

116TH CONGRESS  
1ST SESSION

# S. 661

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

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## IN THE SENATE OF THE UNITED STATES

MARCH 5, 2019

Ms. HIRONO (for herself, Ms. CORTEZ MASTO, Ms. HARRIS, Mr. BLUMENTHAL, Mrs. GILLIBRAND, Ms. KLOBUCHAR, Mr. WYDEN, Ms. SMITH, Mr. BOOKER, Mr. MARKEY, Mr. SANDERS, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To provide for enhanced protections for vulnerable 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 of 2019”.

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 or the  
7           personnel of a cooperating entity.

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

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

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

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

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

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

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

3 (C) is proficient in one or more of the most  
4 common languages spoken by children appre-  
5 hended at the applicable port of entry or Bor-  
6 der Patrol station.

7 (5) COMMISSIONER.—The term “Commis-  
8 sioner” means the Commissioner of U.S. Customs  
9 and Border Protection.

10 (6) COOPERATING ENTITY.—The term “cooper-  
11 ating entity” means a State or local entity acting  
12 pursuant to an agreement with the Secretary.

13 (7) DEPARTMENT.—The term “Department”  
14 means the Department of Homeland Security.

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

20 (9) EXPERT IN CHILD WELFARE.—The term  
21 “expert in child welfare” means an individual who  
22 has—

23 (A) knowledge of Federal and State child  
24 welfare laws and standards; and

1 (B) not less than 15 years of experience in  
2 the field of child and adolescent development or  
3 child welfare.

4 (10) EXPERT IN PEDIATRIC MEDICINE.—The  
5 term “expert in pediatric medicine” means—

6 (A) an individual who is board-certified in  
7 pediatric medicine in one or more States; or

8 (B) an individual with an advanced degree  
9 in pediatric medicine on the faculty of an insti-  
10 tution of higher education in the United States.

11 (11) MIGRATION DETERRENCE PROGRAM.—The  
12 term “migration deterrence program” means an ac-  
13 tion relating to the repatriation or referral for pros-  
14 ecution of one or more individuals apprehended by  
15 the Secretary or a cooperating entity for a suspected  
16 or confirmed violation of the Immigration and Na-  
17 tionality Act (8 U.S.C. 1101 et seq.).

18 (12) SECRETARY.—The term “Secretary”  
19 means the Secretary of Homeland Security.

20 (13) UNACCOMPANIED ALIEN CHILD.—The  
21 term “unaccompanied alien child” has the meaning  
22 given the term in section 462(g) of the Homeland  
23 Security Act of 2002 (6 U.S.C. 279(g)).

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

2 (a) GUIDELINES.—The Secretary, in consultation  
3 with the Secretary of Health and Human Services, experts  
4 in child development, experts in child welfare, experts in  
5 pediatric medicine, and the American Bar Association  
6 Center on Children and the Law, shall develop guidelines  
7 for the treatment of children in the custody of the Com-  
8 missioner.

9 (b) MANDATORY TRAINING.—The Secretary, in con-  
10 sultation with the Secretary of Health and Human Serv-  
11 ices, shall—

12 (1) require all U.S. Customs and Border Pro-  
13 tection personnel, and cooperating entity personnel,  
14 who have contact with a child at a port of entry or  
15 Border Patrol station to undergo appropriate train-  
16 ing, which shall include live training, on—

17 (A) the applicable legal authorities, poli-  
18 cies, practices, and procedures relating to chil-  
19 dren; and

20 (B) child development, trauma, and the  
21 manner in which trauma affects the health and  
22 behavior of children; and

23 (2) require U.S. Customs and Border Protec-  
24 tion personnel, not less frequently than annually, to  
25 undertake continuing training on—

1 (A) identifying and responding to common  
2 signs and symptoms of medical distress in chil-  
3 dren;

4 (B) best practices with respect to the  
5 guidelines developed under subsection (a); and

6 (C) changes in the legal authorities, poli-  
7 cies, and procedures described in paragraph  
8 (1)(A).

