

117TH CONGRESS
1ST SESSION

S. 1358

To establish regional processing centers, to improve the asylum and credible fear processes to promote fairness and efficiency, to require immigration court docketing priorities during irregular migration influx events, and to improve the capability of the Department of Homeland Security to manage migration flows, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 22, 2021

Mr. CORNYN (for himself and Ms. SINEMA) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To establish regional processing centers, to improve the asylum and credible fear processes to promote fairness and efficiency, to require immigration court docketing priorities during irregular migration influx events, and to improve the capability of the Department of Homeland Security to manage migration flows, 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 “Bipartisan Border Solutions Act of 2021”.

1 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Regional processing centers.
- Sec. 4. Credible fear determination and asylum process improvement pilot programs.
- Sec. 5. Immigration court docketing priorities during irregular migration influx events.
- Sec. 6. Office for Civil Rights and Civil Liberties impact assessment.
- Sec. 7. Plan to expand legal orientation program.
- Sec. 8. Modifications to U.S. Customs and Border Protection standards on transport, escort, detention, and search to conform with legal orientation program requirements.
- Sec. 9. Standard operating procedures; facilities standards.
- Sec. 10. Criminal background checks for sponsors of unaccompanied alien children.
- Sec. 11. Fraud in connection with the transfer of custody of unaccompanied alien children.
- Sec. 12. Accountability for children and taxpayers.
- Sec. 13. Hiring authority.
- Sec. 14. Reports to Congress.
- Sec. 15. Improving the ability to transport migrants.
- Sec. 16. Rule of construction.
- Sec. 17. Authorization of appropriations.

2 **SEC. 2. DEFINITIONS.**

3 In this Act:

4 (1) ALIEN.—The term “alien” has the meaning
5 given the term in section 101(a) of the Immigration
6 and Nationality Act (8 U.S.C. 1101(a)).

7 (2) APPROPRIATE COMMITTEE OF CONGRESS.—

8 The term “appropriate committee of Congress”
9 means—

10 (A) the Committee on Homeland Security
11 and Governmental Affairs and the Committee
12 on the Judiciary of the Senate; and

1 (B) the Committee on Homeland Security
2 and the Committee on the Judiciary of the
3 House of Representatives.

4 (3) IMMIGRATION LAWS.—The term “immigra-
5 tion laws” has the meaning given the term in section
6 101(a) of the Immigration and Nationality Act (8
7 U.S.C. 1101(a)).

8 (4) IRREGULAR MIGRATION INFLUX EVENT.—
9 The term “irregular migration influx event” means
10 a period during which there is a significant increase
11 in, or a sustained large number of, Department of
12 Homeland Security encounters with aliens who—

13 (A) do not use the formal immigration sys-
14 tem of the United States or the countries they
15 are traveling through; and

16 (B) intend to enter the United States.

17 (5) LEGALLY DETERMINATIVE ASPECT OF THE
18 ASYLUM PROCESS.—The term “legally determinative
19 aspect of the asylum process” means any stage of
20 the asylum process in which the alien is present and
21 evidence of an alien’s credible fear of persecution or
22 eligibility for asylum is gathered or considered, or a
23 determination of an alien’s credible fear of persecu-
24 tion or eligibility for asylum is made, including—

1 (A) a credibility determination under sec-
 2 tion 208(b)(1)(B)(iii) of the Immigration and
 3 Nationality Act (8 U.S.C. 1158(b)(1)(B)(iii));

4 (B) an asylum interview and credible fear
 5 determination under section 235(b)(1)(B) of
 6 that Act;

7 (C) an immigration judge review of a nega-
 8 tive credible fear determination under clause
 9 (iii)(III) of that section; and

10 (D) a removal proceeding under section
 11 240 of that Act.

12 (6) SECRETARY.—The term “Secretary” means
 13 the Secretary of Homeland Security.

14 (7) UNACCOMPANIED ALIEN CHILD.—The term
 15 “unaccompanied alien child” has the meaning give
 16 the term in section 462(g) of the Homeland Security
 17 Act of 2002 (6 U.S.C. 279(g)).

18 **SEC. 3. REGIONAL PROCESSING CENTERS.**

19 Subtitle C of title IV of the Homeland Security Act
 20 of 2002 (6 U.S.C. 231 et seq.) is amended by adding at
 21 the end the following:

22 **“SEC. 437. REGIONAL PROCESSING CENTERS.**

23 “(a) IN GENERAL.—The Secretary shall establish not
 24 fewer than 4 regional processing centers located in high
 25 traffic sectors of U.S. Border Patrol, as determined by

1 the Secretary, along the southern border land border of
2 the United States (referred to in this section as a ‘regional
3 processing center’).

4 “(b) PURPOSE.—The regional processing centers
5 shall carry out processing and management activities, in-
6 cluding—

7 “(1) criminal history checks;

8 “(2) identity verification;

9 “(3) biometrics collection and analysis;

10 “(4) medical screenings;

11 “(5) asylum interviews and credible fear deter-
12 minations under section 235 of the Immigration and
13 Nationality Act (8 U.S.C. 1225) and reasonable fear
14 determinations under section 241(b)(3)(B) of that
15 Act (8 U.S.C. 1231(b)(3)(B));

16 “(6) facilitating coordination and communica-
17 tion between Federal entities and nongovernmental
18 organizations that are directly involved in providing
19 assistance to aliens;

20 “(7) legal orientation programming and com-
21 munication between aliens and outside legal counsel;

22 “(8) issuance of legal documents relating to im-
23 migration court proceedings of aliens;

1 “(9) short-term detention of not more than 72
2 hours before release or transfer to another facility;
3 and

4 “(10) any other activity the Secretary considers
5 appropriate.

6 “(c) PERSONNEL AND LIVING CONDITIONS.—The re-
7 gional processing centers shall include—

8 “(1) personnel assigned from—

9 “(A) U.S. Customs and Border Protection;

10 “(B) U.S. Immigration and Customs En-
11 forcement;

12 “(C) the Federal Emergency Management
13 Agency;

14 “(D) U.S. Citizenship and Immigration
15 Services; and

16 “(E) the Office of Refugee Resettlement;

17 “(2) upon agreement with an applicable Federal
18 agency, personnel from such Federal agency who are
19 assigned to the regional processing center;

20 “(3) sufficient medical staff, including physi-
21 cians specializing in pediatric or family medicine,
22 nurse practitioners, and physician assistants;

23 “(4) licensed social workers;

24 “(5) mental health professionals;

1 “(6) child advocates appointed by the Secretary
2 of Health and Human Services under section
3 235(c)(6)(B) of the William Wilberforce Trafficking
4 Victims Protection Reauthorization Act of 2008 (8
5 U.S.C. 1232(c)(6)(B)); and

6 “(7) sufficient space to carry out the processing
7 and management activities described in subsection
8 (b).

9 “(d) CRIMINAL HISTORY CHECKS.—Each criminal
10 history check carried out under subsection (b)(1) shall be
11 conducted using a set of fingerprints or other biometric
12 identifier obtained from—

13 “(1) the Federal Bureau of Investigation;

14 “(2) the criminal history repositories of all
15 States that the individual listed as a current or
16 former residence; and

17 “(3) any other appropriate Federal or State
18 database resource or repository, as determined by
19 the Secretary.

20 “(e) EXCEPTIONS FOR ADDITIONAL PURPOSES.—
21 Subject to operational and spatial availability, in the event
22 of a major disaster or emergency declared under the Rob-
23 ert T. Stafford Disaster Relief and Emergency Assistance
24 Act (42 U.S.C. 5121 et seq.) or any homeland security
25 crisis requiring the establishment of a departmental Joint

1 Task Force under section 708(b), the Secretary may tem-
 2 porarily utilize a regional processing center to carry out
 3 operations relating to such declaration or crisis.

4 “(f) DONATIONS.—The Department may accept do-
 5 nations from private entities, nongovernmental organiza-
 6 tions, and other groups independent of the Federal Gov-
 7 ernment for the care of children and family units detained
 8 at a regional processing center, including—

9 “(1) medical goods and services;

10 “(2) school supplies;

11 “(3) toys;

12 “(4) clothing; and

13 “(5) any other item intended to promote the
 14 well-being of such children and family units.

15 “(g) ACCESS TO FACILITIES FOR PRIVATE ENTITIES
 16 AND NONGOVERNMENTAL ORGANIZATIONS.—

17 “(1) IN GENERAL.—Private entities and non-
 18 governmental organizations that are directly involved
 19 in providing humanitarian or legal assistance to
 20 families and individuals encountered by the Depart-
 21 ment along the southwest border of the United
 22 States, or organizations that provide assistance to
 23 detained individuals, shall have access to regional
 24 processing centers for purposes of—

25 “(A) legal orientation programming;

1 “(B) coordination with the Department
2 with respect to the care of families and individ-
3 uals held in regional processing centers, includ-
4 ing the care of families and individuals who are
5 released or scheduled to be released;

6 “(C) communication between aliens and
7 outside legal counsel;

8 “(D) the provision of humanitarian assist-
9 ance; and

10 “(E) any other purpose the Secretary con-
11 siders appropriate.

