

110TH CONGRESS  
1ST SESSION

# S. 844

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

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## IN THE SENATE OF THE UNITED STATES

MARCH 12, 2007

Mrs. FEINSTEIN (for herself, Mr. HAGEL, Mr. KENNEDY, Mr. FEINGOLD, Ms. CANTWELL, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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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 2007”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 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 CHILD ADVOCATES AND COUNSEL

- Sec. 201. Child advocates.
- Sec. 202. Counsel.
- Sec. 203. Effective date; applicability.

## TITLE III—STRENGTHENING POLICIES FOR PERMANENT PROTECTION OF ALIEN CHILDREN

- Sec. 301. Special immigrant juvenile classification.
- Sec. 302. Training for officials and certain private parties who come into contact with unaccompanied alien children.
- Sec. 303. Report.

## 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—AMENDMENTS TO THE HOMELAND SECURITY ACT OF 2002

- Sec. 501. Additional responsibilities and powers of the Office of Refugee Resettlement with respect to unaccompanied alien children.
- Sec. 502. Technical corrections.
- Sec. 503. Effective date.

## TITLE VI—AUTHORIZATION OF APPROPRIATIONS

- Sec. 601. Authorization of appropriations.

### 1 **SEC. 2. DEFINITIONS.**

#### 2 (a) IN GENERAL.—In this Act:

- 3 (1) COMPETENT.—The term “competent”, in
- 4 reference to counsel, means an attorney, or a rep-
- 5 resentative authorized to represent unaccompanied
- 6 alien children in immigration proceedings or mat-
- 7 ters, who—

1 (A) complies with the duties set forth in  
2 this Act;

3 (B) is—

4 (i) properly qualified to handle mat-  
5 ters involving unaccompanied alien chil-  
6 dren; or

7 (ii) working under the auspices of a  
8 qualified nonprofit organization that is ex-  
9 perience in handling such matters; and

10 (C) if an attorney—

11 (i) is a member in good standing of  
12 the bar of the highest court of any State,  
13 possession, territory, Commonwealth, or  
14 the District of Columbia; and

15 (ii) is not under any order of any  
16 court suspending, enjoining, restraining,  
17 disbarring, or otherwise restricting the at-  
18 torney in the practice of law.

19 (2) DEPARTMENT.—The term “Department”  
20 means the Department of Homeland Security.

21 (3) DIRECTOR.—The term “Director” means  
22 the Director of the Office.

23 (4) OFFICE.—The term “Office” means the Of-  
24 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 101(a)(51) of the Immigration and Na-  
8        tionality Act, as added by subsection (b).

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 18 years of age; 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 available to provide care and  
 3           physical custody.

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

6           “(A) have not attained 18 years of age; 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.—

11           (1) STATE COURTS ACTING IN LOCO  
 12          PARENTIS.—A department or agency of a State, or  
 13          an individual or entity appointed by a State court or  
 14          a juvenile court located in the United States, acting  
 15          in loco parentis, shall not be considered a legal  
 16          guardian for purposes of section 462 of the Home-  
 17          land Security Act of 2002 (6 U.S.C. 279) or this  
 18          Act.

19           (2) CLARIFICATION OF THE DEFINITION OF UN-  
 20          ACCOMPANIED ALIEN CHILD.—For the purposes of  
 21          section 462(g)(2) of the Homeland Security Act of  
 22          2002 (6 U.S.C. 279(g)(2)) and this Act, a parent or  
 23          legal guardian shall not be considered to be available  
 24          to provide care and physical custody of an alien child  
 25          unless such parent is in the physical presence of,

1 and able to exercise parental responsibilities over,  
2 such child at the time of such child's apprehension  
3 and during the child's detention.

4 **TITLE I—CUSTODY, RELEASE,**  
5 **FAMILY REUNIFICATION, AND**  
6 **DETENTION**

7 **SEC. 101. PROCEDURES WHEN ENCOUNTERING UNACCOM-**  
8 **PANIED ALIEN CHILDREN.**

9 (a) UNACCOMPANIED CHILDREN FOUND ALONG THE  
10 UNITED STATES BORDER OR AT UNITED STATES PORTS  
11 OF ENTRY.—

12 (1) IN GENERAL.—Subject to paragraph (2), an  
13 immigration officer who finds an unaccompanied  
14 alien child described in paragraph (2) at a land bor-  
15 der or port of entry of the United States and deter-  
16 mines that such child is inadmissible under the Im-  
17 migration and Nationality Act (8 U.S.C. 1101 et  
18 seq.) shall—

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

23 (B) return such child to the child's country  
24 of nationality or country of last habitual resi-  
25 dence.

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

3           (A) IN GENERAL.—Any child who is a na-  
4       tional or habitual resident of a country, which  
5       is contiguous with the United States and has  
6       an agreement in writing with the United States  
7       that provides for the safe return and orderly re-  
8       patriation of unaccompanied alien children who  
9       are nationals or habitual residents of such  
10      country, shall be treated in accordance with  
11      paragraph (1) if the Secretary determines, on a  
12      case-by-case basis, that—

13           (i) such child is a national or habitual  
14      resident of a country described in this sub-  
15      paragraph;

16           (ii) such child does not have a fear of  
17      returning to the child's country of nation-  
18      ality or country of last habitual residence  
19      owing to a fear of persecution;

20           (iii) the return of such child to the  
21      child's country of nationality or country of  
22      last habitual residence would not endanger  
23      the life or safety of such child; and

24           (iv) the child is able to make an inde-  
25      pendent decision to withdraw the child's

1 application for admission due to age or  
2 other lack of capacity.

3 (B) RIGHT OF CONSULTATION.—Any child  
4 described in subparagraph (A) shall have the  
5 right, and shall be informed of that right in the  
6 child’s native language—

7 (i) to consult with a consular officer  
8 from the child’s country of nationality or  
9 country of last habitual residence prior to  
10 repatriation; and

11 (ii) to consult, telephonically, with the  
12 Office.

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

19 (b) CARE AND CUSTODY OF UNACCOMPANIED ALIEN  
20 CHILDREN FOUND IN THE INTERIOR OF THE UNITED  
21 STATES.—

22 (1) ESTABLISHMENT OF JURISDICTION.—

23 (A) IN GENERAL.—Except as otherwise  
24 provided under subparagraphs (B) and (C) and  
25 subsection (a), the care and custody of all unac-



1            accompanied alien children, including responsi-  
2            bility for their detention, where appropriate,  
3            shall be under the jurisdiction of the Office.

