

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide for enhanced protections for vulnerable alien children.

IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.

S. 1494

To amend the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to protect alien minors and to amend the Immigration and Nationality Act to end abuse of the asylum system and establish refugee application and processing centers outside the United States, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by _____

Viz:

1 Strike sections 2 and 3 and insert the following:

2 **SEC. 2. CHILD TRAFFICKING VICTIMS PROTECTION AND**
3 **WELFARE.**

4 (a) DEFINITIONS.—In this section:

5 (1) APPREHENDED PARENT OR LEGAL GUARD-
6 IAN.—The term “apprehended parent or legal
7 guardian” means an individual who is—

8 (A) the parent or legal guardian of a child;

9 and

1 (B) apprehended by the Secretary or the
2 personnel of a cooperating entity.

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

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

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

9 (B) has no permanent immigration status
10 in the United States.

11 (4) CHILD WELFARE PROFESSIONAL.—The
12 term “child welfare professional” means an indi-
13 vidual who—

14 (A) is licensed in social work by the State
15 welfare agency, and, if applicable, county wel-
16 fare agency, of the State and county in which
17 the port of entry or Border Patrol station at
18 which such individual available pursuant to sub-
19 section (b) is located;

20 (B) has direct experience working with
21 children; and

22 (C) is proficient in one or more of the most
23 common languages spoken by children appre-
24 hended at the applicable port of entry or Bor-
25 der Patrol station.

1 (5) COMMISSIONER.—The term “Commis-
2 sioner” means the Commissioner of U.S. Customs
3 and Border Protection.

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

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

9 (8) EXPERT IN CHILD DEVELOPMENT.—The
10 term “expert in child development” means an indi-
11 vidual who has significant education and expertise
12 on infant, child, and adolescent development, and on
13 the effects of trauma on children.

14 (9) EXPERT IN CHILD WELFARE.—The term
15 “expert in child welfare” means an individual who
16 has—

17 (A) knowledge of Federal and State child
18 welfare laws and standards; and

19 (B) not less than 15 years of experience in
20 the field of child and adolescent development or
21 child welfare.

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

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

1 (B) an individual with an advanced degree
2 in pediatric medicine on the faculty of an insti-
3 tution of higher education in the United States.

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

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

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

17 (b) CHILD WELFARE AT THE BORDER.—

18 (1) GUIDELINES.—The Secretary, in consulta-
19 tion with the Secretary of Health and Human Serv-
20 ices, experts in child development, experts in child
21 welfare, experts in pediatric medicine, and the Amer-
22 ican Bar Association Center on Children and the
23 Law, shall develop guidelines for the treatment of
24 children in the custody of the Commissioner.

1 (2) MANDATORY TRAINING.—The Secretary, in
2 consultation with the Secretary of Health and
3 Human Services, shall—

4 (A) require all U.S. Customs and Border
5 Protection personnel, and cooperating entity
6 personnel, who have contact with a child at a
7 port of entry or Border Patrol station to under-
8 go appropriate training, which shall include live
9 training, on—

10 (i) the applicable legal authorities,
11 policies, practices, and procedures relating
12 to children; and

13 (ii) child development, trauma, and
14 the manner in which trauma affects the
15 health and behavior of children; and

16 (B) require U.S. Customs and Border Pro-
17 tection personnel, not less frequently than an-
18 nually, to undertake continuing training on—

19 (i) identifying and responding to com-
20 mon signs and symptoms of medical dis-
21 tress in children;

22 (ii) best practices with respect to the
23 guidelines developed under paragraph (1);
24 and

1 (iii) changes in the legal authorities,
2 policies, and procedures described in sub-
3 paragraph (A)(i).

4 (3) QUALIFIED RESOURCES.—

5 (A) IN GENERAL.—In accordance with
6 paragraph (4), the Secretary shall provide re-
7 sources and staff, including child welfare pro-
8 fessionals, who are adequately trained and
9 qualified to address the needs of children at
10 each port of entry and Border Patrol station.

11 (B) SUFFICIENT STAFFING.—The Sec-
12 retary shall ensure that sufficient qualified child
13 welfare professionals and qualified experts in
14 pediatric medicine are available at each port of
15 entry and Border Patrol station to accomplish
16 the duties described in this subsection without
17 prolonging the time children and apprehended
18 parents and legal guardians remain in the cus-
19 tody of the Commissioner.

