

115TH CONGRESS  
2D SESSION

# S. 3478

To require the Secretary of Homeland Security to develop a comprehensive strategy for maintaining situational awareness and operational control of high traffic areas along the borders, to address the protective custody of alien children accompanied by parents, to strengthen accountability for deployment of border security technology at the Department of Homeland Security, to encourage Federal agencies to coordinate on research and the development of technology to combat illicit opioid importation, to establish a narcotic drug screening technology pilot program to combat illicit opioid importation, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18, 2018

Mr. JOHNSON introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To require the Secretary of Homeland Security to develop a comprehensive strategy for maintaining situational awareness and operational control of high traffic areas along the borders, to address the protective custody of alien children accompanied by parents, to strengthen accountability for deployment of border security technology at the Department of Homeland Security, to encourage Federal agencies to coordinate on research and the development of technology to combat illicit opioid importation, to establish a narcotic drug screening technology pilot

program to combat illicit opioid importation, 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 TITLES; TABLE OF CONTENTS.**

4 (a) SHORT TITLES.—This Act may be cited as the  
 5 “Fixing America’s Marred Immigration Laws to Improve  
 6 and Ensure Security” or the “FAMILIES Act”.

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

Sec. 1. Short titles; table of contents.

TITLE I—DEPARTMENT OF HOMELAND SECURITY  
 ACCOUNTABILITY TO CONGRESS

Sec. 101. Definitions.  
 Sec. 102. Inspections, oversight, and studies.  
 Sec. 103. Reporting requirements.  
 Sec. 104. Maritime border security review.

TITLE II—BORDER SECURITY TECHNOLOGY ACCOUNTABILITY

Sec. 201. Short title.  
 Sec. 202. Border security technology accountability.  
 Sec. 203. Prohibition on additional authorization of appropriations.

TITLE III—SECURE MAIL INITIATIVE

Sec. 301. Short title.  
 Sec. 302. Definitions.  
 Sec. 303. Offering Hold for Pickup and Signature Confirmation services under  
 the Secure Mail Initiative.  
 Sec. 304. Report.

TITLE IV—HIRING AND RETENTION

Sec. 401. Short titles.  
 Sec. 402. Flexibility in employment authorities.

TITLE V—ANTI-BORDER CORRUPTION

Sec. 501. Short title.  
 Sec. 502. Hiring flexibility.  
 Sec. 503. Supplemental Commissioner authority and definitions.

TITLE VI—KEEPING FAMILIES TOGETHER WHILE ENFORCING  
THE LAW

Sec. 601. Short title.

Sec. 602. Family unification.

Sec. 603. Additional family residential center capacity.

Sec. 604. Emergency immigration judge resources.

1 **TITLE I—DEPARTMENT OF**  
2 **HOMELAND SECURITY AC-**  
3 **COUNTABILITY TO CONGRESS**

4 **SEC. 101. DEFINITIONS.**

5 In this Act:

6 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**  
7 **TEES.**—The term “appropriate congressional com-  
8 mittees” means—

9 (A) the Committee on Homeland Security  
10 and Governmental Affairs of the Senate; and

11 (B) the Committee on Homeland Security  
12 of the House of Representatives.

13 (2) **CRIMINAL ALIEN.**—The term “criminal  
14 alien” means an alien—

15 (A) who has been charged and convicted of  
16 a crime that is the basis for the alien’s removal  
17 under the Immigration and Nationality Act (8  
18 U.S.C. 1101 et seq.); or

19 (B) whose criminal conviction has been re-  
20 corded in the Deportable Alien Control System  
21 and involves a crime that renders the alien re-  
22 movable.

1           (3) FAMILY UNIT.—The term “family unit”  
2 means a group of individuals consisting of 1 or 2  
3 parents and 1 or more of their minor children.

4           (4) MARITIME BORDER.—The term “maritime  
5 border” means—

6                   (A) the transit zone; and

7                   (B) the borders and territorial waters of  
8 Puerto Rico and the United States Virgin Is-  
9 lands.

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

12          (6) TRANSIT ZONE.—The term “transit zone”  
13 means the sea corridors of the western Atlantic  
14 Ocean, the Gulf of Mexico, the Caribbean Sea, and  
15 the eastern Pacific Ocean through which undocu-  
16 mented migrants and illicit drugs transit, either di-  
17 rectly or indirectly, to the United States.

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

22 **SEC. 102. INSPECTIONS, OVERSIGHT, AND STUDIES.**

23          (a) FAMILY DETENTION CENTERS.—

1           (1) INSPECTIONS.—The Secretary shall inspect  
2           the conditions of family detention centers, includ-  
3           ing—

4                   (A) the Karnes County Residential Center;

5                   (B) the South Texas Family Residential  
6           Center;

7                   (C) the Berks Family Residential Center;  
8           and

9                   (D) any other facilities used by U.S. Immi-  
10           gration and Customs Enforcement to house  
11           families awaiting immigration hearings.

12           (2) REPORT.—Not later than 180 days after  
13           the date of the enactment of this Act, the Secretary  
14           shall submit a report to the appropriate congress-  
15           sional committees that includes the findings of the  
16           inspections required under paragraph (1).

17           (b) OIG OVERSIGHT.—The Inspector General of the  
18           Department of Health and Human Services, in conjunc-  
19           tion with the Inspector General of the Department of  
20           Homeland Security, and after consultation with the Direc-  
21           tor of U.S. Immigration and Customs Enforcement,  
22           shall—

23                   (1) investigate allegations of abuse of unaccom-  
24           panied alien children in juvenile detention centers;

1           (2) examine the effectiveness and costs of alter-  
2 natives to detention; and

3           (3) submit a report containing the findings of  
4 such investigations and examinations to—

5                   (A) the Secretary;

6                   (B) the appropriate congressional commit-  
7 tees;

8                   (C) the Committee on the Judiciary of the  
9 Senate; and

10                   (D) the Committee on the Judiciary of the  
11 House of Representatives.

12       (c) GAO STUDY.—The Comptroller General of the  
13 United States shall conduct a study of—

14           (1) wait times for immigration hearings for  
15 family units, including time spent in family deten-  
16 tion, and wait times for asylum claim hearings; and

17           (2) the root causes of family migration, includ-  
18 ing—

19                   (A) the countries of origin of families at-  
20 tempting to enter the United States;

21                   (B) changes in economic, political, social  
22 conditions in such countries during the 10 years  
23 immediately preceding the date of the enact-  
24 ment of this Act; and

1 (C) the role of perceptions of immigration  
2 law and social media on the flow of immigra-  
3 tion.

4 (d) SAVINGS PROVISION.—Nothing in this section  
5 may be construed to preempt any other Federal agency,  
6 including the Office for Civil Rights and Civil Liberties,  
7 from investigating allegations of abuse of children in juve-  
8 nile detention centers.

