

116TH CONGRESS
1ST SESSION

H. R. 3729

To provide for enhanced protections for vulnerable unaccompanied alien children, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 11, 2019

Ms. ROYBAL-ALLARD introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Homeland Security, Appropriations, and Foreign Affairs, 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 provide for enhanced protections for vulnerable unaccompanied alien children, 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.**

4 This Act may be cited as the “Child Trafficking Vic-
5 tims Protection and Welfare Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) APPREHENDED PARENT OR LEGAL GUARD-
2 IAN.—The term “apprehended parent or legal
3 guardian” means an individual who is—

4 (A) the parent or legal guardian of a child;
5 and

6 (B) apprehended by the Secretary of
7 Homeland Security or the personnel of a co-
8 operating entity.

9 (2) BORDER.—The term “border” means an
10 international border of the United States.

11 (3) CHILD.—The term “child” means an indi-
12 vidual who—

13 (A) has not reached the age of 18 years;
14 and

15 (B) has no permanent immigration status
16 in the United States.

17 (4) CHILD WELFARE PROFESSIONAL.—The
18 term “child welfare professional” means an indi-
19 vidual who—

20 (A) is licensed in social work by the State
21 welfare agency, and, if applicable, country wel-
22 fare agency, of the State and county in which
23 is located the port of entry or Border Patrol
24 station at which such individual is available
25 pursuant to section 3;

1 (B) has direct experience working with
2 children; and

3 (C) is proficient in 1 or more of the most
4 common languages spoken by children appre-
5 hended at the border concerned.

6 (5) COOPERATING ENTITY.—The term “cooper-
7 ating entity” means a State or local entity acting
8 pursuant to an agreement with the Secretary of
9 Homeland Security.

10 (6) DEPARTMENT.—The term “Department”
11 means the Department of Homeland Security.

12 (7) EXPERT IN CHILD DEVELOPMENT.—The
13 term “expert in child development” means an indi-
14 vidual who has significant education and expertise
15 on infant, child, and adolescent development, and on
16 the effects of trauma on children.

17 (8) EXPERT IN CHILD WELFARE.—The term
18 “expert in child welfare” means an individual who
19 has—

20 (A) knowledge of Federal and State child
21 welfare laws and standards; and

22 (B) not less than fifteen years of experi-
23 ence in the field of child and adolescent devel-
24 opment or child welfare.

1 (9) EXPERT IN PEDIATRIC MEDICINE.—The
2 term “expert in pediatric medicine” means—

3 (A) an individual qualified to practice pedi-
4 atric medicine in 1 or more States; or

5 (B) an individual with an advanced degree
6 in pediatric medicine on the faculty of an insti-
7 tution of higher education in the United States.

8 (10) MIGRATION DETERRENCE PROGRAM.—The
9 term “migration deterrence program” means an ac-
10 tion relating to the repatriation or referral for pros-
11 ecution of 1 or more individuals apprehended by the
12 Secretary of Homeland Security or a cooperating en-
13 tity for a suspected or confirmed violation of the Im-
14 migration and Nationality Act (8 U.S.C. 1101 et
15 seq.).

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

20 **SEC. 3. CHILD WELFARE AT THE BORDER.**

21 (a) GUIDELINES.—The Secretary of Homeland Secu-
22 rity, in consultation with the Secretary of Health and
23 Human Services, experts in child development, experts in
24 child welfare, experts in pediatric medicine, and the Amer-
25 ican Bar Association Center on Children and the Law,

1 shall develop guidelines for the treatment of children in
2 the custody of U.S. Customs and Border Protection by
3 all personnel who come into contact with such children in
4 the relevant legal authorities, policies, practices, and pro-
5 cedures pertaining to this vulnerable population.

