

114TH CONGRESS
1ST SESSION

H. R. 3605

To establish humane practices for the repatriation of aliens at the border, establish effective standards for the treatment of certain aliens in the custody of the Department of Homeland Security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2015

Ms. ROYBAL-ALLARD introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish humane practices for the repatriation of aliens at the border, establish effective standards for the treatment of certain aliens in the custody of the Department of Homeland Security, 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.**

4 This Act may be cited as the “Protect Family Values
5 at the Border Act”.

1 **SEC. 2. PROTECTION OF FAMILY VALUES IN APPREHEN-**
2 **SION PROGRAMS.**

3 (a) PROCEDURES FOR MIGRATION DETERRENCE
4 PROGRAMS AT THE BORDER.—In any migration deter-
5 rence program carried out at a border, the Secretary and
6 any cooperating entity shall for each apprehended indi-
7 vidual—

8 (1) as soon as practicable after such individual
9 is apprehended—

10 (A) inquire through a standardized proce-
11 dure that shall be established by the Secretary
12 not later than 90 days after the date of the en-
13 actment of this Act, as to whether such appre-
14 hended individual is—

15 (i) a parent, legal guardian, or pri-
16 mary caregiver of a child; or

17 (ii) traveling with a spouse, child, or
18 sibling; and

19 (B) ascertain whether repatriation of such
20 apprehended individual presents any humani-
21 tarian concern or concern related to such appre-
22 hended individual's physical safety; and

23 (2) ensure that, with respect to a decision re-
24 lated to the repatriation or referral for prosecution
25 of such apprehended individual, due consideration is
26 given to—

1 (A) the best interests of such apprehended
2 individual's child;

3 (B) family unity whenever possible; and

4 (C) other public interest factors, including
5 humanitarian concerns and concerns related to
6 such apprehended individual's physical safety.

7 (b) MANDATORY TRAINING.—The Secretary, in con-
8 sultation with the Secretary of Health and Human Serv-
9 ices, the Attorney General, the Secretary of State, and
10 independent immigration, child welfare, family law, and
11 human rights law experts, shall—

12 (1) develop and provide specialized training for
13 all personnel of U.S. Customs and Border Protection
14 and cooperating entities who come into contact with
15 apprehended individuals regarding legal authorities,
16 policies, and procedures relevant to the preservation
17 of a child's best interest, family unity, and other
18 public interest factors, including factors described in
19 subsection (a); and

20 (2) require border enforcement personnel to un-
21 dertake periodic and continuing training on best
22 practices and changes in relevant legal authorities,
23 policies, and procedures referred to in paragraph
24 (1).

1 (c) ANNUAL REPORT ON THE IMPACT OF MIGRATION
2 DETERRENCE PROGRAMS AT THE BORDER.—

3 (1) IN GENERAL.—Not later than one year
4 after the date of the enactment of this Act and an-
5 nually thereafter, the Secretary shall submit to Con-
6 gress a report that describes the impact of migration
7 deterrence programs on parents, legal guardians,
8 primary caregivers of a child, individuals traveling
9 with a spouse, child, or sibling, and individuals who
10 present humanitarian considerations or concerns re-
11 lated to such individual’s physical safety.

12 (2) CONTENTS.—Each report required under
13 paragraph (1) shall include for the previous year pe-
14 riod an assessment of—

15 (A) the number of apprehended individuals
16 removed, repatriated, or referred for prosecu-
17 tion who are the parent, legal guardian, or pri-
18 mary caregiver of a child who is a citizen of the
19 United States;

20 (B) the number of occasions in which both
21 parents, or the primary caretaker of such a
22 child was removed, repatriated, or referred for
23 prosecution as part of a migration deterrence
24 program;

1 (C) the number of apprehended individuals
2 traveling with a spouse, parent, grandparent,
3 sibling, or child who are removed, repatriated,
4 or referred for prosecution; and

5 (D) the impact of migration deterrence
6 programs on public interest factors, including
7 humanitarian concerns and physical safety.

8 (d) REGULATIONS.—Not later than 120 days after
9 the date of the enactment of this Act, the Secretary shall
10 promulgate regulations to implement this section.

11 **SEC. 3. LIMITING DANGEROUS DEPORTATION PRACTICES.**

12 (a) CERTIFICATION REQUIRED.—

13 (1) IN GENERAL.—Not later than one year
14 after the date of the enactment of this Act and every
15 180 days thereafter, the Secretary, except as pro-
16 vided in paragraph (2), shall submit to Congress
17 written certification that the Department has de-
18 ported or otherwise removed for a violation of the
19 Immigration and Nationality Act (8 U.S.C. 1101 et
20 seq.) an apprehended individual from the United
21 States through an entry or exit point on the south-
22 ern border only during daylight hours.