12 “(2) ACCESS PLAN.—Not later than 60 days
13 after the date of the enactment of this section, the
14 Secretary shall publish in the Federal Register pro-
15 cedures relating to access to regional processing cen-
16 ters under paragraph (1) that ensure—

17 “(A) the safety of personnel of, and aliens
18 detained in, regional processing centers; and

19 “(B) the orderly management and oper-
20 ation of regional processing centers.

21 “(h) LEGAL COUNSEL.—Aliens detained in a regional
22 processing center shall have access to legal counsel in ac-
23 cordance with section 292 of the Immigration and Nation-
24 ality Act (8 U.S.C. 1362), including the opportunity to

1 consult with counsel before any legally determinative as-
2 pect of the asylum process occurs.

3 “(i) PROCEDURES TO FACILITATE COMMUNICATION
4 WITH COUNSEL.—The Secretary shall develop written
5 procedures to permit aliens detained in a regional proc-
6 essing center to visit with, and make confidential tele-
7 phone calls to, legal representatives and legal services pro-
8 viders and to receive incoming calls from legal representa-
9 tives and legal services providers, in a private and con-
10 fidential space while in custody, for the purposes of retain-
11 ing or consulting with counsel or obtaining legal advice
12 from legal services providers.

13 “(j) LEGAL ORIENTATION.—

14 “(1) IN GENERAL.—An alien detained in a re-
15 gional processing center shall be provided the oppor-
16 tunity to receive a complete legal orientation presen-
17 tation administered by a nongovernmental organiza-
18 tion in cooperation with the Executive Office for Im-
19 migration Review.

20 “(2) TIMELINE.—

21 “(A) IN GENERAL.—The Secretary shall
22 prioritize the provision of the legal orientation
23 presentation required by paragraph (1) to an
24 alien within 12 hours of apprehension.

1 “(B) REQUIREMENT.—In the case of an
 2 alien who does not receive such legal orientation
 3 presentation within 12 hours of apprehension,
 4 the Secretary shall ensure that the alien re-
 5 ceives the presentation—

6 “(i) not later than 24 hours after ap-
 7 prehension; and

8 “(ii) not less than 24 hours before the
 9 alien initially appears before an asylum of-
 10 ficer or immigration judge in connection
 11 with a claim for asylum.

12 “(k) MANAGEMENT OF REGIONAL PROCESSING CEN-
 13 TERS.—

14 “(1) OPERATION.—The Commissioner of U.S.
 15 Customs and Border Protection, in consultation with
 16 the interagency coordinating council established
 17 under paragraph (2), shall operate the regional proc-
 18 essing centers.

19 “(2) INTERAGENCY COORDINATING COM-
 20 MITTEE.—

21 “(A) ESTABLISHMENT.—There is estab-
 22 lished an interagency coordinating committee
 23 for the purpose of coordinating operations and
 24 management of the regional processing centers.

1 “(B) MEMBERSHIP.—The interagency co-
2 ordinating committee shall be chaired by the
3 Commissioner of U.S. Customs and Border
4 Protection, or his or her designee, and shall in-
5 clude representatives designated by the heads of
6 the following agencies:

7 “(i) U.S. Immigration and Customs
8 Enforcement.

9 “(ii) The Federal Emergency Manage-
10 ment Agency.

11 “(iii) U.S. Citizenship and Immigra-
12 tion Services.

13 “(iv) The Office of Refugee Resettle-
14 ment.

15 “(v) Any other agency that supplies
16 personnel to the regional processing cen-
17 ters, upon agreement between the Commis-
18 sioner of U.S. Customs and Border Protec-
19 tion and the head of such other agency.”.

20 **SEC. 4. CREDIBLE FEAR DETERMINATION AND ASYLUM**
21 **PROCESS IMPROVEMENT PILOT PROGRAMS.**

22 (a) IN GENERAL.—The Secretary and the Attorney
23 General shall develop pilot programs to facilitate—

1 (1) fair and more efficient asylum decisions
2 under section 208(b) of the Immigration and Na-
3 tionality Act (8 U.S.C. 1158(b));

4 (2) fair and more efficient credible fear deter-
5 minations under section 235(b)(1)(B) of that Act (8
6 U.S.C. 1225(b)(1)(B));

7 (3) improved access to legal counsel; and

8 (4) improved case management of aliens await-
9 ing asylum hearings or decisions.

10 (b) IMPLEMENTATION.—

11 (1) WORKFORCE PLAN.—The Secretary and the
12 Attorney General shall not implement any pilot pro-
13 gram under this section until the workforce plan de-
14 scribed in subsection (d) is fully implemented.

15 (2) LEGAL ORIENTATION PROGRAMS.—The At-
16 torney General and the Secretary shall ensure that
17 each alien enrolled in a pilot program under this sec-
18 tion receives a complete, live legal orientation pres-
19 entation before any legally determinative aspect of
20 the asylum process occurs.

21 (3) NOTICE TO CONGRESS.—Not less than 90
22 days before the implementation of any new asylum
23 processing policy or procedure under this section,
24 the Secretary and the Attorney General shall provide
25 to the appropriate committees of Congress notice of

1 such implementation, including a description of any
2 modification to a policy, procedure, practice, or
3 training related to asylum processing.

4 (c) SCOPE OF PILOT PROGRAMS.—

5 (1) IN GENERAL.—The goal of the pilot pro-
6 grams under this section shall be to develop strate-
7 gies to improve the asylum process to determine a
8 final disposition fairly and more efficiently while en-
9 suring that aliens apprehended along the southwest
10 border and placed into removal proceedings are
11 given a fair opportunity to effectively make an asy-
12 lum claim or other relevant claim for relief, includ-
13 ing the opportunity to retain and consult with coun-
14 sel under section 292 of the Immigration and Na-
15 tionality Act (8 U.S.C. 1362) before any legally de-
16 terminative aspect of the asylum process occurs.

17 (2) PROHIBITION ON PARTICIPATION.—The
18 Secretary and the Attorney General may not enroll
19 in a pilot program under this section—

20 (A) an unaccompanied alien child;

21 (B) a pregnant individual; or

22 (C) an individual with a disability or an
23 acute medical condition.

24 (3) FAIRNESS IN PROCEEDINGS.—The Sec-
25 retary and the Attorney General shall take every ap-

1 appropriate step to ensure that each pilot program
2 participant has a full opportunity to exercise all
3 legal process rights afforded under law.

4 (4) ACCESS TO COUNSEL.—The pilot programs
5 under this section shall be fully compliant with sec-
6 tion 292 of the Immigration and Nationality Act (8
7 U.S.C. 1362), and the Secretary and the Attorney
8 General shall consult with nongovernmental organi-
9 zations to facilitate access to counsel for pilot pro-
10 gram participants.

11 (5) CASE MANAGEMENT PROGRAMMING.—The
12 pilot programs under this section may include case
13 management programming for participants who are
14 awaiting immigration court hearings, which may in-
15 clude—

16 (A) the provision of information about
17 legal rights, responsibilities, and procedures;

18 (B) basic assistance in identifying relevant
19 forms and documents;

20 (C) facilitating the attendance of aliens at
21 their immigration court hearings; and

22 (D) any other relevant case management
23 assistance the Secretary and the Attorney Gen-
24 eral consider appropriate.

1 (6) RIGHT TO JUDICIAL REVIEW.—Participation
2 in a pilot program under this section shall not abro-
3 gate any existing right of an alien to request judicial
4 review, including under section 242 of the Immigra-
5 tion and Nationality Act (8 U.S.C. 1252), of a deci-
6 sion related to his or her case.

7 (d) STAFFING REQUIREMENTS.—The Secretary
8 shall—

9 (1) identify the staffing requirements necessary
10 to carry out the pilot programs under this section,
11 including the number of trained U.S. Citizenship
12 and Immigration Services officers necessary to con-
13 duct all asylum interviews, credible fear interviews,
14 and reasonable fear interviews; and

15 (2) develop a workforce plan for each such pilot
16 program.

17 (e) ACCESS TO COUNSEL.—

18 (1) IN GENERAL.—Each alien enrolled in a
19 pilot program under this section shall be afforded an
20 opportunity to consult with 1 or more individuals of
21 their choosing in a private consultation area, prior
22 to a credible fear interview under section
23 235(b)(1)(B) of the Immigration and Nationality
24 Act (8 U.S.C. 1225(b)(1)(B)).

