensed by the State in which it is located, the Director shall provide to Congress notice of such waiver, which shall include—

(A) a justification for the waiver; and

(B)(i) a plan for the influx facility to obtain such licensing; or
(ii) in the case of an influx facility that will be unable to obtain such licensing—

(I) an explanation of the reason that—

(aa) licensing is not possible; and

(bb) the particular influx facility was chosen and remains operationally necessary.

(e) Reporting Mechanisms.—The Director shall establish clear procedures—

(1) for unaccompanied noncitizen children at influx facilities to directly and confidentially report incidents of abuse or neglect at influx facilities to the Ombudsperson, consulates, and State authorities; and

(2) to allow State child protective services immediate access to any influx facility to investigate any such report.

(f) Staffing.—

(1) Background Checks.—

(A) In General.—The Director shall ensure that a Federal Bureau of Investigation background check, and in any applicable State a child abuse or neglect check, has been conducted for each influx facility staff member who
will have direct contact with unaccompanied
noncitizen children.

(B) TIMING OF BACKGROUND CHECKS.—
The background checks described in subpara-
graph (A) shall be completed before a staff
member interacts with any unaccompanied non-
citizen child at an influx facility.

(C) PROHIBITION.—The Director shall en-
sure than an entity with which the Director has
contracted to operate an influx facility does not
hire as staff of the influx facility any individual
who has—

(i) any conviction for child abuse or
trafficking; or

(ii) a conviction that is less than 10
years old the underlying offense of which
would have a substantial and direct effect
on the safety of unaccompanied noncitizen
children.

(D) SUBMITTAL OF EVIDENCE.—Not later
than the date on which an influx facility com-
mences operation, the operator of the influx fa-
cility shall submit to the Director and the
Ombudsperson evidence that background checks
in accordance with this paragraph—
(i) have been completed for the relevant facility staff; and
(ii) will be completed for all new hires going forward.

(2) Fluency in Spanish.—Each staff member of an influx facility who will have contact with unaccompanied noncitizen children shall—
   (A) be fluent in Spanish and English; and
   (B) have experience in the care of children.

(3) Pediatric Health Specialists.—An influx facility shall have onsite pediatric health specialists, including a pediatrician, licensed psychologist, or psychiatrist who is experienced in the care of children.

(4) Ratios.—Not later than 15 days after the date on which an influx facility commences operation, the Director shall ensure that the influx facility maintains staffing ratios as follows:
   (A) During waking hours, not less than 1 on-duty youth care worker for every 8 unaccompanied noncitizen children.
   (B) During sleeping hours, not less than 1 on-duty youth care worker for every 16 unaccompanied noncitizen children.
SEC. 306. MONITORING AND OVERSIGHT.

(a) Site Visits.—

(1) Director.—

(A) In General.—Not less frequently than monthly during the period in which an influx facility is in operation, the Director shall conduct a comprehensive onsite monitoring visit.

(B) Elements.—Each site visit conducted under subparagraph (A) shall include—

(i) an evaluation of the compliance of the influx facility with—

(I) the standards and procedures under title II; and

(II) the facility standards under the Prison Rape Elimination Act of 2003 (34 U.S.C. 30301 et seq.);

(ii) an assessment of the delivery of, and unaccompanied noncitizen children’s access to, health care and mental health care services;

(iii) an assessment of unaccompanied noncitizen children’s access to counsel and legal services; and
(iv) private, confidential interviews with unaccompanied noncitizen children housed in the influx facility.

(2) INSPECTOR GENERAL.—The Inspector General of the Department of Health and Human Services may conduct unscheduled visits to any influx facility, during which the Inspector General may meet confidentially with any unaccompanied noncitizen child housed in the influx facility.

(3) OMBUDSPERSON.—Not less frequently than monthly during the period in which an influx facility is in operation, the Ombudsperson shall conduct a comprehensive onsite visit to monitor for compliance with applicable Federal and State law (including regulations), including—

(A) the Flores settlement agreement;

(B) section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232); and

(C) this Act.

(b) TOURS BY APPROVED STAKEHOLDERS.—Not less frequently than monthly during the period in which an influx facility is in operation, the Director shall allow approved stakeholders, including representatives from non-profit organizations serving or advocating on behalf of un-
Title IV—Legal Representation for Unaccompanied Noncitizen Children

Sec. 401. Legal Orientation Presentations and Legal Screenings.

(a) In general.—Not later than 10 days after transfer to the custody of the Secretary, an unaccompanied noncitizen child shall receive a free legal orientation presentation and legal screening conducted by a legal services provider, which shall include information relating to—

(1) the right to apply for relief from removal;

(2) the right to request voluntary departure in lieu of removal; and

(3) the right to a hearing before an immigration judge.

(b) Prioritization Before Release.—

(1) In general.—The Director shall make affirmative, thorough, and timely efforts to ensure that each unaccompanied noncitizen child receives a presentation and screening described in subsection (a) before release, and in the case of any unaccompanied noncitizen child who does not receive such
presentation and screening before release, the Director shall ensure that the child receives the presentation and screening on release.

(2) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prohibit the release of an unaccompanied noncitizen child to a sponsor based solely on not having received such a presentation and screening.

SEC. 402. LEGAL REPRESENTATION.

(a) IN GENERAL.—An unaccompanied noncitizen child shall be represented by counsel appointed or provided by the Secretary, at Government expense, unless the child has obtained, at his or her own expense, counsel authorized to practice in immigration proceedings.

(b) PROCEDURE.—Representation under subsection (a) shall—

(1) be appointed or provided by the Secretary as expeditiously as possible;

(2) extend through every stage of removal proceedings, from the child’s initial appearance through the termination of immigration proceedings; and

(3) include any ancillary matter appropriate to such proceedings, even if the child attains 18 years of age or is reunified with a parent or legal guardian while the proceedings are pending.
(c) Private, Confidential Meeting Space.—The Director shall ensure that unaccompanied noncitizen children are provided access to a private, confidential space to meet with legal services providers and a private, confidential telephone line to contact their legal counsel or legal services providers at the expense of the government.

(d) Contact With Legal Counsel.—An unaccompanied noncitizen child shall be permitted to call or meet with his or her legal counsel or legal services provider at any time.

(e) Authorization of Appropriations.—

(1) In General.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(2) Funding.—Amounts made available under this section shall be maintained separately from amounts designated for childcare facilities.

(f) Scope of Representation.—Government-appointed counsel may provide to an unaccompanied noncitizen child the full scope of representation, including representation in—

(1) any matter relevant to the child’s well-being, including conditions of detention and matters relating to medical and mental health services and medication;
(2) placement review hearings;
(3) sponsorship hearings; and
(4) any other matter relating to immigration.

(g) COOPERATION OF OFFICE OF REFUGEE RESETTLMENT REQUIRED.—

(1) IN GENERAL.—The Director shall ensure that the legal counsel of an unaccompanied noncitizen child has access to prompt, reasonable, and regular direct communication with case managers, case coordinators, and Federal field specialists overseeing the child’s placement, release, family reunification, transfer, and medical and mental health services.

(2) REQUESTS BY COUNSEL FOR INFORMATION.—On request by the legal counsel or the independent legal services provider of an unaccompanied noncitizen child, the Director shall provide, not later than 7 days after the date on which the request is made, the following:

(A) The names and telephone numbers of all prospective sponsors of the unaccompanied noncitizen child concerned.

