

116TH CONGRESS
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H. R. 3239

To require U.S. Customs and Border Protection to perform an initial health screening on detainees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2019

Mr. RUIZ (for himself, Mr. CASTRO of Texas, Ms. ROYBAL-ALLARD, Mr. LUJÁN, Mr. NADLER, Ms. LOFGREN, Ms. ESCOBAR, Mr. CISNEROS, Mr. ESPAILLAT, Mrs. NAPOLITANO, Ms. MUCARSEL-POWELL, Mr. SOTO, Mr. GOMEZ, Ms. NORTON, Ms. OMAR, Mr. TED LIEU of California, Ms. OCASIO-CORTEZ, Mr. SIRES, Mr. LEVIN of California, Mr. BROWN of Maryland, Ms. JAYAPAL, Mr. JEFFRIES, Mr. AGUILAR, Mr. RICHMOND, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. THOMPSON of Mississippi, Mr. CLEAVER, Mr. GALLEGO, Ms. VELÁZQUEZ, Mr. CARBAJAL, Mr. CÁRDENAS, Ms. LEE of California, Ms. TORRES SMALL of New Mexico, Mr. COSTA, Mr. VARGAS, Mr. VEASEY, Ms. CLARKE of New York, Ms. KELLY of Illinois, Mr. PAYNE, Mr. TAKANO, Mr. KILDEE, Mr. SUOZZI, Mr. MOULTON, Mr. GREEN of Texas, Mr. PETERS, Mr. SEAN PATRICK MALONEY of New York, Ms. HAALAND, Ms. SPEIER, Mrs. DINGELL, Ms. PINGREE, Ms. TITUS, Mr. CONNOLLY, Ms. BASS, Ms. MOORE, Mr. LAWSON of Florida, Ms. JACKSON LEE, Mr. NEAL, Ms. KAPTUR, Mr. PERLMUTTER, Mrs. KIRKPATRICK, Mr. SWALWELL of California, Mr. SCHRADER, Mr. CASTEN of Illinois, Mr. GONZALEZ of Texas, Ms. BROWNLEY of California, Mr. PAPPAS, Mr. ENGEL, Mr. KENNEDY, Mr. RUSH, Mr. BLUMENAUER, Ms. MATSUI, Mr. THOMPSON of California, Ms. HILL of California, Mr. ROUDA, Mr. PETERSON, Mr. VELA, Mr. MEEKS, Mr. GARAMENDI, Mr. POCAN, Mr. CASE, Mr. COX of California, Ms. BARRAGÁN, Mr. KEATING, Mr. GARCÍA of Illinois, Mr. LOWENTHAL, Mr. MCGOVERN, Ms. JUDY CHU of California, Mr. KRISHNAMOORTHY, Mr. HECK, Mrs. BEATTY, Mr. LEVIN of Michigan, Mr. RASKIN, Mrs. TRAHAN, Ms. CASTOR of Florida, Ms. SCHAKOWSKY, Mr. SARBANES, Mr. TONKO, Mr. O'HALLERAN, Ms. DEGETTE, Ms. STEVENS, Mr. MCNERNEY, Ms. CLARK of Massachusetts, Mr. MICHAEL F. DOYLE of Pennsylvania, Ms. DEAN, Mr. LARSON of Connecticut, Mr. DEUTCH, Mr. HARDER of California, Mr. GRIJALVA, Mr. CICILLINE, Mr. STANTON, Mr. PANNETTA, Mr. KILMER, and Ms. DELBENE) 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 require U.S. Customs and Border Protection to perform an initial health screening on detainees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “Humanitarian Standards for Individuals in Customs and
 6 Border Protection Custody Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Initial health screening protocol.
- Sec. 3. Water, sanitation, and hygiene.
- Sec. 4. Food and nutrition.
- Sec. 5. Shelter.
- Sec. 6. Coordination and surge capacity.
- Sec. 7. Training.
- Sec. 8. Interfacility transfer of care.
- Sec. 9. Planning and initial implementation.
- Sec. 10. Contractor compliance.
- Sec. 11. Inspections.
- Sec. 12. GAO report.
- Sec. 13. Rule of construction.