4            (B) EXCEPTION FOR CHILDREN WHO HAVE  
5            COMMITTED CRIMES.—Notwithstanding sub-  
6            paragraph (A), the Department of Justice shall  
7            retain or assume the custody and care of any  
8            unaccompanied alien who is—

9                    (i) in the custody of the Department  
10                   of Justice pending prosecution for a Fed-  
11                   eral crime other than a violation of the Im-  
12                   migration and Nationality Act; or

13                   (ii) serving a sentence pursuant to a  
14                   conviction for a Federal crime.

15            (C) EXCEPTION FOR CHILDREN WHO  
16            THREATEN NATIONAL SECURITY.—Notwith-  
17            standing subparagraph (A), the Department  
18            shall retain or assume the custody and care of  
19            an unaccompanied alien child if the Secretary  
20            has substantial evidence, based on an individ-  
21            ualized determination, that such child could  
22            personally endanger the national security of the  
23            United States.

24            (2) NOTIFICATION.—

1 (A) IN GENERAL.—Each department or  
2 agency of the Federal Government shall  
3 promptly notify the Office upon—

4 (i) the apprehension of an unaccom-  
5 panied alien child;

6 (ii) the discovery that an alien in the  
7 custody of such department or agency is  
8 an unaccompanied alien child;

9 (iii) any claim by an alien in the cus-  
10 tody of such department or agency that  
11 such alien is younger than 18 years of age;  
12 or

13 (iv) any suspicion that an alien in the  
14 custody of such department or agency who  
15 has claimed to be at least 18 years of age  
16 is actually younger than 18 years of age.

17 (B) SPECIAL RULE.—The Director shall—

18 (i) make an age determination for an  
19 alien described in clause (iii) or (iv) of sub-  
20 paragraph (A) in accordance with section  
21 105; and

22 (ii) take whatever other steps are nec-  
23 essary to determine whether such alien is  
24 eligible for treatment under section 462 of

1 the Homeland Security Act of 2002 (6  
2 U.S.C. 279) or under this Act.

3 (3) TRANSFER OF UNACCOMPANIED ALIEN  
4 CHILDREN.—

5 (A) TRANSFER TO THE OFFICE.—Any  
6 Federal department or agency that has an un-  
7 accompanied alien child in its custody shall  
8 transfer the custody of such child to the Of-  
9 fice—

10 (i) not later than 72 hours after a de-  
11 termination is made that such child is an  
12 unaccompanied alien, if the child is not de-  
13 scribed in subparagraph (B) or (C) of  
14 paragraph (1);

15 (ii) if the custody and care of the  
16 child has been retained or assumed by the  
17 Attorney General under paragraph (1)(B)  
18 or by the Department under paragraph  
19 (1)(C), following a determination that the  
20 child no longer meets the description set  
21 forth in such subparagraphs; or

22 (iii) if the child was previously re-  
23 leased to an individual or entity described  
24 in section 102(a)(1), upon a determination

1                   by the Director that such individual or en-  
2                   tity is no longer able to care for the child.

3                   (B) TRANSFER TO THE DEPARTMENT.—

4                   The Director shall transfer the care and cus-  
5                   tody of an unaccompanied alien child in the  
6                   custody of the Office or the Department of Jus-  
7                   tice to the Department upon determining that  
8                   the child is described in subparagraph (B) or  
9                   (C) of paragraph (1).

10                  (C) PROMPTNESS OF TRANSFER.—If a  
11                  child needs to be transferred under this para-  
12                  graph, the sending office shall make prompt ar-  
13                  rangements to transfer such child and the re-  
14                  ceiving office shall make prompt arrangements  
15                  to receive such child.

16                  (c) AGE DETERMINATIONS.—If the age of an alien  
17                  is in question and the resolution of questions about the  
18                  age of such alien would affect the alien's eligibility for  
19                  treatment under section 462 of the Homeland Security  
20                  Act of 2002 (6 U.S.C. 279) or this Act, a determination  
21                  of whether or not such alien meets such age requirements  
22                  shall be made in accordance with section 105, unless oth-  
23                  erwise specified in subsection (b)(2)(B).

24                  (d) ACCESS TO ALIEN.—The Secretary and the At-  
25                  torney General shall permit the Office to have reasonable

1 access to aliens in the custody of the Secretary or the At-  
 2 torney General to ensure a prompt determination of the  
 3 age of such alien, if necessary under subsection (b)(2)(B).

4 **SEC. 102. FAMILY REUNIFICATION FOR UNACCOMPANIED**  
 5 **ALIEN CHILDREN WITH RELATIVES IN THE**  
 6 **UNITED STATES.**

7 (a) PLACEMENT OF RELEASED CHILDREN.—

8 (1) ORDER OF PREFERENCE.—Subject to the  
 9 discretion of the Director under paragraph (4), sec-  
 10 tion 103(a)(2), and section 462(b)(2) of the Home-  
 11 land Security Act of 2002 (6 U.S.C. 279(b)(2)), an  
 12 unaccompanied alien child in the custody of the Of-  
 13 fice shall be promptly placed with 1 of the following  
 14 individuals or entities in the following order of pref-  
 15 erence:

16 (A) A parent who seeks to establish cus-  
 17 tody under paragraph (3)(A).

18 (B) A legal guardian who seeks to estab-  
 19 lish custody under paragraph (3)(A).

20 (C) An adult relative.

21 (D) An individual or entity designated by  
 22 the parent or legal guardian that is capable and  
 23 willing to care for the well being of the child.

1 (E) A State-licensed family foster home,  
 2 small group home, or juvenile shelter willing to  
 3 accept custody of the child.

4 (F) A qualified adult or entity, as deter-  
 5 mined by the Director by regulation, seeking  
 6 custody of the child if the Director determines  
 7 that no other likely alternative to long-term de-  
 8 tention exists and family reunification does not  
 9 appear to be a reasonable alternative.

10 (2) SUITABILITY ASSESSMENT.—

11 (A) GENERAL REQUIREMENTS.—Notwith-  
 12 standing paragraph (1), and subject to the re-  
 13 quirements of subparagraph (B), an unaccom-  
 14 panied alien child may not be placed with a per-  
 15 son or entity described in any of subparagraphs  
 16 (A) through (F) of paragraph (1) unless the  
 17 Director provides written certification that the  
 18 proposed custodian is capable of providing for  
 19 the child's physical and mental well-being,  
 20 based on—

21 (i) with respect to an individual custo-  
 22 dian—

23 (I) verification of such individ-  
 24 ual's identity and employment;

1 (II) a finding that such indi-  
2 vidual has not engaged in any activity  
3 that would indicate a potential risk to  
4 the child, including the people and ac-  
5 tivities described in paragraph  
6 (4)(A)(i);

7 (III) a finding that such indi-  
8 vidual is not the subject of an open  
9 investigation by a State or local child  
10 protective services authority due to  
11 suspected child abuse or neglect;

12 (IV) verification that such indi-  
13 vidual has a plan for the provision of  
14 care for the child;

15 (V) verification of familial rela-  
16 tionship of such individual, if any re-  
17 lationship is claimed; and

18 (VI) verification of nature and  
19 extent of previous relationship;

20 (ii) with respect to a custodial entity,  
21 verification of such entity's appropriate li-  
22 censure by the State, county, or other ap-  
23 plicable unit of government; and

24 (iii) such other information as the Di-  
25 rector determines appropriate.