6 (b) MANDATORY TRAINING.—The Secretary of
7 Homeland Security, in consultation with the Secretary of
8 Health and Human Services, shall—

9 (1) require all U.S. Customs and Border Pro-
10 tection personnel, and cooperating entity personnel,
11 who have contact with a child at a port of entry or
12 Border Patrol station to undergo appropriate train-
13 ing, which shall include live training, on the applica-
14 ble legal authorities, policies, practices, and proce-
15 dures relating to children; and

16 (2) require U.S. Customs and Border personnel
17 to undertake periodic and continuing training on
18 best practices and changes in relevant legal authori-
19 ties, policies, and procedures applicable in connection
20 with subsection (a) and paragraph (1).

21 (c) QUALIFIED RESOURCES.—

22 (1) IN GENERAL.—In accordance with sub-
23 section (d), the Secretary of Homeland Security
24 shall provide resources and staff, including child wel-
25 fare professionals, who are adequately trained and

1 qualified to address the needs of children at each
2 port of entry and Border Patrol station.

3 (2) SUFFICIENT STAFFING.—The Secretary of
4 Homeland Security shall ensure that sufficient quali-
5 fied child welfare professionals and qualified experts
6 in pediatric medicine are available at each port of
7 entry and Border Patrol station to accomplish the
8 duties described in this section without prolonging
9 the time children and apprehended parents and legal
10 guardians remain in the custody of U.S. Customs
11 and Border Protection.

12 (3) CHILD WELFARE PROFESSIONALS.—The
13 Secretary of Homeland Security, in consultation
14 with the Secretary of Health and Human Services,
15 shall hire, or seek to enter into contracts with, inde-
16 pendent child welfare professionals in order to do
17 the following:

18 (A) To provide child welfare expertise on-
19 site on a full-time basis at any port of entry or
20 Border Patrol station that has had not fewer
21 than 25 children in custody—

22 (i) on any day during the preceding
23 fiscal year; or

1 (ii) during the current fiscal year,
2 based on a review of monthly statistical re-
3 ports during the current fiscal year.

4 (B) To provide child welfare expertise by
5 telephone on an on-call basis to U.S. Customs
6 and Border Protection staff in any port of
7 entry or Border Patrol station that is not de-
8 scribed in subparagraph (A).

9 (C) With respect to a port of entry or Bor-
10 der Patrol station that is described in subpara-
11 graph (A) but is without on-site expertise as re-
12 quired by such subparagraph during a period of
13 not more than 90 days in which the Secretary
14 of Homeland Security, in consultation with the
15 Secretary of Health and Human Services, is in
16 the process of hiring or seeking to enter into a
17 contract with an onsite independent child wel-
18 fare professional, to provide child welfare exper-
19 tise by telephone on an on-call basis to U.S.
20 Customs and Border Protection staff.

21 (d) CHILD WELFARE PROFESSIONALS AND EXPERTS
22 IN PEDIATRIC MEDICINE.—

23 (1) IN GENERAL.—The Secretary of Homeland
24 Security, in consultation with the Secretary of
25 Health and Human Services, shall ensure that 1 or

1 more qualified child welfare professionals with exper-
2 tise in culturally competent, trauma-centered, and
3 developmentally appropriate interviewing skills and 1
4 or more qualified experts in pediatric medicine is
5 available at each port of entry and Border Patrol
6 station.

7 (2) MEDICAL ASSESSMENTS.—Any medical as-
8 sessment of a child in the custody of U.S. Customs
9 and Border Protection shall be done in consultation
10 with an expert in pediatric medicine described in
11 paragraph (1).

12 (3) INTERPRETER REQUIRED.—In a case in
13 which a child welfare professional or an expert in pe-
14 diatric medicine at a port of entry or Border Patrol
15 station does not speak the language of a child in
16 custody at such port of entry or station, the Sec-
17 retary of Homeland Security shall provide an inter-
18 preter.