9 **SEC. 103. REPORTING REQUIREMENTS.**

10 (a) MONTHLY REPORTS.—The Secretary, acting  
11 through the Under Secretary of Homeland Security for  
12 Management, and in coordination with the heads of other  
13 Federal Government agencies, shall submit a monthly re-  
14 port to the appropriate congressional committees that  
15 identifies, for the report month—

16 (1) with respect to apprehensions by the De-  
17 partment of Homeland Security, the number of—

18 (A) family units, broken down by U.S.  
19 Border Patrol sector;

20 (B) family units originating from El Sal-  
21 vador, Guatemala, or Honduras, broken down  
22 by country and U.S. Border Patrol sector;

23 (C) unaccompanied alien children, broken  
24 down by U.S. Border Patrol sector and gang  
25 affiliation; and

1 (D) unaccompanied alien children origi-  
2 nating from El Salvador, Guatemala, or Hon-  
3 duras, broken down by country of origin, U.S.  
4 Border Patrol sector, and gang affiliation;

5 (2) with respect to children who were separated  
6 from their parents by the Department of Homeland  
7 Security—

8 (A) the number of such children, broken  
9 down by age and by country of origin;

10 (B) whether the family unit crossed at a  
11 port of entry or between ports of entry;

12 (C) the number of such children who were  
13 suspected of being subjected to human traf-  
14 ficking;

15 (D) the reasons for separating children  
16 who crossed at a port of entry from their par-  
17 ents;

18 (E) the number of such children who  
19 crossed the border illegally;

20 (F) the number of such children who made  
21 an asylum claim, or on whose behalf an asylum  
22 claim was made; and

23 (G) the number of such children who were  
24 accompanied by a parent who had previously  
25 crossed the border illegally;



1           (3) with respect to aliens who requested asylum  
2 in the United States under section 208 of the Immi-  
3 gration and Nationality Act (8 U.S.C. 1158)—

4           (A) the number of asylum requests re-  
5 ceived based on an assertion of a credible fear  
6 of persecution or torture on account of the  
7 alien's race, religion, nationality, membership in  
8 a particular social group, or political opinion if  
9 the alien is returned to his or her country of  
10 nationality;

11           (B) the number of asylum requests grant-  
12 ed;

13           (C) the number of asylum requests denied,  
14 broken down by the reason for the denial;

15           (D) the number of asylum claims aban-  
16 doned or withdrawn; and

17           (E) the average time between the date on  
18 which an alien requested asylum because of an  
19 asserted fear of returning to his or her country  
20 of nationality and the date on which the alien  
21 was granted or denied asylum based on such re-  
22 quest, broken down between affirmative and de-  
23 fensive requests for asylum; and

24           (4) with respect to aliens who were ordered re-  
25 moved from the United States—

1 (A) the number of removal orders issued  
2 for unaccompanied alien children, adults, and  
3 family units, respectively;

4 (B) the number of removal orders issued in  
5 absentia for unaccompanied alien children,  
6 adults, and family units, respectively; and

7 (C) the number of effectuated removal or-  
8 ders issued for unaccompanied alien children,  
9 adults, and family units, respectively.

10 (b) QUARTERLY REPORTS.—The Secretary, working  
11 through the Under Secretary of Homeland Security for  
12 Management, and the Secretary of Health and Human  
13 Services, in coordination with the heads of appropriate  
14 Federal Government agencies, shall jointly submit a quar-  
15 terly report to the appropriate congressional committees  
16 that identifies, for the report quarter—

17 (1) the number of beds that are available for  
18 unaccompanied alien children in the custody of the  
19 Department of Health and Human Services;

20 (2) the actual number of beds available for fam-  
21 ily units to use in facilities operated by, or through  
22 a contract with, the Department of Homeland Secu-  
23 rity or the Department of Health and Human Serv-  
24 ices;

1           (3) of the unaccompanied alien children proc-  
2           essed by the Department of Homeland Security or  
3           the Department of Health and Human Services—

4                   (A) the number of children referred to the  
5           Office of Refugee Resettlement by the Depart-  
6           ment of Homeland Security;

7                   (B) the average length of stay of a child in  
8           shelter care;

9                   (C) the number of such children, broken  
10          down by country of origin, age, and gender;

11                  (D) the number of such children who have  
12          a criminal record;

13                  (E) the number of such children who have  
14          been involved with a criminal gang, broken  
15          down by the name of the gang;

16                  (F) the number of such children who were  
17          released to a parent or legal guardian;

18                  (G) the number of such children who were  
19          released to another immediate adult relative,  
20          broken down by the adult relative's relationship  
21          to the child;

22                  (H) the number of such children who were  
23          released to a distant relative or an unrelated  
24          adult;

1 (I) the number of children described in  
2 subparagraph (F), (G), or (H), broken down by  
3 State of current residence;

4 (J) the number of home studies conducted;  
5 and

6 (K) the number of such children who were  
7 separated from their parents and subsequently  
8 reunited with at least 1 parent;

9 (4) with respect to drug seizures by U.S. Cus-  
10 toms and Border Protection, the amount (in pounds)  
11 of cocaine, heroin, marijuana, methamphetamine,  
12 and fentanyl seized, broken down by—

13 (A) the number of seizures;

14 (B) the method by which the drugs were  
15 transported; and

16 (C) the location of the seizures; and

17 (5) with respect to other enforcement actions by  
18 U.S. Customs and Border Protection—

19 (A) the number of criminal aliens who  
20 were arrested; and

21 (B) the number of criminal aliens with  
22 outstanding warrants.

23 (c) ANNUAL REPORTS.—The Under Secretary of  
24 Homeland Security for Management, in coordination with  
25 the Secretary of Homeland Security and the heads of

1 other Federal Government agencies, shall submit an an-  
2 nual report to the appropriate congressional committees  
3 that identifies, for the report year—

4 (1) the number of visas granted to married  
5 aliens, provided that such alien or his or her spouse  
6 was younger than 18 years of age at the time of the  
7 marriage, broken down by—

8 (A) the country of origin of each spouse;

9 (B) the age of each spouse; and

10 (C) the visa categories involving marriage  
11 in which a minor is the beneficiary; and

12 (2) the percent of individuals who were appre-  
13 hended by U.S. Customs and Border Protection  
14 multiple times during the report year.

15 **SEC. 104. MARITIME BORDER SECURITY REVIEW.**

16 (a) **SHORT TITLE.**—This section may be cited as the  
17 “Maritime Border Security Review Act”.

18 (b) **MARITIME BORDER THREAT ANALYSIS.**—

19 (1) **IN GENERAL.**—Not later than 180 days  
20 after the date of enactment of this Act, the Sec-  
21 retary shall submit a maritime border threat anal-  
22 ysis to the appropriate congressional committees, the  
23 Committee on Commerce, Science, and Transpor-  
24 tation of the Senate, and the Committee on Trans-

1 portation and Infrastructure of the House of Rep-  
2 resentatives.