1 (2) LIST OF LEGAL SERVICES PROVIDERS.—

2 Each alien enrolled in such a pilot program shall be
3 provided a contact list of potential legal resources
4 and providers.

5 (3) PROCEDURES TO FACILITATE COMMUNICA-

6 TION WITH COUNSEL.—The Secretary shall develop
7 written procedures to permit aliens enrolled in such
8 a pilot program to make telephone calls at no cost
9 to legal representatives and legal services providers
10 and to receive incoming calls from legal representa-
11 tives and legal services providers in a private and
12 confidential space.

13 (f) LANGUAGE ACCESS.—

14 (1) IN GENERAL.—The Secretary and the At-
15 torney General shall provide each alien enrolled in a
16 pilot program under this section with any written
17 materials produced by the Department of Homeland
18 Security or the Department of Justice in a language
19 the alien understands.

20 (2) VERBAL EXPLANATION.—In the case of an
21 alien who is unable to read the written materials
22 provided under paragraph (1), the Secretary and the
23 Attorney General shall ensure that the materials are
24 explained verbally to the alien in a language the
25 alien understands.

1 (g) LEGAL ORIENTATION.—Not later than 24 hours
2 after apprehension, and not less than 24 hours before ini-
3 tially appearing before an asylum officer or immigration
4 judge in connection with a claim for asylum, an alien en-
5 rolled in a pilot program under this section shall be pro-
6 vided the opportunity to receive a complete legal orienta-
7 tion presentation administered in cooperation with the Ex-
8 ecutive Office for Immigration Review.

9 (h) EVALUATION PLAN.—Not later than the date on
10 which implementation of a pilot program under this sec-
11 tion commences or not later than 180 days after the date
12 of the enactment of this Act, whichever is earlier, the Sec-
13 retary and the Attorney General shall submit to appro-
14 priate committees of Congress an evaluation plan for the
15 pilot program that includes the following:

16 (1) Well-defined, clear, and measurable objec-
17 tives.

18 (2) Performance criteria or standards for deter-
19 mining the performance of the pilot program.

20 (3) Clearly articulated evaluation methodology,
21 including—

22 (A) sound sampling methods;

23 (B) a determination of the appropriate
24 sample size for the evaluation design; and

1 (C) a strategy for tracking the pilot pro-
2 gram's performance and evaluating the final re-
3 sults.

4 (4) A plan detailing the sources of data nec-
5 essary to evaluate the pilot program, methods for
6 data collection, and the timing and frequency of
7 data collection.

8 (i) NOTICE TO CONGRESS.—

9 (1) IN GENERAL.—Not less than 90 days before
10 the implementation of a pilot program under this
11 section, the Secretary and the Attorney General
12 shall provide to the appropriate committees of Con-
13 gress notice of such implementation, including a de-
14 scription of any modification to a pilot program pol-
15 icy, procedure, practice, or training relating to asy-
16 lum processing.

17 (2) ELEMENTS.—Each notice required by para-
18 graph (1) shall include a description of the following:

19 (A) The procedures and policies to ensure
20 all asylum interviews are conducted by trained
21 U.S. Citizenship and Immigration Services asy-
22 lum officers.

23 (B) The procedures and policies to ensure
24 credible fear interviews are only done remotely
25 in limited and exigent circumstances and the

likely exigent circumstances that the officers conducting the pilot program may encounter.

(C) The procedures and policies to ensure any credible fear interviews done remotely shall be videotaped and a written transcript shall be produced.

(D) Procedures and policies used to ensure questions asked by Department of Homeland Security personnel who exercise expedited removal authority under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)) are asked in a uniform manner, to the greatest extent possible.

(j) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 1 year after the date on which implementation of a pilot program under this section commences or not later than 1 year after the date of the enactment of this Act, whichever is earlier, and annually thereafter until the date on which the pilot program terminates, the Secretary and the Attorney General shall submit to the appropriate committees of Congress a report on the pilot programs under this section.

(2) ELEMENTS.—Each report required by paragraph (1) shall include the following:

1 (A) An evaluation of the pilot program
2 using the evaluation plan described in sub-
3 section (h).

4 (B) A discussion of the performance cri-
5 teria or standards established under subsection
6 (h)(2) and an assessment as to whether modi-
7 fications to the criteria or standards are nec-
8 essary.

9 (C) An assessment of the staffing levels
10 necessary to carry out the pilot program and a
11 description of any effect of current staffing lev-
12 els on the ability of the Secretary to carry out
13 the responsibilities of the Secretary with respect
14 to border security.

15 (D) A description of the resources required
16 to transport aliens in connection with the pilot
17 program.

18 (E) A description of the resources nec-
19 essary to improve legal orientation presen-
20 tations and access to counsel in connection with
21 the pilot program, consistent with section 7.

22 (F) A description of the information tech-
23 nology systems used in connection with the pilot
24 program and an assessment as to whether addi-
25 tional resources or upgrades are necessary.

(G) An analysis of the effect of access to counsel under subsection (e) and language access under subsection (f) on the outcomes of credible fear determinations under section 235(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B)).

(H) Recommendations for any legislative changes needed to further implement or expand the pilot programs.

(I) An explanation of any impediment to implementing the pilot programs, if relevant.

(k) RULE OF CONSTRUCTION.—Nothing in this section may be construed to authorize an extension of the duration for which an alien would otherwise be detained.

(l) TERMINATION OF AUTHORITY.—The authority of the Secretary and the Attorney General to carry out this section shall terminate on the date that is 3 years after the date of the enactment of this Act.

**SEC. 5. IMMIGRATION COURT DOCKETING PRIORITIES
DURING IRREGULAR MIGRATION INFLUX
EVENTS.**

(a) IN GENERAL.—The Attorney General shall, to the greatest extent practicable, prioritize docketing and processing of removal cases under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) for aliens who

1 are apprehended on entering the United States in connec-
2 tion with an irregular migration influx event.

3 (b) IRREGULAR MIGRATION INFLUX EVENTS.—The
4 Attorney General, in consultation with the Secretary, shall
5 establish criteria for determining when an irregular migra-
6 tion influx event commences and ends for purposes of car-
7 rying out the docketing priorities under subsection (a).

8 (c) ACCESS TO LEGAL COUNSEL.—The Attorney
9 General shall ensure that any master calendar or merits
10 hearing in a removal case prioritized under subsection (a)
11 is scheduled on a date and at a time that permits the alien
12 a fair and reasonable opportunity to consult with and re-
13 tain counsel prior to such hearing, consistent with section
14 292 of the Immigration and Nationality Act (8 U.S.C.
15 1362).

16 (d) REPORT TO CONGRESS.—Not later than Decem-
17 ber 31, 2021, the Attorney General shall submit to the
18 appropriate committees of Congress a report that in-
19 cludes—

20 (1) the number of aliens who were apprehended
21 after entering the United States in connection with
22 an irregular migration influx event identified in ac-
23 cordance with subsection (b) and placed in removal
24 proceedings under section 240 of the Immigration
25 and Nationality Act (8 U.S.C. 1229a), organized by

1 the fiscal year in which the apprehension occurred
2 and stating the number of single adults, unaccom-
3 panied alien children, and aliens that are appre-
4 hended as part of a family unit;

5 (2) the number of aliens identified under para-
6 graph (1) who appeared at master calendar hear-
7 ings, including—

8 (A) the number and percentage rep-
9 resented by counsel at such hearings; and

10 (B) the average number of days between
11 apprehension and such hearings;

12 (3) the number of in absentia orders of removal
13 issued to aliens identified under paragraph (1) at
14 master calendar hearings, including the number of
15 such aliens represented by counsel;

16 (4) the number of aliens identified under para-
17 graph (1) who appeared at final merits hearings, in-
18 cluding the number and percentage represented by
19 counsel at such hearings, and the average number of
20 days between apprehension and such hearings; and

21 (5) the number of in absentia orders of removal
22 issued to aliens identified under paragraph (1) at
23 final merits hearings, including the number of such
24 aliens represented by counsel.

1 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
 2 tion shall be construed to permit the Attorney General to
 3 adopt abbreviated procedures in connection with adjudica-
 4 tion of removal cases prioritized under subsection (a) be-
 5 yond the extent permitted by law.

6 **SEC. 6. OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES**

7 **IMPACT ASSESSMENT.**

8 (a) IN GENERAL.—Not later than 90 days after the
 9 date of the enactment of this Act, the Officer for Civil
 10 Rights and Civil Liberties of the Department shall com-
 11 plete a full impact assessment of asylum processing and
 12 determinations with respect to credible fear of persecution
 13 carried out at—

14 (1) regional processing centers established
 15 under section 437(a) of the Homeland Security Act
 16 of 2002; and

17 (2) any other Department of Homeland Secu-
 18 rity facility at which a legally determinative aspect
 19 of the asylum process occurs.

