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H. R. 1681

To report data on COVID–19 immigration detention facilities and local correctional facilities that contract with U.S. Immigration and Customs Enforcement, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2021

Mr. CASTRO of Texas (for himself, Mr. VARGAS, Ms. GARCIA of Texas, Ms. LEE of California, Mrs. TORRES of California, and Mr. GARCÍA of Illinois) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Homeland Security, and Ways and Means, 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 report data on COVID–19 immigration detention facilities and local correctional facilities that contract with U.S. Immigration and Customs Enforcement, 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 “COVID–19 in Immi-
5 gration Detention Data Transparency Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **CBP DETENTION FACILITY.**—The term
4 “CBP detention facility” means any facility used by
5 U.S. Customs and Border Protection to detain non-
6 citizens.

7 (2) **CDC DIRECTOR.**—The term “CDC Direc-
8 tor” means the Director of the Centers for Disease
9 Control and Prevention.

10 (3) **CONTRACT DETENTION FACILITY.**—The
11 term “contract detention facility” means any facility
12 used for the detention of noncitizens that is operated
13 by a government agency or a private entity that has
14 contracted with U.S. Immigration and Customs En-
15 forcement, U.S. Customs and Border Protection, or
16 the Office of Refugee Resettlement to provide such
17 detention services, including service processing cen-
18 ters, juvenile detention facilities, family residential
19 centers, facilities holding noncitizens awaiting re-
20 moval, holding facilities, and similar facilities oper-
21 ating under an intergovernmental service agreement
22 with any of such Federal agencies, including inter-
23 governmental agreements with the United States
24 Marshals Service.

1 (4) COVID-19.—The term “COVID-19”
2 means the 2019 novel coronavirus disease caused by
3 the SARS-CoV-2 virus.

4 (5) COVID-19 DIAGNOSTIC TEST.—The term
5 “COVID-19 diagnostic test” means a test—

6 (A) that is an in vitro diagnostic product
7 (as defined in section 809.3 of title 21, Code of
8 Federal Regulations) for the detection of
9 SARS-CoV-2; and

10 (B) the administration of which—

11 (i) is approved, cleared, or authorized
12 under section 510(k), 513, 515, or 564 of
13 the Federal Food, Drug, and Cosmetic Act
14 (21 U.S.C. 360(k), 360c, 360e, 360bbb-3);

15 (ii) the developer has requested, or in-
16 tends to request, emergency use authoriza-
17 tion under section 564 of the Federal
18 Food, Drug, and Cosmetic Act (21 U.S.C.
19 360bbb-3), unless and until the emergency
20 use authorization request under such sec-
21 tion 564 has been denied or the developer
22 of such test does not submit a request
23 under such section within a reasonable
24 timeframe;

1 (iii) is developed in and authorized by
2 a State that has notified the Secretary of
3 Health and Human Services of its inten-
4 tion to review tests intended to diagnose
5 COVID–19; or

6 (iv) is another test that the Secretary
7 determines appropriate in guidance.

8 (6) COVID–19 EMERGENCY DATA COLLECTION
9 PERIOD.—The term “COVID–19 emergency data
10 collection period” means the period beginning on the
11 date of enactment of this Act and ending on the
12 date that is 1 year after the date on which the pub-
13 lic health emergency declaration under section 319
14 of the Public Health Service Act (42 U.S.C. 247d),
15 with respect to COVID–19, terminates.

16 (7) COVID–19 RISK FACTORS.—The term
17 “COVID–19 risk factors” includes advanced age,
18 underlying conditions, and other factors identified by
19 the Centers for Disease Control and Prevention.

20 (8) FACILITY STAFF.—The term “facility staff”
21 includes all individuals who work in a detention fa-
22 cility, including any individual who regularly reports
23 for work within the detention facility, regardless of
24 the actual employer of such individual.

1 (9) ICE DETENTION FACILITY.—The term
2 “ICE detention facility” means any facility used by
3 U.S. Immigration and Customs Enforcement to de-
4 tain or process noncitizens, including service proc-
5 essing centers and hold rooms.

6 (10) ORR CONTRACTED FACILITY OR PRO-
7 GRAM.—The term “ORR contracted facility or pro-
8 gram” means any facility or program in which unac-
9 companied noncitizen children are in the care and
10 custody of the Department of Health and Human
11 Services.

