

116TH CONGRESS
1ST SESSION

H. R. 1012

To reunite families separated at or near ports of entry, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 2019

Mr. ESPAILLAT (for himself, Ms. BONAMICI, Mr. SERRANO, Ms. JAYAPAL, Mr. GARCÍA of Illinois, and Mr. BEYER) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To reunite families separated at or near ports of entry,
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 “Reunite Every Unac-
5 companied Newborn Infant, Toddler and other children
6 Expediently Act” or the “REUNITE Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

1 (1) APPREHENDED PARENT OR LEGAL GUARD-
2 IAN.—The term “apprehended parent or legal
3 guardian” means an alien who—

4 (A) is 18 years of age or older;

5 (B) is the parent or legal guardian of an
6 alien child; and

7 (C) was apprehended by DHS, the Depart-
8 ment of Justice, or any other entity authorized
9 to enforce section 275 of the Immigration and
10 Nationality Act (8 U.S.C. 1325).

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

13 (3) CHILD.—The term “child” means an alien
14 who—

15 (A) has not reached 18 years of age; and

16 (B) has no permanent immigration status
17 in the United States.

18 (4) DHS.—The term “DHS” means the De-
19 partment of Homeland Security.

20 (5) HHS.—The term “HHS” means the De-
21 partment of Health and Human Services.

22 **SEC. 3. REUNIFICATION OF SEPARATED FAMILIES.**

23 (a) RULEMAKING.—

24 (1) RULE.—Not later than 10 days after the
25 date of the enactment of this Act, the Secretary of

1 Homeland Security and the Secretary of Health and
2 Human Services, after immediate consultation with
3 humanitarian organizations, child welfare organiza-
4 tions, State child welfare agencies, and States con-
5 tiguous with the border with Mexico, shall promul-
6 gate and publish a rule through a direct final rule
7 that specifically describes the coordinated efforts
8 that DHS and HHS will undertake to aid an appre-
9 hended parent or legal guardian in locating and re-
10 uniting with any children separated from them at or
11 near the port of entry, or within 100 miles of the
12 border, pursuant to applicable law.

13 (2) DEVELOPMENT; SERVICES; PUBLICATION.—

14 The rule promulgated pursuant to paragraph (1)
15 shall—

16 (A) be developed to protect the best inter-
17 ests of affected children;

18 (B) describe all pro bono or government-
19 funded services, including immigration services,
20 available for apprehended parents and legal
21 guardians or affected children; and

22 (C) be made publicly available in writing
23 and on the websites of DHS and HHS.

1 (b) COVERAGE OF JOINT RULE.—The rule published
2 pursuant to subsection (a) shall outline the coordinated
3 efforts of DHS and HHS, including efforts—

4 (1) to develop and conduct family tracing proce-
5 dures, in cooperation with nongovernmental experts
6 in child welfare best practices;

7 (2) to maintain a functional, accessible, fre-
8 quent, and no-cost means for apprehended parents
9 and legal guardians to contact their child through a
10 telephone hotline or visual conferencing—

11 (A) to obtain daily-updated information
12 about the location of their child and all sched-
13 uled immigration proceedings for their child;
14 and

15 (B) to set up opportunities to speak with
16 their child not fewer than 3 times per week, in-
17 cluding at least once by video;

18 (3) to facilitate substantial daily access of non-
19 governmental case workers, child advocates, and
20 legal counsel to children separated from their appre-
21 hended parents and legal guardians to represent
22 these children’s best interests in custody decisions
23 and immigration proceedings;

24 (4) to provide for humanitarian organizations
25 and State and local child welfare agencies in the ju-

1 jurisdictions in which the children are located to con-
2 duct unannounced, independent weekly inspections
3 of all DHS and HHS facilities at which children
4 who are separated from their apprehended parents
5 or legal guardians are in custody;

6 (5) to coordinate with the Department of State
7 and embassies and consulates of foreign govern-
8 ments to locate apprehended parents and legal
9 guardians of children who have departed from the
10 United States;

11 (6) to provide clear notice to apprehended par-
12 ents and legal guardians of their legal rights, includ-
13 ing—