20 (b) ELEMENTS.—The impact assessment required by
 21 subsection (a) shall include—

22 (1) a description of the considerations relating
 23 to civil rights and civil liberties taken into account
 24 by the Secretary in developing and implementing

1 asylum processing at such regional processing cen-
2 ters;

3 (2) a description of—

4 (A) with respect to potential civil rights
5 and civil liberties violations, stakeholder feed-
6 back gathered before and during the implemen-
7 tation of asylum processing at regional proc-
8 essing centers; and

9 (B) the steps taken by the Secretary to
10 gather and respond to such feedback and any
11 changes made to asylum processing based on
12 such feedback;

13 (3) an assessment of the ability of the language
14 access plans of the Department of Homeland Secu-
15 rity to allow Department personnel to communicate
16 effectively with aliens with limited English pro-
17 ficiency who are placed in asylum processing, includ-
18 ing any specific challenges faced by speakers of in-
19 digenous languages;

20 (4) a review of the language access plan of each
21 component of the Department of Homeland Security
22 to ensure each language access plan provides uni-
23 form guidance so as to allow Department personnel
24 to communicate effectively with aliens with limited

1 English proficiency, including speakers of indigenous
2 languages, during asylum processing;

3 (5) a review of any negative impact on the abil-
4 ity of the Department of Homeland Security to proc-
5 ess aliens during the asylum process due to language
6 deficiencies and translation difficulties, including
7 longer processing times, increased expenses as a re-
8 sult of increased translation services, and increases
9 in the length of time aliens are detained by the De-
10 partment;

11 (6) an assessment of the impact of current De-
12 partment of Homeland Security policies and proce-
13 dures for processing and adjudicating asylum claims,
14 including language access plans and other accom-
15 modations, on vulnerable populations, especially
16 on—

17 (A) individuals with mental health chal-
18 lenges, trauma, or physical health conditions;
19 and

20 (B) pregnant individuals;

21 (7) any other current or historical guidance or
22 policy review provided by the Office for Civil Rights
23 and Civil Liberties to Department of Homeland Se-
24 curity components regarding asylum processing pro-

grams previously implemented or used by the Department; and

(8) any other element—

(A) the Officer for Civil Rights and Civil Liberties of the Department considers necessary;

(B) required by law; or

(C) requested by the Secretary.

(c) REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date on which the impact assessment required by subsection (a) is completed, the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security shall submit to the Secretary and the appropriate committees of Congress a report on the results of the impact assessment.

(2) ELEMENTS.—The report required by paragraph (1) shall include—

(A) a description of potential civil rights and civil liberties violations that are directly related to—

(i) whether the Department of Homeland Security's practices, standards, guidelines, and regulations ensure that aliens who experience language barriers, illit-

1 eracy, mental health issues, trauma, phys-
2 ical health conditions, pregnancy, or other
3 conditions are not at a disadvantage with
4 respect to credible fear determinations
5 under section 235(b) of the Immigration
6 and Nationality Act (8 U.S.C. 1225(b));

7 (ii) an alien's—

8 (I) inability to understand basic
9 explanations of legal information; or

10 (II) limited English proficiency;

11 and

12 (iii) an alien's inability to consult with
13 1 or more individuals of his or her choos-
14 ing before such interview;

15 (B) an assessment of the impact of expe-
16 dited asylum processing initiatives operated by
17 the Department of Homeland Security during
18 the 10-year period preceding the date of the en-
19 actment of this Act on the civil rights and civil
20 liberties of migrants enrolled in such initiatives;

21 (C) an assessment of any other civil rights
22 or civil liberties violation relating to asylum
23 processing;

24 (D) recommended updates to the language
25 access plan of any component of the Depart-

1 ment of Homeland Security to prevent the po-
2 tential civil rights and civil liberties violations
3 identified under subparagraph (A);

4 (E) recommendations—

5 (i) to improve the processing and ad-
6 judication of speakers of indigenous lan-
7 guages; and

8 (ii) to adapt language access plans to
9 accommodate such individuals;

10 (F) recommendations for the appropriate
11 use by Department of Homeland Security com-
12 ponents of updated language access plans;

13 (G) recommended modifications to improve
14 asylum processes to better serve vulnerable pop-
15 ulations such as those with mental or physical
16 health challenges, trauma, and pregnant indi-
17 viduals;

18 (H) recommended modifications to policies
19 and procedures relating to asylum processing
20 that would allow asylum processing to achieve
21 compliance with current standards and guide-
22 lines of the Office for Civil Rights and Civil
23 Liberties of the Department; and

1 (I) any other recommendation the Officer
2 for Civil Rights and Civil Liberties considers
3 appropriate.

4 (d) IMPLEMENTATION PLAN.—

5 (1) IN GENERAL.—Not later than 60 days after
6 the date on which the Officer for Civil Rights and
7 Civil Liberties of the Department of Homeland Se-
8 curity submits the report under subsection (c), the
9 Secretary shall submit to the appropriate committees
10 of Congress an implementation plan that addresses
11 the findings and recommendations contained in the
12 report.

13 (2) ELEMENTS.—The implementation plan re-
14 quired by paragraph (1) shall include a description
15 of—

16 (A) the recommendations contained in the
17 report under subsection (c) addressed by the
18 plan;

19 (B) any such recommendation not ad-
20 dressed by the plan and a justification for de-
21 clining to address the recommendation; and

22 (C) any other matter the Secretary con-
23 siders relevant to the implementation of such
24 recommendations.

1 (3) PUBLICATION.—Not later than the date on
 2 which the Secretary submits the plan required by
 3 paragraph (1), the Secretary shall publish the plan
 4 in the Federal Register.

5 **SEC. 7. PLAN TO EXPAND LEGAL ORIENTATION PROGRAM.**

6 (a) INTERIM PLAN.—

7 (1) IN GENERAL.—Not later than 180 days
 8 after the date of the enactment of this Act, the Sec-
 9 retary shall develop and submit to the appropriate
 10 committees of Congress an interim plan to expand
 11 the legal orientation program to each regional proc-
 12 essing center established under section 437(a) of the
 13 Homeland Security Act of 2002 and any other De-
 14 partment of Homeland Security facility at which—

15 (A) 1 or more aliens are detained following
 16 apprehension by U.S. Customs and Border Pro-
 17 tection; and

18 (B) any legally determinative aspect of the
 19 asylum process occurs.

20 (2) ELEMENTS.—The interim plan required by
 21 paragraph (1) shall include—

22 (A) a list of the critical items required for
 23 a final legal orientation plan that cannot be im-
 24 plemented in the interim plan due to necessary
 25 logistical and procedural changes at each facil-

ity at which assessments for credible fear of persecution, or other aspects of the asylum process, occur;

(B) a description of the manner in which the legal orientation program will be immediately adapted to assist aliens detained at Department of Homeland Security facilities, including such regional processing centers;

(C) a description of the manner in which access to counsel will be facilitated for such aliens who are subject to any type of asylum processing; and

(D) a list of Department of Homeland Security facilities—

(i) at which asylum processing occurs;

and

(ii) that are capable of providing basic legal orientation services, including through a remote interface.

(3) IMPLEMENTATION.—The Secretary shall commence implementation of the interim plan beginning not later than 60 days after the submittal of the plan under paragraph (1) and ending on the date on which implementation of the final plan described in subsection (b) commences.

1 (4) PUBLIC CONSULTATION.—In developing the
2 interim plan under paragraph (1), the Secretary
3 shall consult with nongovernmental organizations,
4 legal services providers, and any other entity the
5 Secretary considers appropriate.

6 (b) FINAL PLAN.—

7 (1) IN GENERAL.—Not later than 180 days
8 after the date of the enactment of this Act, the Sec-
9 retary shall develop and submit to the appropriate
10 committees of Congress a final plan to expand the
11 legal orientation program to each Department of
12 Homeland Security facility at which—

13 (A) 1 or more aliens are detained; and

14 (B) any legally determinative aspect of the
15 asylum process occurs.