19 (4) DUTIES.—Child welfare professionals de-
20 scribed in paragraph (1) shall—

21 (A) ensure that—

22 (i) any allegation of abuse or mis-
23 treatment of a child in the custody of U.S.
24 Customs and Border Protection is referred

1 to the appropriate Federal and State au-
2 thorities; and

3 (ii) the Commissioner of U.S. Cus-
4 toms and Border Protection and the Direc-
5 tor of the Office of Refugee Resettlement
6 comply with applicable child abuse report-
7 ing laws, including by—

8 (I) ensuring that children in such
9 custody have access to applicable com-
10 plaint mechanisms to report abuse or
11 misconduct;

12 (II) reporting any allegation of
13 abuse or mistreatment to—

14 (aa) the applicable Federal
15 and State authorities;

16 (bb) the Office of Inspector
17 General of the Department;

18 (cc) the Office for Civil
19 Rights and Civil Liberties of the
20 Department;

21 (dd) the Internal Affairs Of-
22 fice of U.S. Customs and Border
23 Protection; and

24 (ee) the Office of Refugee
25 Resettlement;

1 (III) providing notice to federally
2 subcontracted legal service providers
3 in the applicable geographical area
4 with respect to any child in such cus-
5 tody who has made an allegation of
6 abuse or mistreatment; and

7 (IV) directing the legal service
8 providers described in subclause (III)
9 to relevant information relating to the
10 availability of immigration and admin-
11 istrative relief for individuals with
12 pending civil rights complaints;

13 (B) conduct screening of each child in such
14 custody in accordance with section 235(a)(4) of
15 the William Wilberforce Trafficking Victims
16 Protection Reauthorization Act of 2008 (8
17 U.S.C. 1232(a)(4));

18 (C) with respect to a child who may meet
19 the notification and transfer requirements
20 under subsections (a) and (b) of section 235 of
21 the William Wilberforce Trafficking Victims
22 Protection Reauthorization Act of 2008 (8
23 U.S.C. 1232), including a child for whom a de-
24 termination cannot be made, notify the Sec-
25 retary of Homeland Security and the Director

1 of the Office of Refugee Resettlement of the
2 presence of such child at the port of entry or
3 Border Patrol station;

4 (D) provide to the Director of U.S. Immi-
5 gration and Customs Enforcement a best inter-
6 est placement recommendation for each accom-
7 panied child and family that—

8 (i) considers—

9 (I) the best interests of the child;

10 and

11 (II) applicable law; and

12 (ii) favors a policy of release;

13 (E) interview any adult relative accom-
14 panying a child, including siblings, grand-
15 parents, aunts, uncles, and cousins;

16 (F) for each unaccompanied alien child in
17 such custody, provide to the Director of the Of-
18 fice of Refugee Resettlement—

19 (i) an initial family relationship and
20 trafficking assessment, which shall be con-
21 ducted in accordance with the timeframe
22 under subsections (a)(4) and (b)(3) of sec-
23 tion 235 of the William Wilberforce Traf-
24 ficking Victims Protection Reauthorization
25 Act of 2008 (8 U.S.C. 1232); and

1 (ii) recommendations for the initial
2 placement of the child;

3 (G) pursuant to procedures developed by
4 the Secretary of Homeland Security, maintain
5 the best interests of children in any migration
6 deterrence program for family units carried out
7 at a border, including by—

8 (i) inquiring whether a child is trav-
9 eling with a parent, sibling, legal guardian,
10 or another family member, including a
11 grandparent, aunt, uncle, or cousin;

12 (ii) ascertaining whether the detention
13 or removal from the United States of an
14 apprehended parent or legal guardian of a
15 child presents a humanitarian concern or a
16 concern relating to the physical safety of
17 the apprehended parent or legal guardian;

18 (iii) in the case of a family separation,
19 ensuring that—

20 (I) each member of the family is
21 provided with a telephone number for
22 each other member of the family;

23 (II) the apprehended parent or
24 legal guardian is afforded the oppor-
25 tunity to speak with the child of the

1 apprehended parent or legal guardian
2 not fewer than 3 times weekly, includ-
3 ing not fewer than 1 video conference;