3 (2) CONTENTS.—The analysis under paragraph  
4 (1) shall include an identification and description  
5 of—

6 (A) current and potential terrorism and  
7 criminal threats posed by individuals and  
8 groups seeking to—

9 (i) enter the United States through  
10 the maritime border; or

11 (ii) exploit border vulnerabilities on  
12 the maritime border;

13 (B) improvements needed at United States  
14 sea ports—

15 (i) to prevent terrorists and instru-  
16 ments of terror from entering the United  
17 States; and

18 (ii) to reduce criminal activity, as  
19 measured by the total flow of illegal goods  
20 and illicit drugs, related to the maritime  
21 border;

22 (C) improvements needed with respect to  
23 the maritime border—

1 (i) to prevent terrorists and instru-  
2 ments of terror from entering the United  
3 States; and

4 (ii) to reduce criminal activity related  
5 to the maritime border;

6 (D) vulnerabilities in law, policy, coopera-  
7 tion between State, territorial, and local law en-  
8 forcement, or international agreements that  
9 hinder effective and efficient border security,  
10 counterterrorism, anti-human trafficking ef-  
11 forts, and the flow of legitimate trade with re-  
12 spect to the maritime border; and

13 (E) metrics and performance parameters  
14 used by the Department of Homeland Security  
15 to evaluate maritime security effectiveness, as  
16 appropriate.

17 (3) ANALYSIS REQUIREMENTS.—In preparing  
18 the analysis under paragraph (1), the Secretary  
19 shall consider and examine—

20 (A) technology needs and challenges;

21 (B) personnel needs and challenges;

22 (C) the role of State, territorial, and local  
23 law enforcement in general border security ac-  
24 tivities;

1 (D) the need for cooperation among Fed-  
2 eral, State, territorial, local, and appropriate  
3 international law enforcement entities relating  
4 to border security;

5 (E) the geographic challenges of the mari-  
6 time border; and

7 (F) the impact and consequences of Hurri-  
8 canes Harvey, Irma, Maria, and Nate on gen-  
9 eral border security activities with respect to  
10 the maritime border.

11 (4) CLASSIFIED THREAT ANALYSIS.—To the ex-  
12 tent possible, the Secretary shall submit the analysis  
13 required under this subsection in unclassified form.  
14 The Secretary may submit a portion of the analysis  
15 in classified form if the Secretary determines that  
16 such form is appropriate for such portion.

17 **TITLE II—BORDER SECURITY**  
18 **TECHNOLOGY ACCOUNTABILITY**

19 **SEC. 201. SHORT TITLE.**

20 This title may be cited as the “Border Security Tech-  
21 nology Accountability Act of 2018”.



1 **SEC. 202. BORDER SECURITY TECHNOLOGY ACCOUNT-**  
2 **ABILITY.**

3 (a) IN GENERAL.—Subtitle C of title IV of the  
4 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.)  
5 is amended by adding at the end the following:

6 **“SEC. 434. BORDER SECURITY TECHNOLOGY PROGRAM**  
7 **MANAGEMENT.**

8 “(a) PLANNING DOCUMENTATION.—For each border  
9 security technology acquisition program of the Depart-  
10 ment that is determined to be a major acquisition pro-  
11 gram, the Secretary shall—

12 “(1) ensure that each such program has a writ-  
13 ten acquisition program baseline approved by the  
14 relevant acquisition decision authority;

15 “(2) document that each such program is meet-  
16 ing cost, schedule, and performance thresholds as  
17 specified in such baseline, in compliance with rel-  
18 evant departmental acquisition policies and the Fed-  
19 eral Acquisition Regulation; and

20 “(3) have a plan for meeting program imple-  
21 mentation objectives by managing contractor per-  
22 formance.

23 “(b) ADHERENCE TO STANDARDS.—The Secretary,  
24 acting through the Under Secretary for Management and  
25 the Commissioner of U.S. Customs and Border Protection,  
26 shall ensure that border security technology acquisition

1 program managers who are responsible for carrying out  
2 this section adhere to relevant internal control standards  
3 identified by the Comptroller General of the United  
4 States. The Commissioner shall provide information, as  
5 needed, to assist the Under Secretary in monitoring prop-  
6 er program management of border security technology ac-  
7 quisition programs under this section.

8       “(c) PLAN.—The Secretary, acting through the  
9 Under Secretary for Management, and in coordination  
10 with the Under Secretary for Science and Technology and  
11 the Commissioner of U.S. Customs and Border Protection,  
12 shall submit a plan to the appropriate congressional com-  
13 mittees for testing and evaluation, and the use of inde-  
14 pendent verification and validation resources, for border  
15 security technology so that new border security tech-  
16 nologies are evaluated through a series of assessments,  
17 processes, and audits to ensure—

18               “(1) compliance with relevant departmental ac-  
19 quisition policies and the Federal Acquisition Regu-  
20 lation; and

21               “(2) the effectiveness of taxpayer dollars.

22       “(d) MAJOR ACQUISITION PROGRAM DEFINED.—In  
23 this section, the term ‘major acquisition program’ means  
24 a Department acquisition program that is estimated by  
25 the Secretary to require an eventual total expenditure of

1 at least \$300,000,000 (based on fiscal year 2017 constant  
2 dollars) over its life cycle cost.”.

3 (b) CLERICAL AMENDMENT.—The table of contents  
4 of the Homeland Security Act of 2002 is amended by in-  
5 serting after the item relating to section 433 the following:  
“Sec. 434. Border security technology program management.”.

6 **SEC. 203. PROHIBITION ON ADDITIONAL AUTHORIZATION**  
7 **OF APPROPRIATIONS.**

8 No additional funds are authorized to be appro-  
9 priated to carry out this title or the amendments made  
10 by this title. This title and such amendments shall be car-  
11 ried out using amounts otherwise available for such pur-  
12 poses.

13 **TITLE III—SECURE MAIL**  
14 **INITIATIVE**

15 **SEC. 301. SHORT TITLE.**

16 This title may be cited as the “Strengthening the De-  
17 partment of Homeland Security Secure Mail Initiative  
18 Act”.

19 **SEC. 302. DEFINITIONS.**

20 In this title:

21 (1) HOLD FOR PICKUP SERVICE; SIGNATURE  
22 CONFIRMATION SERVICE.—The terms “Hold for  
23 Pickup service” and “Signature Confirmation serv-  
24 ice” refer to the services described in sections

1 507.3.0 and 503.8.1.1.a, respectively, of the Domes-  
2 tic Mail Manual (or any successor services).

3 (2) IMMIGRATION EXAMINATIONS FEE AC-  
4 COUNT.—The term “Immigration Examinations Fee  
5 Account” means the account established under sec-  
6 tion 286(m) of the Immigration and Nationality Act  
7 (8 U.S.C. 1356(m)).

8 (3) POSTAL SERVICE.—The term “Postal Serv-  
9 ice” means the United States Postal Service.

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

12 **SEC. 303. OFFERING HOLD FOR PICKUP AND SIGNATURE**  
13 **CONFIRMATION SERVICES UNDER THE SE-**  
14 **CURE MAIL INITIATIVE.**

15 (a) IN GENERAL.—Beginning not later than 1 year  
16 after the date of the enactment of this Act, the Secretary  
17 shall provide for an option under the Secure Mail Initia-  
18 tive (or any successor program) under which a person to  
19 whom a document is sent under that initiative may elect,  
20 except as provided in subsection (e), to have the Postal  
21 Service use the Hold for Pickup service or the Signature  
22 Confirmation service in delivering the document.

