

117TH CONGRESS
2D SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

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

A BILL

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

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 2022”.

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.

2

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) ACCOMPANIED NONCITIZEN CHILD.—The
4 term “accompanied noncitizen child” means a non-
5 citizen under the age of 18 years who—

6 (A) has no lawful immigration status in
7 the United States; and

1 (B) is detained in immigration custody
2 while traveling with a parent or legal guardian,
3 including an adoptive parent and a stepparent.

4 (2) BEST INTERESTS OF THE CHILD.—With re-
5 spect to an accompanied noncitizen child or unac-
6 companied noncitizen child, the term “*best interests*
7 *of the child*” means a consideration, informed to the
8 extent practicable by the child and the parents or
9 guardian and extended family of the child, that
10 takes into account—

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

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

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

17 (D) the right of the child to—

18 (i) family integrity;

19 (ii) liberty; and

20 (iii) development; and

21 (E) the identity of the child, including reli-
22 gious, ethnic, linguistic, gender, sexual orienta-
23 tion, and cultural identity.

24 (3) CHILDCARE FACILITY.—The term
25 “childcare facility” means a facility operated by the

1 Department of Health and Human Services, or a
2 contractor of the Department of Health and Human
3 Services, that—

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

5 (B) provides residential care for unaccom-
6 panied noncitizen children.

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

9 (5) EARLY CHILDHOOD MINOR.—The term
10 “early childhood minor” means an individual who is
11 12 years of age or younger or has the developmental
12 age of such an individual.

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

20 (7) IMMIGRATION CUSTODY.—The term “immi-
21 gration custody” means the physical custody of the
22 Secretary of Health and Human Services or the Sec-
23 retary of Homeland Security (or the head of any
24 successor agency of the Department of Health and

1 Human Services or the Department of Homeland
2 Security).

3 (8) INFLUX.—The term “influx” means a pe-
4 riod during which—

5 (A) not less than 95 percent of the avail-
6 able beds in permanent childcare facilities are
7 occupied; and

8 (B) the average length of care for unac-
9 companied noncitizen children in the custody of
10 the Secretary of Health and Human Services
11 exceeds 35 days.

12 (9) INFLUX FACILITY.—The term “influx facil-
13 ity” means any public or private facility established
14 to provide temporary emergency shelter and services
15 for unaccompanied noncitizen children during an in-
16 flux or emergency.

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

20 (11) NONPARENT FAMILY MEMBER.—With re-
21 spect to an unaccompanied noncitizen child appre-
22 hended with a nonparent family member, the term
23 “nonparent family member” means an individual
24 who is—

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

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

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

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

12 (A) is used to provide residential care for
13 unaccompanied noncitizen children; and

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

16 (14) PROSPECTIVE SPONSOR.—The term “pro-
17 spective sponsor” means an individual or entity who
18 applies for custody of an unaccompanied noncitizen
19 child.

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

22 (16) SECURE FACILITY.—The term “secure fa-
23 cility” means any public or private facility that is
24 opened by a program, agency, or organization that
25 is licensed by an appropriate State agency to provide

1 residential care for children who have been adju-
2 dicated delinquent.

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

5 (A)(i) means a noncitizen under the age of
6 18 years, the mental or physical condition of
7 whom requires special services or medical equip-
8 ment and special treatment by the staff of a
9 childcare facility; and

10 (ii) includes such an individual who—

11 (I) has special needs due to drug or
12 alcohol abuse, serious emotional disturb-
13 ance, mental illness, developmental or cog-
14 nitive delay, or a physical condition or
15 chronic illness that requires special services
16 or treatment;

17 (II) is an individual with a disability
18 (as defined in section 3 of the Americans
19 with Disabilities Act of 1990 (42 U.S.C.
20 12102)); or

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

23 (B) in the case of a child who is 12 years
24 of age or older, means such a child who con-

1 sents to such designation, services, and treat-
2 ment.

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

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

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

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

18 (20) STATE-LICENSED PROGRAM.—The term
19 “State-licensed program” means any public or pri-
20 vate program, agency, or organization licensed by an
21 appropriate State agency to provide residential,
22 group, or foster care services for unaccompanied
23 noncitizen children (including a program operating
24 group homes, foster homes, or facilities for special

1 needs noncitizen children) that complies with appli-
2 cable—

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

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

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

9 (D) State staffing and training require-
10 ments.

11 (21) UNACCOMPANIED NONCITIZEN CHILD.—

12 The term “unaccompanied noncitizen child” has the
13 meaning given the term “unaccompanied alien child”
14 in section 462(g) of the Homeland Security Act of
15 2002 (6 U.S.C. 279(g)).

16 **TITLE I—PROCEDURES AND**
17 **TEMPORARY PLACEMENTS**
18 **FOLLOWING APPREHENSION**

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

20 (a) IN GENERAL.—An accompanied noncitizen child
21 shall remain physically together with their parent or legal
22 guardian at all times while in the custody of the Secretary
23 of Homeland Security or the Secretary of Health and
24 Human Services, unless—

1 (1) the accompanied noncitizen child requests
2 privacy temporarily;

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

14 (3) the child protection professional documents
15 based on clear and convincing evidence that the con-
16 tinued care of the accompanied noncitizen child by
17 the parent or legal guardian is likely to result in se-
18 rious emotional or physical damage to the child.

19 (b) 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 return

1 the child to the individual from whom they were sep-
2 arated; 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 (c) 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 ac-
14 companied children 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 (d) TREATMENT OF UNACCOMPANIED CHILDREN
24 TRAVELING WITH CERTAIN CAREGIVERS.—Unaccom-
25 panied children traveling with nonparent or nonlegal

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

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

7 Section 235 of the William Wilberforce Trafficking
8 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
9 1232) is amended—

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

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

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

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

22 (5) in subsection (a)—

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

24 (B) by redesignating paragraphs (3) and

25 (5) as paragraphs (2) and (3), respectively;

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

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

5 (i) in subparagraph (C), in the sub-
6 paragraph heading, by striking “UNACCOM-
7 PANIED ALIEN CHILDREN” and inserting
8 “UNACCOMPANIED NONCITIZEN CHIL-
9 DREN”;

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

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

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

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

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

1 “(ii) Border Patrol station on the
2 southern border; and

3 “(iii) U.S. Customs and Border Pro-
4 tection processing facility and reception
5 center, regardless of whether such facility
6 or center is temporary in nature.

7 “(B) QUALIFICATIONS.—

8 “(i) IN GENERAL.—Such a child pro-
9 tection professional shall—

10 “(I) be licensed in social work;

11 “(II) have direct experience pro-
12 viding trauma-informed care to chil-
13 dren who have experienced trauma;
14 and

15 “(III) subject to clause (ii), be
16 proficient in Spanish or 1 of the top
17 5 most common languages spoken by
18 noncitizen children in the past 5
19 years.

20 “(ii) PHASE-IN OF LANGUAGE PRO-
21 FICIENCY.—During the 3-year period be-
22 ginning on the date of the enactment of
23 the Children’s Safe Welcome Act of 2022,
24 25 percent of the child protection profes-
25 sionals hired by the Secretary of Homeland

1 Security to carry out the duties under this
2 section shall be exempt from clause
3 (i)(III).

4 “(C) OVERSIGHT OF CARE.—Such a child
5 protection professional shall oversee the care of
6 noncitizen children in U.S. Customs and Border
7 Protection facilities, consistent with the stand-
8 ards established under sections 104 and 105 of
9 the Children’s Safe Welcome Act of 2022, in-
10 cluding by ensuring access to adequate food,
11 hydration, hygiene necessities, medical care,
12 and other services the child protection profes-
13 sional considers necessary.

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) release the child together with the
20 parent, adoptive parent, or legal guardian, as
21 applicable; and

22 “(B) ensure that the child is provided with
23 support from a qualified nongovernmental com-
24 munity-based organization with experience pro-

1 viding services to immigrant, refugee, and asy-
2 lum-seeking populations.

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

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

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

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

20 (6) in subsection (b)—

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

25 (B) in paragraph (3)—

1 (i) in the paragraph heading, by strik-
2 ing “UNACCOMPANIED ALIEN CHILDREN”
3 and inserting “UNACCOMPANIED NONCIT-
4 IZEN CHILDREN”;

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

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

11 (iii) by adding at the end the fol-
12 lowing:

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

18 “(C) RECEPTION CENTERS.—

19 “(i) DESIGNATION.—The Commis-
20 sioner shall designate 1 or more reception
21 centers located within 100 miles of each
22 port of entry and each Border Patrol Sta-
23 tion on the southern border for the pur-
24 pose of conducting expedited evaluations
25 described in clause (iii).

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

10 “(iii) EXPEDITED EVALUATIONS.—

11 “(I) IN GENERAL.—On the ar-
12 rival of an unaccompanied noncitizen
13 child apprehended with a nonparent
14 family member at a designated recep-
15 tion center, a Federal field specialist
16 of the Department of Health and
17 Human Services shall evaluate the
18 child to determine whether he or she
19 may be released safely from U.S. Cus-
20 toms and Border Protection custody
21 to the nonparent family member with
22 whom the child was apprehended.

23 “(II) PRIVATE SPACE.—The
24 Commissioner shall make available in
25 each designated reception center a

1 private space in which such Federal
2 field specialists may carry out such
3 evaluations.

4 “(iv) STAFFING.—

5 “(I) FEDERAL FIELD SPECIAL-
6 ISTS.—

7 “(aa) IN GENERAL.—Fed-
8 eral field specialists of the De-
9 partment of Health and Human
10 Services shall be detailed to des-
11 ignated reception centers for
12 brief periods to ensure the inde-
13 pendence of Department of
14 Health and Human Services staff
15 from the duties and functions of
16 U.S. Customs and Border Pro-
17 tection.

18 “(bb) DUTIES.—A Federal
19 field specialist detailed to a des-
20 ignated reception center shall
21 verify family relationships and
22 screen each unaccompanied non-
23 citizen child apprehended with a
24 nonparent family member for
25 safety concerns using existing or

1 newly developed Department of
2 Health and Human Services tools
3 and skills, including document re-
4 view, observation, and interviews
5 of the child and family members.

6 “(II) CASE MANAGERS AND CASE
7 COORDINATORS.—

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

19 “(bb) DUTIES.—A case
20 manager or case coordinator de-
21 tailed to a designated reception
22 center shall assist the Federal
23 field specialist at the reception
24 center in verifying family rela-
25 tionships and screening each un-

1 accompanied noncitizen child ap-
2 prehended with a nonparent fam-
3 ily member for safety concerns
4 using existing or newly developed
5 Department of Health and
6 Human Services tools and skills,
7 including document review, obser-
8 vation, and interviews of the
9 child and family members.

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

24 “(v) RELEASE DECISION.—The Sec-
25 retary of Health and Human Services shall

1 make a determination with respect to expedited release under this subparagraph not
2 later than 72 hours after the child has
3 been determined to be an unaccompanied
4 noncitizen child.
5

6 “(vi) RELEASE OF NONPARENT FAMILY MEMBER.—
7

8 “(I) IN GENERAL.—If the Secretary of Health and Human Services
9 determines that the nonparent family
10 member of an unaccompanied noncitizen child apprehended with a nonparent family member is a safe sponsor, and the applicable Federal field specialist and case manager or case coordinator have verified the family relationship, the Commissioner shall
11 approve the release of the nonparent
12 family member for the purpose of reunification with the child.
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21 “(II) RETENTION OF UNACCOMPANIED NONCITIZEN CHILD DETERMINATION.—An unaccompanied noncitizen child released to a nonparent family member who is released under
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23
24
25

1 subclause (I) shall retain his or her
2 determination as an unaccompanied
3 noncitizen child.

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

13 “(vii) TRANSFER TO OFFICE OF REF-
14 UGEE RESETTLEMENT CUSTODY.—

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

1 denied expedited release under this
2 subparagraph—

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

6 “(bb) notice shall be pro-
7 vided to the nonparent family
8 member with respect to—

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

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

16 “(cc) the family relationship
17 shall be documented.

18 “(II) APPOINTMENT OF CHILD
19 ADVOCATE.—In the case of a child de-
20 nied expedited release under this sub-
21 paragraph, the Secretary of Health
22 and Human Services shall appoint a
23 child advocate for the child.

24 “(viii) PROHIBITION.—The adjudica-
25 tion of asylum applications shall not be

1 carried out in a reception center des-
2 ignated under this subparagraph.

3 “(D) TRANSPORTATION.—

4 “(i) IN GENERAL.—Except as pro-
5 vided in clause (ii), the Commissioner may
6 not transport any unaccompanied noncit-
7 izen child in a vehicle with a detained adult
8 who is not related to the child.

9 “(ii) EXCEPTION.—

10 “(I) IN GENERAL.—The Commis-
11 sioner may transport an unaccom-
12 panied noncitizen child in a vehicle
13 with such an adult only from the
14 place of arrest or apprehension to a
15 U.S. Customs and Border Protection
16 facility.

17 “(II) PRECAUTIONS.—In trans-
18 porting an unaccompanied noncitizen
19 child under subclause (I), the Com-
20 missioner shall take necessary pre-
21 cautions for the protection and well-
22 being of the unaccompanied noncitizen
23 child.”; and

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

1 family member in accordance with
2 subsection (b)(3)(C)(vi); or

3 “(III) an unaccompanied noncit-
4 izen child having attained 18 years of
5 age.”;

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

10 (8) by striking subsection (g);

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

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

14 “(i) ACCESS TO COUNSEL, LEGAL ORIENTATION,
15 AND CHILD ADVOCATES FOR ALL CHILDREN IN CUS-
16 TODY.—Each child in immigration custody, including ac-
17 companied noncitizen children, shall receive a legal ori-
18 entation presentation and have access to legal counsel and
19 child advocates.

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

22 “(1) IN GENERAL.—A parent or legal guardian
23 or a nonparent family member who is apprehended
24 with a child shall be placed in removal proceedings

1 under section 240 of the Immigration and Nation-
2 ality Act (8 U.S.C. 1229a).

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

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

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

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

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

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

19 “(l) DEFINITIONS.—In this section:

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

23 “(A) has no lawful immigration status in
24 the United States; and

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

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

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

13 “(4) 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 who
17 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 “(5) UNACCOMPANIED NONCITIZEN CHILD.—
23 The term ‘unaccompanied noncitizen child’ has the
24 meaning given the term ‘unaccompanied alien child’

1 in section 462(g) of the Homeland Security Act of
2 2002 (6 U.S.C. 279(g)).

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

10 **SEC. 103. NONADVERSARIAL ASYLUM PROCESSING FOR**
11 **NONCITIZEN CHILDREN.**

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

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

20 “(i) has been classified as an unac-
21 companied noncitizen child (as defined in
22 section 235 of the William Wilberforce
23 Trafficking Victims Protection Reauthor-
24 ization Act of 2008 (8 U.S.C. 1232)), re-
25 gardless of the age or marital status of the

1 individual on the date on which he or she
2 files an asylum application;

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

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

10 **SEC. 104. STANDARDS FOR U.S. CUSTOMS AND BORDER**
11 **PROTECTION DETENTION OF NONCITIZEN**
12 **CHILDREN.**

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

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

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

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

1 (1) the best interests of the noncitizen child;
2 and

3 (2) in the case of a noncitizen child appre-
4 hended with a parent, legal guardian, or any other
5 adult family member, family unity.