12 (11) PUBLIC HEALTH EMERGENCY.—The term
13 “public health emergency” means—

14 (A) a national emergency involving Federal
15 primary responsibility determined to exist by
16 the President under section 501(b) of the Rob-
17 ert T. Stafford Disaster Relief and Emergency
18 Assistance Act (42 U.S.C. 5191(b)) with re-
19 spect to a communicable disease;

20 (B) a national emergency declared by the
21 President under sections 201 and 301 of the
22 National Emergencies Act (50 U.S.C. 1621 and
23 1631) with respect to a communicable disease;

24 (C) a national public health emergency de-
25 clared by the Secretary of Health and Human

1 Services under section 319 of the Public Health
2 Service Act (42 U.S.C. 247d); or

3 (D) a global pandemic declared by the
4 World Health Organization.

5 **SEC. 3. COVID-19 DATA COLLECTION REQUIREMENTS.**

6 (a) FEDERAL DETENTION FACILITIES.—The Direc-
7 tor of U.S. Immigration and Customs Enforcement, the
8 Commissioner of U.S. Customs and Border Protection, the
9 Director of the Office of Refugee Resettlement, and any
10 senior official acting in, or performing the duties of, any
11 such position shall, during the COVID-19 emergency data
12 collection period—

13 (1) post daily updates on the public website of
14 the applicable agency containing the information de-
15 scribed in section 5 with respect to staff working at
16 ICE detention facilities, CBP detention facilities, or
17 ORR contracted facilities or programs, respectively,
18 and noncitizens detained at such facilities or served
19 by such programs;

20 (2) archive, on a weekly basis, the data de-
21 scribed in paragraph (1) so that it remains publicly
22 accessible and in a machine readable format; and

23 (3) beginning not later than the earlier of the
24 date that is 14 days after the date on which the
25 CDC Director publishes the guidance required under

1 section 4(a) or 45 days after the date of the enact-
2 ment of this Act, submit weekly reports to the CDC
3 Director containing the information described in sec-
4 tion 5.

5 (b) CONTRACT DETENTION FACILITIES.—

6 (1) IN GENERAL.—Beginning not later than the
7 earlier of the date that is 14 days after the date on
8 which the CDC Director publishes the guidance re-
9 quired under section 4(a) or 45 days after the date
10 of the enactment of this Act, the head of each con-
11 tract detention facility shall—

12 (A) submit weekly reports to the Federal
13 agency with which the facility is under contract
14 and the public health authority of the State in
15 which the facility is located containing the data
16 described in section 5 with respect to staff
17 working at such facility and noncitizens de-
18 tained at such facility;

19 (B) post weekly updates containing the
20 data described in subparagraph (A) on the pub-
21 lic website of the facility, if the facility has a
22 public website, in a machine readable format,
23 and archive prior updates so that they remain
24 publicly accessible; and

1 (C) submit weekly reports containing the
2 data referred to in subparagraph (A) to—

3 (i) the Immigration Detention Om-
4 budsman designated pursuant to section
5 405 of the Homeland Security Act of 2002
6 (6 U.S.C. 205); and

7 (ii) the Office for Civil Rights and
8 Civil Liberties of the Department of
9 Homeland Security.

10 (2) SUBMISSION OF INFORMATION TO THE
11 CDC.—Not later than 24 hours after a Federal agen-
12 cy receives the data described in paragraph (1), the
13 head of such agency shall—

14 (A) submit such data to the CDC Director;
15 and

16 (B) post such data to the public website of
17 the agency, disaggregated by individual contract
18 detention facility, which shall be archived week-
19 ly and shall remain publicly accessible in a ma-
20 chine readable format.

21 (c) USE OF EXISTING APPROPRIATIONS.—

22 (1) DEPARTMENT OF HEALTH AND HUMAN
23 SERVICES.—The Department of Health and Human
24 Services shall use amounts otherwise appropriated

1 for the Office of Refugee Resettlement to carry out
2 its responsibilities under this section.

3 (2) U.S. IMMIGRATION AND CUSTOMS ENFORCE-
4 MENT.—U.S. Immigration and Customs Enforce-
5 ment shall use amounts otherwise appropriated to
6 the Custody Operations Account to carry out its re-
7 sponsibilities under this section.

