

# Calendar No. 74

109TH CONGRESS  
1ST SESSION

# S. 119

To provide for the protection of unaccompanied alien children, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2005

Mrs. FEINSTEIN (for herself, Ms. COLLINS, Mr. SCHUMER, Mr. HAGEL, Mr. DURBIN, Mr. DEWINE, Ms. CANTWELL, Mr. INOUE, Mr. FEINGOLD, Mr. LUGAR, Mr. BINGAMAN, Ms. MURKOWSKI, Mr. KENNEDY, Mr. BROWNBACK, Mr. CHAFEE, Mr. AKAKA, Mr. SPECTER, Mr. KOHL, Mr. LEAHY, and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

APRIL 14, 2005

Reported by Mr. SPECTER, with an amendment

[Insert the part printed in italic]

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## A BILL

To provide for the protection of unaccompanied alien 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Unaccompanied Alien Child Protection Act of 2005”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

Sec. 1. Short title; table of contents  
 Sec. 2. Definitions

TITLE I—CUSTODY, RELEASE, FAMILY REUNIFICATION, AND  
 DETENTION

Sec. 101. Procedures when encountering unaccompanied alien children  
 Sec. 102. Family reunification for unaccompanied alien children with relatives  
 in the United States  
 Sec. 103. Appropriate conditions for detention of unaccompanied alien children  
 Sec. 104. Repatriated unaccompanied alien children  
 Sec. 105. Establishing the age of an unaccompanied alien child  
 Sec. 106. Effective date

TITLE II—ACCESS BY UNACCOMPANIED ALIEN CHILDREN TO  
 GUARDIANS AD LITEM AND COUNSEL

Sec. 201. Guardians ad litem  
 Sec. 202. Counsel  
 Sec. 203. Effective date; applicability

TITLE III—STRENGTHENING POLICIES FOR PERMANENT  
 PROTECTION OF ALIEN CHILDREN

Sec. 301. Special immigrant juvenile visa  
 Sec. 302. Training for officials and certain private parties who come into con-  
 tact with unaccompanied alien children  
 Sec. 303. Report  
 Sec. 304. Effective date

TITLE IV—CHILDREN REFUGEE AND ASYLUM SEEKERS

Sec. 401. Guidelines for children’s asylum claims  
 Sec. 402. Unaccompanied refugee children  
 Sec. 403. Exceptions for unaccompanied alien children in asylum and refugee-  
 like circumstances

TITLE V—AUTHORIZATION OF APPROPRIATIONS

Sec. 501. Authorization of appropriations

TITLE VI—AMENDMENTS TO THE HOMELAND SECURITY ACT OF  
 2002

Sec. 601. Additional responsibilities and powers of the Office of Refugee Reset-  
 tlement with respect to unaccompanied alien children  
 Sec. 602. Technical corrections  
 Sec. 603. Effective date

3 **SEC. 2. DEFINITIONS.**

4 (a) IN GENERAL.—In this Act:

1           (1) COMPETENT.—The term “competent”, in  
2 reference to counsel, means an attorney who—

3           (A) complies with the duties set forth in  
4 this Act;

5           (B) is a member in good standing of the  
6 bar of the highest court of any State, posses-  
7 sion, territory, Commonwealth, or the District  
8 of Columbia;

9           (C) is not under any order of any court  
10 suspending, enjoining, restraining, disbaring,  
11 or otherwise restricting the attorney in the  
12 practice of law; and

13           (D) is properly qualified to handle matters  
14 involving unaccompanied immigrant children or  
15 is working under the auspices of a qualified  
16 nonprofit organization that is experienced in  
17 handling such matters.

18           (2) DIRECTOR.—The term “Director” means  
19 the Director of the Office.

20           (3) DIRECTORATE.—The term “Directorate”  
21 means the Directorate of Border and Transportation  
22 Security established by section 401 of the Homeland  
23 Security Act of 2002 (6 U.S.C. 201).

24           (4) OFFICE.—The term “Office” means the Of-  
25 fice of Refugee Resettlement established by section

1 411 of the Immigration and Nationality Act (8  
2 U.S.C. 1521).

3 (5) SECRETARY.—The term “Secretary” means  
4 the Secretary of Homeland Security.

5 (6) UNACCOMPANIED ALIEN CHILD.—The term  
6 “unaccompanied alien child” has the meaning given  
7 the term in section 462(g)(2) of the Homeland Secu-  
8 rity Act of 2002 (6 U.S.C. 279(g)(2)).

9 (7) VOLUNTARY AGENCY.—The term “vol-  
10 untary agency” means a private, nonprofit voluntary  
11 agency with expertise in meeting the cultural, devel-  
12 opmental, or psychological needs of unaccompanied  
13 alien children, as certified by the Director.

14 (b) AMENDMENTS TO THE IMMIGRATION AND NA-  
15 TIONALITY ACT.—Section 101(a) of the Immigration and  
16 Nationality Act (8 U.S.C. 1101(a)) is amended by adding  
17 at the end the following:

18 “(51) The term ‘unaccompanied alien child’ means  
19 a child who—

20 “(A) has no lawful immigration status in the  
21 United States;

22 “(B) has not attained the age of 18; and

23 “(C) with respect to whom—

24 “(i) there is no parent or legal guardian in  
25 the United States; or

1           “(ii) no parent or legal guardian in the  
 2           United States is able to provide care and phys-  
 3           ical custody.

4           “(52) The term ‘unaccompanied refugee children’  
 5 means persons described in paragraph (42) who—

6           “(A) have not attained the age of 18; and

7           “(B) with respect to whom there are no parents  
 8           or legal guardians available to provide care and  
 9           physical custody.”.

10          (c) RULE OF CONSTRUCTION.—A department or  
 11 agency of a State, or an individual or entity appointed by  
 12 a State court or juvenile court located in the United  
 13 States, acting in loco parentis, shall not be considered a  
 14 legal guardian for purposes of section 462 of the Home-  
 15 land Security Act of 2002 (6 U.S.C. 279) or this Act.

16 **TITLE I—CUSTODY, RELEASE,**  
 17 **FAMILY REUNIFICATION, AND**  
 18 **DETENTION**

19 **SEC. 101. PROCEDURES WHEN ENCOUNTERING UNACCOM-**  
 20 **PANIED ALIEN CHILDREN.**

21          (a) UNACCOMPANIED CHILDREN FOUND ALONG THE  
 22 UNITED STATES BORDER OR AT UNITED STATES PORTS  
 23 OF ENTRY.—

24           (1) IN GENERAL.—Subject to paragraph (2), if  
 25           an immigration officer finds an unaccompanied alien

1 child who is described in paragraph (2) at a land  
2 border or port of entry of the United States and de-  
3 termines that such child is inadmissible under the  
4 Immigration and Nationality Act (8 U.S.C. 1101 et  
5 seq.), the officer shall—

6 (A) permit such child to withdraw the  
7 child's application for admission pursuant to  
8 section 235(a)(4) of the Immigration and Na-  
9 tionality Act (8 U.S.C. 1225(a)(4)); and

10 (B) return such child to the child's country  
11 of nationality or country of last habitual resi-  
12 dence.