(B) A copy of the complete Office of Refugee Resettlement case file and records of the unaccompanied noncitizen child concerned.
TITLE V—APPOINTMENT OF
CHILD ADVOCATES AND IMPROVEMENTS TO IMMIGRATION COURTS

SEC. 501. APPOINTMENT OF CHILD ADVOCATES.

(a) In General.—The Secretary shall appoint independent child advocates to unaccompanied noncitizen children, including—

(1) each vulnerable unaccompanied noncitizen child in the custody of the Secretary; and

(2) each vulnerable unaccompanied noncitizen child who has been released from such custody.

(b) Expansion of Child Advocate Services.—

(1) In General.—The Secretary shall increase funding for child advocate services to facilitate the expansion, by not later than the date that is 180 days after the date of the enactment of this Act, of the provision of such services to all locations at which—

(A) unaccompanied noncitizen children in the custody of the Secretary are housed; or

(B) unaccompanied noncitizen children appear before immigration courts for removal proceedings.
(2) Prioritization.—In expanding services under this subsection, the Secretary shall prioritize locations that have the highest numbers of unaccompanied noncitizen children in the custody of the Secretary and unaccompanied noncitizen children appearing before immigration courts.

(3) Access to records.—

(A) In general.—A child advocate appointed under this section shall have timely access to all materials necessary to effectively advocate for the best interests of the unaccompanied noncitizen child concerned, including the child’s complete Office of Refugee Resettlement case file and records.

(B) Request.—On request by such a child advocate, the Director shall provide a complete copy of an unaccompanied noncitizen child’s Office of Refugee Resettlement case file and records not later than 72 hours after the request is made.

(4) Best interest recommendations.—A child advocate appointed under this section shall submit a best interest recommendation based on law, policy, medical or behavioral health, and relevant social science research to any Federal or State agency
making a decision with respect to the best interests of an unaccompanied noncitizen child, including—

(A) the Department of Health and Human Services;

(B) the Department of Justice;

(C) the Department of Homeland Security;

and

(D) a Federal, State, or Tribal court.

(5) CONFIDENTIALITY.—All communications between child advocates appointed under this section and unaccompanied noncitizen children shall be confidential, and such a child advocate may not be compelled to testify or provide evidence, in any proceeding, with respect to any information or opinion conveyed to the child advocate by an unaccompanied noncitizen child in the course of serving as child advocate.

(6) LEGAL SUPPORT.—The Secretary shall ensure that each location at which child advocate services are provided under this section is staffed with 1 or more attorneys who have expertise in immigration law and child welfare law.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.
SEC. 502. IMMIGRATION COURT IMPROVEMENTS.

(a) Hiring of Immigration Judges.—

(1) In general.—To adjudicate pending cases and efficiently process future cases, the Attorney General shall increase the total number of immigration judges by not fewer than 75 judges during fiscal year 2023.

(2) Qualifications.—The Attorney General shall ensure that each immigration judge hired under this subsection—

(A) is highly qualified;

(B) has substantial experience in the field of immigration law; and

(C) is trained to conduct fair and impartial hearings in accordance with applicable due process requirements.

(3) No preference for candidates with prior service in the Federal government.—In selecting immigration judges under this subsection, the Attorney General may not assign any preference to a candidate who has prior service in the Federal Government over a candidate who has equivalent subject matter expertise based on experience in a nonprofit organization, private practice, or academia, but does not have previous Federal service.
(b) IMMIGRATION COURT STAFF.—During fiscal year 2023, the Attorney General shall—

(1) increase the total number of judicial law clerks at the Executive Office for Immigration Review by 75; and

(2) increase the total number of support staff for immigration judges, including legal assistants and interpreters, by 300.

(e) SUPPORT STAFF; OTHER RESOURCES.—The Attorney General shall ensure that the Executive Office for Immigration Review has sufficient support staff, adequate technological and security resources, and appropriate facilities to conduct the immigration proceedings required under Federal law.

(d) LIMITATION.—Amounts appropriated for the Executive Office for Immigration Review or for any other division, activity, or function of the Department of Justice may not be used to implement numeric case load judicial performance standards or other standards that could negatively impact the fair administration of justice by the immigration courts.

(c) DOCKET MANAGEMENT FOR RESOURCE CONSERVATION.—Notwithstanding any opposition from the Secretary of Homeland Security or the Attorney General, immigration judges shall administratively close or termi-
nate cases, and the Board of Immigration Appeals shall remand cases for administrative closure, if an individual in removal proceedings—

(1) appears to be prima facie eligible for a visa or any other immigration benefit; and

(2) has a pending application for such benefit before U.S. Citizenship and Immigration Services or any other applicable Federal agency.

(f) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

**TITLE VI—OVERSIGHT, MONITORING, AND ENFORCEMENT**

**SEC. 601. OFFICE OF THE OMBUDSPERSON FOR UNACCOMPANIED NONCITIZEN CHILDREN IN IMMIGRATION CUSTODY.**

(a) Establishment.—There is established within the Department of Health and Human Services an Office of the Ombudsperson for Unaccompanied Noncitizen Children (referred to in this section as the “Office”) to monitor and oversee compliance with this Act and the amendments made by this Act.

(b) Independence.—The Office shall be an impartial, confidential resource that is fully independent of—

(1) the Office of Refugee Resettlement; and
(2) the Department of Homeland Security.

(c) OMBUDSPERSON.—

(1) IN GENERAL.—The Office shall be headed by an Ombudsperson, who shall be appointed by, and report directly to, the Secretary.

(2) RECOMMENDATIONS FROM STAKEHOLDERS.—Before making an appointment under paragraph (1), the Secretary shall solicit and consider candidate recommendations from community stakeholders, including from organizations that provide legal services to and advocacy on behalf of immigrant children.

(3) LIMITATION ON CERTAIN FORMER EMPLOYEES.—The Secretary may not appoint as Ombudsperson any individual who, during the 2-year period preceding the date of appointment, was an employee of the Office of Refugee Resettlement or the Department of Homeland Security.

(4) TERM.—

(A) IN GENERAL.—Subject to subparagraph (C), the term of an Ombudsperson appointed under this subsection shall be not more than 4 years.
(B) CONSECUTIVE TERMS.—An Ombudsperson may be appointed for consecutive terms.

(C) EXPIRATION.—The term of an Ombudsperson shall not expire before the date on which the Ombudsperson's successor is appointed.

(5) REMOVAL FOR CAUSE.—The Secretary may only remove or suspend an Ombudsperson for neglect of duty or gross misconduct.

(6) DUTIES AND AUTHORITY.—

(A) REGIONAL OFFICES.—

(i) ESTABLISHMENT.—The Ombudsperson shall establish not fewer than 7 regional offices of the Office—

(I) to strengthen State oversight;

(II) to investigate complaints;

(III) to coordinate with State licensing entities; and

(IV) to identify and address differences among State child protection laws.

(ii) LOCATIONS.—

(I) IN GENERAL.—The regional offices required under clause (i) shall
be established in the following locations:

(aa) 1 regional office in Texas.

(bb) 1 regional office in Arizona.

(cc) 1 regional office in California or a State in the Northwest.

(dd) 1 regional office in a State in the Midwest.

(ee) 1 regional office in a State in the Mid-Atlantic.

(ff) 1 regional office in a State in the Northeast.