8 (3) U.S. CUSTOMS AND BORDER PROTEC-
9 TION.—U.S. Customs and Border Protection shall
10 use amounts otherwise appropriated to the Procure-
11 ment, Construction, and Improvements Account to
12 carry out its responsibilities under this section.

13 **SEC. 4. CDC REPORTS.**

14 (a) GUIDANCE.—Not later than 30 days after the
15 date of enactment of this Act, the CDC Director shall
16 issue guidance for immigration detention facilities regard-
17 ing—

18 (1) the categories of data required to be re-
19 ported under this Act; and

20 (2) how the CDC Director will determine
21 whether a Federal or State agency is in compliance
22 with the requirements under this Act.

23 (b) PUBLICATION ON WEBSITE.—

24 (1) IN GENERAL.—Not later than 7 days after
25 data is reported to the Centers for Disease Control

1 and Prevention pursuant to section 3, the CDC Di-
2 rector shall make such data available to the public
3 on the website of the Centers for Disease Control
4 and Prevention, including all data reported by U.S.
5 Immigration and Customs Enforcement, U.S. Cus-
6 toms and Border Protection, and the Office of Ref-
7 ugee Resettlement.

8 (2) WEEKLY ARCHIVAL.—The data referred to
9 in paragraph (1) shall be archived weekly and shall
10 remain publicly accessible in a machine readable for-
11 mat.

12 (c) REPORTS TO CONGRESS.—Not later than 60 days
13 after the date of the enactment of this Act, and monthly
14 thereafter during the COVID–19 emergency data collec-
15 tion period, the CDC Director shall submit a report to
16 the Committee on Homeland Security and Governmental
17 Affairs of the Senate, the Committee on Health, Edu-
18 cation, Labor, and Pensions of the Senate, the Committee
19 on the Judiciary of the Senate, the Committee on Home-
20 land Security of the House of Representatives, the Com-
21 mittee on Energy and Commerce of the House of Rep-
22 resentatives, and the Committee on the Judiciary of the
23 House of Representatives that—

24 (1) summarizes the information submitted by
25 U.S. Immigration and Customs Enforcement, U.S.

1 Customs and Border Protection, the Office of Ref-
2 ugee Resettlement, and State public health authori-
3 ties pursuant to section 3; and

4 (2) analyzes the trends and patterns of the dis-
5 ease outbreak and the care provided in immigration
6 detention facilities and contracted facilities.

7 **SEC. 5. COVID-19 DATA.**

8 (a) IN GENERAL.—The data described in this section
9 is the following data with respect to each ICE, CBP, ORR,
10 and contract detention facility:

11 (1) TESTING NUMBERS.—Data related to
12 COVID-19 diagnostic testing by such facilities, in-
13 cluding cumulative and new (since the previous
14 weekly report) counts of—

15 (A) the number of detained noncitizens
16 tested for COVID-19, including the dates on
17 which such tests were administered,
18 disaggregated by—

19 (i) first-time COVID-19 diagnostic
20 tests and retests; and

21 (ii) symptomatic and asymptomatic;

22 (B) the number of detained noncitizens
23 who have requested COVID-19 testing, includ-
24 ing the number of such requests that were de-
25 nied and the reasons for such denials;

1 (C) the number of facility staff tested for
2 COVID-19, disaggregated by first-time
3 COVID-19 diagnostic tests and retests; and

4 (D) the COVID-19 diagnostic test devel-
5 oper and test name for each COVID-19 diag-
6 nostic test conducted.

7 (2) TEST RESULTS.—Data related to COVID-
8 19 diagnostic testing outcomes, including cumulative
9 and new (since the previous weekly report) counts
10 of—

11 (A) the number of confirmed active cases
12 of COVID-19 among detained noncitizens,
13 disaggregated by—

14 (i) first-time COVID-19 diagnostic
15 tests and retests; and

16 (ii) the COVID-19 diagnostic test de-
17 veloper and test name for each COVID-19
18 diagnostic test used to confirm each active
19 case;

20 (B) the number of confirmed negative
21 cases of COVID-19 among detained nonciti-
22 zens, disaggregated by—

23 (i) first-time COVID-19 diagnostic
24 tests and retests; and

1 (ii) the COVID–19 diagnostic test de-
2 veloper and test name for each COVID–19
3 diagnostic test used to confirm each nega-
4 tive case;

