

AMENDMENT NO. _____ Calendar No. _____

Purpose: To require non-Federal prison, correctional, and detention facilities holding Federal prisoners or detainees under a contract with the Federal Government to make the same information available to the public that Federal prisons and correctional facilities are required to make available.

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 At the end, add the following:
- 2 **SEC. ____ . PRIVATE PRISON INFORMATION ACT.**
- 3 (a) **SHORT TITLE.**—This section may be cited as the
- 4 “Private Prison Information Act of 2019”.
- 5 (b) **DEFINITIONS.**—In this section—

1 (1) the term “agency” has the meaning given
2 the term in section 551 of title 5, United States
3 Code;

4 (2) the term “applicable entity” means—

5 (A) a nongovernmental entity contracting
6 with, or receiving funds directly or indirectly
7 from, a covered agency to incarcerate or detain
8 Federal prisoners or detainees in a non-Federal
9 prison, correctional, or detention facility; or

10 (B) a State or local governmental entity
11 with an intergovernmental agreement with a
12 covered agency to incarcerate or detain Federal
13 prisoners or detainees in a non-Federal prison,
14 correctional, or detention facility;

15 (3) the term “covered agency” means an agency
16 that contracts with, or provides funds to, an applica-
17 ble entity to incarcerate or detain Federal prisoners
18 or detainees in a non-Federal prison, correctional, or
19 detention facility; and

20 (4) the term “non-Federal prison, correctional,
21 or detention facility” means—

22 (A) a privately owned or privately operated
23 prison, correctional, or detention facility; or

24 (B) a State or local prison, jail, or other
25 correctional or detention facility.

1 (c) FREEDOM OF INFORMATION ACT APPLICABLE
2 FOR CONTRACT PRISONS.—

3 (1) IN GENERAL.—A record relating to a non-
4 Federal prison, correctional, or detention facility
5 shall be—

6 (A) considered an agency record for pur-
7 poses of section 552(f)(2) of title 5, United
8 States Code, whether in the possession of an
9 applicable entity or a covered agency; and

10 (B) subject to section 552 of title 5,
11 United States Code (commonly known as the
12 “Freedom of Information Act”), to the same
13 extent as if the record was maintained by an
14 agency operating a Federal prison, correctional,
15 or detention facility.

16 (2) WITHHOLDING OF INFORMATION.—A cov-
17 ered agency may not withhold information that
18 would otherwise be required to be disclosed under
19 paragraph (1) unless—

20 (A) the covered agency, based on the inde-
21 pendent assessment of the covered agency, rea-
22 sonably foresees that disclosure of the informa-
23 tion would cause specific identifiable harm to
24 an interest protected by an exemption from dis-

1 closure under section 552(b) of title 5, United
2 States Code; or

3 (B) disclosure of the information is prohib-
4 ited by law.

5 (3) **FORMAT OF RECORDS.**—An applicable enti-
6 ty shall maintain records relating to a non-Federal
7 prison, correctional, or detention facility in formats
8 that are readily reproducible and reasonably search-
9 able by the covered agency that contracts with or
10 provides funds to the applicable entity to incarcerate
11 or detain Federal prisoners or detainees in the non-
12 Federal prison, correctional, or detention facility.

13 (4) **REGULATIONS.**—

14 (A) **IN GENERAL.**—Not later than 180
15 days after the date of enactment of this Act, a
16 covered agency shall promulgate regulations or
17 guidance to ensure compliance with this sub-
18 section by the covered agency and an applicable
19 entity that the covered agency contracts with or
20 provides funds to incarcerate or detain Federal
21 prisoners or detainees in a non-Federal prison,
22 correctional, or detention facility.

23 (B) **COMPLIANCE BY APPLICABLE ENTI-**
24 **TIES.**—

1 (i) IN GENERAL.—Compliance with
2 this subsection by an applicable entity shall
3 be included as a material term in any con-
4 tract, agreement, or renewal of a contract
5 or agreement with the applicable entity re-
6 garding the incarceration or detention of
7 Federal prisoners or detainees in a non-
8 Federal prison, correctional, or detention
9 facility.

10 (ii) MODIFICATION OF CONTRACT OR
11 AGREEMENT.—Not later than 1 year after
12 the date of enactment of this Act, a cov-
13 ered agency shall secure a modification to
14 include compliance with this subsection by
15 an applicable entity as a material term in
16 any contract or agreement described under
17 clause (i) that will not otherwise be renego-
18 tiated, renewed, or modified before the
19 date that is 1 year after the date of enact-
20 ment of this Act.

21 (5) RULE OF CONSTRUCTION.—Nothing in this
22 section shall be construed to limit or reduce the
23 scope of State or local open records laws.