(gg) 1 regional office in a State in the Southeast.

(II) ADDITIONAL LOCATIONS.—

The Ombudsperson may make a recommendation to the Secretary with respect to the location of any additional regional office.

(iii) APPOINTMENT OF DEPUTIES.—

The Ombudsperson shall appoint a full-time deputy for each regional office, who
shall serve at the Ombudsperson’s discretion.

(iv) Applicability of other provisions.—The regional offices established under this subparagraph shall have the same access to facilities and records, maintain the same rights, roles, and responsibilities, and be subject to the same confidentiality requirements as the Office.

(B) Hiring.—

(i) In general.—The Ombudsperson shall hire to carry out the functions of the Office necessary personnel, including clerical personnel, who shall serve at the discretion of the Ombudsperson.

(ii) Subject matter experts.—The personnel hired under clause (i) shall include relevant subject matter experts, including—

(I) attorneys with expertise in child welfare and immigration law;

(II) pediatricians;

(III) child and adolescent psychiatrists and psychologists;

(IV) social workers;
(V) data analysts with demonstrable expertise in child welfare or immigration; and

(VI) youth or young adults with experience as noncitizen children in immigration custody.

(C) MONITORING.—

(i) In general.—The Ombudsperson shall monitor, including by making site visits, for compliance with all applicable law and standards relating to noncitizen children in immigration custody.

(ii) Influx facilities.—The Ombudsperson shall conduct site visits of influx facilities, as described in section 306.

(D) INVESTIGATIONS.—

(i) In general.—The Ombudsperson—

(I) may conduct any investigation relating to noncitizen children in immigration custody the Ombudsperson considers necessary; and

(II) shall investigate—
(aa) claims of abuse, neglect, or mistreatment of noncitizen children by the Government or any other entity while in immigration custody; and

(bb) complaints made against foster care providers, including in the case of such a provider that is subject to State oversight.

(ii) **Timeline.**—The Ombudsperson shall commence an investigation under clause (i)(II) not later than 30 days after the date on which a claim or complaint described in that clause is received.

(iii) **Reporting of State Licensing Violations.**—If in the course of an investigation under clause (i)(II)(bb) the Ombudsperson discovers a State licensing violation, the Ombudsperson shall report the violation to the child welfare licensing agency of the applicable State.

(iv) **Procedures.**—The Ombudsperson shall establish a procedure for conducting investigations, receiving and
processing complaints, and reporting findings.

(v) Notification.—

(I) Commencement of Investigation.—If the Ombudsperson decides to commence an investigation based on a complaint received, not later than 45 days after the date on which the investigation commences, the Ombudsperson shall so notify the complainant.

(II) Decision Not to Investigate or to Discontinue Investigation.—If the Ombudsperson decides not to investigate a complaint or to discontinue an investigation commenced under this subparagraph, not later than 45 days after the date on which such an action is taken, the Ombudsperson shall notify the complainant and provide a reason for such action.

(III) Progress and Results.—The Ombudsperson shall provide a complainant with updates on the
progress of an investigation and shall notify the complainant of the results of the investigation.

(vi) CONFIDENTIALITY.—

(I) IN GENERAL.—All information obtained by the Ombudsperson from a complaint shall be confidential under applicable Federal and State confidentiality law, regardless of whether the Ombudsperson—

(aa) investigates the complaint;

(bb) refers the complaint to any other entity for investigation; or

(cc) determines that the complaint is not a proper subject for an investigation

(II) DISCLOSURE.—Disclosure of any such information may only occur as necessary to carry out the mission of the Office and as permitted by law.

(E) REPORTING MECHANISMS.—

(i) IN GENERAL.—The Ombudsperson shall establish and maintain—
(I) a public toll-free telephone number to receive complaints and reports of matters for investigation; and

(II) a public email address to receive complaints, such reports, and requests for review of placement and sponsorship decisions.

(ii) Availability.—

(I) In general.—The Ombudsperson shall ensure that such telephone number and email address—

(aa) are made available, and

a telephone is accessible, to all children in immigration custody;

and

(bb) are made available to prospective sponsors, sponsors, Flores settlement agreement class counsel, and legal services providers and child advocates who serve such noncitizen children.

(II) Sponsorship applications.—The Director shall provide
such telephone number and email address to the prospective sponsor of each unaccompanied noncitizen child.

(iii) LANGUAGE ACCESS.—

(I) IN GENERAL.—Such telephone number and email address shall be posted in public areas of each facility or placement in which 1 or more children in immigration custody are held, in multiple languages, including English, Spanish, French, Hindi, Bengali, Punjabi, Swahili, Mandarin Chinese, Russian, Standard Arabic, Portuguese, Haitian Creole, K’iche’, Q’eqchi’, Kaqchikel, Mam, Q’anjob’al, and Ixil.

(II) ADDITIONAL LANGUAGES.— The Ombudsperson may require that such contact information be made available and posted in any additional language the Ombudsperson considers necessary based on the demographics of arriving noncitizen children.
(F) Hearings.—The Ombudsperson may hold public hearings as the Ombudsperson considers necessary.

(G) Individual Case Assistance and Review.—

   (i) In general.—The Ombudsperson may offer individual case assistance for noncitizen children in immigration custody.

   (ii) Communication with others.—In providing such individual case assistance, the Ombudsperson may speak with a noncitizen child’s prospective sponsor, family members, child advocate, legal counsel, case manager, case coordinator, and Office of Refugee Resettlement Federal field specialist staffing the noncitizen child’s case, as applicable.

(H) Stakeholder Meetings.—

   (i) Community stakeholders.—Not less frequently than quarterly, the Ombudsperson shall invite community stakeholders, including attorneys who represent noncitizen children in immigration custody, to participate in a meeting.
(ii) DATA TRACKING PERSONNEL.—

Not less frequently than quarterly, the Ombudsperson shall invite personnel of the Department of Homeland Security and the Department of Health and Human Services who manage the data tracking systems described in section 602 to participate in a meeting for the purpose of informing the Ombudsperson with respect to the efficacy and responsiveness of the system with empirical data, analysis, and data needs.

(iii) ADDITIONAL MEETINGS.—The Ombudsperson may convene additional meetings at any time, as the Ombudsperson considers necessary.

(I) REPORTING.—

(i) ANNUAL PUBLIC REPORT.—

(I) IN GENERAL.—Not less frequently than annually, the Ombudsperson shall issue a public report on the implementation of and compliance with this Act and the amendments made by this Act, by the Secretary and the Secretary of Homeland Security.
(II) ELEMENTS.—Each report under subclause (I) shall include the following:

(aa) For the preceding fiscal year, the accomplishments and challenges relating to such implementation and compliance.

(bb) A summary of complaints made and investigations carried out during the preceding fiscal year, including—

(AA) the number of complaints and number and nature of other contacts;

(BB) the number of complaints made, including the type and source;

(CC) the number of investigations carried out;

(DD) the trends and issues that arose in the course of investigating complaints; and

(EE) the number of pending complaints.
For the preceding fiscal year, a summary of—

(AA) each site visit conducted;

(BB) any interview with a noncitizen child or facility staff;

(CC) facility audits and corrective actions taken or recommended;

(DD) appeals made to the Ombudsperson; and

(EE) any other information the Ombudsperson considers relevant.

(dd) A detailed analysis of the data collected under section 602.