4 (III) for each child of the appre-
5 hended parent or legal guardian, the
6 apprehended parent or legal guard-
7 ian—

8 (aa) knows—

9 (AA) the location of the
10 child; and

11 (BB) the date and loca-
12 tion of each scheduled immi-
13 gration court proceeding of
14 the child; and

15 (bb) is provided with up-
16 dated information if the location
17 of the child or a scheduled immi-
18 gration court proceeding of the
19 child changes;

20 (IV) the location and contact in-
21 formation for the apprehended parent
22 or legal guardian is maintained on
23 file;

24 (V) each child has the oppor-
25 tunity to say goodbye to the appre-

1 hended parent or legal guardian prior
2 to separation; and

3 (VI) with respect to the health of
4 the child, the apprehended parent or
5 legal guardian—

6 (aa) can communicate
7 known medical illness and med-
8 ical history to Department of
9 Homeland Security staff prior to
10 separation; and

11 (bb) is made aware of med-
12 ical treatment administered to
13 the child while in the care of the
14 Office of Refugee resettlement,
15 including the use of psychotropic
16 drugs; and

17 (iv) ensuring that, with respect to a
18 decision relating to the removal from the
19 United States or referral for prosecution of
20 an apprehended parent or legal guardian—

21 (I) consideration is given to—

22 (aa) the best interests of the
23 child of the apprehended parent
24 or legal guardian;

1 (bb) family unity, to the
2 maximum extent possible; and

3 (cc) any other public interest
4 factor, including a humanitarian
5 concern and a concern relating to
6 the physical safety of the appre-
7 hended parent or legal guardian;
8 and

9 (II) the apprehended parent or
10 legal guardian and the child have ac-
11 cess to legal counsel; and

12 (H) coordinate with the Consulate of Mex-
13 ico to ensure the safe repatriation of any child
14 who is a citizen of Mexico.

15 (5) PRESERVATION OF CONFIDENTIALITY.—

16 Each child welfare professional shall maintain the
17 privacy and confidentiality of all information gath-
18 ered in the course of providing care, custody, place-
19 ment, and follow-up services to a child pursuant to
20 this subsection, consistent with the best interest of
21 the child, by not disclosing such information to other
22 Federal agencies or nonparental third parties unless
23 such disclosure—

24 (A) is in the best interest of the child;

25 (B) is in writing;

1 (C) includes an explanation of the jus-
2 tification for the disclosure;

3 (D) is included in the file of the child; and

4 (E) is either—

5 (i) authorized by the child or an ap-
6 proved sponsor of the child, in accordance
7 with section 235 of the William Wilber-
8 force Trafficking Victims Protection Reau-
9 thorization Act of 2008 (8 U.S.C. 1232)
10 and the Health Insurance Portability and
11 Accountability Act (Public Law 104–191;
12 110 Stat. 1936); or

13 (ii) provided to a duly recognized law
14 enforcement entity to prevent imminent
15 and serious harm to another individual.

16 (e) PROHIBITION ON SEPARATION.—The Secretary of
17 Homeland Security may not remove a child from a parent
18 or legal guardian solely for a purpose as follows:

19 (1) The purpose of furthering the policy objec-
20 tive of deterring individuals from migrating to the
21 United States.

22 (2) The purpose of furthering the policy objec-
23 tive of promoting compliance with the immigration
24 laws.

25 (f) FAMILY UNIT TRACKING NUMBER.—

1 (1) IN GENERAL.—The Secretary of Homeland
2 Security shall assign a family unit tracking number
3 to each member of an apprehended family unit, in-
4 cluding—

5 (A) an apprehended spouse;

6 (B) an apprehended parent or legal guard-
7 ian;

8 (C) a child of an apprehended parent or
9 legal guardian; and

10 (D) a sibling group.