1 (B) HOME STUDY.—

2 (i) IN GENERAL.—The Director shall  
3 place a child with any custodian described  
4 in any of subparagraphs (A) through (F)  
5 of paragraph (1) unless the Director deter-  
6 mines that a home study with respect to  
7 such custodian is necessary.

8 (ii) SPECIAL NEEDS CHILDREN.—A  
9 home study shall be conducted to deter-  
10 mine if the custodian can properly meet  
11 the needs of—

12 (I) a special needs child with a  
13 disability (as defined in section 3 of  
14 the Americans with Disabilities Act of  
15 1990 (42 U.S.C. 12102(2)); or

16 (II) a child who has been the ob-  
17 ject of physical or mental injury, sex-  
18 ual abuse, negligent treatment, or  
19 maltreatment under circumstances  
20 which indicate that the child's health  
21 or welfare has been harmed or threat-  
22 ened.

23 (iii) FOLLOW-UP SERVICES.—The Di-  
24 rector shall conduct follow-up services for  
25 at least 90 days on custodians for whom a



1 home study was conducted under this sub-  
2 paragraph.

3 (C) CONTRACT AUTHORITY.—The Director  
4 may, by grant or contract, arrange for some or  
5 all of the activities under this section to be car-  
6 ried out by—

7 (i) an agency of the State of the  
8 child’s proposed residence;

9 (ii) an agency authorized by such  
10 State to conduct such activities; or

11 (iii) an appropriate voluntary or non-  
12 profit agency.

13 (D) DATABASE ACCESS.—In conducting  
14 suitability assessments, the Director shall have  
15 access to all relevant information in the appro-  
16 priate Federal, State, and local law enforcement  
17 and immigration databases.

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

20 (A) PLACEMENT WITH PARENT OR LEGAL  
21 GUARDIAN.—If an unaccompanied alien child is  
22 placed with any person or entity other than a  
23 parent or legal guardian, and subsequent to  
24 that placement a parent or legal guardian seeks  
25 to establish custody, the Director shall—

1 (i) assess the suitability of placing the  
2 child with the parent or legal guardian;  
3 and

4 (ii) make a written determination re-  
5 garding the child's placement within 30  
6 days.

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

9 (i) supersede obligations under any  
10 treaty or other international agreement to  
11 which the United States is a party, includ-  
12 ing—

13 (I) the Convention on the Civil  
14 Aspects of International Child Abduc-  
15 tion, done at The Hague, October 25,  
16 1980 (TIAS 11670);

17 (II) the Vienna Declaration and  
18 Program of Action, adopted at Vi-  
19 enna, June 25, 1993; and

20 (III) the Declaration of the  
21 Rights of the Child, adopted at New  
22 York, November 20, 1959; or

23 (ii) limit any right or remedy under  
24 such international agreement.

1           (4) PROTECTION FROM SMUGGLERS AND TRAF-  
2       FICKERS.—

3           (A) POLICIES AND PROGRAMS.—

4               (i) IN GENERAL.—The Director shall  
5       establish policies and programs to ensure  
6       that unaccompanied alien children are pro-  
7       tected from smugglers, traffickers, or other  
8       persons seeking to victimize or otherwise  
9       engage such children in criminal, harmful,  
10      or exploitative activity.

11           (ii) WITNESS PROTECTION PROGRAMS  
12      INCLUDED.—Programs established pursu-  
13      ant to clause (i) may include witness pro-  
14      tection programs.

15           (B) CRIMINAL INVESTIGATIONS AND PROS-  
16      ECUTIONS.—Any officer or employee of the Of-  
17      fice or of the Department, and any grantee or  
18      contractor of the Office or of the Department,  
19      who suspects any individual of involvement in  
20      any activity described in subparagraph (A) shall  
21      report such individual to Federal or State pros-  
22      ecutors for criminal investigation and prosecu-  
23      tion.

24           (C) DISCIPLINARY ACTION.—Any officer or  
25      employee of the Office or the Department, and

1           any grantee or contractor of the Office, who be-  
 2           lieves that a competent attorney or representa-  
 3           tive has been a participant in any activity de-  
 4           scribed in subparagraph (A), shall report the  
 5           attorney to the State bar association of which  
 6           the attorney is a member, or to other appro-  
 7           priate disciplinary authorities, for appropriate  
 8           disciplinary action, including private or public  
 9           admonition or censure, suspension, or disbar-  
 10          ment of the attorney from the practice of law.

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

16          (b) CONFIDENTIALITY.—

17          (1) IN GENERAL.—All information obtained by  
 18          the Office relating to the immigration status of a  
 19          person described in subparagraphs (A), (B), and (C)  
 20          of subsection (a)(1) shall remain confidential and  
 21          may only be used to determine such person's quali-  
 22          fications under subsection (a)(1).

23          (2) NONDISCLOSURE OF INFORMATION.—In  
 24          consideration of the needs and privacy of unaccom-  
 25          panied alien children in the custody of the Office or

1 its agents, and the necessity to guarantee the con-  
2 fidentiality of such children's information in order to  
3 facilitate their trust and truthfulness with the Of-  
4 fice, its agents, and clinicians, the Office shall main-  
5 tain the privacy and confidentiality of all informa-  
6 tion gathered in the course of the care, custody, and  
7 placement of unaccompanied alien children, con-  
8 sistent with its role and responsibilities under the  
9 Homeland Security Act to act as guardian in loco  
10 parentis in the best interest of the unaccompanied  
11 alien child, by not disclosing such information to  
12 other government agencies or nonparental third par-  
13 ties.

14 (c) REQUIRED DISCLOSURE.—The Secretary or the  
15 Secretary of Health and Human Services shall provide the  
16 information furnished under this section, and any other  
17 information derived from such furnished information, to—

18 (1) a duly recognized law enforcement entity in  
19 connection with an investigation or prosecution of an  
20 offense described in paragraph (2) or (3) of section  
21 212(a) of the Immigration and Nationality Act (8  
22 U.S.C. 1182(a)), when such information is requested  
23 in writing by such entity; or

24 (2) an official coroner for purposes of affirma-  
25 tively identifying a deceased individual (whether or

1 not such individual is deceased as a result of a  
 2 crime).

