

117TH CONGRESS  
1ST SESSION

# S. 772

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

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## IN THE SENATE OF THE UNITED STATES

MARCH 16, 2021

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

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## 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 makes the following findings:

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  
16 (ii), 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., 670 et seq.)—

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

21                               “(B) written certification that—

22                                       “(i) the unaccompanied alien child will  
23                                       have undergone appropriate health  
24                                       screenings and received appropriate vac-  
25                                       cinations; and

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

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

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

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

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

23           (c) CONFORMING AMENDMENTS.—Section 235(e)(4)  
24           of the William Wilberforce Trafficking Victims Protection

1 Reauthorization Act of 2008 (8 U.S.C. 1232(c)(4)) is  
2 amended—

3 (1) by striking “custodians” and inserting  
4 “sponsors”; and

5 (2) by striking “custodian’s” and inserting  
6 “sponsor’s”.

7 **SEC. 5. RELEASING UNACCOMPANIED MINOR CHILDREN TO**  
8 **SPONSORS.**

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

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

18 (2) interview the sponsor; and

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

24 (b) **LIMITATION ON LIABILITY.**—

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

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

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

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

○