6 **SEC. 105. STANDARDS FOR U.S. CUSTOMS AND BORDER**
7 **PROTECTION FACILITIES HOUSING NONCIT-**
8 **IZEN CHILDREN.**

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

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

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

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

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

11 (c) FACILITY REQUIREMENTS.—

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

17 (2) CHILDREN’S AREA.—

18 (A) IN GENERAL.—The Commissioner
19 shall ensure that each U.S. Customs and Bor-
20 der Protection facility that houses 1 or more
21 noncitizen children includes a dedicated physical
22 environment that is appropriate for children of
23 all ages and stages of development (referred to
24 in this paragraph as a “children’s area”).

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

3 (i) low, warm lights;

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

8 (iii) child-friendly images and dis-
9 plays;

10 (iv) a children’s bathroom;

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

13 (vi) nursing chairs for breastfeeding
14 mothers; and

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

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

23 (3) MEDICAL SCREENING AND CARE.—

24 (A) IN GENERAL.—The Commissioner
25 shall ensure that—

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

9 (ii) a noncitizen child in the custody
10 of the Commissioner shall have unre-
11 stricted access to appropriate medication
12 for the management of an illness or injury
13 of the child;

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

20 (iv) on release from such custody, a
21 noncitizen child, or the parent, legal guard-
22 ian, or other adult family member of the
23 child, is provided with documentation of
24 the child's medical screening and care, in-
25 cluding the need for any followup while in

1 such custody, in accordance with subpara-
2 graph (B)(viii); and

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

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

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

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

22 (iii) ensure that appropriate health
23 care is provided to the child as necessary,
24 including pediatric and reproductive health
25 care;

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

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

7 (I) provide the child with the
8 choice of—

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

13 (bb) a private physical ex-
14 amination without the presence
15 of a parent, legal guardian, or
16 other adult family member; and

17 (II) conduct such examination in
18 accordance with the child's preference;

19 (vi) review any medication that is in
20 the possession of the child on arrival to de-
21 termine whether the medication shall be
22 kept by the child or the child's parent,
23 legal guardian, or other adult family mem-
24 ber, as applicable;

1 (vii) in the case of a medication de-
2 scribed in clause (vi) that may not be kept
3 by the child or the child's parent, legal
4 guardian, or other adult family member for
5 medical storage purposes, such as a medi-
6 cation that requires refrigeration, ensure
7 storage with appropriate access for the
8 child's use while in U.S. Customs and Bor-
9 der Protection custody; and

10 (viii) ensure that the medical screen-
11 ing and care under this paragraph, and
12 any other medical evaluation of or inter-
13 vention for the child conducted while the
14 child is in the custody of the Commis-
15 sioner, is documented in accordance with
16 commonly accepted standards in the
17 United States for medical records docu-
18 mentation.

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 followup 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
7 other adult family members, siblings,
8 or fictive kin shall be permitted to ac-
9 company the child to such medical fa-
10 cility.

11 (iii) ONGOING AVAILABILITY OF
12 TRANSPORTATION.—The Commissioner
13 shall maintain—

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

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

24 (G) RULE OF CONSTRUCTION.—Nothing in
25 this paragraph shall be construed to require a

1 noncitizen child, parent, legal guardian, or non-
2 parent family member to disclose the child's
3 medical history.

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

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

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

17 (C) FOOD AND WATER.—

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

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

23 (II) according to the guidelines of
24 the American Association of Pediat-
25 rics and the American College of Ob-

1 stetricians and Gynecologists with re-
2 spect to nutrition, consistency, cal-
3 ories, and portion size, consistent with
4 the age of each child.

5 (ii) MEALS AND SNACKS.—

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

10 (II) MEALS.—Meals shall—

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

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

19 (III) SNACKS.—Noncitizen chil-
20 dren shall have unrestricted access to
21 healthy snacks.

22 (IV) LIMITATION ON
23 UNHEALTHFUL FOODS.—The avail-
24 ability of highly processed foods and
25 sugars shall be limited.

1 (iii) WATER.—Each noncitizen child
2 shall—

3 (I) be provided with not less than
4 1 gallon of drinking water or age-ap-
5 propriate fluids daily; and

6 (II) have unrestricted access to
7 drinking water.

8 (iv) ACCOMMODATION.—A noncitizen
9 child's individual dietary needs or restric-
10 tions shall be accommodated.

11 (v) SPECIAL CONSIDERATIONS FOR IN-
12 FANTS AND YOUNG CHILDREN.—

13 (I) BOTTLE FEEDING.—

14 (aa) IN GENERAL.—On ar-
15 rival at a facility, the parent,
16 legal guardian, or other family
17 member of a noncitizen child
18 using a bottle for feeding shall be
19 offered 2 clean baby bottles, a
20 bottle brush, dish soap, and
21 enough bottled water and baby
22 formula for at least 3 bottles.

23 (bb) ADDITIONAL SUP-
24 PLIES.—Additional baby formula
25 and bottled water shall be pro-

1 vided on request of the parent,
2 legal guardian, or other family
3 member.

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

8 (aa) continued breastfeeding
9 shall be supported; and

10 (bb) the breastfeeding moth-
11 er of each such noncitizen child
12 shall be provided with privacy,
13 blankets, a quiet area for
14 breastfeeding, a nursing chair,
15 and adequate amounts of food
16 and water consistent with the di-
17 etary needs of a breastfeeding
18 mother.

19 (D) HYGIENE.—

20 (i) CLOTHES AND SHOES.—Each non-
21 citizen child shall be provided with a set of
22 clean clothes, and on request, a pair of
23 shoes in good condition.

24 (ii) SHOWERS.—

1 (I) IN GENERAL.—Each noncit-
2 izen child shall be provided access to
3 a hot shower with a barrier for pri-
4 vacy.

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

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

15 (iii) MENSTRUATION SUPPLIES.—
16 Each female noncitizen child shall be of-
17 fered immediately a supply of tampons and
18 pads at no cost.

19 (iv) DIAPERING.—

20 (I) IN GENERAL.—The parent,
21 legal guardian, or other family mem-
22 ber of each noncitizen child using dia-
23 pers shall be provided immediately
24 with 3 size-appropriate diapers and a
25 packet of diaper wipes.

1 (II) ADDITIONAL DIAPERS.—Ad-
2 ditional diapers and diaper wipes shall
3 be provided on request at no cost.

4 (III) DIAPER CHANGING AREA.—
5 The parent, legal guardian, or other
6 family member of each such noncit-
7 izen child shall be provided—

8 (aa) access to a safe and
9 sanitary area in which to change
10 the child's diaper;

11 (bb) a clean diaper changing
12 pad; and

13 (cc) a handwashing station.

14 (v) BATHROOMS.—Each noncitizen
15 child shall be provided access to bath-
16 rooms.

17 (E) SLEEP.—

18 (i) MATS, BLANKETS, AND PIL-
19 LWS.—

20 (I) IN GENERAL.—On arrival,
21 each noncitizen child shall be provided
22 with a clean mat that is not less than
23 3 inches thick, a clean cloth blanket,
24 and a clean pillow.

1 (II) ADDITIONAL BLANKETS.—A
2 noncitizen child shall be provided with
3 additional blankets on request by the
4 child or the parent, legal guardian, or
5 other family member of the child.

6 (ii) QUIET LOCATION.—On request or
7 if there are signs of a noncitizen child feel-
8 ing tired, the child shall be provided with
9 access to a quiet location in which to sleep
10 that has dimmed lights.

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

13 (I) noncitizen children shall have
14 access to lighting that is safe and con-
15 ducive to sleep; and

16 (II) noise shall be at a level con-
17 ducive to sleep.

18 (F) RECREATION.—

19 (i) IN GENERAL.—Noncitizen children
20 shall have access to age-appropriate rec-
21 reational activities, including indoor and
22 outdoor spaces for physical activity, toys,
23 art supplies, sports equipment, and books.

24 (ii) OUTDOOR PLAY.—Noncitizen chil-
25 dren shall be allowed to play outside for

1 not less than 30 minutes every 3 hours
2 during daylight hours.

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

6 (5) NOTICE OF RIGHTS.—

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

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

15 (i) a description of—

16 (I) all rights afforded to a noncit-
17 izen child under section 235 of the
18 William Wilberforce Trafficking Vic-
19 tims Protection Reauthorization Act
20 of 2008 (8 U.S.C. 1232) and this Act;

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

23 (III) existing mechanisms by
24 which children may seek to enforce
25 their rights; and

1 (ii) a list of free legal services pro-
2 viders and contact information for such
3 providers.

4 (C) FORMAT AND LANGUAGES.—

5 (i) IN GENERAL.—Such notice shall
6 be—

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

10 (II) made available and posted in
11 multiple languages, including English,
12 Spanish, French, Hindi, Bengali,
13 Punjabi, Swahili, Mandarin Chinese,
14 Russian, Standard Arabic, Por-
15 tuguese, Haitian Creole, K'iche',
16 Q'eqchi', Kaqchikel, Mam, Q'anjob'al,
17 and Ixil.

18 (ii) ADDITIONAL LANGUAGES.—The
19 Ombudsperson may require such notice to
20 be made available and posted in any addi-
21 tional language the Ombudsperson con-
22 siders necessary based on the demo-
23 graphics of arriving noncitizen children.

24 (D) AVAILABILITY.—A child protection
25 professional of the Department of Homeland

1 Security shall provide each noncitizen child with
2 such notice on the child's arrival at the U.S.
3 Customs and Border Protection facility.

4 (d) SEPARATION FROM UNFAMILIAR ADULTS.—

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

10 (2) IMMEDIATE SEPARATION NOT FEASIBLE.—

11 In any circumstance in which such separation is not
12 immediately feasible, such as during transport to a
13 U.S. Customs and Border Protection facility, an un-
14 accompanied noncitizen child shall not be left alone
15 with such an adult or detained with such an adult
16 for more than 6 hours.

17 (e) STAFF TRAINING.—

18 (1) IN GENERAL.—The Commissioner shall en-
19 sure that—

20 (A) the staff of each U.S. Customs and
21 Border Protection facility in which 1 or more
22 noncitizen children are housed receives training
23 on responding to the needs of children and fam-
24 ilies exposed to trauma, including training on—

1 (i) the principles and practices of
2 trauma-informed care and psychological
3 first aid;

4 (ii) vicarious traumatization and sec-
5 ondary stress; and

6 (iii) recognizing the signs of a child in
7 medical distress; and

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

12 (2) RULEMAKING.—

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

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

23 (i) Prohibit U.S. Customs and Border
24 Protection officials from—

1 (I) discussing immigration out-
2 comes with detained individuals; and

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

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

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

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

17 (f) MONITORING AND OVERSIGHT.—

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

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

1 (A) IN GENERAL.—The Commissioner
2 shall post, in each U.S. Customs and Border
3 Protection facility in which 1 or more noncit-
4 izen children are housed, the contact informa-
5 tion for the Ombudsperson in multiple lan-
6 guages, including English, Spanish, French,
7 Hindi, Bengali, Punjabi, Swahili, Mandarin
8 Chinese, Russian, Standard Arabic, Portuguese,
9 Haitian Creole, K'iche', Q'eqchi', Kaqchikel,
10 Mam, Q'anjob'al, and Ixil.

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

17 (g) AGE ASSESSMENTS.—

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

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

24 (2) a list of free legal services providers and
25 contact information for such providers.

1 (c) FORMAT AND LANGUAGES.—

2 (1) IN GENERAL.—Such notice shall be—

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

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

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

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

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

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

1 **SEC. 203. STAFFING AND TRAINING.**

2 (a) FEDERAL FIELD SPECIALISTS.—The Director
3 shall—

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

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

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

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

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

23 (2) provides training for case management spe-
24 cialists that enables the Department of Health and
25 Human Services to meet required timelines for the

1 reunification of unaccompanied noncitizen children
2 in accordance with section 231(c); and

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

6 (c) CONTINGENCY FUND TO ADDRESS EMERGENT
7 NEEDS.—

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

19 (2) USE OF FUND.—

20 (A) DISCRETIONARY USE.—The Director
21 may draw upon the Fund to reduce the ratio to
22 6 unaccompanied noncitizen children for each
23 case management specialist if—

24 (i) the national utilization rate (ex-
25 cluding funded but unplaceable beds and

1 calculated as the number of filled beds di-
2 vided by the number of beds available for
3 placement, expressed as a percentage)
4 reaches or exceeds 65 percent in any week;
5 or

6 (ii) the Director certifies to Congress
7 that the rate of increase in childcare facil-
8 ity usage, as calculated by the Director for
9 purposes of section 602(b)(3)(F)(i)(VI),
10 has led the Director to believe that such
11 national utilization rate will reach 90 per-
12 cent in any week during the subsequent
13 10-week period.

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

20 (d) TRAINING.—

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

1 unaccompanied noncitizen children, including youth
2 care workers, that is—

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

6 (B) consistent across the Office of Refugee
7 Resettlement’s network of State-licensed pro-
8 grams.

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

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

14 (B) Mental health and trauma.

15 (C) Child development.

16 (D) Prevention of sexual abuse and harass-
17 ment.

18 (E) Cultural humility.

19 (F) Racial sensitivity.

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

25 (H) Disabilities.

1 (3) SPECIFIC TRAINING FOR STAFF WORKING
2 WITH EARLY CHILDHOOD MINORS.—The Director
3 shall ensure that personnel who interact with unac-
4 companied noncitizen children who are early child-
5 hood minors receive specialized training relevant to
6 the needs and capacities of such children.

7 (4) DEVELOPMENT OF TRAINING MATERIALS.—
8 The Director, in collaboration with stakeholders who
9 have expertise in child migration, child mental
10 health, and child development, shall—

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

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

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

1 **Subtitle B—Services for Unaccom-**
2 **panied Noncitizen Children**

3 **SEC. 211. REQUIRED SERVICES.**

4 (a) PROVISION OF REQUIRED SERVICES.—A State-
5 licensed program that operates a childcare facility shall
6 provide the following services for each unaccompanied
7 noncitizen child in its care:

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

10 (A) the rights of the unaccompanied non-
11 citizen child;

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

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

15 (D) the availability of legal assistance.

16 (2) Proper physical care and maintenance, in-
17 cluding suitable living accommodations, food, appro-
18 priate clothing, and personal hygiene items.

19 (3) Not later than 2 business days after admis-
20 sion to the childcare facility, a comprehensive med-
21 ical examination that includes screening for infec-
22 tious disease.

23 (4) Appropriate, ongoing, and routine medical
24 and dental care, as prescribed by a licensed physi-

1 cian, advanced practice provider, nurse, or physician
2 assistant, including—

3 (A) reproductive health and family plan-
4 ning services;

5 (B) emergency health care services;

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

9 (D) administration of prescribed medica-
10 tion and special diets; and

11 (E) mental health screening and interven-
12 tion, including referrals.

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

15 (A) Collection of essential data relating to
16 the identification and history of the unaccom-
17 panied noncitizen child and family.

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

21 (C) An educational assessment and plan.

22 (D) An assessment of family relationships.

23 (E) A statement of religious preference
24 and practice.

1 (F) An assessment of the personal goals,
2 strengths, and weaknesses of the unaccom-
3 panied noncitizen child.

4 (G) Collection of identifying information
5 regarding immediate family members, other rel-
6 atives, godparents, or friends who may be resid-
7 ing in the United States and who may be able
8 to assist in family reunification.

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

12 (A) developed in accordance with the
13 child's needs, as determined by the individual-
14 ized needs assessment under paragraph (5);
15 and

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

18 (7) Education services, as described in section
19 213.

20 (8) Recreational activities, as described in sec-
21 tion 214.