13 (2) SPECIAL RULE FOR CONTIGUOUS COUN-  
14 TRIES.—

15 (A) IN GENERAL.—Any child who is a na-  
16 tional or habitual resident of a country that is  
17 contiguous with the United States and that has  
18 an agreement in writing with the United States  
19 providing for the safe return and orderly repa-  
20 triation of unaccompanied alien children who  
21 are nationals or habitual residents of such  
22 country shall be treated in accordance with  
23 paragraph (1), if a determination is made on a  
24 case-by-case basis that—

1 (i) such child is a national or habitual  
2 resident of a country described in this sub-  
3 paragraph;

4 (ii) such child does not have a fear of  
5 returning to the child's country of nation-  
6 ality or country of last habitual residence  
7 owing to a fear of persecution;

8 (iii) the return of such child to the  
9 child's country of nationality or country of  
10 last habitual residence would not endanger  
11 the life or safety of such child; and

12 (iv) the child is able to make an inde-  
13 pendent decision to withdraw the child's  
14 application for admission due to age or  
15 other lack of capacity.

16 (B) RIGHT OF CONSULTATION.—Any child  
17 described in subparagraph (A) shall have the  
18 right, and shall be informed of that right in the  
19 child's native language—

20 (i) to consult with a consular officer  
21 from the child's country of nationality or  
22 country of last habitual residence prior to  
23 repatriation; and

24 (ii) to consult, telephonically, with the  
25 Office.

1           (3) RULE FOR APPREHENSIONS AT THE BOR-  
2           DER.—The custody of unaccompanied alien children  
3           not described in paragraph (2) who are apprehended  
4           at the border of the United States or at a United  
5           States port of entry shall be treated in accordance  
6           with subsection (b).

7           (b) CARE AND CUSTODY OF UNACCOMPANIED ALIEN  
8           CHILDREN FOUND IN THE INTERIOR OF THE UNITED  
9           STATES.—

10           (1) ESTABLISHMENT OF JURISDICTION.—

11           (A) IN GENERAL.—Except as otherwise  
12           provided under subparagraphs (B) and (C) and  
13           subsection (a), the care and custody of all unac-  
14           companied alien children, including responsi-  
15           bility for their detention, where appropriate,  
16           shall be under the jurisdiction of the Office.

17           (B) EXCEPTION FOR CHILDREN WHO HAVE  
18           COMMITTED CRIMES.—Notwithstanding sub-  
19           paragraph (A), the Directorate shall retain or  
20           assume the custody and care of any unaccom-  
21           panied alien child who—

22           (i) has been charged with any felony,  
23           excluding offenses proscribed by the Immi-  
24           gration and Nationality Act (8 U.S.C.

1           1101 et seq.), while such charges are pend-  
2           ing; or

3           (ii) has been convicted of any such fel-  
4           ony.

5           (C) EXCEPTION FOR CHILDREN WHO  
6           THREATEN NATIONAL SECURITY.—Notwith-  
7           standing subparagraph (A), the Directorate  
8           shall retain or assume the custody and care of  
9           an unaccompanied alien child if the Secretary  
10          has substantial evidence, based on an individ-  
11          ualized determination, that such child could  
12          personally endanger the national security of the  
13          United States.

14          (D) TRAFFICKING VICTIMS.—For purposes  
15          of section 462 of the Homeland Security Act of  
16          2002 (6 U.S.C. 279) and this Act, an unaccom-  
17          panied alien child who is eligible for services au-  
18          thorized under the Victims of Trafficking and  
19          Violence Protection Act of 2000 (Public Law  
20          106–386), shall be considered to be in the cus-  
21          tody of the Office.

22          (2) NOTIFICATION.—

23          (A) IN GENERAL.—The Secretary shall  
24          promptly notify the Office upon—

1 (i) the apprehension of an unaccom-  
2 panied alien child;

3 (ii) the discovery that an alien in the  
4 custody of the Directorate is an unaccom-  
5 panied alien child;

6 (iii) any claim by an alien in the cus-  
7 tody of the Directorate that such alien is  
8 under the age of 18; or

9 (iv) any suspicion that an alien in the  
10 custody of the Directorate who has claimed  
11 to be over the age of 18 is actually under  
12 the age of 18.

13 (B) SPECIAL RULE.—In the case of an  
14 alien described in clause (iii) or (iv) of subpara-  
15 graph (A), the Director shall make an age de-  
16 termination in accordance with section 105 and  
17 take whatever other steps are necessary to de-  
18 termine whether such alien is eligible for treat-  
19 ment under section 462 of the Homeland Secu-  
20 rity Act of 2002 (6 U.S.C. 279) or this Act.

21 (3) TRANSFER OF UNACCOMPANIED ALIEN  
22 CHILDREN.—

23 (A) TRANSFER TO THE OFFICE.—The care  
24 and custody of an unaccompanied alien child  
25 shall be transferred to the Office—

1 (i) in the case of a child not described  
2 in subparagraph (B) or (C) of paragraph  
3 (1), not later than 72 hours after a deter-  
4 mination is made that such child is an un-  
5 accompanied alien child;

6 (ii) in the case of a child whose cus-  
7 tody and care has been retained or as-  
8 sumed by the Directorate pursuant to sub-  
9 subparagraph (B) or (C) of paragraph (1),  
10 immediately following a determination that  
11 the child no longer meets the description  
12 set forth in such subparagraphs; or

13 (iii) in the case of a child who was  
14 previously released to an individual or enti-  
15 ty described in section 102(a)(1), upon a  
16 determination by the Director that such in-  
17 dividual or entity is no longer able to care  
18 for the child.

19 (B) TRANSFER TO THE DIRECTORATE.—  
20 Upon determining that a child in the custody of  
21 the Office is described in subparagraph (B) or  
22 (C) of paragraph (1), the Director shall trans-  
23 fer the care and custody of such child to the  
24 Directorate.

1 (C) PROMPTNESS OF TRANSFER.—In the  
2 event of a need to transfer a child under this  
3 paragraph, the sending office shall make  
4 prompt arrangements to transfer such child and  
5 the receiving office shall make prompt arrange-  
6 ments to receive such child.