14 (A) their parental and guardianship rights
15 with respect to their child who has been des-
16 ignated as an unaccompanied alien child; and

17 (B) their right to designate another par-
18 ent, legal guardian, or other qualified adult cus-
19 todian to sponsor and care for such child;

20 (7) to facilitate information sharing by appre-
21 hended parents and legal guardians about any ar-
22 rangements to depart the United States with their
23 consulate, their child, their child's case worker, legal
24 counsel, child advocate, and other adult custodians
25 in advance of their departure;

1 (8) to provide apprehended parents and legal
2 guardians with order of deportation or removal ac-
3 cess to nongovernmental organizations providing as-
4 sistance with locating and reunifying with their
5 child;

6 (9) to provide cost-free transportation of chil-
7 dren separated from their apprehended parents or
8 legal guardians to reunite with them or another par-
9 ent, legal guardian, or other qualified adult custo-
10 dian to which the children consent;

11 (10) to establish a recordkeeping system that
12 will maintain information to aid the reunification of
13 every child separated from an apprehended parent or
14 legal guardian;

15 (11) to provide free telephone calls between ap-
16 prehended parents or legal guardians and their
17 child;

18 (12) to provide legal counsel to children sepa-
19 rated from their apprehended parents or legal
20 guardians and to ensure that every such child is rep-
21 resented by a licensed attorney; and

22 (13) to otherwise assist with the reunification
23 of separated families.

24 (c) WRITTEN NOTIFICATION.—Shortly after the rule
25 is published pursuant to subsection (a), the Secretary of

1 Homeland Security, the Secretary of Health and Human
2 Services, and the Attorney General shall provide each ap-
3 prehended parent or legal guardian who has been sepa-
4 rated from his or her child written notice, in English,
5 Spanish, or another language understandable by the par-
6 ent or legal guardian, upon request, of any rules or guid-
7 ance that may assist them in their efforts to locate and
8 reunify with their child.

9 (d) REUNIFICATION REQUIRED.—DHS and HHS
10 shall ensure immediate reunification of children that re-
11 main separated from their apprehended parent or legal
12 guardian.

13 (e) OTHER REQUIREMENTS.—DHS and HHS
14 shall—

15 (1) issue a privacy impact assessment related to
16 the use of DNA testing under section 4; and

17 (2) establish a process for redressing violations
18 of the requirements under this section.

19 (f) EXEMPTIONS.—DHS and HHS may not reunite
20 an apprehended parent or legal guardian with their child
21 under this section if—

22 (1) the child has been determined to be a victim
23 of trafficking, or is at significant risk of becoming
24 a victim of trafficking, by that apprehended parent
25 or legal guardian, as determined by a Chief Border

1 Patrol Agent or Customs and Border Protection
2 Area Port Director in their official and undelegated
3 capacity;

4 (2) the child appears to be in danger of abuse
5 or neglect at the hands of the apprehended parent
6 or legal guardian;

7 (3) the child is a danger to himself, herself, or
8 others, as determined by a State court or an official
9 from a State or county child welfare agency in his
10 or her official and undelegated capacity; or

11 (4) there is a strong likelihood that the adult is
12 not the apprehended parent or legal guardian of the
13 child.

14 **SEC. 4. DNA TESTING.**

15 (a) USE OF OTHER TECHNIQUES.—Before utilizing
16 DNA testing to determine family relationships, DHS and
17 HHS shall use other techniques commonly utilized by
18 United States courts for determining family relationships,
19 including official documents, representations from a wit-
20 ness, parent, relative, or child, and observations of inter-
21 actions between the adult and the child.

22 (b) DNA TESTING.—

23 (1) IN GENERAL.—DNA testing may not be re-
24 quired as a condition of reunification if alternative
25 means of demonstrating a familial relationship have

1 been established. If reasonable suspicions remain
2 about a familial relationship after exhausting the
3 techniques referred to in subsection (a), DNA test-
4 ing may be used.

5 (2) PROTOCOLS.—DHS and HHS shall develop
6 protocols for establishing a familial relationship if an
7 individual does not want to consent to DNA testing
8 or may not have a biological relationship with a
9 child.