22 (9) Counseling services, including—

23 (A) not fewer than 2 weekly individual
24 counseling sessions conducted by licensed men-

1 tal health professionals, including social work-
2 ers, psychologists, and psychiatric staff; and

3 (B) not fewer than 1 weekly group coun-
4 seling session conducted by licensed mental
5 health professionals, including social workers,
6 psychologists, or psychiatric staff.

7 (10) Acculturation and adaptation services, in-
8 cluding the provision of information regarding the
9 development of social and interpersonal skills.

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

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

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

1 (14) Telephone and video access for contacting
2 parents, family members, and caregivers, in a pri-
3 vate space that ensures confidentiality, at no cost to
4 the unaccompanied noncitizen child, family member,
5 or caregiver. An unaccompanied noncitizen child
6 shall be permitted such access not fewer than 4
7 times weekly for a period of not less than 30 min-
8 utes each time.

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

11 (A) to wear the child's own clothes, as
12 available;

13 (B) to retain a private space in the
14 childcare facility for the storage of personal be-
15 longings;

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

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

21 (E) to receive and send uncensored cor-
22 respondence.

23 (16) Legal services information regarding the
24 availability of free legal assistance, the right to be
25 represented by counsel, screenings and legal orienta-

1 tion presentations, and facilitated, confidential ac-
2 cess to counsel, as described in title IV.

3 (b) CONSIDERATIONS FOR PROVISION OF SERV-
4 ICES.—A State-licensed program that operates a childcare
5 facility shall provide the services described in subsection
6 (a) in a manner that is sensitive to the age, culture, native
7 language, and complex needs of each unaccompanied non-
8 citizen child.

9 (c) RULES AND DISCIPLINE STANDARDS.—

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

13 (A) formulated with consideration given to
14 the age ranges, developmental stages, and de-
15 gree of trauma experienced by the unaccom-
16 panied noncitizen children in the applicable
17 childcare facility; and

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

20 (2) PROHIBITED MEASURES.—Such a State-li-
21 censed program may not subject any unaccompanied
22 noncitizen child to—

23 (A) corporal punishment, physical or chem-
24 ical restraint, seclusion, humiliation, verbal or
25 mental abuse, or punitive interference with the

1 daily functions of living, such as eating, sleep-
2 ing, or bathroom access; or

3 (B) any disciplinary measure that—

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

7 (ii) denies an unaccompanied noncit-
8 izen child regular meals, water, sleep, exer-
9 cise, medical care, correspondence privi-
10 leges, legal assistance, education, recre-
11 ation, bathroom access, or any other serv-
12 ice described in subsection (a).

13 (d) RECORDKEEPING.—

14 (1) INDIVIDUAL CASE RECORDS.—The operator
15 of each childcare facility and influx facility shall de-
16 velop, maintain, and safeguard individual client case
17 records on each unaccompanied noncitizen child in
18 care at the facility.

19 (2) CONFIDENTIALITY.—The operator of each
20 childcare facility and influx facility shall develop and
21 maintain a system of accountability that preserves
22 the confidentiality of client information and protects
23 such records from unauthorized use or disclosure in
24 accordance with section 804.

1 (3) REPORTING.—The operator of each
2 childcare facility and influx facility shall maintain
3 adequate records and make regular reports, as re-
4 quired by the Ombudsperson, that permit the
5 Ombudsperson to monitor and enforce this Act, the
6 amendments made by this Act, and any other re-
7 quirement or standard determined by the
8 Ombudsperson to be in the best interests of unac-
9 panied noncitizen children.

10 **SEC. 212. EVALUATION FOR DISABILITY.**

11 (a) IN GENERAL.—The Director shall provide unac-
12 panied noncitizen children who present an indication
13 of a disability with an evaluation for services under section
14 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794),
15 and provide unaccompanied noncitizen children with dis-
16 abilities with services (including accommodations) through
17 an individualized plan that includes a plan for prompt re-
18 lease.

19 (b) RECORDS.—Any record of a screening or an eval-
20 uation conducted under this section, and any record re-
21 lated to a decision with respect to the release of an unac-
22 panied noncitizen child with a disability, shall be main-
23 tained separately from the unaccompanied noncitizen
24 child’s immigration file (commonly known as an “A-
25 File”).

1 **SEC. 213. EDUCATION.**

2 (a) CURRICULUM.—

3 (1) STATE STANDARDS.—A State-licensed pro-
4 gram shall provide educational instruction to unac-
5 companied noncitizen children using a curriculum
6 that—

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

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

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

15 (b) LICENSING AND CERTIFICATION REQUIRE-
16 MENTS.—

17 (1) IN GENERAL.—Teachers, administrators,
18 counselors, and support staff providing education to
19 unaccompanied noncitizen children at a childcare fa-
20 cility shall—

21 (A) meet local and State certification or li-
22 censure requirements; and

23 (B) in the case of an unaccompanied non-
24 citizen child in custody for a period longer than
25 60 days or who was previously attending school

1 in the United States, ensure that the child re-
2 ceives transferable credit.

3 (c) INSTRUCTION.—

4 (1) IN GENERAL.—Educational instruction at a
5 childcare facility shall be—

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

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

11 (2) CLASS SIZE.—An unaccompanied noncitizen
12 child may not be placed in a class in which the
13 teacher-to-student ratio exceeds the applicable State
14 maximum ratio.

15 (d) LANGUAGE ACCESS AND EDUCATIONAL ENVI-
16 RONMENT.—The educational program at a childcare facil-
17 ity shall—

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

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

24 (e) INDIVIDUAL EDUCATION PROGRAM.—A State-li-
25 censed program that operates a childcare facility shall pro-

1 vide any eligible unaccompanied noncitizen child who is
2 a child with a disability (as defined in section 602 of the
3 Individuals with Disabilities Education Act (20 U.S.C.
4 1401)) with special education and related services pursu-
5 ant to an individualized education program that is devel-
6 oped for the unaccompanied noncitizen child and is con-
7 sistent with the requirements provided under the Individ-
8 uals with Disabilities Education Act (20 U.S.C. 1401 et
9 seq.).

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

15 **SEC. 214. RECREATION.**

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

19 (1) the guidelines of the Department of Health
20 and Human Services entitled “2018 Physical Activ-
21 ity Guidelines for Americans”; and

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

24 (b) ACTIVITIES.—

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

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

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

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

14 (3) LANGUAGE-APPROPRIATE READING MATE-
15 RIALS.—A State-licensed program shall provide ap-
16 propriate reading materials in the primary languages
17 of unaccompanied noncitizen children for use during
18 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 A criminal history of a resident of a potential foster
13 care placement shall not be the basis for a denial of
14 the foster care placement for an unaccompanied
15 noncitizen child unless the Director demonstrates
16 that such history—

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

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

20 (ii) has a direct and immediate impact on
21 the safety of the unaccompanied noncitizen
22 child.

1 **SEC. 224. ADDITIONAL REQUIREMENTS RELATING TO CHIL-**
2 **DREN WITH DISABILITIES AND CHILDREN**
3 **WITH MENTAL HEALTH NEEDS.**

4 (a) **PRIORITIZATION OF RELEASE.**—The Director
5 shall prioritize the release to sponsors of unaccompanied
6 noncitizen children with disabilities so that such children
7 may receive, in the community rather than in immigration
8 custody, evidence-based, trauma-informed services tailored
9 to their needs.

10 (b) **ACCESS TO SERVICES WHILE IN CUSTODY.**—In
11 the case of an unaccompanied noncitizen child with dis-
12 abilities who cannot be expeditiously released, the Director
13 shall provide access to any necessary service in the least
14 restrictive integrated setting possible until a family-based
15 placement is secured.

16 (c) **SUPPORT.**—The Director shall support unaccom-
17 panied noncitizen children with disabilities by—

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

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

25 (3) developing and delivering trauma-informed
26 disability-related training to all frontline care pro-

1 vider staff, in collaboration with stakeholders who
2 have expertise in serving children with disabilities.

3 (d) NETWORK CAPACITY.—Not less than 75 percent
4 of all childcare facilities and foster care placements shall
5 have appropriate State licensing and documented capa-
6 bility to house unaccompanied noncitizen children with
7 disabilities.

8 **SEC. 225. MINIMIZING TRANSFERS.**

9 (a) IN GENERAL.—The Director shall—

10 (1) minimize transfer of unaccompanied noncit-
11 izen children among childcare facilities and between
12 short-term and long-term foster care placements;
13 and

14 (2) ensure that—

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

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

21 (C) unaccompanied noncitizen children who
22 are siblings are housed together in the same
23 childcare facility unless there is an extraor-
24 dinary need for specialized care, such as inpa-
25 tient health care services.

1 (b) NOTICE.—

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

7 (A) notify the child in a language and for-
8 mat the child understands; and

9 (B) notify and provide a justification for
10 the transfer to the child’s sponsor, legal counsel
11 or local legal services provider, and child advo-
12 cate, as applicable.

13 (2) EXCEPTION.—

14 (A) IN GENERAL.—Paragraph (1) shall not
15 apply in an unusual and compelling cir-
16 cumstance, such as—

17 (i) a circumstance in which—

18 (I) the safety of the unaccom-
19 panied noncitizen child or any other
20 individual is threatened; or

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

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

1 (B) NOTICE AFTER TRANSFER.—In the
2 case of a circumstance or waiver described in
3 subparagraph (A), notice shall be provided to
4 the unaccompanied noncitizen child’s legal
5 counsel or local legal services provider, and
6 child advocate, as applicable, not later than 24
7 hours after the transfer.

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

12 **SEC. 226. RESTRICTIVE PLACEMENTS.**

13 (a) DEFINITIONS.—In this section:

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

16 (A) a staff-secure facility;

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

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

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

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

1 (B) an out-of-network facility or group
2 home the staff of which has specialized training
3 to care for children and adolescents with signifi-
4 cant emotional, behavioral, social, or medical
5 needs.

6 (b) PLACEMENT REVIEW HEARINGS FOR TRANSFERS
7 TO RESTRICTIVE PLACEMENTS.—

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

14 (2) NOTICE.—

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

21 (B) EXCEPTION.—The Director may
22 transfer an unaccompanied noncitizen child to a
23 restrictive placement without providing notice
24 under subparagraph (A) only if the Director
25 has a reasonable belief, based on clearly

1 articlable facts, that the child is a present, im-
2 minent danger to himself or herself or to oth-
3 ers.

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

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

10 (ii) A description of the individualized
11 allegations relied on by the Director in
12 support of such transfer, including all sup-
13 porting evidence.

14 (iii) An explanation that the unaccom-
15 panied noncitizen child—

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

18 (II) may submit additional evi-
19 dence, including witness testimony.

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

22 (A) 72 hours after the unaccompanied
23 noncitizen child concerned receives notice under
24 paragraph (2); and

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

3 (4) PROCEDURAL MATTERS.—

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

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

9 (ii) has expertise in child welfare.

10 (B) RIGHTS OF CHILD.—

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

14 (I) the right to counsel; and

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

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

23 (C) AVAILABILITY OF OFFICE OF REFUGEE
24 RESETTLEMENT RECORDS.—The Director shall
25 disclose to the unaccompanied noncitizen child

1 concerned and the legal counsel and child advo-
2 cate of the child, as applicable, the child's entire
3 case file and all evidence supporting the deter-
4 mination to transfer the child to a restrictive
5 placement—

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

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

10 (D) INTERPRETATION SERVICES.—An in-
11 terpreter in the preferred language of the unac-
12 companied noncitizen child shall be made avail-
13 able for a hearing under this subsection.

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

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

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

23 (iii) there is no viable alternative to a
24 restrictive placement to ensure the best in-
25 terests of the child; and

1 (iv) the child’s placement in a facility
2 that is not a restrictive placement would
3 not provide the services or resources nec-
4 essary.

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

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

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

18 (5) WRITTEN DECISION.—

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

1 shall be binding on the Office of Refugee Reset-
2 tlement.

3 (B) CONSIDERATION OF BEST INTEREST
4 RECOMMENDATION.—In making a decision on
5 such a transfer, the fact finder shall consider,
6 and respond in writing to, the recommendation
7 of the child advocate of the unaccompanied non-
8 citizen child concerned.

9 (C) ELEMENTS.—A written decision under
10 this paragraph shall—

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

14 (ii) notify the unaccompanied noncit-
15 izen child of the child's—

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

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

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

23 (D) LANGUAGE ACCESS.—The decision
24 shall be made available in a language and in a

1 format the unaccompanied noncitizen child un-
2 derstands.

3 (E) SUBMISSION TO OMBUDSPERSON.—

4 Not later than 72 hours after a decision in a
5 placement review hearing is issued under this
6 paragraph, the fact finder shall submit the deci-
7 sion to the Ombudsperson.

8 (6) REVIEW BY OMBUDSPERSON.—

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

16 (B) RECOMMENDATION.—

17 (i) IN GENERAL.—In carrying out a
18 review under this paragraph, the
19 Ombudsperson may make a recommenda-
20 tion with respect to whether such decision
21 should be modified.

22 (ii) FINDING OF ERRONEOUS DECI-
23 SION.—

24 (I) IN GENERAL.—If the
25 Ombudsperson determines that the

1 decision under paragraph (5) was er-
2 roneous, the Ombudsperson shall sub-
3 mit to the Director a recommendation
4 for further action.

5 (II) WRITTEN STATEMENT.—

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

17 (bb) NONDELEGATION.—
18 The Director may not delegate
19 the requirement to issue such a
20 written statement to any other
21 individual.

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

24 (1) IN GENERAL.—The Director may not place
25 an unaccompanied noncitizen child in a staff-secure

1 facility based solely on a risk of self-harm or behav-
2 ior related to the child's trauma or mental health
3 that could be addressed in a less restrictive setting
4 with additional accommodations or rehabilitative
5 care.

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

9 (3) STAFF-SECURE FACILITIES.—

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

13 (i) there is clear and convincing evi-
14 dence that the child poses a serious and
15 imminent danger to others at the time of
16 placement; and

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

22 (iii) even with additional accommoda-
23 tions and de-escalation measures, the child
24 cannot be adequately cared for in a less re-
25 strictive setting or rehabilitative care.

1 (B) DURATION.—The Director may only
2 hold an unaccompanied noncitizen child in a
3 staff-secure facility under subparagraph (A)
4 during the period in which the Director can
5 demonstrate that the conditions described in
6 that subparagraph exist.

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

12 (4) PROHIBITION ON PLACEMENT IN U.S. IMMI-
13 GRATION AND CUSTOMS ENFORCEMENT FACILI-
14 TIES.—The Director may not place any accompanied
15 noncitizen child or unaccompanied noncitizen child
16 in—

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

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

21 (d) PLACEMENT IN THERAPEUTIC CHILDCARE FA-
22 CILITIES.—

23 (1) LIMITATION.—The Director may place an
24 unaccompanied noncitizen child in a therapeutic
25 childcare secure facility only if—

1 (A) the unaccompanied noncitizen child
2 has received a detailed, individualized evalua-
3 tion by a licensed psychologist or psychiatrist
4 who is experienced in the care of children; and

5 (B) the mental health professional con-
6 ducting the evaluation under subparagraph (A)
7 has determined that—

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

10 (ii) such placement is in the best in-
11 terests of the child; and

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

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

24 (3) APPLICABILITY OF OTHER PROVISIONS.—
25 The procedures relating to transfers, notice, and

1 placement review hearings under this title apply
2 equally to unaccompanied noncitizen children placed
3 in residential treatment centers and other thera-
4 peutic childcare facilities.