3 (d) PENALTY.—Any person who knowingly uses, pub-  
 4 lishes, or permits information to be examined in violation  
 5 of this section shall be fined not more than \$10,000.

6 **SEC. 103. APPROPRIATE CONDITIONS FOR DETENTION OF**  
 7 **UNACCOMPANIED ALIEN CHILDREN.**

8 (a) STANDARDS FOR PLACEMENT.—

9 (1) ORDER OF PREFERENCE.—An unaccom-  
 10 panied alien child who is not released pursuant to  
 11 section 102(a)(1) shall be placed in the least restric-  
 12 tive setting possible in the following order of pref-  
 13 erence:

14 (A) Licensed family foster home.

15 (B) Small group home.

16 (C) Juvenile shelter.

17 (D) Residential treatment center.

18 (E) Secure detention.

19 (2) PROHIBITION OF DETENTION IN CERTAIN  
 20 FACILITIES.—Except as provided under paragraph  
 21 (3), an unaccompanied alien child shall not be  
 22 placed in an adult detention facility or a facility  
 23 housing delinquent children.

24 (3) DETENTION IN APPROPRIATE FACILITIES.—

25 An unaccompanied alien child who has exhibited vio-

1       lent or criminal behavior that endangers others may  
2       be detained in conditions appropriate to such behav-  
3       ior in a facility appropriate for delinquent children.

4           (4) STATE LICENSURE.—A child shall not be  
5       placed with an entity described in section  
6       102(a)(1)(E), unless the entity is licensed by an ap-  
7       propriate State agency to provide residential, group,  
8       child welfare, or foster care services for dependent  
9       children.

10          (5) CONDITIONS OF DETENTION.—

11           (A) IN GENERAL.—The Director and the  
12       Secretary shall promulgate regulations incor-  
13       porating standards for conditions of detention  
14       in placements described in paragraph (1) that  
15       provide for—

16           (i) educational services appropriate to  
17       the child;

18           (ii) medical care;

19           (iii) mental health care, including  
20       treatment of trauma, physical and sexual  
21       violence, and abuse;

22           (iv) access to telephones;

23           (v) access to legal services;

24           (vi) access to interpreters;

1 (vii) supervision by professionals  
2 trained in the care of children, taking into  
3 account the special cultural, linguistic, and  
4 experiential needs of children in immigra-  
5 tion proceedings;

6 (viii) recreational programs and activi-  
7 ties;

8 (ix) spiritual and religious needs; and

9 (x) dietary needs.

10 (B) NOTIFICATION OF CHILDREN.—Regu-  
11 lations promulgated under subparagraph (A)  
12 shall provide that all children in such place-  
13 ments are notified of such standards orally and  
14 in writing in the child's native language.

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

18 (1) shackling, handcuffing, or other restraints  
19 on children;

20 (2) solitary confinement; or

21 (3) pat or strip searches.

22 (c) RULE OF CONSTRUCTION.—Nothing in this sec-  
23 tion shall be construed to supersede procedures favoring  
24 release of children to appropriate adults or entities or  
25 placement in the least secure setting possible, as described



1 in paragraph 23 of the Stipulated Settlement Agreement  
2 under Flores v. Reno.

3 **SEC. 104. REPATRIATED UNACCOMPANIED ALIEN CHIL-**  
4 **DREN.**

5 (a) COUNTRY CONDITIONS.—

6 (1) SENSE OF CONGRESS.—It is the sense of  
7 Congress that, to the extent consistent with the trea-  
8 ties and other international agreements to which the  
9 United States is a party, and to the extent prac-  
10 ticable, the United States Government should under-  
11 take efforts to ensure that it does not repatriate  
12 children in its custody into settings that would  
13 threaten the life and safety of such children.

14 (2) ASSESSMENT OF CONDITIONS.—

15 (A) IN GENERAL.—The Secretary of State  
16 shall include, in the annual Country Reports on  
17 Human Rights Practices, an assessment of the  
18 degree to which each country protects children  
19 from smugglers and traffickers.

20 (B) FACTORS FOR ASSESSMENT.—The  
21 Secretary shall consult the Country Reports on  
22 Human Rights Practices and the Trafficking in  
23 Persons Report in assessing whether to repa-  
24 triate an unaccompanied alien child to a par-  
25 ticular country.

1 (b) REPORT ON REPATRIATION OF UNACCOMPANIED  
2 ALIEN CHILDREN.—

3 (1) IN GENERAL.—Not later than 18 months  
4 after the date of the enactment of this Act, and an-  
5 nually thereafter, the Secretary shall submit a report  
6 to the Committee on the Judiciary of the Senate and  
7 the Committee on the Judiciary of the House of  
8 Representatives on efforts to repatriate unaccom-  
9 panied alien children.

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

12 (A) the number of unaccompanied alien  
13 children ordered removed and the number of  
14 such children actually removed from the United  
15 States;

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

18 (C) a statement of the nationalities, ages,  
19 and gender of such children;

20 (D) a description of the procedures used to  
21 effect the removal of such children from the  
22 United States;

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

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

4 **SEC. 105. ESTABLISHING THE AGE OF AN UNACCOMPANIED**  
5 **ALIEN CHILD.**

6 (a) PROCEDURES.—

7 (1) IN GENERAL.—The Director, in consulta-  
8 tion with the Secretary, shall develop procedures to  
9 make a prompt determination of the age of an alien,  
10 which procedures shall be used—

11 (A) by the Secretary, with respect to aliens  
12 in the custody of the Department;

13 (B) by the Director, with respect to aliens  
14 in the custody of the Office; and

15 (C) by the Attorney General, with respect  
16 to aliens in the custody of the Department of  
17 Justice.

18 (2) EVIDENCE.—The procedures developed  
19 under paragraph (1) shall—

20 (A) permit the presentation of multiple  
21 forms of evidence, including testimony of the  
22 alien, to determine the age of the unaccom-  
23 panied alien for purposes of placement, custody,  
24 parole, and detention; and

1 (B) allow the appeal of a determination to  
 2 an immigration judge.

3 (b) PROHIBITION ON SOLE MEANS OF DETERMINING  
 4 AGE.—Radiographs or the attestation of an alien may not  
 5 be used as the sole means of determining age for the pur-  
 6 poses of determining an alien’s eligibility for treatment  
 7 under this Act or section 462 of the Homeland Security  
 8 Act of 2002 (6 U.S.C. 279).

9 (c) RULE OF CONSTRUCTION.—Nothing in this sec-  
 10 tion may be construed to place the burden of proof in de-  
 11 termining the age of an alien on the Government.

