

### 116TH CONGRESS 1ST SESSION

# H. R. 2217

To reduce the ability of U.S. Immigration and Customs Enforcement to engage in inappropriate civil immigration enforcement actions that harm unaccompanied alien children and to ensure the safety and welfare of unaccompanied alien children.

### IN THE HOUSE OF REPRESENTATIVES

April 10, 2019

Ms. Wasserman Schultz (for herself, Ms. Omar, Ms. Norton, Ms. Schakowsky, Ms. Jackson Lee, Mr. Blumenauer, Ms. Ocasio-Cortez, Ms. Jayapal, Ms. Barragán, Mr. Aguilar, Mr. Carson of Indiana, Ms. Clarke of New York, Mr. Cohen, Ms. Delauro, Mr. Hastings, Mr. Nadler, Mr. Price of North Carolina, Mr. Deutch, Mr. Serrano, Mr. Smith of Washington, Ms. Wilson of Florida, Ms. Frankel, Ms. Bass, Mr. Ruiz, Mr. Desaulnier, Mrs. Carolyn B. Maloney of New York, Ms. Lofgren, and Mr. Perlmutter) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

## A BILL

To reduce the ability of U.S. Immigration and Customs Enforcement to engage in inappropriate civil immigration enforcement actions that harm unaccompanied alien children and to ensure the safety and welfare of unaccompanied alien children.

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

### 1 SECTION 1. SHORT TITLE.

- This Act may be cited as the "Families, Not Facili-
- 3 ties Act of 2019".

### 4 SEC. 2. FINDINGS.

- 5 Congress makes the following findings:
- 6 (1) On May 13, 2018, a Memorandum of
- 7 Agreement between U.S. Immigration and Customs
- 8 Enforcement, U.S. Customs and Border Patrol of
- 9 the Department of Homeland Security, and the Of-
- fice of Refugee Resettlement of the Department of
- Health and Human Services went into effect to
- allow for intergovernmental sharing of personal in-
- formation about unaccompanied alien children, their
- prospective sponsors, and adult members of sponsor
- households.
- 16 (2) U.S. Immigration and Customs Enforce-
- ment is using information obtained under the Memo-
- randum of Agreement to conduct civil immigration
- 19 enforcement actions against individuals residing in
- the homes of prospective sponsors of unaccompanied
- alien children.
- 22 (3) These civil immigration enforcement actions
- have discouraged prospective sponsors of unaccom-
- panied alien children, including family members,
- from coming forward to resettle children in the com-

- 1 munity as they pursue lawful claims for humani-2 tarian protection.
  - (4) Onerous requirements for sponsors and raids carried out by U.S. Immigration and Customs Enforcement of sponsor households have discouraged qualified sponsors from coming forward, leading to unprecedented numbers of unaccompanied alien children (approximately 11,705 in March 2019) being held in shelters overseen by the Office of Refugee Resettlement as of the date of enactment of this Act.
    - (5) The Office of Refugee Resettlement is struggling to accommodate the growing number of unaccompanied alien children in its shelter network, resorting to placing children in temporary "emergency influx" shelters. The Office contracted with BCFS to care for more than 6,200 children between June 2018 and January 2019 in a temporary shelter at the Tornillo-Guadalupe Land Port of Entry in Texas, a facility that the New York Times and other media sources described as a "tent city", and announced plans in January 2019 to nearly double the number of children held in a previously closed temporary shelter in Homestead, Florida.

1	(6) Temporary shelters are inappropriate loca-
2	tions to hold unaccompanied alien children because
3	such shelters—
4	(A) have reduced standards of care, includ-
5	ing insufficient educational services;
6	(B) offer limited access to clinical and
7	legal services; and
8	(C) are not cost-effective, resulting in the
9	expenditure of more than \$750 per day in tax-
10	payer funds for each child housed in Tornillo
11	shelter, for example.
12	(7) Facilities operated under a contract with
13	the Office of Refugee Resettlement have faced unac-
14	ceptable allegations of abuse and neglect of unac-
15	companied alien children that merit additional inves-
16	tigation and oversight.
17	(8) The Office of Refugee Resettlement is le-
18	gally required to place children in the least restric-
19	tive setting that is in the best interest of the child.
20	(9) Services offered at facilities funded by the
21	Office of Refugee Resettlement are required to in-
22	clude classroom education, mental and medical
23	health services, case management, socialization and
24	recreation activities, and family reunification serv-

ices that facilitate the safe and timely release of un-

accompanied alien children to family members or
 other sponsors that can care for them.

10) Providing legal and case management services to all children while they are housed in a facility funded by the Office of Refugee Resettlement and after their release from such a facility is a cost-effective and humane way of ensuring that the Office of Refugee Resettlement meets its statutory obligation to place children in least restrictive settings.