(ee) Recommendations—

(AA) for improving implementation and compliance with this Act and the amendments made by this Act; and
(BB) as to whether the Director should renew or cancel contracts with particular Office of Refugee Resettlement grantees.

(ff) A description of the priorities for the subsequent fiscal year.

(ii) Report on training materials.—The Ombudsperson shall issue a public report on the training materials developed by the Director under section 203(c)(4) that includes a description of any concerns the Ombudsperson has with respect to the materials.

(iii) Additional reports.—The Ombudsperson may issue additional reports at any time, including data analyses and findings, as the Ombudsperson considers necessary.

(J) Information gathering.—

(i) In general.—The Ombudsperson may submit to the Director, the Director of U.S. Immigration and Customs Enforcement, and the juvenile coordinators of U.S.
Customs and Border Protection requests
for information with respect to the imple-
mentation of this Act.

(ii) Response required.—Not later
than 30 days after the date on which a ju-
venile coordinator receives a request for in-
formation under clause (i), the juvenile co-
ordinator shall submit a detailed response
to the Ombudsperson, the Director, the Di-
rector of U.S. Immigration and Customs
Enforcement, and the Commissioner of
U.S. Customs and Border Protection.

(iii) Cooperation required.—The
Secretary and the Secretary of Homeland
Security shall—

(I) cooperate with any request
for information by the Ombudsperson;

and

(II) report to the Ombudsperson
any policy or instruction issued to em-
ployees regarding the implementation
of this Act.

(K) Subpoena authority.—

(i) In general.—The Ombudsperson
may—
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(I) issue a subpoena to require
the production of all information, re-
ports, and other documentary evidence
necessary to carry out the duties of
the Ombudsperson; and

(II) compel by subpoena, at a
specified time and place—

(aa) the appearance and
sworn testimony of an individual
who the Ombudsperson reason-
ably believes may be able to pro-
vide information relating to a
matter under investigation; and

(bb) the production by an
individual of a record of an ob-
ject that the Ombudsperson rea-
sonably believes may relate to a
matter under investigation.

(ii) Effect of failure to com-
ply.—In the case of an individual who
fails to comply with a subpoena issued
under this subparagraph, the
Ombudsperson may commence a civil ac-
tion in an appropriate court.
(L) ADDITIONAL DUTIES.—The Ombudsperson shall—

(i) develop notices of rights, as described in sections 105(c)(5) and 202;

(ii) review training materials, as described in section 203(c)(4);

(iii) conduct reviews of decisions in placement review hearings, as described in section 226(b)(6);

(iv) conduct reviews of decisions in sponsorship hearings, as described in section 232(b)(3)(H);

(v) regularly review data collected under section 602; and

(vi) track and monitor processing times and length of custody for noncitizen children in immigration custody.

(d) ACCESS.—

(1) FACILITIES.—

(A) IN GENERAL.—The Secretary and the Secretary of Homeland Security shall ensure unobstructed access by the Ombudsperson to any facility at which a noncitizen child is detained.
(B) INFORMATION COLLECTION FOR SITE VISITS.—For each site visit conducted by the Ombudsperson, facility staff shall provide a list of the unaccompanied noncitizen children housed in the facility, including their names, alien registration numbers, dates of birth, dates of apprehension, and the dates of facility placement—

(i) in the case of an announced site visit, not less than 48 hours before the arrival of the Ombudsperson; and

(ii) in the case of an unannounced site visit, on the arrival of the Ombudsperson.

(C) PRIVATE AND CONFIDENTIAL SPACE.—A facility shall provide a private and confidential space in which the Ombudsperson may interview unaccompanied noncitizen children and staff.

(D) DELEGATION.—The Ombudsperson may designate 1 or more individuals from outside the Ombudsperson’s office to conduct site visits and interview detained children.

(2) INFORMATION.—On request by the Ombudsperson, the Secretary shall ensure, not later
than 48 hours after receipt of the request, unobstructed access by the Ombudsperson to—

(A) the case files, records, reports, audits, documents, papers, recommendations, or any other pertinent information relating to the care and custody of a noncitizen child; and

(B) the written policies and procedures of all childcare facilities.

(3) DEFINITION OF UNOBSTRUCTED ACCESS.—

In this subsection, the term “unobstructed access” means—

(A) with respect to a facility, the ability—

(i) to enter the facility at any time, including unannounced, to observe and inspect all areas of the facility;

(ii) to communicate privately and without restriction with any child, caregiver, facility staff, or volunteer; and

(iii) to obtain, review, and reproduce any—

(I) record of a child, staff member, or caregiver;

(II) administrative record, policy, or document of any facility;
(III) licensing record maintained by the applicable Federal or State agency; or

(IV) record, including a confidential record, of a Federal or State agency or any contractor of a Federal or State agency, except sealed court records, production of which may only be compelled by subpoena; and

(B) with respect to information, the ability to obtain requested information in a timely manner and with the full cooperation of the Secretary or the Secretary of Homeland Security, as applicable.

(e) CONFIDENTIALITY.—

(1) IDENTITY OF COMPLAINANTS AND WITNESSES.—The Ombudsperson shall maintain confidentiality with respect to the identities of complainants or witnesses coming before the Office, except if such a disclosure is necessary—

(A) to carry out the duties of the Ombudsperson; and

(B) to support recommendations made in individual cases, annual reports, or other reports.
(2) RECORDS.—In accordance with relevant Federal and State law, the Ombudsperson may not disclose a confidential record.

(3) TESTIMONY AND DEPOSITION.—The Ombudsperson and employees of the Office may not testify or be deposed in a judicial or administrative proceeding regarding matters that have come to their attention in the exercise of their official duties, except as the Ombudsperson considers necessary to enforce this Act or the amendments made by this Act.

(4) SUBPOENA AND DISCOVERY.—The records of the Office, including notes, drafts, and records obtained from an individual, a provider, or an agency during intake, review, or investigation of a complaint, and any reports not released to the public are not subject to disclosure or production in response to a subpoena or discovery in a judicial or administrative proceeding, except as the Ombudsperson considers necessary to enforce this Act or the amendments made by this Act.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.
SEC. 602. DATA COLLECTION AND REPORTING.

(a) DEPARTMENT OF HOMELAND SECURITY.—

(1) IN GENERAL.—The Secretary of Homeland Security shall collect and maintain a record of each noncitizen child held in the custody of the Secretary of Homeland Security.

(2) FREQUENCY AND SUBMISSION OF DATA COLLECTED.—

(A) IN GENERAL.—Not less frequently than weekly, the Secretary of Homeland Security shall—

(i) collect the information described in paragraph (3) from each district office and Border Patrol station; and

(ii) submit such data to—

(I) the Ombudsperson; and

(II) the Committee on the Judiciary and the Committee on Appropriations of the Senate and the Committee on the Judiciary and the Committee on Appropriations of the House of Representatives.

(3) INFORMATION DESCRIBED.—The information described in this paragraph is the following:
(A) INDIVIDUAL DATA.—For each noncitizen child in the custody of the Secretary of Homeland Security, the following:

(i) Biographical information, including full name, date of birth, country of citizenship, preferred language, and alien number.

(ii) The date the child was apprehended and placed in such custody.

(iii) The date and the time the child was released or transferred from such custody and to whom the child was so released or transferred.

(iv) For each accompanying family member of the child or other adult the child identifies as a previous caregiver, biographical and contact information.