11 (2) REQUIREMENTS.—The Secretary of Home-
12 land Security shall ensure that a family unit track-
13 ing number—

14 (A) is transferrable;

15 (B) may be shared easily among the data
16 systems of—

17 (i) U.S. Customs and Border Protec-
18 tion;

19 (ii) U.S. Immigration and Customs
20 Enforcement; and

21 (iii) the Office of Refugee Resettle-
22 ment; and

23 (C) is included on the paperwork of each
24 member of an apprehended family unit and is
25 not deleted or altered.

1 (g) MONITORING.—The Secretary of Homeland Secu-
2 rity shall—

3 (1) allow nongovernmental organizations and
4 State and local child welfare agencies in the jurisdic-
5 tion in which an apprehended child is located to con-
6 duct at least 1 unannounced, independent inspection
7 each month of any Department facility that houses
8 1 or more children; and

9 (2) in consultation with 1 or more child welfare
10 professionals and 1 or more experts in pediatric
11 medicine, develop procedures to provide nongovern-
12 mental organizations regular, full access to any facil-
13 ity in which 1 or more children is housed for the
14 purpose of human rights monitoring.

15 (h) REPORT.—

16 (1) IN GENERAL.—Not later than 18 months
17 after the date of enactment of this Act, and every
18 fiscal quarter thereafter, the Secretary of Homeland
19 Security shall submit to the Committee on the Judi-
20 ciary, the Committee on Homeland Security and
21 Governmental Affairs, and the Committee on
22 Health, Education, Labor, and Pensions of the Sen-
23 ate and the Committee on the Judiciary, the Com-
24 mittee on Oversight and Reform, and the Committee
25 on Education and Labor of the House of Represent-

1 atives a report that, for the preceding fiscal quar-
2 ter—

3 (A) describes the procedures used by child
4 welfare professionals under this section to
5 screen unaccompanied alien children and chil-
6 dren accompanied by a parent or legal guard-
7 ian;

8 (B) assesses the effectiveness of such
9 screenings;

10 (C) includes data on all children screened
11 by child welfare professionals under this sec-
12 tion, including—

13 (i) the number and location of chil-
14 dren in the physical custody of the Depart-
15 ment;

16 (ii) the number of children transferred
17 to the custody of the Secretary of Health
18 and Human Services;

19 (iii) the number of children appre-
20 hended together with a parent or legal
21 guardian;

22 (iv) the number of children separated
23 from a parent or legal guardian by the De-
24 partment and the reason for such separa-
25 tion; and

1 (v) the number of children removed
2 from the United States and the countries
3 of nationality of such children; and

4 (D) includes documentation of—

5 (i) compliance with the guidelines de-
6 veloped pursuant to this section;

7 (ii) instances of noncompliance with
8 such guidelines; and

9 (iii) actions taken to correct non-
10 compliance with such guidelines.

11 (2) LIMITATION.—The data under paragraph
12 (1)(C) shall not include the personally identifiable
13 information of any child.

14 (i) IMMEDIATE NOTIFICATION.—To effectively and
15 efficiently coordinate the transfer and placement of a child
16 with the Director of the Office of Refugee Resettlement,
17 the Secretary of Homeland Security shall notify the Direc-
18 tor of the Office of Refugee Resettlement with respect to
19 a child in the custody of the Secretary as soon as prac-
20 ticable, but not later than 48 hours after the time at which
21 the Secretary encounters the child.

22 (j) STANDARDS OF CARE FOR SHORT-TERM CUS-
23 TODY OF CHILDREN.—

24 (1) IN GENERAL.—Not later than 180 days
25 after the date of enactment of this Act, the Sec-

1 retary of Homeland Security, in consultation with
2 the head of the Office for Civil Rights and Civil Lib-
3 erties of the Department, shall promulgate regula-
4 tions establishing basic standards of care for the
5 short-term custody of children by U.S. Customs and
6 Border Protection.