#### 10 SEC. 3. USE OF SPONSORSHIP INFORMATION.

- 11 (a) In General.—Section 235(c)(3) of the William
- 12 Wilberforce Trafficking Victims Protection Reauthoriza-
- 13 tion Act of 2008 (8 U.S.C. 1232(c)(3)) is amended—
- 14 (1) in subparagraph (A), by inserting "In mak-15 ing such a determination, the Secretary may not 16 consider the immigration status of the proposed cus-
- todian." after "well-being."; and
- 18 (2) by adding at the end the following:
- 19 "(D) PROHIBITING USE OF CERTAIN IN20 FORMATION.—The Secretary of Homeland Se21 curity may not use information provided by an
  22 unaccompanied alien child or information ini23 tially obtained by the Secretary of Health and
  24 Human Services to make a suitability deter-

mination under subparagraph (A), a home

1	study determination under subparagraph (B),
2	or a secure facility determination under para-
3	graph (2)(A) for the purpose of apprehending,
4	detaining, or removing from the United
5	States—
6	"(i) the unaccompanied alien child;
7	"(ii) the proposed custodian or cur-
8	rent custodian;
9	"(iii) a resident of the home in which
10	the proposed custodian or current custo-
11	dian resides;
12	"(iv) the proposed sponsor or current
13	sponsor; or
14	"(v) a resident of the home in which
15	the proposed sponsor or current sponsor
16	resides.''.
17	(b) Rules of Construction.—
18	(1) Flores settlement agreement.—The
19	amendments made by subsection (a) may not be con-
20	strued to supersede the terms of the stipulated set-
21	tlement agreement filed on January 17, 1997, in the
22	United States District Court for the Central District
23	of California in Flores v. Reno, CV 85–4544–RJK,
24	(commonly known as the "Flores settlement agree-
25	ment'').

1	(2) CHILD WELFARE.—The amendments made	
2	by subsection (a) may not be construed to prevent	
3	the Secretary of Homeland Security from using in-	
4	formation obtained by the Secretary of Health and	
5	Human Services to investigate or report to the ap-	
6	propriate law enforcement agency or child welfare	
7	agency instances of trafficking, abuse, or neglect.	
8	SEC. 4. LIMITATION ON USE OF FUNDS FOR ENFORCE-	
9	MENT, DETENTION, AND REMOVAL OPER-	
10	ATIONS.	
11	No Federal funds may be used by U.S. Immigration	
12	and Customs Enforcement for any enforcement, detention,	
13	or removal activity that violates section 235(c)(3) of the	
14	William Wilberforce Trafficking Victims Protection Reau-	
15	thorization Act of 2008, as amended by section 3(a).	
16	SEC. 5. TRANSFER OF U.S. IMMIGRATION AND CUSTOMS EN-	
17	FORCEMENT FUNDING.	
18	Of the amount appropriated for fiscal year 2019 to	
19	U.S. Immigration and Customs Enforcement for enforce-	
20	ment and removal operations—	
21	(1) \$30,000,000 shall be transferred to the Of-	
22	fice of Inspector General of the Department of	
23	Homeland Security to investigate child separation	
24	and inspect detention facilities overseen by U.S. Im-	
25	migration and Customs Enforcement;	

1	(2) \$180,000,000 shall be transferred to the
2	Office of Refugee Resettlement to provide the post-
3	release legal, case management, and child advocate
4	services described in section 6; and
5	(3) \$10,000,000 shall be transferred to the Ad-
6	ministration for Children and Families to bolster the
7	efforts of the Task Force to Prevent and End
8	Human Trafficking.
9	SEC. 6. ENSURING THE SAFETY OF UNACCOMPANIED
10	ALIEN CHILDREN.
11	(a) Defined Term.—In this section, the term "post-
12	release case management services" means services that—
13	(1) are provided by a social worker, employed
14	by a nonprofit entity, who meets with the child indi-
15	vidually and with the family to develop an individ-
16	ualized service plan; and
17	(2) allow children to successfully transition into
18	their communities by—
19	(A) assisting with school enrollment and
20	acculturation;
21	(B) locating medical and therapeutic serv-
22	ices;
23	(C) making referrals to area legal services;
24	and