5 (C) the number of confirmed active cases
6 of COVID–19 among detention facility staff,
7 disaggregated by—

8 (i) first-time COVID–19 diagnostic
9 tests and retests; and

10 (ii) the COVID–19 diagnostic test de-
11 veloper and test name for each COVID–19
12 diagnostic test used to confirm each active
13 case;

14 (D) the number of confirmed negative
15 cases of COVID–19 among detention facility
16 staff, disaggregated by—

17 (i) first-time COVID–19 diagnostic
18 tests and retests; and

19 (ii) the COVID–19 diagnostic test de-
20 veloper and test name for each COVID–19
21 diagnostic test used to confirm each nega-
22 tive case;

23 (E) the number of COVID–19 diagnostic
24 tests pending results, disaggregated by detained
25 noncitizens and detention facility staff;

1 (F) the average time between testing a de-
2 tained person for COVID–19 and receiving the
3 results of the COVID–19 diagnostic test; and

4 (G) the average time between testing a de-
5 tention facility employee for COVID–19 and re-
6 ceiving the results of the COVID–19 diagnostic
7 test.

8 (3) CASE OUTCOMES.—COVID–19 case out-
9 comes, including cumulative and new (since the pre-
10 vious report) counts of—

11 (A) the number of detained noncitizens
12 hospitalized for a case of COVID–19, including
13 the locations of the hospitals at which the non-
14 citizens are receiving treatment;

15 (B) the number of detained noncitizens
16 who have recovered from COVID–19;

17 (C) the number of detained noncitizens
18 currently in quarantine and the number of de-
19 tained noncitizens in medical isolation for infec-
20 tion with or exposure to COVID–19;

21 (D) the number of detained noncitizens
22 who have completed quarantine and the number
23 of detained noncitizens who have been released
24 from medical isolation;

1 (E) the number of detained noncitizens
2 identified as having 1 or more COVID–19 risk
3 factors;

4 (F) the number of noncitizens who have
5 been released from detention because of 1 or
6 more COVID–19 risk factors, disaggregated by
7 their applicable risk factor;

8 (G) the number of detained noncitizens
9 with active COVID–19 cases in the previous
10 weekly report who are not included in the
11 present report, disaggregated by the specific
12 reason for such exclusion, including release,
13 negative COVID–19 test, transfer, removal
14 from the United States, and absence of
15 COVID–19 symptoms;

16 (H) the number of detained noncitizens
17 who have died from COVID–19;

18 (I) the number of detained noncitizens who
19 died after testing positive for COVID–19, but
20 the official cause of death was not COVID–19;

21 (J) the number of detention facility staff
22 hospitalized for a case of COVID–19;

23 (K) the number of detention facility staff
24 who have recovered from COVID–19; and

1 (L) the number of detention facility staff
2 who have died from a case of COVID–19.

3 (4) GENERAL MEDICAL ATTENTION.—The num-
4 ber of detained noncitizens who have requested gen-
5 eral medical attention, including the number of such
6 requests that were denied and the reasons for such
7 denials.

8 (5) DAILY POPULATION.—Average daily popu-
9 lation of detained noncitizens for the week preceding
10 the COVID–19 emergency data collection period and
11 for all weeks during such period.

12 (6) VACCINATIONS.—Data related to distribu-
13 tion of the COVID–19 vaccine, including—

14 (A) the policies of the facility relating to
15 the distribution of the COVID–19 vaccination
16 to detained noncitizen persons and detention fa-
17 cility staff, including—

18 (i) how the facility is prioritizing dis-
19 tribution among detention facility staff and
20 detained noncitizens; and

21 (ii) any changes or updates made to
22 the policies;

23 (B) the total number of COVID–19 vac-
24 cine doses that the facility has received up to
25 the date of the report, disaggregated by the

1 types of COVID–19 vaccine the facility has re-
2 ceived;

3 (C) the number of COVID–19 vaccine
4 doses that the facility has in inventory as of the
5 date of the report, disaggregated by the types
6 of COVID–19 vaccine the facility has in inven-
7 tory;

8 (D) the total number and percentage of de-
9 tained noncitizens—

10 (i) who have been offered a COVID–
11 19 vaccine, disaggregated by the types of
12 COVID–19 vaccine offered at each facility;

