

115TH CONGRESS
2D SESSION

S. 3474

To clarify responsibilities related to unaccompanied alien children, to provide additional protections and tracking mechanisms for such children, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18, 2018

Mr. PORTMAN (for himself, Mr. BLUMENTHAL, Mr. LANKFORD, and Mr. CARPER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To clarify responsibilities related to unaccompanied alien children, to provide additional protections and tracking mechanisms for such 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 “Responsibility for Un-
5 accompanied Minors Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The Department of Health and Human
9 Services, under Federal law as in effect on the date

1 of the enactment of this Act, is responsible for the
2 care of each unaccompanied alien child in the United
3 States, including any such child placed with a spon-
4 sor, until the earlier of—

5 (A) the date on which the immigration pro-
6 ceedings of the child are concluded; or

7 (B) the date on which the child attains 18
8 years of age.

9 (2) Follow-up services provided to certain unac-
10 companied alien children released to sponsors under
11 section 235 of the William Wilberforce Trafficking
12 Victims Protection Reauthorization Act of 2008 (8
13 U.S.C. 1232) are valuable to help ensure child safe-
14 ty, integration, and appearance at immigration court
15 proceedings.

16 **SEC. 3. RESPONSIBILITIES OF THE DIRECTOR OF THE OF-**
17 **FICE OF REFUGEE RESETTLEMENT.**

18 Section 462(b) of the Homeland Security Act of 2002
19 (6 U.S.C. 279(b)) is amended by adding at the end the
20 following:

21 “(5) CLARIFICATION OF PERIOD OF CARE.—

22 “(A) IN GENERAL.—Pursuant to the obli-
23 gation established under section 235(b)(1) of
24 the William Wilberforce Trafficking Victims
25 Protection Reauthorization Act of 2008 (8

1 U.S.C. 1232(b)(1)), the Director of the Office
2 of Refugee Resettlement is authorized to care
3 for and provide follow-up services to an unac-
4 companied alien child, including any such child
5 placed with a sponsor, from the time the child
6 is identified as an unaccompanied alien child
7 until the earlier of—

8 “(i) the date on which the immigra-
9 tion proceedings of such child are con-
10 cluded; or

11 “(ii) the date on which the child at-
12 tains 18 years of age.

13 “(B) RULE OF CONSTRUCTION.—Nothing
14 in this paragraph limits the authority of a State
15 or local welfare or emergency services provider
16 to address an allegation of abuse or neglect or
17 an emergency situation.

18 “(6) FOLLOW-UP SERVICES.—Before placing an
19 unaccompanied alien child with a sponsor, the Direc-
20 tor of the Office of Refugee Resettlement shall
21 evaluate, to the extent possible, the need for such
22 child to receive follow-up services once such child is
23 placed with a sponsor.”.

1 **SEC. 4. RESPONSIBILITIES OF THE SECRETARY OF HEALTH**
2 **AND HUMAN SERVICES.**

3 (a) SPONSOR CARE AGREEMENT; FOLLOW-UP SERV-
4 ICES.—Section 235(c)(3) of the William Wilberforce Traf-
5 ficking Victims Protection Reauthorization Act of 2008 (8
6 U.S.C. 1232(c)(3)) is amended—

7 (1) in subparagraph (A)—

8 (A) by striking “custodian” and inserting
9 “sponsor”; and

10 (B) by striking “custodian’s” and inserting
11 “sponsor’s”;

12 (2) in subparagraph (B), by adding at the end
13 the following: “Neither an unaccompanied alien child
14 nor any sponsor of such child may refuse the follow-
15 up services required or authorized under the pre-
16 ceding sentence.”;

17 (3) by redesignating subparagraph (C) as sub-
18 paragraph (E); and

19 (4) by inserting after subparagraph (B) the fol-
20 lowing:

21 “(C) SPONSOR CARE AGREEMENT.—

22 “(i) IN GENERAL.—Before the Sec-
23 retary of Health and Human Services
24 places an unaccompanied alien child with a
25 sponsor, the proposed sponsor shall execute
26 a sponsor care agreement.

1 “(ii) REQUIREMENTS.—

2 “(I) IN GENERAL.—A sponsor
3 care agreement required under clause
4 (i) shall include an agreement by the
5 sponsor—

6 “(aa) to provide for the
7 physical and mental well-being of
8 such child, including providing
9 food, shelter, clothing, education,
10 medical care, and other services,
11 as needed;

12 “(bb) to ensure the child’s
13 presence at all future immigra-
14 tion proceedings related to such
15 child;

16 “(cc) to notify local law en-
17 forcement or the appropriate
18 State or local child protective
19 services agency if such child has
20 been, or is, at risk of being phys-
21 ically, mentally, or sexually
22 abused, abandoned, neglected,
23 threatened, or kidnapped;

24 “(dd) to notify the Secretary
25 of Health and Human Services if

1 the sponsorship status of such
2 child has changed for any reason,
3 including a change of custodian
4 or sponsor, kidnapping, or flight;

5 “(ee) to accept any follow-up
6 services authorized or required
7 under subparagraph (B);

8 “(ff) to comply with, and en-
9 sure the compliance of, such child
10 with all lawful orders of a court
11 of the United States or Federal
12 agency with jurisdiction related
13 to the child; and

14 “(gg) to notify the Secretary
15 of Health and Human Services,
16 the Director of U.S. Citizenship
17 and Immigration Services, and
18 the Director of the Executive Of-
19 fice for Immigration Review of
20 the current mailing address of
21 such child if such address
22 changes.