(v) An indication as to whether the child arrived in the company of a family member other than a parent or legal guardian, and in the case of a separation from that family member, a justification for the separation.

(B) AGGREGATED DATA.—
(i) The number of children in the custody of the Secretary of Homeland Security as of the last day of each calendar month, calculated to include all such children, disaggregated by—

(I) facility; and

(II) Border Patrol sector.

(ii) The largest number of children concurrently held in such custody, calculated to include all such children, and the 1 or more dates on which such largest number occurred, disaggregated by—

(I) facility; and

(II) Border Patrol sector.

(iii) The median and average number of hours in such custody for each such child, calculated to include all such children, disaggregated by—

(I) facility; and

(II) Border Patrol sector.

(4) PUBLICATION.—Not less frequently than monthly, the Secretary of Homeland Security shall publish on a publicly accessible internet website of the Department of Homeland Security the following:
(A) The figures for the data collected under paragraph (3)(B)(i).

(B) For the preceding calendar month, the figures for the data collected under clauses (ii) and (iii) of paragraph (3)(B).

(b) Office of Refugee Resettlement.—

(1) In General.—To support the data collection and monitoring duties of the Ombudsperson and to facilitate public monitoring, the Director shall—

(A) develop a systemic data collection system to collect and maintain relevant demographic information that is pertinent to serving—

(i) the population of unaccompanied noncitizen children in the custody of the Secretary of Health and Human Services;

and

(ii) children who have been released from such custody with services pending;

(B) not less than every 3 years, review the data collected, the categorization of such data, the information architecture for organizing and analyzing such data, any safety concern relating to the collection of such data, and the method
for obtaining or collecting such data under such system;

(C)(i) as appropriate, revise such system to make improvements in service delivery to unaccompanied noncitizen children; and

(ii) if such system is so revised, ensure the continuity of comparative data from periods before and after the revision; and

(D) ensure the ongoing functioning and use of such system by the Office of Refugee Resettlement.

(2) Frequency of data collected.—Not less frequently than weekly, the Director shall—

(A) collect from each childcare facility the information described in paragraph (3); and

(B) maintain such information in the system described in paragraph (1)(A).

(3) Information described.—The information described in this paragraph is the following:

(A) Individual data.—For each unaccompanied noncitizen child in the custody of the Secretary of Homeland Security—

(i) biographical information, including full name, date of birth, country of citizen-
ship, preferred language, and alien num-
ber;

(ii) the date the child was appre-
hended and placed in such custody of the
Secretary of Homeland Security;

(iii) the date the child was placed in
the custody of the Secretary of Health and
Human Services;

(iv) the date on which the child was
placed in a childcare facility, or transferred
between childcare facilities, as applicable,
and the name and location of each
childcare facility;

(v) in the case of a child placed in a
residential treatment center, therapeutic
childcare facility, staff-secure facility, or
out-of-network facility, a justification for
such placement;

(vi) the status of the child’s family re-
unification process, including—

(I) a record of the 1 or more case
managers who have worked on the
child’s case, including a description of
the work performed;
(II) in the case of a child who is released or discharged from the custody of the Secretary of Health and Human Services—

(aa) the date of release or discharge;

(bb) the name of the individual to whom the child was released, as applicable; and

(cc) the reason for release or discharge; and

(III) in the case of a child removed from the United States, the date of removal and the country to which he or she was removed, regardless of whether a child was removed directly from the custody of the Secretary of Health and Human Services; and

(vii) the number of occasions on which the operator of a childcare facility or an influx facility contacted law enforcement with respect to the child, as applicable, and the justification for each such contact.
(B) FACILITY DATA.—For each childcare
facility or influx facility funded by the Depart-
ment of Health and Human Services—

(i) the median length of stay for unac-
accompanied noncitizen children placed at
the facility;

(ii) for children who have been re-
leased to sponsors, the median amount of
time spent by such children in the custody
of the Secretary of Health and Human
Services before release;

(iii) the utilization rate of the facility
(excluding funded but unplaceable beds
and calculated as the number of filled beds
divided by the number of beds available for
placement, expressed as a percentage);

(iv) the percentage of unaccompanied
noncitizen children transferred from the
facility to any other facility, calculated on
a rolling basis; and

(v) the number and type of child
abuse or neglect allegations against facility
staff or against other children in the facil-
ity, and the number of such allegations
substantiated.
(C) National capacity data.—

(i) In general.—For all childcare facilities and influx facilities, in the aggregate—

(I) the number of pending beds;

and

(II) the number of delivered beds, disaggregated by—

(aa) beds occupied by unaccompanied noncitizen children;

(bb) unoccupied beds available for potential use by unaccompanied noncitizen children;

and

(cc) unavailable beds that are funded but cannot receive children.

(ii) Definitions.—In this subparagraph:

(I) Delivered bed.—The term “delivered bed” means a bed delivered to the Department of Health and Human Services for use by an unaccompanied noncitizen child.
(II) Pending bed.—The term “pending bed” means a bed—

(aa) to be provided to the Department of Health and Human Services for use by an unaccompanied noncitizen child that is funded by a grant, cooperative agreement, contract, or any other means; but

(bb) that is not yet a delivered bed.

(D) Family reunification data.—For all unaccompanied noncitizen children in the custody of the Secretary of Health and Human Services—

(i) the median time-to-release, disaggregated by—

(I) children released to parents or legal guardians;

(II) children released to other sponsors;

(III) children who have home studies mandated by section 235 of the Trafficking Victims Protection
Reauthorization Act of 2008 (8 U.S.C. 1232);

(IV) children granted home studies through the discretion of the Director; and

(V) all other children; and

(ii) the number of children who have been in such custody for more than 90 days, disaggregated by—

(I) children placed in therapeutic foster care;

(II) children placed in long-term foster care; and

(III) children in placements that are not therapeutic foster care or long-term foster care.

(E) COMPREHENSIVE NATIONAL DATA.—

(i) The number and characteristics of children placed in and exiting the custody of the Secretary of Health and Human Services.

(ii) The status of the unaccompanied noncitizen child population, including the number of such children in such custody, age cohorts of such children, length of
placements, types of placements, location in-network or out-of-network, and goals for reunification by sponsor or placement type.

(iii) The number and percentage of unaccompanied noncitizen children designated for and receiving any of the following:

(I) Mandatory home studies.

(II) Discretionary home studies.

(III) Post-release services.

(iv) The number and percentage of unaccompanied noncitizen children held in a facility funded by the Office of Refugee Resettlement with more than 25 other unaccompanied noncitizen children.

(v) The number and percentage of unaccompanied noncitizen children with special needs or disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

(vi) For each type of childcare facility and each influx facility—

(I) the average national case manager-to-child ratio; and
(II) the national utilization rate
(excluding funded but unplaceable
beds and calculated as the number of
filled beds divided by the number of
beds available for placement, ex-
pressed as a percentage).

(vii) The number of such facilities al-
leged and found to be out of compliance
with the facility standards under the Pris-
on Rape Elimination Act of 2003 (34
U.S.C. 30301 et seq.).

(viii) The number and types of viola-
tions for sexual abuse and exploitation al-
leged and resolved with respect to unac-
accompanied noncitizen children while in the
custody of the Secretary of Health and
Human Services, counted and categorized
in accordance with the Prison Rape Elimi-
nation Act of 2003 (34 U.S.C. 30301 et
seq.).