16 (2) ELEMENTS.—The final plan required by
17 paragraph (1) shall include—

18 (A) a consultation with the Director of the
19 Executive Office for Immigration Review to de-
20 termine the most efficient and effective manner
21 by which to expand or modify legal orientation
22 program requirements and standards to include
23 aliens seeking asylum protections at each De-
24 partment of Homeland Security facility at

1 which any part of the asylum process, including
2 credible fear interviews, occurs;

3 (B) an assessment of necessary procedural
4 and programmatic changes to the legal orienta-
5 tion program that will best accommodate such
6 aliens;

7 (C) an assessment of challenges to expand-
8 ing the legal orientation program to facilities
9 that cannot be met by the interim plan under
10 subsection (a);

11 (D) a requirement that legal orientation
12 program sessions shall provide explanations of
13 all expedited asylum processing programs and
14 procedures and relevant forms of relief under
15 the immigration laws;

16 (E) a requirement that legal orientation
17 programs shall include access to self-help legal
18 materials and communication with available pro
19 bono legal representatives;

20 (F) a requirement that private and con-
21 fidential space shall be provided to such aliens,
22 if they wish to use it, for individual legal ori-
23 entation and consultation and telephone calls
24 with nonprofit organizations and legal rep-
25 resentatives before—

1 (i) hearings relating to credible fear of
2 persecution;

3 (ii) any Executive Office for Immigra-
4 tion Review hearing;

5 (iii) any legally determinative aspect
6 of the asylum process; or

7 (iv) any other legal proceeding or con-
8 sultation related to an asylum claim;

9 (G) protocols that allow such aliens to
10 make and receive telephone calls to legal rep-
11 resentatives, at no cost to such aliens, while de-
12 tained at the Department of Homeland Security
13 facility; and

14 (H) a requirement that—

15 (i) legal orientation programs shall
16 ensure that written notice of legal rights is
17 made available to such aliens in English
18 and in not fewer than the 5 most common
19 native languages spoken by aliens in cus-
20 tody at each Department of Homeland Se-
21 curity facility during the preceding fiscal
22 year;

23 (ii) protocols shall be established to
24 provide written or oral translation of mate-
25 rials that Department of Homeland Secu-

1 rity produces for legal orientation pro-
2 grams or that Department of Homeland
3 Security contracts with outside entities for
4 use in a legal orientation programs for
5 such aliens who do not speak a language
6 described in clause (i), including—

7 (I) development of a list of all
8 languages spoken by aliens encoun-
9 tered in the preceding 1-year period;

10 (II) procedures for providing oral
11 interpretation services if it is not pos-
12 sible to produce a written translation
13 in a manner that will not unreason-
14 ably prolong an alien's time in cus-
15 tody, or if the alien is unable to read
16 written materials; and

17 (III) an after-action plan for im-
18 proving future responses after a lan-
19 guage is encountered for which the
20 Department of Homeland Security is
21 unable to timely develop written mate-
22 rials; and

23 (I) the Secretary shall have in place at
24 each Department of Homeland Security facil-
25 ity—

1 (i) a feasible plan to provide language
2 translation or interpretation services for
3 any alien in a language the alien under-
4 stands; and

5 (ii) a list of translation and interpre-
6 tation services and resources readily avail-
7 able to meet translation needs.

8 (3) IMPLEMENTATION.—Not later than 90 days
9 after the submittal of the final plan required by
10 paragraph (1), the Secretary shall commence imple-
11 mentation of the plan.

12 (c) PROCEDURES TO ENSURE AVAILABILITY.—

13 (1) IN GENERAL.—The Secretary, in consulta-
14 tion with the Attorney General, shall develop and
15 implement procedures—

16 (A) to ensure that legal orientation pro-
17 grams are available for all detained aliens not
18 later than 12 hours after being taken into cus-
19 tody at a Department of Homeland Security fa-
20 cility; and

21 (B) to provide such aliens with information
22 relating to—

23 (i) the basic procedures of immigra-
24 tion hearings;

1 (ii) the rights of aliens under the im-
2 migration laws with respect to such hear-
3 ings;

4 (iii) the consequences of filing a frivo-
5 lous legal claim or knowingly making a
6 false statement in the course of a hearing;
7 and

8 (iv) any other matter the Secretary, in
9 consultation with the Attorney General,
10 considers appropriate.

11 (2) ELEMENTS.—The procedures developed
12 under paragraph (1) shall include—

13 (A) the provision to aliens of a contact list
14 of potential legal resources and providers;

15 (B) the provision of a clear explanation, in
16 a language the alien fully understands, of the
17 asylum process and standards relating to as-
18 sessments for credible fear of persecution;

19 (C) a requirement to provide group ori-
20 entations to aliens apprehended by U.S. Cus-
21 toms and Border Protection regarding asylum
22 processing programs, including applicable pilot
23 programs established under section 4, and
24 forms of relief under the immigration laws;

1 (D) a requirement to provide aliens with
2 access to self-help legal materials and commu-
3 nication with available pro bono legal represent-
4 atives;

5 (E) protocols to allow aliens to make tele-
6 phone calls to legal representatives and to re-
7 ceive incoming calls from legal representatives
8 in a private and confidential space while in cus-
9 tody at Department of Homeland Security fa-
10 cilities; and

11 (F) a requirement to provide clear guid-
12 ance to aliens on—

13 (i) additional procedural steps that
14 occur after an interview with respect to
15 credible fear of persecution;

16 (ii) relevant forms required to be sub-
17 mitted to apply for asylum or withholding
18 of removal;

19 (iii) information that aliens are re-
20 quired to update as their cases are proc-
21 essed by U.S. Citizenship and Immigration
22 Services and the Executive Office for Im-
23 migration Review; and

24 (iv) the consequences of failing to ap-
25 pear at any proceeding before the Execu-

1 tive Office for Immigration Review, and an
2 explanation of the legal significance of an
3 in absentia order of removal.

4 **SEC. 8. MODIFICATIONS TO U.S. CUSTOMS AND BORDER**
5 **PROTECTION STANDARDS ON TRANSPORT,**
6 **ESCORT, DETENTION, AND SEARCH TO CON-**
7 **FORM WITH LEGAL ORIENTATION PROGRAM**
8 **REQUIREMENTS.**

9 (a) INTERIM PLAN.—Not later than 90 days after the
10 date of the enactment of this Act, the Secretary shall—

11 (1) complete an assessment of the modifications
12 to U.S. Customs and Border Protection transport,
13 escort, detention, and search standards necessary—

14 (A) to implement the interim plan for ex-
15 panded legal orientation and access programs
16 under section 7(a); and

17 (B) to ensure—

18 (i) the safety of personnel of, and
19 aliens detained in, U.S. Customs and Bor-
20 der Protection facilities; and

21 (ii) orderly management and oper-
22 ation of such facilities; and

23 (2) implement such modifications.

1 (b) FINAL PLAN.—Not later than 30 days after the
2 submittal of the final plan under section 7(b), the Sec-
3 retary shall—

4 (1) complete an assessment of the modifications
5 to U.S. Customs and Border Protection transport,
6 escort, detention, and search standards necessary—

7 (A) to implement the final plan for ex-
8 panded legal orientation and access programs
9 under such section; and

10 (B) to ensure—

11 (i) the safety of personnel of, and
12 aliens detained in, U.S. Customs and Bor-
13 der facilities; and

14 (ii) orderly management and oper-
15 ation of such facilities; and

16 (2) implement such modifications.

17 (c) ELEMENTS.—The modifications under subsection
18 (a) and (b) shall include the development of protocols and
19 procedures to allow employees of nonprofit organizations
20 and legal representatives to enter U.S. Customs and Bor-
21 der Protection facilities to carry out legal orientation pro-
22 gramming, communication between aliens and outside
23 counsel, and any other activity the Secretary considers ap-
24 propriate.

1 **SEC. 9. STANDARD OPERATING PROCEDURES; FACILITIES**
 2 **STANDARDS.**

3 (a) STANDARD OPERATING PROCEDURES.—Section
 4 411(k)(1) of the Homeland Security Act of 2002 (6
 5 U.S.C. 211(k)) is amended—

6 (1) in subparagraph (D), by striking “and” at
 7 the end;

8 (2) in subparagraph (E)(iv), by striking the pe-
 9 riod at the end and inserting “; and”; and

10 (3) adding at the end the following:

11 “(F) standard operating procedures re-
 12 garding the detection, interdiction, inspection,
 13 processing, or transferring of alien children that
 14 officers and agents of U.S. Customs and Border
 15 Protection shall employ in the execution of their
 16 duties.”.

17 (b) FACILITIES STANDARDS.—

18 (1) INITIAL REVIEW AND UPDATE.—Not later
 19 than 270 days after the date of the enactment of
 20 this Act, the Secretary shall review and update the
 21 regulations under part 115 of title 6, Code of Fed-
 22 eral Regulations, that set standards to prevent, de-
 23 tect, and respond to sexual abuse and assault in im-
 24 migration detention facilities and other holding fa-
 25 cilities under the jurisdiction of the Department of
 26 Homeland Security.

1 (2) QUADRENNIAL REVIEW.—The Secretary
 2 shall review and update the regulations referred to
 3 in paragraph (1) not less frequently than once every
 4 4 years.

