

118TH CONGRESS
2D SESSION

S. 4393

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

IN THE SENATE OF THE UNITED STATES

MAY 22, 2024

Mr. MERKLEY (for himself, Mr. DURBIN, Mrs. GILLIBRAND, Mr. WYDEN, Ms. WARREN, Mr. SCHATZ, Mr. MARKEY, Ms. KLOBUCHAR, Mr. SANDERS, Ms. HIRONO, and Ms. DUCKWORTH) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Children’s Safe Welcome Act of 2024”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 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 non-citizen 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. 202. Notice of rights.
- 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.
- Sec. 227. Judicial review of placement.

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. 601. Office of the Ombudsperson for Unaccompanied Noncitizen Children
in Immigration Custody.

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) **BEST INTERESTS OF THE CHILD.**—With re-
4 spect to an accompanied noncitizen child or unac-
5 companied noncitizen child, the term “best interests
6 of the child” means a consideration, informed to the
7 extent practicable by the child and the parents or

1 guardian and extended family of the child, that
2 takes into account—

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

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

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

9 (D) the right of the child to—

10 (i) family integrity;

11 (ii) liberty; and

12 (iii) development; and

13 (E) the identity of the child, including reli-
14 gious, ethnic, linguistic, gender, sexual orienta-
15 tion, and cultural identity.

16 (2) **CHILDCARE FACILITY.**—The term
17 “childcare facility” means a facility operated by the
18 Department of Health and Human Services, or a
19 contractor or grantee of the Department of Health
20 and Human Services, that—

21 (A) is a State-licensed program; and

22 (B) provides residential care for unaccom-
23 panied noncitizen children.

24 (3) **DIRECTOR.**—The term “Director” means
25 the Director of the Office of Refugee Resettlement.

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

8 (5) IMMIGRATION CUSTODY.—The term “immi-
9 gration custody” means the physical custody of the
10 Secretary of Health and Human Services or the Sec-
11 retary of Homeland Security (or the head of any
12 successor agency of the Department of Health and
13 Human Services or the Department of Homeland
14 Security).

15 (6) INFLUX.—The term “influx” means a pe-
16 riod—

17 (A) beginning on the date on which, for
18 not less than 7 consecutive days, the net avail-
19 able bed capacity of State-licensed programs
20 that is occupied or held for placement by unac-
21 companied noncitizen children is 85 percent or
22 more; and

23 (B) ending on the date on which, for not
24 less than 7 consecutive days, such bed capacity
25 occupied or held for placement by unaccom-

1 panied noncitizen children is less than 85 per-
2 cent.

3 (7) INFLUX FACILITY.—The term “influx facil-
4 ity” means any facility established to provide tem-
5 porary emergency shelter and services for unaccom-
6 panied noncitizen children during an influx or emer-
7 gency.

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

11 (9) NONCITIZEN CHILD.—The term “noncitizen
12 child” means a noncitizen under the age of 18 years.

13 (10) NONPARENT FAMILY MEMBER.—With re-
14 spect to an unaccompanied noncitizen child appre-
15 hended with a nonparent family member, the term
16 “nonparent family member” means an individual
17 who is—

18 (A) 18 years of age or older; and

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

22 (11) OMBUDSPERSON.—The term
23 “Ombudsperson” means the Ombudsperson of the
24 Office of the Ombudsperson for Unaccompanied
25 Noncitizen Children established under section 601.

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

5 (A) is used to provide residential care for
6 unaccompanied noncitizen children; and

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

9 (13) PROSPECTIVE SPONSOR.—The term “pro-
10 spective sponsor” means an individual or entity who
11 applies for custody of an unaccompanied noncitizen
12 child.

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

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

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

23 (A)(i) means a noncitizen under the age of
24 18 years, the mental or physical condition of
25 whom requires special services or medical equip-

1 ment and special treatment by the staff of a
2 childcare facility; and

3 (ii) includes such an individual who—

4 (I) has special needs due to drug or
5 alcohol abuse, serious emotional disturb-
6 ance, mental illness, developmental or cog-
7 nitive delay, or a physical condition or
8 chronic illness that requires special services
9 or treatment;

10 (II) is an individual with a disability
11 (as defined in section 3 of the Americans
12 with Disabilities Act of 1990 (42 U.S.C.
13 12102)); or

14 (III) requires special services or treat-
15 ment as a result of neglect or abuse; and

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

20 (17) SPONSOR.—The term “sponsor” means an
21 individual or entity who has been approved by the
22 Director to assume care of an unaccompanied non-
23 citizen child on release from the custody of the Sec-
24 retary.

1 (18) STAFF-SECURE FACILITY.—The term
2 “staff-secure facility”—

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

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

11 (19) STATE-LICENSED PROGRAM.—The term
12 “State-licensed program” means any public or pri-
13 vate program, agency, or organization licensed by an
14 appropriate State agency to provide residential,
15 group, or foster care services for unaccompanied
16 noncitizen children (including a program operating
17 group homes, foster homes, or facilities for special
18 needs noncitizen children) that complies with appli-
19 cable—

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

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

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

1 (D) State staffing and training require-
2 ments.

3 (20) TENDER AGE MINOR.—The term “tender
4 age minor” means an individual who is 12 years of
5 age or younger or has the developmental age of such
6 an individual.

7 (21) UNACCOMPANIED NONCITIZEN CHILD.—
8 The term “unaccompanied noncitizen child” has the
9 meaning given the term “unaccompanied alien child”
10 in section 462(g) of the Homeland Security Act of
11 2002 (6 U.S.C. 279(g)).

12 **TITLE I—PROCEDURES AND**
13 **TEMPORARY PLACEMENTS**
14 **FOLLOWING APPREHENSION**

15 **SEC. 101. PROHIBITION ON FAMILY SEPARATION.**

16 (a) IN GENERAL.—A noncitizen child shall remain
17 physically together with their parent, legal guardian, or
18 nonparent family member at all times while in the custody
19 of the Secretary of Homeland Security or the Secretary
20 of Health and Human Services, unless—

21 (1) the noncitizen child requests privacy tempo-
22 rarily;

23 (2) during the screening process, a determina-
24 tion is made based on clear and convincing evidence
25 that the parent or legal guardian of the noncitizen

1 child, or the nonparent family member of the child
2 who has been determined by a child welfare expert
3 to be suitable to provide care and physical custody
4 of the child in the United States, presents an immi-
5 nent threat to United States national security or is
6 inadmissible under subparagraphs (C)(i), (E), (G),
7 or (I) of section 212(a)(2) of the Immigration and
8 Nationality Act (8 U.S.C. 1182(a)(2)); or

9 (3) the child welfare expert documents, based
10 on clear and convincing evidence, that the continued
11 care of the noncitizen child by the parent, legal
12 guardian, or nonparent family member is likely to
13 result in serious emotional or physical damage to the
14 child.

15 (b) ROLE OF DHS.—An employee or contractor of
16 the Department of Homeland Security may not play any
17 role in the documentation or determination described in
18 subsection (a).

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

23 (1) in the case of a child in the custody of the
24 Secretary of Health and Human Services, the Sec-
25 retary of Health and Human Services shall reunify

1 the child with the individual from whom they were
2 separated; and

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

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

13 (1) notify the parents, legal guardians, and chil-
14 dren concerned of their—

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

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

19 (2) provide a copy of any determination, evi-
20 dence, arrest warrants, or other documentation sup-
21 porting such separation to such individuals and their
22 attorneys.

23 (e) TREATMENT OF UNACCOMPANIED CHILDREN
24 TRAVELING WITH CERTAIN CAREGIVERS.—Unaccom-
25 panied children traveling with a nonparent family member

1 shall be treated by the Secretary of Health and Human
2 Services in accordance with paragraph (3)(C) of section
3 235(b) of the William Wilberforce Trafficking Victims
4 Protection Reauthorization Act of 2008 (8 U.S.C.
5 1232(b)), as amended by section 102.

6 (f) STAFFING.—

7 (1) CHILD WELFARE EXPERTS.—The Secretary
8 of Health and Human Services shall hire child wel-
9 fare experts to carry out the screening process de-
10 scribed in subsection (a).

11 (2) QUALIFICATIONS.—Each child welfare ex-
12 pert hired under this subsection shall—

13 (A) be professionally trained and licensed
14 in social work;

15 (B) have direct experience providing trau-
16 ma-informed care to children who have experi-
17 enced trauma; and

18 (C) be proficient in Spanish or 1 of the top
19 5 most common languages spoken by noncitizen
20 children in the past 5 years.

21 **SEC. 102. PROTECTIONS FOR NONCITIZEN CHILDREN.**

22 Section 235 of the William Wilberforce Trafficking
23 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
24 1232) is amended—

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

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

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

10 (4) by striking “unaccompanied alien chil-
11 dren’s” each place it appears and inserting “unac-
12 companied noncitizen children’s”;

13 (5) in subsection (a)—

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

15 (B) by redesignating paragraphs (3) and
16 (5) as paragraphs (2) and (3), respectively;

17 (C) in paragraph (2), as redesignated, in
18 the paragraph heading, by striking “OTHER”
19 and inserting “UNACCOMPANIED NONCITIZEN”;

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

21 (i) in subparagraph (C), in the sub-
22 subparagraph heading, by striking “UNACCOM-
23 PANIED ALIEN CHILDREN” and inserting
24 “UNACCOMPANIED NONCITIZEN CHIL-
25 DREN”; and

1 (ii) in subparagraph (D), in the mat-
2 ter preceding clause (i), by striking “, ex-
3 cept for an unaccompanied alien child from
4 a contiguous country subject to exceptions
5 under subsection (a)(2),”; and

6 (E) by inserting after paragraph (3), as re-
7 designated, the following:

8 “(4) CHILD CAREGIVER PROFESSIONALS AT
9 THE BORDER.—

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

14 “(i) land port of entry at which non-
15 citizen children are most likely to enter;

16 “(ii) Border Patrol station on the
17 southern border; and

18 “(iii) U.S. Customs and Border Pro-
19 tection processing facility and reception
20 center, regardless of whether such facility
21 or center is temporary in nature.

22 “(B) QUALIFICATIONS.—

23 “(i) IN GENERAL.—Such a child care-
24 giver professional—

25 “(I) shall—

1 “(aa) be professionally
2 trained and licensed to provide
3 services to children;

4 “(bb) have direct experience
5 providing trauma-informed care
6 to children who have experienced
7 trauma; and

8 “(cc) subject to clause (ii),
9 be proficient in Spanish or 1 of
10 the top 5 most common lan-
11 guages spoken by noncitizen chil-
12 dren in the past 5 years; and

13 “(II) may be a licensed childcare
14 worker, licensed pediatric health pro-
15 fessional, or licensed child welfare
16 professional.

17 “(ii) PHASE-IN OF LANGUAGE PRO-
18 FICIENCY.—During the 3-year period be-
19 ginning on the date of the enactment of
20 the Children’s Safe Welcome Act of 2024,
21 25 percent of the child caregiver profes-
22 sionals hired by the Secretary of Homeland
23 Security to carry out the duties under this
24 section shall be exempt from clause
25 (i)(III).

1 “(C) OVERSIGHT OF CARE.—Such a child
2 caregiver professional shall oversee the care of
3 noncitizen children in U.S. Customs and Border
4 Protection facilities, consistent with the stand-
5 ards established under sections 104 and 105 of
6 the Children’s Safe Welcome Act of 2024, in-
7 cluding by—

8 “(i) issuing and ensuring access to
9 adequate food, hydration, hygiene neces-
10 sities, clothing, and other supplies as need-
11 ed;

12 “(ii) supporting general care to in-
13 fants and children, including monitoring,
14 changing diapers, assisting with toilet use
15 and handwashing, feeding any child who is
16 not able to feed himself or herself, and
17 identifying and tending to other similar
18 basic needs of children as such needs arise;

19 “(iii) providing supervision and sup-
20 port to children during recreational and ex-
21 ercise activities;

22 “(iv) maintaining a safe working envi-
23 ronment and observing and encouraging
24 adherence to safety rules and health guide-
25 lines; and

1 “(v) referring any suspected or re-
2 ported medical or mental health issues to
3 onsite Border Patrol or U.S. Customs and
4 Border Protection personnel and medical
5 personnel.

6 “(D) AVAILABILITY.—Caregiver services
7 provided under this paragraph shall be—

8 “(i) available 24 hours per day, 7
9 days per week, including on weekends and
10 Federal holidays; and

11 “(ii) provided by a mixed-gender staff,
12 including not fewer than 1 male and 1 fe-
13 male staff member at all times.

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

19 “(A) subject to paragraph (2) or (3) of
20 section 101(a) of the Children’s Safe Welcome
21 Act of 2024, release the child together with the
22 parent, adoptive parent, or legal guardian, as
23 applicable; and

24 “(B) ensure that the child is provided with
25 support from a qualified nongovernmental com-

1 community-based organization with experience pro-
2 viding services to immigrant, refugee, and asy-
3 lum-seeking populations.

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

10 “(A) subject to paragraph (2) or (3) of
11 section 101(a) of the Children’s Safe Welcome
12 Act of 2024, release the child together with the
13 nonparent family member; and

14 “(B) ensure that the child is provided with
15 support from a qualified nongovernmental com-
16 munity-based organization with experience pro-
17 viding services to immigrant, refugee, and asy-
18 lum-seeking populations.

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

23 (6) in subsection (b)—

24 (A) in paragraph (1), in the paragraph
25 heading, by striking “UNACCOMPANIED ALIEN

1 CHILDREN” and inserting “UNACCOMPANIED
2 NONCITIZEN CHILDREN”;

3 (B) in paragraph (3)—

4 (i) in the paragraph heading, by strik-
5 ing “UNACCOMPANIED ALIEN CHILDREN”
6 and inserting “UNACCOMPANIED NONCIT-
7 IZEN CHILDREN”;

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

11 “(A) IN GENERAL.—Except in the case of
12 exceptional circumstances, subject to subpara-
13 graph (B),”; and

14 (iii) by adding at the end the fol-
15 lowing:

16 “(B) LIMITATION ON U.S. CUSTOMS AND
17 BORDER PROTECTION CUSTODY.—Under no cir-
18 cumstance may the Commissioner hold an unac-
19 companied or accompanied noncitizen child in
20 custody for more than 72 hours.

21 “(C) RECEPTION CENTERS.—

22 “(i) DESIGNATION.—The Commis-
23 sioner shall designate 1 or more reception
24 centers located within 100 miles of each
25 port of entry and each Border Patrol Sta-

1 tion on the southern border for the pur-
2 pose of conducting expedited evaluations
3 described in clause (iii).

4 “(ii) TRANSFER.—In the case of an
5 unaccompanied noncitizen child appre-
6 hended with a nonparent family member,
7 the Commissioner shall immediately trans-
8 fer the child and his or her 1 or more non-
9 parent family members, as applicable, to a
10 reception center designated under clause
11 (i) for the purpose of an evaluation under
12 clause (iii).

13 “(iii) EXPEDITED EVALUATIONS.—

14 “(I) IN GENERAL.—On the ar-
15 rival of an unaccompanied noncitizen
16 child apprehended with a nonparent
17 family member at a designated recep-
18 tion center, a case manager or case
19 coordinator of the Department of
20 Health and Human Services shall
21 evaluate the child to determine wheth-
22 er he or she may be released safely
23 from U.S. Customs and Border Pro-
24 tection custody to the nonparent fam-

1 ily member with whom the child was
2 apprehended.

3 “(II) PRIVATE SPACE.—The
4 Commissioner shall make available in
5 each designated reception center a
6 private space in which such a case
7 manager or case coordinator may
8 carry out such evaluations.

9 “(iv) STAFFING.—

10 “(I) CASE MANAGERS AND CASE
11 COORDINATORS.—

12 “(aa) IN GENERAL.—Case
13 managers and case coordinators
14 of the Department of Health and
15 Human Services shall be detailed
16 to designated reception centers
17 for brief periods to ensure the
18 independence of Department of
19 Health and Human Services staff
20 from the duties and functions of
21 U.S. Customs and Border Pro-
22 tection.

23 “(bb) DUTIES.—A case
24 manager or case coordinator de-
25 tailed to a designated reception

1 center shall assist the Federal
2 field specialist at the reception
3 center in verifying family rela-
4 tionships and screening each un-
5 accompanied noncitizen child ap-
6 prehended with a nonparent fam-
7 ily member for safety concerns
8 using existing or newly developed
9 Department of Health and
10 Human Services tools and skills,
11 including document review, obser-
12 vation, and interviews of the
13 child and family members.

14 “(II) FEDERAL FIELD SPECIAL-
15 ISTS.—

16 “(aa) IN GENERAL.—Fed-
17 eral field specialists of the De-
18 partment of Health and Human
19 Services shall prioritize for review
20 the release decisions for any child
21 arriving at the border of the
22 United States with a relative who
23 is not a parent of the child,
24 whom the Director of the Office
25 of Refugee Resettlement would

1 consider as a potential sponsor
2 for the child.

3 “(bb) DUTIES.—Such a
4 Federal field specialist shall work
5 with case managers and case co-
6 ordinators to review the rec-
7 ommendation of case managers
8 or case coordinators with respect
9 to the qualification of such rel-
10 atives as sponsors for such chil-
11 dren.

12 “(III) LEGAL SERVICES PRO-
13 VIDERS.—The Secretary of Health
14 and Human Services shall enter into
15 1 or more contracts with nongovern-
16 mental legal services providers to pro-
17 vide legal orientation presentations to
18 accompanied noncitizen children and
19 unaccompanied noncitizen children ap-
20 prehended with nonparent family
21 members and their parents or legal
22 guardians or nonparent family mem-
23 bers, as applicable, under consider-
24 ation for expedited release under this
25 subparagraph.

1 “(v) RELEASE DECISION.—The Sec-
2 retary of Health and Human Services shall
3 make a determination with respect to expe-
4 dited release under this subparagraph not
5 later than 72 hours after the child has
6 been determined to be an unaccompanied
7 noncitizen child.

8 “(vi) RELEASE OF NONPARENT FAM-
9 ILY MEMBER.—

10 “(I) IN GENERAL.—If the Sec-
11 retary of Health and Human Services
12 determines that the nonparent family
13 member of an unaccompanied noncit-
14 izen child apprehended with a non-
15 parent family member is a safe spon-
16 sor, and the applicable Federal field
17 specialist and case manager or case
18 coordinator have verified the family
19 relationship, the Commissioner shall
20 approve the release of the nonparent
21 family member for the purpose of re-
22 unification with the child.

23 “(II) RETENTION OF UNACCOM-
24 PANIED NONCITIZEN CHILD DETER-
25 MINATION.—An unaccompanied non-

1 citizen child released to a nonparent
2 family member who is released under
3 subclause (I) shall retain his or her
4 determination as an unaccompanied
5 noncitizen child.

6 “(III) POST-RELEASE COUNSEL
7 AND SERVICES.—The Secretary of
8 Health and Human Services shall pro-
9 vide to each child released to a non-
10 parent family member who is released
11 under subclause (I) post-release coun-
12 sel and services, such as legal counsel,
13 in the location in which the child’s re-
14 moval proceedings are scheduled.

15 “(vii) TRANSFER TO OFFICE OF REF-
16 UGEE RESETTLEMENT CUSTODY.—

17 “(I) IN GENERAL.—If the Sec-
18 retary of Health and Human Services
19 cannot make a determination with re-
20 spect to whether a nonparent family
21 member is an imminent substantial
22 and credible threat to a child within
23 72 hours after the Commissioner has
24 made the unaccompanied noncitizen
25 child determination, or if an unaccom-

1 panied noncitizen child apprehended
2 with a nonparent family member is
3 denied expedited release under this
4 subparagraph—

5 “(aa) such child shall be
6 placed in the least restrictive set-
7 ting;

8 “(bb) notice shall be pro-
9 vided to the nonparent family
10 member and the parents or legal
11 guardians of the child, to the ex-
12 tent such individuals may be
13 ascertained and contacted, with
14 respect to—

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

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

22 “(cc) the family relationship
23 shall be documented.

24 “(II) APPOINTMENT OF CHILD
25 ADVOCATE.—In the case of a child de-

1 nied expedited release under this sub-
2 paragraph, the Secretary of Health
3 and Human Services shall appoint a
4 child advocate for the child.

5 “(viii) PROHIBITION.—The adjudica-
6 tion of asylum applications shall not be
7 carried out in a reception center des-
8 ignated under this subparagraph.

9 “(D) TRANSPORTATION.—

10 “(i) IN GENERAL.—Except as pro-
11 vided in clause (ii), the Commissioner may
12 not transport any unaccompanied noncit-
13 izen child in a vehicle with a detained adult
14 who is not related to the child.

15 “(ii) EXCEPTION.—

16 “(I) IN GENERAL.—The Commis-
17 sioner may transport an unaccom-
18 panied noncitizen child in a vehicle
19 with such an adult only from the
20 place of arrest or apprehension to a
21 U.S. Customs and Border Protection
22 facility.

23 “(II) PRECAUTIONS.—In trans-
24 porting an unaccompanied noncitizen
25 child under subclause (I), the Com-

1 missioner shall take necessary pre-
2 cautions for the protection and well-
3 being of the unaccompanied noncitizen
4 child.”; and

5 (C) by adding at the end the following:

6 “(5) SUBSTANTIVE AND PROCEDURAL PROTEC-
7 TIONS.—

8 “(A) IN GENERAL.—On a determination
9 that a child is an unaccompanied noncitizen
10 child, the unaccompanied noncitizen child shall
11 be afforded, for the duration of the unaccom-
12 panied noncitizen child’s removal proceedings,
13 all substantive and procedural protections pro-
14 vided under this section and any other applica-
15 ble Federal law.

16 “(B) UNACCOMPANIED NONCITIZEN CHILD
17 DETERMINATION.—No Federal agency, officer,
18 or personnel may—

19 “(i) reevaluate or revoke a determina-
20 tion that a child is an unaccompanied non-
21 citizen child, unless an age assessment con-
22 ducted by the Secretary of Health and
23 Human Services consistent with section
24 105(h) of the Children’s Safe Welcome Act

1 of 2024 indicates that the individual is 18
2 years of age or older; or

3 “(ii) deny or impede access to any
4 protection provided for unaccompanied
5 noncitizen children under Federal law, in-
6 cluding on the basis of—

7 “(I) the reunification of an unac-
8 companied noncitizen child with a
9 parent or legal guardian;

10 “(II) the release of an unaccom-
11 panied noncitizen child to a nonparent
12 family member in accordance with
13 subsection (b)(3)(C)(vi); or

14 “(III) an unaccompanied noncit-
15 izen child having attained 18 years of
16 age.”;

17 (7) in subsection (d)(8), in the paragraph head-
18 ing, by striking “UNACCOMPANIED ALIEN CHIL-
19 DREN” and inserting “UNACCOMPANIED NONCITIZEN
20 CHILDREN”;

21 (8) by striking subsection (g);

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

24 (10) by adding at the end the following:

1 “(i) ACCESS TO LEGAL SERVICES.—Each child in im-
2 migration custody, including accompanied noncitizen chil-
3 dren, shall—

4 “(1) receive a legal orientation presentation;
5 and

6 “(2) have access to legal counsel and child ad-
7 vocates.

8 “(j) TREATMENT OF ADULT FAMILY MEMBERS AP-
9 PREHENDED WITH CHILDREN.—

10 “(1) IN GENERAL.—A parent or legal guardian
11 or a nonparent family member who is apprehended
12 with a child shall be placed in removal proceedings
13 under section 240 of the Immigration and Nation-
14 ality Act (8 U.S.C. 1229a).

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

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

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

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

24 “(ii) the best interests of the child.

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

7 “(l) DEFINITIONS.—In this section:

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

11 “(A) has no lawful immigration status in
12 the United States; and

13 “(B) is apprehended while traveling with a
14 parent, adoptive parent, or legal guardian.

15 “(2) COMMISSIONER.—The term ‘Commis-
16 sioner’ means the Commissioner of U.S. Customs
17 and Border Protection.

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

1 “(4) NONPARENT FAMILY MEMBER.—With re-
2 spect to an unaccompanied noncitizen child appre-
3 hended with a nonparent family member, the term
4 ‘nonparent family member’ means an individual who
5 is—

6 “(A) 18 years of age or older; and

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

10 “(5) UNACCOMPANIED NONCITIZEN CHILD.—
11 The term ‘unaccompanied noncitizen child’ has the
12 meaning given the term ‘unaccompanied alien child’
13 in section 462(g) of the Homeland Security Act of
14 2002 (6 U.S.C. 279(g)).