7 (c) AGE DETERMINATIONS.—In any case in which  
8 the age of an alien is in question and the resolution of  
9 questions about the age of such alien would affect the  
10 alien’s eligibility for treatment under section 462 of the  
11 Homeland Security Act of 2002 (6 U.S.C. 279) or this  
12 Act, a determination of whether or not such alien meets  
13 such age requirements shall be made by the Director in  
14 accordance with section 105.

15 **SEC. 102. FAMILY REUNIFICATION FOR UNACCOMPANIED**  
16 **ALIEN CHILDREN WITH RELATIVES IN THE**  
17 **UNITED STATES.**

18 (a) PLACEMENT AUTHORITY.—

19 (1) ORDER OF PREFERENCE.—Subject to the  
20 discretion of the Director under paragraph (4), sec-  
21 tion 103(a)(2), and section 462(b)(2) of the Home-  
22 land Security Act of 2002 (6 U.S.C. 279(b)(2)), an  
23 unaccompanied alien child in the custody of the Of-  
24 fice shall be promptly placed with 1 of the following

1 individuals or entities in the following order of pref-  
2 erence:

3 (A) A parent who seeks to establish cus-  
4 tody, as described in paragraph (3)(A).

5 (B) A legal guardian who seeks to estab-  
6 lish custody, as described in paragraph (3)(A).

7 (C) An adult relative.

8 (D) An individual or entity designated by  
9 the parent or legal guardian that is capable and  
10 willing to care for the well-being of the child.

11 (E) A State-licensed juvenile shelter, group  
12 home, or foster care program willing to accept  
13 physical custody of the child.

14 (F) A qualified adult or entity seeking cus-  
15 tody of the child when it appears that there is  
16 no other likely alternative to long-term deten-  
17 tion and family reunification does not appear to  
18 be a reasonable alternative. For purposes of  
19 this subparagraph, the Office shall decide who  
20 is a qualified adult or entity and promulgate  
21 regulations in accordance with such decision.

22 (2) SUITABILITY ASSESSMENT.—Notwith-  
23 standing paragraph (1), no unaccompanied alien  
24 child shall be placed with a person or entity unless  
25 a valid suitability assessment conducted by an agen-

1       cy of the State of the child’s proposed residence, by  
2       an agency authorized by that State to conduct such  
3       an assessment, or by an appropriate voluntary agen-  
4       cy contracted with the Office to conduct such assess-  
5       ments, has found that the person or entity is capable  
6       of providing for the child’s physical and mental well-  
7       being.

8               (3) RIGHT OF PARENT OR LEGAL GUARDIAN TO  
9       CUSTODY OF UNACCOMPANIED ALIEN CHILD.—

10              (A) PLACEMENT WITH PARENT OR LEGAL  
11       GUARDIAN.—If an unaccompanied alien child is  
12       placed with any person or entity other than a  
13       parent or legal guardian, and subsequent to  
14       that placement a parent or legal guardian seeks  
15       to establish custody, the Director shall—

16              (i) assess the suitability of placing the  
17       child with the parent or legal guardian;  
18       and

19              (ii) make a written determination on  
20       the child’s placement within 30 days.

21              (B) RULE OF CONSTRUCTION.—Nothing in  
22       this Act shall be construed to—

23              (i) supersede obligations under any  
24       treaty or other international agreement to  
25       which the United States is a party, includ-

1 ing The Hague Convention on the Civil As-  
2 pects of International Child Abduction, the  
3 Vienna Declaration and Program of Ac-  
4 tion, and the Declaration of the Rights of  
5 the Child; or

6 (ii) limit any right or remedy under  
7 such international agreement.

8 (4) PROTECTION FROM SMUGGLERS AND TRAF-  
9 FICKERS.—

10 (A) POLICIES AND PROGRAMS.—

11 (i) IN GENERAL.—The Director shall  
12 establish policies and programs to ensure  
13 that unaccompanied alien children are pro-  
14 tected from smugglers, traffickers, or other  
15 persons seeking to victimize or otherwise  
16 engage such children in criminal, harmful,  
17 or exploitative activity.

18 (ii) WITNESS PROTECTION PROGRAMS  
19 INCLUDED.—Programs established pursu-  
20 ant to clause (i) may include witness pro-  
21 tection programs.

22 (B) CRIMINAL INVESTIGATIONS AND PROS-  
23 ECUTIONS.—Any officer or employee of the Of-  
24 fice or the Department of Homeland Security,  
25 and any grantee or contractor of the Office,

1 who suspects any individual of involvement in  
2 any activity described in subparagraph (A) shall  
3 report such individual to Federal or State pro-  
4 secutors for criminal investigation and prosecu-  
5 tion.

6 (C) DISCIPLINARY ACTION.—Any officer or  
7 employee of the Office or the Department of  
8 Homeland Security, and any grantee or con-  
9 tractor of the Office, who suspects an attorney  
10 of involvement in any activity described in sub-  
11 paragraph (A) shall report the individual to the  
12 State bar association of which the attorney is a  
13 member, or to other appropriate disciplinary  
14 authorities, for appropriate disciplinary action,  
15 which may include private or public admonition  
16 or censure, suspension, or disbarment of the at-  
17 torney from the practice of law.

18 (5) GRANTS AND CONTRACTS.—The Director  
19 may award grants to, and enter into contracts with,  
20 voluntary agencies to carry out this section or sec-  
21 tion 462 of the Homeland Security Act of 2002 (6  
22 U.S.C. 279).

23 (6) REIMBURSEMENT OF STATE EXPENSES.—  
24 The Director may reimburse States for any expenses  
25 they incur in providing assistance to unaccompanied

1 alien children who are served pursuant to this Act  
2 or section 462 of the Homeland Security Act of  
3 2002 (6 U.S.C. 279).

4 (b) CONFIDENTIALITY.—All information obtained by  
5 the Office relating to the immigration status of a person  
6 described in subparagraphs (A), (B), and (C) of sub-  
7 section (a)(1) shall remain confidential and may be used  
8 only for the purposes of determining such person’s quali-  
9 fications under subsection (a)(1).

10 (c) REQUIRED DISCLOSURE.—The Secretary of  
11 Health and Human Services or the Secretary of Homeland  
12 Security shall provide the information furnished under  
13 this section, and any other information derived from such  
14 furnished information, to—

15 (1) a duly recognized law enforcement entity in  
16 connection with an investigation or prosecution of an  
17 offense described in paragraph (2) or (3) of section  
18 212(a) of the Immigration and Nationality Act (8  
19 U.S.C. 1182(a)), when such information is requested  
20 in writing by such entity; or

21 (2) an official coroner for purposes of affirma-  
22 tively identifying a deceased individual (whether or  
23 not such individual is deceased as a result of a  
24 crime).