23 (b) FEE.—

24 (1) IN GENERAL.—The Secretary, in accord-  
25 ance with section 286(m) of the Immigration and

1 Nationality Act (8 U.S.C. 1356(m)), shall require  
2 the payment of a fee from a person electing a service  
3 under subsection (a), which shall be set at a level  
4 that ensures recovery of—

5 (A) the full costs of providing all such  
6 services; and

7 (B) any additional costs associated with  
8 the administration of the fees collected.

9 (2) ALLOCATION OF FUNDS.—Of the fees col-  
10 lected under paragraph (1), the Secretary shall—

11 (A) deposit as offsetting receipts into the  
12 Immigration Examinations Fee Account the  
13 portion representing—

14 (i) the cost to the Secretary of pro-  
15 viding the services under subsection (a);  
16 and

17 (ii) any additional costs associated  
18 with the administration of the fees col-  
19 lected; and

20 (B) transfer to the Postal Service the por-  
21 tion representing the cost to the Postal Service  
22 of providing the services under subsection (a).

23 (c) RULEMAKING.—The Postal Service may promul-  
24 gate regulations that—

1           (1) subject to paragraph (2), minimize the cost  
2 of providing the services under subsection (a); and

3           (2) do not require the Postal Service to incur  
4 additional expenses that are not recoverable under  
5 subsection (b).

6           (d) NOTICE OF CHANGES.—The Postal Service shall  
7 notify the Secretary of any changes to the Hold for Pickup  
8 service or the Signature Confirmation service.

9           (e) USE OF PRIVATE CARRIER.—

10           (1) IN GENERAL.—If the Secretary determines  
11 that a private carrier that offers substantially simi-  
12 lar services to the Hold for Pickup and Signature  
13 Confirmation services would provide better service  
14 and value than the Postal Service provides under  
15 subsection (a), the Secretary may, in accordance  
16 with paragraph (2) of this subsection—

17                   (A) discontinue use of the services of the  
18 Postal Service under subsection (a); and

19                   (B) enter into a contract with the private  
20 carrier under which a person to whom a docu-  
21 ment is sent under the Secure Mail Initiative  
22 (or any successor program) may elect to have  
23 the private carrier use one of the substantially  
24 similar services in delivering the document.

1           (2) REQUIREMENTS.—The Secretary may not  
2       exercise the authority under paragraph (1) unless  
3       the Secretary—

4           (A) determines, and notifies the Postal  
5       Service, that the private carrier offers services  
6       that are substantially similar to the Hold for  
7       Pickup and Signature Confirmation services;

8           (B) provides for an option under the Se-  
9       cure Mail Initiative (or any successor program)  
10      under which a person to whom a document is  
11      sent under that initiative may elect a service  
12      under paragraph (1)(B);

13          (C) requires the payment of a fee from a  
14      person electing a service under paragraph  
15      (1)(B), which shall be set at a level that en-  
16      sures recovery of—

17           (i) the full cost of contracting with the  
18      private carrier to provide all such services;

19      and

20           (ii) any additional costs associated  
21      with the administration of the fees col-  
22      lected; and

23          (D) deposits the fees collected under sub-  
24      paragraph (C) as offsetting receipts into the  
25      Immigration Examinations Fees Account.

1 **SEC. 304. REPORT.**

2 Not later than 2 years after the date of enactment  
3 of this Act, the Secretary shall submit a report to Con-  
4 gress that describes—

5 (1) the implementation of the requirements  
6 under section 303;

7 (2) the fee imposed under subsection (b) or  
8 (e)(2)(C), as applicable, of section 303; and

9 (3) the number of times during the previous  
10 year that a person used a service under subsection  
11 (a) or (e)(1)(B) of section 303.

12 **TITLE IV—HIRING AND**  
13 **RETENTION**

14 **SEC. 401. SHORT TITLES.**

15 This title may be cited as the “U.S. Customs and  
16 Border Protection Hiring and Retention Act of 2018” or  
17 the “CBP HiRe Act”.

18 **SEC. 402. FLEXIBILITY IN EMPLOYMENT AUTHORITIES.**

19 (a) IN GENERAL.—Chapter 97 of title 5, United  
20 States Code, is amended by adding at the end the fol-  
21 lowing:

22 **“§ 9702. U.S. Customs and Border Protection employ-  
23 ment authorities**

24 “(a) DEFINITIONS.—In this section—

25 “(1) the term ‘CBP employee’ means an em-  
26 ployee of U.S. Customs and Border Protection;



1           “(2) the term ‘Commissioner’ means the Com-  
2           missioner of U.S. Customs and Border Protection;

3           “(3) the term ‘Director’ means the Director of  
4           the Office of Personnel Management;

5           “(4) the term ‘rural or remote area’ means an  
6           area within the United States that is not within an  
7           area defined and designated as an urbanized area by  
8           the Bureau of the Census in the most recently com-  
9           pleted decennial census; and

10          “(5) the term ‘Secretary’ means the Secretary  
11          of Homeland Security.

12          “(b) DEMONSTRATION OF RECRUITMENT AND RE-  
13          TENTION DIFFICULTIES IN RURAL OR REMOTE AREAS.—

14          “(1) IN GENERAL.—For purposes of sub-  
15          sections (c) and (d), the Secretary shall determine,  
16          for a rural or remote area, whether there is—

17                  “(A) a critical hiring need in the area; and

18                  “(B) a direct relationship between—

19                          “(i) the rural or remote nature of the  
20                          area; and

21                          “(ii) difficulty in the recruitment and  
22                          retention of CBP employees in the area.

23          “(2) FACTORS.—To inform the determination  
24          of a direct relationship under paragraph (1)(B), the  
25          Secretary may consider evidence—

1 “(A) that the Secretary—

2 “(i) is unable to efficiently and effec-  
3 tively recruit individuals for positions as  
4 CBP employees, which may be dem-  
5 onstrated with various types of evidence,  
6 including—

7 “(I) evidence that multiple posi-  
8 tions have been continuously vacant  
9 for significantly longer than the na-  
10 tional average period for which similar  
11 positions in U.S. Customs and Border  
12 Protection are vacant; and

13 “(II) recruitment studies that  
14 demonstrate the inability of the Sec-  
15 retary to efficiently and effectively re-  
16 cruit CBP employees for positions in  
17 the area; or

18 “(ii) experiences a consistent inability  
19 to retain CBP employees that negatively  
20 impacts agency operations at a local or re-  
21 gional level; or

22 “(B) of any other inability, directly related  
23 to recruitment or retention difficulties, that the  
24 Secretary determines sufficient.