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

1 **SEC. 103. NONADVERSARIAL ASYLUM PROCESSING FOR**
2 **NONCITIZEN CHILDREN.**

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

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

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

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

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

1 **SEC. 104. STANDARDS FOR U.S. CUSTOMS AND BORDER**
2 **PROTECTION DETENTION OF NONCITIZEN**
3 **CHILDREN.**

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

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

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

13 (b) PRIORITIZATION OF BEST INTERESTS OF THE
14 CHILD AND FAMILY UNITY.—In all decisions undertaken
15 by the Commissioner with respect to the detention of a
16 noncitizen child, the Commissioner shall prioritize—

17 (1) the best interests of the noncitizen child;
18 and

19 (2) in the case of a noncitizen child appre-
20 hended with a parent, legal guardian, or nonparent
21 family member, family unity.

22 **SEC. 105. STANDARDS FOR U.S. CUSTOMS AND BORDER**
23 **PROTECTION FACILITIES HOUSING NONCIT-**
24 **IZEN CHILDREN.**

25 (a) IN GENERAL.—A noncitizen child may not be
26 housed in a U.S. Customs and Border Protection facility

1 that is not in compliance with this Act or the amendments
2 made by this Act.

3 (b) HUMANITARIAN ACCESS.—

4 (1) IN GENERAL.—Not later than 90 days after
5 the date of the enactment of this Act, the Secretary
6 of Homeland Security and the Secretary of Health
7 and Human Services shall jointly develop operating
8 procedures to provide employees of the Department
9 of Health and Human Services immediate access to
10 any U.S. Customs and Border Protection facility so
11 as to facilitate the humane treatment of individuals
12 and families encountered at the border.

13 (2) ELEMENTS.—The procedures developed
14 under paragraph (1) shall, at a minimum, provide
15 that—

16 (A) for each U.S. Customs and Border
17 Protection facility in which an individual may
18 be detained in U.S. Customs and Border Pro-
19 tection custody longer than 72 hours, the De-
20 partment of Health and Human Services shall
21 have access to a separate designated space in
22 the facility so that Department of Health and
23 Human Services employees may conduct med-
24 ical and mental health screenings, ensure op-
25 portunities for general hygiene, provide ade-

1 quate food and hydration, offer nursing and
2 diapering supplies, and provide appropriate
3 space for children; and

4 (B) employees of the Department of
5 Health and Human Services at such a facility
6 shall immediately begin efforts—

7 (i) to reunify unaccompanied children
8 with sponsors in the United States; and

9 (ii) verify family relationships to en-
10 sure that unaccompanied children who ar-
11 rive with a nonparent family member may
12 remain in the care of such nonparent fam-
13 ily member.

14 (c) NATIONAL STANDARDS ON TRANSPORT, ESCORT,
15 DETENTION, AND SEARCH.—

16 (1) REVIEW.—Not later than 180 days after
17 the date of the enactment of this Act, the Commis-
18 sioner, in consultation with stakeholder organiza-
19 tions that serve immigrant and refugee children and
20 families, shall conduct a review of the U.S. Customs
21 and Border Protection standards entitled “National
22 Standards on Transport, Escort, Detention, and
23 Search” issued in October 2015, to identify nec-
24 essary improvements with respect to the treatment

1 and care of noncitizen children in U.S. Customs and
2 Border Protection custody.

3 (2) REVISION.—Not later than 90 days after
4 the date on which the review required by paragraph
5 (1) is completed, the Commissioner shall revise such
6 standards to incorporate the improvements identified
7 by the review.

8 (3) COMPLIANCE.—Not later than 180 days
9 after the revision under paragraph (2), each U.S.
10 Customs and Border Protection facility that houses
11 1 or more noncitizen children shall attain compliance
12 with the revised standards.

13 (d) FACILITY REQUIREMENTS.—

14 (1) IN GENERAL.—The Commissioner shall en-
15 sure that each U.S. Customs and Border Protection
16 facility that houses 1 or more noncitizen children is
17 safe and sanitary and promotes an appropriate and
18 healthy environment for children.

19 (2) CHILDREN’S AREA.—

20 (A) IN GENERAL.—The Commissioner
21 shall ensure that each U.S. Customs and Bor-
22 der Protection facility that houses 1 or more
23 noncitizen children includes—

24 (i) a dedicated physical environment
25 that is appropriate for children of all ages

1 and stages of development (referred to in
2 this paragraph as a “children’s area”); and

3 (ii) an outdoor recreation area.

4 (B) ELEMENTS.—Each children’s area
5 shall be colorful and include—

6 (i) low, warm lights;

7 (ii) child-sized furniture and equip-
8 ment, including developmentally appro-
9 priate books and toys that facilitate struc-
10 tured and unstructured play;

11 (iii) child-friendly images and dis-
12 plays;

13 (iv) a children’s bathroom;

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

16 (vi) nursing chairs for breastfeeding
17 mothers; and

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

20 (C) CHILD CAREGIVER PROFESSIONAL
21 STAFFING.—Each children’s area shall be
22 staffed by 1 or more individuals who are profes-
23 sionally trained and licensed to provide services
24 to children, including licensed childcare work-

1 ers, licensed pediatric health professionals, and
2 licensed child welfare professionals.

3 (3) MEDICAL SCREENING AND CARE.—

4 (A) IN GENERAL.—The Commissioner
5 shall ensure that—

6 (i) except as provided in subparagraph
7 (F)(i), not later than 6 hours after the ar-
8 rival of a noncitizen child at a U.S. Cus-
9 toms and Border Protection facility, the
10 child receives a medical screening con-
11 ducted by a licensed physician, advanced
12 practice provider, nurse, or physician’s as-
13 sistant in accordance with this paragraph;

14 (ii) a noncitizen child in the custody
15 of the Commissioner shall have unre-
16 stricted access to appropriate medication
17 for the management of an illness or injury
18 of the child;

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

1 (iv) on release from such custody, a
2 noncitizen child, or the parent, legal guard-
3 ian, or nonparent family member of the
4 child, is provided with documentation of
5 the child's medical screening and care, in-
6 cluding the need for any followup while in
7 such custody, in accordance with subpara-
8 graph (B)(viii); and

9 (v) medication in possession of a non-
10 citizen child, or in the possession of the
11 child's parent, legal guardian, or non-
12 parent family member, on arrival shall not
13 be destroyed or discarded before the review
14 and determination under subparagraph
15 (B)(vi) occur.

16 (B) DUTIES OF MEDICAL PROFES-
17 SIONAL.—With respect to a medical screening
18 required by subparagraph (A) and the care of
19 a noncitizen child at a U.S. Customs and Bor-
20 der Protection facility, a licensed physician, ad-
21 vanced practice provider, nurse, or physician's
22 assistant attending the child at the facility
23 shall—

24 (i) assess and identify any illness, con-
25 dition, or physical ailment;

1 (ii)(I) identify any acute condition or
2 elevated medical risk; and

3 (II) in the case of a child for which
4 such a condition or risk is identified, con-
5 sult with a licensed pediatrician or pedi-
6 atric subspecialist;

7 (iii) ensure that appropriate health
8 care is provided to the child as necessary,
9 including pediatric and reproductive health
10 care;

11 (iv) in the case of a child under 12
12 years of age, conduct a physical examina-
13 tion of the child in the presence of a par-
14 ent, legal guardian, or family member;

15 (v) in the case of a child who is 12
16 years of age or older—

17 (I) provide the child with the
18 choice of—

19 (aa) a physical examination
20 in the presence of a parent, legal
21 guardian, or nonparent family
22 member; or

23 (bb) a private physical ex-
24 amination without the presence

1 of a parent, legal guardian, or
2 nonparent family member; and
3 (II) conduct such examination in
4 accordance with the child's preference;
5 (vi) review any medication that is in
6 the possession of the child on arrival to de-
7 termine whether the medication shall be
8 kept by the child or the child's parent,
9 legal guardian, or nonparent family mem-
10 ber, as applicable;
11 (vii) in the case of a medication de-
12 scribed in clause (vi) that may not be kept
13 by the child or the child's parent, legal
14 guardian, or nonparent family member for
15 medical storage purposes, such as a medi-
16 cation that requires refrigeration, ensure
17 storage with appropriate access for the
18 child's use while in U.S. Customs and Bor-
19 der Protection custody;
20 (viii) ensure that the medical screen-
21 ing and care under this paragraph, and
22 any other medical evaluation of or inter-
23 vention for the child conducted while the
24 child is in the custody of the Commis-
25 sioner, is documented in accordance with

1 commonly accepted standards in the
2 United States for medical records docu-
3 mentation; and

4 (ix) ensure that a copy of all medical
5 records and documentation of any medical
6 screening and any other medical evaluation
7 of, or intervention for, the child conducted
8 while the child is in the custody of the
9 Commissioner is—

10 (I) provided to the child and the
11 child's parent, legal guardian, or non-
12 parent family member before the child
13 is released from such custody; or

14 (II) in the case of a child who is
15 transferred to the custody of the Di-
16 rector, sent to the Office of Refugee
17 Resettlement immediately upon such
18 transfer.

19 (C) PROCEDURES FOR MEDICAL
20 SCREENINGS.—The Commissioner shall estab-
21 lish procedures for medical screenings and ex-
22 aminations under this paragraph that are con-
23 sistent with—

1 (i) relevant guidelines set forth in the
2 American Medical Association Code of
3 Medical Ethics; and

4 (ii) the recommendations of the Amer-
5 ican Academy of Pediatrics and the Amer-
6 ican College of Obstetricians and Gyne-
7 cologists.

8 (D) LANGUAGE SERVICES.—The Commis-
9 sioner shall ensure—

10 (i) the availability of in-person, lan-
11 guage-appropriate interpretation services,
12 including indigenous languages, for each
13 noncitizen child in the custody of the Com-
14 missioner during any medical screening or
15 examination; and

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

19 (E) LOCATION OF MEDICAL
20 SCREENINGS.—The Commissioner shall ensure
21 that medical screenings, examinations, and any
22 follow-up care under this paragraph are con-
23 ducted in a location that—

1 (i) is private and provides a com-
2 fortable and considerate atmosphere for
3 children;

4 (ii) ensures each noncitizen child's
5 dignity and right to privacy; and

6 (iii) contains all necessary and appro-
7 priate medical equipment and supplies, in-
8 cluding basic over-the-counter medications
9 appropriate for all age groups.

10 (F) ACUTE MEDICAL CONDITIONS.—

11 (i) IN GENERAL.—The Commissioner
12 shall ensure that any noncitizen child ex-
13 hibiting symptoms of an acute medical con-
14 dition, or who is at risk for an acute med-
15 ical condition, receives immediate care
16 from a licensed physician, advanced prac-
17 tice provider, nurse, or physician's assist-
18 ant.

19 (ii) TRANSFER TO LOCAL HEALTH
20 CARE FACILITY.—

21 (I) IN GENERAL.—If appropriate
22 medical care cannot be provided for a
23 noncitizen child described in clause (i)
24 at a U.S. Customs and Border Pro-
25 tection facility, the Commissioner

1 shall expeditiously transfer the child
2 to a local medical facility.

3 (II) ACCOMPANIMENT BY FAM-
4 ILY.—In the case of a noncitizen child
5 transferred under subclause (I), 1 or
6 more parents, legal guardians, or non-
7 parent family members, shall be per-
8 mitted to accompany the child to such
9 medical facility and stay with the
10 child if so accompanying the child
11 does not pose a serious safety risk to
12 the child, as determined by a child
13 welfare expert.

14 (iii) ONGOING AVAILABILITY OF
15 TRANSPORTATION.—The Commissioner
16 shall maintain—

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

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

4 (G) RULE OF CONSTRUCTION.—Nothing in
5 this paragraph shall be construed to require a
6 noncitizen child, parent, legal guardian, or non-
7 parent family member to disclose the child’s
8 medical history.

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

14 (A) TEMPERATURE.—The temperature in-
15 side the facility shall be maintained between 70
16 and 73 degrees Fahrenheit.

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

22 (C) FOOD AND WATER.—

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

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

4 (II) according to the guidelines of
5 the American Association of Pediat-
6 rics and the American College of Ob-
7 stetricians and Gynecologists with re-
8 spect to nutrition, consistency, cal-
9 ories, and portion size, consistent with
10 the age of each child.

11 (ii) MEALS AND SNACKS.—

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

16 (II) MEALS.—Meals shall—

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

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

1 (III) SNACKS.—Noncitizen chil-
2 dren shall have unrestricted access to
3 healthy snacks.

4 (IV) LIMITATION ON
5 UNHEALTHFUL FOODS.—The avail-
6 ability of highly processed foods and
7 sugars shall be limited.

8 (iii) WATER.—Each noncitizen child
9 shall—

10 (I) be provided with not less than
11 1 gallon of drinking water or age-ap-
12 propriate fluids daily; and

13 (II) have unrestricted access to
14 drinking water.

15 (iv) ACCOMMODATION.—A noncitizen
16 child’s individual dietary needs or restric-
17 tions shall be accommodated.

18 (v) SPECIAL CONSIDERATIONS FOR IN-
19 FANTS AND YOUNG CHILDREN.—

20 (I) BOTTLE FEEDING.—

21 (aa) IN GENERAL.—On ar-
22 rival at a facility, the parent,
23 legal guardian, or nonparent
24 family member of a noncitizen
25 child using a bottle for feeding

1 shall be offered 2 clean baby bot-
2 tles, a bottle brush, dish soap,
3 and enough bottled water and
4 baby formula for not less than 96
5 ounces of formula milk.

6 (bb) ADDITIONAL SUP-
7 PLIES.—Additional baby formula
8 and bottled water, and access to
9 a bottle warmer, shall be pro-
10 vided on request of the parent,
11 legal guardian, or nonparent
12 family member.

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

17 (aa) continued breastfeeding
18 shall be supported; and

19 (bb) the breastfeeding moth-
20 er of each such noncitizen child
21 shall be provided with privacy,
22 blankets, a quiet area for
23 breastfeeding, a nursing chair,
24 and adequate amounts of food
25 and water consistent with the di-

1 etary needs of a breastfeeding
2 mother.

3 (D) HYGIENE.—

4 (i) CLOTHES AND SHOES.—Each non-
5 citizen child shall be provided with a set of
6 clean clothes, and on request, a pair of
7 shoes in good condition and warm clothing.

8 (ii) SHOWERS.—

9 (I) IN GENERAL.—Each noncit-
10 izen child shall be provided access to
11 a hot shower with a barrier for pri-
12 vacy.

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

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

23 (iii) MENSTRUATION SUPPLIES.—
24 Each female noncitizen child shall be of-

1 ferred immediately a supply of tampons and
2 pads at no cost.

3 (iv) DIAPERING.—

4 (I) IN GENERAL.—The parent,
5 legal guardian, or other family mem-
6 ber of each noncitizen child using dia-
7 pers shall be provided immediately
8 with 3 size-appropriate diapers and a
9 packet of diaper wipes.

10 (II) ADDITIONAL DIAPERS.—Ad-
11 ditional diapers and diaper wipes shall
12 be provided on request at no cost.

13 (III) DIAPER CHANGING AREA.—
14 The parent, legal guardian, or other
15 family member of each such noncit-
16 izen child shall be provided—

17 (aa) access to a safe and
18 sanitary area in which to change
19 the child's diaper;

20 (bb) a clean diaper changing
21 pad; and

22 (cc) a handwashing station.

23 (v) BATHROOMS.—Each noncitizen
24 child shall be provided access to bath-
25 rooms.

1 (E) SLEEP.—

2 (i) MATS, BLANKETS, AND PIL-
3 LOWS.—

4 (I) IN GENERAL.—On arrival,
5 each noncitizen child shall be provided
6 with a clean mat that is not less than
7 3 inches thick, a clean cloth blanket,
8 and a clean pillow.

9 (II) ADDITIONAL BLANKETS.—A
10 noncitizen child shall be provided with
11 additional blankets on request by the
12 child or the parent, legal guardian, or
13 other family member of the child.

14 (ii) QUIET LOCATION.—On request or
15 if there are signs of a noncitizen child feel-
16 ing tired, the child shall be provided with
17 access to a quiet location in which to sleep
18 that has dimmed lights.

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

21 (I) noncitizen children shall have
22 access to lighting that is safe and con-
23 ducive to sleep; and

24 (II) noise shall be at a level con-
25 ducive to sleep.

1 (F) RECREATION.—

2 (i) IN GENERAL.—Noncitizen children
3 shall have access to age-appropriate rec-
4 reational activities, including indoor and
5 outdoor spaces for physical activity, toys,
6 art supplies, sports equipment, and books.

7 (ii) OUTDOOR PLAY.—Noncitizen chil-
8 dren shall be allowed to play outside for
9 not less than 30 minutes every 3 hours
10 during daylight hours.

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

14 (5) NOTICE OF RIGHTS.—

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

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

23 (i) a description of—

24 (I) all rights afforded to a noncit-
25 izen child under section 235 of the

1 William Wilberforce Trafficking Vic-
2 tims Protection Reauthorization Act
3 of 2008 (8 U.S.C. 1232) and this Act;

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

6 (III) any other existing mecha-
7 nism by which children may seek to
8 enforce their rights, including place-
9 ment review panels; and

10 (ii) a list of pro bono legal services
11 providers and contact information for such
12 providers.

13 (C) FORMAT AND LANGUAGES.—

14 (i) IN GENERAL.—Such notice shall
15 be—

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

19 (II) made available and posted in
20 multiple languages, including the top
21 20 preferred languages.

22 (ii) ADDITIONAL LANGUAGES.—The
23 Ombudsperson may require such notice to
24 be made available and posted in any addi-
25 tional language the Ombudsperson con-

1 siders necessary based on the demo-
2 graphics of arriving noncitizen children.

3 (D) AVAILABILITY.—A child caregiver pro-
4 fessional of the Department of Homeland Secu-
5 rity shall provide each noncitizen child with
6 such notice on the child’s arrival at the U.S.
7 Customs and Border Protection facility.

8 (e) SEPARATION FROM UNFAMILIAR ADULTS.—

9 (1) IN GENERAL.—Except as provided in para-
10 graph (2), an unaccompanied noncitizen child in the
11 custody of the Commissioner shall be physically sep-
12 arated from any adult who is not related to the
13 child.

14 (2) IMMEDIATE SEPARATION NOT FEASIBLE.—
15 In any circumstance in which such separation is not
16 immediately feasible, such as during transport to a
17 U.S. Customs and Border Protection facility, an un-
18 accompanied noncitizen child shall not be left alone
19 with such an adult or detained with such an adult
20 for more than 6 hours.

21 (f) STAFF TRAINING.—

22 (1) IN GENERAL.—The Commissioner shall en-
23 sure that—

24 (A) the staff of each U.S. Customs and
25 Border Protection facility in which 1 or more

1 noncitizen children are housed receives training
2 on responding to the needs of children and fam-
3 ilies exposed to trauma, including training on—

4 (i) the principles and practices of
5 trauma-informed care and psychological
6 first aid;

7 (ii) vicarious traumatization and sec-
8 ondary stress; and

9 (iii) recognizing the signs of a child in
10 medical distress; and

11 (B) every effort is made to ensure that the
12 safety and well-being of noncitizen children in
13 U.S. Customs and Border Protection custody
14 are satisfactorily provided for by facility staff.

15 (2) RULEMAKING.—

16 (A) IN GENERAL.—The Commissioner
17 shall issue regulations that require Border Pa-
18 trol and Office of Field Operations officials to
19 participate in regular training so as to ensure
20 that such officials treat all individuals in their
21 custody with dignity, prevent abuse, and ensure
22 constitutionally guaranteed and humane condi-
23 tions of confinement.

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

1 (i) Prohibit U.S. Customs and Border
2 Protection officials from—

3 (I) discussing immigration out-
4 comes with detained individuals; and

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

7 (ii) Address matters of child develop-
8 ment, mental health and trauma, children
9 with special needs, cultural competency,
10 and any other matter the Commissioner
11 considers appropriate.

12 (iii) Require foreign language com-
13 petency and interview protocols in cases in
14 which interpretation is required.

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

19 (g) MONITORING AND OVERSIGHT.—

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

1 (2) POSTING OF OMBUDSPERSON'S CONTACT
2 INFORMATION.—

3 (A) IN GENERAL.—The Commissioner
4 shall post, in each U.S. Customs and Border
5 Protection facility in which 1 or more noncit-
6 izen children are housed, the contact informa-
7 tion for the Ombudsperson in multiple lan-
8 guages, including the top 20 preferred lan-
9 guages.

10 (B) ADDITIONAL LANGUAGES.—The
11 Ombudsperson may require such contact infor-
12 mation to be posted in any additional language
13 the Ombudsperson considers necessary based on
14 the demographics of arriving noncitizen chil-
15 dren.

16 (h) AGE ASSESSMENTS.—

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

24 (2) REQUIREMENTS.—

1 (A) IN GENERAL.—An age assessment may
2 only be conducted if the Secretary or Secretary
3 of Homeland Security has recent, credible, and
4 documented evidence that the individual con-
5 cerned is 18 years of age or older.

6 (B) CONSIDERATIONS.—If an age assess-
7 ment is conducted, the Secretary and the Sec-
8 retary of Homeland Security shall take into
9 consideration, to the extent such information is
10 readily available—

- 11 (i) written or photographic evidence;
12 (ii) statements and representations of
13 the individual concerned and of the family
14 and community members who know such
15 individual; and
16 (iii) the relevant cultural and ethnic
17 context.

18 (C) PROHIBITED METHODS.—The Sec-
19 retary or the Secretary of Homeland Security
20 may not—

- 21 (i) conduct any medical age assess-
22 ment that consists of imaging studies, such
23 as bone or dental radiography, dental ex-
24 aminations, or height, weight, skin, or sex-
25 ual maturity ratings; or

1 (ii) rely on the physical appearance of
2 a child to justify an age assessment.

3 (D) LEGAL COUNSEL.—

4 (i) IN GENERAL.—An individual with
5 respect to whom an age assessment is con-
6 ducted shall be provided with legal counsel
7 before receiving such assessment and may
8 not be removed before receiving such coun-
9 sel.

10 (ii) EVIDENCE.—Legal counsel pro-
11 vided under clause (i) shall be provided
12 with all evidence upon which the Secretary
13 or the Secretary of Homeland Security re-
14 lies to justify conducting an age assess-
15 ment or to support an age assessment de-
16 termination.

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

20 Section 235(b)(1)(E) of the Immigration and Nation-
21 ality Act (8 U.S.C. 1225(b)(1)(E)) is amended—

22 (1) in clause (i), by striking “, and” and insert-
23 ing a semicolon;

24 (2) in clause (ii), by striking the period at the
25 end and inserting “; and”; and

1 (3) by adding at the end the following:

2 “(iii) is employed by the Refugee,
3 Asylum, and International Operations Di-
4 rectorate of U.S. Citizenship and Immigra-
5 tion Services.”.

6 **TITLE II—STANDARDS FOR DE-**
7 **PARTMENT OF HEALTH AND**
8 **HUMAN SERVICES CUSTODY**
9 **OF UNACCOMPANIED NON-**
10 **CITIZEN CHILDREN**

11 **Subtitle A—Standards for Foster**
12 **Care Homes and Childcare Fa-**
13 **cilities**

14 **SEC. 201. OPERATION OF FOSTER CARE HOMES AND**
15 **CHILDCARE FACILITIES.**

16 (a) IN GENERAL.—An entity contracted by the Direc-
17 tor to operate a childcare facility shall be licensed by an
18 appropriate State agency to provide residential, group, or
19 foster care services for dependent children.

20 (b) OPERATION AS NONSECURE FACILITIES.—Each
21 foster care home operated by a State-licensed program
22 contracted by the Director to provide care for 1 or more
23 unaccompanied noncitizen children, and each childcare fa-
24 cility, including any facility for special needs noncitizen

1 children, shall be maintained as a nonsecure facility, in
2 accordance with applicable State law.

3 **SEC. 202. NOTICE OF RIGHTS.**

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

7 (1) posted in each childcare facility in all loca-
8 tions in which unaccompanied noncitizen children
9 are located; and

10 (2) distributed to each unaccompanied noncit-
11 izen child on arrival at a childcare facility.

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

14 (1) a description of—

15 (A) all rights afforded to an unaccom-
16 panied noncitizen child under section 235 of the
17 William Wilberforce Trafficking Victims Protec-
18 tion Reauthorization Act of 2008 (8 U.S.C.
19 1232) and this Act;

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

22 (C) any other existing mechanism by which
23 children may seek to enforce their rights, in-
24 cluding placement review panels; and

1 (2) a list of pro bono legal services providers
2 and contact information for such providers.