13 (ii) who received a first dose of the
14 COVID–19 vaccine during the week imme-
15 diately preceding the date of the report,
16 disaggregated by the types of COVID–19
17 vaccine administered at each facility;

18 (iii) who received a first dose of the
19 COVID–19 vaccine before the date of the
20 report, disaggregated by the type of
21 COVID–19 vaccine administered at each
22 facility;

23 (iv) who are fully vaccinated, either
24 because the person received a second dose
25 of the COVID–19 vaccine or because the

1 COVID–19 vaccine the person received re-
2 quired only 1 dose, disaggregated by the
3 type of COVID–19 vaccine administered at
4 each facility; and

5 (v) who refused the COVID–19 vac-
6 cine;

7 (E) the total number and percentage of de-
8 tention facility staff—

9 (i) who have been offered a COVID–
10 19 vaccine, disaggregated by the type of
11 COVID–19 vaccine offered at each facility;

12 (ii) who received a first dose of the
13 COVID–19 vaccine during the week imme-
14 diately preceding the date of the report,
15 disaggregated by the type of COVID–19
16 vaccine administered at each facility;

17 (iii) who received a first dose of the
18 COVID–19 vaccine before the date of the
19 report, disaggregated by the types of
20 COVID–19 vaccine administered at each
21 facility;

22 (iv) who are fully vaccinated, either
23 because the person received a second dose
24 of the COVID–19 vaccine or because the
25 COVID–19 vaccine the person received re-

1 required only 1 dose, disaggregated by the
2 type of COVID–19 vaccine administered at
3 each facility; or

4 (v) who refused the COVID–19 vac-
5 cine; and

6 (F) in the case of detained noncitizens and
7 detention facility staff described in subpara-
8 graph (D)(v) or (E)(v), respectively, the 3 most
9 common reasons given for refusing the COVID–
10 19 vaccine.

11 (7) TRANSFERRED NONCITIZENS.—Data re-
12 lated to the COVID–19 testing, results, and case
13 outcomes (at the time of release) of noncitizens who
14 were transferred between detention facilities during
15 the reporting period, including—

16 (A) the number of all individuals who were
17 transferred, including—

18 (i) the dates on which such transfers
19 occurred;

20 (ii) the number of such noncitizens
21 who were tested and received a result be-
22 fore their transfer; and

23 (iii) the number of such noncitizens
24 who were not tested or did not receive a
25 result before their transfer;

1 (B) the purposes of such transfers;

2 (C) the dates on which COVID–19 testing
3 occurred during the transfer process;

4 (D) the number of transferees who tested
5 positive at any point during the transfer pro-
6 cess;

7 (E) the number of positive COVID–19
8 cases in the transferring facility and in the ar-
9 riving facility at the time of each such transfer;

10 (F) the number of transferees who received
11 a first dose of the COVID–19 vaccine before
12 being transferred, disaggregated by the type of
13 COVID–19 vaccine administered; and

14 (G) the number of transferees who were
15 fully vaccinated before being transferred, either
16 because the person received a second dose of
17 the COVID–19 vaccine or because the COVID–
18 19 vaccine the person received required only 1
19 dose, disaggregated by the type of COVID–19
20 vaccine administered.

21 (8) RELEASED NONCITIZENS.—Data related to
22 the COVID–19 testing, results, and case outcomes
23 (at the time of release) of noncitizens who were re-
24 leased from detention, and juvenile noncitizens who
25 were released from the custody of the Department of

1 Health and Human Services, during the reporting
2 period, disaggregated by the type of release, and in-
3 cluding—

4 (A) individuals released to alternatives to
5 detention programs as a result of the COVID-
6 19 public health emergency;

7 (B) any recent positive COVID-19 tests
8 and referrals to external medical care;

9 (C) the number of noncitizens released who
10 received a first dose of the COVID-19 vaccine
11 before being released, disaggregated by the type
12 of COVID-19 vaccine administered; and

13 (D) the number of noncitizens who were
14 fully vaccinated before being released, either be-
15 cause the person received a second dose of the
16 COVID-19 vaccine or because the COVID-19
17 vaccine the person received required only 1
18 dose, disaggregated by the type of COVID-19
19 vaccine administered.