12 **SEC. 106. EFFECTIVE DATE.**

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

15 **TITLE II—ACCESS BY UNACCOM-**  
 16 **PANIED ALIEN CHILDREN TO**  
 17 **CHILD ADVOCATES AND**  
 18 **COUNSEL**

19 **SEC. 201. CHILD ADVOCATES.**

20 (a) ESTABLISHMENT OF CHILD ADVOCATE PRO-  
 21 GRAM.—

22 (1) APPOINTMENT.—The Director may appoint  
 23 a child advocate, who meets the qualifications de-  
 24 scribed in paragraph (2), for an unaccompanied  
 25 alien child. The Director is encouraged, if prac-

1        ticable, to contract with a voluntary agency for the  
 2        selection of an individual to be appointed as a child  
 3        advocate under this paragraph.

4            (2) QUALIFICATIONS OF CHILD ADVOCATE.—

5            (A) IN GENERAL.—A person may not serve  
 6        as a child advocate unless such person—

7            (i) is a child welfare professional or  
 8        other individual who has received training  
 9        in child welfare matters;

10          (ii) possesses special training on the  
 11       nature of problems encountered by unac-  
 12       companied alien children; and

13          (iii) is not an employee of the Depart-  
 14       ment, the Department of Justice, or the  
 15       Department of Health and Human Serv-  
 16       ices.

17          (B) INDEPENDENCE OF CHILD ADVOCATE.—  
 18

19          (i) INDEPENDENCE FROM AGENCIES  
 20       OF GOVERNMENT.—The child advocate  
 21       shall act independently of any agency of  
 22       government in making and reporting find-  
 23       ings or making recommendations with re-  
 24       spect to the best interests of the child. No  
 25       agency shall terminate, reprimand, de-

1 fund, intimidate, or retaliate against any  
 2 person or entity appointed under para-  
 3 graph (1) because of the findings and rec-  
 4 ommendations made by such person relat-  
 5 ing to any child.

6 (ii) PROHIBITION OF CONFLICT OF IN-  
 7 TEREST.—No person shall serve as a child  
 8 advocate for a child if such person is pro-  
 9 viding legal services to such child.

10 (3) DUTIES.—The child advocate of a child  
 11 shall—

12 (A) conduct interviews with the child in a  
 13 manner that is appropriate, taking into account  
 14 the child's age;

15 (B) investigate the facts and circumstances  
 16 relevant to the child's presence in the United  
 17 States, including facts and circumstances—

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

20 (ii) arising subsequent to the child's  
 21 departure from such country;

22 (C) work with counsel to identify the  
 23 child's eligibility for relief from removal or vol-  
 24 untary departure by sharing with counsel rel-

1           evant information collected under subparagraph  
2           (B);

3           (D) develop recommendations on issues  
4           relative to the child's custody, detention, re-  
5           lease, and repatriation;

6           (E) take reasonable steps to ensure that—

7                   (i) the best interests of the child are  
8                   promoted while the child participates in, or  
9                   is subject to, proceedings or matters under  
10                  the Immigration and Nationality Act (8  
11                  U.S.C. 1101 et seq.);

12                   (ii) the child understands the nature  
13                   of the legal proceedings or matters and de-  
14                   terminations made by the court, and that  
15                   all information is conveyed to the child in  
16                   an age-appropriate manner;

17           (F) report factual findings and rec-  
18           ommendations consistent with the child's best  
19           interests relating to the custody, detention, and  
20           release of the child during the pendency of the  
21           proceedings or matters, to the Director and the  
22           child's counsel;

23           (G) in any proceeding involving an alien  
24           child in which a complaint has been filed with  
25           any appropriate disciplinary authority against

1 an attorney or representative for criminal, un-  
 2 ethical, or unprofessional conduct in connection  
 3 with the representation of the alien child, pro-  
 4 vide the immigration judge with written rec-  
 5 ommendations or testimony on any information  
 6 the child advocate may have regarding the con-  
 7 duct of the attorney; and

8 (H) in any proceeding involving an alien  
 9 child in which the safety of the child upon repa-  
 10 triation is at issue, and after the immigration  
 11 judge has considered and denied all applications  
 12 for relief other than voluntary departure, pro-  
 13 vide the immigration judge with written rec-  
 14 ommendations or testimony on any information  
 15 the child advocate may have regarding the  
 16 child's safety upon repatriation.

17 (4) TERMINATION OF APPOINTMENT.—The  
 18 child advocate shall carry out the duties described in  
 19 paragraph (3) until the earliest of the date on  
 20 which—

21 (A) those duties are completed;

22 (B) the child departs from the United  
 23 States;

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



1 (D) the child reaches 18 years of age; or

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

4 (5) POWERS.—The child advocate—

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

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

12 (C) may seek independent evaluations of  
13 the child;

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

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

24 (F) shall be provided at least 24 hours ad-  
25 vance notice of a transfer of that child to a dif-

1           ferent placement, absent compelling and un-  
2           usual circumstances warranting the transfer of  
3           such child before such notification.

4       (b) TRAINING.—

5           (1) IN GENERAL.—The Director shall provide  
6           professional training for all persons serving as child  
7           advocates under this section.

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

10               (A) the circumstances and conditions faced  
11               by unaccompanied alien children; and

12               (B) various immigration benefits for which  
13               such alien child might be eligible.

14       (c) PILOT PROGRAM.—

15           (1) IN GENERAL.—Not later than 180 days  
16           after the date of the enactment of this Act, the Di-  
17           rector shall establish and begin to carry out a pilot  
18           program to test the implementation of subsection  
19           (a). Any pilot program existing before the date of  
20           the enactment of this Act shall be deemed insuffi-  
21           cient to satisfy the requirements of this subsection.

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

24               (A) study and assess the benefits of pro-  
25               viding child advocates to assist unaccompanied

1 alien children involved in immigration pro-  
2 ceedings or matters;

3 (B) assess the most efficient and cost-ef-  
4 fective means of implementing the child advo-  
5 cate provisions under 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 at which to operate the pilot  
13 program established under paragraph (1).

14 (B) NUMBER OF CHILDREN.—Each site  
15 selected under subparagraph (A) should have  
16 not less than 25 children held in immigration  
17 custody at any given time, to the greatest ex-  
18 tent possible.

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 (5) AUTHORIZATION OF APPROPRIATIONS.—

2 There are authorized to be appropriated such sums  
3 as may be necessary to carry out this section.

4 **SEC. 202. COUNSEL.**

5 (a) ACCESS TO COUNSEL.—

6 (1) IN GENERAL.—The Director shall ensure, to  
7 the greatest extent practicable, that all unaccom-  
8 panied alien children in the custody of the Office or  
9 the Department, who are not described in section  
10 101(a)(2), have competent counsel to represent them  
11 in immigration proceedings or matters.