1 (d) PENALTY.—Whoever knowingly uses, publishes,  
2 or permits information to be examined in violation of this  
3 section shall be fined not more than \$10,000.

4 **SEC. 103. APPROPRIATE CONDITIONS FOR DETENTION OF**  
5 **UNACCOMPANIED ALIEN CHILDREN.**

6 (a) STANDARDS FOR PLACEMENT.—

7 (1) PROHIBITION OF DETENTION IN CERTAIN  
8 FACILITIES.—Except as provided in paragraph (2),  
9 an unaccompanied alien child shall not be placed in  
10 an adult detention facility or a facility housing delin-  
11 quent children.

12 (2) DETENTION IN APPROPRIATE FACILITIES.—  
13 An unaccompanied alien child who has exhibited a  
14 violent or criminal behavior that endangers others  
15 may be detained in conditions appropriate to such  
16 behavior in a facility appropriate for delinquent chil-  
17 dren.

18 (3) STATE LICENSURE.—A child shall not be  
19 placed with an entity described in section  
20 102(a)(1)(E), unless the entity is licensed by an ap-  
21 propriate State agency to provide residential, group,  
22 child welfare, or foster care services for dependent  
23 children.

24 (4) CONDITIONS OF DETENTION.—

1           (A) IN GENERAL.—The Director and the  
2 Secretary of Homeland Security shall promul-  
3 gate regulations incorporating standards for  
4 conditions of detention in such placements that  
5 provide for—

6           (i) educational services appropriate to  
7 the child;

8           (ii) medical care;

9           (iii) mental health care, including  
10 treatment of trauma, physical and sexual  
11 violence, or abuse;

12           (iv) access to telephones;

13           (v) access to legal services;

14           (vi) access to interpreters;

15           (vii) supervision by professionals  
16 trained in the care of children, taking into  
17 account the special cultural, linguistic, and  
18 experiential needs of children in immigra-  
19 tion proceedings;

20           (viii) recreational programs and activi-  
21 ties;

22           (ix) spiritual and religious needs; and

23           (x) dietary needs.

24           (B) NOTIFICATION OF CHILDREN.—Regu-  
25 lations promulgated under subparagraph (A)

1           shall provide that all children are notified of  
2           such standards orally and in writing in the  
3           child’s native language.

4           (b) PROHIBITION OF CERTAIN PRACTICES.—The Di-  
5   rector and the Secretary shall develop procedures prohib-  
6   iting the unreasonable use of—

7           (1) shackling, handcuffing, or other restraints  
8           on children;

9           (2) solitary confinement; or

10          (3) pat or strip searches.

11          (c) RULE OF CONSTRUCTION.—Nothing in this sec-  
12   tion shall be construed to supersede procedures favoring  
13   release of children to appropriate adults or entities or  
14   placement in the least secure setting possible, as defined  
15   in the Stipulated Settlement Agreement under Flores v.  
16   Reno.

17   **SEC. 104. REPATRIATED UNACCOMPANIED ALIEN CHIL-**  
18                                   **DREN.**

19          (a) COUNTRY CONDITIONS.—

20           (1) SENSE OF CONGRESS.—It is the sense of  
21   Congress that, to the extent consistent with the trea-  
22   ties and other international agreements to which the  
23   United States is a party, and to the extent prac-  
24   ticable, the United States Government should under-  
25   take efforts to ensure that it does not repatriate

1 children in its custody into settings that would  
2 threaten the life and safety of such children.

3 (2) ASSESSMENT OF CONDITIONS.—

4 (A) IN GENERAL.—The annual Country  
5 Reports on Human Rights Practices published  
6 by the Department of State shall contain an as-  
7 sessment of the degree to which each country  
8 protects children from smugglers and traf-  
9 fickers.

10 (B) FACTORS FOR ASSESSMENT.—The Di-  
11 rectorate shall consult the Country Reports on  
12 Human Rights Practices and the Trafficking in  
13 Persons Report in assessing whether to repa-  
14 triate an unaccompanied alien child to a par-  
15 ticular country.

16 (b) REPORT ON REPATRIATION OF UNACCOMPANIED  
17 ALIEN CHILDREN.—

18 (1) IN GENERAL.—Not later than 18 months  
19 after the date of enactment of this Act, and annually  
20 thereafter, the Secretary shall submit a report to the  
21 Committee on the Judiciary of the Senate and the  
22 Committee on the Judiciary of the House of Rep-  
23 resentatives on efforts to repatriate unaccompanied  
24 alien children.

1           (2) CONTENTS.—The report submitted under  
2 paragraph (1) shall include—

3           (A) the number of unaccompanied alien  
4 children ordered removed and the number of  
5 such children actually removed from the United  
6 States;

7           (B) a description of the type of immigra-  
8 tion relief sought and denied to such children;

9           (C) a statement of the nationalities, ages,  
10 and gender of such children;

11           (D) a description of the procedures used to  
12 effect the removal of such children from the  
13 United States;

14           (E) a description of steps taken to ensure  
15 that such children were safely and humanely re-  
16 patriated to their country of origin; and

17           (F) any information gathered in assess-  
18 ments of country and local conditions pursuant  
19 to subsection (a)(2).

20 **SEC. 105. ESTABLISHING THE AGE OF AN UNACCOMPANIED**  
21 **ALIEN CHILD.**

22 (a) PROCEDURES.—

23 (1) IN GENERAL.—The Director shall develop  
24 procedures to make a prompt determination of the  
25 age of an alien in the custody of the Department of

1 Homeland Security or the Office, when the age of  
2 the alien is at issue.

3 (2) EVIDENCE.—The procedures developed  
4 under paragraph (1) shall—

5 (A) permit the presentation of multiple  
6 forms of evidence, including testimony of the  
7 child, to determine the age of the unaccom-  
8 panied alien for purposes of placement, custody,  
9 parole, and detention; and

10 (B) allow the appeal of a determination to  
11 an immigration judge.

12 (3) ACCESS TO ALIEN.—The Secretary of  
13 Homeland Security shall permit the Office to have  
14 reasonable access to aliens in the custody of the Sec-  
15 retary so as to ensure a prompt determination of the  
16 age of such alien.

17 (b) PROHIBITION ON SOLE MEANS OF DETERMINING  
18 AGE.—Radiographs or the attestation of an alien shall not  
19 be used as the sole means of determining age for the pur-  
20 poses of determining an alien's eligibility for treatment  
21 under this Act or section 462 of the Homeland Security  
22 Act of 2002 (6 U.S.C. 279).