23 (2) EXCEPTION.—The certification required
24 under paragraph (1) shall not apply to the deporta-

1 tion or removal of an apprehended individual other-
2 wise described in such paragraph if—

3 (A) the manner of such deportation or re-
4 moval is justified by a compelling governmental
5 interest; and

6 (B) such apprehended individual is not a
7 child and such apprehended individual agrees to
8 be deported or removed in such manner after
9 being notified of the intended manner of depor-
10 tation or removal.

11 (b) CONSULTATION.—The Secretary shall consult
12 with the Secretary of State and with local service providers
13 at ports of entry, including shelters, hospitals, and centers
14 for deported women and children, when negotiating or re-
15 negotiating agreements with the Government of Mexico
16 and State and local entities governing arrangements for
17 the deportation or removal of apprehended individuals to
18 determine appropriate hours, subject to subsection (a), for
19 conducting deportations and removals, and identifying
20 safety concerns at deportation and removal sites.

21 **SEC. 4. SHORT-TERM CUSTODY STANDARDS.**

22 (a) IN GENERAL.—Not later than 180 days after the
23 date of the enactment of this Act, the Secretary, in con-
24 sultation with the head of the Office of Civil Rights and
25 Civil Liberties of the Department, shall promulgate regu-

1 lations establishing short-term custody standards pro-
2 viding for basic minimums of care at all U.S. Customs
3 and Border Protection (CBP) facilities holding individuals
4 in CBP custody, including—

- 5 (1) Border Patrol stations;
- 6 (2) ports of entry;
- 7 (3) checkpoints;
- 8 (4) forward operating bases;
- 9 (5) secondary inspection areas; and
- 10 (6) short-term custody facilities.

11 (b) REQUIREMENTS.—The regulations promulgated
12 in accordance with subsection (a) shall ensure that deten-
13 tion space capacity will not be exceeded except in emer-
14 gency circumstances, and that all individuals in CBP cus-
15 tody receive—

- 16 (1) potable water and a snack, and, if detained
17 for more than five hours, a nutritious meal with reg-
18 ular nutritious meals (at least one of which daily
19 must be heated), and snacks, thereafter;
- 20 (2) medically appropriate meals or snacks if
21 such individuals are pregnant or have medical needs;
- 22 (3) access to bathroom facilities, as well as
23 basic toiletries and hygiene items, including soap, a
24 toothbrush, toilet paper, and other items appropriate

1 for the age and gender identification of such individ-
2 uals, such as diapers and feminine hygiene products;

3 (4) a cot, clean linens, and blankets, if detained
4 for more than five hours;

5 (5) adequate lighting and climate control that
6 achieves a reasonable indoor temperature;

7 (6) a physical and mental health screening con-
8 ducted promptly upon arrival in a manner that com-
9 plies with the requirements for such screenings spec-
10 ified in the currently applicable National Commis-
11 sion for Correctional Health Care Jails Standards,
12 as well as information about the availability of, and
13 access to, health care services that is communicated
14 in a form and language such individuals are known
15 to understand;

16 (7) immediate physical and mental health needs
17 addressed by a qualified health care professional as
18 soon as possible;

19 (8) prompt notice of the ability to make one
20 telephone call at any time after arrest, telephone ac-
21 cess to make such call, and the phone numbers to
22 file a complaint with the Office of the Inspector
23 General of the Department and the Office for Civil
24 Rights and Civil Liberties of the Department;

1 (9) to the extent practicable, a reasonable ac-
2 commodation to respect such individuals' religious
3 practices;

4 (10) all protections under the Prison Rape
5 Elimination Act of 2003 (42 U.S.C. 15601 et seq.;
6 Public Law 108–79), except that certain protections
7 shall not apply at a particular CBP facility if the
8 Commissioner of CBP determines that implementa-
9 tion at that particular facility of such a protection
10 would be impracticable;

11 (11) safe transport, including prevention of sex-
12 ual assault during transfer, including in subcon-
13 tracted transportation services, while such individ-
14 uals are transported from a CBP facility; and

15 (12) an administrative exit interview, upon re-
16 lease from CPB custody and after individuals have
17 an opportunity to receive and review their belong-
18 ings, with translations as necessary, which contains
19 the questions described in subsection (c), or substan-
20 tially similar questions.

21 (c) EXIT INTERVIEW QUESTIONS.—The questions de-
22 scribed in this section are as follows:

23 (1) Have all belongings, including money and
24 identification been returned to you?

1 (2) Were you apprehended with family mem-
2 bers? If so, have you received information about
3 where your family member is and how and when you
4 may be reunited?

5 (3) Have you received information about how to
6 file a complaint?