5 **SEC. 10. CRIMINAL BACKGROUND CHECKS FOR SPONSORS**
 6 **OF UNACCOMPANIED ALIEN CHILDREN.**

7 (a) IN GENERAL.—Section 235(c) of the William Wil-
 8 berforce Trafficking Victims Protection Reauthorization
 9 Act of 2008 (8 U.S.C. 1232(c)) is amended—

10 (1) in paragraph (3)—

11 (A) in subparagraph (A), in the first sen-
 12 tence, by striking “subparagraph (B)” and in-
 13 serting “subparagraphs (B) and (C)”;

14 (B) by redesignating subparagraphs (B)
 15 and (C) as subparagraphs (C) and (D), respec-
 16 tively;

17 (C) by inserting after subparagraph (A)
 18 the following:

19 “(B) CRIMINAL BACKGROUND CHECKS.—

20 “(i) IN GENERAL.—Before placing an
 21 unaccompanied alien child with an indi-
 22 vidual, the Secretary of Health and
 23 Human Services shall—

24 “(I) conduct a criminal history
 25 background check on the individual

1 and each adult member of the individ-
2 ual's household; and

3 “(II) if appropriate, collect bio-
4 metric samples in connection with any
5 such background check.

6 “(ii) SCOPE.—

7 “(I) IN GENERAL.—Each biomet-
8 ric criminal history background check
9 required under clause (i) shall be con-
10 ducted through—

11 “(aa) the Federal Bureau of
12 Investigation;

13 “(bb) criminal history re-
14 positories of each State the indi-
15 vidual lists as a current or
16 former residence; and

17 “(cc) any other Federal or
18 State database or repository the
19 Secretary of Health and Human
20 Services considers appropriate.

21 “(II) USE OF RAPID DNA IN-
22 STRUMENTS.—DNA analysis of a
23 DNA sample collected under sub-
24 clause (I) may be carried out with
25 Rapid DNA instruments (as defined

1 in section 3(c) of the DNA Analysis
2 Backlog Elimination Act of 2000 (34
3 U.S.C. 40702(c)).

4 “(III) LIMITATION ON USE OF
5 BIOMETRIC SAMPLES.—The Secretary
6 of Health and Human Services may
7 not release a fingerprint or DNA sam-
8 ple collected, or disclose the results of
9 a fingerprint or DNA analysis con-
10 ducted under this subparagraph, or
11 any other information obtained pursu-
12 ant to this section, to the Department
13 of Homeland Security for any immi-
14 gration enforcement purpose.

15 “(IV) ACCESS TO INFORMATION
16 THROUGH THE DEPARTMENT OF
17 HOMELAND SECURITY.—Not later
18 than 14 days after receiving a request
19 from the Secretary of Health and
20 Human Services, the Secretary of
21 Homeland Security shall provide in-
22 formation necessary to conduct suit-
23 ability assessments from appropriate
24 Federal, State, and local law enforce-
25 ment and immigration databases.

1 “(iii) PROHIBITION ON PLACEMENT
2 WITH INDIVIDUALS CONVICTED OF CER-
3 TAIN OFFENSES.—The Secretary of Health
4 and Human Services may not place an un-
5 accompanied alien child in the custody or
6 household of an individual who has been
7 convicted of, or is currently being tried
8 for—

9 “(I) a sex offense (as defined in
10 section 111 of the Sex Offender Reg-
11 istration and Notification Act (34
12 U.S.C. 20911));

13 “(II) a crime involving severe
14 forms of trafficking in persons (as de-
15 fined in section 103 of the Trafficking
16 Victims Protection Act of 2000 (22
17 U.S.C. 7102);

18 “(III) a crime of domestic vio-
19 lence (as defined in section 40002(a)
20 of the Violence Against Women Act
21 (34 U.S.C. 12291(a));

22 “(IV) a crime of child abuse and
23 neglect (as defined in section 3 of the
24 Child Abuse Prevention and Treat-

ment Act (Public Law 93–247; 42 U.S.C. 5101 note));

“(V) murder, manslaughter, or an attempt to commit murder or manslaughter (within the meanings of such terms in sections 1111, 1112, and 1113 of title 18, United States Code); or

“(VI) a crime involving receipt, distribution, or possession of a visual depiction of a minor engaging in sexually explicit conduct (within the meanings of such terms in section 2252 of title 18, United States Code).”; and

(D) by adding at the end the following:

“(E) WELL-BEING FOLLOW-UP CALLS.—

Not later than 30 days after the date on which an unaccompanied alien child is released from the custody of the Secretary of Health and Human Services, and every 60 days thereafter until the date on which a final decision has been issued in the removal proceedings of the child or such proceedings are terminated, the Secretary shall conduct a follow-up telephone call with the unaccompanied alien child and the

1 child’s custodian or the primary point of con-
2 tact for any other entity with which the child
3 was placed.

4 “(F) CHANGE OF ADDRESS.—The Sec-
5 retary of Health and Human Services shall—

6 “(i) require each custodian with whom
7 an unaccompanied alien child is placed
8 under this subsection to notify the Sec-
9 retary with respect to any change in the
10 unaccompanied alien child’s physical or
11 mailing address, including any situation in
12 which the unaccompanied alien child per-
13 manently departs the custodian’s residence,
14 not later than 7 days after the date on
15 which such change or departure occurs;
16 and

17 “(ii) develop and implement a system
18 that permits custodians to submit notifica-
19 tions electronically with respect to a
20 change of address.”.

21 (b) COLLECTION AND COMPILATION OF STATISTICAL
22 INFORMATION.—Section 462(b)(1)(K) of the Homeland
23 Security Act of 2002 (6 U.S.C. 279(b)(1)(K)) is amended
24 by striking “; and” and inserting “, including—

1 “(i) the average length of time from
2 apprehension to the child’s master cal-
3 endar hearing, organized by the fiscal year
4 in which the children were apprehended by
5 U.S. Customs and Border Protection;

6 “(ii) the number of children identified
7 under clause (i) who did and did not ap-
8 pear at master calendar hearings, includ-
9 ing the percentage of children in each cat-
10 egory who were represented by counsel;

11 “(iii) the average length of time from
12 apprehension to the child’s merits hearing,
13 organized by the fiscal year in which the
14 children were apprehended by U.S. Cus-
15 toms and Border Protection;

16 “(iv) the number of children identified
17 under clause (i) who did and did not ap-
18 pear at merits hearings, including the per-
19 centage of children in each category who
20 are represented by counsel; and

21 “(v) the total number of well-being
22 follow-up calls conducted under section
23 235 of the William Wilberforce Trafficking
24 Victims Protection Reauthorization Act of
25 2008 (8 U.S.C. 1232(c)(3)(E)) at each

time interval following placement with a custodian or other entity, and the number of children that the Secretary of Health and Human Services is unable to contact at each interval, organized by the fiscal year in which the children were apprehended by U.S. Customs and Border Protection; and”.

SEC. 11. FRAUD IN CONNECTION WITH THE TRANSFER OF CUSTODY OF UNACCOMPANIED ALIEN CHILDREN.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

“§ 1041. Fraud in connection with the transfer of custody of unaccompanied alien children

“(a) IN GENERAL.—It shall be unlawful for a person to obtain custody of an unaccompanied alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)))—

“(1) by making any materially false, fictitious, or fraudulent statement or representation; or

“(2) by making or using any false writing or document with the knowledge that such writing or

1 document contains any materially false, fictitious, or
 2 fraudulent statement or entry.

3 “(b) PENALTIES.—

4 “(1) IN GENERAL.—Any person who violates, or
 5 attempts or conspires to violate, subsection (a) shall
 6 be fined under this title and imprisoned for not less
 7 than 1 year.

8 “(2) ENHANCED PENALTY FOR TRAF-
 9 FICKING.—If the primary purpose of a violation, at-
 10 tempted violation, or conspiracy to violate this sec-
 11 tion was to subject the child to sexually explicit ac-
 12 tivity or any other form of exploitation, the offender
 13 shall be fined under this title and imprisoned for not
 14 less than 15 years.”.

15 (b) CLERICAL AMENDMENT.—The chapter analysis
 16 for chapter 47 of title 18, United States Code, is amended
 17 by adding at the end the following:

“1041. Fraud in connection with the transfer of custody of unaccompanied alien
 children.”.

18 **SEC. 12. ACCOUNTABILITY FOR CHILDREN AND TAX-**
 19 **PAYERS.**

20 (a) IN GENERAL.—Section 235(b) of the William
 21 Wilberforce Trafficking Victims Protection Reauthoriza-
 22 tion Act of 2008 (8 U.S.C. 1232(b)) is amended by adding
 23 at the end the following:

24 “(5) INSPECTION OF FACILITIES.—

1 “(A) FACILITIES USED BY SECRETARY OF
2 HEALTH AND HUMAN SERVICES.—The Inspec-
3 tor General of the Department of Health and
4 Human Services shall conduct regular inspec-
5 tions of facilities used by the Secretary of
6 Health and Human Services to provide care
7 and custody of unaccompanied alien children
8 who are in the immediate custody of the Sec-
9 retary to ensure that such facilities are oper-
10 ated in an efficient and effective manner while
11 also ensuring—

12 “(i) the safety of unaccompanied alien
13 children; and

14 “(ii) that unaccompanied alien chil-
15 dren—

16 “(I) have access to information
17 relevant to their removal proceedings
18 and claims for relief; and

19 “(II) are able to communicate ef-
20 ficaciously with their legal representa-
21 tives.