7 (2) REQUIREMENTS.—The regulations promul-
8 gated pursuant to paragraph (1) shall ensure that
9 all children in the custody of U.S. Customs and Bor-
10 der Protection, while in such custody—

11 (A) receive emergency medical care when
12 necessary;

13 (B) receive emergency medical and mental
14 health care in compliance with section 8(c) of
15 the Prison Rape Elimination Act of 2003 (42
16 U.S.C. 15607(c)), as necessary, including in
17 any case in which a child is at risk of harming
18 himself or herself or others;

19 (C) are provided—

20 (i) continual access to potable water;

21 (ii) a climate-appropriate environ-
22 ment;

23 (iii) climate-appropriate clothing and
24 shoes;

1 (iv) access to bathroom facilities and
2 hygiene items, including soap, feminine hy-
3 giene products, toothpaste, toothbrushes
4 and towels, and, in the case of any child in
5 such custody for more than 24 hours,
6 showers;

7 (v) a pillow, linens, and sufficient
8 blankets to rest at a comfortable tempera-
9 ture;

10 (vi) in the case of any child in such
11 custody for more than 12 hours, access to
12 a bed and adequate bedding; and

13 (vii) a location to sleep with lights
14 dimmed;

15 (D) both—

16 (i) are offered food at the time at
17 which the Commissioner of U.S. Customs
18 and Border Protection obtains custody of
19 the child; and

20 (ii) receive adequate nutrition, includ-
21 ing not fewer than 3 daily meals that in-
22 clude fruits or vegetables;

23 (E) have a safe and sanitary living envi-
24 ronment;

1 (F) in the case of any child in such cus-
 2 tody for more than 24 hours, have access to
 3 daily recreational programs and activities, in-
 4 cluding access to recreational time outdoors;

5 (G) have regular access to legal services
 6 and consular officials in person and tele-
 7 phonically; and

8 (H) are permitted to make supervised
 9 video conference calls, if available, and super-
 10 vised phone calls to family members.

11 (k) ENSURING CHILDREN HAVE ACCESS TO LEGAL
 12 RIGHTS.—

13 (1) IN GENERAL.—The Secretary of Homeland
 14 Security shall ensure that each child, on apprehen-
 15 sion, is provided—

16 (A) an interview and screening with a child
 17 welfare professional as described in subsection
 18 (d); and

19 (B) a video orientation and oral and writ-
 20 ten notice, in a language understood by the
 21 child, of the rights of the child under the Immi-
 22 gration and Nationality Act (8 U.S.C. 1101 et
 23 seq.), including—

24 (i) the right to relief from removal;

25 (ii) the right to—

1 (I) confer with counsel under sec-
2 tion 292 of such Act (8 U.S.C. 1362);
3 and

4 (II) have access to family or
5 friends while in the temporary custody
6 of the Department; and

7 (iii) the applicable complaint mecha-
8 nism to report any abuse, mistreatment, or
9 misconduct.

10 (2) LANGUAGES.—The Secretary of Homeland
11 Security shall ensure that, at each location at which
12 1 or more children are held in custody, the video ori-
13 entation described in paragraph (1)(B) is available
14 in English and the 5 most common native languages
15 spoken by children held in custody at that location
16 during the preceding fiscal year.

17 (3) ACCESS TO LEGAL COUNSEL.—The Sec-
18 retary of Homeland Security shall ensure that each
19 apprehended parent or legal guardian and each child
20 is provided access to 1 or more nongovernmental or-
21 ganizations that provide legal assistance.