3 (c) **FORMAT AND LANGUAGES.**—

4 (1) **IN GENERAL.**—Such notice shall be—

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

7 (B) made available and posted in multiple
8 languages, including the top 20 preferred lan-
9 guages.

10 (2) **ADDITIONAL LANGUAGES.**—The
11 Ombudsperson may require that such notice be
12 made available and posted in any additional lan-
13 guage the Ombudsperson considers necessary based
14 on the demographics of arriving noncitizen children.

15 (d) **ORIENTATION TO ROLE OF OFFICE OF THE**
16 **OMBUDSPERSON.**—Each State-licensed program that op-
17 erates a childcare facility shall provide to each unaccom-
18 panied noncitizen child in its care—

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

21 (2) the contact information for the Office of the
22 Ombudsperson.

23 **SEC. 203. STAFFING AND TRAINING.**

24 (a) **FEDERAL FIELD SPECIALISTS.**—The Director
25 shall—

1 (1) maintain for each childcare facility a rea-
2 sonable Federal field specialist-to-unaccompanied
3 noncitizen child ratio;

4 (2) hire additional Federal field specialists as
5 necessary to ensure that, for the majority of unac-
6 companied noncitizen children in the custody of the
7 Secretary, a decision regarding their release can be
8 made by Federal field specialists not later than 48
9 hours after the approval of a release recommenda-
10 tion to a sponsor; and

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

15 (b) CASE MANAGEMENT SPECIALISTS.—The Direc-
16 tor shall ensure that each State-licensed program that op-
17 erates a childcare facility—

18 (1) maintains a ratio of 8 unaccompanied non-
19 citizen children to each case management specialist;

20 (2) provides training for case management spe-
21 cialists that enables the Department of Health and
22 Human Services to meet required timelines for the
23 reunification of unaccompanied noncitizen children
24 in accordance with section 231(c); and

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

4 (c) CONTINGENCY FUND TO ADDRESS EMERGENT
5 NEEDS.—

6 (1) IN GENERAL.—In addition to amounts oth-
7 erwise available, there is appropriated to the Sec-
8 retary of Health and Human Services, out of any
9 money in the Treasury not otherwise appropriated,
10 \$46,500,000, to remain available until expended, for
11 a contingency fund (referred to in this section as the
12 “Fund”) for the hiring of case management special-
13 ists as required by an influx or any other emergent
14 situation for the purpose of facilitating the release
15 process and minimizing the risk that childcare facili-
16 ties reach full capacity.

17 (2) USE OF FUND.—

18 (A) DISCRETIONARY USE.—The Director
19 may draw upon the Fund to reduce the ratio to
20 6 unaccompanied noncitizen children for each
21 case management specialist if—

22 (i) the national utilization rate (ex-
23 cluding funded but unplaceable beds and
24 calculated as the number of filled beds di-
25 vided by the number of beds available for

1 placement, expressed as a percentage)
2 reaches or exceeds 65 percent in any week;
3 or

4 (ii) the Director certifies to Congress
5 that the rate of increase in childcare facil-
6 ity usage, as calculated by the Director for
7 purposes of section 602(b)(3)(F)(i)(VI),
8 has led the Director to believe that such
9 national utilization rate will reach 90 per-
10 cent in any week during the subsequent
11 10-week period.

12 (B) MANDATORY USE.—The Director shall
13 draw upon the Fund to reduce the ratio to 6
14 unaccompanied noncitizen children for each
15 case management specialist if such national uti-
16 lization rate reaches or exceeds 90 percent in
17 any week.

18 (d) TRAINING.—

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

1 (A) specific to the age and gender of the
2 unaccompanied noncitizen children at the spe-
3 cific childcare facility; and

4 (B) consistent across the Office of Refugee
5 Resettlement's network of State-licensed pro-
6 grams.

7 (2) TOPICS.—The training required by para-
8 graph (1) shall address the following topics:

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

12 (B) Mental health and trauma.

13 (C) Child development.

14 (D) Prevention of sexual abuse and harass-
15 ment.

16 (E) Cultural humility.

17 (F) Racial sensitivity.

18 (G) De-escalation techniques to avert un-
19 necessary involvement of local law enforcement
20 prior to exhaustion of alternative, trauma-in-
21 formed care, treatment, and restorative re-
22 sponses.

23 (H) Disabilities.

24 (3) SPECIFIC TRAINING FOR STAFF WORKING
25 WITH EARLY CHILDHOOD MINORS.—The Director

1 shall ensure that personnel who interact with unac-
 2 companied noncitizen children who are early child-
 3 hood minors receive specialized training relevant to
 4 the needs and capacities of such children.

5 (4) DEVELOPMENT OF TRAINING MATERIALS.—

6 The Director, in collaboration with stakeholders who
 7 have expertise in child migration, child mental
 8 health, and child development, shall—

9 (A) develop written, audio, or visual mate-
 10 rials with which training under this subsection
 11 may be conducted; and

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

15 (5) DEPARTMENT OF HEALTH AND HUMAN
 16 SERVICES STAFF.—Not later than 90 days after the
 17 date of the enactment of this Act, the Secretary
 18 shall provide appropriate guidance and training for
 19 all Department of Health and Human Services em-
 20 ployees with respect to the requirements of this Act.

21 **Subtitle B—Services for Unaccom-**
 22 **panied Noncitizen Children**

23 **SEC. 211. REQUIRED SERVICES.**

24 (a) PROVISION OF REQUIRED SERVICES.—A State-
 25 licensed program that operates a childcare facility shall

1 provide the following services for each unaccompanied
2 noncitizen child in its care:

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

5 (A) the rights of the unaccompanied non-
6 citizen child;

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

8 (C) the services, rules, procedures, and ex-
9 pectations of the State-licensed program; and

10 (D) the availability of legal assistance.

11 (2) Proper physical care and maintenance, in-
12 cluding suitable living accommodations, food, appro-
13 priate clothing, and personal hygiene items.

14 (3) Not later than 2 business days after admis-
15 sion to the childcare facility, a comprehensive med-
16 ical examination that includes screening for infec-
17 tious disease.

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

22 (A) reproductive health and family plan-
23 ning services;

24 (B) emergency health care services;

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

4 (D) administration of prescribed medica-
5 tion and special diets; and

6 (E) mental health screening and interven-
7 tion, including referrals.

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

10 (A) Collection of essential data relating to
11 the identification and history of the unaccom-
12 panied noncitizen child and family.

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

16 (C) An educational assessment and plan.

17 (D) An assessment of family relationships.

18 (E) A statement of religious preference
19 and practice.

20 (F) An assessment of the personal goals,
21 strengths, and weaknesses of the unaccom-
22 panied noncitizen child.

23 (G) Collection of identifying information
24 regarding immediate family members, other rel-
25 atives, godparents, or friends who may be resid-

1 ing in the United States and who may be able
2 to assist in family reunification.

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

6 (A) developed in accordance with the
7 child's needs, as determined by the individual-
8 ized needs assessment under paragraph (5);
9 and

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

12 (7) Education services, as described in section
13 213.

14 (8) Recreational activities, as described in sec-
15 tion 214.

16 (9) Counseling services, including—

17 (A) not fewer than 2 weekly individual
18 counseling sessions conducted by licensed men-
19 tal health professionals, including social work-
20 ers, psychologists, and psychiatric staff; and

21 (B) not fewer than 1 weekly group coun-
22 seling session conducted by licensed mental
23 health professionals, including social workers,
24 psychologists, or psychiatric staff.

1 (10) Acculturation and adaptation services, in-
2 cluding the provision of information regarding the
3 development of social and interpersonal skills.

4 (11) Religious and spiritual services of the un-
5 accompanied noncitizen child's choice, if any.

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

11 (13) Visitation and contact with family mem-
12 bers, regardless of the immigration status of the
13 family members. An unaccompanied noncitizen child
14 and family members of such a child shall be pro-
15 vided with a private, confidential space to meet in
16 during such visitation. The Secretary of Homeland
17 Security may not pursue enforcement actions
18 against such family members during or immediately
19 before or after such visitation.

20 (14) Telephone and video access for contacting
21 parents, family members, and caregivers, in a pri-
22 vate space that ensures confidentiality, at no cost to
23 the unaccompanied noncitizen child, family member,
24 or caregiver. An unaccompanied noncitizen child
25 shall be permitted such access not fewer than 4

1 times weekly for a period of not less than 30 min-
2 utes each time.

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

5 (A) to wear the child's own clothes, as
6 available;

7 (B) to retain a private space in the
8 childcare facility for the storage of personal be-
9 longings;

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

13 (D) to visit privately with guests, as per-
14 mitted by such rules and regulations; and

15 (E) to receive and send uncensored cor-
16 respondence.

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

22 (b) CONSIDERATIONS FOR PROVISION OF SERV-
23 ICES.—A State-licensed program that operates a childcare
24 facility shall provide the services described in subsection
25 (a) in a manner that is sensitive to the age, culture, native

1 language, and complex needs of each unaccompanied non-
2 citizen child.

3 (c) RULES AND DISCIPLINE STANDARDS.—

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

7 (A) formulated with consideration given to
8 the age ranges, developmental stages, and de-
9 gree of trauma experienced by the unaccom-
10 panied noncitizen children in the applicable
11 childcare facility; and

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

14 (2) PROHIBITED MEASURES.—Such a State-li-
15 censed program may not subject any unaccompanied
16 noncitizen child to—

17 (A) corporal punishment, physical or chem-
18 ical restraint, seclusion, humiliation, verbal or
19 mental abuse, or punitive interference with the
20 daily functions of living, such as eating, sleep-
21 ing, or bathroom access; or

22 (B) any disciplinary measure that—

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

1 (ii) denies an unaccompanied noncit-
2 izen child regular meals, water, sleep, exer-
3 cise, medical care, correspondence privi-
4 leges, legal assistance, education, recre-
5 ation, bathroom access, or any other serv-
6 ice described in subsection (a).

7 (d) RECORDKEEPING.—

8 (1) INDIVIDUAL CASE RECORDS.—The operator
9 of each childcare facility and influx facility shall de-
10 velop, maintain, and safeguard individual client case
11 records on each unaccompanied noncitizen child in
12 care at the facility.

13 (2) CONFIDENTIALITY.—The operator of each
14 childcare facility and influx facility shall develop and
15 maintain a system of accountability that preserves
16 the confidentiality of client information and protects
17 such records from unauthorized use or disclosure in
18 accordance with section 804.

19 (3) REPORTING.—The operator of each
20 childcare facility and influx facility shall maintain
21 adequate records and make regular reports, as re-
22 quired by the Ombudsperson, that permit the
23 Ombudsperson to monitor and enforce this Act, the
24 amendments made by this Act, and any other re-
25 quirement or standard determined by the

1 Ombudsperson to be in the best interests of unac-
2 companied noncitizen children.

3 **SEC. 212. EVALUATION FOR DISABILITY.**

4 (a) IN GENERAL.—The Director shall provide unac-
5 companied noncitizen children who present an indication
6 of a disability with an evaluation for services under section
7 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794),
8 and provide unaccompanied noncitizen children with dis-
9 abilities with services (including accommodations) through
10 an individualized plan that includes a plan for prompt re-
11 lease.

12 (b) RECORDS.—Any record of a screening or an eval-
13 uation conducted under this section, and any record re-
14 lated to a decision with respect to the release of an unac-
15 companied noncitizen child with a disability, shall be main-
16 tained separately from the unaccompanied noncitizen
17 child’s immigration file (commonly known as an “A-
18 File”).

19 **SEC. 213. EDUCATION.**

20 (a) CURRICULUM.—

21 (1) STATE STANDARDS.—A State-licensed pro-
22 gram shall provide educational instruction to unac-
23 companied noncitizen children using a curriculum
24 that—

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

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

6 (2) BASIC ACADEMIC AREAS.—The basic aca-
7 demic areas covered by such curriculum shall include
8 science, social studies, math, reading, and writing.

9 (b) LICENSING AND CERTIFICATION REQUIRE-
10 MENTS.—

11 (1) IN GENERAL.—Teachers, administrators,
12 counselors, and support staff providing education to
13 unaccompanied noncitizen children at a childcare fa-
14 cility shall—

15 (A) meet local and State certification or li-
16 censure requirements; and

17 (B) in the case of an unaccompanied non-
18 citizen child in custody for a period longer than
19 60 days or who was previously attending school
20 in the United States, ensure that the child re-
21 ceives transferable credit.

22 (c) INSTRUCTION.—

23 (1) IN GENERAL.—Educational instruction at a
24 childcare facility shall be—

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

4 (B) provided in a structured classroom set-
5 ting on a weekly basis Monday through Friday.

6 (2) CLASS SIZE.—An unaccompanied noncitizen
7 child may not be placed in a class in which the
8 teacher-to-student ratio exceeds the applicable State
9 maximum ratio.

10 (d) LANGUAGE ACCESS AND EDUCATIONAL ENVI-
11 RONMENT.—The educational program at a childcare facil-
12 ity shall—

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

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

19 (e) INDIVIDUAL EDUCATION PROGRAM.—A State-li-
20 censed program that operates a childcare facility shall pro-
21 vide any eligible unaccompanied noncitizen child who is
22 a child with a disability (as defined in section 602 of the
23 Individuals with Disabilities Education Act (20 U.S.C.
24 1401)) with special education and related services pursu-
25 ant to an individualized education program that is devel-

1 oped for the unaccompanied noncitizen child and is con-
2 sistent with the requirements provided under the Individ-
3 uals with Disabilities Education Act (20 U.S.C. 1401 et
4 seq.).

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

10 **SEC. 214. RECREATION.**

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

14 (1) the guidelines of the Department of Health
15 and Human Services entitled “2018 Physical Activ-
16 ity Guidelines for Americans”; and

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

19 (b) ACTIVITIES.—

20 (1) IN GENERAL.—Activities for recreation and
21 leisure time, which shall include daily outdoor activ-
22 ity, weather permitting, shall include—

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

1 (B) not less than 1 hour daily of struc-
2 tured leisure time activities, which shall not in-
3 clude time spent watching television or video.

4 (2) DAYS ON WHICH SCHOOL IS NOT IN SES-
5 SION.—The periods scheduled for activities described
6 in paragraph (1) shall be increased to a total of 3
7 hours daily on any day on which school is not in ses-
8 sion.

9 (3) RECREATION AREAS.—Not less frequently
10 than weekly, a State-licensed program that does not
11 have an adequate on-site recreation area shall take
12 children to off-site parks, community recreation cen-
13 ters, or other suitable locations.

14 (4) LANGUAGE-APPROPRIATE READING MATE-
15 RIALS.—A State-licensed program shall provide ap-
16 propriate reading materials in the preferred lan-
17 guages of unaccompanied noncitizen children for use
18 during leisure time.

19 **Subtitle C—Placement of Children**

20 **SEC. 221. PHASING OUT LARGE CONGREGATE CARE FACILI-** 21 **TIES.**

22 (a) DEFINITION OF LARGE CONGREGATE CARE FA-
23 CILITY.—In this section, the term “large congregate care
24 facility” means a facility intended to house more than 25
25 individuals at a time.

1 (b) PHASEOUT.—

2 (1) IN GENERAL.—Beginning on the date that
3 is 2 years after the date of the enactment of this
4 Act—

5 (A) the Director may not place an unac-
6 companied noncitizen child in a large con-
7 gregate care facility; and

8 (B) no Federal funds shall be made avail-
9 able for the purpose of—

10 (i) housing an unaccompanied noncit-
11 izen child in such a facility; or

12 (ii) placing an unaccompanied noncit-
13 izen child in any congregate care facility
14 for a period longer than 14 days.

15 (2) EXCEPTION.—Paragraph (1) shall not
16 apply to any of the following:

17 (A) An influx facility.

18 (B) A setting specializing in prenatal,
19 postpartum, or parenting support for youth.

20 (C) A supervised independent living setting
21 under the post-18 program described in section
22 243(c).

23 (D) A program addressing the needs of
24 victims of trafficking.

1 (E) A qualified residential treatment pro-
2 gram specifically designed to meet the needs of
3 a child with serious emotional or behavioral
4 health needs.

5 (c) PLAN REQUIRED.—

6 (1) IN GENERAL.—The Director shall develop a
7 plan to eliminate the use of large congregate care fa-
8 cilities by the date that is 2 years after the date of
9 the enactment of this Act.

10 (2) ELEMENTS.—The plan required by para-
11 graph (1) shall include the following:

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

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

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

21 (ii) 75 percent of such children not
22 later than 545 days after such date of en-
23 actment.

1 (iii) 100 percent of such children not
2 later than 2 years after such date of enact-
3 ment.

4 (3) SUBMITTAL TO CONGRESS.—Not later than
5 90 days after the date of the enactment of this Act,
6 the Director shall submit to Congress the plan devel-
7 oped under paragraph (1).

8 (d) TRANSITIONAL SUPPORT FOR NONGOVERN-
9 MENTAL ORGANIZATIONS.—To the extent that the transi-
10 tion to childcare facilities housing 25 unaccompanied non-
11 citizen children or fewer affects nongovernmental organi-
12 zations that provide services to such children, the Director
13 shall increase funding to such organizations—

14 (1) to prevent a disruption or decrease in serv-
15 ices;

16 (2) to establish centralized locations for unac-
17 companied noncitizen children to receive services
18 from such organizations; and

19 (3) to increase funding for representation of re-
20 leased children.

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

22 An unaccompanied noncitizen child in the custody of
23 the Secretary shall be placed in the least restrictive setting
24 that most approximates a family and in which the child's

1 special needs, if any, may be met consistent with the best
2 interests and special needs of the child.

3 **SEC. 223. FOSTER FAMILY CARE.**

4 (a) PREFERENCE FOR FOSTER FAMILY CARE.—

5 (1) IN GENERAL.—With respect to an unaccom-
6 panied noncitizen child in the custody of the Sec-
7 retary, the Director shall make active efforts to
8 place the child in the least restrictive setting that
9 most approximates a family and in which the child's
10 special needs, if any, may be met.

11 (2) ADDITIONAL CONSIDERATION.—Such an
12 unaccompanied noncitizen child shall be placed with-
13 in reasonable proximity to the location of the child's
14 immigration proceedings, taking into account any
15 special needs of the child before placing the child in
16 a childcare facility.

17 (b) TRANSITIONAL FOSTER CARE.—

18 (1) IN GENERAL.—An unaccompanied noncit-
19 izen child whose length of care in the custody of the
20 Secretary is anticipated to be not more than 30 days
21 shall be eligible for a transitional foster care place-
22 ment in a family home licensed to provide such
23 shorter term care.

1 (2) PRIORITY.—The Director shall prioritize for
2 placement in transitional foster care the following
3 categories of unaccompanied noncitizen children:

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

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

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

10 (D) Unaccompanied noncitizen children
11 with special needs, including any unaccom-
12 panied noncitizen child with a disability.

13 (c) STAYS EXPECTED TO EXTEND MORE THAN 30
14 DAYS.—

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

24 (2) CONTRACTING REQUIREMENTS.—The Di-
25 rector shall—

1 (A) seek to enter into 1 or more contracts
 2 with State-licensed foster care providers for the
 3 provision of long-term foster care placements
 4 for all eligible unaccompanied noncitizen chil-
 5 dren; and

6 (B) ensure that such providers accept un-
 7 accompanied noncitizen children for placement
 8 in a timely manner.

9 (d) ACCESS TO FOSTER CARE FOR CHILDREN WITH
 10 DISABILITIES OR MENTAL OR BEHAVIORAL HEALTH-
 11 RELATED NEEDS.—

12 (1) IN GENERAL.—The Director shall—

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

16 (i) disabilities;

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

19 (iii) prior incident reports; or

20 (iv) prior or current restrictive place-
 21 ments (as defined in section 226); and

22 (B) seek to enter into 1 or more contracts
 23 with foster care providers that have the docu-
 24 mented capacity and commitment to accept

1 children regardless of disabilities or mental or
2 behavioral health-related needs.

3 (2) EQUAL ACCESS.—

4 (A) IN GENERAL.—An unaccompanied
5 noncitizen child with mental or behavioral
6 health-related needs who does not pose a docu-
7 mented, imminent threat to himself or herself,
8 to others, or to the community shall be eligible
9 for, and shall be provided equal access to, a fos-
10 ter care placement.

11 (B) ELIGIBILITY FOR TRANSFER.—If such
12 a child is in a restrictive placement, he or she
13 shall be eligible for direct transfer to a foster
14 care placement.

15 (3) LIMITATION ON REFUSAL OF PLACE-
16 MENT.—A State-licensed program that operates a
17 childcare facility may not refuse placement of an un-
18 accompanied noncitizen child based on a disability or
19 a mental or behavioral health-related need absent in-
20 dividualized documentation that—

21 (A) State licensing requirements bar ac-
22 ceptance of the specific unaccompanied noncit-
23 izen child based on the child's individual needs;
24 and

1 (B) a request for a variance from such a
 2 requirement has been denied or is unavailable
 3 under State law.

4 (e) BACKGROUND CHECKS.—

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

11 (2) LIMITATION ON DENIAL OF PLACEMENT.—
 12 The Director shall deny the foster care placement
 13 for an unaccompanied alien child if the criminal his-
 14 tory of a resident of a potential foster care place-
 15 ment includes a conviction—

16 (A) for child abuse or trafficking; or

17 (B) that has a direct and immediate im-
 18 pact on the safety of the unaccompanied alien
 19 child.

20 **SEC. 224. ADDITIONAL REQUIREMENTS RELATING TO CHIL-**
 21 **DREN WITH DISABILITIES AND CHILDREN**
 22 **WITH MENTAL HEALTH NEEDS.**

23 (a) PRIORITIZATION OF RELEASE.—The Director
 24 shall prioritize the release to sponsors of unaccompanied
 25 noncitizen children with disabilities so that such children

1 may receive, in the community rather than in immigration
2 custody, evidence-based, trauma-informed services tailored
3 to their needs.

4 (b) ACCESS TO SERVICES WHILE IN CUSTODY.—In
5 the case of an unaccompanied noncitizen child with dis-
6 abilities who cannot be expeditiously released, the Director
7 shall provide access to any necessary service in the least
8 restrictive integrated setting possible until a family-based
9 placement is secured.

10 (c) SUPPORT.—The Director shall support unaccom-
11 panied noncitizen children with disabilities by—

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

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

19 (3) developing and delivering trauma-informed
20 disability-related training to all frontline care pro-
21 vider staff, in collaboration with stakeholders who
22 have expertise in serving children with disabilities.

23 (d) NETWORK CAPACITY.—Not less than 75 percent
24 of all childcare facilities and foster care placements shall
25 have appropriate State licensing and documented capa-

1 bility to house unaccompanied noncitizen children with
2 disabilities.

3 **SEC. 225. MINIMIZING TRANSFERS.**

4 (a) IN GENERAL.—The Director shall—

5 (1) minimize transfer of unaccompanied noncitizen
6 children among childcare facilities and between
7 short-term and long-term foster care placements;
8 and

9 (2) ensure that—

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

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

16 (C) unaccompanied noncitizen children who
17 are siblings are housed together in the same
18 childcare facility unless there is an extraor-
19 dinary need for specialized care, such as inpa-
20 tient health care services.

21 (b) NOTICE.—

22 (1) IN GENERAL.—In the case of an unaccom-
23 panied noncitizen child who is transferred to another
24 childcare facility or foster family home placement,

1 not less than 48 hours before the transfer occurs,
2 the Director shall—

3 (A) notify the child in a language and for-
4 mat the child understands; and

5 (B) notify and provide a justification for
6 the transfer to the child’s sponsor, legal counsel
7 or local legal services provider, and child advo-
8 cate, as applicable.

9 (2) EXCEPTION.—

10 (A) IN GENERAL.—Paragraph (1) shall not
11 apply in an unusual and compelling cir-
12 cumstance, such as—

13 (i) a circumstance in which—

14 (I) the safety of the unaccom-
15 panied noncitizen child or any other
16 individual is threatened; or

17 (II) the child has previously at-
18 tempted to abscond from custody; or

19 (ii) a case in which the unaccom-
20 panied noncitizen child’s legal counsel has
21 waived notice under that paragraph.

22 (B) NOTICE AFTER TRANSFER.—In the
23 case of a circumstance or waiver described in
24 subparagraph (A), notice shall be provided to
25 the unaccompanied noncitizen child’s legal

1 counsel or local legal services provider, and
2 child advocate, as applicable, not later than 24
3 hours after the transfer.