22 “(B) FACILITIES USED BY THE SEC-
23 RETARY OF HOMELAND SECURITY.—The In-
24 spector General of the Department of Home-
25 land Security shall conduct regular inspections

of facilities, including temporary facilities and facilities built or obtained for use to deal with an irregular migration influx, used by the Secretary of Homeland Security in which unaccompanied alien children and family units are detained, to ensure that—

“(i) such facilities are operated in an efficient and effective manner; and

“(ii) unaccompanied alien child and family units—

“(I) have access to information relevant to their removal proceedings and claims for relief; and

“(II) are able to communicate efficaciously with their legal representatives.

“(6) REPORT ON FACILITY OPERATION COSTS.—Not less frequently than annually, the Secretary of Health and Human Services and the Secretary of Homeland Security shall each submit to the Committee on the Judiciary and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on the Judiciary and the Committee on Homeland Security of the House of Representatives a report detailing, for each facil-

1 ity described in subparagraph (A) or (B) of para-
2 graph (5), respectively—

3 “(A) the average daily cost for each unac-
4 companied alien child housed or detained at
5 such facility;

6 “(B) the average cost over the entire sys-
7 tem; and

8 “(C) in the case of such a facility the aver-
9 age daily cost per child of which significantly
10 exceeds the average cost over the entire system,
11 an explanation of expenditures.”.

12 **SEC. 13. HIRING AUTHORITY.**

13 (a) U.S. CUSTOMS AND BORDER PROTECTION.—

14 (1) IN GENERAL.—The Commissioner of U.S.
15 Customs and Border Protection shall hire, train, and
16 assign—

17 (A) not fewer than 600 new Office of Field
18 Operations Officers (above the current attrition
19 level) during every fiscal year until the total
20 number of Office of Field Operations officers
21 equals and sustains the requirements identified
22 each year in the Workforce Staffing Model;

23 (B) support staff, including technicians, to
24 perform non-law enforcement administrative
25 functions to support the new Office of Field

1 Operations officers hired pursuant to subpara-
2 graph (A); and

3 (C) not fewer than 250 Border Patrol
4 processing coordinators.

5 (2) TRAFFIC FORECASTS.—In calculating the
6 number of Office of Field Operations officers needed
7 at each port of entry through the Workforce Staffing
8 Model, the Commissioner of U.S. Customs and Bor-
9 der Protection shall—

10 (A) rely on data collected regarding the in-
11 spections and other activities conducted at each
12 such port of entry; and

13 (B) consider volume from seasonal
14 influxes, other projected changes in commercial
15 and passenger volumes, the most current com-
16 mercial forecasts, and temporary detailed per-
17 sonnel of the Office of Field Operations to as-
18 sist with irregular migration influx events or
19 other events, and other relevant information.

20 (3) GAO REPORT.—If the Commissioner of
21 U.S. Customs and Border Protection does not hire
22 600 additional Office of Field Operations officers
23 pursuant to paragraph (1)(A) during the fiscal year
24 in which this Act is enacted, or during any subse-
25 quent fiscal year in which the hiring requirements

1 set forth in the Workforce Staffing Model have not
2 been achieved, the Comptroller General of the
3 United States shall—

4 (A) conduct a review of U.S. Customs and
5 Border Protection hiring practices to determine
6 the reasons that such requirements were not
7 achieved and to address other issues related to
8 hiring by U.S. Customs and Border Protection;
9 and

10 (B) submit a report to the Committee on
11 Homeland Security and Governmental Affairs
12 of the Senate and the Committee on Homeland
13 Security of the House of Representatives that
14 describes the results of the review conducted
15 under subparagraph (A).

16 (b) U.S. IMMIGRATION AND CUSTOMS ENFORCE-
17 MENT.—

18 (1) IN GENERAL.—The Director of U.S. Immi-
19 gration and Customs Enforcement shall hire, train,
20 and assign—

21 (A) not fewer than 300 Enforcement and
22 Removal Operations support personnel to ad-
23 dress case management responsibilities relating
24 to aliens apprehended along the southwest bor-
25 der, and the operation of regional processing

centers established under section 437(a) of the Homeland Security Act of 2002;

(B) not fewer than 128 attorneys in the Office of the Principal Legal Advisor; and

(C) not fewer than 41 support staff within the Office of the Principal Legal Advisor to assist immigration judges within the Executive Office for Immigration Review with removal, asylum, and custody determination proceedings.

(2) GAO REVIEW AND REPORT RELATING TO STAFFING NEEDS.—

(A) REVIEW.—The Comptroller General of the United States shall conduct a review of—

(i) U.S. Immigration and Customs Enforcement activities and staffing needs related to irregular migration influx events along the southwest border during fiscal years 2014, 2019, and 2021, including—

(I) the total number of aliens placed in removal proceedings in connection with such irregular migration influx events;

(II) the number of hours dedicated to responding to irregular migration influx events by Enforcement

1 and Removal Operations officers, En-
2 forcement and Removal Operations
3 support personnel, attorneys within
4 the Office of the Principal Legal Advi-
5 sor, and support staff within the Of-
6 fice of the Principal Legal Advisor;
7 and

8 (III) the impact that response to
9 such irregular migration influx events
10 had on the ability of U.S. Immigra-
11 tion and Customs Enforcement to
12 carry out other aspects of its mission,
13 including the regular transport of mi-
14 grants from U.S. Customs and Border
15 Protection facilities to U.S. Immigra-
16 tion and Customs Enforcement facili-
17 ties; and

18 (ii) staffing levels within the Office of
19 the Principal Legal Advisor, U.S. Immi-
20 gration and Customs Enforcement, includ-
21 ing the impact such staffing levels have on
22 docketing of cases within the Executive Of-
23 fice for Immigration Review.

24 (B) REPORT.—Not later than 1 year after
25 the date of the enactment of this Act, the

1 Comptroller General shall submit to the appro-
2 priate committees of Congress a report that de-
3 scribes the results of the review conducted
4 under subparagraph (A).

5 (c) EXECUTIVE OFFICE FOR IMMIGRATION RE-
6 VIEW.—The Director of the Executive Office for Immigra-
7 tion Review shall hire, train, and assign not fewer than
8 150 new Immigration Judge teams, including staff attor-
9 neys and all applicable support staff for such Immigration
10 Judge teams.

11 (d) U.S. CITIZENSHIP AND IMMIGRATION SERV-
12 ICES.—The Director of U.S. Citizenship and Immigration
13 Services shall hire, train, and assign not fewer than 300
14 asylum officers.

15 **SEC. 14. REPORTS TO CONGRESS.**

16 (a) UNACCOMPANIED ALIEN CHILDREN.—

17 (1) CARE OF UNACCOMPANIED ALIEN CHIL-
18 DREN.—Not later than 180 days after the date of
19 the enactment of this Act, the Secretary of Health
20 and Human Services shall submit to the appropriate
21 committees of Congress, and make publicly available,
22 a report that includes—

23 (A) a detailed summary of the contracts in
24 effect to care for and house unaccompanied
25 alien children, including the names and loca-

1 tions of contractors and the facilities being
2 used;

3 (B) for each contractor and facility re-
4 ferred to in subparagraph (A), the cost per day
5 to care for and house an unaccompanied alien
6 child, including a breakdown of factors that
7 contribute to such cost;

8 (C) the number of unaccompanied alien
9 children who have been released to a sponsor,
10 if any;

11 (D) a list of the States in which unaccom-
12 panied alien children have been released from
13 the custody of the Secretary of Health and
14 Human Services to the care of a sponsor or
15 placement in a facility;

16 (E) a determination of whether more than
17 1 unaccompanied alien child has been released
18 to the same sponsor, including the number of
19 children who were released to such sponsor;

20 (F) an assessment of the extent to which
21 the Secretary of Health and Human Services is
22 monitoring the release of unaccompanied alien
23 children, including home studies and any other
24 monitoring activity;

1 (G) an assessment of the extent to which
2 the Secretary of Health and Human Services is
3 making efforts—

4 (i) to educate unaccompanied alien
5 children about their legal rights and the
6 legal process; and

7 (ii) to provide unaccompanied alien
8 children access to pro bono counsel; and

9 (H) an assessment of efforts by the Sec-
10 retary of Health and Human Services to miti-
11 gate the spread of contagious disease within fa-
12 cilities operated or contracted by the Secretary,
13 including—

14 (i) medical screening and treatment
15 services provided to unaccompanied alien
16 children; and

17 (ii) communication with State, local,
18 and Tribal governments regarding the re-
19 lease from custody of any unaccompanied
20 alien child who suffers from a contagious
21 disease or may be especially vulnerable to
22 a contagious disease.