5 (4) SERVICES TO BE PROVIDED.—

6 (A) EVALUATION.—

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

12 (ii) REPORT.—The mental health pro-
13 fessional conducting the evaluation under
14 clause (i) for an unaccompanied noncitizen
15 child shall—

16 (I) issue a written report that
17 sets forth—

18 (aa) the reasons for such
19 placement;

20 (bb) treatment goals; and

21 (cc) a plan specific to the
22 child for transition to a less re-
23 strictive setting; and

1 (II) make such report available
2 to the unaccompanied noncitizen child
3 and the child advocate of the child.

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

8 (i) legal services; and

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

11 (e) MONTHLY REVIEW HEARING.—

12 (1) IN GENERAL.—Not less frequently than
13 monthly, each unaccompanied noncitizen child in a
14 restrictive placement shall be afforded a placement
15 review hearing to determine whether continued
16 placement in the restrictive placement is appro-
17 priate.

18 (2) CONDUCT OF HEARINGS.—A hearing under
19 this subsection shall be conducted in accordance
20 with the procedures and standards for placement re-
21 view hearings under subsection (b).

22 (3) REPORT BY MENTAL HEALTH PROVIDER.—
23 With respect to an unaccompanied noncitizen child
24 who is in a therapeutic childcare facility not later
25 than 5 days before a hearing under this subsection,

1 a licensed psychologist or psychiatrist who is experi-
2 enced in the care of children shall submit to the fact
3 finder a detailed report on the mental health needs
4 of the unaccompanied noncitizen child concerned.

5 (4) WRITTEN DECISION.—

6 (A) IN GENERAL.—The fact finder shall
7 issue a written decision continuing or termi-
8 nating the restrictive placement of the unac-
9 companied noncitizen child concerned, which
10 shall be binding on the Office of Refugee Reset-
11 tlement.

12 (B) CONSIDERATION OF BEST INTEREST
13 RECOMMENDATION.—In making a decision on
14 such placement, the fact finder shall consider—

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

19 (ii) the findings contained in the re-
20 port submitted under paragraph (3).

21 (C) ELEMENTS.—A written decision under
22 this paragraph shall—

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

1 (ii) notify the unaccompanied noncit-
2 ized child of—

3 (I) the right to further placement
4 review hearings under this subsection;
5 and

6 (II) the right to seek judicial re-
7 view of the decision.

8 (D) LANGUAGE ACCESS.—The decision
9 shall be made available in a language and in a
10 format the unaccompanied noncitizen child un-
11 derstands.

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

15 (A) shall be maintained separately and
16 apart from the unaccompanied noncitizen
17 child's immigration file (commonly called the
18 "A-File"); and

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

1 (f) PLACEMENT OF UNACCOMPANIED NONCITIZEN
2 CHILDREN WITH DISABILITIES IN RESTRICTIVE PLACE-
3 MENTS.—

4 (1) IN GENERAL.—An unaccompanied noncit-
5 izen child who is receiving services under section 504
6 of the Rehabilitation Act of 1973 (29 U.S.C. 794)
7 shall not be placed in a facility that does not have
8 access to such services.

9 (2) NEEDS DETERMINATION.—

10 (A) IN GENERAL.—Before placing such an
11 unaccompanied noncitizen child in a restrictive
12 setting, the Director shall make a determination
13 as to whether the needs of the child can be met
14 in a more integrated setting.

15 (B) ELEMENTS.—A determination under
16 subparagraph (A) shall include—

17 (i) an identification of the relevant
18 trauma-informed, evidence-based services
19 and accommodations that have been identi-
20 fied as potentially relevant;

21 (ii) a description of any such service
22 or accommodation that has been provided
23 and the period of time in which the service
24 or accommodation has been provided;

1 (iii) if any such service or accommo-
2 dation has been ineffective, an assessment
3 of the reason; and

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

7 (3) SERVICES AVAILABLE IN A LESS RESTRIC-
8 TIVE PLACEMENT.—

9 (A) IN GENERAL.—If services are identi-
10 fied that have the potential to maintain such an
11 unaccompanied noncitizen child in a less re-
12 strictive placement, the Director shall ensure
13 that the child receives such services before the
14 Director considers a transfer to a restrictive
15 placement.

16 (B) IDENTIFICATION OF SERVICES AND
17 ACCOMMODATIONS.—

18 (i) IN GENERAL.—For each such un-
19 accompanied noncitizen child, at each
20 placement review hearing under subsection
21 (e), the Director shall explicitly identify
22 services and accommodations that could be
23 made available in a less restrictive place-
24 ment.

1 (ii) JUSTIFICATION.—A recommenda-
2 tion by the Director against placing such
3 an unaccompanied noncitizen child in a
4 less restrictive placement shall be sup-
5 ported by specific documentation as to the
6 reasons that, even with such accommoda-
7 tions, the child cannot be safely placed in
8 a less restrictive placement.

9 (4) INDEPENDENT REVIEW.—

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

22 (B) CONTINUED RESTRICTIVE PLACE-
23 MENT.—In the case of such an unaccompanied
24 noncitizen child in a restrictive placement whom
25 the Director does not intend to transfer to a

1 less restrictive placement, before the child's
2 next placement review hearing, the decision
3 shall be reviewed by an independent third-party
4 licensed psychologist or psychiatrist who is ex-
5 perienceed in the care of children, in accordance
6 with a standardized process for evaluating the
7 data and presented rationale, including a con-
8 sideration of accommodations that could avoid
9 the need for restrictive placement.

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

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

18 (a) IN GENERAL.—An unaccompanied noncitizen
19 child or the parent, legal guardian, or prospective sponsor
20 of such a child may seek judicial review in a district court
21 of the United States of—

- 22 (1) a determination with respect to the type of
23 childcare facility in which the child is placed; or
24 (2) a sponsorship determination.

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

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

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

9 (c) LIMITED REVIEW.—Review under this section
10 shall be limited to entering an order solely affecting the
11 individual claims of the unaccompanied noncitizen child or
12 the parent, legal guardian, or prospective sponsor seeking
13 such review.

14 (d) AGENCY EXERCISE OF DISCRETION REVIEWED
15 DE NOVO.—The exercise of discretion by the Secretary
16 or the Secretary of Homeland Security in making a place-
17 ment decision reviewed under this section shall be reviewed
18 de novo.

19 (e) BOND REDETERMINATION.—An unaccompanied
20 noncitizen child in removal proceedings shall be afforded
21 a bond redetermination hearing before an immigration
22 judge in every case, unless the child indicates on the notice
23 of custody determination form that he or she waives the
24 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 criminal his-
2 tory of the prospective sponsor, or a house-
3 hold member of the prospective sponsor,
4 shall not be a basis for denial of sponsor-
5 ship unless the Director demonstrates that
6 such history includes a conviction for child
7 abuse or trafficking, or is less than 10
8 years old and would have a direct and im-
9 mediate impact on the safety of the unac-
10 companied noncitizen child concerned.

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.

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(II) FINDING OF ERRONEOUS DE-
CISION.—

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

(bb) WRITTEN STATE-
MENT.—

(AA) IN GENERAL.—If
the Director declines to fol-
low the recommendation of
the Ombudsperson, the Di-
rector shall provide a de-
tailed written justification to
the child, the prospective
sponsor, the legal counsel
and the child advocate of the
child, and the legal counsel
of the prospective sponsor,
as applicable.

(BB) NONDELEGA-
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 a prospective sponsor may
7 obtain judicial review of a decision under sub-
8 paragraph (G) in a district court of the United
9 States.

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

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

20 (a) IN GENERAL.—The Director may not delay the
21 release of an unaccompanied noncitizen child based solely
22 on a pending evaluation for services under section 504 of
23 the Rehabilitation Act of 1973 (29 U.S.C. 794).

24 (b) SUPPORTING EVIDENCE REQUIRED FOR DETER-
25 MINATION NOT TO RELEASE.—A determination by the

1 Director not to release an unaccompanied noncitizen child
2 receiving services under such section based on a prospec-
3 tive sponsor's inability to meet the needs of the child shall
4 be supported by evidence of efforts by the Director to edu-
5 cate, and provide concrete resources and support to, the
6 prospective sponsor through the provision of post-release
7 services.

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

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

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

19 (d) REVIEW.—

20 (1) IN GENERAL.—With respect to a determina-
21 tion by the Director not to release an unaccom-
22 panied noncitizen child receiving services under such
23 section based on an assessment that the child is a
24 danger to himself or herself or to others, a review
25 of such determination shall be carried out by an

1 independent third-party licensed psychologist or psy-
2 chiatrist who is experienced in the care of children
3 before the date on which the sponsorship hearing
4 under section 232(b)(3) occurs.

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

7 (A) be carried out using a standardized
8 method for evaluating the data and shall in-
9 clude the rationale for denying release; and

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

14 (3) AVAILABILITY.—Such a review shall be
15 made in writing and made available to the unaccom-
16 panied noncitizen child and the child's legal counsel
17 before the date on which a sponsorship hearing
18 under section 232(b)(3) occurs.

19 (e) OFFICE OF REFUGEE RESETTLEMENT SUPPORT
20 FOR SPONSORS.—With respect to children with disabilities
21 released from the custody of the Secretary, the Director
22 shall support and assist sponsors in accessing and coordi-
23 nating post-release community-based services and support
24 or technology, to the extent such services and support are
25 available.

1 (f) ALTERNATIVE PLACEMENT.—If a sponsor is not
2 identified for an unaccompanied noncitizen child who re-
3 ceives services under section 504 of the Rehabilitation Act
4 of 1973 (29 U.S.C. 794), the Director shall make every
5 effort to place the child in therapeutic foster care, foster
6 care, or the Unaccompanied Refugee Minor program.

7 **Subtitle E—Release**

8 **SEC. 241. PROCEDURES FOR RELEASE.**

9 (a) IN GENERAL.—The Secretary shall release an un-
10 accompanied noncitizen child from the custody of the Sec-
11 retary—

12 (1) without unnecessary delay; and

13 (2) as quickly as may be safely accomplished.

14 (b) PROVISION OF RECORDS ON RELEASE.—On re-
15 lease from the custody of the Secretary, including in cir-
16 cumstances of repatriation, the Director shall provide un-
17 accompanied noncitizen children and their sponsors, as ap-
18 plicable, the unaccompanied noncitizen child's complete
19 Office of Refugee Resettlement case file and records, in-
20 cluding—

21 (1) documentation that details the child's med-
22 ical and educational status, progress, and any re-
23 lated evaluations;

24 (2) information relating to any special needs of
25 the child; and

1 (3) any other information relevant to promoting
2 the child's well-being after release.

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

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

12 (e) PROHIBITION ON SECRETARY TAKING CHILD
13 BACK INTO CUSTODY.—

14 (1) IN GENERAL.—After the release of an unac-
15 companied noncitizen child from the custody of the
16 Secretary to a sponsor, the Secretary may not take
17 the child back into custody.

18 (2) REPORTING TO STATE CHILD WELFARE
19 AGENCY.—With respect to a child released from
20 such custody, if the Director becomes aware of a
21 concern related to suspected abuse or neglect in a
22 sponsor's care, the Director may report such con-
23 cerns to the applicable State child welfare agency.

24 **SEC. 242. POST-RELEASE SERVICES.**

25 (a) REQUIRED IN LIMITED CIRCUMSTANCES.—

1 (1) IN GENERAL.—The Director may not uni-
2 formly require post-release services to be in place be-
3 fore releasing an unaccompanied noncitizen child to
4 a sponsor.

5 (2) CASE MANAGEMENT SPECIALIST DETER-
6 MINATION.—The Director may only require post-re-
7 lease services to be in place before releasing an un-
8 accompanied noncitizen child to a sponsor if, after
9 conducting an individualized assessment of the par-
10 ticular needs of the child, the case management spe-
11 cialist makes a determination that the child would
12 be at risk of imminent physical or emotional harm
13 if post-release services were not in place before such
14 release.

15 (b) EXPANSION.—The Director shall provide post-re-
16 lease services to unaccompanied noncitizen children, in-
17 cluding by—

18 (1) providing active assistance with school en-
19 rollment;

20 (2) supporting sponsors in obtaining necessary
21 medical records, including vaccination and medica-
22 tion records, from the period during which the unac-
23 companied noncitizen children were in the custody of
24 the Secretary;

1 (3) ensuring access to family reunification and
2 medical support services, including support and
3 trauma-informed counseling for the family and men-
4 tal health counseling, through direct provision of
5 such services or through partnerships and referrals
6 to services in the community; and

7 (4) ensuring that sponsors of children with spe-
8 cial medical needs receive Office of Refugee Resettle-
9 ment support in accessing appropriate medical care.

10 **SEC. 243. INDIVIDUALS ATTAINING 18 YEARS OF AGE.**

11 (a) PRESUMPTION OF RELEASE ON RECOG-
12 NIZANCE.—

13 (1) IN GENERAL.—If an individual in the cus-
14 tody of the Secretary is not released to a sponsor be-
15 fore the individual attains the age of 18 years, there
16 shall be a presumption that the individual shall be
17 released on an order of recognizance.

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

24 (3) ALTERNATIVES TO DETENTION.—

1 (A) IN GENERAL.—In the case of an indi-
2 vidual aging out of the custody of the Secretary
3 who is not eligible to be released on an order
4 of recognizance, the individual shall be eligible
5 to participate in noncustodial alternatives to de-
6 tention programs provided by the Department
7 of Health and Human Services, including place-
8 ment with an individual, an organizational
9 sponsor, or a supervised group home with sup-
10 portive services to facilitate access to edu-
11 cational and occupational opportunities.

12 (B) PLACEMENT PREFERENCES.—The cat-
13 egories of placements available to an individual
14 described in subparagraph (A) shall be the fol-
15 lowing, in order of preference:

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

18 (ii) An independent living program.

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

21 (4) CONTINUATION OF SERVICES.—The Direc-
22 tor shall ensure that an individual released on an
23 order of recognizance under this subsection is pro-
24 vided with—

1 (A) continued access to counseling, case
2 management, legal counsel, and other support
3 services during the pendency of the individual's
4 immigration proceedings; and

5 (B) information on applying for special im-
6 migrant juvenile status under section
7 101(a)(27)(J) of the Immigration and Nation-
8 ality Act (8 U.S.C. 1101(a)(27)(J)), and re-
9 sources to assist the individual with applying
10 for such status.

11 (b) POST-18 PLAN FOR INDIVIDUALS AGING OUT OF
12 CUSTODY.—

13 (1) IN GENERAL.—The Director shall develop a
14 post-18 plan for each unaccompanied noncitizen
15 child entering Office of Refugee Resettlement cus-
16 tody who—

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

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

21 (2) ELEMENTS.—Each plan under paragraph
22 (1) shall include the following:

23 (A) An investigation into organizational
24 sponsors and social support services.

1 (B) Coordination with the Secretary of
2 Homeland Security to ensure the release of the
3 unaccompanied noncitizen child on his or her
4 own recognizance if release to an organizational
5 or individual sponsor is not successful.

6 (c) POST-18 PROGRAM.—With respect to an indi-
7 vidual in the custody of the Secretary who attains 18 years
8 of age before reunification, placement with a sponsor, or
9 adjudication with respect to immigration status, the Di-
10 rector may extend Office of Refugee Resettlement custody
11 for a period ending not later than the date on which the
12 individual attains 21 years of age, if the individual—

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

15 (B) has an identified sponsor;

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

18 (D) otherwise does not have reunification op-
19 tions but has not yet been adjudicated with respect
20 to immigration status by a local court in the applica-
21 ble jurisdiction; and

22 (2) solely at his or her discretion, without coer-
23 cion and on the recommendation of his or her case
24 manager, elects to remain in Office of Refugee Re-

1 settlement custody in the post-18 program until the
2 date on which, as applicable—

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

6 (B) the individual is adjudicated with re-
7 spect to immigration status in a local court in
8 the applicable jurisdiction, receives relief from
9 removal, and enters an applicable program for
10 unaccompanied refugee minors.