4 (c) POSSESSIONS AND LEGAL PAPERS.—The Direc-
5 tor shall ensure that any unaccompanied noncitizen child
6 is transferred with all of his or her possessions and legal
7 papers.

8 **SEC. 226. RESTRICTIVE PLACEMENTS.**

9 (a) DEFINITIONS.—In this section:

10 (1) RESTRICTIVE PLACEMENT.—The term “re-
11 strictive placement” means—

12 (A) a staff-secure facility;

13 (B) a therapeutic staff-secure facility; and

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

17 (2) THERAPEUTIC CHILDCARE FACILITY.—The
18 term “therapeutic childcare facility” means a—

19 (A) congregate care facility for the purpose
20 of rehabilitation or residential treatment; and

21 (B) an out-of-network facility or group
22 home the staff of which has specialized training
23 to care for children and adolescents with signifi-
24 cant emotional, behavioral, social, or medical
25 needs.

1 (b) PLACEMENT REVIEW HEARINGS FOR TRANSFERS
2 TO RESTRICTIVE PLACEMENTS.—

3 (1) IN GENERAL.—In the case of transfer of an
4 unaccompanied noncitizen child to a restrictive
5 placement, the Director shall provide an administra-
6 tive placement review hearing conducted in accord-
7 ance with sections 554 through 557 of title 5,
8 United States Code.

9 (2) NOTICE.—

10 (A) IN GENERAL.—Except as provided in
11 subparagraph (B), the Director shall provide
12 written notice of intent to transfer an unaccom-
13 panied noncitizen child to a restrictive place-
14 ment to the child concerned and the child's
15 legal counsel and child advocate.

16 (B) EXCEPTION.—The Director may
17 transfer an unaccompanied noncitizen child to a
18 restrictive placement without providing notice
19 under subparagraph (A) only if the Director
20 has a reasonable belief, based on clearly
21 articulable facts, that the child is a present, im-
22 minent danger to himself or herself or to oth-
23 ers.

24 (C) ELEMENTS.—A notice required by
25 subparagraph (A) shall include, in a language

1 and format the unaccompanied noncitizen child
2 understands, the following:

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

5 (ii) A description of the individualized
6 allegations relied on by the Director in
7 support of such transfer, including all sup-
8 porting evidence.

9 (iii) An explanation that the unaccom-
10 panied noncitizen child—

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

13 (II) may submit additional evi-
14 dence, including witness testimony.

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

17 (A) 72 hours after the unaccompanied
18 noncitizen child concerned receives notice under
19 paragraph (2); and

20 (B) 5 business days before the transfer to
21 the restrictive placement is scheduled to occur.

22 (4) PROCEDURAL MATTERS.—

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

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

3 (ii) has expertise in child welfare.

4 (B) RIGHTS OF CHILD.—

5 (i) IN GENERAL.—At a hearing under
6 this subsection, an unaccompanied noncitizen
7 child shall have—

8 (I) the right to counsel; and

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

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

17 (C) AVAILABILITY OF OFFICE OF REFUGEE
18 RESETTLEMENT RECORDS.—The Director shall
19 disclose to the unaccompanied noncitizen child
20 concerned and the legal counsel and child advo-
21 cate of the child, as applicable, the child's entire
22 case file and all evidence supporting the deter-
23 mination to transfer the child to a restrictive
24 placement—

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

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

5 (D) INTERPRETATION SERVICES.—An in-
6 terpreter in the preferred language of the unac-
7 companied noncitizen child shall be made avail-
8 able for a hearing under this subsection.

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

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

16 (ii) a restrictive placement is con-
17 sistent with the best interests of the child;

18 (iii) there is no viable alternative to a
19 restrictive placement to ensure the best in-
20 terests of the child; and

21 (iv) the child's placement in a facility
22 that is not a restrictive placement would
23 not provide the services or resources nec-
24 essary.

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

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

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

14 (5) WRITTEN DECISION.—

15 (A) IN GENERAL.—Not later than 2 busi-
16 ness days before the date on which the unac-
17 companied noncitizen child concerned is sched-
18 uled to be transferred to a restrictive place-
19 ment, the fact finder shall issue a written deci-
20 sion approving or denying such transfer, which
21 shall be binding on the Office of Refugee Reset-
22 tlement.

23 (B) CONSIDERATION OF BEST INTEREST
24 RECOMMENDATION.—In making a decision on
25 such a transfer, the fact finder shall consider,

1 and respond in writing to, the recommendation
2 of the child advocate of the unaccompanied non-
3 citizen child concerned.

4 (C) ELEMENTS.—A written decision under
5 this paragraph shall—

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

9 (ii) notify the unaccompanied noncit-
10 izen child of the child’s—

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

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

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

18 (D) LANGUAGE ACCESS.—The decision
19 shall be made available in a language and in a
20 format the unaccompanied noncitizen child un-
21 derstands.

22 (E) SUBMISSION TO OMBUDSPERSON.—
23 Not later than 72 hours after a decision in a
24 placement review hearing is issued under this

1 paragraph, the fact finder shall submit the deci-
2 sion to the Ombudsperson.

3 (6) REVIEW BY OMBUDSPERSON.—

4 (A) IN GENERAL.—On request by an unac-
5 companied noncitizen child or the legal counsel
6 or child advocate of the child, the
7 Ombudsperson shall carry out a review of a de-
8 cision under paragraph (5), which shall be com-
9 pleted not later than 15 days after the date on
10 which the request for review is made.

11 (B) RECOMMENDATION.—

12 (i) IN GENERAL.—In carrying out a
13 review under this paragraph, the
14 Ombudsperson may make a recommenda-
15 tion with respect to whether such decision
16 should be modified.

17 (ii) FINDING OF ERRONEOUS DECI-
18 SION.—

19 (I) IN GENERAL.—If the
20 Ombudsperson determines that the
21 decision under paragraph (5) was er-
22 roneous, the Ombudsperson shall sub-
23 mit to the Director a recommendation
24 for further action.

25 (II) WRITTEN STATEMENT.—

1 (aa) IN GENERAL.—If the
2 Director declines to follow the
3 recommendation of the
4 Ombudsperson, the Director shall
5 provide a detailed written jus-
6 tification to the child, the pro-
7 spective sponsor, the legal coun-
8 sel and the child advocate of the
9 child, and the legal counsel of the
10 prospective sponsor, as applica-
11 ble.

12 (bb) NONDELEGATION.—
13 The Director may not delegate
14 the requirement to issue such a
15 written statement to any other
16 individual.

17 (c) LIMITATIONS ON PLACEMENT IN SECURE FACILI-
18 TIES AND STAFF-SECURE FACILITIES.—

19 (1) IN GENERAL.—The Director may not place
20 an unaccompanied noncitizen child in a staff-secure
21 facility based solely on a risk of self-harm or behav-
22 ior related to the child’s trauma or mental health
23 that could be addressed in a less restrictive setting
24 with additional accommodations or rehabilitative
25 care.

1 (2) SECURE FACILITIES.—The Director may
2 never hold or place an unaccompanied noncitizen
3 child in a secure facility.

4 (3) STAFF-SECURE FACILITIES.—

5 (A) IN GENERAL.—The Director may only
6 hold or place an unaccompanied noncitizen child
7 in a staff-secure facility if—

8 (i) there is clear and convincing evi-
9 dence that the child poses a serious and
10 imminent danger to others at the time of
11 placement;

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

17 (iii) even with additional accommoda-
18 tions and de-escalation measures, the child
19 cannot be adequately cared for in a less re-
20 strictive setting or rehabilitative care.

21 (B) DURATION.—The Director may only
22 hold an unaccompanied noncitizen child in a
23 staff-secure facility under subparagraph (A)
24 during the period in which the Director can

1 demonstrate that the conditions described in
2 that subparagraph exist.

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

8 (4) PROHIBITION ON PLACEMENT IN U.S. IMMI-
9 GRATION AND CUSTOMS ENFORCEMENT FACILI-
10 TIES.—The Director may not place any noncitizen
11 child in—

12 (A) a U.S. Immigration and Customs En-
13 forcement facility; or

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

16 (d) PLACEMENT IN THERAPEUTIC CHILDCARE FA-
17 CILITIES.—

18 (1) LIMITATION.—The Director may place an
19 unaccompanied noncitizen child in a therapeutic
20 childcare secure facility only if—

21 (A) the unaccompanied noncitizen child
22 has received a detailed, individualized evalua-
23 tion by a licensed psychologist or psychiatrist
24 who is experienced in the care of children; and

1 (B) the mental health professional con-
2 ducting the evaluation under subparagraph (A)
3 has determined that—

4 (i) the child poses a substantial risk
5 of harm to himself or herself or to others;

6 (ii) such placement is in the best in-
7 terests of the child; and

8 (iii) even with additional accommoda-
9 tions or rehabilitative care, at the time of
10 placement, the child cannot be adequately
11 cared for in a less restrictive setting until
12 the child receives services provided in such
13 a placement.

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

20 (3) APPLICABILITY OF OTHER PROVISIONS.—
21 The procedures relating to transfers, notice, and
22 placement review hearings under this title apply
23 equally to unaccompanied noncitizen children placed
24 in residential treatment centers and other thera-
25 peutic childcare facilities.

1 (4) SERVICES TO BE PROVIDED.—

2 (A) EVALUATION.—

3 (i) IN GENERAL.—An unaccompanied
4 noncitizen child placed in a therapeutic
5 childcare facility shall be evaluated by a li-
6 censed psychologist or psychiatrist who is
7 experienced in the care of children.

8 (ii) REPORT.—The mental health pro-
9 fessional conducting the evaluation under
10 clause (i) for an unaccompanied noncitizen
11 child shall—

12 (I) issue a written report that
13 sets forth—

14 (aa) the reasons for such
15 placement;

16 (bb) treatment goals; and

17 (cc) a plan specific to the
18 child for transition to a less re-
19 strictive setting; and

20 (II) make such report available
21 to the unaccompanied noncitizen child
22 and the child advocate of the child.

23 (B) ACCESS TO COUNSEL.—The operator
24 of a residential treatment center or any other

1 therapeutic childcare facility for unaccompanied
2 noncitizen children shall provide access to—

3 (i) legal services; and

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

6 (e) MONTHLY REVIEW HEARING.—

7 (1) IN GENERAL.—Not less frequently than
8 monthly, each unaccompanied noncitizen child in a
9 restrictive placement shall be afforded a placement
10 review hearing to determine whether continued
11 placement in the restrictive placement is appro-
12 priate.

13 (2) CONDUCT OF HEARINGS.—A hearing under
14 this subsection shall be conducted in accordance
15 with the procedures and standards for placement re-
16 view hearings under subsection (b).

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

25 (4) WRITTEN DECISION.—

1 (A) IN GENERAL.—The fact finder shall
2 issue a written decision continuing or termi-
3 nating the restrictive placement of the unac-
4 companied noncitizen child concerned, which
5 shall be binding on the Office of Refugee Reset-
6 tlement.

7 (B) CONSIDERATION OF BEST INTEREST
8 RECOMMENDATION.—In making a decision on
9 such placement, the fact finder shall consider—

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

14 (ii) the findings contained in the re-
15 port submitted under paragraph (3).

16 (C) ELEMENTS.—A written decision under
17 this paragraph shall—

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

21 (ii) notify the unaccompanied noncit-
22 izen child of—

23 (I) the right to further placement
24 review hearings under this subsection;
25 and

1 (II) the right to seek judicial re-
2 view of the decision.

3 (D) LANGUAGE ACCESS.—The decision
4 shall be made available in a language and in a
5 format the unaccompanied noncitizen child un-
6 derstands.

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

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

14 (B) shall not form any part of, and shall
15 not be relied upon, in any removal proceedings
16 or any adjudication carried out by U.S. Citizen-
17 ship and Immigration Services, including with
18 respect to final decisions and discretionary fac-
19 tors.

20 (f) PLACEMENT OF UNACCOMPANIED NONCITIZEN
21 CHILDREN WITH DISABILITIES IN RESTRICTIVE PLACE-
22 MENTS.—

23 (1) IN GENERAL.—An unaccompanied noncit-
24 izen child who is receiving services under section 504
25 of the Rehabilitation Act of 1973 (29 U.S.C. 794)

1 shall not be placed in a facility that does not have
2 access to such services.

3 (2) NEEDS DETERMINATION.—

4 (A) IN GENERAL.—Before placing such an
5 unaccompanied noncitizen child in a restrictive
6 setting, the Director shall make a determination
7 as to whether the needs of the child can be met
8 in a more integrated setting.

9 (B) ELEMENTS.—A determination under
10 subparagraph (A) shall include—

11 (i) an identification of the relevant
12 trauma-informed, evidence-based services
13 and accommodations that have been identi-
14 fied as potentially relevant;

15 (ii) a description of any such service
16 or accommodation that has been provided
17 and the period of time in which the service
18 or accommodation has been provided;

19 (iii) if any such service or accommo-
20 dation has been ineffective, an assessment
21 of the reason; and

22 (iv) an assessment of whether addi-
23 tional services or accommodations could be
24 provided at the child's current placement.

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

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

10 (B) IDENTIFICATION OF SERVICES AND
11 ACCOMMODATIONS.—

12 (i) IN GENERAL.—For each such unaccompanied
13 noncitizen child, at each placement review hearing under subsection
14 (e), the Director shall explicitly identify
15 services and accommodations that could be
16 made available in a less restrictive placement.
17 ment.

18 (ii) JUSTIFICATION.—A recommendation
19 by the Director against placing such
20 an unaccompanied noncitizen child in a
21 less restrictive placement shall be supported
22 by specific documentation as to the
23 reasons that, even with such accommoda-
24

1 tions, the child cannot be safely placed in
2 a less restrictive placement.

3 (4) INDEPENDENT REVIEW.—

4 (A) IN GENERAL.—In the case of such an
5 unaccompanied noncitizen child whom the Di-
6 rector intends to transfer to a restrictive place-
7 ment, before the child’s placement review hear-
8 ing, the decision to so transfer shall be reviewed
9 by an independent third-party licensed psychol-
10 ogist or psychiatrist who is experienced in the
11 care of children in accordance with a standard-
12 ized process for evaluating the data and pre-
13 sented rationale, including a consideration of
14 accommodations that could avoid the need for
15 restrictive placement.

16 (B) CONTINUED RESTRICTIVE PLACE-
17 MENT.—In the case of such an unaccompanied
18 noncitizen child in a restrictive placement whom
19 the Director does not intend to transfer to a
20 less restrictive placement, before the child’s
21 next placement review hearing, the decision
22 shall be reviewed by an independent third-party
23 licensed psychologist or psychiatrist who is ex-
24 perience in the care of children, in accordance
25 with a standardized process for evaluating the

1 data and presented rationale, including a con-
2 sideration of accommodations that could avoid
3 the need for restrictive placement.

4 (C) REPORT.—Not later than 45 days
5 after conducting a review under this paragraph,
6 the independent third-party mental health pro-
7 fessional shall issue a written report describing
8 the results of the review to the fact finder, the
9 child concerned, the legal counsel and child ad-
10 vocate of such child, and the Director.

11 **SEC. 227. JUDICIAL REVIEW OF PLACEMENT.**

12 (a) IN GENERAL.—An unaccompanied noncitizen
13 child, or the parent, legal guardian, or nonparent family
14 member of the child, with the consent of the child, may
15 seek judicial review in a district court of the United States
16 of—

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

19 (2) a sponsorship determination.

20 (b) VENUE.—Venue for judicial review under sub-
21 section (a) may be found in—

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

1 (2) the district in which the childcare facility to
2 which the unaccompanied noncitizen child was trans-
3 ferred is located.

4 (c) LIMITED REVIEW.—Review under this section
5 shall be limited to entering an order solely affecting the
6 individual claims of the unaccompanied noncitizen child or
7 the parent, legal guardian, or prospective sponsor seeking
8 such review.

9 (d) AGENCY EXERCISE OF DISCRETION REVIEWED
10 DE NOVO.—The exercise of discretion by the Secretary
11 or the Secretary of Homeland Security in making a place-
12 ment decision reviewed under this section shall be reviewed
13 de novo.

14 (e) BOND REDETERMINATION.—An unaccompanied
15 noncitizen child in removal proceedings shall be afforded
16 a bond redetermination hearing before an immigration
17 judge in every case, unless the child indicates on the notice
18 of custody determination form that he or she waives the
19 right to such a hearing.

1 **Subtitle D—Family Reunification**
2 **and Standards Relating to Spon-**
3 **sors**

4 **SEC. 231. FAMILY REUNIFICATION EFFORTS BY OFFICE OF**
5 **REFUGEE RESETTLEMENT.**

6 (a) IN GENERAL.—During the period in which an un-
7 accompanied noncitizen child is in the custody of the Sec-
8 retary, the Director shall—

9 (1) provide individualized, onsite case manage-
10 ment and family reunification services;

11 (2) ensure that—

12 (A) a case manager contacts the child not
13 later than 48 hours after the child is trans-
14 ferred to the custody of the Secretary; and

15 (B) in the case of case manager reassign-
16 ment, the case manager reassigned to the child
17 contacts the child not later than 24 hours after
18 such reassignment;

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

22 (4) work diligently—

23 (A) to review family reunification applica-
24 tions from prospective sponsors; and

1 (B) to assist prospective sponsors in com-
2 pleting such applications and complying with
3 sponsor requirements.

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

8 (1) A parent.

9 (2) A legal guardian.

10 (3) An adult relative.

11 (4) An adult individual, or an entity, designated
12 by the parent or legal guardian of the unaccom-
13 panied noncitizen child as capable and willing to
14 care for the child’s well-being, which designation is
15 supported by—

16 (A) a declaration signed by the parent or
17 legal guardian under penalty of perjury before
18 an immigration or consular officer; or

19 (B) such other document that makes such
20 a designation and establishes the affiant’s par-
21 entage or guardianship.

22 (5) A licensed program willing to accept legal
23 custody of the child.

24 (6) An adult individual or entity seeking cus-
25 tody of the child.

1 (c) TIMELINES FOR REUNIFICATION.—The Director
2 shall use the information collected under, and data re-
3 quirements described in, section 602(b)—

4 (1) to determine the characteristics that exert
5 significant effect on the reunification of unaccom-
6 panied noncitizen children with a sponsor;

7 (2) to establish categories of children who ex-
8 hibit such characteristics, which categories shall dis-
9 tinguish between—

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

12 (ii) children released to other sponsors;
13 and

14 (B)(i) children who have home studies
15 mandated by section 235 of the Trafficking Vic-
16 tims Protection Reauthorization Act of 2008 (8
17 U.S.C. 1232);

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

20 (iii) other children;

21 (3) to establish timelines for reunification ap-
22 propriate to each such category of children;

23 (4) to monitor ongoing reunification efforts for
24 compliance with such timelines; and

1 (5) to identify systematic barriers to release for
2 children in such categories.

3 (d) **SYSTEMATIC BARRIERS TO RELEASE.**—The Di-
4 rector shall eliminate any administrative hindrance identi-
5 fied as a systemic barrier to release under subsection
6 (c)(4).

7 (e) **EXPEDITED REUNIFICATION OF EARLY CHILD-**
8 **HOOD MINORS.**—The Director shall develop procedures to
9 facilitate the expedited reunification of unaccompanied
10 noncitizen children who are early childhood minors with
11 family members seeking to serve as sponsors.

12 (f) **LIMITATION ON REMOTE SERVICES.**—Case man-
13 agement and family reunification services may only be pro-
14 vided remotely for unaccompanied noncitizen children
15 housed in an influx facility or a childcare facility activated
16 for use during an influx.

17 (g) **RECORDKEEPING.**—The Director shall maintain
18 a written record of the efforts made by the Office of Ref-
19 ugee Resettlement to reunify and release each unaccom-
20 panied noncitizen child in the custody of the Secretary.

21 **SEC. 232. STANDARDS RELATING TO SPONSORS.**

22 (a) **PROCEDURES AND PROTECTIONS.**—

23 (1) **IN GENERAL.**—The Director shall not im-
24 pose sponsor requirements (including application
25 deadlines and requests for information or docu-

1 mentation about prospective sponsors, the household
2 members of prospective sponsors, or other individ-
3 uals) that do not have a substantial and direct im-
4 pact on child safety.

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

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

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

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

22 (C) immigration status.

23 (4) LEGAL RIGHTS OF PROSPECTIVE SPON-
24 SORS.—

1 (A) IN GENERAL.—In making decisions
2 about the sponsorship of an unaccompanied
3 noncitizen child, the Director shall—

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

8 (ii) ensure that Office of Refugee Re-
9 settlement processes for ensuring the
10 child's safe release do not interfere with
11 such rights.

12 (B) PARENTS.—A parent shall not be de-
13 nied reunification with their child absent a de-
14 termination supported by clear and convincing
15 evidence that custody of the child by the parent
16 is likely to result in serious emotional or phys-
17 ical damage to the child.

18 (5) ASSESSMENT REQUIRED.—

19 (A) IN GENERAL.—The Director may only
20 release an unaccompanied noncitizen child to an
21 individual or a licensed program for whom a
22 prospective sponsor assessment has been com-
23 pleted, consistent with the requirements of sec-
24 tion 235(c)(3) of the William Wilberforce Traf-

1 ficking Victims Protection Reauthorization Act
2 of 2008 (8 U.S.C. 1232(c)(3)).

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

5 (i) a completed family reunification
6 application; and

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

10 (C) OPPORTUNITY TO ADDRESS CON-
11 CERNS.—A prospective sponsor shall be af-
12 forded the opportunity to address any concern
13 raised during the sponsor assessment process
14 before the prospective sponsor’s application is
15 denied.

16 (D) BACKGROUND CHECKS.—

17 (i) IN GENERAL.—Fingerprint-based
18 checks of national crime information data-
19 bases (as defined in section 534(f)(3) of
20 title 28, United States Code) may be re-
21 quested for prospective sponsors if a public
22 records check of the sponsor reveals safety
23 concerns or there is a documented risk to
24 the safety of the child.

1 (ii) LIMITATION.—The Director shall
2 deny sponsorship for an unaccompanied
3 noncitizen child if the criminal history of a
4 prospective sponsor or a household member
5 of the sponsor includes a conviction—

6 (I) for child abuse or trafficking;

7 or

8 (II) that has a direct and imme-
9 diate impact on the safety of the un-
10 accompanied noncitizen child.

11 (6) SAFEGUARDS.—

12 (A) IN GENERAL.—The Director shall im-
13 plement safeguards to prevent any information
14 obtained in the course of the sponsor assess-
15 ment process from being used for any purpose
16 other than assessing the sponsor’s fitness to
17 care for an unaccompanied noncitizen child.

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

21 (7) ANNUAL EVALUATION.—

22 (A) IN GENERAL.—Not less frequently
23 than annually, the Director shall conduct an
24 evaluation of Office of Refugee Resettlement
25 policies and practices to determine whether

1 such policies and practices create unnecessary
2 barriers to release or result in delays in unac-
3 companied noncitizen children's prompt release
4 to sponsors.

5 (B) SUBMISSION TO OMBUDSPERSON.—

6 The Director shall submit each evaluation con-
7 ducted under subparagraph (A) to the
8 Ombudsperson.

9 (b) SPONSORSHIP DETERMINATION.—

10 (1) IN GENERAL.—Not later than 7 days after
11 the date on which the Director receives a family re-
12 unification application from a prospective sponsor,
13 the Director shall make a determination with respect
14 to whether the unaccompanied noncitizen child con-
15 cerned may be placed with the sponsor.

16 (2) CONSIDERATION OF EFFECT OF DENIAL.—

17 In making a determination under paragraph (1), the
18 Director shall take into consideration the effect a de-
19 nial of the application, and continued immigration
20 custody for the unaccompanied noncitizen child con-
21 cerned, would have on—

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

23 and

24 (B) in the case of a prospective sponsor
25 who is a parent, legal guardian, or a family

1 member of the child, the right of the parent,
2 legal guardian, or family member to the care
3 and custody of the child.

4 (3) SPONSORSHIP HEARING.—

5 (A) IN GENERAL.—The Director shall pro-
6 vide an opportunity for an administrative hear-
7 ing, conducted in accordance with sections 554
8 through 557 of title 5, United States Code, in
9 the case of—

10 (i) a determination that a prospective
11 sponsor is not fit to receive the unaccom-
12 panied noncitizen child concerned; or

13 (ii) failure by the Director to make a
14 determination on a family reunification ap-
15 plication within the timeframe set forth in
16 paragraph (1).