23 (2) RETURNS TO COUNTRY OF NATIONALITY.—

24 Not later than 180 days after the date of the enact-
25 ment of this Act, the Secretary shall submit to the

1 appropriate committees of Congress, and make pub-
2 licly available, a report that identifies—

3 (A) the number of unaccompanied alien
4 children who have voluntarily returned to their
5 country of nationality or habitual residence,
6 disaggregated by—

7 (i) country of nationality or habitual
8 residence; and

9 (ii) age of the unaccompanied alien
10 children;

11 (B) the number of unaccompanied alien
12 children who have been returned to their coun-
13 try of nationality or habitual residence, includ-
14 ing the length of time such children were
15 present in the United States;

16 (C) the number of unaccompanied alien
17 children who have not been returned to their
18 country of nationality or habitual residence
19 pending travel documents or other requirements
20 from such country, including how long they
21 have been waiting to return; and

22 (D) the number of unaccompanied alien
23 children who were granted relief in the United
24 States, whether through asylum, any other im-
25 migration benefit or status, or deferred action.

1 (3) IMMIGRATION PROCEEDINGS.—Not later
2 than 90 days after the date of the enactment of this
3 Act, and not less frequently than every 90 days
4 thereafter, the Secretary, in coordination with the
5 Director of the Executive Office for Immigration Re-
6 view, shall submit to the appropriate committees of
7 Congress, and make publicly available, a report that
8 identifies—

9 (A) the number of unaccompanied alien
10 children who, after proceedings under section
11 235(b) of the Immigration and Nationality Act
12 (8 U.S.C. 1225(b)), were returned to their
13 country of nationality or habitual residence,
14 disaggregated by—

15 (i) country of nationality or residence;

16 and

17 (ii) age and gender of such aliens;

18 (B) the number of unaccompanied alien
19 children who, after proceedings under section
20 235(b) of the Immigration and Nationality Act
21 (8 U.S.C. 1225(b)), prove a claim of admissi-
22 bility and are placed in proceedings under sec-
23 tion 240 of that Act (8 U.S.C. 1229a); and

1 (C) the number of unaccompanied alien
2 children who fail to appear at a removal hear-
3 ing that such alien was required to attend.

4 (b) BINATIONAL EFFORTS TO COMBAT IRREGULAR
5 MIGRATION.—Not later than 180 days after the date of
6 the enactment of this Act, the Secretary of State shall sub-
7 mit to the appropriate committees of Congress, and make
8 publicly available, a report that includes—

9 (1) a copy of any repatriation agreement in ef-
10 fect for unaccompanied alien children;

11 (2) a description of the status of any repatri-
12 ation agreement that is being considered or nego-
13 tiated;

14 (3) a description of the foreign assistance fund-
15 ing provided by the United States Government to
16 the 20 countries that have the highest total number
17 of nationals entering the United States as unaccom-
18 panied alien children and the 20 countries that have
19 the highest total number of nationals entering the
20 United States who do not use the formal immigra-
21 tion system of the United States or of the countries
22 such individuals are traveling through, including
23 amounts provided for, and descriptions of, initiatives
24 or programs—

1 (A) to deter the children, adults, and fami-
2 lies of each such country from illegally entering
3 the United States; and

4 (B) to care for or reintegrate repatriated
5 unaccompanied alien children in the country of
6 nationality or last habitual residence;

7 (4) an examination of domestic initiatives by
8 countries described in paragraph (3) with respect to
9 the prevention of irregular migration by children,
10 adults, and families and the manner in which the
11 United States may work with such countries to
12 make such initiatives more successful; and

13 (5) recommendations on actions the United
14 States may take, through foreign aid programs of
15 the United States, to improve the ability of such
16 countries to combat irregular migration.

17 (c) SUSPECTED TRAFFICKING OF ALIEN CHIL-
18 DREN.—Not later than 180 days after the date of the en-
19 actment of this Act, the Secretary shall submit to the ap-
20 propriate committees of Congress, and make publicly
21 available, a report that includes—

22 (1) an anonymized data set describing incidents
23 in which the Secretary has suspected that an alien
24 child was apprehended multiple times as a part of

1 different family units and the response of the Sec-
2 retary to such incidents;

3 (2) an anonymized data set describing incidents
4 not described in paragraph (1) in which the Sec-
5 retary has suspected that an alien child was falsely
6 claimed as a member of a family unit and the re-
7 sponse of the Secretary to such incidents;

8 (3) a description of current techniques and
9 technologies used to verify the identity of alien chil-
10 dren who are presented as members of multiple fam-
11 ily units; and

12 (4) legislative recommendations to improve the
13 ability of the Secretary to detect and respond to in-
14 cidents in which an alien child is fraudulently
15 claimed to be a member of a family unit.

16 **SEC. 15. IMPROVING THE ABILITY TO TRANSPORT MI-**
17 **GRANTS.**

18 (a) IMPROVEMENT OF TRANSPORTATION POLICY
19 AND STANDARDS.—

20 (1) IN GENERAL.—Not later than 90 days after
21 the date of enactment of this Act, the Secretary
22 shall update the transportation policies, standards,
23 definitions, and any other needed guidance or regu-
24 lations of the Department of Homeland Security to
25 expand and improve the capability of the Depart-

1 ment to conduct ground transportation of migrants
2 at the southwest border.

3 (2) ELEMENTS.—The update required by para-
4 graph 1 shall include—

5 (A) the provision of authority, to the ex-
6 tent possible, for the Department of Homeland
7 Security to transport migrants who are being
8 released by the Department to facilities oper-
9 ated by State, local, or Tribal governments, or
10 by nongovernmental organizations directly
11 working to provide aid to migrants along the
12 southwest border so as—

13 (i) to ensure the health and safety of
14 local communities and the migrants;

15 (ii) to promote an orderly environment
16 along the border and at United States
17 ports of entry; and

18 (iii) to avoid overburdening small
19 communities that are poorly equipped to
20 handle a population influx;

21 (B) a consideration of the manner in which
22 a public health emergency may require changes
23 in Department transportation policy to protect
24 public health and the health of migrants; and

1 (C) a system through which the Depart-
2 ment shall consistently provide not less than 4
3 hours advance notification to State, local, or
4 Tribal governments, and nongovernmental orga-
5 nizations and private entities directly providing
6 aid or other services to migrants, including
7 services provided for a fee, of the intent of the
8 Department to transport migrants to such ju-
9 risdictions or facilities located in such jurisdic-
10 tion.

11 (3) LIMITATION.—Any authority established
12 under paragraph (2)(A) shall be limited to transpor-
13 tation within the States of California, Arizona, New
14 Mexico, and Texas, unless the Secretary certifies, on
15 a case-by-case basis, that transport to a particular
16 facility located in another State is necessary for the
17 public good.

18 (b) REPORT TO CONGRESS.—Not later than 180 days
19 after the date of the enactment of this Act, the Secretary
20 shall submit to the appropriate committees of Congress,
21 and make publicly available, a report that includes—

22 (1) an assessment as to whether current De-
23 partment of Homeland Security ground transpor-
24 tation resources are sufficient—

1 (A) to meet Department responsibilities
2 with respect to the transportation of migrants;
3 and

4 (B) to ensure the safety of Department
5 personnel and migrants;

6 (2) a description of current Department con-
7 tracts regarding transportation of migrants at the
8 southwest border, the ability of the Department to
9 expand such contracts to improve transportation ca-
10 pacity, and any limitations related to such contracts
11 that impede the expansion of transportation capae-
12 ity;

13 (3) a description of recommended changes to
14 Department transportation policies and standards
15 that would require additional legislative authority;

16 (4) recommendations to Congress for legislative
17 changes that would improve the ability of the De-
18 partment to expand and improve its transportation
19 capabilities; and

20 (5) an assessment of the impact of public
21 health emergencies on Department transportation
22 and the steps the Department will take to further
23 improve transportation of migrants during public
24 health emergencies.

1 **SEC. 16. RULE OF CONSTRUCTION.**

2 Nothing in this Act shall be construed to affect any
3 requirement placed on the Department of Homeland Secu-
4 rity or any other agency under the terms of any lawful
5 settlement agreement or consent decree entered into by
6 the Department or another agency.

7 **SEC. 17. AUTHORIZATION OF APPROPRIATIONS.**

8 There are authorized to be appropriated such sums
9 as are necessary to carry out this Act and the amendments
10 made by this Act.