20 (C) CHILD WELFARE EXPERTISE.—The
21 Secretary, in consultation with the Secretary of
22 Health and Human Services, shall hire, or seek
23 to enter into contracts with, independent child
24 welfare professionals in order to do the fol-
25 lowing:

1 (i) To provide child welfare expertise
2 on-site on a full-time basis at any port of
3 entry or Border Patrol station that has
4 had not fewer than 25 children in cus-
5 tody—

6 (I) on any day during the pre-
7 ceding fiscal year; or

8 (II) during the current fiscal
9 year, based on a review of monthly
10 statistical reports during the current
11 fiscal year.

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

18 (iii) With respect to a port of entry or
19 Border Patrol station that is described in
20 clause (i) but is without on-site expertise
21 as required by such subparagraph during a
22 period of not more than 90 days in which
23 the Secretary, in consultation with the Sec-
24 retary of Health and Human Services, is
25 in the process of hiring or seeking to enter

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

6 (4) CHILD WELFARE PROFESSIONALS AND EX-
7 PERTS IN PEDIATRIC MEDICINE.—

8 (A) IN GENERAL.—The Secretary, in con-
9 sultation with the Secretary of Health and
10 Human Services, shall ensure the availability at
11 each port of entry and Border Patrol station of
12 not fewer than—

13 (i) one qualified child welfare profes-
14 sional with expertise in culturally com-
15 petent, trauma-centered, and develop-
16 mentally appropriate interviewing skills;
17 and

18 (ii) one qualified expert in pediatric
19 medicine.

20 (B) MEDICAL ASSESSMENTS.—On obtain-
21 ing custody of a child, the Commissioner shall
22 ensure that the child undergoes a medical as-
23 sessment carried out by, or in consultation
24 with, the expert in pediatric medicine at the ap-
25 plicable port of entry or Border Patrol Station,

1 in accordance with the guidelines developed
2 under paragraph (1).

3 (C) INTERPRETER REQUIRED.—In the case
4 of a child welfare professional or an expert in
5 pediatric medicine at a port of entry or Border
6 Patrol station who does not speak the language
7 of a child in custody at such port of entry or
8 station, the Secretary shall provide an inter-
9 preter.

10 (D) DUTIES.—A child welfare professional
11 described in subparagraph (A)(i) shall—

12 (i) ensure that—

13 (I) any allegation of abuse or
14 mistreatment of a child in the custody
15 of the Commissioner is referred to the
16 appropriate Federal and State au-
17 thorities;

18 (II) any investigation of an alle-
19 gation described in subclause (I)—

20 (aa) receives support from
21 the child welfare professional,
22 who shall follow up on the refer-
23 ral under that clause and coordi-
24 nate with the investigation until

1 the completion of the investiga-
2 tion; and

3 (bb) is conducted by a mul-
4 tidisciplinary team that uses a
5 trauma-informed approach to in-
6 vestigation, such as Children's
7 Advocacy Centers, to the max-
8 imum extent practicable; and

9 (III) the Commissioner and the
10 Director of the Office of Refugee Re-
11 settlement comply with applicable
12 child abuse reporting laws, including
13 by—

14 (aa) ensuring that children
15 in such custody have access to
16 applicable complaint mechanisms
17 to report abuse or misconduct;

18 (bb) reporting any allegation
19 of abuse or mistreatment to—

20 (AA) the applicable
21 Federal and State authori-
22 ties;

23 (BB) the Office of In-
24 spector General of the De-
25 partment;

1 (CC) the Office for
2 Civil Rights and Civil Lib-
3 erties of the Department;

4 (DD) the Internal Af-
5 fairs Office of U.S. Customs
6 and Border Protection; and

7 (EE) the Office of Ref-
8 ugee Resettlement;

9 (cc) providing notice to fed-
10 erally subcontracted legal service
11 providers in the applicable geo-
12 graphical area with respect to
13 any child in such custody who
14 has made an allegation of abuse
15 or mistreatment; and

16 (dd) directing the legal serv-
17 ice providers described in item
18 (cc) to relevant information relat-
19 ing to the availability of immigra-
20 tion and administrative relief for
21 individuals with pending civil
22 rights complaints;