11 (d) CONSIDERATION RELATING TO U.S. IMMIGRA-
12 TION AND CUSTOMS ENFORCEMENT CUSTODY.—In con-
13 sidering a sponsorship application for an unaccompanied
14 noncitizen child who may attain 18 years of age in the
15 custody of the Secretary, the Director shall consider the
16 potential for, and impact of, trauma and the risk to the
17 safety and well-being of the child if the child were to be
18 transferred to the custody of U.S. Immigration and Cus-
19 toms Enforcement on attaining such age.

20 (e) PROHIBITION ON DETENTION AND REMOVAL.—
21 An individual who was in the custody of the Secretary as
22 an unaccompanied noncitizen child shall not be appre-
23 hended, arrested, transferred, or taken into the custody
24 of U.S. Immigration and Customs Enforcement, or re-

1 moved from the United States, based solely on having at-
2 tained 18 years of age.

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

9 **SEC. 244. CUSTODY REVIEW BY OMBUDSPERSON.**

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

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

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

23 (2) provide the Ombudsperson a complete copy
24 of the Office of Refugee Resettlement case file and
25 a detailed explanation for such continued custody.

1 **TITLE III—EMERGENCIES AND**
2 **INFLUXES**

3 **SEC. 301. SENSE OF CONGRESS.**

4 It is the sense of Congress that before opening or ex-
5 panding an influx facility, the Secretary and the Director
6 should explore all other avenues for placing an unaccom-
7 panied noncitizen child in the least restrictive, State-li-
8 censed setting that most approximates a family and in
9 which the special needs of the child, if any, may be met
10 consistent with the best interests and special needs of the
11 child.

12 **SEC. 302. DEFINITIONS.**

13 In this title:

14 (1) EMERGENCY.—The term “emergency”
15 means an event of limited duration, such as a nat-
16 ural disaster, facility fire, civil disturbance, or med-
17 ical concern.

18 (2) OPERATIONAL CAPACITY.—The term “oper-
19 ational capacity” means the net bed capacity of Of-
20 fice of Refugee Resettlement facilities and other
21 housing operated by State-licensed programs for un-
22 accompanied noncitizen children.

23 **SEC. 303. PLACEMENT.**

24 (a) IN GENERAL.—In the event of an emergency or
25 influx that prevents the prompt placement of unaccom-

1 panied noncitizen children in childcare facilities, the Direc-
2 tor—

3 (1) shall make every effort—

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

7 (B) to release unaccompanied noncitizen
8 children from other programs as expeditiously
9 as possible; and

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

13 (b) TRANSFER TO LICENSED FACILITY.—

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

20 (2) EXCEPTION.—The Director may not trans-
21 fer a child under paragraph (1) if the transfer would
22 prolong the child's total length of custody by more
23 than 24 hours.

1 (c) LIMITATION ON TRANSFER TO INFLUX FACIL-
2 ITY.—The Director may not transfer to an influx facility
3 any unaccompanied noncitizen child—

4 (1) for whom—

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

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

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

12 (2) who—

13 (A) has been identified by the Director
14 as—

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

18 (ii) not having any identified prospec-
19 tive sponsor;

20 (B) is younger than 16 years of age;

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

24 (D) speaks a language other than English
25 or Spanish as his or her primary language;

1 (E) has special needs;

2 (F) is currently prescribed psychotropic
3 medication;

4 (G) is pregnant or parenting;

5 (H) will attain 18 years of age on a date
6 that is not more than 30 days after the pro-
7 posed date of transfer to the influx facility;

8 (I) is scheduled to be released on a date
9 that is not more than 3 days after the proposed
10 date of the transfer;

11 (J) has a pending home study;

12 (K) has not received a legal orientation
13 presentation or a legal screening;

14 (L) has a date scheduled for a hearing be-
15 fore an immigration court or a State court, in-
16 cluding family and juvenile court;

17 (M) has a pending application for relief
18 from removal;

19 (N) has legal counsel; or

20 (O) has a child advocate.

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

23 (1) unaccompanied noncitizen children with sib-
24 lings or other relatives under the age of 18 in the

1 custody of the Secretary are not separated from
2 each other; and

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

5 **SEC. 304. PLANNING FOR EMERGENCIES AND INFLUXES.**

6 (a) **PLAN REQUIRED.**—Not later than 180 days after
7 the date of the enactment of this Act, the Director shall
8 develop a plan for—

9 (1) maintaining and expanding emergency ca-
10 pacity in licensed foster care homes and small con-
11 gregate care facilities for housing unaccompanied
12 noncitizen children so as to eliminate the need for
13 influx facilities; and

14 (2) in the case of an emergency or influx, plac-
15 ing unaccompanied noncitizen children with sponsors
16 as expeditiously as possible.

17 (b) **SUPPLEMENTAL PLACEMENT LIST.**—

18 (1) **IN GENERAL.**—The Director shall develop
19 and maintain a supplemental placement list of facili-
20 ties that have, in the aggregate, not fewer than 200
21 beds available to accept unaccompanied noncitizen
22 children in the case of an emergency or influx, which
23 shall be in addition to the number of beds available
24 for placements under normal circumstances.

1 (2) LICENSING AND COMPLIANCE.—Any facility
2 on the supplemental placement list shall be—

3 (A) licensed in the State in which it is lo-
4 cated; and

5 (B) in compliance with all standards and
6 procedures applicable to State-licensed pro-
7 grams under this Act.

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

10 (A) The name of the facility.

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

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

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

18 (E) A description of any special service
19 available.

20 (4) APPROPRIATE COMMUNITY SERVICES.—To
21 the extent practicable, the Director shall attempt to
22 include on the supplemental placement list facilities
23 located in geographic areas in which culturally and
24 linguistically appropriate community services are
25 available.

1 (5) HIGH CAPACITY AT CHILDCARE FACILI-
2 TIES.—If the operational capacity of all childcare fa-
3 cilities and foster care placements reaches or exceeds
4 75 percent for a period of 3 consecutive days, the
5 Director shall contact the facilities on the supple-
6 mental placement list to determine the number of
7 available supplemental placements.

8 (c) NEED FOR SUPPLEMENTAL PLACEMENTS EX-
9 CEEDING CAPACITY.—If the number of unaccompanied
10 noncitizen children in need of placement in the case of
11 an emergency or influx exceeds the available appropriate
12 placements on the supplemental placement list, the Direc-
13 tor shall—

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

17 (2) expedite the reunification and release of un-
18 accompanied noncitizen children from U.S. Customs
19 and Border Protection custody.

20 **SEC. 305. INFLUX FACILITY STANDARDS AND STAFFING.**

21 (a) OPERATION OF INFLUX FACILITIES.—In the
22 event that the operation of an influx facility cannot be
23 avoided, the Director may operate an influx facility in ac-
24 cordance with this section.

25 (b) STANDARDS.—

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

6 (2) FIRST DAY OF OPERATION.—On the first
7 day of operation, an influx facility shall be in compli-
8 ance with—

9 (A) the staffing ratio requirements, case
10 management requirements, telephone call ac-
11 cess, legal services access, education and recre-
12 ation requirements, and medical and mental
13 health services requirements that apply to
14 childcare facilities; and

15 (B) the facility standards under the Prison
16 Rape Elimination Act of 2003 (34 U.S.C.
17 30301 et seq.).

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

23 (c) CONTRACTOR STANDARDS.—The Director may
24 not enter into a contract with any entity to operate an
25 influx facility, unless the entity has each of the following:

1 (1) Demonstrated experience in providing serv-
2 ices for unaccompanied noncitizen children or chil-
3 dren in foster care.

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

6 (3) A plan for—

7 (A) identifying, and immediately notifying
8 the Director with respect to, any child believed
9 to have been erroneously transferred to, or in
10 care at, the influx facility contrary to the limi-
11 tations set forth in paragraphs (1) and (2) of
12 section 303(c); and

13 (B) not later than 10 days after identi-
14 fying such a child, transferring the child to an
15 appropriate placement.

16 (4) An emergency plan that includes protection
17 against transmission of COVID–19 and other infec-
18 tious diseases, including a plan—

19 (A) to provide regular testing for any ap-
20 plicable disease;

21 (B) to comply with service standards for
22 quarantine with respect to any such disease
23 that mirror the services and guidance for chil-
24 dren and congregate care settings recommended

1 by the Centers for Disease Control and Preven-
2 tion; and

3 (C) to ensure access to immunizations for
4 unaccompanied noncitizen children in the influx
5 facility, in accordance with any applicable guid-
6 ance of the Centers for Disease Control and
7 Prevention.

8 (5) Emergency response protocols for place-
9 ment, care, and transfer of children, which reduce
10 the amount of time a child is in an emergency influx
11 facility.

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

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

18 (8) A training plan for case managers that in-
19 cludes in-service coaching and individual support for
20 a case manager's first 30 days as an employee of the
21 entity.

22 (9) A written code of conduct that is—

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

1 (B) contains clear boundaries for working
2 with and around children.

3 (10) Written ethical standards that are—

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

6 (B) based on accepted child welfare prin-
7 ciples and best practices.

8 (11) Data systems that meet the data and qual-
9 ity standards described in section 602 for tracking
10 children through intake, case management, transpor-
11 tation, and placement.

12 (d) WAIVER.—

13 (1) IN GENERAL.—In the case of an influx fa-
14 cility, the Director may waive compliance with a
15 standard or procedure under title II for a period of
16 not more than 30 days.

17 (2) NOTICE TO CONGRESS.—If the Director
18 waives compliance with the requirement that an in-
19 flux facility shall be licensed by the State in which
20 it is located, the Director shall provide to Congress
21 notice of such waiver, which shall include—

22 (A) a justification for the waiver; and

23 (B)(i) a plan for the influx facility to ob-
24 tain such licensing; or

1 (ii) in the case of an influx facility that will
2 be unable to obtain such licensing—

3 (I) an explanation of the reason
4 that—

5 (aa) licensing is not possible; and

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

9 (e) REPORTING MECHANISMS.—The Director shall
10 establish clear procedures—

11 (1) for unaccompanied noncitizen children at
12 influx facilities to directly and confidentially report
13 incidents of abuse or neglect at influx facilities to
14 the Ombudsperson, consulates, and State authori-
15 ties; and

16 (2) to allow State child protective services im-
17 mediate access to any influx facility to investigate
18 any such report.

19 (f) STAFFING.—

20 (1) BACKGROUND CHECKS.—

21 (A) IN GENERAL.—The Director shall en-
22 sure that a Federal Bureau of Investigation
23 background check, and in any applicable State
24 a child abuse or neglect check, has been con-
25 ducted for each influx facility staff member who

1 will have direct contact with unaccompanied
2 noncitizen children.

3 (B) TIMING OF BACKGROUND CHECKS.—

4 The background checks described in subpara-
5 graph (A) shall be completed before a staff
6 member interacts with any unaccompanied non-
7 citizen child at an influx facility.

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

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

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

20 (D) SUBMITTAL OF EVIDENCE.—Not later
21 than the date on which an influx facility com-
22 mences operation, the operator of the influx fa-
23 cility shall submit to the Director and the
24 Ombudsperson evidence that background checks
25 in accordance with this paragraph—

1 (i) have been completed for the rel-
2 evant facility staff; and

3 (ii) will be completed for all new hires
4 going forward.

5 (2) FLUENCY IN SPANISH.—Each staff member
6 of an influx facility who will have contact with unac-
7 companied noncitizen children shall—

8 (A) be fluent in Spanish and English; and

9 (B) have experience in the care of children.

10 (3) PEDIATRIC HEALTH SPECIALISTS.—An in-
11 flux facility shall have onsite pediatric health special-
12 ists, including a pediatrician, licensed psychologist,
13 or psychiatrist who is experienced in the care of chil-
14 dren.

15 (4) RATIOS.—Not later than 15 days after the
16 date on which an influx facility commences oper-
17 ation, the Director shall ensure that the influx facil-
18 ity maintains staffing ratios as follows:

19 (A) During waking hours, not less than 1
20 on-duty youth care worker for every 8 unaccom-
21 panied noncitizen children.

22 (B) During sleeping hours, not less than 1
23 on-duty youth care worker for every 16 unac-
24 companied noncitizen children.

1 **SEC. 306. MONITORING AND OVERSIGHT.**

2 (a) SITE VISITS.—

3 (1) DIRECTOR.—

4 (A) IN GENERAL.—Not less frequently
5 than monthly during the period in which an in-
6 flux facility is in operation, the Director shall
7 conduct a comprehensive onsite monitoring
8 visit.

9 (B) ELEMENTS.—Each site visit conducted
10 under subparagraph (A) shall include—

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

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

15 (II) the facility standards under
16 the Prison Rape Elimination Act of
17 2003 (34 U.S.C. 30301 et seq.);

18 (ii) an assessment of the delivery of,
19 and unaccompanied noncitizen children's
20 access to, health care and mental health
21 care services;

22 (iii) an assessment of unaccompanied
23 noncitizen children's access to counsel and
24 legal services; and

1 (iv) private, confidential interviews
2 with unaccompanied noncitizen children
3 housed in the influx facility.

4 (2) INSPECTOR GENERAL.—The Inspector Gen-
5 eral of the Department of Health and Human Serv-
6 ices may conduct unscheduled visits to any influx fa-
7 cility, during which the Inspector General may meet
8 confidentially with any unaccompanied noncitizen
9 child housed in the influx facility.

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

16 (A) the Flores settlement agreement;

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

20 (C) this Act.

21 (b) TOURS BY APPROVED STAKEHOLDERS.—Not less
22 frequently than monthly during the period in which an in-
23 flux facility is in operation, the Director shall allow ap-
24 proved stakeholders, including representatives from non-
25 profit organizations serving or advocating on behalf of un-

1 accompanied noncitizen children, to tour the influx facil-
2 ity.

3 **TITLE IV—LEGAL REPRESENTA-**
4 **TION FOR UNACCOMPANIED**
5 **NONCITIZEN CHILDREN**

6 **SEC. 401. LEGAL ORIENTATION PRESENTATIONS AND**
7 **LEGAL SCREENINGS.**

8 (a) IN GENERAL.—Not later than 10 days after
9 transfer to the custody of the Secretary, an unaccom-
10 panied noncitizen child shall receive a free legal orienta-
11 tion presentation and legal screening conducted by a legal
12 services provider, which shall include information relating
13 to—

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

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

17 (3) the right to a hearing before an immigra-
18 tion judge.

19 (b) PRIORITIZATION BEFORE RELEASE.—

20 (1) IN GENERAL.—The Director shall make af-
21 firmative, thorough, and timely efforts to ensure
22 that each unaccompanied noncitizen child receives a
23 presentation and screening described in subsection

24 (a) before release, and in the case of any unaccom-
25 panied noncitizen child who does not receive such

1 presentation and screening before release, the Direc-
2 tor shall ensure that the child receives the presen-
3 tation and screening on release.

4 (2) **RULE OF CONSTRUCTION.**—Nothing in this
5 section may be construed to prohibit the release of
6 an unaccompanied noncitizen child to a sponsor
7 based solely on not having received such a presen-
8 tation and screening.

9 **SEC. 402. LEGAL REPRESENTATION.**

10 (a) **IN GENERAL.**—An unaccompanied noncitizen
11 child shall be represented by counsel appointed or provided
12 by the Secretary, at Government expense, unless the child
13 has obtained, at his or her own expense, counsel author-
14 ized to practice in immigration proceedings.