10 (3) TYPE OF TEST.—Whenever DNA testing is
11 used, DHS and HHS shall use the least privacy-
12 invasive type of DNA test available to confirm the
13 claimed relationship and may not charge the child or
14 apprehended parent or legal guardian for the costs
15 of conducting such testing.

16 (4) CONSENT.—DHS and HHS shall—

17 (A) obtain the consent of any individual
18 older than 18 years of age before conducting a
19 DNA test;

20 (B) make every effort to obtain the con-
21 sent of a legal guardian before conducting a
22 DNA test on anyone younger than 18 years of
23 age; and

24 (C) destroy DNA samples as soon as pos-
25 sible and not later than 7 days after completing

1 the required DNA matching tests to minimize
2 any potential misuse of genetic information col-
3 lected under this subsection.

4 (c) PROTECTION OF INFORMATION.—

5 (1) IN GENERAL.—If DNA testing is used for
6 the purposes of reunification, DHS and HHS shall
7 ensure the protection of privacy, genetic data, and
8 personal information of children, parents, all individ-
9 uals being tested, and their relatives.

10 (2) OTHER USES PROHIBITED.—DHS, HHS,
11 and private entities may only access, use, or store
12 any personal DNA information collected under this
13 subsection for family reunification purposes and are
14 prohibited from sharing any such information with
15 Federal agencies other than those carrying out the
16 reunification process. Information collected under
17 this section may not be used by the Federal Govern-
18 ment for any other purpose, including criminal or
19 immigration enforcement.

20 (d) DNA MATCH.—

21 (1) REUNIFICATION.—As soon as a DNA
22 match is identified, DHS and HHS shall reunite
23 family members as expeditiously as possible.

24 (2) NO MATCH; NO CONSENT.—A refusal to
25 consent to a DNA test or the failure to identify a

1 match between a child and an apprehended parent
2 may not be used as a basis for concluding that there
3 is no familial relationship between such child and
4 such parent if—

5 (A) the familial relationship is not biological;
6 or

7 (B) the familial relationship may be established
8 through alternative means.

9 **SEC. 5. ENHANCED PROTECTIONS FOR SEPARATE FAMILIES.**
10 **LIES.**

11 (a) **IN GENERAL.**—The Secretary of Homeland Security shall establish secure alternative programs that incorporate case management services in each field office of
12 DHS to ensure appearances at immigration proceedings
13 and public safety.

14 (b) **ALTERNATIVES TO DETENTION.**—

15 (1) **CONTRACT AUTHORITY.**—The Secretary of
16 Homeland Security shall contract with nongovernmental, community-based organizations to conduct
17 screening of detainees, provide appearance assistance services, and operate community-based supervision
18 programs. Secure alternatives shall offer a continuum of supervision mechanisms and options,
19 including community support, depending on an assessment of each individual's circumstances. The
20
21
22
23
24
25

1 Secretary may contract with nongovernmental orga-
2 nizations to implement secure alternatives that
3 maintain custody over the alien.

4 (2) ELIGIBILITY DETERMINATION.—

5 (A) RELEASE.—The Secretary of Home-
6 land Security shall release each apprehended
7 parent or legal guardian on recognizance, pa-
8 role, or bond, or permit such parent or legal
9 guardian to participate in an alternative to de-
10 tention program, such as the Family Case Man-
11 agement Program authorized under subsection
12 (c), unless the Secretary demonstrates that
13 such participation would create a substantial
14 risk that the apprehended parent or legal
15 guardian is likely to cause harm to himself, her-
16 self, or others.

17 (B) BURDEN OF PROOF.—In order to dem-
18 onstrate that continued detention is necessary,
19 the Secretary shall produce clear and con-
20 vincing evidence of risk factors, including cred-
21 ible and individualized information.

22 (C) APPEAL.—Not later than 72 hours
23 after the Secretary determines that an appre-
24 hended parent or legal guardian is ineligible for
25 an alternative to detention program under this

1 subsection, the parent or legal guardian shall be
2 provided with an opportunity to appeal such de-
3 termination in a hearing before an immigration
4 judge.