23 (ii) conduct screening of each child in
24 such custody in accordance with section
25 235(a)(4) of the William Wilberforce Traf-

1 trafficking Victims Protection Reauthorization
2 Act of 2008 (8 U.S.C. 1232(a)(4));

3 (iii) with respect to a child who may
4 meet the notification and transfer require-
5 ments under subsections (a) and (b) of sec-
6 tion 235 of the William Wilberforce Traf-
7 ficking Victims Protection Reauthorization
8 Act of 2008 (8 U.S.C. 1232), including a
9 child for whom a determination cannot be
10 made, notify the Secretary and the Direc-
11 tor of the Office of Refugee Resettlement
12 of the presence of such child at the port of
13 entry or Border Patrol station;

14 (iv) provide to the Director of U.S.
15 Immigration and Customs Enforcement a
16 best interest placement recommendation
17 for each accompanied child and family
18 that—

19 (I) considers—

20 (aa) the best interests of the
21 child; and

22 (bb) applicable law; and

23 (II) favors a policy of release;

24 (v) interview any adult relative accom-
25 panying a child, including any sibling,

1 grandparent, aunt, uncle, or cousin of the
2 child;

3 (vi) for each unaccompanied alien
4 child in such custody, provide to the Direc-
5 tor of the Office of Refugee Resettle-
6 ment—

7 (I) an initial family relationship
8 and trafficking assessment, which
9 shall be conducted in accordance with
10 the timeframe under subsections
11 (a)(4) and (b)(3) of section 235 of the
12 William Wilberforce Trafficking Vic-
13 tims Protection Reauthorization Act
14 of 2008 (8 U.S.C. 1232); and

15 (II) recommendations for the ini-
16 tial placement of the child;

17 (vii) pursuant to procedures developed
18 by the Secretary, maintain the best inter-
19 ests of children in any migration deter-
20 rence program for family units carried out
21 at a border, including by—

22 (I) inquiring whether a child is
23 traveling with a parent, sibling, or
24 legal guardian;

1 (II) ascertaining whether the de-
2 tention or removal from the United
3 States of an apprehended parent or
4 legal guardian of a child presents a
5 humanitarian concern or a concern re-
6 lating to the physical safety of the ap-
7 prehended parent or legal guardian;

8 (III) in the case of a family sepa-
9 ration, ensuring that—

10 (aa) each member of the
11 family is provided with a tele-
12 phone number for each other
13 member of the family;

14 (bb) the apprehended parent
15 or legal guardian is afforded the
16 opportunity to speak with the
17 child of the apprehended parent
18 or legal guardian not fewer than
19 three times weekly, including not
20 fewer than 1 video conference;

21 (cc) for each child of the ap-
22 prehended parent or legal guard-
23 ian, the apprehended parent or
24 legal guardian—

25 (AA) knows—

1 (BB) the location of the
2 child; and

3 (CC) the date and loca-
4 tion of each scheduled immi-
5 gration court proceeding of
6 the child; and

7 (DD) is provided with
8 updated information if the
9 location of the child or a
10 scheduled immigration court
11 proceeding of the child
12 changes;

13 (dd) the location and contact
14 information for the apprehended
15 parent or legal guardian is main-
16 tained on file;

17 (ee) before separation, each
18 child is provided with an oppor-
19 tunity to say goodbye to the ap-
20 prehended parent or legal guard-
21 ian; and

22 (ff) with respect to the
23 health of the child, the appre-
24 hended parent or legal guard-
25 ian—

1 (AA) is able, before
2 separation, to communicate
3 to personnel of the Depart-
4 ment the medical history
5 and any known illness of the
6 child; and

7 (BB) is informed of
8 any medical treatment ad-
9 ministered to the child, in-
10 cluding psychotropic drugs,
11 during the period in which
12 the child is in the custody of
13 the Director of the Office of
14 Refugee Resettlement; and

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

20 (aa) consideration is given
21 to—

22 (AA) the best interests
23 of the child of the appre-
24 hended parent or legal
25 guardian;

1 (BB) family unity, to
2 the maximum extent pos-
3 sible; and

4 (CC) any other public
5 interest factor, including a
6 humanitarian concern and a
7 concern relating to the phys-
8 ical safety of the appre-
9 hended parent or legal
10 guardian; and

11 (bb) the apprehended parent
12 or legal guardian and the child
13 have access to legal counsel; and

14 (viii) coordinate with the Consulate of
15 Mexico to ensure the safe repatriation of
16 any child who is a citizen of Mexico.