7 (4) Do you wish to file a complaint now about
8 your treatment or conditions while in CPB custody?

9 (d) FURTHER PROVISIONS.—The Commissioner of
10 CBP shall ensure that all individuals in CBP custody—

11 (1) have regular access to consular officials and
12 Government-funded legal service providers through
13 confidential in-person visits or telephonic commu-
14 nications;

15 (2) receive copies of all signed documents; and

16 (3) are transferred to an appropriate U.S. Im-
17 migration and Customs Enforcement or Department
18 of Health and Human Services Office of Refugee
19 Resettlement facility or are released from short-term
20 custody within 72 hours of apprehension.

21 (e) SURVEILLANCE OF CERTAIN INDIVIDUALS IN
22 CBP CUSTODY.—The Commissioner of CBP shall ensure
23 constant surveillance of an individual in CBP custody who
24 exhibits signs of hostility, depression, or similar behaviors,

1 or who is reasonably known to pose an elevated suicide
2 risk.

3 (f) PHYSICAL AND MENTAL HEALTH ASSESS-
4 MENT.—The Commissioner of CBP shall ensure that indi-
5 viduals in CBP custody for more than 24 hours, receive,
6 in addition to the physical and mental health screening
7 specified in subsection (b)(6), a physical and mental
8 health assessment by a qualified healthcare professional.
9 To the extent practicable, such individuals with known or
10 readily apparent disabilities, including temporary disabil-
11 ities, shall be housed in a manner that accommodates their
12 mental or physical condition, or both, and provides for the
13 safety, comfort, and security of such individuals.

14 (g) RETURN OF CERTAIN BELONGINGS.—Any lawful,
15 nonperishable belongings of an individual in CBP custody
16 that are confiscated by personnel operating under Federal
17 authority shall be returned to such individual prior to the
18 deportation or removal of such individual.

19 (h) INSPECTION OF SHORT-TERM CUSTODY FACILI-
20 TIES.—Short-term custody facilities shall be inspected at
21 least once every year by the Department of Homeland Se-
22 curity Office for Civil Rights and Civil Liberties, with the
23 results made public without the need to submit a request
24 under section 552 of title 5, United States Code.

1 (i) CONSULTATION.—The Secretary shall seek input
2 from nongovernmental organizations regarding their inde-
3 pendent opinion of specific facilities and permit regular
4 access to nongovernmental organizations for human rights
5 monitoring.

6 (j) REGULATIONS.—Not later than 180 days after
7 the date of the enactment of this Act, the Secretary shall
8 promulgate regulations to—

9 (1) establish a publicly accessible online system
10 to track the location of individuals in CBP custody
11 held in short-term custody, and provide an online
12 list of all locations with phone numbers routinely
13 used to hold individuals in short-term custody;

14 (2) improve the education of individuals in CBP
15 custody regarding administrative procedures and
16 legal rights under United States immigration law, in
17 consultation with the Executive Office for Immigra-
18 tion Review; and

19 (3) ensure notification of the Office of Inspector
20 General and Department of Homeland Security Of-
21 fice for Civil Rights and Civil Liberties within 48
22 hours of all instances in which—

23 (A) an individual in CBP custody has died,
24 including during transfer to another facility or
25 while being released; or

1 (B) an individual has died as the result of
2 an encounter with CBP.

3 (k) ANNUAL REPORTS.—Not later than 180 days
4 after the date of the enactment of this Act and annually
5 thereafter, the Secretary shall submit to Congress a report
6 that details all instances in which an individual in CBP
7 custody has died in the prior fiscal year, including during
8 transfer to another facility or while being released, as well
9 as all instances in which an individual has died as the re-
10 sult of an encounter with CBP, and the result of any sub-
11 sequent investigation. Such reports shall also detail all in-
12 stances in which an individual, including an individual in
13 the custody of CBP, has suffered serious injuries requiring
14 hospitalization as a result of the use of force by CBP.

15 **SEC. 5. DEFINITIONS.**

16 In this Act:

17 (1) APPREHENDED INDIVIDUAL.—The term
18 “apprehended individual” means an individual ap-
19 prehended by personnel of the Department of Home-
20 land Security or of a cooperating entity.

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

23 (3) CHILD.—Except as otherwise specifically
24 provided, the term “child” has the meaning given

1 such term in section 101(b)(1) of the Immigration
2 and Nationality Act (8 U.S.C. 1101(b)(1)).

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

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

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

15 (7) SECRETARY.—The term “Secretary” means
16 the Secretary of Homeland Security.

17 (8) UNACCOMPANIED ALIEN CHILD.—The term
18 “unaccompanied alien child” has the meaning given
19 such term in section 462 of the Homeland Security
20 Act of 2002 (6 U.S.C. 279).

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