5 (c) RESTORATION OF THE FAMILY CASE MANAGE-
6 MENT PROGRAM.—

7 (1) IN GENERAL.—Not later than 7 days after
8 the date of the enactment of this Act, the Secretary
9 of Homeland Security shall restore the Family Case
10 Management Program, which shall provide commu-
11 nity supervision and community support services, in-
12 cluding case management services, appearance serv-
13 ices, and screening of aliens who have been detained,
14 to be run through a contract with a not-for-profit
15 entity.

16 (2) CONTRACT.—Any contract for programming
17 or services described in paragraph (1) shall be
18 awarded to a not-for-profit organization with dem-
19 onstrated expertise in meeting the areas specified in
20 paragraph (1).

21 (d) UNACCOMPANIED ALIEN CHILD DESIGNATION.—
22 The Secretary of Homeland Security shall treat a child
23 who has been separated from an apprehended parent or
24 legal guardian and has been designated as an unaccom-

1 panied alien child for the duration of his or her immigra-
2 tion proceedings.

3 (e) AUTOMATIC STAY OF REMOVAL OF APPRE-
4 HENDED PARENTS AND LEGAL GUARDIANS DURING
5 CHILD'S IMMIGRATION PROCEEDINGS.—Until the earlier
6 of the date on which the child's immigration proceedings
7 are concluded or the date on which the child reaches 18
8 years of age, the Secretary of Homeland Security may not
9 remove an apprehended parent or legal guardian of such
10 child from the United States unless the apprehended par-
11 ent or legal guardian, after being afforded the opportunity
12 for legal consultation, agrees to removal.

13 **SEC. 6. CONFIDENTIALITY.**

14 (a) IN GENERAL.—Except as provided in subsection
15 (b), the Secretary of Homeland Security may not use in-
16 formation obtained or recorded pursuant to this Act to
17 assist in immigration enforcement actions taken against
18 any sponsor, potential sponsor, custodian, potential custo-
19 dian, or household member of a child or apprehended par-
20 ent or legal guardian.

21 (b) EXCEPTION.—Subsection (a) does not apply to
22 the use of information described in that subsection about
23 a particular sponsor, potential sponsor, custodian, poten-
24 tial custodian, or household member for purposes of a law
25 enforcement investigation related to—

1 (3) identify and immediately inform Congress if
2 the Office determines that insufficient appropria-
3 tions, or any other statutory or regulatory condition
4 hinders the safe and timely reunion of separated
5 children with their apprehended parents or legal
6 guardians.

7 (c) REPORT.—The Office shall submit a weekly re-
8 port to Congress that includes—

9 (1) the number and location of children in the
10 physical custody of DHS or HHS who have been
11 separated from an apprehended parent or legal
12 guardian;

13 (2) the number of such children who have been
14 physically reunified with their apprehended parent
15 or legal guardian;

16 (3) the physical location of apprehended par-
17 ents and legal guardians who have yet to be reunited
18 with their child, including the apprehended parents
19 and legal guardians who have been deported without
20 their child;

21 (4) the number of such children who have not
22 yet been physically reunited with their apprehended
23 parent or legal guardian; and

24 (5) an outline of the progress made in imple-
25 menting the rule published pursuant to section 3(a).

1 **SEC. 8. SAVINGS PROVISIONS.**

2 (a) FEDERAL LAW.—Nothing in this Act may be con-
3 strued to supersede or modify—

4 (1) the William Wilberforce Trafficking Victims
5 Protection Act of 2008 (8 U.S.C. 1232 et seq.);

6 (2) the Stipulated Settlement Agreement filed
7 in the United States District Court for the Central
8 District of California on January 17, 1997 (CV 85–
9 4544–RJK) (commonly known as the “Flores Settle-
10 ment Agreement”);

11 (3) the Homeland Security Act of 2002 (Public
12 Law 107–296); or

13 (4) any applicable Federal child welfare law, in-
14 cluding the Adoption and Safe Families Act of 1997
15 (Public Law 105–89).

16 (b) STATE LAW.—Nothing in this Act may be con-
17 strued to supersede or modify any applicable State child
18 welfare laws.