17 (E) PRESERVATION OF CONFIDEN-
18 TIALITY.—Each child welfare professional shall
19 maintain the privacy and confidentiality of all
20 information gathered in the course of providing
21 care, custody, placement, and follow-up services
22 to a child pursuant to this subsection, con-
23 sistent with the best interest of the child, by
24 not disclosing such information to other Federal

1 agencies or nonparental third parties unless
2 such disclosure—

3 (i) is in the best interest of the child;

4 (ii) is in writing;

5 (iii) includes an explanation of the
6 justification for the disclosure;

7 (iv) is included in the file of the child;

8 and

9 (v) is—

10 (I) authorized by the child or an
11 approved sponsor of the child, in ac-
12 cordance with section 235 of the Wil-
13 liam Wilberforce Trafficking Victims
14 Protection Reauthorization Act of
15 2008 (8 U.S.C. 1232) and the Health
16 Insurance Portability and Account-
17 ability Act (Public Law 104–191; 110
18 Stat. 1936); or

19 (II) provided to a duly recognized
20 law enforcement entity to prevent im-
21 minent and serious harm to another
22 individual.

23 (5) PROHIBITION ON SEPARATION.—The Sec-
24 retary may not remove a child from a parent or legal
25 guardian solely for a purpose as follows:

1 (A) The purpose of furthering the policy
2 objective of deterring individuals from migrat-
3 ing to the United States.

4 (B) The purpose of furthering the policy
5 objective of promoting compliance with the im-
6 migration laws.

7 (6) FAMILY UNIT TRACKING NUMBER.—

8 (A) IN GENERAL.—The Secretary shall as-
9 sign a family unit tracking number to each
10 member of an apprehended family unit, includ-
11 ing—

12 (i) an apprehended spouse;

13 (ii) an apprehended parent or legal
14 guardian;

15 (iii) a child of an apprehended parent
16 or legal guardian; and

17 (iv) each member of a sibling group.

18 (B) REQUIREMENTS.—The Secretary shall
19 ensure that a family unit tracking number—

20 (i) is transferrable;

21 (ii) may be shared easily among the
22 data systems of—

23 (I) U.S. Customs and Border
24 Protection;

1 (II) U.S. Immigration and Cus-
2 toms Enforcement; and

3 (III) the Office of Refugee Reset-
4 tlement; and

5 (iii)(I) is included on the paperwork of
6 each member of an apprehended family
7 unit; and

8 (II) is not deleted or altered.

9 (7) MONITORING.—The Secretary shall—

10 (A) allow nongovernmental organizations
11 and State and local child welfare agencies in
12 the jurisdiction in which an apprehended child
13 is located to conduct not less than one monthly
14 unannounced, independent inspection of any
15 Department facility that houses one or more
16 children; and

17 (B) in consultation with one or more child
18 welfare professionals and 1 or more experts in
19 pediatric medicine, for the purpose of human
20 rights monitoring, develop procedures to provide
21 nongovernmental organizations regular and full
22 access to any facility in which one or more chil-
23 dren is housed.

24 (8) REPORT.—

1 (A) IN GENERAL.—Not later than 18
2 months after the date of the enactment of this
3 Act, and every fiscal quarter thereafter, the
4 Secretary shall submit to the Committee on the
5 Judiciary, the Committee on Homeland Security
6 and Governmental Affairs, and the Committee
7 on Health, Education, Labor, and Pensions
8 of the Senate and the Committee on the
9 Judiciary, the Committee on Oversight and Reform,
10 and the Committee on Education and
11 Labor of the House of Representatives a report
12 that, for the preceding fiscal quarter—

13 (i) describes the procedures used by
14 child welfare professionals under this section
15 to screen unaccompanied alien children
16 and children accompanied by a parent
17 or legal guardian;

18 (ii) assesses the effectiveness of such
19 screenings;

20 (iii) includes data on all children
21 screened by child welfare professionals
22 under this section, including—

23 (I) the number and location of
24 children in the physical custody of the
25 Department;

1 (II) the number of children
2 transferred to the custody of the Sec-
3 retary of Health and Human Services;

4 (III) the number of children ap-
5 prehended together with a parent or
6 legal guardian;

7 (IV) the number of children sepa-
8 rated from a parent or legal guardian
9 by the Department and the reason for
10 such separation; and

11 (V) the number of children re-
12 moved from the United States and the
13 countries of nationality of such chil-
14 dren; and

15 (iv) includes documentation of—

16 (I) compliance with the guide-
17 lines developed pursuant to this sec-
18 tion;

19 (II) instances of noncompliance
20 with such guidelines; and

21 (III) actions taken to correct
22 noncompliance with such guidelines.