22 (I) CHILD PROTECTION POLICIES.—With respect to
23 children, the Secretary of Homeland Security shall adopt
24 fundamental child protection policies and procedures—

1 (1) to make reliable age determinations, devel-
2 oped in consultation with experts in the physio-
3 logical, cognitive, and emotional development of chil-
4 dren and experts in pediatric medicine, which shall
5 exclude the use of fallible forensic testing of the
6 bones and teeth of children;

7 (2) to utilize all legal authorities to defer the
8 child's removal from the United States of a child
9 who faces a risk of life-threatening harm on return,
10 including harm due to the mental health or medical
11 condition of the child; and

12 (3) to ensure, in accordance with the Juvenile
13 Justice and Delinquency Prevention Act of 1974 (42
14 U.S.C. 5601 et seq.), that a child in custody of the
15 Secretary of Homeland Security is separated phys-
16 ically, and by sight and sound, from any—

17 (A) immigration detainee or inmate with a
18 criminal conviction;

19 (B) pretrial inmate facing criminal pros-
20 ecution; and

21 (C) inmate exhibiting violent behavior.

22 (m) PRESERVATION OF RECORDS.—The Secretary of
23 Homeland Security shall preserve all records associated
24 with children in the custody of U.S. Customs and Border
25 Protection, including records as follows:

1 (1) Records containing information on the iden-
2 tity of any child, and, if accompanied by any family
3 member, on the identity of such family member.

4 (2) Records associated with reported incidents
5 of abuse of children while in custody.

6 (n) TRANSFER OF FUNDS.—

7 (1) AUTHORIZATION.—The Secretary of Home-
8 land Security, in accordance with a written agree-
9 ment between the Secretary of Homeland Security
10 and the Secretary of Health and Human Services, to
11 the extent and in such amounts as are provided in
12 advance in appropriations Acts, shall transfer from
13 amounts appropriated for U.S. Customs and Border
14 Protection to the Department of Health and Human
15 Services such amounts as may be necessary to carry
16 out the duties described in subsections (c) and
17 (d)(3).

18 (2) REPORT.—Not later than 15 days before
19 the date of any proposed transfer under paragraph
20 (1), the Secretary of Health and Human Services, in
21 consultation with the Secretary of Homeland Secu-
22 rity, shall submit to the Committee on Appropria-
23 tions of the Senate and the Committee on Appro-
24 priations of the House of Representatives a detailed
25 expenditure plan that describes the actions proposed

1 to be taken with the amounts transferred under such
2 paragraph.

3 (o) REPATRIATION AND REINTEGRATION PRO-
4 GRAM.—

5 (1) REPATRIATION AND REINTEGRATION.—The
6 Administrator of the Agency for International Devel-
7 opment, in consultation with the Secretary of Home-
8 land Security, the Secretary of Health and Human
9 Services, the Attorney General, international organi-
10 zations, and nongovernmental organizations in the
11 United States with expertise in repatriation and re-
12 integration and children, shall establish policies, pro-
13 cedures, and programs in the United States and the
14 country of nationality or last habitual residence of
15 unaccompanied alien children to support the safe
16 and sustainable repatriation and reintegration of un-
17 accompanied alien children into such country, in-
18 cluding placement with the families, legal guardians,
19 or other sponsoring agencies of such children.

20 (2) SCOPE.—The process described in para-
21 graph (2) shall include—

22 (A) an opportunity for the child to consult
23 with an attorney or legal representative, to pur-
24 sue all potential claims for relief available, and

1 to seek all available avenues of appeal prior to
2 seeking repatriation;

3 (B) a process for identifying the needs of
4 a child, including the expressed needs of a
5 child, prior to the child's repatriation, which
6 needs shall be addressed by each agency that
7 maintains custody of the child;

8 (C) the creation of partnerships with com-
9 munity-based organizations that are linguis-
10 tically and culturally competent;

11 (D) inclusion of the family unit in the
12 process to help the child reintegrate;

13 (E) consultation with child welfare advo-
14 cates and caseworkers throughout the child's
15 return to the child's country of nationality or of
16 last habitual residence;

17 (F) coordination between the caseworkers
18 and child protection agency authorities of the
19 Office of Refugee Resettlement of the Depart-
20 ment of Health and Human Services in the
21 country of origin to ensure communication
22 about medical, mental health, and other special
23 needs at the time of return to the child's coun-
24 try of nationality or of last habitual residence;