17 (B) NOTICE.—

18 (i) IN GENERAL.—Not later than 24
19 hours after a determination or failure de-
20 scribed in subparagraph (A), the Director
21 shall provide notice of such a hearing to—

22 (I) the unaccompanied noncitizen
23 child;

24 (II) the legal counsel and the
25 child advocate of such child;

1 (III) the prospective sponsor; and
2 (IV) the legal counsel of such
3 prospective sponsor.

4 (ii) ELEMENTS.—The notice required
5 under clause (i) shall include, in a lan-
6 guage the unaccompanied noncitizen child
7 and the prospective sponsor understand,
8 the following:

9 (I) The time, date, and location
10 of the hearing.

11 (II) Notice with respect to the
12 availability of transportation to the
13 hearing for the child and the prospec-
14 tive sponsor under subparagraph
15 (E)(i).

16 (III) In the case of a determina-
17 tion that the prospective sponsor is
18 unfit—

19 (aa) the justification for
20 such determination; and

21 (bb) a description of any
22 supporting evidence and informa-
23 tion.

1 (IV) In the case of a failure to
2 make a timely determination, a jus-
3 tification for such failure.

4 (V) Notification that the unac-
5 companied noncitizen child and pro-
6 spective sponsor may submit addi-
7 tional evidence, including witness tes-
8 timony, in support of the family re-
9 unification application at or before the
10 hearing.

11 (C) LIMITATION ON OFFICE OF REFUGEE
12 RESETTLEMENT EVIDENCE.—In a hearing
13 under this paragraph, the Director may only
14 submit evidence and information that is de-
15 scribed on the notice provided under subpara-
16 graph (B).

17 (D) TIMING OF HEARING.—

18 (i) IN GENERAL.—Except as provided
19 in clause (ii), a hearing under this para-
20 graph shall occur not less than 7 days and
21 not more than 14 days after the date on
22 which notice under subparagraph (B) is
23 provided.

24 (ii) REQUEST FOR ADDITIONAL
25 TIME.—Such a hearing may occur on a

1 date that is more than 14 days after the
2 date such notice is provided if the prospec-
3 tive sponsor requests additional time.

4 (E) PRESENCE AT HEARING.—

5 (i) TRANSPORTATION.—On request by
6 the unaccompanied noncitizen child or the
7 prospective sponsor, the Director shall fa-
8 cilitate the transportation of the child and
9 the prospective sponsor to a centralized lo-
10 cation for the hearing.

11 (ii) WAIVER OF CHILD'S PRESENCE.—

12 With the assistance of counsel, an unac-
13 companied noncitizen child may waive the
14 child's presence at a hearing under this
15 paragraph.

16 (iii) VIRTUAL HEARING.—An unac-

17 companied noncitizen child may request a
18 virtual hearing under this paragraph and
19 waive the right to an in-person hearing.

20 (F) PROCEDURAL MATTERS.—

21 (i) NEUTRAL FACT FINDER.—A hear-
22 ing under this paragraph shall be presided
23 over by a neutral fact finder who—

24 (I) is not an employee of the Of-
25 fice of Refugee Resettlement; and

1 (II) has expertise in child wel-
2 fare.

3 (ii) CHILD AND SPONSOR RIGHTS.—At
4 a hearing under this paragraph, an unac-
5 companied noncitizen child and the child's
6 prospective sponsor shall have—

7 (I) the right to counsel; and

8 (II) the right and opportunity to
9 confront, inspect, and rebut the evi-
10 dence alleged to justify a determina-
11 tion by the Director that the prospec-
12 tive sponsor is unfit.

13 (iii) INTERPRETATION SERVICES.—An
14 interpreter in the preferred language of the
15 unaccompanied noncitizen child and the
16 prospective sponsor shall be made available
17 for a hearing under this paragraph.

18 (iv) BURDENS OF PRODUCTION AND
19 PROOF.—The Director shall have the bur-
20 den of production and the burden of proof,
21 by clear and convincing evidence, to estab-
22 lish that—

23 (I) placement with the prospec-
24 tive sponsor is likely to result in seri-

1 ous emotional or physical damage to
2 the child; and

3 (II) continued Office of Refugee
4 Resettlement custody is the least re-
5 strictive setting that is in the best in-
6 terests of the child.

7 (v) RECORD OF PROCEEDINGS.—The
8 record of proceedings for a hearing under
9 this paragraph, and all related documenta-
10 tion—

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

15 (II) shall not form any part of,
16 and shall not be relied upon, in any
17 removal proceedings or any adjudica-
18 tion carried out by U.S. Citizenship
19 and Immigration Services, including
20 with respect to final decisions and dis-
21 cretionary factors.

22 (G) WRITTEN DECISION.—

23 (i) IN GENERAL.—Not later than 2
24 business days after the date of a hearing

1 under this paragraph, the fact finder
2 shall—

3 (I) issue a written decision order-
4 ing the release of the unaccompanied
5 noncitizen child to the prospective
6 sponsor or denying such release,
7 which shall be binding on the Office of
8 Refugee Resettlement; and

9 (II) provide the written decision
10 to—

11 (aa) the child and the pro-
12 spective sponsor; and

13 (bb) the legal counsel and
14 the child advocate of the child
15 and the legal counsel of the pro-
16 spective sponsor, as applicable.

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

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

23 (II) notify the child and prospec-
24 tive sponsor of their right to seek re-
25 view of the decision by the

1 Ombudsperson under subparagraph
2 (H).

3 (iii) LANGUAGE ACCESS.—The deci-
4 sion shall be made available in a language
5 and in a format the unaccompanied noncit-
6 izen child and the prospective sponsor un-
7 derstand.

8 (H) REVIEW BY OMBUDSPERSON.—

9 (i) IN GENERAL.—On request by an
10 unaccompanied noncitizen child, the legal
11 counsel or prospective sponsor of such
12 child, or the legal counsel of such prospec-
13 tive sponsor, the Ombudsperson shall carry
14 out a review of a decision under subpara-
15 graph (G), which shall be completed not
16 later than 15 days after the date on which
17 the request for review is made.

18 (ii) RECOMMENDATION.—

19 (I) IN GENERAL.—In carrying
20 out a review under this subparagraph,
21 the Ombudsperson may make a rec-
22 ommendation on the placement or
23 sponsorship of the unaccompanied
24 noncitizen child concerned.

1 (II) FINDING OF ERRONEOUS DE-
2 CISION.—

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

10 (bb) WRITTEN STATE-
11 MENT.—

12 (AA) IN GENERAL.—If
13 the Director declines to fol-
14 low the recommendation of
15 the Ombudsperson, the Di-
16 rector shall provide a de-
17 tailed written justification to
18 the child, the prospective
19 sponsor, the legal counsel
20 and the child advocate of the
21 child, and the legal counsel
22 of the prospective sponsor,
23 as applicable.

24 (BB) NONDELEGA-
25 TION.—The Director may

1 not delegate the requirement
2 to issue such a written
3 statement to any other indi-
4 vidual.

5 (I) JUDICIAL REVIEW.—An unaccompanied
6 noncitizen child or nonparent family member of
7 the child, with the consent of the child, may ob-
8 tain judicial review of a decision under subpara-
9 graph (G) in a district court of the United
10 States.

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

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

21 (a) IN GENERAL.—The Director may not delay the
22 release of an unaccompanied noncitizen child based solely
23 on a pending evaluation for services under section 504 of
24 the Rehabilitation Act of 1973 (29 U.S.C. 794).

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

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

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

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

21 (d) REVIEW.—

22 (1) IN GENERAL.—With respect to a determina-
23 tion by the Director not to release an unaccom-
24 panied noncitizen child receiving services under such
25 section based on an assessment that the child is a

1 danger to himself or herself or to others, a review
2 of such determination shall be carried out by an
3 independent third-party licensed psychologist or psy-
4 chiatrist who is experienced in the care of children
5 before the date on which the sponsorship hearing
6 under section 232(b)(3) occurs.

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

9 (A) be carried out using a standardized
10 method for evaluating the data and shall in-
11 clude the rationale for denying release; and

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

16 (3) AVAILABILITY.—Such a review shall be
17 made in writing and made available to the unaccom-
18 panied noncitizen child and the child’s legal counsel
19 before the date on which a sponsorship hearing
20 under section 232(b)(3) occurs.

21 (e) OFFICE OF REFUGEE RESETTLEMENT SUPPORT
22 FOR SPONSORS.—With respect to children with disabilities
23 released from the custody of the Secretary, the Director
24 shall support and assist sponsors in accessing and coordi-
25 nating post-release community-based services and support

1 or technology, to the extent such services and support are
2 available.

3 (f) ALTERNATIVE PLACEMENT.—If a sponsor is not
4 identified for an unaccompanied noncitizen child who re-
5 ceives services under section 504 of the Rehabilitation Act
6 of 1973 (29 U.S.C. 794), the Director shall make every
7 effort to place the child in therapeutic foster care, foster
8 care, or the Unaccompanied Refugee Minor program.

9 **Subtitle E—Release**

10 **SEC. 241. PROCEDURES FOR RELEASE.**

11 (a) IN GENERAL.—The Secretary shall release an un-
12 accompanied noncitizen child from the custody of the Sec-
13 retary—

14 (1) without unnecessary delay; and

15 (2) as quickly as may be safely accomplished.

16 (b) PROVISION OF RECORDS ON RELEASE.—On re-
17 lease from the custody of the Secretary, including in cir-
18 cumstances of repatriation, the Director shall provide un-
19 accompanied noncitizen children and their sponsors, as ap-
20 plicable, the unaccompanied noncitizen child's complete
21 Office of Refugee Resettlement case file and records, in-
22 cluding—

23 (1) documentation that details the child's med-
24 ical and educational status, progress, and any re-
25 lated evaluations;

1 (2) information relating to any special needs of
2 the child; and

3 (3) any other information relevant to promoting
4 the child's well-being after release.

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

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

14 (e) PROHIBITION ON SECRETARY TAKING CHILD
15 BACK INTO CUSTODY.—

16 (1) IN GENERAL.—After the release of an unac-
17 companied noncitizen child from the custody of the
18 Secretary to a sponsor, the Secretary may not take
19 the child back into custody.

20 (2) REPORTING TO STATE CHILD WELFARE
21 AGENCY.—With respect to a child released from
22 such custody, if the Director becomes aware of a
23 concern related to suspected abuse or neglect in a
24 sponsor's care, the Director may report such con-
25 cerns to the applicable State child welfare agency.

1 **SEC. 242. POST-RELEASE SERVICES.**

2 (a) **REQUIRED IN LIMITED CIRCUMSTANCES.—**

3 (1) **IN GENERAL.—**The Director may not uni-
4 formly require post-release services to be in place be-
5 fore releasing an unaccompanied noncitizen child to
6 a sponsor.

7 (2) **CASE MANAGEMENT SPECIALIST DETER-**
8 **MINATION.—**The Director may only require post-re-
9 lease services to be in place before releasing an un-
10 accompanied noncitizen child to a sponsor if, after
11 conducting an individualized assessment of the par-
12 ticular needs of the child, the case management spe-
13 cialist makes a determination that the child would
14 be at risk of imminent physical or emotional harm
15 if post-release services were not in place before such
16 release.

17 (b) **EXPANSION.—**The Director shall provide post-re-
18 lease services, on a voluntary basis, to unaccompanied
19 noncitizen children, including by—

20 (1) conducting outreach campaigns by naviga-
21 tors in communities to ensure that children, spon-
22 sors, and families understand the post-release serv-
23 ices offered;

24 (2) providing active assistance with school en-
25 rollment;

1 (3) supporting sponsors in obtaining necessary
2 medical records, including vaccination and medica-
3 tion records, from the period during which the unac-
4 companied noncitizen children were in the custody of
5 the Secretary;

6 (4) stating that all unaccompanied children re-
7 leased into United States communities are deemed
8 to be “lawfully residing” for purposes of determining
9 eligibility for medical assistance under Medicaid or
10 child health assistance and pregnancy-related assist-
11 ance under the Children’s Health Insurance Pro-
12 gram (CHIP) in States that have elected to cover
13 “lawfully residing” pregnant individuals and chil-
14 dren under sections 1903(v)(4) and 2107(e)(1)(O)
15 of the Social Security Act (42 U.S.C. 1396b(v)(4),
16 1397gg(e)(1)(O)), as added by section 214 of the
17 Children’s Health Insurance Program Reauthoriza-
18 tion Act of 2009 (commonly referred to as the
19 “CHIPRA 214 option”);

20 (5) ensuring access to family reunification and
21 medical support services, including support and
22 trauma-informed counseling for the family and men-
23 tal health counseling, through direct provision of
24 such services or through partnerships and referrals
25 to services in the community; and

1 (6) ensuring that sponsors of children with spe-
2 cial medical needs receive Office of Refugee Resettle-
3 ment support in accessing appropriate medical care.

4 **SEC. 243. INDIVIDUALS ATTAINING 18 YEARS OF AGE.**

5 (a) PRESUMPTION OF RELEASE ON RECOG-
6 NIZANCE.—

7 (1) IN GENERAL.—If an individual in the cus-
8 tody of the Secretary of Health and Human Services
9 is not released to a sponsor before the individual at-
10 tains the age of 18 years, there shall be a presump-
11 tion that the individual shall be released on an order
12 of recognizance.

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

19 (3) ALTERNATIVES TO DETENTION.—

20 (A) IN GENERAL.—In the case of an indi-
21 vidual aging out of the custody of the Secretary
22 who is not eligible to be released on an order
23 of recognizance, the individual shall be eligible
24 to participate in noncustodial alternatives to de-
25 tention programs provided by the Department

1 of Health and Human Services, including place-
2 ment with an individual, an organizational
3 sponsor, or a supervised group home with sup-
4 portive services to facilitate access to edu-
5 cational and occupational opportunities.

6 (B) PLACEMENT PREFERENCES.—The cat-
7 egories of placements available to an individual
8 described in subparagraph (A) shall be the fol-
9 lowing, in order of preference:

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

12 (ii) An independent living program.

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

15 (4) CONTINUATION OF SERVICES.—The Direc-
16 tor shall ensure that an individual released on an
17 order of recognizance under this subsection is pro-
18 vided with—

19 (A) continued access to counseling, case
20 management, legal counsel, and other support
21 services during the pendency of the individual's
22 immigration proceedings; and

23 (B) information on applying for special im-
24 migrant juvenile status under section
25 101(a)(27)(J) of the Immigration and Nation-

1 ality Act (8 U.S.C. 1101(a)(27)(J)), and re-
2 sources to assist the individual with applying
3 for such status.

4 (b) POST-18 PLAN FOR INDIVIDUALS AGING OUT OF
5 CUSTODY.—

6 (1) IN GENERAL.—The Director shall develop a
7 post-18 plan for each unaccompanied noncitizen
8 child entering Office of Refugee Resettlement cus-
9 tody who—

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

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

14 (2) ELEMENTS.—Each plan under paragraph
15 (1) shall include the following:

16 (A) An investigation into organizational
17 sponsors and social support services.

18 (B) Coordination with the Secretary of
19 Homeland Security to ensure the release of the
20 unaccompanied noncitizen child on his or her
21 own recognizance if release to an organizational
22 or individual sponsor is not successful.

23 (c) POST-18 PROGRAM.—With respect to an indi-
24 vidual in the custody of the Secretary who attains 18 years
25 of age before reunification, placement with a sponsor, or

1 adjudication with respect to immigration status, the Di-
2 rector may extend Office of Refugee Resettlement custody
3 for a period ending not later than the date on which the
4 individual attains 21 years of age, if the individual—

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

7 (B) has an identified sponsor;

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

10 (D) otherwise does not have reunification op-
11 tions but has not yet been adjudicated with respect
12 to immigration status by a local court in the applica-
13 ble jurisdiction; and

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

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

22 (B) the individual is adjudicated with re-
23 spect to immigration status in a local court in
24 the applicable jurisdiction, receives relief from

1 removal, and enters an applicable program for
2 unaccompanied refugee minors.

3 (d) CONSIDERATION RELATING TO U.S. IMMIGRA-
4 TION AND CUSTOMS ENFORCEMENT CUSTODY.—In con-
5 sidering a sponsorship application for an unaccompanied
6 noncitizen child who may attain 18 years of age in the
7 custody of the Secretary, the Director shall consider the
8 potential for, and impact of, trauma and the risk to the
9 safety and well-being of the child if the child were to be
10 transferred to the custody of U.S. Immigration and Cus-
11 toms Enforcement on attaining such age.

12 (e) PROHIBITION ON DETENTION AND REMOVAL.—
13 An individual who was in the custody of the Secretary as
14 an unaccompanied noncitizen child shall not be appre-
15 hended, arrested, transferred, or taken into the custody
16 of U.S. Immigration and Customs Enforcement, or re-
17 moved from the United States, based solely on having at-
18 tained 18 years of age.

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

1 **SEC. 244. CUSTODY REVIEW BY OMBUDSPERSON.**

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

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

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

15 (2) provide the Ombudsperson a complete copy
16 of the Office of Refugee Resettlement case file and
17 a detailed explanation for such continued custody.

18 **TITLE III—EMERGENCIES AND**
19 **INFLUXES**

20 **SEC. 301. SENSE OF CONGRESS.**

21 It is the sense of Congress that before opening or ex-
22 panding an influx facility, the Secretary and the Director
23 should explore all other avenues for placing an unaccom-
24 panied noncitizen child in the least restrictive, State-li-
25 censed setting that most approximates a family and in
26 which the special needs of the child, if any, may be met

1 consistent with the best interests and special needs of the
2 child.

3 **SEC. 302. DEFINITIONS.**

4 In this title:

5 (1) **EMERGENCY.**—The term “emergency”
6 means an event of limited duration, such as a nat-
7 ural disaster, facility fire, civil disturbance, or med-
8 ical concern.

9 (2) **OPERATIONAL CAPACITY.**—The term “oper-
10 ational capacity” means the net bed capacity of Of-
11 fice of Refugee Resettlement facilities and other
12 housing operated by State-licensed programs for un-
13 accompanied noncitizen children.

14 **SEC. 303. PLACEMENT.**

15 (a) **IN GENERAL.**—In the event of an emergency or
16 influx that prevents the prompt placement of unaccom-
17 panied noncitizen children in childcare facilities, the Direc-
18 tor—

19 (1) shall make every effort—

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

23 (B) to release unaccompanied noncitizen
24 children from other programs as expeditiously
25 as possible; and

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

4 (b) TRANSFER TO LICENSED FACILITY.—

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

11 (2) EXCEPTION.—The Director may not trans-
 12 fer a child under paragraph (1) if the transfer would
 13 prolong the child’s total length of custody by more
 14 than 48 hours.

15 (c) LIMITATION ON TRANSFER TO INFLUX FACIL-
 16 ITY.—The Director may not transfer to an influx facility
 17 any unaccompanied noncitizen child—

18 (1) for whom—

19 (A) a prospective sponsor has not been
 20 identified; or

21 (B) such transfer would delay release by
 22 more than 48 hours; or

23 (2) who—

24 (A) has been identified by the Director
 25 as—

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

4 (ii) not having any identified prospec-
5 tive sponsor;

6 (B) is younger than 16 years of age;

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

10 (D) speaks a language other than English
11 or Spanish as his or her primary language;

12 (E) has special needs;

13 (F) is currently prescribed psychotropic
14 medication;

15 (G) is pregnant or parenting;

16 (H) will attain 18 years of age on a date
17 that is not more than 30 days after the pro-
18 posed date of transfer to the influx facility;

19 (I) is scheduled to be released on a date
20 that is not more than 3 days after the proposed
21 date of the transfer;

22 (J) has a pending home study;

23 (K) has not received a legal orientation
24 presentation or a legal screening;

1 (L) has a date scheduled for a hearing be-
2 fore an immigration court or a State court, in-
3 cluding family and juvenile court;

4 (M) has a pending application for relief
5 from removal;

6 (N) has legal counsel; or

7 (O) has a child advocate.

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

10 (1) unaccompanied noncitizen children with sib-
11 lings or other relatives under the age of 18 in the
12 custody of the Secretary are not separated from
13 each other; and

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

16 **SEC. 304. PLANNING FOR EMERGENCIES AND INFLUXES.**

17 (a) PLAN REQUIRED.—Not later than 180 days after
18 the date of the enactment of this Act, the Director shall
19 develop a plan for—

20 (1) maintaining and expanding emergency ca-
21 pacity in licensed foster care homes and small con-
22 gregate care facilities for housing unaccompanied
23 noncitizen children so as to eliminate the need for
24 influx facilities; and

1 (2) in the case of an emergency or influx, plac-
2 ing unaccompanied noncitizen children with sponsors
3 as expeditiously as possible.

4 (b) SUPPLEMENTAL PLACEMENT LIST.—

5 (1) IN GENERAL.—The Director shall develop
6 and maintain a supplemental placement list of facili-
7 ties that have, in the aggregate, not fewer than 200
8 beds available to accept unaccompanied noncitizen
9 children in the case of an emergency or influx, which
10 shall be in addition to the number of beds available
11 for placements under normal circumstances.

12 (2) LICENSING AND COMPLIANCE.—Any facility
13 on the supplemental placement list shall be—

14 (A) licensed in the State in which it is lo-
15 cated; and

16 (B) in compliance with all standards and
17 procedures applicable to State-licensed pro-
18 grams under this Act.

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

21 (A) The name of the facility.

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

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

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

6 (E) A description of any special service
7 available.

8 (4) APPROPRIATE COMMUNITY SERVICES.—To
9 the extent practicable, the Director shall attempt to
10 include on the supplemental placement list facilities
11 located in geographic areas in which culturally and
12 linguistically appropriate community services are
13 available.

14 (5) HIGH CAPACITY AT CHILDCARE FACILI-
15 TIES.—If the operational capacity of all childcare fa-
16 cilities and foster care placements reaches or exceeds
17 75 percent for a period of 3 consecutive days, the
18 Director shall contact the facilities on the supple-
19 mental placement list to determine the number of
20 available supplemental placements.

21 (c) NEED FOR SUPPLEMENTAL PLACEMENTS EX-
22 CEEING CAPACITY.—If the number of unaccompanied
23 noncitizen children in need of placement in the case of
24 an emergency or influx exceeds the available appropriate

1 placements on the supplemental placement list, the Direc-
2 tor shall—

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

6 (2) expedite the reunification and release of un-
7 accompanied noncitizen children from U.S. Customs
8 and Border Protection custody.

9 **SEC. 305. INFLUX FACILITY STANDARDS AND STAFFING.**

10 (a) OPERATION OF INFLUX FACILITIES.—In the
11 event that the operation of an influx facility cannot be
12 avoided, the Director may operate an influx facility in ac-
13 cordance with this section.

14 (b) STANDARDS.—

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

20 (2) FIRST DAY OF OPERATION.—On the first
21 day of operation, an influx facility shall be in compli-
22 ance with—

23 (A) the staffing ratio requirements, case
24 management requirements, telephone call ac-
25 cess, legal services access, education and recre-

1 ation requirements, and medical and mental
2 health services requirements that apply to
3 childcare facilities; and

4 (B) the facility standards under the Prison
5 Rape Elimination Act of 2003 (34 U.S.C.
6 30301 et seq.).

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

12 (c) CONTRACTOR STANDARDS.—The Director may
13 not enter into a contract with any entity to operate an
14 influx facility, unless the entity has each of the following:

15 (1) Demonstrated experience in providing serv-
16 ices for unaccompanied noncitizen children or chil-
17 dren in foster care.

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

20 (3) A plan for—

21 (A) identifying, and immediately notifying
22 the Director with respect to, any child believed
23 to have been erroneously transferred to, or in
24 care at, the influx facility contrary to the limi-

1 tations set forth in paragraphs (1) and (2) of
2 section 303(c); and

3 (B) not later than 10 days after identi-
4 fying such a child, transferring the child to an
5 appropriate placement.

6 (4) An emergency plan that includes protection
7 against transmission of COVID–19 and other infec-
8 tious diseases, including a plan—

9 (A) to provide regular testing for any ap-
10 plicable disease;

11 (B) to comply with service standards for
12 quarantine with respect to any such disease
13 that mirror the services and guidance for chil-
14 dren and congregate care settings recommended
15 by the Centers for Disease Control and Preven-
16 tion; and

17 (C) to ensure access to immunizations for
18 unaccompanied noncitizen children in the influx
19 facility, in accordance with any applicable guid-
20 ance of the Centers for Disease Control and
21 Prevention.

22 (5) Emergency response protocols for place-
23 ment, care, and transfer of children, which reduce
24 the amount of time a child is in an emergency influx
25 facility.

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

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

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

11 (9) A written code of conduct that is—

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

14 (B) contains clear boundaries for working
15 with and around children.