23 (B) LIMITATION.—The data under sub-
24 paragraph (A)(iii) shall not include the person-
25 ally identifiable information of any child.

1 (9) IMMEDIATE NOTIFICATION.—With respect
2 to a child in the custody of the Secretary, to effec-
3 tively and efficiently coordinate the transfer of the
4 child to and placement of the child with the Director
5 of the Office of Refugee Resettlement, the Secretary
6 shall notify the Director of the Office of Refugee Re-
7 settlement as soon as practicable, but not later than
8 48 hours after the time at which the Secretary en-
9 counters the child.

10 (10) STANDARDS OF CARE FOR SHORT-TERM
11 CUSTODY OF CHILDREN.—

12 (A) IN GENERAL.—Not later than 180
13 days after the date of the enactment of this
14 Act, the Secretary, in consultation with the
15 head of the Office for Civil Rights and Civil
16 Liberties of the Department, shall promulgate
17 regulations establishing basic standards of care
18 for the short-term custody of children by the
19 Commissioner.

20 (B) REQUIREMENTS.—The regulations
21 promulgated pursuant to subparagraph (A)
22 shall ensure that all children in the custody of
23 the Commissioner, while in such custody—

24 (i) receive a health interview, a med-
25 ical assessment, and all necessary medical

1 treatment, including emergency medical
2 care, as necessary;

3 (ii) receive emergency medical and
4 mental health care in compliance with sec-
5 tion 8(c) of the Prison Rape Elimination
6 Act of 2003 (42 U.S.C. 15607(c)), as nec-
7 essary, including in any case in which a
8 child is at risk of harming himself or her-
9 self or others;

10 (iii) are provided—

11 (I) continual access to potable
12 water;

13 (II) a climate-appropriate envi-
14 ronment;

15 (III) climate-appropriate clothing
16 and shoes;

17 (IV) access to bathroom facilities
18 and hygiene items, including soap,
19 feminine hygiene products, toothpaste,
20 toothbrushes and towels, and, in the
21 case of any child in such custody for
22 more than 24 hours, showers;

23 (V) a pillow;

24 (VI) linens;

1 (VII) sufficient blankets to rest
2 at a comfortable temperature;

3 (VIII) diapers, diapering sup-
4 plies, infant formula, and infant feed-
5 ing supplies, as necessary;

6 (IX) in the case of any child in
7 such custody for more than 12 hours,
8 access to a bed and adequate bedding;
9 and

10 (X) a location to sleep in which
11 the lights are dimmed;

12 (iv)(I) are offered food at the time at
13 which the Commissioner obtains custody of
14 the child; and

15 (II) receive adequate nutrition, includ-
16 ing not fewer than three daily meals that
17 include 1 or more fruits or vegetables;

18 (v) have a safe and sanitary living en-
19 vironment;

20 (vi) in the case of any child in such
21 custody for more than 24 hours, have ac-
22 cess to daily recreational programs and ac-
23 tivities, including recreational time out-
24 doors;

1 (vii) have regular access to legal serv-
2 ices and consular officials in person and
3 telephonically; and

4 (viii) are permitted to make super-
5 vised video conference calls, if available,
6 and telephone calls to family members.

7 (11) ENSURING CHILDREN HAVE ACCESS TO
8 LEGAL RIGHTS.—

9 (A) IN GENERAL.—The Secretary shall en-
10 sure that each child, on apprehension, is pro-
11 vided—

12 (i) an interview and screening with a
13 child welfare professional as described in
14 paragraph (4); and

15 (ii) a video orientation and oral and
16 written notice, in a language understood by
17 the child, of the rights of the child under
18 the Immigration and Nationality Act (8
19 U.S.C. 1101 et seq.), including—

20 (I) the right to relief from re-
21 moval;

22 (II) the right—

23 (aa) to confer with counsel
24 under section 292 of such Act (8
25 U.S.C. 1362); and

1 (bb) to have access to family
2 or friends while in the temporary
3 custody of the Department; and

4 (III) the applicable complaint
5 mechanism to report any abuse, mis-
6 treatment, or misconduct.