12 (2) PRO BONO REPRESENTATION.—To the  
13 greatest extent practicable, the Director shall—

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

18 (B) ensure that placements made under  
19 subparagraphs (D), (E), and (F) of section  
20 102(a)(1) are in cities in which there is a dem-  
21 onstrated capacity for competent pro bono rep-  
22 resentation.

23 (3) DEVELOPMENT OF NECESSARY INFRA-  
24 STRUCTURES AND SYSTEMS.—The Director shall de-  
25 velop the necessary mechanisms to identify and re-

1       cruit entities that are available to provide legal as-  
 2       sistance and representation under this subsection.

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

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

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

19              (C) CONSIDERATIONS REGARDING GRANTS  
 20      AND CONTRACTS.—In awarding grants and en-  
 21      tering into contracts with agencies under this  
 22      paragraph, the Director shall take into consid-  
 23      eration the capacity of the agencies in question  
 24      to properly administer the services covered by

1           such grants or contracts without an undue con-  
2           flict of interest.

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

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

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

24                  (C) IMPLEMENTATION.—Not later than  
25          180 days after the date of the enactment of this

1 Act, the Director of the Executive Office for  
 2 Immigration Review shall—

3 (i) adopt the guidelines developed  
 4 under subparagraph (A); and

5 (ii) submit the guidelines for adoption  
 6 by national, State, and local bar associa-  
 7 tions.

8 (b) DUTIES.—Counsel under this section shall—

9 (1) represent the unaccompanied alien child in  
 10 all proceedings and matters relating to the immigra-  
 11 tion status of the child or other actions involving the  
 12 Department;

13 (2) appear in person for all individual merits  
 14 hearings before the Executive Office for Immigration  
 15 Review and interviews involving the Department;  
 16 and

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

20 (c) ACCESS TO CHILD.—

21 (1) IN GENERAL.—Counsel under this section  
 22 shall have reasonable access to the unaccompanied  
 23 alien child, including access while the child is—

24 (A) held in detention;

25 (B) in the care of a foster family; or

1 (C) in any other setting that has been de-  
2 termined by the Office.

3 (2) RESTRICTION ON TRANSFERS.—Absent  
4 compelling and unusual circumstances, a child who  
5 is represented by counsel may not be transferred  
6 from the child's placement to another placement un-  
7 less advance notice of at least 24 hours is made to  
8 counsel of such transfer.

9 (d) NOTICE TO COUNSEL DURING IMMIGRATION  
10 PROCEEDINGS.—

11 (1) IN GENERAL.—Except when otherwise re-  
12 quired in an emergency situation involving the phys-  
13 ical safety of the child, counsel shall be given prompt  
14 and adequate notice of all immigration matters af-  
15 fecting or involving an unaccompanied alien child,  
16 including adjudications, proceedings, and processing,  
17 before such actions are taken.

18 (2) OPPORTUNITY TO CONSULT WITH COUN-  
19 SEL.—An unaccompanied alien child in the custody  
20 of the Office may not give consent to any immigra-  
21 tion action, including consenting to voluntary depar-  
22 ture, unless first afforded an opportunity to consult  
23 with counsel.

24 (e) ACCESS TO RECOMMENDATIONS OF CHILD ADVO-  
25 CATE.—Counsel shall be given an opportunity to review



1 the recommendations of the child advocate affecting or in-  
 2 volving a client who is an unaccompanied alien child.

3 (f) COUNSEL FOR UNACCOMPANIED ALIEN CHIL-  
 4 DREN.—Nothing in this Act may be construed to require  
 5 the Government of the United States to pay for counsel  
 6 to any unaccompanied alien child.

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

8 (a) EFFECTIVE DATE.—This title shall take effect on  
 9 the date which is 180 days after the date of the enactment  
 10 of this Act.

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

14 **TITLE III—STRENGTHENING**  
 15 **POLICIES FOR PERMANENT**  
 16 **PROTECTION OF ALIEN CHIL-**  
 17 **DREN**

18 **SEC. 301. SPECIAL IMMIGRANT JUVENILE CLASSIFICATION.**

19 (a) J CLASSIFICATION.—

20 (1) IN GENERAL.—Section 101(a)(27)(J) of the  
 21 Immigration and Nationality Act (8 U.S.C.  
 22 1101(a)(27)(J)) is amended to read as follows:

23 “(J) an immigrant, who is 18 years of age or  
 24 younger on the date of application for classification

1 as a special immigrant and present in the United  
2 States—

3 “(i) who, by a court order supported by  
4 written findings of fact, which shall be binding  
5 on the Secretary of Homeland Security for pur-  
6 poses of adjudications under this subpara-  
7 graph—

8 “(I) was declared dependent on a ju-  
9 venile court located in the United States or  
10 has been legally committed to, or placed  
11 under the custody of, a department or  
12 agency of a State, or an individual or enti-  
13 ty appointed by a State or juvenile court  
14 located in the United States; and

15 “(II) should not be reunified with his  
16 or her parents due to abuse, neglect, aban-  
17 donment, or a similar basis found under  
18 State law;

19 “(ii) for whom it has been determined by  
20 written findings of fact in administrative or ju-  
21 dicial proceedings that it would not be in the  
22 alien’s best interest to be returned to the alien’s  
23 or parent’s previous country of nationality or  
24 country of last habitual residence; and

“(iii) with respect to a child in Federal custody, for whom the Office of Refugee Resettlement of the Department of Health and Human Services has certified to the Director of U.S. Citizenship and Immigration Services that the classification of an alien as a special immigrant under this subparagraph has not been made solely to provide an immigration benefit to that alien.”.

(2) RULE OF CONSTRUCTION.—Nothing in subparagraph (J) of section 101(a)(27) of the Immigration and Nationality Act, as amended by paragraph (1), shall be construed to grant, to any natural parent or prior adoptive parent of any alien provided special immigrant status under such subparagraph, by virtue of such parentage, any right, privilege, or status under such Act.

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

“(A) paragraphs (4), (5)(A), (6)(A), (7)(A), 9(B), and 9(C)(i)(I) of section 212(a) shall not apply; and”.

(c) ELIGIBILITY FOR ASSISTANCE.—

1           (1) IN GENERAL.—A child who has been cer-  
 2           tified under section 101(a)(27)(J) of the Immigra-  
 3           tion and Nationality Act, as amended by subsection  
 4           (a)(1), and who was in the custody of the Office at  
 5           the time a dependency order was granted for such  
 6           child, shall be eligible for placement and services  
 7           under section 412(d) of such Act (8 U.S.C. 1522(d))  
 8           until the earlier of—

9                   (A) the date on which the child reaches the  
 10                  age designated in section 412(d)(2)(B) of such  
 11                  Act (8 U.S.C. 1522(d)(2)(B)); or

12                  (B) the date on which the child is placed  
 13                  in a permanent adoptive home.