(ix) The rate of compliance with sub-
paragraphs (A) and (B) of section
231(a)(2).

(F) FURTHER POPULATION AND GENERAL
CHARACTERISTICS DATA.—
(i) **IN GENERAL.**—

(I) The general status and characteristics of the population of unaccompanied noncitizen children and their family members.

(II) The general quality and speed of the placement process, and information on post-placement outcomes.

(III) Barriers to release for such children, including relevant cross-tabulations with other collected data.

(IV) An identification of children who are vulnerable to or victims of human trafficking.

(V) The general status and characteristics of facilities funded by the Office of Refugee Resettlement for the purpose of the care of unaccompanied noncitizen children.

(VI) The rate of increase or decrease in childcare facility usage, such that cross-facility comparisons are useful or systemwide seasonal variations may be anticipated.
(VII) Aggregate measures that allow comparison between facilities by size, placement type, and any other appropriate factor of number and type of child abuse or neglect allegations against staff or against other children.

(ii) COLLECTION STANDARDS.—The Director shall develop and implement standards for the collection of the information described in clause (i).

(4) SUBMISSION OF DATA AND INFORMATION.—Not less frequently than weekly, the Director shall submit, in a manner that corresponds with publication under paragraph (6), the information described in paragraph (3) for the preceding week to—

(A) the Ombudsperson; and

(B) the Committee on the Judiciary and the Committee on Appropriations of the Senate and the Committee on the Judiciary and the Committee on Appropriations of the House of Representatives.

(5) ADDITIONAL REQUIREMENTS.—

(A) RELIABILITY AND CONSISTENCY OF DATA COLLECTION SYSTEM.—The data collec-
tion system developed and implemented under paragraph (1) shall—

(i) ensure that—

(I) data collected is reliable and consistent over time and among jurisdictions through the use of uniform definitions and methodologies; and

(II) publicly available data remains reliable and consistent over time, unless—

(aa) the removal of data from the public domain protects individuals or groups of individuals from harm or potential harm; or

(bb) a modification to a definition or methodology is necessary to allow the Office of Refugee Resettlement to serve unaccompanied noncitizen children better, individually or as a group; and

(ii) for the information described in paragraph (3)(F), include metadata with respect to whether, and in what form, such
information may be made available to the public, with the presumption that information shall be made available to the public—

(I) in the least restricted form that protects individual privacy; and

(II) on the same internet website used for publication under paragraph (6).

(B) INCENTIVES.—The Director shall use appropriate requirements and incentives to ensure that the data collection system developed and implemented under paragraph (1) functions reliably throughout the United States.

(6) PUBLICATION.—

(A) MONTHLY REPORT.—

(i) IN GENERAL.—Not less frequently than monthly, the Director shall publish on a publicly accessible internet website of the Office of Refugee Resettlement the following:

(I) As of the last day of the preceding calendar month, the figures for the data collected under subparagraphs (C), (D)(ii), and (E)(ii) of paragraph (3).
(II) For each calendar month, the figures for the data collected under subparagraphs (D)(i), (E)(i), (E)(v), and (E)(vi) of paragraph (3).

(III) If an influx facility, an emergency facility, or any other unlicensed facility is in operation to house noncitizen children, the figures for the data collected under paragraph (3)(E)(ix) and any other data required to ensure oversight and transparency under section 306.

(IV) The data and measures described in paragraph (3)(F) for which new or continuing publication is—

(aa) in the public interest;

or

(bb) required under paragraph (5)(A).

(V) A description of any change between the information reported under subclauses (I) through (IV) for the reporting period and such information reported for the preceding reporting period.
(ii) **AGGREGATION OF DATA.**—The information published under clause (i) shall be aggregated so as to facilitate uniform monthly reporting.

(B) **ANNUAL REPORT.**—

(i) **IN GENERAL.**—Not less frequently than annually, the Director shall publish on a publicly accessible internet website of the Office of Refugee Resettlement the following:

(I) As of the last day of each fiscal year, the figures for the data collected under subparagraphs (E)(iii), (E)(v), (E)(vii), and (E)(viii) of paragraph (3).

(II) The data and measures described in paragraph (3)(F) for which new or continuing publication is—

(aa) in the public interest; or

(bb) required under paragraph (5)(A).

(III) A description of any change between the information reported under subclauses (I) and (II) for the
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reporting period and such information
reported for the preceding reporting
period.

(ii) **AGGREGATION OF DATA.**—The in-
formation published under clause (i) shall
be aggregated so as to facilitate uniform
annual reporting.

(c) **OMBUDSPERSON REVIEW OF DATA.**—The Sec-
retary of Health and Human Services and the Secretary
of Homeland Security shall—

(1) ensure that the Ombudsperson—

(A) has access to all real-time data regard-
ing noncitizen children in immigration custody;
and

(B) is able to independently and regularly
review data collected by the Department of
Health and Human Services and Department of
Homeland Security with respect to such chil-
dren;

(2) respond in a timely manner to inquiries
from the Ombudsperson with respect to such data;
and

(3) promptly take any necessary corrective ac-
tion with respect to the accuracy and integrity of
such data.
SEC. 603. ENFORCEMENT.

(a) Audits.—

(1) In general.—Not less frequently than annually, the Director shall conduct an audit of each childcare facility, which shall include a site visit—

(A) to assess compliance of the childcare facility with the requirements of this Act; and

(B) to determine whether the operator of the childcare facility continues to be a State-licensed program.

(2) Report to Ombudsperson.—Not later than 7 days after the date on which the Director completes an audit under subsection (a), the Director shall submit to the Ombudsperson a report on the audit, including a description of any corrective action required to bring the childcare facility into compliance.

(b) Violations.—

(1) Notification.—With respect to a childcare facility found to be in violation of this Act, the Director shall provide the State-licensed program concerned with a written notification of each deficiency.

(2) Appeal.—

(A) In general.—A State-licensed program shall have the opportunity to administratively appeal a finding of deficiency in a
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childcare facility operated by the State-licensed program.

(B) NO NEW REFERRALS.—During the pendency of an appeal under subparagraph (A), the childcare facility may not receive new placements of unaccompanied noncitizen children.

(3) DEBARMENT.—Consistent with the Federal Acquisition Regulation, any operator of a childcare facility that fails to maintain an appropriate State license or meet the standards set forth in this Act shall be debarred or suspended from contracting with the Secretary for not less than 3 years.

(c) CIVIL ACTION.—

(1) IN GENERAL.—An unaccompanied noncitizen child or the parent, legal guardian, or prospective sponsor of such a child alleging noncompliance by a State-licensed program with the standards and procedures set forth in this Act for childcare facilities may commence a cause of action in a district court of the United States that has venue over the matter.

(2) VENUE.—Venue for an action under paragraph (1) may be found in—

(A) the district in which the original childcare facility in which the unaccompanied
noncitizen child concerned was placed is located; or

(B) the district in which the childcare facility to which the unaccompanied noncitizen child was transferred is located.

(d) **LIMITED REVIEW.**—Review under this section shall be limited to entering an order solely affecting the individual claims of the unaccompanied noncitizen child or the parent, legal guardian, or prospective sponsor seeking such review.

(e) **INTERFERENCE WITH OMBUDSPERSON.**—An employee of a Federal or State agency, a contractor of a Federal or State agency, or a care provider who intentionally prevents, interferes with, or attempts to impede the work of the Ombudsperson shall be subject to a civil penalty, which shall be not more than $2,500 for each violation.