23 “(II) OTHER MATTERS.—A spon-
24 sor care agreement required under
25 clause (i) may include such other mat-

1 ters as the Secretary of Health and
2 Human Services considers appro-
3 priate.

4 “(D) TERMINATION OF SPONSOR.—

5 “(i) NONPARENTAL SPONSORS.—

6 “(I) IN GENERAL.—Except as
7 provided in subclause (II), with re-
8 spect to an unaccompanied alien child
9 released to a sponsor who is not the
10 parent or legal guardian of such child,
11 the Secretary of Health and Human
12 Services shall terminate the sponsor-
13 ship arrangement and assume phys-
14 ical custody of such child if such
15 sponsor fails to comply with the provi-
16 sions of the sponsor care agreement
17 required under subparagraph (C).

18 “(II) EXCEPTIONS.—The Sec-
19 retary of Health and Human Services
20 shall not terminate a sponsorship ar-
21 rangement under subclause (I)—

22 “(aa) in the case of a minor
23 violation of subparagraph
24 (C)(ii)(I)(gg) that the sponsor
25 timely remedies; or

1 “(bb) if the Secretary finds
2 that terminating the sponsorship
3 arrangement would not be in the
4 best interest of the child.

5 “(III) DUTIES OF THE SEC-
6 RETARY.—In the case of a termi-
7 nation of a sponsorship arrangement
8 under subclause (I), the Secretary of
9 Health and Human Services shall—

10 “(aa) place the unaccom-
11 panied alien child with a new
12 sponsor or in another placement
13 that is in the best interest of the
14 child; and

15 “(bb) on the date on which
16 a sponsorship arrangement is ter-
17 minated, provide to the individual
18 the sponsorship of whom is ter-
19 minated a written notification
20 and justification of the decision
21 to terminate the sponsorship, and
22 information relating to the ap-
23 peals process under subclause
24 (IV).

25 “(IV) APPEALS.—

1 “(aa) IN GENERAL.—The
2 Secretary of Health and Human
3 Services shall establish a process
4 by which an individual the spon-
5 sorship of whom is terminated
6 under subclause (I) may appeal
7 the termination.

8 “(bb) NO JUDICIAL RE-
9 VIEW.—An appeal under item
10 (aa) shall not be subject to judi-
11 cial review.

12 “(V) RIGHT TO REAPPLY FOR
13 SPONSORSHIP.—An individual the
14 sponsorship of whom is terminated
15 under clause (i)(I) may reapply to
16 serve as a sponsor after the date on
17 which the individual has remedied the
18 one or more conditions on which the
19 termination was based.

20 “(ii) PARENTAL SPONSORS.—With re-
21 spect to an unaccompanied alien child re-
22 leased to a sponsor who is the parent or
23 legal guardian of such child, in the case of
24 the failure by the sponsor to comply with
25 the provisions of the sponsor care agree-

1 ment required under subparagraph (C),
2 the Secretary of Health and Human Serv-
3 ices shall notify the State agency respon-
4 sible for administering the State plans
5 under parts B and E of title IV of the So-
6 cial Security Act (42 U.S.C. 621 et seq.,
7 670 et seq.).

8 “(iii) REPORTING.—

9 “(I) DEFINITION OF APPRO-
10 PRIATE COMMITTEES OF CONGRESS.—

11 In this clause, the term ‘appropriate
12 committees of Congress’ means—

13 “(aa) the Committee on
14 Homeland Security and Govern-
15 mental Affairs, the Committee on
16 the Judiciary, and the Committee
17 on Health, Education, Labor,
18 and Pensions of the Senate; and

19 “(bb) the Committee on
20 Homeland Security, the Com-
21 mittee on the Judiciary, and the
22 Committee on Energy and Com-
23 merce of the House of Represent-
24 atives.

1 “(II) QUARTERLY REPORT.—Not
2 later than 90 days after the date of
3 the enactment of the Responsibility
4 for Unaccompanied Minors Act, and
5 quarterly thereafter, the Secretary of
6 Health and Human Services shall sub-
7 mit to the appropriate committees of
8 Congress a report that includes, for
9 the preceding quarter—

10 “(aa) a description of each
11 instance in which a sponsor failed
12 to comply with a provision of the
13 sponsor care agreement under
14 subparagraph (C)(ii) and the ac-
15 tion taken under clause (i) or (ii)
16 of this subparagraph, including—

17 “(AA) with respect to a
18 sponsor who is not a parent
19 or legal guardian of the
20 child, whether the sponsor-
21 ship arrangement was termi-
22 nated, an analysis whether
23 termination is contrary to
24 the best interests of the
25 child, and whether the indi-