23 (c) RULE OF CONSTRUCTION.—Nothing in this sec-  
24 tion shall be construed to place the burden of proof in  
25 determining the age of an alien on the government.

1 **SEC. 106. EFFECTIVE DATE.**

2 This title shall take effect on the date which is 90  
3 days after the date of enactment of this Act.

4 **TITLE II—ACCESS BY UNACCOM-**  
5 **PANIED ALIEN CHILDREN TO**  
6 **GUARDIANS AD LITEM AND**  
7 **COUNSEL**

8 **SEC. 201. GUARDIANS AD LITEM.**

9 (a) ESTABLISHMENT OF GUARDIAN AD LITEM PRO-  
10 GRAM.—

11 (1) APPOINTMENT.—The Director may appoint  
12 a guardian ad litem, who meets the qualifications  
13 described in paragraph (2), for an unaccompanied  
14 alien child. The Director is encouraged, wherever  
15 practicable, to contract with a voluntary agency for  
16 the selection of an individual to be appointed as a  
17 guardian ad litem under this paragraph.

18 (2) QUALIFICATIONS OF GUARDIAN AD  
19 LITEM.—

20 (A) IN GENERAL.—No person shall serve  
21 as a guardian ad litem unless such person—

22 (i) is a child welfare professional or  
23 other individual who has received training  
24 in child welfare matters; and

1 (ii) possesses special training on the  
2 nature of problems encountered by unac-  
3 companied alien children.

4 (B) PROHIBITION.—A guardian ad litem  
5 shall not be an employee of the Directorate, the  
6 Office, or the Executive Office for Immigration  
7 Review.

8 (3) DUTIES.—The guardian ad litem shall—

9 (A) conduct interviews with the child in a  
10 manner that is appropriate, taking into account  
11 the child's age;

12 (B) investigate the facts and circumstances  
13 relevant to the child's presence in the United  
14 States, including facts and circumstances—

15 (i) arising in the country of the child's  
16 nationality or last habitual residence; and

17 (ii) arising subsequent to the child's  
18 departure from such country;

19 (C) work with counsel to identify the  
20 child's eligibility for relief from removal or vol-  
21 untary departure by sharing with counsel infor-  
22 mation collected under subparagraph (B);

23 (D) develop recommendations on issues  
24 relative to the child's custody, detention, re-  
25 lease, and repatriation;

1 (E) take reasonable steps to ensure that—

2 (i) the best interests of the child are  
3 promoted while the child participates in, or  
4 is subject to, proceedings or matters under  
5 the Immigration and Nationality Act (8  
6 U.S.C. 1101 et seq.);

7 (ii) the child understands the nature  
8 of the legal proceedings or matters and de-  
9 terminations made by the court, and that  
10 all information is conveyed to the child in  
11 an age-appropriate manner; and

12 (F) report factual findings relating to—

13 (i) information collected under sub-  
14 paragraph (B);

15 (ii) the care and placement of the  
16 child during the pendency of the pro-  
17 ceedings or matters; and

18 (iii) any other information collected  
19 under subparagraph (D).

20 (4) TERMINATION OF APPOINTMENT.—The  
21 guardian ad litem shall carry out the duties de-  
22 scribed in paragraph (3) until the earliest of the  
23 date on which—

24 (A) those duties are completed;

25 (B) the child departs the United States;

1 (C) the child is granted permanent resi-  
2 dent status in the United States;

3 (D) the child attains the age of 18; or

4 (E) the child is placed in the custody of a  
5 parent or legal guardian.

6 (5) POWERS.—The guardian ad litem—

7 (A) shall have reasonable access to the  
8 child, including access while such child is being  
9 held in detention or in the care of a foster fam-  
10 ily;

11 (B) shall be permitted to review all records  
12 and information relating to such proceedings  
13 that are not deemed privileged or classified;

14 (C) may seek independent evaluations of  
15 the child;

16 (D) shall be notified in advance of all hear-  
17 ings or interviews involving the child that are  
18 held in connection with proceedings or matters  
19 under the Immigration and Nationality Act (8  
20 U.S.C. 1101 et seq.), and shall be given a rea-  
21 sonable opportunity to be present at such hear-  
22 ings or interviews;

23 (E) shall be permitted to consult with the  
24 child during any hearing or interview involving  
25 such child; and

1 (F) shall be provided at least 24 hours ad-  
2 vance notice of a transfer of that child to a dif-  
3 ferent placement, absent compelling and un-  
4 usual circumstances warranting the transfer of  
5 such child before such notification.

6 (b) TRAINING.—

7 (1) IN GENERAL.—The Director shall provide  
8 professional training for all persons serving as  
9 guardians ad litem under this section.

10 (2) TRAINING TOPICS.—The training provided  
11 under paragraph (1) shall include training in—

12 (A) the circumstances and conditions that  
13 unaccompanied alien children face; and

14 (B) various immigration benefits for which  
15 such alien child might be eligible.

16 (c) PILOT PROGRAM.—

17 (1) IN GENERAL.—Not later than 180 days  
18 after the date of enactment of this Act, the Director  
19 shall establish and begin to carry out a pilot pro-  
20 gram to test the implementation of subsection (a).

21 (2) PURPOSE.—The purpose of the pilot pro-  
22 gram established under paragraph (1) is to—

23 (A) study and assess the benefits of pro-  
24 viding guardians ad litem to assist unaccom-

1           panied alien children involved in immigration  
2           proceedings or matters;

3                   (B) assess the most efficient and cost-ef-  
4           fective means of implementing the guardian ad  
5           litem provisions in this section; and

6                   (C) assess the feasibility of implementing  
7           such provisions on a nationwide basis for all un-  
8           accompanied alien children in the care of the  
9           Office.

10           (3) SCOPE OF PROGRAM.—

11                   (A) SELECTION OF SITE.—The Director  
12           shall select 3 sites in which to operate the pilot  
13           program established under paragraph (1).

14                   (B) NUMBER OF CHILDREN.—To the  
15           greatest extent possible, each site selected  
16           under subparagraph (A) should have at least 25  
17           children held in immigration custody at any  
18           given time.

19                   (4) REPORT TO CONGRESS.—Not later than 1  
20           year after the date on which the first pilot program  
21           site is established under paragraph (1), the Director  
22           shall submit a report on the achievement of the pur-  
23           poses described in paragraph (2) to the Committee  
24           on the Judiciary of the Senate and the Committee  
25           on the Judiciary of the House of Representatives.

1 **SEC. 202. COUNSEL.**

2 (a) ACCESS TO COUNSEL.—

3 (1) IN GENERAL.—The Director should ensure  
4 that all unaccompanied alien children in the custody  
5 of the Office or the Directorate, who are not de-  
6 scribed in section 101(a)(2), have competent counsel  
7 to represent them in immigration proceedings or  
8 matters.