(f) **BREACH OF DUTY OF CARE.**—If the Ombudsperson has reason to believe that an employee of a Federal or State agency or a contractor of a Federal or State agency has, in the conduct of official duties, breached the duty of care or engaged in misconduct, the Ombudsperson shall refer the matter to the head of such Federal or State agency, a grand jury, or other appropriate official or agency.
(g) **Criminal Penalty for Discrimination or Retaliation.**—A violation of section 604 or any provision of title VII shall be a misdemeanor.

**SEC. 604. PROTECTION FROM RETALIATION.**

(a) **IN GENERAL.**—The Director may not—

(1) take an adverse action against an Office of Refugee Resettlement-funded legal services provider, child advocate program, or any other entity based on the legal services provider, child advocate program, or other entity having pursued judicial review or a civil action under this Act, or any civil action in a State court, on behalf of an unaccompanied noncitizen child or the parent, legal guardian, or prospective sponsor of such a child; or

(2) discourage, interfere in, or withdraw funds from any Office of Refugee Resettlement-funded legal services provider, child advocate program, or any other entity that—

(A) pursues judicial review or a civil action under this Act, or any civil action in State court, to challenge the conditions of such a child’s custody or the denial of release from custody; or
(B) assists such a child or the parent, legal
guardian, or prospective sponsor of such a child
to so challenge.

(b) Protection for Individuals Filing Com-
plaints With Ombudsperson.—An employee of a Fed-
eral or State agency, a contractor for a Federal or State
agency, or a care provider shall not retaliate against any
individual for having filed a complaint with, or provided
information to, the Ombudsperson.

(c) Protections for Noncitizen Children Re-
porting Discrimination.—Noncitizen children in immi-
gration custody may not be retaliated against for report-
ing discrimination, filing a charge of discrimination, or
participating in a discrimination investigation or lawsuit.

SEC. 605. MANDATORY ACCESS TO DETENTION FACILITIES
FOR MEMBERS OF CONGRESS.

(a) In General.—Subject to subsection (c), the Sec-
retary concerned shall allow a Member of Congress to tour
any facility in which 1 or more detained individuals are
housed, including unaccompanied noncitizen children, at
a time between 8:00 a.m. and 7:00 p.m. on a date re-
quested by the Member of Congress if, not later than 24
hours before the date requested in the case of a Depart-
ment of Homeland Security facility, or not later than 2
business days before the date requested in the case of a
Department of Health and Human Services facility, the Secretary concerned receives written notice from the Member of Congress that includes—

(1) the name of the facility; and

(2) the date on which the Member of Congress intends to tour the facility.

(b) **ACCOMPANYING MEMBERS OF THE PRESS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the Secretary concerned shall allow 1 or more members of the press to accompany a Member of Congress on a tour of a facility under this section.

(2) **LIMITATIONS.**—

(A) **STILL OR VIDEO CAMERAS.**—The Secretary concerned shall not be required to allow a member of the press to enter a facility under paragraph (1) with a still or video camera.

(B) **PERSONALLY IDENTIFYING INFORMATION.**—As a condition of entering a facility under paragraph (1), a member of the press shall agree not to release any personally identifying information of a staff member of the facility or a child housed at the facility without the express authorization of such staff member or child.
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(c) LIMITATION.—The Secretary concerned may limit a tour under subsection (a) to—

(1) in the case of a facility that houses not more than 50 unaccompanied noncitizen children—

(A) not more than 5 Members of Congress; and

(B) accompanying members of the press under subsection (b); and

(2) in the case of a facility that houses more than 50 detained individuals, including unaccompanied noncitizen children—

(A) not more than 10 Members of Congress; and

(B) accompanying members of the press under subsection (b).

(d) DEFINITION OF SECRETARY CONCERNED.—In this section, the term “Secretary concerned” means, as applicable—

(1) the Secretary of Homeland Security; or

(2) the Secretary of Health and Human Services.
TITLE VII—
NONDISCRIMINATION

SEC. 701. FAIR AND EQUAL TREATMENT.

(a) In General.—All noncitizen children in immigration custody shall be treated fairly and equally and provided with inclusive, safe, and nondiscriminatory services.

(b) Freedom From Discrimination.—

(1) In General.—Noncitizen children in immigration custody shall have the right to be free from discrimination and harassment on the basis of actual or perceived characteristics relating to race, ethnic group identification, ancestry, national origin, color, religion, sex (including sexual orientation, gender identity, and expression), language, mental or physical disability, or HIV status.

(2) Provision of Services.—Services provided to noncitizen children under this Act shall be delivered in a manner that is sensitive to the age, culture, native language, and complex needs of each noncitizen child.

(c) Rule of Construction.—Nothing in this title shall be construed to diminish any protection under any other Federal or State anti-discrimination law.
SEC. 702. RESPONSIBILITIES OF CARE PROVIDERS.

(a) IN GENERAL.—During the entire period in which a noncitizen child is held in immigration custody, the child’s care providers shall ensure that the child—

(1) is treated and served fairly and equally;
(2) is treated with dignity and respect;
(3) is cared for in an inclusive and respectful environment; and
(4) is not subject to discrimination or harassed based on actual or perceived characteristics.

(b) SPECIAL CONSIDERATIONS.—During the entire period in which a noncitizen child is held in immigration custody, the child’s care providers—

(1) in the case of an noncitizen indigenous child, in partnership with the noncitizen indigenous child and, to the extent practicable, the parents, extended family, and members of the cultural community of the child, shall make active efforts to maintain the child’s connections to culture, tradition, and prevailing indigenous lifeways, including through culturally appropriate programs and services;
(2) shall maintain privacy and confidentiality of information relating to the child’s sexual orientation and gender identity;
(3) shall use the child’s correct names and pronouns corresponding to the child’s gender identity;
in the case of an LGBTQI child—

(A) shall—

(i) ensure that the child is housed according to an assessment of the child’s gender identity and housing preference, health and safety needs, and State and local licensing standards;

(ii) offer an individualized assessment to determine whether additional or alternative restroom accommodations should be provided;

(iii) allow the child to dress and express themselves according to their gender identity;

(iv) allow the child to choose the gender of staff that will conduct a pat-down search if such a search is necessary; and

(v) consider the child’s gender self-identification and the effects of a housing assignment on the child’s health and safety; and

(B) shall not—

(i) label the child as a likely abuser or punish the child for the child’s sexual ori-
entation, gender identity, or gender expression; or

(ii) isolate or involuntarily segregate

the noncitizen child solely because of the
child’s sexual orientation, gender identity,
or gender expression.

TITLE VIII—INFORMATION
SHARING AND DATA PROTECTION

SEC. 801. SEPARATION OF RECORDS.
The Director shall ensure that—

(1) all unaccompanied noncitizen children’s personal information and Office of Refugee Resettlement case files and records are maintained separately and apart from such children’s immigration files (commonly known as “A-Files’’); and

(2) such case files and records are not accessible by the Department of Homeland Security.

SEC. 802. PROHIBITION ON USE FOR DENIAL OF RELIEF OR IN REMOVAL PROCEEDINGS.
An unaccompanied noncitizen child’s Office of Refugee Resettlement case file or record shall not be used by the Secretary of Homeland Security or the Attorney General—

(1) to deny any application for relief; or
(2) to facilitate involuntary removal in any pro-
ceeding, including expedited removal, reinstatement
of removal, and proceedings under section 362 or
365 of the Public Health Service Act (42 U.S.C.
265, 268).