20 (9) REMOVED NONCITIZENS.—Data related to
21 the COVID-19 testing, results, and case outcomes
22 (at the time of removal or expulsion) of noncitizens
23 who were deported from an ICE, CBP, ORR, or
24 contract detention facility during the reporting pe-
25 riod, including—

1 (A) any recent positive COVID–19 tests
2 and referrals to external medical care;

3 (B) the number of noncitizens removed or
4 expelled from the United States;

5 (C) the number of such noncitizens who
6 were tested and received a result before their
7 removal or expulsion;

8 (D) the number of such noncitizens who
9 were not tested or did not receive a result be-
10 fore their removal or expulsion;

11 (E) the number of such noncitizens who
12 received a first dose of the COVID–19 vaccine
13 before their removal, disaggregated by the type
14 of COVID–19 vaccine administered;

15 (F) the number of such noncitizens who
16 were fully vaccinated before their removal, ei-
17 ther because the person received a second dose
18 of the COVID–19 vaccine or because the
19 COVID–19 vaccine the person received required
20 only 1 dose, disaggregated by the type of
21 COVID–19 vaccine administered; and

22 (G) the countries to which noncitizens are
23 removed or expelled from the United States.

1 (10) BOOK-INS.—Data related to facility book-
2 ins, including cumulative and new (since the pre-
3 vious report) counts of—

4 (A) the number of noncitizens booked into
5 each facility, disaggregated by—

6 (i) initial and total book-ins (including
7 transfers);

8 (ii) arresting agency;

9 (iii) initial book-ins from ORR cus-
10 tody (if applicable); and

11 (iv) initial book-ins from other Fed-
12 eral, State, or local government agencies,
13 including the United States Marshals Serv-
14 ice and the Bureau of Prisons.

15 (11) FACILITY STAFF.—The total number of fa-
16 cility staff during the current reporting period.

17 (b) DISAGGREGATION OF DATA.—

18 (1) IN GENERAL.—The data described in sub-
19 section (a) shall be disaggregated by sex, sexual ori-
20 entation, gender identity, age, race, ethnicity, dis-
21 ability, language spoken, last known place of resi-
22 dence, location at which the individual is being de-
23 tained, nationality, and statutory authority for de-
24 tention.

1 (2) EXCLUSION OF INDIVIDUALS INCARCER-
2 ATED FOR NONIMMIGRATION REASONS AT CONTRACT
3 DETENTION FACILITIES.—Data regarding individ-
4 uals incarcerated at contract detention facilities for
5 nonimmigration reasons shall be excluded from the
6 data described in subsection (a).

7 (c) DETENTION PERIOD.—The data described in sub-
8 section (a) with respect to detained noncitizens who are
9 infected with COVID–19 shall include, to the extent prac-
10 ticable, the period of their detention.

11 **SEC. 6. PRIVACY PROTECTIONS.**

12 (a) IN GENERAL.—Any data collected, stored, re-
13 ceived, or published under this Act—

14 (1) shall be collected, stored, received, or pub-
15 lished in a manner that protects the privacy of indi-
16 viduals whose information is included in such data;

17 (2) shall be de-identified or anonymized in a
18 manner that protects the identity of all individuals
19 whose information is included in such data;

20 (3) shall comply with privacy protections pro-
21 vided under the regulations promulgated under sec-
22 tion 264(c) of the Health Insurance Portability and
23 Accountability Act of 1996 (42 U.S.C. 1320d–2
24 note); and

1 (4) shall be limited in use for the purpose of
2 public health and be protected from all other inter-
3 nal use by any entity that collects, stores, or receives
4 the data, including use of such data in determina-
5 tions of eligibility (or continued eligibility) in health
6 plans, and from any other inappropriate uses.

7 (b) RESTRICTION ON USE OF COVID–19 STATUS IN
8 IMMIGRATION PROCEEDINGS.—The Government may not
9 use an noncitizen’s positive COVID–19 test, an nonciti-
10 zen’s treatment for COVID–19 symptoms, or the state of
11 the COVID–19 pandemic in the noncitizen’s country of
12 origin as evidence against the noncitizen in any immigra-
13 tion proceeding, including—

14 (1) a proceeding to determine if the noncitizen
15 is a public charge; and

16 (2) proceedings involving asylum, withholding of
17 removal, and protection under the Convention
18 against Torture and Other Cruel, Inhuman or De-
19 grading Treatment or Punishment, done at New
20 York December 10, 1984.

