

Testimony of  
**The Honorable Orrin Hatch**

February 28, 2002

I am pleased that our attention is focused today on the plight of children who lack lawful immigration status in the United States. In the aftermath of September 11, 2001, we have, in a very bipartisan manner, tightened some of the immigration laws and procedures that have left us vulnerable to those who would seek to do us harm and we will continue to do so. Accordingly, it is my sincere hope that the Senate will quickly pass the Enhanced Border Security and Visa Entry Reform Act of 2001, which the House passed last year. That bill, which is a measure of true bipartisan support, is a product of many hours of hard work and is desperately needed. However, we must also remember our humanitarian legacy when it comes to special consideration of the immigration status of particularly vulnerable classes of people.

Sadly, more than a few foreign-born children arrive in the United States each year without parents or legal guardians. In 1999, for instance, more than 4,600 such children entered the country. Some children are rented-- yes, you heard me correctly, rented-- to unscrupulous smugglers, who then use the children to perpetuate the fraudulent entry of others who either lack a valid visa or have no intention of abiding by the terms of the same. Other children come in hopes of escaping desperate circumstances and persecution in their home countries. Whatever the case, unaccompanied minor children are often victims in the truest sense of the word.

Once here, these children, who usually speak little or no English, face a very complex legal process. In addition, the INS must determine where to place the children pending the oftentimes lengthy ordeal. All too often, these children have been unnecessarily placed in highly-secured facilities, co-mingled with violent juvenile offenders.

Today, I am very interested in the discussion of S. 121. Particularly, I would appreciate the comments of the witnesses regarding (1) the need for legal counsel and guardians ad litem to assist unaccompanied children and (2) the proposed change to transfer custody of unaccompanied minor children from the INS to a separate office within the Justice Department, and why it is suggested that both are necessary.

However, before I end, I would also like to briefly discuss an equally important and related issue: that of a slightly different class of children-- those being long-term illegally resident children. That is, minor children who were illegally brought to and remain in the United States through no fault of their own. Long-term illegally resident children often are not even aware of their illegal status in the United States. They are, by law, accorded the right to education through high school. However, they are provided no independent ability, no matter what their individual accomplishments, to become lawful permanent residents. That is why I have introduced student adjustment measures. I should also recognize and commend a similar, but different approach to this issue sponsored by my good friend, Senator Durbin. We recognize that although the parents of long-term illegally resident children knowingly remain in the United States in violation of the

law, their children are assimilated into American culture; they attend school, participate in extracurricular activities, and earn scholarships to college. They are largely intent on being contributors to society, and want to better themselves. Current law provides a disincentive for that to happen. They lack the right to work. It is very difficult for them to obtain the college degrees so many of them desire. For instance, under current law, individual states are not permitted to allow long-term illegally resident children to pay in-state tuition despite having what would normally be resident status for tuition purposes.

To illustrate, allow me to briefly mention the moving story of one of my constituents, Danny. When he was 6 years old, Danny's mother illegally brought him into the United States. After a very difficult 8 years, Danny was finally abandoned and left to roam the streets of Salt Lake City. While Danny had been attending school, he dropped out so he could earn enough money to survive on his own. Finally, Danny met Kevin King, the owner of a Utah landscape company, who agreed to hire him. Discovering that Danny had no home, Kevin invited Danny to live with him in what he believed would be a temporary arrangement. In a recent letter to me, Kevin mentions that, "The first couple of months together I learned a great deal about Danny. I learned that one of the things he missed most was being able to go to school." Kevin then made the necessary legal arrangements for Danny to resume his education. Although Danny had a full year of classes to make up, he did so under Kevin's care by attending night and summer school, and even taking some correspondence home study courses.

On September 25, 2001, Kevin adopted Danny as his son. However, because of the date of the adoption, Danny is ineligible to become a lawful resident of the United States. Instead, he lives in legal limbo, ever-fearful that the INS may take steps to remove him from the only true family he has ever known. He cannot legally work, and securing a college degree is proving difficult and costly. However, that has not stopped Danny. He is now in his third semester of college at the University of Utah and I am proud of him.

Again, I quote from Danny's father's letter. "Danny is exactly what our country needs more of. He is a natural born leader with charisma and intelligence and a drive that will take him wherever he wants to go. But this will not be possible if Danny is unable to obtain permanent residency." Danny also writes and states, "My father gave me the gift of feeling . . . and the opportunity to dream."

Danny's story is one of thousands. The student adjustment bill I introduced last year, called the Dream Act (S. 1291), can remedy this grave situation. It provides for earned or incentivized adjustment. It does not grant amnesty. Qualified children must be long-term illegal residents of the United States, meaning those who entered the United States only recently are ineligible for adjustment of status under the bill. Further, the child must have good moral character ensuring that we do not extend any benefit to those who do not deserve it.

In short, I am very pleased that we are discussing these issues today and commend the chair and Senator Kennedy for their leadership and for holding this hearing.

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