9 (2) PRO BONO REPRESENTATION.—To the max-  
10 imum extent practicable, the Director should—

11 (A) make every effort to utilize the services  
12 of competent pro bono counsel who agree to  
13 provide representation to such children without  
14 charge; and

15 (B) ensure that placements made under  
16 subparagraphs (D), (E), and (F) of section  
17 102(a)(1) are in cities where there is a dem-  
18 onstrated capacity for competent pro bono rep-  
19 resentation.

20 (3) DEVELOPMENT OF NECESSARY INFRA-  
21 STRUCTURES AND SYSTEMS.—In ensuring that legal  
22 representation is provided to unaccompanied alien  
23 children, the Director shall develop the necessary  
24 mechanisms to identify entities available to provide  
25 such legal assistance and representation and to re-  
26 cruit such entities.

1           (4) CONTRACTING AND GRANT MAKING AU-  
2 THORITY.—

3           (A) IN GENERAL.—The Director shall  
4 enter into contracts with, or award grants to,  
5 nonprofit agencies with relevant expertise in the  
6 delivery of immigration-related legal services to  
7 children in order to carry out the responsibil-  
8 ities of this Act, including providing legal ori-  
9 entation, screening cases for referral, recruiting,  
10 training, and overseeing pro bono attorneys.

11           (B) SUBCONTRACTING.—Nonprofit agen-  
12 cies may enter into subcontracts with, or award  
13 grants to, private voluntary agencies with rel-  
14 evant expertise in the delivery of immigration-  
15 related legal services to children in order to  
16 carry out this subsection.

17           (C) CONSIDERATIONS REGARDING GRANTS  
18 AND CONTRACTS.—In awarding grants and en-  
19 tering into contracts with agencies under this  
20 paragraph, the Director shall take into consid-  
21 eration the capacity of the agencies in question  
22 to properly administer the services covered by  
23 such grants or contracts without an undue con-  
24 flict of interest.

1           (5) MODEL GUIDELINES ON LEGAL REPRESENTATION OF CHILDREN.—

2  
3           (A) DEVELOPMENT OF GUIDELINES.—The  
4           Executive Office for Immigration Review, in  
5           consultation with voluntary agencies and national  
6           experts, shall develop model guidelines  
7           for the legal representation of alien children in  
8           immigration proceedings. Such guidelines shall  
9           be based on the children’s asylum guidelines,  
10          the American Bar Association Model Rules of  
11          Professional Conduct, and other relevant domestic  
12          or international sources.

13          (B) PURPOSE OF GUIDELINES.—The  
14          guidelines developed under subparagraph (A)  
15          shall be designed to help protect each child  
16          from any individual suspected of involvement in  
17          any criminal, harmful, or exploitative activity  
18          associated with the smuggling or trafficking of  
19          children, while ensuring the fairness of the removal  
20          proceeding in which the child is involved.

21          (C) IMPLEMENTATION.—The Executive  
22          Office for Immigration Review shall adopt the  
23          guidelines developed under subparagraph (A)  
24          and submit the guidelines for adoption by national,  
25          State, and local bar associations.

1 (b) DUTIES.—Counsel shall—

2 (1) represent the unaccompanied alien child in  
3 all proceedings and matters relating to the immigra-  
4 tion status of the child or other actions involving the  
5 Directorate;

6 (2) appear in person for all individual merits  
7 hearings before the Executive Office for Immigration  
8 Review and interviews involving the Directorate; and

9 (3) owe the same duties of undivided loyalty,  
10 confidentiality, and competent representation to the  
11 child as is due an adult client.

12 (c) ACCESS TO CHILD.—

13 (1) IN GENERAL.—Counsel shall have reason-  
14 able access to the unaccompanied alien child, includ-  
15 ing access while the child is being held in detention,  
16 in the care of a foster family, or in any other setting  
17 that has been determined by the Office.

18 (2) RESTRICTION ON TRANSFERS.—Absent  
19 compelling and unusual circumstances, no child who  
20 is represented by counsel shall be transferred from  
21 the child's placement to another placement unless  
22 advance notice of at least 24 hours is made to coun-  
23 sel of such transfer.

24 (d) NOTICE TO COUNSEL DURING IMMIGRATION  
25 PROCEEDINGS.—

1           (1) IN GENERAL.—Except when otherwise re-  
2           quired in an emergency situation involving the phys-  
3           ical safety of the child, counsel shall be given prompt  
4           and adequate notice of all immigration matters af-  
5           fecting or involving an unaccompanied alien child,  
6           including adjudications, proceedings, and processing,  
7           before such actions are taken.

8           (2) OPPORTUNITY TO CONSULT WITH COUN-  
9           SEL.—An unaccompanied alien child in the custody  
10          of the Office may not give consent to any immigra-  
11          tion action, including consenting to voluntary depart-  
12          ure, unless first afforded an opportunity to consult  
13          with counsel.

14          (e) ACCESS TO RECOMMENDATIONS OF GUARDIAN  
15          AD LITEM.—Counsel shall be given an opportunity to re-  
16          view the recommendation by the guardian ad litem affect-  
17          ing or involving a client who is an unaccompanied alien  
18          child.

19          (f) *COUNSEL FOR UNACCOMPANIED ALIEN CHIL-*  
20          *DREN.—Nothing in this Act requires the United States to*  
21          *pay for counsel to any unaccompanied alien child.*

22          **SEC. 203. EFFECTIVE DATE; APPLICABILITY.**

23          (a) EFFECTIVE DATE.—This title shall take effect  
24          180 days after the date of enactment of this Act.

1 (b) APPLICABILITY.—The provisions of this title shall  
 2 apply to all unaccompanied alien children in Federal cus-  
 3 tody on, before, or after the effective date of this title.