19 **SEC. 9. REALLOCATION OF DHS APPROPRIATIONS.**

20 (a) IN GENERAL.—Of the amount allocated to Immi-
21 gration and Customs Enforcement for fiscal year 2019 for
22 enforcement, detention, and removal operations,
23 \$50,000,000 shall be reallocated to carry out sections 3
24 and 5(a).

1 (b) REUNIFICATION.—Not less than \$15,000,000 of
2 the amount reallocated under subsection (a) shall be made
3 available to carry out section 3.

4 **SEC. 10. COUNSEL FOR CHILDREN AND VULNERABLE**
5 **ALIENS.**

6 (a) CLARIFICATION REGARDING THE AUTHORITY OF
7 THE ATTORNEY GENERAL TO APPOINT COUNSEL TO
8 ALIENS IN IMMIGRATION PROCEEDINGS.—Section 292 of
9 the Immigration and Nationality Act (8 U.S.C. 1362) is
10 amended—

11 (1) by striking “In any removal proceedings be-
12 fore an immigration judge and in any appeal pro-
13 ceedings before the Attorney General from any such
14 removal proceedings,” and inserting the following:

15 “(a) IN GENERAL.—In a proceeding conducted under
16 any section of this Act,”;

17 (2) in subsection (a), as amended by paragraph
18 (1)—

19 (A) by striking “(at no expense to the Gov-
20 ernment)”; and

21 (B) by striking “he shall” and inserting
22 “the person shall”; and

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

24 “(b) ACCESS TO COUNSEL.—The Attorney General
25 may appoint or provide counsel to aliens in any proceeding

1 conducted under any section of this Act. The Secretary
2 of Homeland Security shall ensure that—

3 “(1) aliens have access to counsel inside all im-
4 migration detention and border facilities;

5 “(2) children do not appear before an immigra-
6 tion judge without counsel; and

7 “(3) children have their cases heard individ-
8 ually.”.

9 (b) APPOINTMENT OF COUNSEL FOR CHILDREN AND
10 VULNERABLE ALIENS.—

11 (1) IN GENERAL.—Section 292 of the Immigra-
12 tion and Nationality Act (8 U.S.C. 1362), as amend-
13 ed by subsection (a), is further amended by adding
14 at the end the following:

15 “(c) CHILDREN AND VULNERABLE ALIENS.—Not-
16 withstanding subsection (b), the Attorney General shall
17 appoint counsel, at the expense of the Government if nec-
18 essary, at the beginning of the proceedings or as expedi-
19 tiously as possible, to represent in such proceedings any
20 alien who has been determined by the Secretary of Home-
21 land Security or the Attorney General to be—

22 “(1) a child (as defined in section 101(b)(1));

23 “(2) a particularly vulnerable individual, such
24 as—

25 “(A) a person with a disability; or

1 “(B) a victim of abuse, torture, or violence;

2 or

3 “(3) an individual whose circumstances are
4 such that the appointment of counsel is necessary to
5 help ensure fair resolution and efficient adjudication
6 of the proceedings.

7 “(d) EXTENSION TO CONSOLIDATED CASES.—If the
8 Attorney General has consolidated the case of any alien
9 for whom counsel was appointed under subsection (c) with
10 that of any other alien, and that other alien does not have
11 counsel, then the counsel appointed under subsection (c)
12 shall be appointed to represent such other alien.

13 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
14 is authorized to be appropriated to the Executive Office
15 of Immigration Review of the Department of Justice such
16 sums as may be necessary to carry out this section.”.

17 (2) RULEMAKING.—The Attorney General shall
18 promulgate regulations to implement section 292(c)
19 of the Immigration and Nationality Act, as added by
20 paragraph (1), in accordance with the requirements
21 set forth in section 3006A of title 18, United States
22 Code.

23 **SEC. 11. ESTABLISHMENT OF LIMIT ON BOND.**

24 Section 236(a) of the Immigration and Nationality
25 Act (8 U.S.C. 1226(a)) is amended—

1 (1) in paragraph (2)(A), by striking “bond of at
2 least \$1,500” and inserting “subject to paragraph
3 (4), bond in an amount that is not more than
4 \$1,500”; and

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

6 “(4) The limit on the amount of bond in para-
7 graph (2)(A) shall not apply with respect to an alien
8 who has committed an aggravated felony.”.

○