1       “(c) DIRECT HIRE AUTHORITY; RECRUITMENT AND  
2 RELOCATION BONUSES; RETENTION BONUSES.—

3               “(1) DIRECT HIRE AUTHORITY.—

4                       “(A) IN GENERAL.—The Secretary may  
5 appoint, without regard to any provision of sec-  
6 tions 3309 through 3319, candidates to posi-  
7 tions in the competitive service as CBP employ-  
8 ees, in a rural or remote area, if the Sec-  
9 retary—

10                               “(i) determines that—

11                                       “(I) there is a critical hiring  
12 need; and

13                                       “(II) there exists a severe short-  
14 age of qualified candidates because of  
15 the direct relationship identified by  
16 the Secretary under subsection  
17 (b)(1)(B) of this section between—

18   “(aa) the rural or remote  
19 nature of the area; and

20   “(bb) difficulty in the re-  
21 cruitment and retention of CBP  
22 employees in the area; and

23                                       “(ii) has given public notice for the  
24 positions.

1           “(B) PRIORITIZATION OF HIRING VET-  
2           ERANS.—If the Secretary uses the direct hiring  
3           authority under subparagraph (A), the Sec-  
4           retary shall apply the principles of preference  
5           for the hiring of veterans established under sub-  
6           chapter I of chapter 33.

7           “(2) RECRUITMENT AND RELOCATION BO-  
8           NUSES.—The Secretary may pay a bonus to an indi-  
9           vidual (other than an individual described in sub-  
10          section (a)(2) of section 5753) if—

11           “(A) the Secretary determines that—

12           “(i) conditions consistent with the  
13           conditions described in paragraphs (1) and  
14           (2) of subsection (b) of such section 5753  
15           are satisfied with respect to the individual  
16           (without regard to any other provision of  
17           that section); and

18           “(ii) the position to which the indi-  
19           vidual is appointed or to which the indi-  
20           vidual moves or must relocate—

21           “(I) is a position as a CBP em-  
22           ployee; and

23           “(II) is in a rural or remote area  
24           for which the Secretary has identified

1 a direct relationship under subsection  
2 (b)(1)(B) of this section between—

3 “(aa) the rural or remote  
4 nature of the area; and

5 “(bb) difficulty in the re-  
6 cruitment and retention of CBP  
7 employees in the area; and

8 “(B) the individual enters into a written  
9 service agreement with the Secretary—

10 “(i) under which the individual is re-  
11 quired to complete a period of employment  
12 as a CBP employee of not less than 2  
13 years; and

14 “(ii) that includes—

15 “(I) the commencement and ter-  
16 mination dates of the required service  
17 period (or provisions for the deter-  
18 mination thereof);

19 “(II) the amount of the bonus;  
20 and

21 “(III) other terms and conditions  
22 under which the bonus is payable,  
23 subject to the requirements of this  
24 subsection, including—

1                   “(aa) the conditions under  
2                   which the agreement may be ter-  
3                   minated before the agreed-upon  
4                   service period has been com-  
5                   pleted; and

6                   “(bb) the effect of a termi-  
7                   nation described in item (aa).

8                   “(3) RETENTION BONUSES.—The Secretary  
9                   may pay a retention bonus to a CBP employee  
10                  (other than an individual described in subsection  
11                  (a)(2) of section 5754) if—

12                  “(A) the Secretary determines that—

13                          “(i) a condition consistent with the  
14                          condition described in subsection (b)(1) of  
15                          such section 5754 is satisfied with respect  
16                          to the CBP employee (without regard to  
17                          any other provision of that section);

18                          “(ii) the CBP employee is employed in  
19                          a rural or remote area for which the Sec-  
20                          retary has identified a direct relationship  
21                          under subsection (b)(1)(B) of this section  
22                          between—

23                                  “(I) the rural or remote nature  
24                                  of the area; and

1                   “(II) difficulty in the recruitment  
2                   and retention of CBP employees in  
3                   the area; and

4                   “(iii) in the absence of a retention  
5                   bonus, the CBP employee would be likely  
6                   to leave—

7                   “(I) the Federal service; or

8                   “(II) for a different position in  
9                   the Federal service, including a posi-  
10                  tion in another agency or component  
11                  of the Department of Homeland Secu-  
12                  rity; and

13                  “(B) the individual enters into a written  
14                  service agreement with the Secretary—

15                  “(i) under which the individual is re-  
16                  quired to complete a period of employment  
17                  as a CBP employee of not less than 2  
18                  years; and

19                  “(ii) that includes—

20                         “(I) the commencement and ter-  
21                         mination dates of the required service  
22                         period (or provisions for the deter-  
23                         mination thereof);

24                         “(II) the amount of the bonus;  
25                         and

1                   “(III) other terms and conditions  
2                   under which the bonus is payable,  
3                   subject to the requirements of this  
4                   subsection, including—

5                                 “(aa) the conditions under  
6                                 which the agreement may be ter-  
7                                 minated before the agreed-upon  
8                                 service period has been com-  
9                                 pleted; and

10                                “(bb) the effect of a termi-  
11                                nation described in item (aa).

12                   “(4) RULES FOR BONUSES.—

13                                 “(A) MAXIMUM BONUS.—A bonus paid to  
14                                 an employee under—

15   “(i) paragraph (2) may not exceed  
16   100 percent of the annual rate of basic pay  
17   of the employee as of the commencement  
18   date of the applicable service period; and

19   “(ii) paragraph (3) may not exceed 50  
20   percent of the annual rate of basic pay of  
21   the employee as of the commencement date  
22   of the applicable service period.

23                                 “(B) RELATION TO BASIC PAY.—A bonus  
24                                 paid to an employee under paragraph (2) or (3)



1           shall not be considered part of the basic pay of  
2           the employee for any purpose.

3           “(5) OPM OVERSIGHT.—The Director shall, to  
4           the extent practicable—

5                   “(A) set aside a determination of the Sec-  
6           retary under this subsection if the Director  
7           finds substantial evidence that the Secretary  
8           abused the discretion of the Secretary in mak-  
9           ing the determination; and

10                   “(B) oversee the compliance of the Sec-  
11          retary with this subsection.

12          “(d) SPECIAL PAY AUTHORITY.—In addition to the  
13          circumstances described in subsection (b) of section 5305,  
14          the Director may establish special rates of pay in accord-  
15          ance with that section if the Director finds that the re-  
16          cruitment or retention efforts of the Secretary with respect  
17          to positions for CBP employees in an area or location are,  
18          or are likely to become, significantly handicapped because  
19          the positions are located in a rural or remote area for  
20          which the Secretary has identified a direct relationship  
21          under subsection (b)(1)(B) of this section between—

22                   “(1) the rural or remote nature of the area; and

23                   “(2) difficulty in the recruitment and retention  
24          of CBP employees in the area.

25          “(e) REGULAR CBP REVIEW.—

1           “(1) ENSURING FLEXIBILITIES MEET CBP  
2 NEEDS.—Each year, the Secretary shall review the  
3 use of hiring flexibilities under subsections (c) and  
4 (d) to fill positions at a location in a rural or remote  
5 area to determine—

6           “(A) the impact of the use of those flexi-  
7 bilities on solving hiring and retention chal-  
8 lenges at the location;

9           “(B) whether hiring and retention chal-  
10 lenges still exist at the location; and

11           “(C) whether the Secretary needs to con-  
12 tinue to use those flexibilities at the location.