15 (b) **PROCEDURE.**—Representation under subsection
16 (a) shall—

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

19 (2) extend through every stage of removal pro-
20 ceedings, from the child's initial appearance through
21 the termination of immigration proceedings; and

22 (3) include any ancillary matter appropriate to
23 such proceedings, even if the child attains 18 years
24 of age or is reunified with a parent or legal guardian
25 while the proceedings are pending.

1 (c) PRIVATE, CONFIDENTIAL MEETING SPACE.—The
2 Director shall ensure that unaccompanied noncitizen chil-
3 dren are provided access to a private, confidential space
4 to meet with legal services providers and a private, con-
5 fidential telephone line to contact their legal counsel or
6 legal services providers at the expense of the government.

7 (d) CONTACT WITH LEGAL COUNSEL.—An unaccom-
8 panied noncitizen child shall be permitted to call or meet
9 with his or her legal counsel or legal services provider at
10 any time.

11 (e) AUTHORIZATION OF APPROPRIATIONS.—

12 (1) IN GENERAL.—There are authorized to be
13 appropriated such sums as may be necessary to
14 carry out this section.

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

18 (f) SCOPE OF REPRESENTATION.—Government-ap-
19 pointed counsel may provide to an unaccompanied noncit-
20 izen child the full scope of representation, including rep-
21 resentation in—

22 (1) any matter relevant to the child's well-
23 being, including conditions of detention and matters
24 relating to medical and mental health services and
25 medication;

- 1 (2) placement review hearings;
- 2 (3) sponsorship hearings; and
- 3 (4) any other matter relating to immigration.

4 (g) COOPERATION OF OFFICE OF REFUGEE RESET-
5 TLEMENT REQUIRED.—

6 (1) IN GENERAL.—The Director shall ensure
7 that the legal counsel of an unaccompanied noncit-
8 izen child has access to prompt, reasonable, and reg-
9 ular direct communication with case managers, case
10 coordinators, and Federal field specialists overseeing
11 the child’s placement, release, family reunification,
12 transfer, and medical and mental health services.

13 (2) REQUESTS BY COUNSEL FOR INFORMA-
14 TION.—On request by the legal counsel or the inde-
15 pendent legal services provider of an unaccompanied
16 noncitizen child, the Director shall provide, not later
17 than 7 days after the date on which the request is
18 made, the following:

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

22 (B) A copy of the complete Office of Ref-
23 ugee Resettlement case file and records of the
24 unaccompanied noncitizen child concerned.

1 **TITLE V—APPOINTMENT OF**
2 **CHILD ADVOCATES AND IM-**
3 **PROVEMENTS TO IMMIGRA-**
4 **TION COURTS**

5 **SEC. 501. APPOINTMENT OF CHILD ADVOCATES.**

6 (a) IN GENERAL.—The Secretary shall appoint inde-
7 pendent child advocates to unaccompanied noncitizen chil-
8 dren, including—

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

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

13 (b) EXPANSION OF CHILD ADVOCATE SERVICES.—

14 (1) IN GENERAL.—The Secretary shall increase
15 funding for child advocate services to facilitate the
16 expansion, by not later than the date that is 180
17 days after the date of the enactment of this Act, of
18 the provision of such services to all locations at
19 which—

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

22 (B) unaccompanied noncitizen children ap-
23 pear before immigration courts for removal pro-
24 ceedings.

1 (2) **PRIORITIZATION.**—In expanding services
2 under this subsection, the Secretary shall prioritize
3 locations that have the highest numbers of unaccom-
4 panied noncitizen children in the custody of the Sec-
5 retary and unaccompanied noncitizen children ap-
6 pearing before immigration courts.

7 (3) **ACCESS TO RECORDS.**—

8 (A) **IN GENERAL.**—A child advocate ap-
9 pointed under this section shall have timely ac-
10 cess to all materials necessary to effectively ad-
11 vocate for the best interests of the unaccom-
12 panied noncitizen child concerned, including the
13 child’s complete Office of Refugee Resettlement
14 case file and records.

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

21 (4) **BEST INTEREST RECOMMENDATIONS.**—A
22 child advocate appointed under this section shall
23 submit a best interest recommendation based on law,
24 policy, medical or behavioral health, and relevant so-
25 cial science research to any Federal or State agency

1 making a decision with respect to the best interests
2 of an unaccompanied noncitizen child, including—

3 (A) the Department of Health and Human
4 Services;

5 (B) the Department of Justice;

6 (C) the Department of Homeland Security;

7 and

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

9 (5) CONFIDENTIALITY.—All communications
10 between child advocates appointed under this section
11 and unaccompanied noncitizen children shall be con-
12 fidential, and such a child advocate may not be com-
13 pelled to testify or provide evidence, in any pro-
14 ceeding, with respect to any information or opinion
15 conveyed to the child advocate by an unaccompanied
16 noncitizen child in the course of serving as child ad-
17 vocate.

18 (6) LEGAL SUPPORT.—The Secretary shall en-
19 sure that each location at which child advocate serv-
20 ices are provided under this section is staffed with
21 1 or more attorneys who have expertise in immigra-
22 tion law and child welfare law.

23 (7) AUTHORIZATION OF APPROPRIATIONS.—
24 There are authorized to be appropriated such sums
25 as may be necessary to carry out this subsection.

1 **SEC. 502. IMMIGRATION COURT IMPROVEMENTS.**

2 (a) **HIRING OF IMMIGRATION JUDGES.—**

3 (1) **IN GENERAL.—**To adjudicate pending cases
4 and efficiently process future cases, the Attorney
5 General shall increase the total number of immigra-
6 tion judges by not fewer than 75 judges during fis-
7 cal year 2023.

8 (2) **QUALIFICATIONS.—**The Attorney General
9 shall ensure that each immigration judge hired
10 under this subsection—

11 (A) is highly qualified;

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

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

17 (3) **NO PREFERENCE FOR CANDIDATES WITH**
18 **PRIOR SERVICE IN THE FEDERAL GOVERNMENT.—**In
19 selecting immigration judges under this subsection,
20 the Attorney General may not assign any preference
21 to a candidate who has prior service in the Federal
22 Government over a candidate who has equivalent
23 subject matter expertise based on experience in a
24 nonprofit organization, private practice, or aca-
25 demia, but does not have previous Federal service.

1 (b) IMMIGRATION COURT STAFF.—During fiscal year
2 2023, the Attorney General shall—

3 (1) increase the total number of judicial law
4 clerks at the Executive Office for Immigration Re-
5 view by 75; and

6 (2) increase the total number of support staff
7 for immigration judges, including legal assistants
8 and interpreters, by 300.

9 (c) SUPPORT STAFF; OTHER RESOURCES.—The At-
10 torney General shall ensure that the Executive Office for
11 Immigration Review has sufficient support staff, adequate
12 technological and security resources, and appropriate fa-
13 cilities to conduct the immigration proceedings required
14 under Federal law.

15 (d) LIMITATION.—Amounts appropriated for the Ex-
16 ecutive Office for Immigration Review or for any other di-
17 vision, activity, or function of the Department of Justice
18 may not be used to implement numeric case load judicial
19 performance standards or other standards that could neg-
20 atively impact the fair administration of justice by the im-
21 migration courts.

22 (e) DOCKET MANAGEMENT FOR RESOURCE CON-
23 SERVATION.—Notwithstanding any opposition from the
24 Secretary of Homeland Security or the Attorney General,
25 immigration judges shall administratively close or termi-

1 nate cases, and the Board of Immigration Appeals shall
2 remand cases for administrative closure, if an individual
3 in removal proceedings—

4 (1) appears to be prima facie eligible for a visa
5 or any other immigration benefit; and

6 (2) has a pending application for such benefit
7 before U.S. Citizenship and Immigration Services or
8 any other applicable Federal agency.

9 (f) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated such sums as may be
11 necessary to carry out this section.

12 **TITLE VI—OVERSIGHT, MONI-** 13 **TORING, AND ENFORCEMENT**

14 **SEC. 601. OFFICE OF THE OMBUDSPERSON FOR UNACCOM-** 15 **PANIED NONCITIZEN CHILDREN IN IMMIGRA-** 16 **TION CUSTODY.**

17 (a) ESTABLISHMENT.—There is established within
18 the Department of Health and Human Services an Office
19 of the Ombudsperson for Unaccompanied Noncitizen Chil-
20 dren (referred to in this section as the “Office”) to mon-
21 itor and oversee compliance with this Act and the amend-
22 ments made by this Act.

23 (b) INDEPENDENCE.—The Office shall be an impar-
24 tial, confidential resource that is fully independent of—

25 (1) the Office of Refugee Resettlement; and

1 (2) the Department of Homeland Security.

2 (c) OMBUDSPERSON.—

3 (1) IN GENERAL.—The Office shall be headed
4 by an Ombudsperson, who shall be appointed by,
5 and report directly to, the Secretary.

6 (2) RECOMMENDATIONS FROM STAKE-
7 HOLDERS.—Before making an appointment under
8 paragraph (1), the Secretary shall solicit and con-
9 sider candidate recommendations from community
10 stakeholders, including from organizations that pro-
11 vide legal services to and advocacy on behalf of im-
12 migrant children.

13 (3) LIMITATION ON CERTAIN FORMER EMPLOY-
14 EES.—The Secretary may not appoint as
15 Ombudsperson any individual who, during the 2-year
16 period preceding the date of appointment, was an
17 employee of the Office of Refugee Resettlement or
18 the Department of Homeland Security.

19 (4) TERM.—

20 (A) IN GENERAL.—Subject to subpara-
21 graph (C), the term of an Ombudsperson ap-
22 pointed under this subsection shall be not more
23 than 4 years.

1 (B) CONSECUTIVE TERMS.—An
2 Ombudsperson may be appointed for consecu-
3 tive terms.

4 (C) EXPIRATION.—The term of an
5 Ombudsperson shall not expire before the date
6 on which the Ombudsperson's successor is ap-
7 pointed.

8 (5) REMOVAL FOR CAUSE.—The Secretary may
9 only remove or suspend an Ombudsperson for ne-
10 glect of duty or gross misconduct.

11 (6) DUTIES AND AUTHORITIES.—

12 (A) REGIONAL OFFICES.—

13 (i) ESTABLISHMENT.—The
14 Ombudsperson shall establish not fewer
15 than 7 regional offices of the Office—

16 (I) to strengthen State oversight;

17 (II) to investigate complaints;

18 (III) to coordinate with State li-
19 censing entities; and

20 (IV) to identify and address dif-
21 ferences among State child protection
22 laws.

23 (ii) LOCATIONS.—

24 (I) IN GENERAL.—The regional
25 offices required under clause (i) shall

1 be established in the following loca-
2 tions:

3 (aa) 1 regional office in
4 Texas.

5 (bb) 1 regional office in Ari-
6 zona.

7 (cc) 1 regional office in Cali-
8 fornia or a State in the North-
9 west.

10 (dd) 1 regional office in a
11 State in the Midwest.

12 (ee) 1 regional office in a
13 State in the Mid-Atlantic.

14 (ff) 1 regional office in a
15 State in the Northeast.

16 (gg) 1 regional office in a
17 State in the Southeast.

18 (II) ADDITIONAL LOCATIONS.—

19 The Ombudsperson may make a rec-
20 ommendation to the Secretary with
21 respect to the location of any addi-
22 tional regional office.

23 (iii) APPOINTMENT OF DEPUTIES.—

24 The Ombudsperson shall appoint a full-
25 time deputy for each regional office, who

1 shall serve at the Ombudsperson's discre-
2 tion.

3 (iv) APPLICABILITY OF OTHER PROVI-
4 SIONS.—The regional offices established
5 under this subparagraph shall have the
6 same access to facilities and records, main-
7 tain the same rights, roles, and responsibil-
8 ities, and be subject to the same confiden-
9 tiality requirements as the Office.

10 (B) HIRING.—

11 (i) IN GENERAL.—The Ombudsperson
12 shall hire to carry out the functions of the
13 Office necessary personnel, including cler-
14 ical personnel, who shall serve at the dis-
15 cretion of the Ombudsperson.

16 (ii) SUBJECT MATTER EXPERTS.—The
17 personnel hired under clause (i) shall in-
18 clude relevant subject matter experts, in-
19 cluding—

20 (I) attorneys with expertise in
21 child welfare and immigration law;

22 (II) pediatricians;

23 (III) child and adolescent psychi-
24 atrists and psychologists;

25 (IV) social workers;

1 (V) data analysts with demon-
2 strable expertise in child welfare or
3 immigration; and

4 (VI) youth or young adults with
5 experience as noncitizen children in
6 immigration custody.

7 (C) MONITORING.—

8 (i) IN GENERAL.—The Ombudsperson
9 shall monitor, including by making site vis-
10 its, for compliance with all applicable law
11 and standards relating to noncitizen chil-
12 dren in immigration custody.

13 (ii) INFLUX FACILITIES.—The
14 Ombudsperson shall conduct site visits of
15 influx facilities, as described in section
16 306.

17 (D) INVESTIGATIONS.—

18 (i) IN GENERAL.—The
19 Ombudsperson—

20 (I) may conduct any investigation
21 relating to noncitizen children in im-
22 migration custody the Ombudsperson
23 considers necessary; and

24 (II) shall investigate—

1 (aa) claims of abuse, ne-
2 glect, or mistreatment of noncit-
3 izen children by the Government
4 or any other entity while in im-
5 migration custody; and

6 (bb) complaints made
7 against foster care providers, in-
8 cluding in the case of such a pro-
9 vider that is subject to State
10 oversight.

11 (ii) TIMELINE.—The Ombudsperson
12 shall commence an investigation under
13 clause (i)(II) not later than 30 days after
14 the date on which a claim or complaint de-
15 scribed in that clause is received.

16 (iii) REPORTING OF STATE LICENSING
17 VIOLATIONS.—If in the course of an inves-
18 tigation under clause (i)(II)(bb) the
19 Ombudsperson discovers a State licensing
20 violation, the Ombudsperson shall report
21 the violation to the child welfare licensing
22 agency of the applicable State.

23 (iv) PROCEDURES.—The
24 Ombudsperson shall establish a procedure
25 for conducting investigations, receiving and

1 processing complaints, and reporting find-
2 ings.

3 (v) NOTIFICATION.—

4 (I) COMMENCEMENT OF INVES-
5 TIGATION.—If the Ombudsperson de-
6 cides to commence an investigation
7 based on a complaint received, not
8 later than 45 days after the date on
9 which the investigation commences,
10 the Ombudsperson shall so notify the
11 complainant.

12 (II) DECISION NOT TO INVES-
13 TIGATE OR TO DISCONTINUE INVES-
14 TIGATION.—If the Ombudsperson de-
15 cides not to investigate a complaint or
16 to discontinue an investigation com-
17 menced under this subparagraph, not
18 later than 45 days after the date on
19 which such an action is taken, the
20 Ombudsperson shall notify the com-
21 plainant and provide a reason for
22 such action.

23 (III) PROGRESS AND RESULTS.—

24 The Ombudsperson shall provide a
25 complainant with updates on the

1 progress of an investigation and shall
2 notify the complainant of the results
3 of the investigation.

4 (vi) CONFIDENTIALITY.—

5 (I) IN GENERAL.—All informa-
6 tion obtained by the Ombudsperson
7 from a complaint shall be confidential
8 under applicable Federal and State
9 confidentiality law, regardless of
10 whether the Ombudsperson—

11 (aa) investigates the com-
12 plaint;

13 (bb) refers the complaint to
14 any other entity for investigation;
15 or

16 (cc) determines that the
17 complaint is not a proper subject
18 for an investigation

19 (II) DISCLOSURE.—Disclosure of
20 any such information may only occur
21 as necessary to carry out the mission
22 of the Office and as permitted by law.