9 (c) QUALIFIED RESOURCES.—

10 (1) IN GENERAL.—In accordance with sub-  
11 section (d), the Secretary shall provide resources and  
12 staff, including child welfare professionals, who are  
13 adequately trained and qualified to address the  
14 needs of children at each port of entry and Border  
15 Patrol station.

16 (2) SUFFICIENT STAFFING.—The Secretary  
17 shall ensure that sufficient qualified child welfare  
18 professionals and qualified experts in pediatric medi-  
19 cine are available at each port of entry and Border  
20 Patrol station to accomplish the duties described in  
21 this section without prolonging the time children and  
22 apprehended parents and legal guardians remain in  
23 the custody of the Commissioner.

24 (3) CHILD WELFARE EXPERTISE.—The Sec-  
25 retary, in consultation with the Secretary of Health

1 and Human Services, shall hire, or seek to enter into  
2 contracts with, independent child welfare profes-  
3 sionals in order to do the following:

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

8 (i) on any day during the preceding  
9 fiscal year; or

10 (ii) during the current fiscal year,  
11 based on a review of monthly statistical re-  
12 ports during the current fiscal year.

13 (B) To provide child welfare expertise by  
14 telephone on an on-call basis, and on-site as  
15 necessary, to U.S. Customs and Border Protec-  
16 tion staff at any port of entry or Border Patrol  
17 station that is not described in subparagraph  
18 (A).

19 (C) With respect to a port of entry or Bor-  
20 der Patrol station that is described in subpara-  
21 graph (A) but is without on-site expertise as re-  
22 quired by such subparagraph during a period of  
23 not more than 90 days in which the Secretary,  
24 in consultation with the Secretary of Health  
25 and Human Services, is in the process of hiring

1 or seeking to enter into a contract with an on-  
 2 site independent child welfare professional, to  
 3 provide child welfare expertise by telephone on  
 4 an on-call basis to U.S. Customs and Border  
 5 Protection staff.

6 (d) CHILD WELFARE PROFESSIONALS AND EXPERTS  
 7 IN PEDIATRIC MEDICINE.—

8 (1) IN GENERAL.—The Secretary, in consulta-  
 9 tion with the Secretary of Health and Human Serv-  
 10 ices, shall ensure the availability at each port of  
 11 entry and Border Patrol station of not fewer than—

12 (A) one qualified child welfare professional  
 13 with expertise in culturally competent, trauma-  
 14 centered, and developmentally appropriate  
 15 interviewing skills; and

16 (B) one qualified expert in pediatric medi-  
 17 cine.

18 (2) MEDICAL ASSESSMENTS.—On obtaining  
 19 custody of a child, the Commissioner shall ensure  
 20 that the child undergoes a medical assessment car-  
 21 ried out by, or in consultation with, the expert in pe-  
 22 diatric medicine at the applicable port of entry or  
 23 Border Patrol Station, in accordance with the guide-  
 24 lines developed under subsection (a).



1           (3) INTERPRETER REQUIRED.—In the case of a  
2 child welfare professional or an expert in pediatric  
3 medicine at a port of entry or Border Patrol station  
4 who does not speak the language of a child in cus-  
5 tody at such port of entry or station, the Secretary  
6 shall provide an interpreter.

7           (4) DUTIES.—A child welfare professional de-  
8 scribed in paragraph (1)(A) shall—

9                   (A) ensure that—

10                           (i) any allegation of abuse or mis-  
11 treatment of a child in the custody of the  
12 Commissioner is referred to the appro-  
13 priate Federal and State authorities;

14                           (ii) any investigation of an allegation  
15 described in clause (i)—

16                                   (I) receives support from the  
17 child welfare professional, who shall  
18 follow up on the referral under that  
19 clause and coordinate with the inves-  
20 tigation until the completion of the in-  
21 vestigation; and

22                                   (II) is conducted by a multidisci-  
23 plinary team that uses a trauma-in-  
24 formed approach to investigation,  
25 such as Children’s Advocacy Centers,

1 to the maximum extent practicable;  
2 and

3 (iii) the Commissioner and the Direc-  
4 tor of the Office of Refugee Resettlement  
5 comply with applicable child abuse report-  
6 ing laws, including by—