21 **SEC. 7. COVID–19 SAFETY PROTOCOLS AND PRACTICES.**

22 (a) IN GENERAL.—Not later than 30 days after the
23 date of the enactment of this Act, the Director of U.S.
24 Immigration and Customs Enforcement, the Commis-
25 sioner of U.S. Customs and Border Protection, the Direc-

1 tor of the Office of Refugee Resettlement, and any senior
2 official acting in, or performing the duties of, any such
3 position shall submit a report to the congressional commit-
4 tees referred to in section 4(c) that identifies, for each
5 detention facility under the jurisdiction of the applicable
6 agency head, including contract detention facilities, the
7 protocols and practices for protecting detained noncitizens
8 from exposure to the novel coronavirus (SARS-CoV-2),
9 including—

10 (1) the health standards at the facility, includ-
11 ing—

12 (A) the standards for transfer to hospital
13 or other specialized care;

14 (B) the procedure for the detained person
15 to request and obtain a COVID-19 test and as-
16 sociated results; and

17 (C) detained noncitizens access to informa-
18 tion about the facility's COVID-19 plans and
19 protocols;

20 (2) the medical care provided to detained non-
21 citizens, including—

22 (A) the specific efforts to cohort smaller
23 groups of detained people;

24 (B) the specific efforts to provide humane
25 medical isolation to symptomatic people, and

1 separately, people who have tested positive for
2 COVID–19; and

3 (C) the standards for clinical monitoring of
4 symptomatic and COVID–19 positive detained
5 persons; and

6 (3) the sanitation practices at the facility, in-
7 cluding the frequency and amount of detained non-
8 citizens’ access to soap and masks.

9 (b) NOTIFICATION OF OUTBREAK OR EXPOSURE.—
10 Each detention facility shall create, share, and enforce a
11 process for notifying anyone who has recently entered or
12 visited such facility of any COVID–19 outbreak or expo-
13 sure at such facility.

14 **SEC. 8. ACCESS TO LEGAL COUNSEL.**

15 Not later than 30 days after the date of the enact-
16 ment of this Act, and monthly thereafter, the Director of
17 U.S. Immigration and Customs Enforcement, the Com-
18 missioner of U.S. Customs and Border Protection, the Di-
19 rector of the Office of Refugee Resettlement, the head of
20 each contract detention facility, and any senior official act-
21 ing in, or performing the duties of, any such position shall
22 submit a report to the congressional committees referred
23 to in section 4(c) that identifies, for each detention facility
24 for which he or she is responsible—

1 (1) the efforts made to ensure that each noncitizen
2 detained in such facility has access to legal
3 counsel;

4 (2) if any detained noncitizen does not have access
5 to legal counsel, the changes being made to ensure
6 universal access to legal counsel;

7 (3) the number of telephones available to detained
8 noncitizens;

9 (4) the number of detained noncitizens who
10 have used the free telephone call minutes available
11 to them;

12 (5) the number of detained noncitizens who
13 have access to video conference technology with their
14 legal counsel and the number of detained noncitizens
15 who have used video conference technology to communicate
16 with their legal counsel;

17 (6) the number of computers or internet-enabled
18 portable electronic devices available to detained
19 noncitizens; and

20 (7) the process for notifying the public when
21 the facility is locked down because of an outbreak,
22 including the accommodations made during such
23 lockdowns to provide detained noncitizens with increased
24 access to telephones or videoconferencing.

1 **SEC. 9. RIGHT OF DETAINED NONCITIZENS TO ACCESS**
2 **TEST RESULTS.**

3 The Director of U.S. Immigration and Customs En-
4 forcement, the Commissioner of U.S. Customs and Border
5 Protection, the Director of the Office of Refugee Resettle-
6 ment, the head of each contract detention facility, and any
7 senior official acting in, or performing the duties of, any
8 such position shall ensure that each detained noncitizen
9 receives the results of, and any medical records related
10 to, any COVID–19 diagnostic test administered to the
11 noncitizen, in the noncitizen’s preferred language, and in
12 a private and confidential manner, not later than 24 hours
13 after such results become available.

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