16 (10) Written ethical standards that are—

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

19 (B) based on accepted child welfare prin-
20 ciples and best practices.

21 (11) A written security plan to protect against
22 unauthorized access to the influx facility and other
23 potential threats.

24 (12) Data systems that meet the data and qual-
25 ity standards described in section 602 for tracking

1 children through intake, case management, transpor-
2 tation, and placement.

3 (d) WAIVER.—

4 (1) IN GENERAL.—In the case of an influx fa-
5 cility, the Director may waive compliance with a
6 standard or procedure under title II for a period of
7 not more than 30 days.

8 (2) NOTICE TO CONGRESS.—If the Director
9 waives compliance with the requirement that an in-
10 flux facility shall be licensed by the State in which
11 it is located, the Director shall provide to Congress
12 notice of such waiver, which shall include—

13 (A) a justification for the waiver; and

14 (B)(i) a plan for the influx facility to ob-
15 tain such licensing; or

16 (ii) in the case of an influx facility that will
17 be unable to obtain such licensing—

18 (I) an explanation of the reason
19 that—

20 (aa) licensing is not possible; and

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

24 (e) REPORTING MECHANISMS.—The Director shall
25 establish clear procedures—

1 (1) for unaccompanied noncitizen children at
2 influx facilities to directly and confidentially report
3 incidents of abuse or neglect at influx facilities to
4 the Ombudsperson, consulates, and State authori-
5 ties; and

6 (2) to allow State child protective services im-
7 mediate access to any influx facility to investigate
8 any such report.

9 (f) STAFFING.—

10 (1) BACKGROUND CHECKS.—

11 (A) IN GENERAL.—The Director shall en-
12 sure that a Federal Bureau of Investigation
13 background check, and in any applicable State
14 a child abuse or neglect check, has been con-
15 ducted for each influx facility staff member who
16 will have direct contact with unaccompanied
17 noncitizen children.

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

23 (C) PROHIBITION.—The Director shall en-
24 sure than an entity with which the Director has
25 contracted to operate an influx facility does not

1 hire as staff of the influx facility any individual
2 who has—

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

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

10 (D) SUBMITTAL OF EVIDENCE.—Not later
11 than the date on which an influx facility com-
12 mences operation, the operator of the influx fa-
13 cility shall submit to the Director and the
14 Ombudsperson evidence that background checks
15 in accordance with this paragraph—

16 (i) have been completed for the rel-
17 evant facility staff; and

18 (ii) will be completed for all new hires
19 going forward.

20 (2) FLUENCY IN SPANISH.—Each staff member
21 of an influx facility who will have contact with unac-
22 companied noncitizen children shall—

23 (A) be fluent in Spanish and English; and

24 (B) have experience in the care of children.

1 (3) PEDIATRIC HEALTH SPECIALISTS.—An in-
2 flux facility shall have onsite pediatric health special-
3 ists, including a pediatrician, licensed psychologist,
4 or psychiatrist who is experienced in the care of chil-
5 dren.

6 (4) RATIOS.—Not later than 15 days after the
7 date on which an influx facility commences oper-
8 ation, the Director shall ensure that the influx facil-
9 ity maintains staffing ratios as follows:

10 (A) During waking hours, not less than 1
11 on-duty youth care worker for every 8 unaccom-
12 panied noncitizen children.

13 (B) During sleeping hours, not less than 1
14 on-duty youth care worker for every 16 unac-
15 companied noncitizen children.

16 **SEC. 306. MONITORING AND OVERSIGHT.**

17 (a) SITE VISITS.—

18 (1) DIRECTOR.—

19 (A) IN GENERAL.—Not less frequently
20 than monthly during the period in which an in-
21 flux facility is in operation, the Director shall
22 conduct a comprehensive onsite monitoring
23 visit.

24 (B) ELEMENTS.—Each site visit conducted
25 under subparagraph (A) shall include—

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

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

5 (II) the facility standards under
6 the Prison Rape Elimination Act of
7 2003 (34 U.S.C. 30301 et seq.);

8 (ii) an assessment of the delivery of,
9 and unaccompanied noncitizen children's
10 access to, health care and mental health
11 care services;

12 (iii) an assessment of unaccompanied
13 noncitizen children's access to counsel and
14 legal services; and

15 (iv) private, confidential interviews
16 with unaccompanied noncitizen children
17 housed in the influx facility.

18 (2) INSPECTOR GENERAL.—The Inspector Gen-
19 eral of the Department of Health and Human Serv-
20 ices may conduct unscheduled visits to any influx fa-
21 cility, during which the Inspector General may meet
22 confidentially with any unaccompanied noncitizen
23 child housed in the influx facility.

24 (3) OMBUDSPERSON.—Not less frequently than
25 monthly during the period in which an influx facility

1 is in operation, the Ombudsperson shall conduct a
 2 comprehensive onsite visit to monitor for compliance
 3 with applicable Federal and State law (including
 4 regulations), including—

5 (A) the Flores settlement agreement;

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

9 (C) this Act.

10 (b) TOURS BY APPROVED STAKEHOLDERS.—Not less
 11 frequently than monthly during the period in which an in-
 12 flux facility is in operation, the Director shall allow ap-
 13 proved stakeholders, including representatives from non-
 14 profit organizations serving or advocating on behalf of un-
 15 accompanied noncitizen children, to tour the influx facil-
 16 ity.

17 **TITLE IV—LEGAL REPRESENTA-**
 18 **TION FOR UNACCOMPANIED**
 19 **NONCITIZEN CHILDREN**

20 **SEC. 401. LEGAL ORIENTATION PRESENTATIONS AND**
 21 **LEGAL SCREENINGS.**

22 (a) IN GENERAL.—Not later than 10 days after
 23 transfer to the custody of the Secretary, an unaccom-
 24 panied noncitizen child shall receive a free legal orienta-
 25 tion presentation and legal screening conducted by a legal

1 services provider, which shall include information relating
2 to—

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

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

6 (3) the right to a hearing before an immigra-
7 tion judge.

8 (b) PRIORITIZATION BEFORE RELEASE.—

9 (1) IN GENERAL.—The Director shall make af-
10 firmative, thorough, and timely efforts to ensure
11 that each unaccompanied noncitizen child receives a
12 presentation and screening described in subsection
13 (a) before release, and in the case of any unaccom-
14 panied noncitizen child who does not receive such
15 presentation and screening before release, the Direc-
16 tor shall ensure that the child receives the presen-
17 tation and screening on release.

18 (2) RULE OF CONSTRUCTION.—Nothing in this
19 section may be construed to prohibit the release of
20 an unaccompanied noncitizen child to a sponsor
21 based solely on not having received such a presen-
22 tation and screening.

23 **SEC. 402. LEGAL REPRESENTATION.**

24 (a) IN GENERAL.—Each unaccompanied noncitizen
25 child in the custody of the Secretary of Health and

1 Human Services shall be represented by counsel appointed
2 or provided by the Secretary, at Government expense, un-
3 less the child has obtained, at his or her own expense,
4 counsel authorized to practice in immigration proceedings.

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

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

9 (2) extend through every stage of removal pro-
10 ceedings, from the child’s initial appearance through
11 the termination of immigration proceedings; and

12 (3) include any ancillary matter appropriate to
13 such proceedings (including, to the extent prac-
14 ticable and as appropriate, an application for em-
15 ployment authorization), even if the child attains 18
16 years of age or is reunified with a parent or legal
17 guardian while the proceedings are pending.

18 (c) PRIVATE, CONFIDENTIAL MEETING SPACE.—The
19 Director shall ensure that unaccompanied noncitizen chil-
20 dren are provided access to a private, confidential space
21 to meet with legal services providers and a private, con-
22 fidential telephone line to contact their legal counsel or
23 legal services providers at the expense of the government.

24 (d) CONTACT WITH LEGAL COUNSEL.—An unaccom-
25 panied noncitizen child shall be permitted to call or meet

1 with his or her legal counsel or legal services provider at
2 any time.

3 (e) AUTHORIZATION OF APPROPRIATIONS.—

4 (1) IN GENERAL.—There are authorized to be
5 appropriated such sums as may be necessary to
6 carry out this section.

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

10 (f) SCOPE OF REPRESENTATION.—Government-ap-
11 pointed counsel appointed or provided by the Secretary
12 under this section may provide to an unaccompanied non-
13 citizen child the full scope of representation, including rep-
14 resentation in—

15 (1) any matter relevant to the child's well-
16 being, including conditions of detention and matters
17 relating to medical and mental health services and
18 medication;

19 (2) placement review hearings;

20 (3) sponsorship hearings; and

21 (4) any other matter relating to immigration.

22 (g) COOPERATION OF OFFICE OF REFUGEE RESET-
23 TLEMENT REQUIRED.—

24 (1) IN GENERAL.—The Director shall ensure
25 that the legal counsel of an unaccompanied noncit-

1 izen child has access to prompt, reasonable, and reg-
 2 ular direct communication with case managers, case
 3 coordinators, and Federal field specialists overseeing
 4 the child's placement, release, family reunification,
 5 transfer, and medical and mental health services.

6 (2) REQUESTS BY COUNSEL FOR INFORMA-
 7 TION.—On request by the legal counsel or the inde-
 8 pendent legal services provider of an unaccompanied
 9 noncitizen child, the Director shall provide, not later
 10 than 7 days after the date on which the request is
 11 made, the following:

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

15 (B) A copy of the complete Office of Ref-
 16 ugee Resettlement case file and records of the
 17 unaccompanied noncitizen child concerned.

18 **TITLE V—APPOINTMENT OF**
 19 **CHILD ADVOCATES AND IM-**
 20 **PROVEMENTS TO IMMIGRA-**
 21 **TION COURTS**

22 **SEC. 501. APPOINTMENT OF CHILD ADVOCATES.**

23 (a) IN GENERAL.—The Secretary shall appoint inde-
 24 pendent child advocates to unaccompanied noncitizen chil-
 25 dren, including—

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

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

5 (b) EXPANSION OF CHILD ADVOCATE SERVICES.—

6 (1) IN GENERAL.—The Secretary shall increase
7 funding for child advocate services to facilitate the
8 expansion, by not later than the date that is 180
9 days after the date of the enactment of this Act, of
10 the provision of such services to all locations at
11 which—

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

14 (B) unaccompanied noncitizen children ap-
15 pear before immigration courts for removal pro-
16 ceedings.

17 (2) PRIORITIZATION.—In expanding services
18 under this subsection, the Secretary shall prioritize
19 locations that have the highest numbers of unaccom-
20 panied noncitizen children in the custody of the Sec-
21 retary and unaccompanied noncitizen children ap-
22 pearing before immigration courts.

23 (3) ACCESS TO RECORDS.—

24 (A) IN GENERAL.—A child advocate ap-
25 pointed under this section shall have timely ac-

1 cess to all materials necessary to effectively ad-
2 vocate for the best interests of the unaccom-
3 panied noncitizen child concerned, including the
4 child's complete Office of Refugee Resettlement
5 case file and records.

6 (B) REQUEST.—On request by such a
7 child advocate, the Director shall provide a
8 complete copy of an unaccompanied noncitizen
9 child's Office of Refugee Resettlement case file
10 and records not later than 72 hours after the
11 request is made.

12 (4) BEST INTEREST RECOMMENDATIONS.—A
13 child advocate appointed under this section shall
14 submit a best interest recommendation based on law,
15 policy, medical or behavioral health, and relevant so-
16 cial science research to any Federal or State agency
17 making a decision with respect to the best interests
18 of an unaccompanied noncitizen child, including—

19 (A) the Department of Health and Human
20 Services;

21 (B) the Department of Justice;

22 (C) the Department of Homeland Security;

23 and

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

1 (5) CONFIDENTIALITY.—All communications
2 between child advocates appointed under this section
3 and unaccompanied noncitizen children shall be con-
4 fidential, and such a child advocate may not be com-
5 pelled to testify or provide evidence, in any pro-
6 ceeding, with respect to any information or opinion
7 conveyed to the child advocate by an unaccompanied
8 noncitizen child in the course of serving as child ad-
9 vocate.

10 (6) LEGAL SUPPORT.—The Secretary shall en-
11 sure that each location at which child advocate serv-
12 ices are provided under this section is staffed with
13 1 or more attorneys who have expertise in immigra-
14 tion law and child welfare law.

15 (7) AUTHORIZATION OF APPROPRIATIONS.—
16 There are authorized to be appropriated such sums
17 as may be necessary to carry out this subsection.

18 **SEC. 502. IMMIGRATION COURT IMPROVEMENTS.**

19 (a) HIRING OF IMMIGRATION JUDGES.—

20 (1) IN GENERAL.—To adjudicate pending cases
21 and efficiently process future cases, the Attorney
22 General shall increase the total number of immigra-
23 tion judges by not fewer than 75 judges during fis-
24 cal year 2025.

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

4 (A) is highly qualified;

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

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

10 (3) NO PREFERENCE FOR CANDIDATES WITH
11 PRIOR SERVICE IN THE FEDERAL GOVERNMENT.—In
12 selecting immigration judges under this subsection,
13 the Attorney General may not assign any preference
14 to a candidate who has prior service in the Federal
15 Government over a candidate who has equivalent
16 subject matter expertise based on experience in a
17 nonprofit organization, private practice, or aca-
18 demia, but does not have previous Federal service.

19 (b) IMMIGRATION COURT STAFF.—During fiscal year
20 2025, the Attorney General shall—

21 (1) increase the total number of judicial law
22 clerks at the Executive Office for Immigration Re-
23 view by 75; and

1 (2) increase the total number of support staff
2 for immigration judges, including legal assistants
3 and interpreters, by 300.

4 (c) SUPPORT STAFF; OTHER RESOURCES.—The At-
5 torney General shall ensure that the Executive Office for
6 Immigration Review has sufficient support staff, adequate
7 technological and security resources, and appropriate fa-
8 cilities to conduct the immigration proceedings required
9 under Federal law.

10 (d) LIMITATION.—Amounts appropriated for the Ex-
11 ecutive Office for Immigration Review or for any other di-
12 vision, activity, or function of the Department of Justice
13 may not be used to implement numeric case load judicial
14 performance standards or other standards that could neg-
15 atively impact the fair administration of justice by the im-
16 migration courts.

17 (e) DOCKET MANAGEMENT FOR RESOURCE CON-
18 SERVATION.—Notwithstanding any opposition from the
19 Secretary of Homeland Security or the Attorney General,
20 immigration judges shall administratively close or termi-
21 nate cases, and the Board of Immigration Appeals shall
22 remand cases for administrative closure, if an individual
23 in removal proceedings—

24 (1) appears to be prima facie eligible for a visa
25 or any other immigration benefit; and

1 (2) has a pending application for such benefit
2 before U.S. Citizenship and Immigration Services or
3 any other applicable Federal agency.

4 (f) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated such sums as may be
6 necessary to carry out this section.

7 **TITLE VI—OVERSIGHT, MONI-**
8 **TORING, AND ENFORCEMENT**

9 **SEC. 601. OFFICE OF THE OMBUDSPERSON FOR UNACCOM-**
10 **PANIED NONCITIZEN CHILDREN IN IMMIGRA-**
11 **TION CUSTODY.**

12 (a) ESTABLISHMENT.—There is established within
13 the Department of Health and Human Services an Office
14 of the Ombudsperson for Unaccompanied Noncitizen Chil-
15 dren (referred to in this section as the “Office”) to mon-
16 itor and oversee compliance with this Act and the amend-
17 ments made by this Act.

18 (b) INDEPENDENCE.—The Office shall be an impar-
19 tial, confidential resource that is fully independent of—

20 (1) the Office of Refugee Resettlement; and

21 (2) the Department of Homeland Security.

22 (c) OMBUDSPERSON.—

23 (1) IN GENERAL.—The Office shall be headed
24 by an Ombudsperson, who shall be appointed by,
25 and report directly to, the Secretary.

1 (2) RECOMMENDATIONS FROM STAKE-
2 HOLDERS.—Before making an appointment under
3 paragraph (1), the Secretary shall solicit and con-
4 sider candidate recommendations from organizations
5 that provide legal services to, and advocate on behalf
6 of, immigrant children.

7 (3) LIMITATION ON CERTAIN FORMER EMPLOY-
8 EES.—The Secretary may not appoint as
9 Ombudsperson any individual who, during the 2-year
10 period preceding the date of appointment, was an
11 employee of the Office of Refugee Resettlement or
12 the Department of Homeland Security.

13 (4) TERM.—

14 (A) IN GENERAL.—Subject to subpara-
15 graph (C), the term of an Ombudsperson ap-
16 pointed under this subsection shall be not more
17 than 4 years.

18 (B) CONSECUTIVE TERMS.—An
19 Ombudsperson may be appointed for consecu-
20 tive terms.

21 (C) EXPIRATION.—The term of an
22 Ombudsperson shall not expire before the date
23 on which the Ombudsperson's successor is ap-
24 pointed.

1 (5) REMOVAL FOR CAUSE.—The Secretary may
2 only remove or suspend an Ombudsperson for ne-
3 glect of duty or gross misconduct.

4 (6) DUTIES AND AUTHORITIES.—

5 (A) REGIONAL OFFICES.—

6 (i) ESTABLISHMENT.—The
7 Ombudsperson shall establish not fewer
8 than 7 regional offices of the Office—

9 (I) to strengthen State oversight;

10 (II) to investigate complaints;

11 (III) to coordinate with State li-
12 censing entities; and

13 (IV) to identify and address dif-
14 ferences among State child protection
15 laws.

16 (ii) LOCATIONS.—

17 (I) IN GENERAL.—The regional
18 offices required under clause (i) shall
19 be established in the following loca-
20 tions:

21 (aa) 1 regional office in
22 Texas.

23 (bb) 1 regional office in Ari-
24 zona.

1 (cc) 1 regional office in Cali-
2 fornia or a State in the North-
3 west.

4 (dd) 1 regional office in a
5 State in the Midwest.

6 (ee) 1 regional office in a
7 State in the Mid-Atlantic.

8 (ff) 1 regional office in a
9 State in the Northeast.

10 (gg) 1 regional office in a
11 State in the Southeast.

12 (II) ADDITIONAL LOCATIONS.—

13 The Ombudsperson may make a rec-
14 ommendation to the Secretary with
15 respect to the location of any addi-
16 tional regional office.

17 (iii) APPOINTMENT OF DEPUTIES.—

18 The Ombudsperson shall appoint a full-
19 time deputy for each regional office, who
20 shall serve at the Ombudsperson's discre-
21 tion.

22 (iv) APPLICABILITY OF OTHER PROVI-

23 SIONS.—The regional offices established
24 under this subparagraph shall have the
25 same access to facilities and records, main-

1 tain the same rights, roles, and responsibil-
2 ities, and be subject to the same confiden-
3 tiality requirements as the Office.

4 (B) HIRING.—

5 (i) IN GENERAL.—The Ombudsperson
6 shall hire to carry out the functions of the
7 Office necessary personnel, including cler-
8 ical personnel, who shall serve at the dis-
9 cretion of the Ombudsperson.

10 (ii) SUBJECT MATTER EXPERTS.—The
11 personnel hired under clause (i) shall in-
12 clude relevant subject matter experts, in-
13 cluding—

14 (I) legal advocates or specialists
15 in the fields of child and family wel-
16 fare, immigration, and human rights;

17 (II) pediatricians;

18 (III) child and adolescent psychi-
19 atrists and psychologists;

20 (IV) social workers;

21 (V) data analysts with demon-
22 strable expertise in child welfare or
23 immigration; and

1 (VI) youth or young adults with
2 experience as noncitizen children in
3 immigration custody.

4 (C) MONITORING.—

5 (i) IN GENERAL.—The Ombudsperson
6 shall monitor, including by making site vis-
7 its, for compliance with all applicable law
8 and standards relating to noncitizen chil-
9 dren in immigration custody.

10 (ii) INFLUX FACILITIES.—The
11 Ombudsperson shall conduct site visits of
12 influx facilities, as described in section
13 306.

14 (D) INVESTIGATIONS.—

15 (i) IN GENERAL.—The
16 Ombudsperson—

17 (I) may conduct any investigation
18 relating to noncitizen children in im-
19 migration custody the Ombudsperson
20 considers necessary; and

21 (II) shall investigate—

22 (aa) claims of abuse, ne-
23 glect, or mistreatment of noncit-
24 izen children by the Government

1 or any other entity while in im-
2 migration custody; and

3 (bb) complaints made
4 against foster care providers, in-
5 cluding in the case of such a pro-
6 vider that is subject to State
7 oversight.

8 (ii) TIMELINE.—The Ombudsperson
9 shall commence an investigation under
10 clause (i)(II) not later than 30 days after
11 the date on which a claim or complaint de-
12 scribed in that clause is received.

13 (iii) REPORTING OF STATE LICENSING
14 VIOLATIONS.—If in the course of an inves-
15 tigation under clause (i)(II)(bb) the
16 Ombudsperson discovers a State licensing
17 violation, the Ombudsperson shall report
18 the violation to the child welfare licensing
19 agency of the applicable State.

20 (iv) PROCEDURES.—The
21 Ombudsperson shall establish a procedure
22 for conducting investigations, receiving and
23 processing complaints, and reporting find-
24 ings.

25 (v) NOTIFICATION.—

1 (I) COMMENCEMENT OF INVESTIGATION.—If the Ombudsperson de-
2 TIGATION.—If the Ombudsperson de-
3 cides to commence an investigation
4 based on a complaint received, not
5 later than 45 days after the date on
6 which the investigation commences,
7 the Ombudsperson shall so notify the
8 complainant.

9 (II) DECISION NOT TO INVESTIGATE OR TO DISCONTINUE INVESTIGATION.—If the Ombudsperson de-
10 TIGATION.—If the Ombudsperson de-
11 cides not to investigate a complaint or
12 to discontinue an investigation com-
13 menced under this subparagraph, not
14 later than 45 days after the date on
15 which such an action is taken, the
16 Ombudsperson shall notify the com-
17 plainant and provide a reason for
18 such action.

19 (III) PROGRESS AND RESULTS.—
20 The Ombudsperson shall provide a
21 complainant with updates on the
22 progress of an investigation and shall
23 notify the complainant of the results
24 of the investigation.
25

1 (vi) CONFIDENTIALITY.—

2 (I) IN GENERAL.—All informa-
3 tion obtained by the Ombudsperson
4 from a complaint shall be confidential
5 under applicable Federal and State
6 confidentiality law, regardless of
7 whether the Ombudsperson—

8 (aa) investigates the com-
9 plaint;

10 (bb) refers the complaint to
11 any other entity for investigation;
12 or

13 (cc) determines that the
14 complaint is not a proper subject
15 for an investigation.

16 (II) DISCLOSURE.—Disclosure of
17 any such information may only occur
18 as necessary to carry out the mission
19 of the Office and as permitted by law.

20 (E) REPORTING MECHANISMS.—

21 (i) IN GENERAL.—The Ombudsperson
22 shall establish and maintain—

23 (I) a public toll-free telephone
24 number to receive complaints and re-
25 ports of matters for investigation; and

1 (II) a public email address to re-
2 ceive complaints, such reports, and re-
3 quests for review of placement and
4 sponsorship decisions.

5 (ii) AVAILABILITY.—

6 (I) IN GENERAL.—The
7 Ombudsperson shall ensure that such
8 telephone number and email ad-
9 dress—

10 (aa) are made available, and
11 a telephone is accessible, to all
12 children in immigration custody;
13 and

14 (bb) are made available to
15 prospective sponsors, sponsors,
16 Flores settlement agreement
17 class counsel, and legal services
18 providers and child advocates
19 who serve such noncitizen chil-
20 dren.

21 (II) SPONSORSHIP APPLICA-
22 TIONS.—The Director shall provide
23 such telephone number and email ad-
24 dress to the prospective sponsor of
25 each unaccompanied noncitizen child.

1 (iii) LANGUAGE ACCESS.—

2 (I) IN GENERAL.—Such tele-
3 phone number and email address shall
4 be posted in public areas of each facil-
5 ity or placement in which 1 or more
6 children in immigration custody are
7 held, in multiple languages, including
8 the top 20 preferred languages.

9 (II) ADDITIONAL LANGUAGES.—

10 The Ombudsperson may require that
11 such contact information be made
12 available and posted in any additional
13 language the Ombudsperson considers
14 necessary based on the demographics
15 of arriving noncitizen children.

16 (F) HEARINGS.—The Ombudsperson may
17 hold public hearings as the Ombudsperson con-
18 siders necessary.