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

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

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

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

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

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

23 (ee) the Office of Refugee  
24 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 and the Director of the Office of Refugee

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

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

7                       (i) considers—

8                               (I) the best interests of the child;

9                               and

10                              (II) applicable law; and

11                      (ii) favors a policy of release;

12           (E) interview any adult relative accom-  
13           panying a child, including any sibling, grand-  
14           parent, aunt, uncle, or cousin of the child;

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

18                      (i) an initial family relationship and  
19                      trafficking assessment, which shall be con-  
20                      ducted in accordance with the timeframe  
21                      under subsections (a)(4) and (b)(3) of sec-  
22                      tion 235 of the William Wilberforce Traf-  
23                      ficking Victims Protection Reauthorization  
24                      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, maintain the best interests of  
5 children in any migration deterrence program  
6 for family units carried out at a border, includ-  
7 ing by—

8 (i) inquiring whether a child is trav-  
9 eling with a parent, sibling, or legal guard-  
10 ian;

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

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

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

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

1 not fewer than three times weekly, in-  
2 cluding not fewer than 1 video con-  
3 ference;

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) before separation, each child  
25 is provided with an opportunity to say

1                   goodbye to the apprehended parent or  
2                   legal guardian; and

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

6                   (aa) is able, before separa-  
7                   tion, to communicate to per-  
8                   sonnel of the Department the  
9                   medical history and any known  
10                  illness of the child; and

11                  (bb) is informed of any med-  
12                  ical treatment administered to  
13                  the child, including psychotropic  
14                  drugs, during the period in which  
15                  the child is in the custody of the  
16                  Director of the Office of Refugee  
17                  Resettlement; and

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

22                  (I) consideration is given to—

23                  (aa) the best interests of the  
24                  child of the apprehended parent  
25                  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—

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  
17 may not remove a child from a parent or legal guardian  
18 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 shall assign a  
2 family unit tracking number to each member of an  
3 apprehended family unit, including—

4                   (A) an apprehended spouse;

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

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

9                   (D) each member of a sibling group.

10          (2) REQUIREMENTS.—The Secretary shall en-  
11       sure that a family unit tracking number—

12                   (A) is transferrable;

13                   (B) may be shared easily among the data  
14       systems of—

15                   (i) U.S. Customs and Border Protec-  
16       tion;

17                   (ii) U.S. Immigration and Customs  
18       Enforcement; and

19                   (iii) the Office of Refugee Resettle-  
20       ment; and

21                   (C)(i) is included on the paperwork of each  
22       member of an apprehended family unit; and

23                   (ii) is not deleted or altered.

24       (g) MONITORING.—The Secretary shall—

1           (1) allow nongovernmental organizations and  
2 State and local child welfare agencies in the jurisdic-  
3 tion in which an apprehended child is located to con-  
4 duct not less than one monthly unannounced, inde-  
5 pendent inspection of any Department facility that  
6 houses one or more children; and

7           (2) in consultation with one or more child wel-  
8 fare professionals and 1 or more experts in pediatric  
9 medicine, for the purpose of human rights moni-  
10 toring, develop procedures to provide nongovern-  
11 mental organizations regular and full access to any  
12 facility in which one or more children is housed.

13 (h) REPORT.—

14           (1) IN GENERAL.—Not later than 18 months  
15 after the date of the enactment of this Act, and  
16 every fiscal quarter thereafter, the Secretary shall  
17 submit to the Committee on the Judiciary, the Com-  
18 mittee on Homeland Security and Governmental Af-  
19 fairs, and the Committee on Health, Education,  
20 Labor, and Pensions of the Senate and the Com-  
21 mittee on the Judiciary, the Committee on Oversight  
22 and Reform, and the Committee on Education and  
23 Labor of the House of Representatives a report that,  
24 for the preceding fiscal quarter—

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

6 (B) assesses the effectiveness of such  
7 screenings;

