

115TH CONGRESS
2D SESSION

H. R. 6304

To direct the Secretary of Homeland Security to reunite alien children separated from their parent or legal guardian with such parent or legal guardian, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 3, 2018

Mr. CRIST (for himself, Mr. CROWLEY, Mr. HUFFMAN, Mr. SEAN PATRICK MALONEY of New York, Ms. NORTON, Mr. SOTO, Ms. WILSON of Florida, Ms. WASSERMAN SCHULTZ, Mr. HASTINGS, and Mr. LAWSON of Florida) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Homeland Security, 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 direct the Secretary of Homeland Security to reunite alien children separated from their parent or legal guardian with such parent or legal guardian, 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 “Reunifying Separated
5 Families Act of 2018”.

1 **SEC. 2. REUNITING SEPARATED FAMILIES.**

2 (a) IN GENERAL.—Except as provided in subsection
3 (b), on the date of the enactment of this Act, the Secretary
4 of Homeland Security, in consultation with the Attorney
5 General, the Secretary of Health and Human Services,
6 and the Secretary of State, shall reunite each alien child
7 who was separated from the child’s parent or legal guard-
8 ian on or after April 6, 2018.

9 (b) EXCEPTIONS.—The Secretary of Homeland Secu-
10 rity shall not reunite a child described in subsection (a)
11 with such child’s parent or legal guardian from whom the
12 child was separated if—

13 (1) a State court, authorized under State law,
14 terminated the rights of the parent or legal guard-
15 ian, determined that it is in the best interests of the
16 child to be removed from the parent or legal guard-
17 ian, in accordance with the Adoption and Safe Fam-
18 ilies Act of 1997 (Public Law 105–89), or made any
19 similar determination that is legally authorized
20 under State law;

21 (2) an official from the State or county child
22 welfare agency with expertise in child trauma and
23 development made a best interests determination
24 that it is in the best interests of the child to be re-
25 moved from the parent or legal guardian because the
26 child is in danger of abuse or neglect at the hands

1 of the parent or legal guardian, or is a danger to
2 herself or others; or

3 (3) the separation was based on a finding of an
4 officer or employee of the Department of Homeland
5 Security that—

6 (A) the child is a victim of trafficking or
7 is at significant risk of becoming a victim of
8 trafficking;

9 (B) there is a strong likelihood that the
10 adult is not the parent or legal guardian of the
11 child; or

12 (C) the child is in danger of abuse or ne-
13 glect at the hands of the parent or legal guard-
14 ian, or is a danger to themselves or others, ex-
15 cept that, in the case that a child is removed
16 from his or her parent or legal guardian under
17 this section, an independent child welfare expert
18 licensed by the State or county in which the
19 child was so removed, authorizes the separation
20 not later than 48 hours after such removal, and
21 if such expert does not authorize such separa-
22 tion, the child shall be reunited with his or her
23 parent or legal guardian not later than 48
24 hours after such determination.

1 **SEC. 3. CIVIL PENALTY.**

2 Beginning on the date that is 30 days after the date
3 of the enactment of this Act, the Secretary of Homeland
4 Security may be fined not more than \$1,000 per child for
5 each day that a child described in section 2(a) is not re-
6 united with the child's parent from whom the child was
7 separated.

8 **SEC. 4. INSPECTOR GENERAL REPORT.**

9 Not later than 90 days after the date of the enact-
10 ment of this Act, the Inspector General of the Department
11 of Homeland Security shall submit a report to Congress
12 on—

13 (1) whether the location of any children de-
14 scribed in section 2(a) is unknown, and if so, an ex-
15 planation of why the location of such children is un-
16 known; and

17 (2) whether the policy of separating children
18 from their parents and processing them as unaccom-
19 panied alien children was intended by the Depart-
20 ment of Homeland Security to deter unlawful border
21 crossings.

22 **SEC. 5. LIMITATION ON THE SEPARATION OF FAMILIES.**

23 (a) IN GENERAL.—An agent or officer of a des-
24 ignated agency shall be prohibited from removing a child
25 from his or her parent or legal guardian, at or near the

1 port of entry or within 100 miles of a border of the United
2 States, unless one of the following has occurred:

3 (1) A State court, authorized under State law,
4 terminates the rights of the parent or legal guard-
5 ian, determines that it is in the best interests of the
6 child to be removed from the parent or legal guard-
7 ian, in accordance with the Adoption and Safe Fam-
8 ilies Act of 1997 (Public Law 105–89), or makes
9 any similar determination that is legally authorized
10 under State law.

11 (2) An official from the State or county child
12 welfare agency with expertise in child trauma and
13 development makes a best interests determination
14 that it is in the best interests of the child to be re-
15 moved from the parent or legal guardian because the
16 child is in danger of abuse or neglect at the hands
17 of the parent or legal guardian, or is a danger to
18 herself or others.

19 (3) The Chief Patrol Agent or the Area Port
20 Director in their official and undelegated capacity,
21 authorizes separation upon the recommendation by
22 an agent or officer, based on a finding that—

23 (A) the child is a victim of trafficking or
24 is at significant risk of becoming a victim of
25 trafficking;

1 (B) there is a strong likelihood that the
2 adult is not the parent or legal guardian of the
3 child; or

4 (C) the child is in danger of abuse or ne-
5 glect at the hands of the parent or legal guard-
6 ian, or is a danger to themselves or others,
7 except that, in the case that a child is removed from
8 his or her parent or legal guardian under this sec-
9 tion, an independent child welfare expert licensed by
10 the State or county in which the child was so re-
11 moved, authorizes the separation not later than 48
12 hours after such removal, and if such expert does
13 not authorize such separation, the child shall be re-
14 united with his or her parent or legal guardian not
15 later than 48 hours after such determination.

16 (b) PROHIBITION ON SEPARATION.—

17 (1) IN GENERAL.—A designated agency may
18 not remove a child from a parent or legal guardian
19 solely for the policy goal of deterring individuals
20 from migrating to the United States or for the pol-
21 icy goal of promoting compliance with civil immigra-
22 tion laws.

23 (2) PENALTY FOR FAMILY SEPARATION.—Any
24 person who knowingly separates a child from his or

1 her parent or legal guardian in violation of this sec-
2 tion, shall be fined not more than \$10,000.

3 (c) DOCUMENTATION REQUIRED.—The Secretary
4 shall ensure that a separation under subsection (a)(3) is
5 documented in writing and includes, at a minimum, the
6 reason for such separation, together with the stated evi-
7 dence for such separation.

8 (d) DEFINITIONS.—In this section:

9 (1) The term “designated agency” means—

10 (A) the Department of Homeland Security;

11 (B) the Department of Justice; and

12 (C) the Department of Health and Human
13 Services.

14 (2) The term “agent or officer” includes con-
15 tractors of the Federal Government.

16 (3) The term “child” means an individual
17 who—

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

19 (B) has no permanent immigration status.

20 (4) The term “committees of jurisdiction”
21 means—

22 (A) the Committee on the Judiciary and
23 the Committee on Health, Education, Labor,
24 and Pensions of the Senate; and

1 (B) the Committee on the Judiciary and
2 the Committee on Education and the Workforce
3 of the House of Representatives.

4 (5) The term “finding” means an individualized
5 written assessment or screening formalized as re-
6 quired under subsection (c).

7 (6) The term “in danger of abuse or neglect at
8 the hands of the parent or legal guardian” does not
9 include migrating to or crossing of a border of the
10 United States.

11 (7) Unless otherwise specified, the term “Sec-
12 retary” means the Secretary of Homeland Security.

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