7 (B) LANGUAGES.—The Secretary shall en-
8 sure that, at each location at which one or more
9 children are held in custody, the video orienta-
10 tion described in subparagraph (A)(2) is avail-
11 able in English and the five most common na-
12 tive languages spoken by children held in cus-
13 tody at that location during the preceding fiscal
14 year.

15 (C) ACCESS TO LEGAL COUNSEL.—The
16 Secretary shall ensure that each apprehended
17 parent or legal guardian and each child is pro-
18 vided access to one or more nongovernmental
19 organizations that provide legal assistance.

20 (12) CHILD PROTECTION POLICIES.—With re-
21 spect to children, the Secretary shall adopt funda-
22 mental child protection policies and procedures—

23 (A) to make reliable age determinations,
24 developed in consultation with experts in the
25 physiological, cognitive, and emotional develop-

1 ment of children and experts in pediatric medi-
2 cine, which shall exclude the use of fallible fo-
3 rensic testing of the bones and teeth of chil-
4 dren;

5 (B) to use all legal authorities to defer the
6 removal from the United States of a child who
7 faces a risk of life-threatening harm on return,
8 including harm due to the mental health or
9 medical condition of the child; and

10 (C) to ensure, in accordance with the Juve-
11 nile Justice and Delinquency Prevention Act of
12 1974 (42 U.S.C. 5601 et seq.), that a child in
13 custody of the Secretary is separated physically,
14 and by sight and sound, from any—

15 (i) immigration detainee or inmate
16 with a criminal conviction;

17 (ii) pretrial inmate facing criminal
18 prosecution; and

19 (iii) inmate exhibiting violent behav-
20 ior.

21 (13) PRESERVATION OF RECORDS.—The Sec-
22 retary shall preserve all records associated with chil-
23 dren in the custody of the Commissioner, including
24 records as follows:

1 (A) Records containing information on the
2 identity of any child, and, if accompanied by
3 any family member, on the identity of such
4 family member.

5 (B) Records associated with reported inci-
6 dents of abuse of children while in custody.

7 (14) TRANSFER OF FUNDS.—

8 (A) AUTHORIZATION.—The Secretary, in
9 accordance with a written agreement between
10 the Secretary and the Secretary of Health and
11 Human Services, to the extent and in such
12 amounts as are provided in advance in appro-
13 priations Acts, shall transfer from amounts ap-
14 propriated for U.S. Customs and Border Pro-
15 tection to the Department of Health and
16 Human Services such amounts as may be nec-
17 essary to carry out the duties described in para-
18 graphs (3) and (4)(D).

19 (B) REPORT.—Not later than 15 days be-
20 fore the date of any proposed transfer under
21 subparagraph (A), the Secretary of Health and
22 Human Services, in consultation with the Sec-
23 retary, shall submit to the Committee on Ap-
24 propriations of the Senate and the Committee
25 on Appropriations of the House of Representa-

1 tives a detailed expenditure plan that describes
2 the actions proposed to be taken with the
3 amounts transferred under such subparagraph.

4 (c) SAVINGS PROVISIONS.—

5 (1) FEDERAL LAW.—Nothing in this section
6 may be construed to supersede or modify—

7 (A) the William Wilberforce Trafficking
8 Victims Protection Act of 2008 (8 U.S.C. 1232
9 et seq.);

10 (B) the Stipulated Settlement Agreement
11 filed in the United States District Court for the
12 Central District of California on January 17,
13 1997 (CV 85–4544–RJK) (commonly known as
14 the “Flores Settlement Agreement”);

15 (C) the Homeland Security Act of 2002 (6
16 U.S.C. 101 et seq.); or

17 (D) any applicable Federal child welfare
18 law, including the Adoption and Safe Families
19 Act of 1997 (Public Law 105–89).

20 (2) STATE LAW.—Nothing in this section may
21 be construed to supersede or modify any applicable
22 State child welfare law.