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

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

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

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

20 (iv) the number of children separated  
21 from a parent or legal guardian by the De-  
22 partment and the reason for such separa-  
23 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.—With respect to a  
15 child in the custody of the Secretary, to effectively and  
16 efficiently coordinate the transfer of the child to and place-  
17 ment of the child with the Director of the Office of Ref-  
18 ugee Resettlement, the Secretary shall notify the Director  
19 of the Office of Refugee Resettlement 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 the enactment of this Act, the Sec-

1       retary, in consultation with the head of the Office  
2       for Civil Rights and Civil Liberties of the Depart-  
3       ment, shall promulgate regulations establishing basic  
4       standards of care for the short-term custody of chil-  
5       dren by the Commissioner.

6               (2) REQUIREMENTS.—The regulations promul-  
7       gated pursuant to paragraph (1) shall ensure that  
8       all children in the custody of the Commissioner,  
9       while in such custody—

10               (A) receive a health interview, a medical  
11               assessment, and all necessary medical treat-  
12               ment, including emergency medical care, as nec-  
13               essary;

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

20               (C) are provided—

21                       (i) continual access to potable water;

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

24                       (iii) climate-appropriate clothing and  
25                       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;

8 (vi) linens;

9 (vii) sufficient blankets to rest at a  
10 comfortable temperature;

11 (viii) diapers, diapering supplies, in-  
12 fant formula, and infant feeding supplies,  
13 as necessary;

14 (ix) in the case of any child in such  
15 custody for more than 12 hours, access to  
16 a bed and adequate bedding; and

17 (x) a location to sleep in which the  
18 lights are dimmed;

19 (D)(i) are offered food at the time at  
20 which the Commissioner obtains custody of the  
21 child; and

22 (ii) receive adequate nutrition, including  
23 not fewer than three daily meals that include 1  
24 or more fruits or vegetables;

1 (E) have a safe and sanitary living envi-  
2 ronment;

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

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

10 (H) are permitted to make supervised  
11 video conference calls, if available, and tele-  
12 phone calls to family members.

13 (k) ENSURING CHILDREN HAVE ACCESS TO LEGAL  
14 RIGHTS.—

15 (1) IN GENERAL.—The Secretary shall ensure  
16 that each child, on apprehension, is provided—

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

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

25 (i) the right to relief from removal;



1 (ii) the right—

2 (I) to confer with counsel under  
3 section 292 of such Act (8 U.S.C.  
4 1362); and

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

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

11 (2) LANGUAGES.—The Secretary shall ensure  
12 that, at each location at which one or more children  
13 are held in custody, the video orientation described  
14 in paragraph (1)(B) is available in English and the  
15 five most common native languages spoken by chil-  
16 dren held in custody at that location during the pre-  
17 ceding fiscal year.

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

23 (1) CHILD PROTECTION POLICIES.—With respect to  
24 children, the Secretary shall adopt fundamental child pro-  
25 tection 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 use all legal authorities to defer the re-  
8           moval from the United States of a child who faces  
9           a risk of life-threatening harm on return, including  
10          harm due to the mental health or medical condition  
11          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 is separated physically, and by sight and  
16          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  
23          shall preserve all records associated with children in the  
24          custody of the Commissioner, 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, in ac-  
8           cordance with a written agreement between the Sec-  
9           retary and the Secretary of Health and Human  
10          Services, to the extent and in such amounts as are  
11          provided in advance in appropriations Acts, shall  
12          transfer from amounts appropriated for U.S. Cus-  
13          toms and Border Protection to the Department of  
14          Health and Human Services such amounts as may  
15          be necessary to carry out the duties described in  
16          subsections (c) and (d)(4).

17          (2) REPORT.—Not later than 15 days before  
18          the date of any proposed transfer under paragraph  
19          (1), the Secretary of Health and Human Services, in  
20          consultation with the Secretary, shall submit to the  
21          Committee on Appropriations of the Senate and the  
22          Committee on Appropriations of the House of Rep-  
23          resentatives a detailed expenditure plan that de-  
24          scribes the actions proposed to be taken with the  
25          amounts transferred under such paragraph.

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 law.

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