9 **SEC. 2. INITIAL HEALTH SCREENING PROTOCOL.**

10 (a) **IN GENERAL.**—

11 (1) **SCREENING REQUIRED.**—The Commissioner
 12 of U.S. Customs and Border Protection (referred to

1 in this Act as the “Commissioner”) shall ensure that
2 any individual whom U.S. Customs and Border Pro-
3 tection (referred to in this Act as “CBP”) detains
4 (referred to in this Act as a “detainee”) receives an
5 initial health screening by a medical professional—

6 (A) to identify acute conditions and high-
7 risk vulnerabilities; and

8 (B) to provide appropriate health care to
9 subpopulations involving pediatrics, obstetrics,
10 and geriatrics specialties.

11 (2) TIMING.—The screening required by para-
12 graph (1) shall be performed within—

13 (A) 3 hours of being initially detained for
14 high-priority populations in accordance with
15 subsection (d); and

16 (B) 12 hours of being initially detained for
17 all other populations.

18 (b) INTERPRETERS.—To ensure that health
19 screenings and medical care required under subsections
20 (a) and (f) are carried out in the best interests of the de-
21 tainees receiving such screenings and care, the Commis-
22 sioner shall—

23 (1) provide such detainees with interpreters in
24 the detainee’s native or indigenous language; and

1 (2) inform detainees of the availability of inter-
2 pretation services.

3 (c) CHAPERONES.—To ensure that health screenings
4 and medical care required under subsections (a) and (f)
5 are carried out in the best interests of the detainees receiv-
6 ing such screenings and care—

7 (1) the Commissioner shall provide chaperones
8 when necessary according to standard United States
9 medical practice to protect a person’s dignity, cul-
10 ture, and gender-specific sensitivities; and

11 (2) the physical examination of infants, tod-
12 dlers, children, or any minors 17 years of age or
13 younger shall, to the extent practicable, always be
14 performed—

15 (A) in the presence of a parent or legal
16 guardian; or

17 (B) in the absence of a parent or legal
18 guardian, in the presence of the detainee’s clos-
19 est present adult relative.

20 (d) PRIORITIZATION.—The Commissioner shall en-
21 sure that the initial screening required by subsection (a)
22 is prioritized and conducted within 3 hours of being ini-
23 tially detained for the following high-priority populations:

24 (1) Individuals who are exhibiting signs of
25 acute or potentially severe physical or mental illness.

1 (2) Pregnant women.

2 (3) Infants.

3 (4) Children.

4 (5) Any minors 17 years of age or younger.

5 (6) Elderly individuals.

6 (7) Individuals who are visibly physically or
7 mentally disabled.

8 (8) Any other individual who self-identifies as
9 having a medical condition that requires prompt
10 medical attention, such as the following:

11 (A) A disability.

12 (B) A mental health issue.

13 (C) HIV positive.

14 (D) A chronic disease, such as diabetes.

15 (e) STANDARDIZATION OF SCREENING.—

16 (1) IN GENERAL.—

17 (A) CONSULTATION AND DEVELOPMENT
18 OF GUIDELINES AND PROTOCOL.—The Commis-
19 sioner, in consultation with the Secretary of
20 Health and Human Services and nongovern-
21 mental experts in delivery of health care in hu-
22 manitarian crises, shall develop guidelines and
23 protocols for the health screenings and medical
24 care required under subsections (a) and (f).

1 (B) ASSESSMENT OF APPROPRIATE LEVEL
2 OF CARE.—The guidelines and protocols re-
3 quired by subparagraph (A) shall require that
4 each detainee be administered a health screen-
5 ing to assess and identify age-appropriate signs,
6 symptoms, risks, and experiences, including
7 mental health risks and distressing or trau-
8 matic experiences, to determine the appropriate
9 level of care needed.

10 (C) STANDARDIZED MEDICAL INTAKE.—
11 The guidelines and protocols required by sub-
12 paragraph (A) shall ensure that each such
13 screening makes use of a standardized medical
14 intake questionnaire or the equivalent of such a
15 questionnaire, such as relevant portions of the
16 Performance-Based National Detention Stand-
17 ards questionnaire administered by U.S. Immi-
18 gration and Customs Enforcement.