19 (G) INDIVIDUAL CASE ASSISTANCE AND
20 REVIEW.—

21 (i) IN GENERAL.—The Ombudsperson
22 may offer individual case assistance for
23 noncitizen children in immigration custody.

24 (ii) COMMUNICATION WITH OTH-
25 ERS.—In providing such individual case as-

1 sistance, the Ombudsperson may speak
2 with a noncitizen child’s prospective spon-
3 sor, family members, child advocate, legal
4 counsel, case manager, case coordinator,
5 and Office of Refugee Resettlement Fed-
6 eral field specialist staffing the noncitizen
7 child’s case, as applicable.

8 (H) STAKEHOLDER MEETINGS.—

9 (i) COMMUNITY STAKEHOLDERS.—

10 Not less frequently than quarterly, the
11 Ombudsperson shall invite community
12 stakeholders, including attorneys who rep-
13 resent noncitizen children in immigration
14 custody, to participate in a meeting.

15 (ii) DATA TRACKING PERSONNEL.—

16 Not less frequently than quarterly, the
17 Ombudsperson shall invite personnel of the
18 Department of Homeland Security and the
19 Department of Health and Human Serv-
20 ices who manage the data tracking systems
21 described in section 602 to participate in a
22 meeting for the purpose of informing the
23 Ombudsperson with respect to the efficacy
24 and responsiveness of the system with em-
25 pirical data, analysis, and data needs.

1 (iii) ADDITIONAL MEETINGS.—The
2 Ombudsperson may convene additional
3 meetings at any time, as the
4 Ombudsperson considers necessary.

5 (I) REPORTING.—

6 (i) ANNUAL PUBLIC REPORT.—

7 (I) IN GENERAL.—Not less fre-
8 quently than annually, the
9 Ombudsperson shall issue a public re-
10 port on the implementation of and
11 compliance with this Act and the
12 amendments made by this Act, by the
13 Secretary and the Secretary of Home-
14 land Security.

15 (II) ELEMENTS.—Each report
16 under subclause (I) shall include the
17 following:

18 (aa) For the preceding fiscal
19 year, the accomplishments and
20 challenges relating to such imple-
21 mentation and compliance.

22 (bb) A summary of com-
23 plaints made and investigations
24 carried out during the preceding
25 fiscal year, including—

1 (AA) the number of
2 complaints and number and
3 nature of other contacts;

4 (BB) the number of
5 complaints made, including
6 the type and source;

7 (CC) the number of in-
8 vestigations carried out;

9 (DD) the trends and
10 issues that arose in the
11 course of investigating com-
12 plaints; and

13 (EE) the number of
14 pending complaints.

15 (cc) For the preceding fiscal
16 year, a summary of—

17 (AA) each site visit
18 conducted;

19 (BB) any interview
20 with a noncitizen child or fa-
21 cility staff;

22 (CC) facility audits and
23 corrective actions taken or
24 recommended;

1 (DD) appeals made to
2 the Ombudsperson; and

3 (EE) any other infor-
4 mation the Ombudsperson
5 considers relevant.

6 (dd) A detailed analysis of
7 the data collected under section
8 602.

9 (ee) Recommendations—

10 (AA) for improving im-
11 plementation and compliance
12 with this Act and the
13 amendments made by this
14 Act; and

15 (BB) as to whether the
16 Director should renew or
17 cancel contracts with par-
18 ticular Office of Refugee Re-
19 settlement grantees.

20 (ff) A description of the pri-
21 orities for the subsequent fiscal
22 year.

23 (ii) REPORT ON TRAINING MATE-
24 RIALS.—The Ombudsperson shall issue a
25 public report on the training materials de-

1 developed by the Director under section
2 203(d)(4) that includes a description of
3 any concerns the Ombudsperson has with
4 respect to the materials.

5 (iii) ADDITIONAL REPORTS.—The
6 Ombudsperson may issue additional re-
7 ports at any time, including data analyses
8 and findings, as the Ombudsperson con-
9 siders necessary.

10 (J) INFORMATION GATHERING.—

11 (i) IN GENERAL.—The Ombudsperson
12 may submit to the Director, the Director
13 of U.S. Immigration and Customs Enforce-
14 ment, and the juvenile coordinators of U.S.
15 Customs and Border Protection requests
16 for information with respect to the imple-
17 mentation of this Act.

18 (ii) RESPONSE REQUIRED.—Not later
19 than 30 days after the date on which a ju-
20 venile coordinator receives a request for in-
21 formation under clause (i), the juvenile co-
22 ordinator shall submit a detailed response
23 to the Ombudsperson, the Director, the Di-
24 rector of U.S. Immigration and Customs

1 Enforcement, and the Commissioner of
2 U.S. Customs and Border Protection.

3 (iii) COOPERATION REQUIRED.—The
4 Secretary and the Secretary of Homeland
5 Security shall—

6 (I) cooperate with any request
7 for information by the Ombudsperson;
8 and

9 (II) report to the Ombudsperson
10 any policy or instruction issued to em-
11 ployees regarding the implementation
12 of this Act.

13 (K) SUBPOENA AUTHORITY.—

14 (i) IN GENERAL.—The Ombudsperson
15 may—

16 (I) issue a subpoena to require
17 the production of all information, re-
18 ports, and other documentary evidence
19 necessary to carry out the duties of
20 the Ombudsperson; and

21 (II) compel by subpoena, at a
22 specified time and place—

23 (aa) the appearance and
24 sworn testimony of an individual
25 who the Ombudsperson reason-

1 ably believes may be able to pro-
2 vide information relating to a
3 matter under investigation; and

4 (bb) the production by an
5 individual of a record of an ob-
6 ject that the Ombudsperson rea-
7 sonably believes may relate to a
8 matter under investigation.

9 (ii) EFFECT OF FAILURE TO COM-
10 PLY.—In the case of an individual who
11 fails to comply with a subpoena issued
12 under this subparagraph, the
13 Ombudsperson may commence a civil ac-
14 tion in an appropriate court.

15 (L) ADDITIONAL DUTIES.—The
16 Ombudsperson shall—

17 (i) develop notices of rights, as de-
18 scribed in sections 105(d)(5) and 202;

19 (ii) review training materials, as de-
20 scribed in section 203(d)(4);

21 (iii) conduct reviews of decisions in
22 placement review hearings, as described in
23 section 226(b)(6);

1 (iv) conduct reviews of decisions in
2 sponsorship hearings, as described in sec-
3 tion 232(b)(3)(H);

4 (v) regularly review data collected
5 under section 602; and

6 (vi) track and monitor processing
7 times and length of custody for noncitizen
8 children in immigration custody.

9 (d) ACCESS.—

10 (1) FACILITIES.—

11 (A) IN GENERAL.—The Secretary and the
12 Secretary of Homeland Security shall ensure
13 unobstructed access by the Ombudsperson to
14 any facility at which a noncitizen child is de-
15 tained.

16 (B) INFORMATION COLLECTION FOR SITE
17 VISITS.—For each site visit conducted by the
18 Ombudsperson, facility staff shall provide a list
19 of the unaccompanied noncitizen children
20 housed in the facility, including their names,
21 alien registration numbers, dates of birth, dates
22 of apprehension, and the dates of facility place-
23 ment—

1 (i) in the case of an announced site
2 visit, not less than 48 hours before the ar-
3 rival of the Ombudsperson; and

4 (ii) in the case of an unannounced site
5 visit, on the arrival of the Ombudsperson.

6 (C) PRIVATE AND CONFIDENTIAL
7 SPACE.—A facility shall provide a private and
8 confidential space in which the Ombudsperson
9 may interview unaccompanied noncitizen chil-
10 dren and staff.

11 (D) DELEGATION.—The Ombudsperson
12 may designate 1 or more individuals from out-
13 side the Ombudsperson’s office to conduct site
14 visits and interview detained children.

15 (2) INFORMATION.—On request by the
16 Ombudsperson, the Secretary shall ensure, not later
17 than 48 hours after receipt of the request, unob-
18 structed access by the Ombudsperson to—

19 (A) the case files, records, reports, audits,
20 documents, papers, recommendations, or any
21 other pertinent information relating to the care
22 and custody of a noncitizen child; and

23 (B) the written policies and procedures of
24 all childcare facilities.

1 (3) DEFINITION OF UNOBSTRUCTED ACCESS.—

2 In this subsection, the term “unobstructed access”
3 means—

4 (A) with respect to a facility, the ability—

5 (i) to enter the facility at any time,
6 including unannounced, to observe and in-
7 spect all areas of the facility;

8 (ii) to communicate privately and
9 without restriction with any child, care-
10 giver, facility staff, or volunteer; and

11 (iii) to obtain, review, and reproduce
12 any—

13 (I) record of a child, staff mem-
14 ber, or caregiver;

15 (II) administrative record, policy,
16 or document of any facility;

17 (III) licensing record maintained
18 by the applicable Federal or State
19 agency; or

20 (IV) record, including a confiden-
21 tial record, of a Federal or State
22 agency or any contractor of a Federal
23 or State agency, except sealed court
24 records, production of which may only
25 be compelled by subpoena; and

1 (B) with respect to information, the ability
2 to obtain requested information in a timely
3 manner and with the full cooperation of the
4 Secretary or the Secretary of Homeland Secu-
5 rity, as applicable.

6 (e) CONFIDENTIALITY.—

7 (1) IDENTITY OF COMPLAINANTS AND WIT-
8 NESSES.—The Ombudsperson shall maintain con-
9 fidentiality with respect to the identities of complain-
10 ants or witnesses coming before the Office, except if
11 such a disclosure is necessary—

12 (A) to carry out the duties of the
13 Ombudsperson; and

14 (B) to support recommendations made in
15 individual cases, annual reports, or other re-
16 ports.

17 (2) RECORDS.—In accordance with relevant
18 Federal and State law, the Ombudsperson may not
19 disclose a confidential record.

20 (3) TESTIMONY AND DEPOSITION.—The
21 Ombudsperson and employees of the Office may not
22 testify or be deposed in a judicial or administrative
23 proceeding regarding matters that have come to
24 their attention in the exercise of their official duties,
25 except as the Ombudsperson considers necessary to

1 enforce this Act or the amendments made by this
2 Act.

3 (4) SUBPOENA AND DISCOVERY.—The records
4 of the Office, including notes, drafts, and records ob-
5 tained from an individual, a provider, or an agency
6 during intake, review, or investigation of a com-
7 plaint, and any reports not released to the public are
8 not subject to disclosure or production in response
9 to a subpoena or discovery in a judicial or adminis-
10 trative proceeding, except as the Ombudsperson con-
11 siders necessary to enforce this Act or the amend-
12 ments made by this Act.

13 (f) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated such sums as are nec-
15 essary to carry out this section.

16 **SEC. 602. DATA COLLECTION AND REPORTING.**

17 (a) DEPARTMENT OF HOMELAND SECURITY.—

18 (1) IN GENERAL.—The Secretary of Homeland
19 Security shall collect and maintain a record of each
20 noncitizen child held in the custody of the Secretary
21 of Homeland Security.

22 (2) FREQUENCY AND SUBMISSION OF DATA
23 COLLECTED.—

1 (A) IN GENERAL.—Not less frequently
2 than weekly, the Secretary of Homeland Secu-
3 rity shall—

4 (i) collect the information described in
5 paragraph (3) from each district office and
6 Border Patrol station; and

7 (ii) submit such data to—

8 (I) the Ombudsperson; and

9 (II) the Committee on the Judici-
10 ary and the Committee on Appropria-
11 tions of the Senate and the Com-
12 mittee on the Judiciary and the Com-
13 mittee on Appropriations of the House
14 of Representatives.

15 (3) INFORMATION DESCRIBED.—The informa-
16 tion described in this paragraph is the following:

17 (A) INDIVIDUAL DATA.—For each noncit-
18 izen child in the custody of the Secretary of
19 Homeland Security, the following:

20 (i) Biographical information, including
21 full name, date of birth, country of citizen-
22 ship, preferred language, and alien num-
23 ber.

24 (ii) The date the child was appre-
25 hended and placed in such custody.

1 (iii) The date and the time the child
2 was released or transferred from such cus-
3 tody and to whom the child was so released
4 or transferred.

5 (iv) For each accompanying family
6 member of the child or other adult the
7 child identifies as a previous caregiver, bio-
8 graphical and contact information.

9 (v) An indication as to whether the
10 child arrived in the company of a family
11 member other than a parent or legal
12 guardian, and in the case of a separation
13 from that family member, a justification
14 for the separation.

15 (B) AGGREGATED DATA.—

16 (i) The number of children in the cus-
17 tody of the Secretary of Homeland Secu-
18 rity as of the last day of each calendar
19 month, calculated to include all such chil-
20 dren, disaggregated by—

21 (I) facility; and

22 (II) Border Patrol sector.

23 (ii) The largest number of children
24 concurrently held in such custody, cal-
25 culated to include all such children, and

1 the 1 or more dates on which such largest
2 number occurred, disaggregated by—

3 (I) facility; and

4 (II) Border Patrol sector.

5 (iii) The median and average number
6 of hours in such custody for each such
7 child, calculated to include all such chil-
8 dren, disaggregated by—

9 (I) facility; and

10 (II) Border Patrol sector.

11 (4) PUBLICATION.—Not less frequently than
12 monthly, the Secretary of Homeland Security shall
13 publish on a publicly accessible internet website of
14 the Department of Homeland Security the following:

15 (A) The figures for the data collected
16 under paragraph (3)(B)(i).

17 (B) For the preceding calendar month, the
18 figures for the data collected under clauses (ii)
19 and (iii) of paragraph (3)(B).

20 (b) OFFICE OF REFUGEE RESETTLEMENT.—

21 (1) IN GENERAL.—To support the data collec-
22 tion and monitoring duties of the Ombudsperson and
23 to facilitate public monitoring, the Director shall—

24 (A) develop a systemic data collection sys-
25 tem to collect and maintain relevant demo-

1 graphic information that is pertinent to serv-
2 ing—

3 (i) the population of unaccompanied
4 noncitizen children in the custody of the
5 Secretary of Health and Human Services;
6 and

7 (ii) children who have been released
8 from such custody with services pending;

9 (B) not less than every 3 years, review the
10 data collected, the categorization of such data,
11 the information architecture for organizing and
12 analyzing such data, any safety concern relating
13 to the collection of such data, and the method
14 for obtaining or collecting such data under such
15 system;

16 (C)(i) as appropriate, revise such system to
17 make improvements in service delivery to unac-
18 companied noncitizen children; and

19 (ii) if such system is so revised, ensure the
20 continuity of comparative data from periods be-
21 fore and after the revision; and

22 (D) ensure the ongoing functioning and
23 use of such system by the Office of Refugee Re-
24 settlement.

1 (2) FREQUENCY OF DATA COLLECTED.—Not
2 less frequently than weekly, the Director shall—

3 (A) collect from each childcare facility the
4 information described in paragraph (3); and

5 (B) maintain such information in the sys-
6 tem described in paragraph (1)(A).

7 (3) INFORMATION DESCRIBED.—The informa-
8 tion described in this paragraph is the following:

9 (A) INDIVIDUAL DATA.—For each unac-
10 companied noncitizen child in the custody of the
11 Secretary of Homeland Security—

12 (i) biographical information, including
13 full name, date of birth, country of citizen-
14 ship, preferred language, and alien num-
15 ber;

16 (ii) the date the child was appre-
17 hended and placed in such custody of the
18 Secretary of Homeland Security;

19 (iii) the date the child was placed in
20 the custody of the Secretary of Health and
21 Human Services;

22 (iv) the date on which the child was
23 placed in a childcare facility, or transferred
24 between childcare facilities, as applicable,

1 and the name and location of each
2 childcare facility;

3 (v) in the case of a child placed in a
4 residential treatment center, therapeutic
5 childcare facility, staff-secure facility, or
6 out-of-network facility, a justification for
7 such placement;

8 (vi) the status of the child's family re-
9 unification process, including—

10 (I) a record of the 1 or more case
11 managers who have worked on the
12 child's case, including a description of
13 the work performed;

14 (II) in the case of a child who is
15 released or discharged from the cus-
16 tody of the Secretary of Health and
17 Human Services—

18 (aa) the date of release or
19 discharge;

20 (bb) the name of the indi-
21 vidual to whom the child was re-
22 leased, as applicable; and

23 (cc) the reason for release or
24 discharge; and

1 (III) in the case of a child re-
2 moved from the United States, the
3 date of removal and the country to
4 which he or she was removed, regard-
5 less of whether a child was removed
6 directly from the custody of the Sec-
7 retary of Health and Human Services;
8 and

9 (vii) the number of occasions on which
10 the operator of a childcare facility or an
11 influx facility contacted law enforcement
12 with respect to the child, as applicable, and
13 the justification for each such contact.

14 (B) FACILITY DATA.—For each childcare
15 facility or influx facility funded by the Depart-
16 ment of Health and Human Services—

17 (i) the median length of stay for unac-
18 companied noncitizen children placed at
19 the facility;

20 (ii) for children who have been re-
21 leased to sponsors, the median amount of
22 time spent by such children in the custody
23 of the Secretary of Health and Human
24 Services before release;

1 (iii) the utilization rate of the facility
 2 (excluding funded but unplaceable beds
 3 and calculated as the number of filled beds
 4 divided by the number of beds available for
 5 placement, expressed as a percentage);

6 (iv) the percentage of unaccompanied
 7 noncitizen children transferred from the
 8 facility to any other facility, calculated on
 9 a rolling basis; and

10 (v) the number and type of child
 11 abuse or neglect allegations against facility
 12 staff or against other children in the facil-
 13 ity, and the number of such allegations
 14 substantiated.

15 (C) NATIONAL CAPACITY DATA.—

16 (i) IN GENERAL.—For all childcare
 17 facilities and influx facilities, in the aggre-
 18 gate—

19 (I) the number of pending beds;
 20 and

21 (II) the number of delivered
 22 beds, disaggregated by—

23 (aa) beds occupied by unac-
 24 companied noncitizen children;

1 (bb) unoccupied beds avail-
2 able for potential use by unac-
3 companied noncitizen children;
4 and

5 (cc) unavailable beds that
6 are funded but cannot receive
7 children.

8 (ii) DEFINITIONS.—In this subpara-
9 graph:

10 (I) DELIVERED BED.—The term
11 “delivered bed” means a bed delivered
12 to the Department of Health and
13 Human Services for use by an unac-
14 companied noncitizen child.

15 (II) PENDING BED.—The term
16 “pending bed” means a bed—

17 (aa) to be provided to the
18 Department of Health and
19 Human Services for use by an
20 unaccompanied noncitizen child
21 that is funded by a grant, cooper-
22 ative agreement, contract, or any
23 other means; but

24 (bb) that is not yet a deliv-
25 ered bed.

1 (D) FAMILY REUNIFICATION DATA.—For
2 all unaccompanied noncitizen children in the
3 custody of the Secretary of Health and Human
4 Services—

5 (i) the median time-to-release,
6 disaggregated by—

7 (I) children released to parents
8 or legal guardians;

9 (II) children released to other
10 sponsors;

11 (III) children who have home
12 studies mandated by section 235 of
13 the Trafficking Victims Protection
14 Reauthorization Act of 2008 (8
15 U.S.C. 1232);

16 (IV) children granted home stud-
17 ies through the discretion of the Di-
18 rector; and

19 (V) all other children; and

20 (ii) the number of children who have
21 been in such custody for more than 90
22 days, disaggregated by—

23 (I) children placed in therapeutic
24 foster care;

1 (II) children placed in long-term
2 foster care; and

3 (III) children in placements that
4 are not therapeutic foster care or
5 long-term foster care.

6 (E) COMPREHENSIVE NATIONAL DATA.—

7 (i) The number and characteristics of
8 children placed in and exiting the custody
9 of the Secretary of Health and Human
10 Services.

11 (ii) The status of the unaccompanied
12 noncitizen child population, including the
13 number of such children in such custody,
14 age cohorts of such children, length of
15 placements, types of placements, location
16 in-network or out-of-network, and goals for
17 reunification by sponsor or placement type.

18 (iii) The number and percentage of
19 unaccompanied noncitizen children des-
20 ignated for and receiving any of the fol-
21 lowing:

22 (I) Mandatory home studies.

23 (II) Discretionary home studies.

24 (III) Post-release services.

1 (iv) The number and percentage of
2 unaccompanied noncitizen children held in
3 a facility funded by the Office of Refugee
4 Resettlement with more than 25 other un-
5 accompanied noncitizen children.

6 (v) The number and percentage of un-
7 accompanied noncitizen children with spe-
8 cial needs or disabilities (as defined in sec-
9 tion 3 of the Americans with Disabilities
10 Act of 1990 (42 U.S.C. 12102)).

11 (vi) For each type of childcare facility
12 and each influx facility—

13 (I) the average national case
14 manager-to-child ratio; and

15 (II) the national utilization rate
16 (excluding funded but unplaceable
17 beds and calculated as the number of
18 filled beds divided by the number of
19 beds available for placement, ex-
20 pressed as a percentage).

21 (vii) The number of such facilities al-
22 leged and found to be out of compliance
23 with the facility standards under the Pris-
24 on Rape Elimination Act of 2003 (34
25 U.S.C. 30301 et seq.).

1 (viii) The number and types of viola-
2 tions for sexual abuse and exploitation al-
3 leged and resolved with respect to unac-
4 companied noncitizen children while in the
5 custody of the Secretary of Health and
6 Human Services, counted and categorized
7 in accordance with the Prison Rape Elimini-
8 nation Act of 2003 (34 U.S.C. 30301 et
9 seq.).

10 (ix) The rate of compliance with sub-
11 paragraphs (A) and (B) of section
12 231(a)(2).

13 (F) FURTHER POPULATION AND GENERAL
14 CHARACTERISTICS DATA.—

15 (i) IN GENERAL.—

16 (I) The general status and char-
17 acteristics of the population of unac-
18 companied noncitizen children and
19 their family members.

20 (II) The general quality and
21 speed of the placement process, and
22 information on post-placement out-
23 comes.

1 (III) Barriers to release for such
2 children, including relevant cross-tab-
3 ulations with other collected data.

4 (IV) An identification of children
5 who are vulnerable to or victims of
6 human trafficking.

7 (V) The general status and char-
8 acteristics of facilities funded by the
9 Office of Refugee Resettlement for the
10 purpose of the care of unaccompanied
11 noncitizen children.

12 (VI) The rate of increase or de-
13 crease in childcare facility usage, such
14 that cross-facility comparisons are
15 useful or systemwide seasonal vari-
16 ations may be anticipated.

17 (VII) Aggregate measures that
18 allow comparison between facilities by
19 size, placement type, and any other
20 appropriate factor of number and type
21 of child abuse or neglect allegations
22 against staff or against other children.

23 (ii) COLLECTION STANDARDS.—The
24 Director shall develop and implement

1 standards for the collection of the informa-
2 tion described in clause (i).

3 (4) SUBMISSION OF DATA AND INFORMATION.—

4 Not less frequently than weekly, the Director shall
5 submit, in a manner that corresponds with publica-
6 tion under paragraph (6), the information described
7 in paragraph (3) for the preceding week to—

8 (A) the Ombudsperson; and

9 (B) the Committee on the Judiciary and
10 the Committee on Appropriations of the Senate
11 and the Committee on the Judiciary and the
12 Committee on Appropriations of the House of
13 Representatives.

14 (5) ADDITIONAL REQUIREMENTS.—

15 (A) RELIABILITY AND CONSISTENCY OF
16 DATA COLLECTION SYSTEM.—The data collec-
17 tion system developed and implemented under
18 paragraph (1) shall—

19 (i) ensure that—

20 (I) data collected is reliable and
21 consistent over time and among juris-
22 dictions through the use of uniform
23 definitions and methodologies; and

1 (II) publicly available data re-
2 mains reliable and consistent over
3 time, unless—

4 (aa) the removal of data
5 from the public domain protects
6 individuals or groups of individ-
7 uals from harm or potential
8 harm; or

9 (bb) a modification to a defi-
10 nition or methodology is nec-
11 essary to allow the Office of Ref-
12 ugee Resettlement to serve unac-
13 companied noncitizen children
14 better, individually or as a group;
15 and

16 (ii) for the information described in
17 paragraph (3)(F), include metadata with
18 respect to whether, and in what form, such
19 information may be made available to the
20 public, with the presumption that informa-
21 tion shall be made available to the public—

22 (I) in the least restricted form
23 that protects individual privacy; and

1 (II) on the same internet website
2 used for publication under paragraph
3 (6).

4 (B) INCENTIVES.—The Director shall use
5 appropriate requirements and incentives to en-
6 sure that the data collection system developed
7 and implemented under paragraph (1) functions
8 reliably throughout the United States.