23 (E) REPORTING MECHANISMS.—

24 (i) IN GENERAL.—The Ombudsperson
25 shall establish and maintain—

1 (I) a public toll-free telephone
2 number to receive complaints and re-
3 ports of matters for investigation; and

4 (II) a public email address to re-
5 ceive complaints, such reports, and re-
6 quests for review of placement and
7 sponsorship decisions.

8 (ii) AVAILABILITY.—

9 (I) IN GENERAL.—The
10 Ombudsperson shall ensure that such
11 telephone number and email ad-
12 dress—

13 (aa) are made available, and
14 a telephone is accessible, to all
15 children in immigration custody;
16 and

17 (bb) are made available to
18 prospective sponsors, sponsors,
19 Flores settlement agreement
20 class counsel, and legal services
21 providers and child advocates
22 who serve such noncitizen chil-
23 dren.

24 (II) SPONSORSHIP APPLICA-
25 TIONS.—The Director shall provide

1 such telephone number and email ad-
2 dress to the prospective sponsor of
3 each unaccompanied noncitizen child.

4 (iii) LANGUAGE ACCESS.—

5 (I) IN GENERAL.—Such tele-
6 phone number and email address shall
7 be posted in public areas of each facil-
8 ity or placement in which 1 or more
9 children in immigration custody are
10 held, in multiple languages, including
11 English, Spanish, French, Hindi,
12 Bengali, Punjabi, Swahili, Mandarin
13 Chinese, Russian, Standard Arabic,
14 Portuguese, Haitian Creole, K'iche',
15 Q'eqchi', Kaqchikel, Mam, Q'anjob'al,
16 and Ixil.

17 (II) ADDITIONAL LANGUAGES.—
18 The Ombudsperson may require that
19 such contact information be made
20 available and posted in any additional
21 language the Ombudsperson considers
22 necessary based on the demographics
23 of arriving noncitizen children.

1 (F) HEARINGS.—The Ombudsperson may
2 hold public hearings as the Ombudsperson con-
3 siders necessary.

4 (G) INDIVIDUAL CASE ASSISTANCE AND
5 REVIEW.—

6 (i) IN GENERAL.—The Ombudsperson
7 may offer individual case assistance for
8 noncitizen children in immigration custody.

9 (ii) COMMUNICATION WITH OTH-
10 ERS.—In providing such individual case as-
11 sistance, the Ombudsperson may speak
12 with a noncitizen child’s prospective spon-
13 sor, family members, child advocate, legal
14 counsel, case manager, case coordinator,
15 and Office of Refugee Resettlement Fed-
16 eral field specialist staffing the noncitizen
17 child’s case, as applicable.

18 (H) STAKEHOLDER MEETINGS.—

19 (i) COMMUNITY STAKEHOLDERS.—
20 Not less frequently than quarterly, the
21 Ombudsperson shall invite community
22 stakeholders, including attorneys who rep-
23 resent noncitizen children in immigration
24 custody, to participate in a meeting.

1 (ii) DATA TRACKING PERSONNEL.—
2 Not less frequently than quarterly, the
3 Ombudsperson shall invite personnel of the
4 Department of Homeland Security and the
5 Department of Health and Human Serv-
6 ices who manage the data tracking systems
7 described in section 602 to participate in a
8 meeting for the purpose of informing the
9 Ombudsperson with respect to the efficacy
10 and responsiveness of the system with em-
11 pirical data, analysis, and data needs.

12 (iii) ADDITIONAL MEETINGS.—The
13 Ombudsperson may convene additional
14 meetings at any time, as the
15 Ombudsperson considers necessary.

16 (I) REPORTING.—

17 (i) ANNUAL PUBLIC REPORT.—

18 (I) IN GENERAL.—Not less fre-
19 quently than annually, the
20 Ombudsperson shall issue a public re-
21 port on the implementation of and
22 compliance with this Act and the
23 amendments made by this Act, by the
24 Secretary and the Secretary of Home-
25 land Security.

1 (II) ELEMENTS.—Each report
2 under subclause (I) shall include the
3 following:

4 (aa) For the preceding fiscal
5 year, the accomplishments and
6 challenges relating to such imple-
7 mentation and compliance.

8 (bb) A summary of com-
9 plaints made and investigations
10 carried out during the preceding
11 fiscal year, including—

12 (AA) the number of
13 complaints and number and
14 nature of other contacts;

15 (BB) the number of
16 complaints made, including
17 the type and source;

18 (CC) the number of in-
19 vestigations carried out;

20 (DD) the trends and
21 issues that arose in the
22 course of investigating com-
23 plaints; and

24 (EE) the number of
25 pending complaints.

1 (cc) For the preceding fiscal
2 year, a summary of—
3 (AA) each site visit
4 conducted;
5 (BB) any interview
6 with a noncitizen child or fa-
7 cility staff;
8 (CC) facility audits and
9 corrective actions taken or
10 recommended;
11 (DD) appeals made to
12 the Ombudsperson; and
13 (EE) any other infor-
14 mation the Ombudsperson
15 considers relevant.
16 (dd) A detailed analysis of
17 the data collected under section
18 602.
19 (ee) Recommendations—
20 (AA) for improving im-
21 plementation and compliance
22 with this Act and the
23 amendments made by this
24 Act; and

1 (BB) as to whether the
2 Director should renew or
3 cancel contracts with par-
4 ticular Office of Refugee Re-
5 settlement grantees.

6 (ff) A description of the pri-
7 orities for the subsequent fiscal
8 year.

9 (ii) REPORT ON TRAINING MATE-
10 RIALS.—The Ombudsperson shall issue a
11 public report on the training materials de-
12 veloped by the Director under section
13 203(c)(4) that includes a description of
14 any concerns the Ombudsperson has with
15 respect to the materials.

16 (iii) ADDITIONAL REPORTS.—The
17 Ombudsperson may issue additional re-
18 ports at any time, including data analyses
19 and findings, as the Ombudsperson con-
20 siders necessary.

21 (J) INFORMATION GATHERING.—

22 (i) IN GENERAL.—The Ombudsperson
23 may submit to the Director, the Director
24 of U.S. Immigration and Customs Enforce-
25 ment, and the juvenile coordinators of U.S.

1 Customs and Border Protection requests
2 for information with respect to the imple-
3 mentation of this Act.

4 (ii) RESPONSE REQUIRED.—Not later
5 than 30 days after the date on which a ju-
6 venile coordinator receives a request for in-
7 formation under clause (i), the juvenile co-
8 ordinator shall submit a detailed response
9 to the Ombudsperson, the Director, the Di-
10 rector of U.S. Immigration and Customs
11 Enforcement, and the Commissioner of
12 U.S. Customs and Border Protection.

13 (iii) COOPERATION REQUIRED.—The
14 Secretary and the Secretary of Homeland
15 Security shall—

16 (I) cooperate with any request
17 for information by the Ombudsperson;
18 and

19 (II) report to the Ombudsperson
20 any policy or instruction issued to em-
21 ployees regarding the implementation
22 of this Act.

23 (K) SUBPOENA AUTHORITY.—

24 (i) IN GENERAL.—The Ombudsperson
25 may—

1 (I) issue a subpoena to require
2 the production of all information, re-
3 ports, and other documentary evidence
4 necessary to carry out the duties of
5 the Ombudsperson; and

6 (II) compel by subpoena, at a
7 specified time and place—

8 (aa) the appearance and
9 sworn testimony of an individual
10 who the Ombudsperson reason-
11 ably believes may be able to pro-
12 vide information relating to a
13 matter under investigation; and

14 (bb) the production by an
15 individual of a record of an ob-
16 ject that the Ombudsperson rea-
17 sonably believes may relate to a
18 matter under investigation.

19 (ii) EFFECT OF FAILURE TO COM-
20 PLY.—In the case of an individual who
21 fails to comply with a subpoena issued
22 under this subparagraph, the
23 Ombudsperson may commence a civil ac-
24 tion in an appropriate court.

1 (L) ADDITIONAL DUTIES.—The
2 Ombudsperson shall—

3 (i) develop notices of rights, as de-
4 scribed in sections 105(c)(5) and 202;

5 (ii) review training materials, as de-
6 scribed in section 203(c)(4);

7 (iii) conduct reviews of decisions in
8 placement review hearings, as described in
9 section 226(b)(6);

10 (iv) conduct reviews of decisions in
11 sponsorship hearings, as described in sec-
12 tion 232(b)(3)(H);

13 (v) regularly review data collected
14 under section 602; and

15 (vi) track and monitor processing
16 times and length of custody for noncitizen
17 children in immigration custody.

18 (d) ACCESS.—

19 (1) FACILITIES.—

20 (A) IN GENERAL.—The Secretary and the
21 Secretary of Homeland Security shall ensure
22 unobstructed access by the Ombudsperson to
23 any facility at which a noncitizen child is de-
24 tained.

1 (B) INFORMATION COLLECTION FOR SITE
2 VISITS.—For each site visit conducted by the
3 Ombudsperson, facility staff shall provide a list
4 of the unaccompanied noncitizen children
5 housed in the facility, including their names,
6 alien registration numbers, dates of birth, dates
7 of apprehension, and the dates of facility place-
8 ment—

9 (i) in the case of an announced site
10 visit, not less than 48 hours before the ar-
11 rival of the Ombudsperson; and

12 (ii) in the case of an unannounced site
13 visit, on the arrival of the Ombudsperson.

14 (C) PRIVATE AND CONFIDENTIAL
15 SPACE.—A facility shall provide a private and
16 confidential space in which the Ombudsperson
17 may interview unaccompanied noncitizen chil-
18 dren and staff.

19 (D) DELEGATION.—The Ombudsperson
20 may designate 1 or more individuals from out-
21 side the Ombudsperson's office to conduct site
22 visits and interview detained children.

23 (2) INFORMATION.—On request by the
24 Ombudsperson, the Secretary shall ensure, not later

1 than 48 hours after receipt of the request, unob-
2 structed access by the Ombudsperson to—

3 (A) the case files, records, reports, audits,
4 documents, papers, recommendations, or any
5 other pertinent information relating to the care
6 and custody of a noncitizen child; and

7 (B) the written policies and procedures of
8 all childcare facilities.

9 (3) DEFINITION OF UNOBSTRUCTED ACCESS.—

10 In this subsection, the term “unobstructed access”
11 means—

12 (A) with respect to a facility, the ability—

13 (i) to enter the facility at any time,
14 including unannounced, to observe and in-
15 spect all areas of the facility;

16 (ii) to communicate privately and
17 without restriction with any child, care-
18 giver, facility staff, or volunteer; and

19 (iii) to obtain, review, and reproduce
20 any—

21 (I) record of a child, staff mem-
22 ber, or caregiver;

23 (II) administrative record, policy,
24 or document of any facility;

1 (III) licensing record maintained
2 by the applicable Federal or State
3 agency; or

4 (IV) record, including a confiden-
5 tial record, of a Federal or State
6 agency or any contractor of a Federal
7 or State agency, except sealed court
8 records, production of which may only
9 be compelled by subpoena; and

10 (B) with respect to information, the ability
11 to obtain requested information in a timely
12 manner and with the full cooperation of the
13 Secretary or the Secretary of Homeland Secu-
14 rity, as applicable.

15 (e) CONFIDENTIALITY.—

16 (1) IDENTITY OF COMPLAINANTS AND WIT-
17 NESSES.—The Ombudsperson shall maintain con-
18 fidentiality with respect to the identities of complain-
19 ants or witnesses coming before the Office, except if
20 such a disclosure is necessary—

21 (A) to carry out the duties of the
22 Ombudsperson; and

23 (B) to support recommendations made in
24 individual cases, annual reports, or other re-
25 ports.

1 (2) RECORDS.—In accordance with relevant
2 Federal and State law, the Ombudsperson may not
3 disclose a confidential record.

4 (3) TESTIMONY AND DEPOSITION.—The
5 Ombudsperson and employees of the Office may not
6 testify or be deposed in a judicial or administrative
7 proceeding regarding matters that have come to
8 their attention in the exercise of their official duties,
9 except as the Ombudsperson considers necessary to
10 enforce this Act or the amendments made by this
11 Act

12 (4) SUBPOENA AND DISCOVERY.—The records
13 of the Office, including notes, drafts, and records ob-
14 tained from an individual, a provider, or an agency
15 during intake, review, or investigation of a com-
16 plaint, and any reports not released to the public are
17 not subject to disclosure or production in response
18 to a subpoena or discovery in a judicial or adminis-
19 trative proceeding, except as the Ombudsperson con-
20 siders necessary to enforce this Act or the amend-
21 ments made by this Act.

22 (f) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated such sums as are nec-
24 essary to carry out this section.

1 **SEC. 602. DATA COLLECTION AND REPORTING.**

2 (a) DEPARTMENT OF HOMELAND SECURITY.—

3 (1) IN GENERAL.—The Secretary of Homeland
4 Security shall collect and maintain a record of each
5 noncitizen child held in the custody of the Secretary
6 of Homeland Security.

7 (2) FREQUENCY AND SUBMISSION OF DATA
8 COLLECTED.—

9 (A) IN GENERAL.—Not less frequently
10 than weekly, the Secretary of Homeland Secu-
11 rity shall—

12 (i) collect the information described in
13 paragraph (3) from each district office and
14 Border Patrol station; and

15 (ii) submit such data to—

16 (I) the Ombudsperson; and

17 (II) the Committee on the Judici-
18 ary and the Committee on Appropria-
19 tions of the Senate and the Com-
20 mittee on the Judiciary and the Com-
21 mittee on Appropriations of the House
22 of Representatives.

23 (3) INFORMATION DESCRIBED.—The informa-
24 tion described in this paragraph is the following:

1 (A) INDIVIDUAL DATA.—For each noncit-
2 izen child in the custody of the Secretary of
3 Homeland Security, the following:

4 (i) Biographical information, including
5 full name, date of birth, country of citizen-
6 ship, preferred language, and alien num-
7 ber.

8 (ii) The date the child was appre-
9 hended and placed in such custody.

10 (iii) The date and the time the child
11 was released or transferred from such cus-
12 tody and to whom the child was so released
13 or transferred.

14 (iv) For each accompanying family
15 member of the child or other adult the
16 child identifies as a previous caregiver, bio-
17 graphical and contact information.

18 (v) An indication as to whether the
19 child arrived in the company of a family
20 member other than a parent or legal
21 guardian, and in the case of a separation
22 from that family member, a justification
23 for the separation.

24 (B) AGGREGATED DATA.—

1 (i) The number of children in the cus-
2 tody of the Secretary of Homeland Secu-
3 rity as of the last day of each calendar
4 month, calculated to include all such chil-
5 dren, disaggregated by—

6 (I) facility; and

7 (II) Border Patrol sector.

8 (ii) The largest number of children
9 concurrently held in such custody, cal-
10 culated to include all such children, and
11 the 1 or more dates on which such largest
12 number occurred, disaggregated by—

13 (I) facility; and

14 (II) Border Patrol sector.

15 (iii) The median and average number
16 of hours in such custody for each such
17 child, calculated to include all such chil-
18 dren, disaggregated by—

19 (I) facility; and

20 (II) Border Patrol sector.

21 (4) PUBLICATION.—Not less frequently than
22 monthly, the Secretary of Homeland Security shall
23 publish on a publicly accessible internet website of
24 the Department of Homeland Security the following:

1 (A) The figures for the data collected
2 under paragraph (3)(B)(i).