SEC. 803. DISCLOSURE.

(a) INFORMED CONSENT REQUIRED.—

(1) IN GENERAL.—The personal information
and Office of Refugee Resettlement case file and
records of an unaccompanied noncitizen child—

(A) shall be confidential; and

(B) subject to paragraph (2), may only be
disclosed if the child has—

(i) consulted with the child’s legal
counsel; and

(ii) provided informed consent for dis-
closure.

(2) CHILDREN UNDER 12 YEARS OF AGE.—In
the case of an unaccompanied noncitizen child under
the age of 12 years, only the parent, legal guardian,
or sponsor may provide consent for disclosure of the
personal information or Office of Refugee Resettle-
ment case file of the child.

(3) SUBSEQUENT DISCLOSURE PROHIBITED.—
Once disclosed, the personal information or Office of
Refugee Resettlement case file of an unaccompanied noncitizen child may not be subsequently disclosed to a third party unless the child has—

(A) consulted with his or her legal counsel;

and

(B) provided informed consent for disclosure.

SEC. 804. PROHIBITION ON INFORMATION SHARING.

(a) Child in Custody and Prospective Sponsors.—The Director may not provide any information about an unaccompanied noncitizen child in the custody of the Secretary, or prospective sponsors, to the Attorney General or the Secretary of Homeland Security without consent of the unaccompanied noncitizen child concerned or the prospective sponsor, as applicable, and the legal counsel of the child or sponsor, respectively.

(b) Immigration Enforcement.—

(1) In General.—The sharing of any information between the Office of Refugee Resettlement and the Department of Homeland Security for purposes of immigration enforcement is prohibited.

(2) Explanation for Prospective Sponsors.—The Director shall ensure that Office of Refugee Resettlement communications with sponsors and prospective sponsors, including the family reuni-
fication application packet, includes an explanation that information provided to the Office of Refugee Resettlement may only be shared with the Department of Homeland Security if the child and sponsor or prospective sponsor concerned have provided informed consent.

(c) RELIEF FROM REMOVAL.—The sharing of any information between the Office of Refugee Resettlement and the Department of Homeland Security or the Department of Justice for purposes of relief from removal is prohibited.

(d) EXCEPTIONS.—

(1) IN GENERAL.—The Secretary may provide for the disclosure of information in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13, United States Code.

(2) NATIONAL SECURITY PURPOSES.—The Secretary may provide for the disclosure of information to national security officials to be used solely for a national security purpose in a manner that protects the confidentiality of such information.

(3) LAW ENFORCEMENT PURPOSES.—The Secretary may provide for the disclosure of information to law enforcement officials to be used solely for a
legitimate law enforcement purpose in a manner that protects the confidentiality of such information.

(4) **Eligibility for Benefits.**—The Secretary may disclose information to Federal, State, and local public and private agencies providing benefits, to be used solely in making determinations of eligibility for benefits pursuant to section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641).

(5) **Adjudication of Applications for Relief.**—Government entities adjudicating applications for relief under the immigration laws and government personnel carrying out mandated duties under section 101(i)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(i)(1)), may, with the prior written consent of the noncitizen involved, communicate with nonprofit, nongovernmental victims’ service providers for the sole purpose of assisting victims in obtaining victim services from programs with expertise in working with immigrant victims. Agencies receiving referrals are bound by the provisions of this section. Nothing in this paragraph shall be construed as affecting the ability of an applicant to designate a safe organization through
which Governmental agencies may communicate with
the applicant.

(c) Rule of Construction.—Subsections (a), (b), and (c) shall not be construed as preventing—

(1) disclosure of information in connection with judicial review of a determination in a manner that protects the confidentiality of such information; or

(2) the Secretary from disclosing to the chair and ranking members of the Committee on the Judiciary of the Senate or the Committee on the Judiciary of the House of Representatives, for the exercise of congressional oversight authority, information on closed cases under this section in a manner that protects the confidentiality of such information and that omits personally identifying information (including locational information about individuals).

SEC. 805. COUNSELING RECORDS.

(a) In General.—Subject to subsection (b), information shared by an unaccompanied noncitizen child in counseling sessions, and written records and notes of counseling sessions, may not be shared with the child’s case management specialist or any other employee of the Office of Refugee Resettlement, the Department of Health and Human Services, the Department of Justice, or the Department of Homeland Security.
(b) Disclosure.—The information, records, and notes described in subsection (a) may be shared—

(1) with an employee described in that subsection only if the child presents a documented imminent threat to himself or herself or to any other individual; or

(2) with the Department of Justice or the Department of Homeland Security if the child has—

(A) consulted with his or her legal counsel; and

(B) provides informed consent for the disclosure.

(c) Juvenile Information.—

(1) In general.—Juvenile information, including records of children separated from family, shall remain confidential regardless of the child’s immigration status.

(2) Rule of construction.—Nothing in this Act may be construed as authorizing—

(A) the disclosure of juvenile information to Federal officials absent a court order of the judge of the juvenile court on filing a petition;

(B) the dissemination of juvenile information to, or by, Federal officials absent a court
order of the judge of the juvenile court on filing
a petition;
(C) the attachment of juvenile information
to any other document given to, or provided by,
Federal officials absent prior approval of the
presiding judge of the juvenile court; or
(D) any disclosure that would otherwise
violate this Act.

(3) Definition of juvenile information.—
In this section, the term “juvenile information” in-
cludes the juvenile case file and information related
to a noncitizen child (including the name, date, and
place of birth of the child, the child’s health and
education records, and the immigration status of the
child) that is—

(A) obtained or created independent of, or
in connection with, immigration, asylum, or ju-
venile court proceedings of which the child is a
subject; and
(B) maintained by any Federal or State
agency, including a court, probation office, child
welfare agency, or law enforcement agency.

SEC. 806. DATA PROTECTION FOR SPONSORS.
(a) In General.—With respect to any information
required of sponsors or prospective sponsors or any data
collected in pursuit of sponsorship, the following protections shall apply:

(1) Such information and data—

(A) may not be disclosed for any purpose or effect other than reunification of the family unit, placement of a child with a sponsor, or oversight by Congress;

(B) shall be immune from legal process; and

(C) shall not, without the consent of the sponsor or prospective sponsor concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

(2) The Secretary or any other officer or employee of the Department of Health and Human Services may not—

(A) use such information or data for any purpose other than for purposes of reunification under section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232);

(B) make any publication in which such information or data can be identified; or
(C) permit any individual other than the sworn officers and employees of the Department of Health and Human Services to examine such information or data.

**TITLE IX—MISCELLANEOUS PROVISION**

**SEC. 901. RULE OF CONSTRUCTION.**

Nothing in this Act may be construed—

(1) to limit the rights of a noncitizen child—
    (A) to preserve 1 or more issues for judicial review in the appeal of an individual case; or
    (B) to exercise any independent right the noncitizen child may otherwise have;

(2) to affect the application of the Flores settlement agreement to all children in immigration custody;

(3) to abrogate, modify, or replace the Flores settlement agreement; or

(4) to preclude or limit Flores settlement agreement class counsel from conducting independent investigations or seeking enforcement actions relating to violations of the Flores settlement agreement in any appropriate district court of the United States.