14           (2) STATE REIMBURSEMENT.—If foster care  
 15           funds are expended on behalf of a child who is not  
 16           described in paragraph (1) and has been granted re-  
 17           lief under section 101(a)(27)(J) of the Immigration  
 18           and Nationality Act, the Federal Government shall  
 19           reimburse the State in which the child resides for  
 20           such expenditures by the State.

21           (d) TRANSITION RULE.—Notwithstanding any other  
 22           provision of law, a child described in section 101(a)(27)(J)  
 23           of the Immigration and Nationality Act, as amended by  
 24           subsection (a)(1), may not be denied such special immi-

1 grant juvenile classification after the date of the enact-  
 2 ment of this Act based on age if the child—

3 (1) filed an application for special immigrant  
 4 juvenile classification before the date of the enact-  
 5 ment of this Act and was 21 years of age or younger  
 6 on the date such application was filed; or

7 (2) was younger than 21 years of age on the  
 8 date on which the child applied for classification as  
 9 a special immigrant juvenile and can demonstrate  
 10 exceptional circumstances warranting relief.

11 (e) RULEMAKING.—Not later than 90 days after the  
 12 date of the enactment of this Act, the Secretary shall pro-  
 13 mulgate rules to carry out this section.

14 (f) EFFECTIVE DATE.—The amendments made by  
 15 this section shall apply to all aliens who were in the United  
 16 States before, on, or after the date of enactment of this  
 17 Act.

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 materials, and

1       upon request, direct training, to State and county  
2       officials, child welfare specialists, teachers, public  
3       counsel, and juvenile judges who come into contact  
4       with unaccompanied alien children.

5           (2) CURRICULUM.—The training required under  
6       paragraph (1) shall include education on the proc-  
7       esses pertaining to unaccompanied alien children  
8       with pending immigration status and on the forms  
9       of relief potentially available. The Director shall es-  
10      tablish a core curriculum that can be incorporated  
11      into education, training, or orientation modules or  
12      formats that are currently used by these profes-  
13      sionals.

14          (3) VIDEO CONFERENCING.—Direct training re-  
15      quested under paragraph (1) may be conducted  
16      through video conferencing.

17          (b) TRAINING OF DEPARTMENT PERSONNEL.—The  
18      Secretary, acting jointly with the Secretary of Health and  
19      Human Services, shall provide specialized training to all  
20      personnel of the Department who come into contact with  
21      unaccompanied alien children. Training for agents of the  
22      Border Patrol and immigration inspectors shall include  
23      specific training on identifying—

24           (1) children at the international borders of the  
25      United States or at United States ports of entry

1 who have been victimized by smugglers or traf-  
2 fickers; and

3 (2) children for whom asylum or special immi-  
4 grant relief may be appropriate, including children  
5 described in section 101(a)(2)(A).

6 **SEC. 303. REPORT.**

7 Not later than 1 year after the date of the enactment  
8 of this Act, and annually thereafter, the Secretary of  
9 Health and Human Services shall submit a report to the  
10 Committee on the Judiciary of the Senate and the Com-  
11 mittee on the Judiciary of the House of Representatives  
12 that contains, for the most recently concluded fiscal  
13 year—

14 (1) data related to the implementation of sec-  
15 tion 462 of the Homeland Security Act (6 U.S.C.  
16 279);

17 (2) data regarding the care and placement of  
18 children under this Act;

19 (3) data regarding the provision of child advo-  
20 cate and counsel services under this Act; and

21 (4) any other information that the Director or  
22 the Secretary of Health and Human Services deter-  
23 mines to be appropriate.

1   **TITLE IV—CHILDREN REFUGEE**  
2       **AND ASYLUM SEEKERS**

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

4       (a) SENSE OF CONGRESS.—Congress—

5           (1) commends the former Immigration and  
6       Naturalization Service for its “Guidelines for Chil-  
7       dren’s Asylum Claims”, issued in December 1998;

8           (2) encourages and supports the Department to  
9       implement such guidelines to facilitate the handling  
10      of children’s affirmative asylum claims;

11          (3) commends the Executive Office for Immi-  
12      gration Review of the Department of Justice for its  
13      “Guidelines for Immigration Court Cases Involving  
14      Unaccompanied Alien Children”, issued in Sep-  
15      tember 2004;

16          (4) encourages and supports the continued im-  
17      plementation of such guidelines by the Executive Of-  
18      fice for Immigration Review in its handling of chil-  
19      dren’s asylum claims before immigration judges; and

20          (5) understands that the guidelines described in  
21      paragraph (3)—

22            (A) do not specifically address the issue of  
23      asylum claims; and

24            (B) address the broader issue of unaccom-  
25      panied alien children.



1 (b) TRAINING.—

2 (1) IMMIGRATION OFFICERS.—The Secretary  
3 shall provide periodic comprehensive training under  
4 the “Guidelines for Children’s Asylum Claims” to  
5 asylum officers and immigration officers who have  
6 contact with children in order to familiarize and sen-  
7 sitize such officers to the needs of children asylum  
8 seekers.

9 (2) IMMIGRATION JUDGES.—The Director of  
10 the Executive Office for Immigration Review shall—

11 (A) provide periodic comprehensive train-  
12 ing under the “Guidelines for Immigration  
13 Court Cases Involving Unaccompanied Alien  
14 Children” and the “Guidelines for Children’s  
15 Asylum Claims” to immigration judges and  
16 members of the Board of Immigration Appeals;  
17 and

18 (B) redistribute the “Guidelines for Chil-  
19 dren’s Asylum Claims” to all immigration  
20 courts as part of its training of immigration  
21 judges.

22 (3) USE OF VOLUNTARY AGENCIES.—Voluntary  
23 agencies shall be allowed to assist in the training de-  
24 scribed in this subsection.

25 (c) STATISTICS AND REPORTING.—

1 (1) STATISTICS.—

2 (A) DEPARTMENT OF JUSTICE.—The At-  
3 torney General shall compile and maintain sta-  
4 tistics on the number of cases in immigration  
5 court involving unaccompanied alien children,  
6 which shall include, with respect to each such  
7 child, information about—

- 8 (i) the age;  
9 (ii) the gender;  
10 (iii) the country of nationality;  
11 (iv) representation by counsel;  
12 (v) the relief sought; and  
13 (vi) the outcome of such cases.

14 (B) DEPARTMENT OF HOMELAND SECU-  
15 RITY.—The Secretary shall compile and main-  
16 tain statistics on the instances of unaccom-  
17 panied alien children in the custody of the De-  
18 partment, which shall include, with respect to  
19 each such child, information about—

- 20 (i) the age;  
21 (ii) the gender;  
22 (iii) the country of nationality; and  
23 (iv) the length of detention.