3 (B) For the preceding calendar month, the
4 figures for the data collected under clauses (ii)
5 and (iii) of paragraph (3)(B).

6 (b) OFFICE OF REFUGEE RESETTLEMENT.—

7 (1) IN GENERAL.—To support the data collec-
8 tion and monitoring duties of the Ombudsperson and
9 to facilitate public monitoring, the Director shall—

10 (A) develop a systemic data collection sys-
11 tem to collect and maintain relevant demo-
12 graphic information that is pertinent to serv-
13 ing—

14 (i) the population of unaccompanied
15 noncitizen children in the custody of the
16 Secretary of Health and Human Services;
17 and

18 (ii) children who have been released
19 from such custody with services pending;

20 (B) not less than every 3 years, review the
21 data collected, the categorization of such data,
22 the information architecture for organizing and
23 analyzing such data, any safety concern relating
24 to the collection of such data, and the method

1 for obtaining or collecting such data under such
2 system;

3 (C)(i) as appropriate, revise such system to
4 make improvements in service delivery to unac-
5 companied noncitizen children; and

6 (ii) if such system is so revised, ensure the
7 continuity of comparative data from periods be-
8 fore and after the revision; and

9 (D) ensure the ongoing functioning and
10 use of such system by the Office of Refugee Re-
11 settlement.

12 (2) FREQUENCY OF DATA COLLECTED.—Not
13 less frequently than weekly, the Director shall—

14 (A) collect from each childcare facility the
15 information described in paragraph (3); and

16 (B) maintain such information in the sys-
17 tem described in paragraph (1)(A).

18 (3) INFORMATION DESCRIBED.—The informa-
19 tion described in this paragraph is the following:

20 (A) INDIVIDUAL DATA.—For each unac-
21 companied noncitizen child in the custody of the
22 Secretary of Homeland Security—

23 (i) biographical information, including
24 full name, date of birth, country of citizen-

1 ship, preferred language, and alien num-
2 ber;

3 (ii) the date the child was appre-
4 hended and placed in such custody of the
5 Secretary of Homeland Security;

6 (iii) the date the child was placed in
7 the custody of the Secretary of Health and
8 Human Services;

9 (iv) the date on which the child was
10 placed in a childcare facility, or transferred
11 between childcare facilities, as applicable,
12 and the name and location of each
13 childcare facility;

14 (v) in the case of a child placed in a
15 residential treatment center, therapeutic
16 childcare facility, staff-secure facility, or
17 out-of-network facility, a justification for
18 such placement;

19 (vi) the status of the child's family re-
20 unification process, including—

21 (I) a record of the 1 or more case
22 managers who have worked on the
23 child's case, including a description of
24 the work performed;

1 (II) in the case of a child who is
2 released or discharged from the cus-
3 tody of the Secretary of Health and
4 Human Services—

5 (aa) the date of release or
6 discharge;

7 (bb) the name of the indi-
8 vidual to whom the child was re-
9 leased, as applicable; and

10 (cc) the reason for release or
11 discharge; and

12 (III) in the case of a child re-
13 moved from the United States, the
14 date of removal and the country to
15 which he or she was removed, regard-
16 less of whether a child was removed
17 directly from the custody of the Sec-
18 retary of Health and Human Services;
19 and

20 (vii) the number of occasions on which
21 the operator of a childcare facility or an
22 influx facility contacted law enforcement
23 with respect to the child, as applicable, and
24 the justification for each such contact.

1 (B) FACILITY DATA.—For each childcare
2 facility or influx facility funded by the Depart-
3 ment of Health and Human Services—

4 (i) the median length of stay for unac-
5 companied noncitizen children placed at
6 the facility;

7 (ii) for children who have been re-
8 leased to sponsors, the median amount of
9 time spent by such children in the custody
10 of the Secretary of Health and Human
11 Services before release;

12 (iii) the utilization rate of the facility
13 (excluding funded but unplaceable beds
14 and calculated as the number of filled beds
15 divided by the number of beds available for
16 placement, expressed as a percentage);

17 (iv) the percentage of unaccompanied
18 noncitizen children transferred from the
19 facility to any other facility, calculated on
20 a rolling basis; and

21 (v) the number and type of child
22 abuse or neglect allegations against facility
23 staff or against other children in the facil-
24 ity, and the number of such allegations
25 substantiated.

1 (C) NATIONAL CAPACITY DATA.—

2 (i) IN GENERAL.—For all childcare
3 facilities and influx facilities, in the aggregate—
4

5 (I) the number of pending beds;
6 and

7 (II) the number of delivered
8 beds, disaggregated by—

9 (aa) beds occupied by unac-
10 companied noncitizen children;

11 (bb) unoccupied beds avail-
12 able for potential use by unac-
13 companied noncitizen children;
14 and

15 (cc) unavailable beds that
16 are funded but cannot receive
17 children.

18 (ii) DEFINITIONS.—In this subpara-
19 graph:

20 (I) DELIVERED BED.—The term
21 “delivered bed” means a bed delivered
22 to the Department of Health and
23 Human Services for use by an unac-
24 companied noncitizen child.

1 (II) PENDING BED.—The term
2 “pending bed” means a bed—

3 (aa) to be provided to the
4 Department of Health and
5 Human Services for use by an
6 unaccompanied noncitizen child
7 that is funded by a grant, cooper-
8 ative agreement, contract, or any
9 other means; but

10 (bb) that is not yet a deliv-
11 ered bed.

12 (D) FAMILY REUNIFICATION DATA.—For
13 all unaccompanied noncitizen children in the
14 custody of the Secretary of Health and Human
15 Services—

16 (i) the median time-to-release,
17 disaggregated by—

18 (I) children released to parents
19 or legal guardians;

20 (II) children released to other
21 sponsors;

22 (III) children who have home
23 studies mandated by section 235 of
24 the Trafficking Victims Protection

1 Reauthorization Act of 2008 (8
2 U.S.C. 1232);

3 (IV) children granted home stud-
4 ies through the discretion of the Di-
5 rector; and

6 (V) all other children; and

7 (ii) the number of children who have
8 been in such custody for more than 90
9 days, disaggregated by—

10 (I) children placed in therapeutic
11 foster care;

12 (II) children placed in long-term
13 foster care; and

14 (III) children in placements that
15 are not therapeutic foster care or
16 long-term foster care.

17 (E) COMPREHENSIVE NATIONAL DATA.—

18 (i) The number and characteristics of
19 children placed in and exiting the custody
20 of the Secretary of Health and Human
21 Services.

22 (ii) The status of the unaccompanied
23 noncitizen child population, including the
24 number of such children in such custody,
25 age cohorts of such children, length of

1 placements, types of placements, location
2 in-network or out-of-network, and goals for
3 reunification by sponsor or placement type.

4 (iii) The number and percentage of
5 unaccompanied noncitizen children des-
6 ignated for and receiving any of the fol-
7 lowing:

8 (I) Mandatory home studies.

9 (II) Discretionary home studies.

10 (III) Post-release services.

11 (iv) The number and percentage of
12 unaccompanied noncitizen children held in
13 a facility funded by the Office of Refugee
14 Resettlement with more than 25 other un-
15 accompanied noncitizen children.

16 (v) The number and percentage of un-
17 accompanied noncitizen children with spe-
18 cial needs or disabilities (as defined in sec-
19 tion 3 of the Americans with Disabilities
20 Act of 1990 (42 U.S.C. 12102)).

21 (vi) For each type of childcare facility
22 and each influx facility—

23 (I) the average national case
24 manager-to-child ratio; and

1 (II) the national utilization rate
2 (excluding funded but unplaceable
3 beds and calculated as the number of
4 filled beds divided by the number of
5 beds available for placement, ex-
6 pressed as a percentage).

7 (vii) The number of such facilities al-
8 leged and found to be out of compliance
9 with the facility standards under the Pris-
10 on Rape Elimination Act of 2003 (34
11 U.S.C. 30301 et seq.).

12 (viii) The number and types of viola-
13 tions for sexual abuse and exploitation al-
14 leged and resolved with respect to unac-
15 companied noncitizen children while in the
16 custody of the Secretary of Health and
17 Human Services, counted and categorized
18 in accordance with the Prison Rape Elimini-
19 nation Act of 2003 (34 U.S.C. 30301 et
20 seq.).

21 (ix) The rate of compliance with sub-
22 paragraphs (A) and (B) of section
23 231(a)(2).

24 (F) FURTHER POPULATION AND GENERAL
25 CHARACTERISTICS DATA.—

201

1 (i) IN GENERAL.—

2 (I) The general status and char-
3 acteristics of the population of unac-
4 companied noncitizen children and
5 their family members.

6 (II) The general quality and
7 speed of the placement process, and
8 information on post-placement out-
9 comes.

10 (III) Barriers to release for such
11 children, including relevant cross-tab-
12 ulations with other collected data.

13 (IV) An identification of children
14 who are vulnerable to or victims of
15 human trafficking.

16 (V) The general status and char-
17 acteristics of facilities funded by the
18 Office of Refugee Resettlement for the
19 purpose of the care of unaccompanied
20 noncitizen children.

21 (VI) The rate of increase or de-
22 crease in childcare facility usage, such
23 that cross-facility comparisons are
24 useful or systemwide seasonal vari-
25 ations may be anticipated.

1 (VII) Aggregate measures that
2 allow comparison between facilities by
3 size, placement type, and any other
4 appropriate factor of number and type
5 of child abuse or neglect allegations
6 against staff or against other children.

7 (ii) COLLECTION STANDARDS.—The
8 Director shall develop and implement
9 standards for the collection of the informa-
10 tion described in clause (i).

11 (4) SUBMISSION OF DATA AND INFORMATION.—
12 Not less frequently than weekly, the Director shall
13 submit, in a manner that corresponds with publica-
14 tion under paragraph (6), the information described
15 in paragraph (3) for the preceding week to—

16 (A) the Ombudsperson; and

17 (B) the Committee on the Judiciary and
18 the Committee on Appropriations of the Senate
19 and the Committee on the Judiciary and the
20 Committee on Appropriations of the House of
21 Representatives.

22 (5) ADDITIONAL REQUIREMENTS.—

23 (A) RELIABILITY AND CONSISTENCY OF
24 DATA COLLECTION SYSTEM.—The data collec-

1 tion system developed and implemented under
2 paragraph (1) shall—

3 (i) ensure that—

4 (I) data collected is reliable and
5 consistent over time and among jurisdic-
6 dictions through the use of uniform
7 definitions and methodologies; and

8 (II) publicly available data re-
9 mains reliable and consistent over
10 time, unless—

11 (aa) the removal of data
12 from the public domain protects
13 individuals or groups of individ-
14 uals from harm or potential
15 harm; or

16 (bb) a modification to a defi-
17 nition or methodology is nec-
18 essary to allow the Office of Ref-
19 ugee Resettlement to serve unac-
20 companied noncitizen children
21 better, individually or as a group;
22 and

23 (ii) for the information described in
24 paragraph (3)(F), include metadata with
25 respect to whether, and in what form, such

1 information may be made available to the
2 public, with the presumption that informa-
3 tion shall be made available to the public—

4 (I) in the least restricted form
5 that protects individual privacy; and

6 (II) on the same internet website
7 used for publication under paragraph
8 (6).

9 (B) INCENTIVES.—The Director shall use
10 appropriate requirements and incentives to en-
11 sure that the data collection system developed
12 and implemented under paragraph (1) functions
13 reliably throughout the United States.

14 (6) PUBLICATION.—

15 (A) MONTHLY REPORT.—

16 (i) IN GENERAL.—Not less frequently
17 than monthly, the Director shall publish on
18 a publicly accessible internet website of the
19 Office of Refugee Resettlement the fol-
20 lowing:

21 (I) As of the last day of the pre-
22 ceding calendar month, the figures for
23 the data collected under subpara-
24 graphs (C), (D)(ii), and (E)(ii) of
25 paragraph (3).

1 (II) For each calendar month,
2 the figures for the data collected
3 under subparagraphs (D)(i), (E)(i),
4 (E)(v), and (E)(vi) of paragraph (3).

5 (III) If an influx facility, an
6 emergency facility, or any other unli-
7 censed facility is in operation to house
8 noncitizen children, the figures for the
9 data collected under paragraph
10 (3)(E)(ix) and any other data re-
11 quired to ensure oversight and trans-
12 parency under section 306.

13 (IV) The data and measures de-
14 scribed in paragraph (3)(F) for which
15 new or continuing publication is—

16 (aa) in the public interest;

17 or

18 (bb) required under para-
19 graph (5)(A).

20 (V) A description of any change
21 between the information reported
22 under subclauses (I) through (IV) for
23 the reporting period and such infor-
24 mation reported for the preceding re-
25 porting period.

1 (ii) AGGREGATION OF DATA.—The in-
2 formation published under clause (i) shall
3 be aggregated so as to facilitate uniform
4 monthly reporting.

5 (B) ANNUAL REPORT.—

6 (i) IN GENERAL.—Not less frequently
7 than annually, the Director shall publish
8 on a publicly accessible internet website of
9 the Office of Refugee Resettlement the fol-
10 lowing:

11 (I) As of the last day of each fis-
12 cal year, the figures for the data col-
13 lected under subparagraphs (E)(iii),
14 (E)(v), (E)(vii), and (E)(viii) of para-
15 graph (3).

16 (II) The data and measures de-
17 scribed in paragraph (3)(F) for which
18 new or continuing publication is—

19 (aa) in the public interest;

20 or

21 (bb) required under para-
22 graph (5)(A).

23 (III) A description of any change
24 between the information reported
25 under subclauses (I) and (II) for the

1 reporting period and such information
2 reported for the preceding reporting
3 period.

4 (ii) AGGREGATION OF DATA.—The in-
5 formation published under clause (i) shall
6 be aggregated so as to facilitate uniform
7 annual reporting.

8 (c) OMBUDSPERSON REVIEW OF DATA.—The Sec-
9 retary of Health and Human Services and the Secretary
10 of Homeland Security shall—

11 (1) ensure that the Ombudsperson—

12 (A) has access to all real-time data regard-
13 ing noncitizen children in immigration custody;
14 and

15 (B) is able to independently and regularly
16 review data collected by the Department of
17 Health and Human Services and Department of
18 Homeland Security with respect to such chil-
19 dren;

20 (2) respond in a timely manner to inquiries
21 from the Ombudsperson with respect to such data;
22 and

23 (3) promptly take any necessary corrective ac-
24 tion with respect to the accuracy and integrity of
25 such data.

1 **SEC. 603. ENFORCEMENT.**

2 (a) AUDITS.—

3 (1) IN GENERAL.—Not less frequently than an-
4 nually, the Director shall conduct an audit of each
5 childcare facility, which shall include a site visit—

6 (A) to assess compliance of the childcare
7 facility with the requirements of this Act; and

8 (B) to determine whether the operator of
9 the childcare facility continues to be a State-li-
10 censed program.

11 (2) REPORT TO OMBUDSPERSON.—Not later
12 than 7 days after the date on which the Director
13 completes an audit under subsection (a), the Direc-
14 tor shall submit to the Ombudsperson a report on
15 the audit, including a description of any corrective
16 action required to bring the childcare facility into
17 compliance.

18 (b) VIOLATIONS.—

19 (1) NOTIFICATION.—With respect to a childcare
20 facility found to be in violation of this Act, the Di-
21 rector shall provide the State-licensed program con-
22 cerned with a written notification of each deficiency.

23 (2) APPEAL.—

24 (A) IN GENERAL.—A State-licensed pro-
25 gram shall have the opportunity to administra-
26 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 disclo-
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.