1 (G) the provision of a wide variety of serv-
2 ices that support the child's development in the
3 location where the child is repatriated, including
4 access to school, scholarships, and vocational
5 and skills training and apprenticeship opportu-
6 nities, community programs, and mental and
7 physical health services;

8 (H) procedures that outline safe repatri-
9 ation to ensure children are not returned under
10 harmful or unsafe circumstances such as during
11 nighttime hours or at times or locations of sig-
12 nificant unrest;

13 (I) procedures for when discretion should
14 be exercised by officials maintaining custody of
15 a child when it is not in the child's best interest
16 to be returned to the child's country of nation-
17 ality or of last habitual residence;

18 (J) special considerations to address the
19 particular needs of returning girls, child sur-
20 vivors of sexual and gender-based violence, ten-
21 der-aged children, or other vulnerable children;

22 (K) consultation with the Office of Refugee
23 Resettlement of the Department of Health and
24 Human Services to ensure staff, children, and
25 parents are notified of the child's departure

1 from the United States at least 5 days prior to
2 the departure date;

3 (L) procedures to assist parents with the
4 cost and logistics of travel to reception centers
5 to reunify with children; and

6 (M) sufficient consultation with consular
7 offices prior to the child's departure.

8 (3) REPORT ON REPATRIATION AND RE-
9 INTEGRATION OF UNACCOMPANIED ALIEN CHIL-
10 DREN.—Not later than 18 months after the date of
11 the enactment of this Act, and annually thereafter,
12 the Secretary of State and the Secretary of Health
13 and Human Services, in consultation with the Sec-
14 retary of Homeland Security, shall submit to the
15 Committee on the Judiciary of the Senate and the
16 Committee on the Judiciary of the House of Rep-
17 resentatives annual reports on efforts to improve re-
18 patriation programs for unaccompanied alien chil-
19 dren.

20 (4) SENSE OF CONGRESS.—It is the sense of
21 Congress that—

22 (A) the guidelines established pursuant to
23 this section should not be used to deport or re-
24 patriate children who otherwise qualify for pro-
25 tection in the United States, including those

1 who qualify for special immigrant juvenile sta-
2 tus;

3 (B) children should have an opportunity to
4 consult with an attorney and should have access
5 to all potential avenues for relief and for appeal
6 prior to repatriation;

7 (C) the guidelines established pursuant to
8 this section are not used to support a migrant
9 deterrence program;

10 (D) officials from the Department of
11 Homeland Security, Department of Health and
12 Human Services, and Department of Justice
13 should not use the guidelines established pursu-
14 ant to this section to coerce migrant children
15 into repatriation; and

16 (E) under the William Wilberforce Traf-
17 ficking Victims Protection Reauthorization Act
18 of 2008, the Secretary of Homeland Security
19 should consult the Country Reports on Human
20 Rights Practices and the Trafficking in Persons
21 Report of the Department of State in assessing
22 whether to repatriate an unaccompanied child
23 to a particular country.

1 **SEC. 4. SAVINGS PROVISIONS.**

2 (a) FEDERAL LAW.—Nothing in this Act may be con-
3 strued to supersede or modify—

4 (1) the William Wilberforce Trafficking Victims
5 Protection Act of 2008 (8 U.S.C. 1232 et seq.);

6 (2) the Stipulated Settlement Agreement filed
7 in the United States District Court for the Central
8 District of California on January 17, 1997 (CV 85–
9 4544–RJK) (commonly known as the “Flores Settle-
10 ment Agreement”);

11 (3) the Homeland Security Act of 2002 (6
12 U.S.C. 101 et seq.); or

13 (4) any applicable Federal child welfare law, in-
14 cluding the Adoption and Safe Families Act of 1997
15 (Public Law 105–89).

16 (b) STATE LAW.—Nothing in this Act may be con-
17 strued to supersede or modify any applicable State child
18 welfare laws.

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