24 (2) REPORTS TO CONGRESS.—Not later than  
25 90 days after the date of the enactment of this Act

1 and annually, thereafter, the Attorney General, in  
 2 consultation with the Secretary, Secretary of Health  
 3 and Human Services, and any other necessary gov-  
 4 ernment official, shall submit a report to the Com-  
 5 mittee on the Judiciary of the Senate and the Com-  
 6 mittee on the Judiciary House of Representatives on  
 7 the number of alien children in Federal custody dur-  
 8 ing the most recently concluded fiscal year. Informa-  
 9 tion contained in the report, with respect to such  
 10 children, shall be categorized by—

- 11 (A) age;
- 12 (B) gender;
- 13 (C) country of nationality;
- 14 (D) length of time in custody;
- 15 (E) the department or agency with cus-
- 16 tody; and
- 17 (F) treatment as an unaccompanied alien
- 18 child.

19 **SEC. 402. UNACCOMPANIED REFUGEE CHILDREN.**

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

- 23 (1) by redesignating paragraphs (3), (4), (5),
- 24 (6), and (7) as paragraphs (4), (5), (6), (7), and
- 25 (8), respectively; and

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

3           “(3) An analysis of the worldwide situation  
 4       faced by unaccompanied refugee children, cat-  
 5       egorized by region, which shall include an assess-  
 6       ment of—

7           “(A) the number of unaccompanied refugee  
 8       children;

9           “(B) the capacity of the Department of  
 10       State to identify such refugees;

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

13          “(D) the capacity of the voluntary agency  
 14       community to resettle such refugees in the  
 15       United States;

16          “(E) the degree to which the United States  
 17       plans to resettle such refugees in the United  
 18       States in the following fiscal year; and

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

22       (b) TRAINING ON THE NEEDS OF UNACCOMPANIED  
 23       REFUGEE CHILDREN.—Section 207(f)(2) of the Immigra-  
 24       tion and Nationality Act (8 U.S.C. 1157(f)(2)) is amend-  
 25       ed—

- 1 (1) by striking “and” after “countries,”; and
- 2 (2) by inserting “, and instruction on the needs
- 3 of unaccompanied refugee children” before the pe-
- 4 riod at the end.

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

8 (a) PLACEMENT IN REMOVAL PROCEEDINGS.—Any  
 9 unaccompanied alien child apprehended by the Depart-  
 10 ment, except for an unaccompanied alien child subject to  
 11 exceptions under paragraph (1)(A) or (2) of section  
 12 (101)(a), shall be placed in removal proceedings under sec-  
 13 tion 240 of the Immigration and Nationality Act (8 U.S.C.  
 14 1229a).

15 (b) EXCEPTION FROM TIME LIMIT FOR FILING ASY-  
 16 LUM APPLICATION.—Section 208 of the Immigration and  
 17 Nationality Act (8 U.S.C. 1158(a)(2)) is amended—

18 (1) in subsection (a)(2), by adding at the end  
 19 the following:

20 “(E) APPLICABILITY.—Subparagraphs (A)  
 21 and (B) shall not apply to an unaccompanied  
 22 alien child.”; and

23 (2) in subsection (b)(3), by adding at the end  
 24 the following:

1           “(C) INITIAL JURISDICTION.—United  
 2           States Citizenship and Immigration Services  
 3           shall have initial jurisdiction over any asylum  
 4           application filed by an unaccompanied alien  
 5           child.”.

6   **TITLE V—AMENDMENTS TO THE**  
 7       **HOMELAND SECURITY ACT**  
 8       **OF 2002**

9   **SEC. 501. ADDITIONAL RESPONSIBILITIES AND POWERS OF**  
 10           **THE OFFICE OF REFUGEE RESETTLEMENT**  
 11           **WITH RESPECT TO UNACCOMPANIED ALIEN**  
 12           **CHILDREN.**

13       (a) ADDITIONAL RESPONSIBILITIES OF THE DIREC-  
 14   TOR.—Section 462(b)(1) of the Homeland Security Act of  
 15   2002 (6 U.S.C. 279(b)(1)) is amended—

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

18           (2) in subparagraph (L), by striking the period  
 19       at the end and inserting “, including regular follow-  
 20       up visits to such facilities, placements, and other en-  
 21       tities, to assess the continued suitability of such  
 22       placements; and”; and

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

24           “(M) ensuring minimum standards of care  
 25       for all unaccompanied alien children—

1 “(i) for whom detention is necessary;  
2 and  
3 “(ii) who reside in settings that are  
4 alternative to detention.”.

5 (b) ADDITIONAL AUTHORITY OF THE DIRECTOR.—  
6 Section 462(b) of the Homeland Security Act of 2002 (6  
7 U.S.C. 279(b)) is amended by adding at the end the fol-  
8 lowing:

9 “(4) AUTHORITY.—In carrying out the duties  
10 under paragraph (3), the Director may—

11 “(A) contract with service providers to per-  
12 form the services described in sections 102,  
13 103, 201, and 202 of the Unaccompanied Alien  
14 Child Protection Act of 2007; and

15 “(B) compel compliance with the terms  
16 and conditions set forth in section 103 of such  
17 Act, by—

18 “(i) declaring providers to be in  
19 breach and seek damages for noncompli-  
20 ance;

21 “(ii) terminating the contracts of pro-  
22 viders that are not in compliance with such  
23 conditions; or

1 “(iii) reassigning any unaccompanied  
 2 alien child to a similar facility that is in  
 3 compliance with such section.”.

4 **SEC. 502. TECHNICAL CORRECTIONS.**

5 Section 462(b) of the Homeland Security Act of 2002  
 6 (6 U.S.C. 279(b)), as amended by section 501, is further  
 7 amended—

8 (1) in paragraph (3), by striking “paragraph  
 9 (1)(G)” and inserting “paragraph (1)”; and  
 10 (2) by adding at the end the following:

11 “(5) RULE OF CONSTRUCTION.—Nothing in  
 12 paragraph (2)(B) may be construed to require that  
 13 a bond be posted for unaccompanied alien children  
 14 who are released to a qualified sponsor.”.

15 **SEC. 503. EFFECTIVE DATE.**

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

19 **TITLE VI—AUTHORIZATION OF**  
 20 **APPROPRIATIONS**

21 **SEC. 601. AUTHORIZATION OF APPROPRIATIONS.**

22 (a) IN GENERAL.—There are authorized to be appro-  
 23 priated to the Department, the Department of Justice,  
 24 and the Department of Health and Human Services, such  
 25 sums as may be necessary to carry out—



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

3           (2) the provisions of this Act.

4       (b) AVAILABILITY OF FUNDS.—Amounts appro-  
5       priated pursuant to subsection (a) shall remain available  
6       until expended.

○