4 **TITLE III—STRENGTHENING**  
 5 **POLICIES FOR PERMANENT**  
 6 **PROTECTION OF ALIEN CHIL-**  
 7 **DREN**

8 **SEC. 301. SPECIAL IMMIGRANT JUVENILE VISA.**

9 (a) J VISA.—Section 101(a)(27)(J) of the Immigra-  
 10 tion and Nationality Act (8 U.S.C. 1101(a)(27)(J)) is  
 11 amended to read as follows:

12 “(J) an immigrant, who is 18 years of age or  
 13 younger on the date of application and who is  
 14 present in the United States—

15 “(i) who by a court order, which shall be  
 16 binding on the Secretary of Homeland Security  
 17 for purposes of adjudications under this sub-  
 18 paragraph, was declared dependent on a juve-  
 19 nile court located in the United States or whom  
 20 such a court has legally committed to, or placed  
 21 under the custody of, a department or agency  
 22 of a State, or an individual or entity appointed  
 23 by a State or juvenile court located in the  
 24 United States, due to abuse, neglect, abandon-  
 25 ment, or a similar basis found under State law;

1           “(ii) for whom it has been determined in  
2           administrative or judicial proceedings that it  
3           would not be in the alien’s best interest to be  
4           returned to the alien’s or parent’s previous  
5           country of nationality or country of last habit-  
6           ual residence; and

7           “(iii) with respect to a child in Federal  
8           custody, for whom the Office of Refugee Reset-  
9           tlement of the Department of Health and  
10          Human Services has certified to the Director of  
11          the Bureau of Citizenship and Immigration  
12          Services that the classification of an alien as a  
13          special immigrant under this subparagraph has  
14          not been made solely to provide an immigration  
15          benefit to that alien,

16          except that no natural parent or prior adoptive par-  
17          ent of any alien provided special immigrant status  
18          under this subparagraph shall thereafter, by virtue  
19          of such parentage, be accorded any right, privilege,  
20          or status under this Act;”.

21          (b) ADJUSTMENT OF STATUS.—Section 245(h)(2)(A)  
22          of the Immigration and Nationality Act (8 U.S.C.  
23          1255(h)(2)(A)) is amended to read as follows:

24                  “(A) paragraphs (4), (5)(A), (6)(A), and  
25                  (7) of section 212(a) shall not apply; and”.

1 (c) ELIGIBILITY FOR ASSISTANCE.—A child who has  
2 been granted relief under section 101(a)(27)(J) of the Im-  
3 migration and Nationality Act (8 U.S.C. 1101(a)(27)(J)),  
4 shall be eligible for all funds made available under section  
5 412(d) of that Act (8 U.S.C. 1522(d)) until such time as  
6 the child attains the age designated in section  
7 412(d)(2)(B) of that Act (8 U.S.C. 1522(d)(2)(B)), or  
8 until the child is placed in a permanent adoptive home,  
9 whichever occurs first.

10 (d) TRANSITION RULE.—Notwithstanding any other  
11 provision of law, any child described in section  
12 101(a)(27)(J) of the Immigration and Nationality Act (8  
13 U.S.C. 1101(a)(27)(J)) who filed an application for a visa  
14 before the date of enactment of this Act and who was 19,  
15 20, or 21 years of age on the date such application was  
16 filed shall not be denied a visa after the date of enactment  
17 of this Act because of such alien’s age.

18 **SEC. 302. TRAINING FOR OFFICIALS AND CERTAIN PRIVATE**  
19 **PARTIES WHO COME INTO CONTACT WITH**  
20 **UNACCOMPANIED ALIEN CHILDREN.**

21 (a) TRAINING OF STATE AND LOCAL OFFICIALS AND  
22 CERTAIN PRIVATE PARTIES.—

23 (1) IN GENERAL.—The Secretary of Health and  
24 Human Services, acting jointly with the Secretary,  
25 shall provide appropriate training to State and coun-

1 ty officials, child welfare specialists, teachers, public  
2 counsel, and juvenile judges who come into contact  
3 with unaccompanied alien children.

4 (2) CURRICULUM.—The training shall provide  
5 education on the processes pertaining to unaccom-  
6 panied alien children with pending immigration sta-  
7 tus and on the forms of relief potentially available.  
8 The Director shall be responsible for establishing a  
9 core curriculum that can be incorporated into edu-  
10 cation, training, or orientation modules or formats  
11 that are currently used by these professionals.

12 (b) TRAINING OF DIRECTORATE PERSONNEL.—The  
13 Secretary, acting jointly with the Secretary of Health and  
14 Human Services, shall provide specialized training to all  
15 personnel of the Directorate who come into contact with  
16 unaccompanied alien children. Training for Border Patrol  
17 agents and immigration inspectors shall include specific  
18 training on identifying children at the United States bor-  
19 ders or at United States ports of entry who have been  
20 victimized by smugglers or traffickers, and children for  
21 whom asylum or special immigrant relief may be appro-  
22 priate, including children described in section 101(a)(2).

23 **SEC. 303. REPORT.**

24 Not later than 1 year after the date of enactment  
25 of this Act, and annually thereafter, the Secretary of

1 Health and Human Services shall submit a report for the  
2 previous fiscal year to the Committee on the Judiciary of  
3 the Senate and the Committee on the Judiciary of the  
4 House of Representatives that contains—

5 (1) data related to the implementation of sec-  
6 tion 462 of the Homeland Security Act (6 U.S.C.  
7 279);

8 (2) data regarding the care and placement of  
9 children in accordance with this Act;

10 (3) data regarding the provision of guardian ad  
11 litem and counsel services under this Act; and

12 (4) any other information that the Director or  
13 the Secretary of Health and Human Services deter-  
14 mines to be appropriate.

15 **SEC. 304. EFFECTIVE DATE.**

16 The amendment made by section 301 shall apply to  
17 all aliens who were in the United States before, on, or  
18 after the date of enactment of this Act.

19 **TITLE IV—CHILDREN REFUGEE**  
20 **AND ASYLUM SEEKERS**

21 **SEC. 401. GUIDELINES FOR CHILDREN'S ASYLUM CLAIMS.**

22 (a) SENSE OF CONGRESS.—Congress commends the  
23 Immigration and Naturalization Service for its issuance  
24 of its “Guidelines for Children’s Asylum Claims”, dated  
25 December 1998, and encourages and supports the imple-

1 mentation of such guidelines by the Immigration and Nat-  
2 uralization Service (and its successor entities) in an effort  
3 to facilitate the handling of children’s asylum claims. Con-  
4 gress calls upon the Executive Office for Immigration Re-  
5 view of the Department of Justice to adopt the “Guide-  
6 lines for Children’s Asylum Claims” in its handling of chil-  
7 dren’s asylum claims before immigration judges and the  
8 Board of Immigration Appeals.

9 (b) TRAINING.—The Secretary shall provide periodic  
10 comprehensive training under the “Guidelines for Chil-  
11 dren’s Asylum Claims” to asylum officers, immigration  
12 judges, members of the Board of Immigration Appeals,  
13 and immigration officers who have contact with children  
14 in order to familiarize and sensitize such officers to the  
15 needs of children asylum seekers. Voluntary agencies shall  
16 be allowed to assist in such training.