13           “(2) CONSIDERATION.—In conducting the re-  
14 view under paragraph (1), the Secretary shall con-  
15 sider—

16           “(A) whether any CBP employee accepted  
17 an employment incentive under subsection (c)  
18 or (d) and then transferred to a new location or  
19 left U.S. Customs and Border Protection; and

20           “(B) the length of time that each employee  
21 identified under subparagraph (A) stayed at the  
22 original location before transferring to a new lo-  
23 cation or leaving U.S. Customs and Border  
24 Protection.

1           “(3) DISTRIBUTION.—The Secretary shall sub-  
2           mit to Congress a report on each review required  
3           under paragraph (1).

4           “(f) IMPROVING CBP HIRING AND RETENTION.—

5           “(1) EDUCATION OF CBP HIRING OFFICIALS.—  
6           Not later than 180 days after the date of the enact-  
7           ment of the CBP HiRe Act, and in conjunction with  
8           the Chief Human Capital Officer of the Department  
9           of Homeland Security, the Secretary shall develop  
10          and implement a strategy to improve education re-  
11          garding hiring and human resources flexibilities (in-  
12          cluding hiring and human resources flexibilities for  
13          locations in rural or remote areas) for all employees,  
14          serving in agency headquarters or field offices, who  
15          are involved in the recruitment, hiring, assessment,  
16          or selection of candidates for locations in a rural or  
17          remote area, as well as the retention of current em-  
18          ployees.

19          “(2) ELEMENTS.—Elements of the strategy  
20          under paragraph (1) shall include the following:

21                 “(A) Developing or updating training and  
22                 educational materials on hiring and human re-  
23                 sources flexibilities for employees who are in-  
24                 volved in the recruitment, hiring, assessment, or

1 selection of candidates, as well as the retention  
2 of current employees.

3 “(B) Regular training sessions for per-  
4 sonnel who are critical to filling open positions  
5 in rural or remote areas.

6 “(C) The development of pilot programs or  
7 other programs, as appropriate, to address  
8 identified hiring challenges in rural or remote  
9 areas.

10 “(D) Developing and enhancing strategic  
11 recruiting efforts through relationships with in-  
12 stitutions of higher education, as defined in sec-  
13 tion 102 of the Higher Education Act of 1965  
14 (20 U.S.C. 1002), veterans transition and em-  
15 ployment centers, and job placement program  
16 in regions that could assist in filling positions  
17 in rural or remote areas.

18 “(E) Examination of existing agency pro-  
19 grams on how to most effectively aid spouses  
20 and families of individuals who are candidates  
21 or new hires in a rural or remote area.

22 “(F) Feedback from individuals who are  
23 candidates or new hires at locations in a rural  
24 or remote area, including feedback on the qual-

1           ity of life in rural or remote areas for new hires  
2           and their families.

3           “(G) Feedback from CBP employees, other  
4           than new hires, who are stationed at locations  
5           in a rural or remote area, including feedback on  
6           the quality of life in rural or remote areas for  
7           those CBP employees and their families.

8           “(H) Evaluation of Department of Home-  
9           land Security internship programs and the use-  
10          fulness of those programs in improving hiring  
11          by the Secretary in rural or remote areas.

12          “(3) EVALUATION.—

13                 “(A) IN GENERAL.—Each year, the Sec-  
14                 retary shall —

15                         “(i) evaluate the extent to which the  
16                         strategy developed and implemented under  
17                         paragraph (1) has improved the hiring and  
18                         retention ability of the Secretary; and

19                         “(ii) make any appropriate updates to  
20                         the strategy under paragraph (1).

21                 “(B) INFORMATION.—The evaluation con-  
22                 ducted under subparagraph (A) shall include—

23                         “(i) any reduction in the time taken  
24                         by the Secretary to fill mission-critical po-  
25                         sitions in rural or remote areas;

1                   “(ii) a general assessment of the im-  
2                   pact of the strategy developed and imple-  
3                   mented under paragraph (1) on hiring  
4                   challenges in rural or remote areas; and

5                   “(iii) other information the Secretary  
6                   determines relevant.

7           “(g) INSPECTOR GENERAL REVIEW.—Not later than  
8 2 years after the date of the enactment of the CBP HiRe  
9 Act, the Inspector General of the Department of Home-  
10 land Security shall review the use of hiring flexibilities by  
11 the Secretary under subsections (c) and (d) to determine  
12 whether the use of those flexibilities is helping the Sec-  
13 retary meet hiring and retention needs in rural and remote  
14 areas.

15           “(h) REPORT ON POLYGRAPH REQUESTS.—The Sec-  
16 retary shall report to Congress on the number of requests  
17 the Secretary receives from any other Federal agency for  
18 the file of an applicant for a position in U.S. Customs  
19 and Border Protection that includes the results of a poly-  
20 graph examination.

21           “(i) EXERCISE OF AUTHORITY.—

22                   “(1) SOLE DISCRETION.—The exercise of au-  
23                   thority under subsection (c) shall be subject to the  
24                   sole and exclusive discretion of the Secretary (or the

1 Commissioner, as applicable under paragraph (2) of  
2 this subsection), notwithstanding chapter 71.

3 “(2) DELEGATION.—

4 “(A) IN GENERAL.—Subject to subpara-  
5 graph (B), the Secretary may delegate any au-  
6 thority under this section to the Commissioner.

7 “(B) OVERSIGHT.—The Commissioner  
8 may not make a determination under subsection  
9 (b)(1) unless the Secretary approves the deter-  
10 mination.

11 “(j) RULE OF CONSTRUCTION.—Nothing in this sec-  
12 tion shall be construed to exempt the Secretary or the Di-  
13 rector from the applicability of the merit system principles  
14 under section 2301.

15 “(k) SUNSET.—The authorities under subsections (c)  
16 and (d) shall terminate on the date that is 5 years after  
17 the date of the enactment of the CBP HiRe Act.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
19 The table of sections for chapter 97 of title 5, United  
20 States Code, is amended by adding at the end the fol-  
21 lowing:

“9702. U.S. Customs and Border Protection employment authorities.”.

1                   **TITLE V—ANTI-BORDER**  
2                   **CORRUPTION**

3 **SEC. 501. SHORT TITLE.**

4           This title may be cited as the “Anti-Border Corrup-  
5 tion Reauthorization Act of 2018”.

6 **SEC. 502. HIRING FLEXIBILITY.**

7           Section 3 of the Anti-Border Corruption Act of 2010  
8 (Public Law 111–376; 6 U.S.C. 221) is amended by strik-  
9 ing subsection (b) and inserting the following:

10           “(b) **WAIVER AUTHORITY.**—The Commissioner of  
11 U.S. Customs and Border Protection may waive the appli-  
12 cation of subsection (a)(1) under the following cir-  
13 cumstances:

14                   “(1) In the case of a current, full-time law en-  
15 forcement officer employed by a State or local law  
16 enforcement agency, if such officer—

17                           “(A) has served as a law enforcement offi-  
18 cer for not fewer than three years with no  
19 break in service;

20                           “(B) is authorized by law to engage in or  
21 supervise the prevention, detection, investiga-  
22 tion, or prosecution of, or the incarceration of  
23 any person for, any violation of law, and has  
24 statutory powers for arrest or apprehension;



1           “(C) is not currently under investigation,  
2           has not been found to have engaged in criminal  
3           activity or serious misconduct, has not resigned  
4           from a law enforcement officer position under  
5           investigation or in lieu of termination, and has  
6           not been dismissed from a law enforcement offi-  
7           cer position; and

8           “(D) has, within the past ten years, suc-  
9           cessfully completed a polygraph examination as  
10          a condition of employment with such officer’s  
11          current law enforcement agency.