1	(D) navigating new family settings and
2	other individual needs.
3	(b) REQUIRED SERVICES.—The Office of Refugee
4	Resettlement shall—
5	(1) provide post-release case management to all
6	children upon release or as the need arises for the
7	duration of their immigration proceedings; and
8	(2) facilitate efforts to connect every unaccom-
9	panied child, including each child with a sponsor,
10	with legal representation for his or her immigration
11	proceedings.
12	(c) The Office of Refugee Resettlement Ad-
13	VISORY COMMITTEE ON SHELTERS FOR UNACCOMPANIED
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13 14	ALIEN CHILDREN.—
<ul><li>13</li><li>14</li><li>15</li></ul>	ALIEN CHILDREN.—  (1) ESTABLISHMENT.—The Secretary of Health
13 14 15 16	ALIEN CHILDREN.—  (1) ESTABLISHMENT.—The Secretary of Health and Human Services, in compliance with the Federal
13 14 15 16 17	ALIEN CHILDREN.—  (1) ESTABLISHMENT.—The Secretary of Health and Human Services, in compliance with the Federal Advisory Committee Act (5 U.S.C. App.), shall im-
13 14 15 16 17 18	ALIEN CHILDREN.—  (1) ESTABLISHMENT.—The Secretary of Health and Human Services, in compliance with the Federal Advisory Committee Act (5 U.S.C. App.), shall immediately establish the Advisory Committee on Shel-
13 14 15 16 17 18	ALIEN CHILDREN.—  (1) ESTABLISHMENT.—The Secretary of Health and Human Services, in compliance with the Federal Advisory Committee Act (5 U.S.C. App.), shall immediately establish the Advisory Committee on Shelters for Unaccompanied Alien Children (referred to
13 14 15 16 17 18 19 20	ALIEN CHILDREN.—  (1) ESTABLISHMENT.—The Secretary of Health and Human Services, in compliance with the Federal Advisory Committee Act (5 U.S.C. App.), shall immediately establish the Advisory Committee on Shelters for Unaccompanied Alien Children (referred to in this subsection as the "Advisory Committee") to
13 14 15 16 17 18 19 20 21	ALIEN CHILDREN.—  (1) ESTABLISHMENT.—The Secretary of Health and Human Services, in compliance with the Federal Advisory Committee Act (5 U.S.C. App.), shall immediately establish the Advisory Committee on Shelters for Unaccompanied Alien Children (referred to in this subsection as the "Advisory Committee") to advise the Office of Refugee Resettlement on mat-

1	formed social work services, youth shelter manage-
2	ment, and immigration detention reform.
3	(2) Composition and term.—
4	(A) APPOINTMENT.—The Secretary shall
5	appoint 14 individuals to serve on the Advisory
6	Committee for 2-year terms.
7	(B) Prerequisites.—
8	(i) In General.—Each member of
9	the Advisory Committee shall be employed
10	by a nonprofit entity in the field of—
11	(I) education;
12	(II) immigration law;
13	(III) physical and mental health
14	of children and youth;
15	(IV) trauma-informed child wel-
16	fare social work services;
17	(V) youth shelter management;
18	(VI) cultural competency; or
19	(VII) immigration detention re-
20	form.
21	(ii) Representation.—At least 2
22	members of the Advisory Committee shall
23	represent each of the fields set forth in
24	clause (i).
25	(3) Investigative authority.—

1	(A) Inspections.—Members of the Advi-
2	sory Committee may conduct unannounced in-
3	spections of all shelters contracted with the Of-
4	fice of Refugee Resettlement to hold unaccom-
5	panied alien children.
6	(B) Information sharing.—The Office
7	of Refugee Resettlement shall provide the Advi-
8	sory Committee with access to such materials
9	as may be necessary to effectively advocate for
10	the best interest of children in the custody of
11	the Office of Refugee Resettlement, subject to
12	applicable statutes and regulations.
13	(4) Consultations.—The Advisory Committee
14	shall consult with, and receive recommendations
15	from—
16	(A) the American Medical Association;
17	(B) the American Academy of Pediatrics;
18	(C) the National Association of Social
19	Workers;
20	(D) the American Bar Association Center
21	on Children and the Law;
22	(E) the American Immigration Lawyers
23	Association; and
24	(F) other medical, child welfare, and legal
25	experts.

1	(5) Reports.—
2	(A) Interim report.—Not later than 6
3	months after the establishment of the Advisory
4	Committee under paragraph (1), the Advisory
5	Committee shall release to the public an interim
6	report outlining the Advisory Committee's in-
7	vestigations and recommendations regarding
8	Office of Refugee Resettlement shelters for un-
9	accompanied alien children and submit such re-
10	port to—
11	(i) the Secretary of Health and
12	Human Services;
13	(ii) the Committee on Health, Edu-
14	cation, Labor, and Pensions of the Senate;
15	(iii) the Committee on Homeland Se-
16	curity and Governmental Affairs of the
17	Senate;
18	(iv) the Committee on the Judiciary of
19	the Senate;
20	(v) the Committee on Energy and
21	Commerce of the House of Representa-
22	tives;
23	(vi) the Committee on Oversight and
24	Reform of the House of Representatives;
25	and

1	(vii) the Committee on the Judic	iary
2	of the House of Representatives.	

- (B) Final Report.—Not later than 1 year after the establishment of the Advisory Committee under paragraph (1), the Advisory Committee shall release to the public, and submit to the recipients of the interim report under subparagraph (A), a final report that outlines the Advisory Committee's investigations and recommendations regarding Office of Refugee Resettlement shelters for unaccompanied alien children.
- (6) SAVINGS PROVISION.—Nothing in this subsection may be construed to preempt any Federal agency from investigating allegations of mistreatment and abuse of unaccompanied alien children in facilities overseen by the Department of Health and Human Services.