17 **SEC. 402. UNACCOMPANIED REFUGEE CHILDREN.**

18 (a) IDENTIFYING UNACCOMPANIED REFUGEE CHIL-  
19 DREN.—Section 207(e) of the Immigration and Nation-  
20 ality Act (8 U.S.C. 1157(e)) is amended—

21 (1) by redesignating paragraphs (3), (4), (5),  
22 (6), and (7) as paragraphs (4), (5), (6), (7), and  
23 (8), respectively; and

24 (2) by inserting after paragraph (2) the fol-  
25 lowing:

1           “(3) An analysis of the worldwide situation  
2           faced by unaccompanied refugee children, by region,  
3           which shall include an assessment of—

4                   “(A) the number of unaccompanied refugee  
5           children, by region;

6                   “(B) the capacity of the Department of  
7           State to identify such refugees;

8                   “(C) the capacity of the international com-  
9           munity to care for and protect such refugees;

10                  “(D) the capacity of the voluntary agency  
11           community to resettle such refugees in the  
12           United States;

13                  “(E) the degree to which the United States  
14           plans to resettle such refugees in the United  
15           States in the coming fiscal year; and

16                  “(F) the fate that will befall such unac-  
17           companied refugee children for whom resettle-  
18           ment in the United States is not possible.”.

19           (b) TRAINING ON THE NEEDS OF UNACCOMPANIED  
20           REFUGEE CHILDREN.—Section 207(f)(2) of the Immigra-  
21           tion and Nationality Act (8 U.S.C. 1157(f)(2)) is amended  
22           by—

23                   (1) striking “and” after “countries,”; and

1           (2) inserting before the period at the end the  
2 following: “, and instruction on the needs of unac-  
3 companied refugee children”.

4 **SEC. 403. EXCEPTIONS FOR UNACCOMPANIED ALIEN CHIL-**  
5 **DREN IN ASYLUM AND REFUGEE-LIKE CIR-**  
6 **CUMSTANCES.**

7           (a) **PLACEMENT IN REMOVAL PROCEEDINGS.**—Any  
8 unaccompanied alien child apprehended by the Direc-  
9 torate, except for an unaccompanied alien child subject to  
10 exceptions under paragraph (1)(A) or (2) of section  
11 (101)(a), shall be placed in removal proceedings under sec-  
12 tion 240 of the Immigration and Nationality Act (8 U.S.C.  
13 1229a).

14           (b) **EXCEPTION FROM TIME LIMIT FOR FILING ASY-**  
15 **LUM APPLICATION.**—Section 208(a)(2) of the Immigra-  
16 tion and Nationality Act (8 U.S.C. 1158(a)(2)) is amend-  
17 ed by adding at the end the following:

18                       “(E) **APPLICABILITY.**—Subparagraphs (A)  
19                       and (B) shall not apply to an unaccompanied  
20                       alien child as defined in section 101(a)(51).”.

21 **TITLE V—AUTHORIZATION OF**  
22 **APPROPRIATIONS**

23 **SEC. 501. AUTHORIZATION OF APPROPRIATIONS.**

24           (a) **IN GENERAL.**—There are authorized to be appro-  
25 priated to the Department of Homeland Security, the De-

1 partment of Justice, and the Department of Health and  
 2 Human Services, such sums as may be necessary to carry  
 3 out—

4 (1) the provisions of section 462 of the Home-  
 5 land Security Act of 2002 (6 U.S.C. 279); and

6 (2) the provisions of this Act.

7 (b) AVAILABILITY OF FUNDS.—Amounts appro-  
 8 priated pursuant to subsection (a) shall remain available  
 9 until expended.

10 **TITLE VI—AMENDMENTS TO THE**  
 11 **HOMELAND SECURITY ACT**  
 12 **OF 2002**

13 **SEC. 601. ADDITIONAL RESPONSIBILITIES AND POWERS OF**  
 14 **THE OFFICE OF REFUGEE RESETTLEMENT**  
 15 **WITH RESPECT TO UNACCOMPANIED ALIEN**  
 16 **CHILDREN.**

17 (a) ADDITIONAL RESPONSIBILITIES OF THE DIREC-  
 18 TOR.—Section 462(b)(1) of the Homeland Security Act of  
 19 2002 (6 U.S.C. 279(b)(1)) is amended—

20 (1) in subparagraph (K), by striking “and” at  
 21 the end;

22 (2) in subparagraph (L), by striking the period  
 23 at the end and inserting “, including regular follow-  
 24 up visits to such facilities, placements, and other en-

1 titles, to assess the continued suitability of such  
2 placements; and”]; and

3 (3) by adding at the end the following:

4 “(M) ensuring minimum standards of care  
5 for all unaccompanied alien children—

6 “(i) for whom detention is necessary;  
7 and

8 “(ii) who reside in settings that are  
9 alternative to detention.”.

10 (b) ADDITIONAL POWERS OF THE DIRECTOR.—Sec-  
11 tion 462(b) of the Homeland Security Act of 2002 (6  
12 U.S.C. 279(b)) is amended by adding at the end the fol-  
13 lowing:

14 “(4) AUTHORITY.—In carrying out the duties  
15 under paragraph (3), the Director is authorized to—

16 “(A) contract with service providers to per-  
17 form the services described in sections 102,  
18 103, 201, and 202 of the Unaccompanied Alien  
19 Child Protection Act of 2005; and

20 “(B) compel compliance with the terms  
21 and conditions set forth in section 103 of the  
22 Unaccompanied Alien Child Protection Act of  
23 2005, including the power to—

24 “(i) declare providers to be in breach  
25 and seek damages for noncompliance;

1                   “(ii) terminate the contracts of pro-  
2                   viders that are not in compliance with such  
3                   conditions; and

4                   “(iii) reassign any unaccompanied  
5                   alien child to a similar facility that is in  
6                   compliance with such section.”.

7 **SEC. 602. TECHNICAL CORRECTIONS.**

8           Section 462(b) of the Homeland Security Act of 2002  
9 (6 U.S.C. 279(b)), as amended by section 601, is amend-  
10 ed—

11                   (1) in paragraph (3), by striking “paragraph  
12                   (1)(G)” and inserting “paragraph (1)”; and

13                   (2) by adding at the end the following:

14                   “(5) STATUTORY CONSTRUCTION.—Nothing in  
15                   paragraph (2)(B) may be construed to require that  
16                   a bond be posted for unaccompanied alien children  
17                   who are released to a qualified sponsor.”.

18 **SEC. 603. EFFECTIVE DATE.**

19           The amendments made by this title shall take effect  
20 as if included in the Homeland Security Act of 2002 (6  
21 U.S.C. 101 et seq.).

**Calendar No. 74**

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 119**

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**A BILL**

To provide for the protection of unaccompanied  
alien children, and for other purposes.

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APRIL 14, 2005

Reported with an amendment