12          “(2) In the case of a current, full-time Federal  
13          law enforcement officer, if such officer—

14               “(A) has served as a law enforcement offi-  
15               cer for not fewer than three years with no  
16               break in service;

17               “(B) has authority to make arrests, con-  
18               duct investigations, conduct searches, make sei-  
19               zures, carry firearms, and serve orders, war-  
20               rants, and other processes;

21               “(C) is not currently under investigation,  
22               has not been found to have engaged in criminal  
23               activity or serious misconduct, has not resigned  
24               from a law enforcement officer position under  
25               investigation or in lieu of termination, and has

1 not been dismissed from a law enforcement offi-  
2 cer position; and

3 “(D) holds a current Tier 4 background  
4 investigation or current Tier 5 background in-  
5 vestigation.

6 “(3) In the case of an individual who is a mem-  
7 ber of the Armed Forces (or a reserve component  
8 thereof) or a veteran, if such individual—

9 “(A) has served in the Armed Forces for  
10 not fewer than three years;

11 “(B) holds, or has held within the past five  
12 years, a Secret, Top Secret, or Top Secret/Sen-  
13 sitive Compartmented Information clearance;

14 “(C) holds, or has undergone within the  
15 past five years, a current Tier 4 background in-  
16 vestigation or current Tier 5 background inves-  
17 tigation;

18 “(D) received, or is eligible to receive, an  
19 honorable discharge from service in the Armed  
20 Forces and has not engaged in criminal activity  
21 or committed a serious military or civil offense  
22 under the Uniform Code of Military Justice;  
23 and

1           “(E) was not granted any waivers to ob-  
2           tain the clearance referred to in subparagraph  
3           (B).

4           “(c) TERMINATION OF WAIVER AUTHORITY.—The  
5           authority to issue a waiver under subsection (b) shall ter-  
6           minate on the date that is 4 years after the date of the  
7           enactment of the Anti-Border Corruption Reauthorization  
8           Act of 2018.”.

9           **SEC. 503. SUPPLEMENTAL COMMISSIONER AUTHORITY AND**  
10           **DEFINITIONS.**

11           (a) SUPPLEMENTAL COMMISSIONER AUTHORITY.—  
12           Section 4 of the Anti-Border Corruption Act of 2010  
13           (Public Law 111–376) is amended to read as follows:

14           **“SEC. 4. SUPPLEMENTAL COMMISSIONER AUTHORITY.**

15           “(a) NONEXEMPTION.—An individual who receives a  
16           waiver under section 3(b) is not exempt from other hiring  
17           requirements relating to suitability for employment and  
18           eligibility to hold a national security designated position,  
19           as determined by the Commissioner of U.S. Customs and  
20           Border Protection.

21           “(b) BACKGROUND INVESTIGATIONS.—Any indi-  
22           vidual who receives a waiver under section 3(b) who holds  
23           a current Tier 4 background investigation shall be subject  
24           to a Tier 5 background investigation.

1           “(c) ADMINISTRATION OF POLYGRAPH EXAMINA-  
2 TION.—The Commissioner of U.S. Customs and Border  
3 Protection is authorized to administer a polygraph exam-  
4 ination to an applicant or employee who is eligible for or  
5 receives a waiver under section 3(b) if information is dis-  
6 covered before the completion of a background investiga-  
7 tion that results in a determination that a polygraph ex-  
8 amination is necessary to make a final determination re-  
9 garding suitability for employment or continued employ-  
10 ment, as the case may be.”

11           (b) REPORT.—The Anti-Border Corruption Act of  
12 2010 (Public Law 111–376) is amended by adding at the  
13 end the following:

14           **“SEC. 5. REPORTING REQUIREMENTS.**

15           “(a) ANNUAL REPORT.—Not later than 1 year after  
16 the date of the enactment of the Anti-Border Corruption  
17 Reauthorization Act of 2018, and annually thereafter  
18 while the waiver authority under section 3(b) is in effect,  
19 the Commissioner of U.S. Customs and Border Protection  
20 shall submit a report to Congress that includes, with re-  
21 spect to the reporting period—

22                   “(1) the number of waivers requested, granted,  
23                   and denied under section 3(b);

24                   “(2) the reasons for any denials of such waiver;

1           “(3) the percentage of applicants who were  
2 hired after receiving a waiver;

3           “(4) the number of instances that a polygraph  
4 was administered to an applicant who initially re-  
5 ceived a waiver and the results of such polygraph;

6           “(5) an assessment of the current impact of the  
7 polygraph waiver program on filling law enforcement  
8 positions at U.S. Customs and Border Protection;  
9 and

10           “(6) additional authorities needed by U.S. Cus-  
11 toms and Border Protection to better utilize the  
12 polygraph waiver program for its intended goals.

13           “(b) ADDITIONAL INFORMATION.—The first report  
14 submitted under subsection (a) shall include—

15           “(1) an analysis of other methods of employ-  
16 ment suitability tests that detect deception and could  
17 be used in conjunction with traditional background  
18 investigations to evaluate potential employees for  
19 suitability; and

20           “(2) a recommendation regarding whether a  
21 test referred to in paragraph (1) should be adopted  
22 by U.S. Customs and Border Protection when the  
23 polygraph examination requirement is waived pursu-  
24 ant to section 3(b).”.

1 (c) DEFINITIONS.—The Anti-Border Corruption Act  
2 of 2010, as amended by this title, is further amended by  
3 adding at the end the following:

4 **“SEC. 6. DEFINITIONS.**

5 “In this Act:

6 “(1) FEDERAL LAW ENFORCEMENT OFFICER.—

7 The term ‘Federal law enforcement officer’ has the  
8 meaning given the term ‘law enforcement officer’  
9 under section 8331(20) or 8401(17) of title 5,  
10 United States Code.

11 “(2) SERIOUS MILITARY OR CIVIL OFFENSE.—

12 The term ‘serious military or civil offense’ means an  
13 offense for which—

14 “(A) a member of the Armed Forces may  
15 be discharged or separated from service in the  
16 Armed Forces; and

17 “(B) a punitive discharge is, or would be,  
18 authorized for the same or a closely related of-  
19 fense under the Manual for Courts-Martial,  
20 pursuant to Army Regulation 635–200 chapter  
21 14–12.

22 “(3) TIER 4; TIER 5.—The terms ‘Tier 4’ and  
23 ‘Tier 5’, with respect to background investigations,  
24 have the meanings given such terms under the 2012  
25 Federal Investigative Standards.

1           “(4) VETERAN.—The term ‘veteran’ has the  
2           meaning given such term in section 101(2) of title  
3           38, United States Code.”.