1 vidual the sponsorship of
2 whom was terminated filed
3 an appeal under clause
4 (i)(IV); and

5 “(BB) with respect to a
6 sponsor who is a parent or
7 legal guardian of the child,
8 whether the Secretary of
9 Health and Human Services
10 notified the State agency re-
11 sponsible for administering
12 the State plans under parts
13 B and E of title IV of the
14 Social Security Act (42
15 U.S.C. 621 et seq., 670 et
16 seq.); and

17 “(bb) in the case of a deter-
18 mination by the Secretary of
19 Health and Human Services that
20 a sponsor is not in compliance
21 with a provision of the sponsor
22 care agreement but termination
23 of sponsorship is not in the best
24 interest of the child, an expla-

1 nation of the reasons for such de-
2 termination.”.

3 (b) NOTIFICATIONS.—Section 235 of the William
4 Wilberforce Trafficking Victims Protection Reauthoriza-
5 tion Act of 2008 (8 U.S.C. 1232) is amended—

6 (1) by redesignating subsection (h) as sub-
7 section (j) and moving such subsection so that it ap-
8 pears immediately after subsection (i); and

9 (2) by inserting after subsection (g) the fol-
10 lowing:

11 “(h) NOTIFICATIONS.—

12 “(1) IN GENERAL.—Before releasing any unac-
13 companied alien child to a sponsor, the Secretary of
14 Health and Human Services shall submit to the
15 State agency responsible for administering the State
16 plans under parts B and E of title IV of the Social
17 Security Act (42 U.S.C. 621 et seq. and 670 et
18 seq.)—

19 “(A) written notification of the specific lo-
20 cation at which the unaccompanied alien child
21 will reside while in such jurisdiction; and

22 “(B) written certification that—

23 “(i) the unaccompanied alien child will
24 have undergone appropriate health screen-

1 ings and received appropriate vaccinations;
2 and

3 “(ii) the Secretary of Health and
4 Human Services has completed background
5 checks under section 5(a)(3) of the Re-
6 sponsibility for Unaccompanied Minors Act
7 with respect to each individual who will be
8 a sponsor of an unaccompanied alien child
9 to be placed in the State and has deter-
10 mined that the individual does not present
11 a risk to the unaccompanied alien child.

12 “(2) EXEMPT FROM DISCLOSURE.—Any person-
13 ally identifiable information submitted under para-
14 graph (1)—

15 “(A) shall be exempt from disclosure under
16 section 552(b)(6) of title 5, United States Code;
17 and

18 “(B) may not be disclosed by the recipient
19 State agency (directly or indirectly) to any non-
20 governmental entity.

21 “(3) PURPOSE.—The purpose of this subsection
22 is to facilitate cooperation between the Federal Gov-
23 ernment and the States to promote the best interests
24 of unaccompanied alien children.”.

1 (c) CONFORMING AMENDMENTS.—Section 235(c)(4)
2 of the William Wilberforce Trafficking Victims Protection
3 Reauthorization Act of 2008 (8 U.S.C. 1232(c)(4)) is
4 amended—

5 (1) by striking “custodians” and inserting
6 “sponsors”; and

7 (2) by striking “custodian’s” and inserting
8 “sponsor’s”.

9 **SEC. 5. RELEASING UNACCOMPANIED MINOR CHILDREN TO**
10 **SPONSORS.**

11 (a) MANDATORY BACKGROUND CHECKS.—Before re-
12 leasing any unaccompanied alien child (as defined in sec-
13 tion 462(g) of the Homeland Security Act of 2002 (6
14 U.S.C. 279(g)) to a sponsor, including a sponsor who is
15 the parent or legal guardian of the unaccompanied alien
16 child and any other sponsor, the Secretary of Health and
17 Human Services shall—

18 (1) verify the sponsor’s identity and relation-
19 ship to the unaccompanied alien child;

20 (2) interview the sponsor; and

21 (3) conduct a background check on the sponsor
22 and all other adults living in the household in which
23 the unaccompanied alien child will reside, which
24 shall include a fingerprint check against the infor-
25 mation maintained by law enforcement agencies.

1 (b) LIMITATION ON LIABILITY.—

2 (1) INJUNCTIVE RELIEF.—Any individual with
3 standing to challenge an action by the Department
4 of Health and Human Services that violates this Act
5 or section 235 of the William Wilberforce Traf-
6 ficking Victims Protection Reauthorization Act of
7 2008 (8 U.S.C. 1232), as amended by section 4, or
8 any entity representing such an individual, may
9 bring an action in an appropriate Federal court for
10 injunctive relief.

11 (2) PROHIBITION AGAINST MONETARY DAM-
12 AGES.—A court may not award monetary damages
13 to a plaintiff in a lawsuit described in paragraph
14 (1).

15 **SEC. 6. EMERGENCY IMMIGRATION JUDGE RESOURCES.**

16 The Attorney General shall increase the number of
17 immigration judge teams by not fewer than 225, as com-
18 pared to the number of immigration judge teams on the
19 date of the enactment of this Act.

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