

Congress of the United States
Washington, DC 20510

April 15, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

We write to you today regarding the ongoing crisis at our southern border, which is a direct result of your Administration's immigration policies. U.S. Customs and Border Protection reported 172,331 encounters at the southern border in March 2021.¹ That number represents a 71% increase over February 2021 and a 400% increase over March 2020.² The number of unaccompanied alien children (UAC) encountered at the southern border in March 2021 was 18,890.³ This represents a 486% increase over 2020 and is the highest number of monthly UAC encounters ever recorded.⁴

While the numbers of migrants attempting to illegally cross the border during the current crisis are unprecedented and historic, this is not the first time we have witnessed a surge at the southern border. The United States experienced a surge of UACs at the southern border in 2014 during the Obama-Biden Administration. Then, as now, it is important that the Administration and Congress work together to enact reforms to our immigration laws that discourage illegal migration to the United States and give the Department of Homeland Security (DHS) the tools it needs to address the current and any potential future surges of illegal border crossings.

In that vein, on June 30, 2014, President Obama sent a letter to congressional leadership detailing the steps that the Obama-Biden Administration was taking in response to the 2014 surge and requesting assistance from Congress "to ensure that we have the legal authorities to maximize the impact of our efforts."⁵ Specifically, he requested that Congress take action "providing the DHS Secretary additional

¹ U.S. Customs and Border Protection, FY Southwest Land Border Encounters by Month, available at <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

² *Id.*

³ U.S. Customs and Border Protection, FYTD Southwest Land Border Demographic by Month, available at <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

⁴ U.S. Customs and Border Protection, FY Comparison by Demographic, available at <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

⁵ Letter from Barack Obama, President of the United States, to Speaker of the House of Representatives John Boehner, House Minority Leader Nancy Pelosi, Senate Majority Leader Mitch McConnell, and Senate Minority Leader Harry Reid (June 30, 2014), <https://obamawhitehouse.archives.gov/the-press-office/2014/06/30/letter-president-efforts-address-humanitarian-situation-rio-grande-valle>.

authority to exercise discretion in processing the return and removal of unaccompanied minor children from non-contiguous countries like Guatemala, Honduras, and El Salvador.”⁶

President Obama’s request was a reference to the need to amend Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) to ensure that UACs from non-contiguous countries such as Guatemala, Honduras, and El Salvador are treated in the same manner as those from contiguous countries such as Mexico or Canada. The TVPRA currently treats UACs differently based on their country of origin.

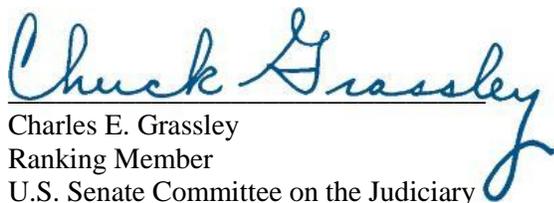
Under the TVPRA, UACs from Mexico must be screened by DHS within 48 hours of apprehension in order to determine whether or not they are a victim of trafficking or have a claim for asylum.⁷ If they are not victims of trafficking and do not have an asylum claim, DHS is able to expeditiously return them to Mexico via voluntary departure.⁸ By contrast, UACs from non-contiguous countries are automatically placed in immigration proceedings and allowed to remain in the United States for years during the pendency of those proceedings whether they are a trafficking victim and/or have an asylum claim or not.⁹ This discrepancy in treatment is continuing to fuel the current surge at the border of UACs from Honduras, Guatemala, and El Salvador just as it did in 2014.

Therefore, in light of the obvious and continued need for legislative action in response to the current border crisis and record number of UAC encounters at the border, it would be helpful if you could provide guidance to Congress with respect to the following questions:

- (1) Do you agree that Congress, as requested by President Obama during the Obama-Biden Administration in 2014, should take action to amend Section 235 of the TVPRA in order to ensure that UACs from non-contiguous countries are subject to the same procedures that are currently in place for UACs from Mexico?
- (2) If so, will you commit to having Secretary Mayorkas and DHS work with us and other members of the Senate and House Judiciary Committees to ensure that we enact TVPRA reforms that the Administration will support to reduce the surge of UACs to the southern border?

Thank you for your attention to this important matter.

Sincerely,


Charles E. Grassley
Ranking Member
U.S. Senate Committee on the Judiciary


Jim Jordan
Ranking Member
House Committee on the Judiciary

cc: The Honorable Alejandro Mayorkas, Secretary, Department of Homeland Security

⁶ *Id.*

⁷ 8 USC §1232(a)(4) (2008).

⁸ 8 U.S.C. §1232(a)(2)(B) (2008).

⁹ 8 U.S.C. §1232(a)(3) (2008); 8 U.S.C. §1232(a)(5)(D) (2008).