9 (6) PUBLICATION.—

10 (A) MONTHLY REPORT.—

11 (i) IN GENERAL.—Not less frequently
12 than monthly, the Director shall publish on
13 a publicly accessible internet website of the
14 Office of Refugee Resettlement the fol-
15 lowing:

16 (I) As of the last day of the pre-
17 ceding calendar month, the figures for
18 the data collected under subpara-
19 graphs (C), (D)(ii), and (E)(ii) of
20 paragraph (3).

21 (II) For each calendar month,
22 the figures for the data collected
23 under subparagraphs (D)(i), (E)(i),
24 (E)(v), and (E)(vi) of paragraph (3).

1 (III) If an influx facility, an
2 emergency facility, or any other unli-
3 censed facility is in operation to house
4 noncitizen children, the figures for the
5 data collected under paragraph
6 (3)(E)(ix) and any other data re-
7 quired to ensure oversight and trans-
8 parency under section 306.

9 (IV) The data and measures de-
10 scribed in paragraph (3)(F) for which
11 new or continuing publication is—

12 (aa) in the public interest;

13 or

14 (bb) required under para-
15 graph (5)(A).

16 (V) A description of any change
17 between the information reported
18 under subclauses (I) through (IV) for
19 the reporting period and such infor-
20 mation reported for the preceding re-
21 porting period.

22 (ii) AGGREGATION OF DATA.—The in-
23 formation published under clause (i) shall
24 be aggregated so as to facilitate uniform
25 monthly reporting.

1 (B) ANNUAL REPORT.—

2 (i) IN GENERAL.—Not less frequently
3 than annually, the Director shall publish
4 on a publicly accessible internet website of
5 the Office of Refugee Resettlement the fol-
6 lowing:

7 (I) As of the last day of each fis-
8 cal year, the figures for the data col-
9 lected under subparagraphs (E)(iii),
10 (E)(v), (E)(vii), and (E)(viii) of para-
11 graph (3).

12 (II) The data and measures de-
13 scribed in paragraph (3)(F) for which
14 new or continuing publication is—

15 (aa) in the public interest;

16 or

17 (bb) required under para-
18 graph (5)(A).

19 (III) A description of any change
20 between the information reported
21 under subclauses (I) and (II) for the
22 reporting period and such information
23 reported for the preceding reporting
24 period.

1 (ii) AGGREGATION OF DATA.—The in-
2 formation published under clause (i) shall
3 be aggregated so as to facilitate uniform
4 annual reporting.

5 (c) OMBUDSPERSON REVIEW OF DATA.—The Sec-
6 retary of Health and Human Services and the Secretary
7 of Homeland Security shall—

8 (1) ensure that the Ombudsperson—

9 (A) has access to all real-time data regard-
10 ing noncitizen children in immigration custody;
11 and

12 (B) is able to independently and regularly
13 review data collected by the Department of
14 Health and Human Services and Department of
15 Homeland Security with respect to such chil-
16 dren;

17 (2) respond in a timely manner to inquiries
18 from the Ombudsperson with respect to such data;
19 and

20 (3) promptly take any necessary corrective ac-
21 tion with respect to the accuracy and integrity of
22 such data.

23 **SEC. 603. ENFORCEMENT.**

24 (a) AUDITS.—

1 (1) IN GENERAL.—Not less frequently than an-
2 nually, the Director shall conduct an audit of each
3 childcare facility, which shall include a site visit—

4 (A) to assess compliance of the childcare
5 facility with the requirements of this Act; and

6 (B) to determine whether the operator of
7 the childcare facility continues to be a State-li-
8 censed program.

9 (2) REPORT TO OMBUDSPERSON.—Not later
10 than 7 days after the date on which the Director
11 completes an audit under subsection (a), the Direc-
12 tor shall submit to the Ombudsperson a report on
13 the audit, including a description of any corrective
14 action required to bring the childcare facility into
15 compliance.

16 (b) VIOLATIONS.—

17 (1) NOTIFICATION.—With respect to a childcare
18 facility found to be in violation of this Act, the Di-
19 rector shall provide the State-licensed program con-
20 cerned with a written notification of each deficiency.

21 (2) APPEAL.—

22 (A) IN GENERAL.—A State-licensed pro-
23 gram shall have the opportunity to administra-
24 tively appeal a finding of deficiency in a

1 childcare facility operated by the State-licensed
2 program.

3 (B) NO NEW REFERRALS.—During the
4 pendency of an appeal under subparagraph (A),
5 the childcare facility may not receive new place-
6 ments of unaccompanied noncitizen children.

7 (3) DEBARMENT.—Consistent with the Federal
8 Acquisition Regulation, any operator of a childcare
9 facility that fails to maintain an appropriate State
10 license or meet the standards set forth in this Act
11 shall be debarred or suspended from contracting
12 with the Secretary for not less than 3 years.

13 (c) CIVIL ACTION.—

14 (1) IN GENERAL.—An unaccompanied noncit-
15 izen child or the parent, legal guardian, or prospec-
16 tive sponsor of such a child alleging noncompliance
17 by a State-licensed program with the standards and
18 procedures set forth in this Act for childcare facili-
19 ties may commence a cause of action in a district
20 court of the United States that has venue over the
21 matter.

22 (2) VENUE.—Venue for an action under para-
23 graph (1) may be found in—

24 (A) the district in which the original
25 childcare facility in which the unaccompanied

1 noncitizen child concerned was placed is lo-
2 cated; or

3 (B) the district in which the childcare fa-
4 cility to which the unaccompanied noncitizen
5 child was transferred is located.

6 (d) LIMITED REVIEW.—Review under this section
7 shall be limited to entering an order solely affecting the
8 individual claims of the unaccompanied noncitizen child or
9 the parent, legal guardian, or prospective sponsor seeking
10 such review.

11 (e) INTERFERENCE WITH OMBUDSPERSON.—An em-
12 ployee of a Federal or State agency, a contractor of a Fed-
13 eral or State agency, or a care provider who intentionally
14 prevents, interferes with, or attempts to impede the work
15 of the Ombudsperson shall be subject to a civil penalty,
16 which shall be not more than \$2,500 for each violation.

17 (f) BREACH OF DUTY OF CARE.—If the
18 Ombudsperson has reason to believe that an employee of
19 a Federal or State agency or a contractor of a Federal
20 or State agency has, in the conduct of official duties,
21 breached the duty of care or engaged in misconduct, the
22 Ombudsperson shall refer the matter to the head of such
23 Federal or State agency, a grand jury, or other appro-
24 priate official or agency.

1 (g) CRIMINAL PENALTY FOR DISCRIMINATION OR
2 RETALIATION.—A violation of section 604 or any provi-
3 sion of title VII shall be a misdemeanor.

4 **SEC. 604. PROTECTION FROM RETALIATION.**

5 (a) IN GENERAL.—The Director may not—

6 (1) take an adverse action against an Office of
7 Refugee Resettlement-funded legal services provider,
8 child advocate program, or any other entity based on
9 the legal services provider, child advocate program,
10 or other entity having pursued judicial review or a
11 civil action under this Act, or any civil action in a
12 State court, on behalf of an unaccompanied noncit-
13 izen child or the parent, legal guardian, or prospec-
14 tive sponsor of such a child; or

15 (2) discourage, interfere in, or withdraw funds
16 from any Office of Refugee Resettlement-funded
17 legal services provider, child advocate program, or
18 any other entity that—

19 (A) pursues judicial review or a civil action
20 under this Act, or any civil action in State
21 court, to challenge the conditions of such a
22 child's custody or the denial of release from
23 custody; or

1 (B) assists such a child or the parent, legal
2 guardian, or prospective sponsor of such a child
3 to so challenge.

4 (b) PROTECTION FOR INDIVIDUALS FILING COM-
5 PLAINTS WITH OMBUDSPERSON.—An employee of a Fed-
6 eral or State agency, a contractor for a Federal or State
7 agency, or a care provider shall not retaliate against any
8 individual for having filed a complaint with, or provided
9 information to, the Ombudsperson.

10 (c) PROTECTIONS FOR NONCITIZEN CHILDREN RE-
11 PORTING DISCRIMINATION.—Noncitizen children in immi-
12 gration custody may not be retaliated against for report-
13 ing discrimination, filing a charge of discrimination, or
14 participating in a discrimination investigation or lawsuit.

15 **SEC. 605. MANDATORY ACCESS TO DETENTION FACILITIES**
16 **FOR MEMBERS OF CONGRESS.**

17 (a) IN GENERAL.—Subject to subsection (c), the Sec-
18 retary concerned shall allow a Member of Congress to tour
19 any facility in which 1 or more detained individuals are
20 housed, including unaccompanied noncitizen children, at
21 a time between 8:00 a.m. and 7:00 p.m. on a date re-
22 quested by the Member of Congress if, not later than 24
23 hours before the date requested in the case of a Depart-
24 ment of Homeland Security facility, or not later than 2
25 business days before the date requested in the case of a

1 Department of Health and Human Services facility, the
2 Secretary concerned receives written notice from the Mem-
3 ber of Congress that includes—

4 (1) the name of the facility; and

5 (2) the date on which the Member of Congress
6 intends to tour the facility.

7 (b) ACCOMPANYING MEMBERS OF THE PRESS.—

8 (1) IN GENERAL.—Subject to paragraph (2),
9 the Secretary concerned shall allow 1 or more mem-
10 bers of the press to accompany a Member of Con-
11 gress on a tour of a facility under this section.

12 (2) LIMITATIONS.—

13 (A) STILL OR VIDEO CAMERAS.—The Sec-
14 retary concerned shall not be required to allow
15 a member of the press to enter a facility under
16 paragraph (1) with a still or video camera.

17 (B) PERSONALLY IDENTIFYING INFORMA-
18 TION.—As a condition of entering a facility
19 under paragraph (1), a member of the press
20 shall agree not to release any personally identi-
21 fying information of a staff member of the facil-
22 ity or a child housed at the facility without the
23 express authorization of such staff member or
24 child.

1 (c) LIMITATION.—The Secretary concerned may limit
2 a tour under subsection (a) to—

3 (1) in the case of a facility that houses not
4 more than 50 unaccompanied noncitizen children—

5 (A) not more than 5 Members of Congress;
6 and

7 (B) accompanying members of the press
8 under subsection (b); and

9 (2) in the case of a facility that houses more
10 than 50 detained individuals, including unaccom-
11 panied noncitizen children—

12 (A) not more than 10 Members of Con-
13 gress; and

14 (B) accompanying members of the press
15 under subsection (b).

16 (d) DEFINITION OF SECRETARY CONCERNED.—In
17 this section, the term “Secretary concerned” means, as
18 applicable—

19 (1) the Secretary of Homeland Security; or

20 (2) the Secretary of Health and Human Serv-
21 ices.

1 **TITLE VII—**
2 **NONDISCRIMINATION**

3 **SEC. 701. FAIR AND EQUAL TREATMENT.**

4 (a) **IN GENERAL.**—All noncitizen children in immi-
5 gration custody shall be treated fairly and equally and pro-
6 vided with inclusive, safe, and nondiscriminatory services.

7 (b) **FREEDOM FROM DISCRIMINATION.**—

8 (1) **IN GENERAL.**—Noncitizen children in immi-
9 gration custody shall have the right to be free from
10 discrimination and harassment on the basis of actual
11 or perceived characteristics relating to race, ethnic
12 group identification, ancestry, national origin, color,
13 religion, sex (including sexual orientation, gender
14 identity, and expression), language, mental or phys-
15 ical disability, or HIV status.

16 (2) **PROVISION OF SERVICES.**—Services pro-
17 vided to noncitizen children under this Act shall be
18 delivered in a manner that is sensitive to the age,
19 culture, native language, and complex needs of each
20 noncitizen child.

21 (c) **RULE OF CONSTRUCTION.**—Nothing in this title
22 shall be construed to diminish any protection under any
23 other Federal or State anti-discrimination law.

1 **SEC. 702. RESPONSIBILITIES OF CARE PROVIDERS.**

2 (a) IN GENERAL.—During the entire period in which
3 a noncitizen child is held in immigration custody, the
4 child’s care providers shall ensure that the child—

5 (1) is treated and served fairly and equally;

6 (2) is treated with dignity and respect;

7 (3) is cared for in an inclusive and respectful
8 environment; and

9 (4) is not subject to discrimination or harassed
10 based on actual or perceived characteristics.

11 (b) SPECIAL CONSIDERATIONS.—During the entire
12 period in which a noncitizen child is held in immigration
13 custody, the child’s care providers—

14 (1) in the case of an noncitizen indigenous
15 child, in partnership with the noncitizen indigenous
16 child and, to the extent practicable, the parents, ex-
17 tended family, and members of the cultural commu-
18 nity of the child, shall make active efforts to main-
19 tain the child’s connections to culture, tradition, and
20 prevailing indigenous lifeways, including through
21 culturally appropriate programs and services;

22 (2) shall maintain privacy and confidentiality of
23 information relating to the child’s sexual orientation
24 and gender identity;

25 (3) shall use the child’s correct names and pro-
26 nouns corresponding to the child’s gender identity;

1 (4) in the case of an LGBTQI child—

2 (A) shall—

3 (i) ensure that the child is housed ac-
4 cording to an assessment of the child's
5 gender identity and housing preference,
6 health and safety needs, and State and
7 local licensing standards;

8 (ii) offer an individualized assessment
9 to determine whether additional or alter-
10 nate restroom accommodations should be
11 provided;

12 (iii) allow the child to dress and ex-
13 press themselves according to their gender
14 identity;

15 (iv) allow the child to choose the gen-
16 der of staff that will conduct a pat-down
17 search if such a search is necessary; and

18 (v) consider the child's gender self-
19 identification and the effects of a housing
20 assignment on the child's health and safe-
21 ty; and

22 (B) shall not—

23 (i) label the child as a likely abuser or
24 punish the child for the child's sexual ori-

1 entation, gender identity, or gender expres-
 2 sion; or

3 (ii) isolate or involuntarily segregate
 4 the noncitizen child solely because of the
 5 child’s sexual orientation, gender identity,
 6 or gender expression.

7 **TITLE VIII—INFORMATION**
 8 **SHARING AND DATA PROTEC-**
 9 **TION**

10 **SEC. 801. SEPARATION OF RECORDS.**

11 The Director shall ensure that—

12 (1) all unaccompanied noncitizen children’s per-
 13 sonal information and Office of Refugee Resettle-
 14 ment case files and records are maintained sepa-
 15 rately and apart from such children’s immigration
 16 files (commonly known as “A-Files”); and

17 (2) such case files and records are not acces-
 18 sible by the Department of Homeland Security.

19 **SEC. 802. PROHIBITION ON USE FOR DENIAL OF RELIEF OR**
 20 **IN REMOVAL PROCEEDINGS.**

21 An unaccompanied noncitizen child’s Office of Ref-
 22 ugee Resettlement case file or record shall not be used
 23 by the Secretary of Homeland Security or the Attorney
 24 General—

25 (1) to deny any application for relief; or

1 (2) to facilitate involuntary removal in any pro-
2 ceeding, including expedited removal, reinstatement
3 of removal, and proceedings under section 362 or
4 365 of the Public Health Service Act (42 U.S.C.
5 265, 268).

6 **SEC. 803. DISCLOSURE.**

7 (a) INFORMED CONSENT REQUIRED.—

8 (1) IN GENERAL.—The personal information
9 and Office of Refugee Resettlement case file and
10 records of an unaccompanied noncitizen child—

11 (A) shall be confidential; and

12 (B) subject to paragraph (2), may only be
13 disclosed if the child has—

14 (i) consulted with the child’s legal
15 counsel; and

16 (ii) provided informed consent for dis-
17 closure.

18 (2) CHILDREN UNDER 12 YEARS OF AGE.—In
19 the case of an unaccompanied noncitizen child under
20 the age of 12 years, only the parent, legal guardian,
21 or sponsor may provide consent for disclosure of the
22 personal information or Office of Refugee Resettle-
23 ment case file of the child.

24 (3) SUBSEQUENT DISCLOSURE PROHIBITED.—

25 Once disclosed, the personal information or Office of

1 Refugee Resettlement case file of an unaccompanied
2 noncitizen child may not be subsequently disclosed
3 to a third party unless the child has—

4 (A) consulted with his or her legal counsel;

5 and

6 (B) provided informed consent for dislo-
7 sure.

8 **SEC. 804. PROHIBITION ON INFORMATION SHARING.**

9 (a) CHILD IN CUSTODY AND PROSPECTIVE SPON-
10 SORS.—The Director may not provide any information
11 about an unaccompanied noncitizen child in the custody
12 of the Secretary, or prospective sponsors, to the Attorney
13 General or the Secretary of Homeland Security without
14 consent of the unaccompanied noncitizen child concerned
15 or the prospective sponsor, as applicable, and the legal
16 counsel of the child or sponsor, respectively.

17 (b) IMMIGRATION ENFORCEMENT.—

18 (1) IN GENERAL.—The sharing of any informa-
19 tion between the Office of Refugee Resettlement and
20 the Department of Homeland Security for purposes
21 of immigration enforcement is prohibited.

22 (2) EXPLANATION FOR PROSPECTIVE SPON-
23 SORS.—The Director shall ensure that Office of Ref-
24 ugee Resettlement communications with sponsors
25 and prospective sponsors, including the family reuni-

1 fication application packet, includes an explanation
2 that information provided to the Office of Refugee
3 Resettlement may only be shared with the Depart-
4 ment of Homeland Security if the child and sponsor
5 or prospective sponsor concerned have provided in-
6 formed consent.

7 (c) RELIEF FROM REMOVAL.—The sharing of any in-
8 formation between the Office of Refugee Resettlement and
9 the Department of Homeland Security or the Department
10 of Justice for purposes of relief from removal is prohib-
11 ited.

12 (d) EXCEPTIONS.—

13 (1) IN GENERAL.—The Secretary may provide
14 for the disclosure of information in the same manner
15 and circumstances as census information may be
16 disclosed by the Secretary of Commerce under sec-
17 tion 8 of title 13, United States Code.

18 (2) NATIONAL SECURITY PURPOSES.—The Sec-
19 retary may provide for the disclosure of information
20 to national security officials to be used solely for a
21 national security purpose in a manner that protects
22 the confidentiality of such information.

23 (3) LAW ENFORCEMENT PURPOSES.—The Sec-
24 retary may provide for the disclosure of information
25 to law enforcement officials to be used solely for a

1 legitimate law enforcement purpose in a manner that
2 protects the confidentiality of such information.

3 (4) ELIGIBILITY FOR BENEFITS.—The Sec-
4 retary may disclose information to Federal, State,
5 and local public and private agencies providing bene-
6 fits, to be used solely in making determinations of
7 eligibility for benefits pursuant to section 431 of the
8 Personal Responsibility and Work Opportunity Rec-
9 onciliation Act of 1996 (8 U.S.C. 1641).

10 (5) ADJUDICATION OF APPLICATIONS FOR RE-
11 LIEF.—Government entities adjudicating applica-
12 tions for relief under the immigration laws and gov-
13 ernment personnel carrying out mandated duties
14 under section 101(i)(1) of the Immigration and Na-
15 tionality Act (8 U.S.C. 1101(i)(1)), may, with the
16 prior written consent of the noncitizen involved,
17 communicate with nonprofit, nongovernmental vic-
18 tims' service providers for the sole purpose of assist-
19 ing victims in obtaining victim services from pro-
20 grams with expertise in working with immigrant vic-
21 tims. Agencies receiving referrals are bound by the
22 provisions of this section. Nothing in this paragraph
23 shall be construed as affecting the ability of an ap-
24 plicant to designate a safe organization through

1 which Governmental agencies may communicate with
2 the applicant.

3 (e) **RULE OF CONSTRUCTION.**—Subsections (a), (b),
4 and (c) shall not be construed as preventing—

5 (1) disclosure of information in connection with
6 judicial review of a determination in a manner that
7 protects the confidentiality of such information; or

8 (2) the Secretary from disclosing to the chair
9 and ranking members of the Committee on the Judi-
10 ciary of the Senate or the Committee on the Judici-
11 ary of the House of Representatives, for the exercise
12 of congressional oversight authority, information on
13 closed cases under this section in a manner that pro-
14 tects the confidentiality of such information and that
15 omits personally identifying information (including
16 locational information about individuals).

17 **SEC. 805. COUNSELING RECORDS.**

18 (a) **IN GENERAL.**—Subject to subsection (b), infor-
19 mation shared by an unaccompanied noncitizen child in
20 counseling sessions, and written records and notes of
21 counseling sessions, may not be shared with the child’s
22 case management specialist or any other employee of the
23 Office of Refugee Resettlement, the Department of Health
24 and Human Services, the Department of Justice, or the
25 Department of Homeland Security.

1 (b) DISCLOSURE.—The information, records, and
2 notes described in subsection (a) may be shared—

3 (1) with an employee described in that sub-
4 section only if the child presents a documented im-
5 minent threat to himself or herself or to any other
6 individual; or

7 (2) with the Department of Justice or the De-
8 partment of Homeland Security if the child has—

9 (A) consulted with his or her legal counsel;

10 and

11 (B) provides informed consent for the dis-
12 closure.

13 (c) JUVENILE INFORMATION.—

14 (1) IN GENERAL.—Juvenile information, includ-
15 ing records of children separated from family, shall
16 remain confidential regardless of the child’s immi-
17 gration status.

18 (2) RULE OF CONSTRUCTION.—Nothing in this
19 Act may be construed as authorizing—

20 (A) the disclosure of juvenile information
21 to Federal officials absent a court order of the
22 judge of the juvenile court on filing a petition;

23 (B) the dissemination of juvenile informa-
24 tion to, or by, Federal officials absent a court

1 order of the judge of the juvenile court on filing
2 a petition;

3 (C) the attachment of juvenile information
4 to any other document given to, or provided by,
5 Federal officials absent prior approval of the
6 presiding judge of the juvenile court; or

7 (D) any disclosure that would otherwise
8 violate this Act.

9 (3) DEFINITION OF JUVENILE INFORMATION.—

10 In this section, the term “juvenile information” in-
11 cludes the juvenile case file and information related
12 to a noncitizen child (including the name, date, and
13 place of birth of the child, the child’s health and
14 education records, and the immigration status of the
15 child) that is—

16 (A) obtained or created independent of, or
17 in connection with, immigration, asylum, or ju-
18 venile court proceedings of which the child is a
19 subject; and

20 (B) maintained by any Federal or State
21 agency, including a court, probation office, child
22 welfare agency, or law enforcement agency.

23 **SEC. 806. DATA PROTECTION FOR SPONSORS.**

24 (a) IN GENERAL.—With respect to any information
25 required of sponsors or prospective sponsors or any data

1 collected in pursuit of sponsorship, the following protec-
2 tions shall apply:

3 (1) Such information and data—

4 (A) may not be disclosed for any purpose
5 or effect other than reunification of the family
6 unit, placement of a child with a sponsor, or
7 oversight by Congress;

8 (B) shall be immune from legal process;
9 and

10 (C) shall not, without the consent of the
11 sponsor or prospective sponsor concerned, be
12 admitted as evidence or used for any purpose in
13 any action, suit, or other judicial or administra-
14 tive proceeding.

15 (2) The Secretary or any other officer or em-
16 ployee of the Department of Health and Human
17 Services may not—

18 (A) use such information or data for any
19 purpose other than for purposes of reunification
20 under section 235 of the William Wilberforce
21 Trafficking Victims Protection Reauthorization
22 Act of 2008 (8 U.S.C. 1232);

23 (B) make any publication in which such in-
24 formation or data can be identified; or

1 (C) permit any individual other than the
2 sworn officers and employees of the Depart-
3 ment of Health and Human Services to exam-
4 ine such information or data.

5 **TITLE IX—MISCELLANEOUS**
6 **PROVISION**

7 **SEC. 901. RULE OF CONSTRUCTION.**

8 Nothing in this Act may be construed—

9 (1) to limit the rights of a noncitizen child—

10 (A) to preserve 1 or more issues for judi-
11 cial review in the appeal of an individual case;

12 or

13 (B) to exercise any independent right the
14 noncitizen child may otherwise have;

15 (2) to affect the application of the Flores settle-
16 ment agreement to all children in immigration cus-
17 tody;

18 (3) to abrogate, modify, or replace the Flores
19 settlement agreement; or

20 (4) to preclude or limit Flores settlement agree-
21 ment class counsel from conducting independent in-
22 vestigations or seeking enforcement actions relating
23 to violations of the Flores settlement agreement in
24 any appropriate district court of the United States.

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