4   **TITLE VI—KEEPING FAMILIES**  
5   **TOGETHER WHILE ENFORC-**  
6   **ING THE LAW**

7   **SEC. 601. SHORT TITLE.**

8           This title may be cited as the “Keep Families To-  
9           gether and Enforce the Law Act”.

10   **SEC. 602. FAMILY UNIFICATION.**

11           (a) IN GENERAL.—Section 235 of the Immigration  
12           and Nationality Act (8 U.S.C. 1225) is amended by add-  
13           ing at the end the following:

14           “(e) PROTECTIVE CUSTODY OF ARRIVING ALIEN  
15           CHILDREN ACCOMPANIED BY PARENTS.—

16           “(1) IN GENERAL.—Notwithstanding any other  
17           provision of law, including section 3142 of title 18,  
18           United States Code, any judicial determination (in-  
19           cluding any judicial determination made in *Flores v.*  
20           *Sessions et. al.*, (9th Cir. July 5, 2017; C.D. CA.  
21           July 24, 2015)), consent decree, or settlement agree-  
22           ment issued before the date of enactment of the  
23           Keep Families Together and Enforce the Law Act,  
24           and section 236.3 of title 8, Code of Federal Regula-  
25           tions (or a successor regulation), the Secretary of

1 Homeland Security shall not use any appropriated  
2 funds or be required to implement the terms of the  
3 stipulated settlement agreement filed on January 17,  
4 1997, in the United States District Court for the  
5 Central District of California in Flores v. Reno, CV  
6 85-4544-RJK, (commonly known as the “Flores  
7 settlement agreement”) in the case of an alien child  
8 under the age of 18 years who is—

9 “(A) accompanied by a parent; and

10 “(B)(i) apprehended at or near the inter-  
11 national border of the United States; or

12 “(ii) seeking admission to the United  
13 States at a port of entry.

14 “(2) FAMILY UNIT RESIDENTIAL CENTERS.—

15 “(A) IN GENERAL.—Except as provided in  
16 subparagraph (B), the Secretary of Homeland  
17 Security shall temporarily house an alien child  
18 under the age of 18 years described in para-  
19 graph (1) together with the parent of the child  
20 in a family residential center maintained by the  
21 Secretary of Homeland Security during the  
22 pendency of civil or criminal proceedings.

23 “(B) EXCEPTION.—The Secretary of  
24 Homeland Security shall not temporarily house  
25 an alien child described in subparagraph (A) in



1 the manner described in that subparagraph if  
2 the Secretary of Homeland Security—

3 “(i) is unable to verify that an indi-  
4 vidual accompanying the alien child is the  
5 parent of the alien child;

6 “(ii) determines that the accom-  
7 panying parent of the alien child—

8 “(I) has a violent criminal his-  
9 tory; or

10 “(II) has committed or been con-  
11 victed of—

12 “(aa) an aggravated felony  
13 under section 101(a)(43);

14 “(bb) a crime involving the  
15 attempted use of physical force  
16 or threatened use of a deadly  
17 weapon;

18 “(cc) an assault resulting in  
19 bodily injury (as defined in sec-  
20 tion 2266 of title 18, United  
21 States Code); or

22 “(dd) an offense described  
23 in section 212(a)(2) or  
24 237(a)(2);

1           “(iii) determines that the alien child is  
2           or has been a victim of domestic abuse or  
3           sexual abuse; or

4           “(iv) the alien child is—

5                 “(I) a victim of trafficking;

6                 “(II) at risk of becoming a victim  
7                 of trafficking;

8                 “(III) in danger of abuse or ne-  
9                 glect at the hands of the accom-  
10                panying parent of the alien child; or

11                “(IV) a danger to himself or her-  
12                self or to others.

13           “(C) CONDITIONS FOR CUSTODY.—The  
14           Secretary of Homeland Security shall ensure  
15           that each—

16                “(i) family residential facility is secure  
17                and safe; and

18                “(ii) alien child and accompanying  
19                parent at a family residential facility has—

20                 “(I) suitable living accommoda-  
21                 tions;

22                 “(II) access to drinking water  
23                 and food;

24                 “(III) medical assistance in case  
25                 of emergencies; and

1                   “(IV) any other service necessary  
2                   for the adequate care of a minor child.

3                   “(3) PROTECTIVE CUSTODY OF ACCOMPANIED  
4                   ALIEN CHILDREN INELIGIBLE FOR HOUSING IN A  
5                   FAMILY RESIDENTIAL CENTER.—If an alien child de-  
6                   scribed in paragraph (1) may not be housed with the  
7                   accompanying parent of the alien child in a family  
8                   residential center under paragraph (2)(A), the alien  
9                   child shall be treated as an unaccompanied alien  
10                  child under the William Wilberforce Trafficking Vic-  
11                  tims Protection Reauthorization Act of 2008 (8  
12                  U.S.C. 1232 et seq.).

13                  “(4) PRIORITIZATION OF ACCOMPANIED MINOR  
14                  AND FAMILY UNIT PROCEEDINGS.—To the maximum  
15                  extent practicable, the Secretary of Homeland Secu-  
16                  rity and the Attorney General shall prioritize civil  
17                  and criminal proceedings and decisions on requests  
18                  for relief from removal of accompanied alien children  
19                  and families who are in custody under this sub-  
20                  section.”.

21                  (b) FAMILY RESIDENTIAL FACILITIES.—The Sec-  
22                  retary of Homeland Security shall enter into one or more  
23                  interagency agreements with the Attorney General to se-  
24                  cure additional family residential centers to house accom-  
25                  panied alien children and parents of such children under

1 section 235(e) of the Immigration and Nationality Act  
2 during the pendency of civil or criminal proceedings.

3 (c) APPLICABILITY.—The amendments made by this  
4 Act shall apply regardless of the date on which an action  
5 giving rise to the admissibility or custody of the accom-  
6 panied child or parent occurs.

7 **SEC. 603. ADDITIONAL FAMILY RESIDENTIAL CENTER CA-**  
8 **PACITY.**

9 (a) DETENTION SPACE.—The Secretary of Homeland  
10 Security shall acquire or construct sufficient detention  
11 space to accommodate the number of families detained in  
12 accordance with section 235(e)(2) of the Immigration and  
13 Nationality Act, as amended by section 602(a).

14 (b) FAMILY RESIDENTIAL BEDS.—The Secretary of  
15 Homeland Security shall increase the number of available  
16 family residential beds by not less than 1,000, compared  
17 to the number of such beds available on the date of the  
18 enactment of this Act.

19 **SEC. 604. EMERGENCY IMMIGRATION JUDGE RESOURCES.**

20 The Attorney General shall increase the number of  
21 immigration judge teams by not less than 225, as com-  
22 pared to the number of immigration judge teams on the  
23 date of enactment of this Act, including for the purpose  
24 of conducting prioritized proceedings for accompanied  
25 alien children and families—

1           (1) apprehended at or near the southwest bor-  
2           der of the United States; or

3           (2) who are seeking admission to the United  
4           States at a port of entry.

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