19 (D) CONSULTATION.—In developing the
20 guidelines and protocols required by subpara-
21 graph (A), the Commissioner shall consult with
22 the Administrator of the Health Resources and
23 Services Administration regarding health
24 screening and medical care under the Emer-
25 gency Medical Services for Children Program.

1 (2) CONTENTS.—The guidelines and protocols
2 required by paragraph (1) shall require, with respect
3 to each detainee—

4 (A) an interview and questionnaire;

5 (B) screening for vital signs, including
6 pulse rate, temperature, blood pressure, oxygen
7 saturation, and respiration rate;

8 (C) screening for blood glucose for known
9 diabetics;

10 (D) weight for detainees under 12 years of
11 age;

12 (E) a physical exam; and

13 (F) an assessment and development of a
14 plan for risk-assessment, required interventions,
15 and continued monitoring and care.

16 (3) RULE OF CONSTRUCTION.—Nothing in this
17 subsection shall be construed as requiring detainees
18 to disclose their medical status or history.

19 (f) FURTHER CARE.—

20 (1) IN GENERAL.—If an initial health screening
21 of a detainee displays values outside of normal
22 ranges per National Emergency Services Education
23 Standards or if an individual is identified as high-
24 risk or is in need of medical intervention, the Com-
25 missioner shall ensure such detainee is provided with

1 an in-person or technology-facilitated medical con-
2 sultation with a readily available licensed emergency
3 care professional.

4 (2) AVAILABILITY.—The Commissioner shall
5 ensure that—

6 (A) a licensed emergency care professional
7 is on call at all times with respect to detainees;
8 and

9 (B) appropriate emergency transportation
10 is on site or on call to arrive on site within 30
11 minutes of being called.

12 (3) RE-EVALUATIONS.—Detainees who present
13 with any abnormalities during a health screening
14 under subsection (a) shall—

15 (A) be re-evaluated and monitored as de-
16 termined by the emergency care professional
17 and at least once every 24 hours; and

18 (B) notwithstanding subparagraph (A),
19 have safety health clearance prior to transpor-
20 tation, including reevaluation of vital signs.

21 (g) PSYCHOLOGICAL AND MENTAL CARE.—The
22 Commissioner shall ensure that detainees who have experi-
23 enced physical or sexual violence or other potentially life-
24 threatening events, or who have witnessed atrocities that
25 may cause severe, traumatic, or toxic stress, are provided

1 psychological first aid, including a basic, humane, and
2 supportive response to ensure that basic needs are met.

3 (h) DOCUMENTATION.—The Commissioner shall en-
4 sure that the health screenings and medical care required
5 under subsections (a) and (f) and any other medical eval-
6 uations and interventions for detainees are documented in
7 accordance with commonly accepted standards in the
8 United States for medical record documentation.

9 (i) RELEASE FROM CBP.—Before being released
10 from CBP custody, each detainee in a high-priority popu-
11 lation, or requiring intervention, or in need of health care
12 followup upon release, shall receive medical records that
13 outline the health screening and medical care that was
14 conducted under this section with respect to the detainee,
15 as well as documentation of medical issues, evaluations,
16 interventions, and immunizations.

17 (j) INFRASTRUCTURE, EQUIPMENT, AND PER-
18 SONNEL.—The Commissioner and the Administrator of
19 General Services, as the case may be, shall ensure that
20 each location at which a detainee is first transported after
21 such detainee’s initial encounter with an agent or officer
22 of CBP has the following:

23 (1) A private space for the health screening re-
24 quired under subsection (a), including for any nec-
25 essary follow-up exam or care management.

1 (2) Appropriate equipment to carry out such
2 screening, monitor health, provide emergency care,
3 treat traumas and perform resuscitations (including
4 paramedic bags with equipment suitable for neo-
5 nates, infants, and toddlers).

6 (3) A designated area and necessary equipment
7 to prevent the spread of communicable diseases.

8 (4) Basic over-the-counter and prescription
9 medications for all age groups, including all pedi-
10 atric age groups, including the medications nec-
11 essary to ensure that detainees are not deprived of
12 their medication required to manage their chronic
13 illness.

14 (5) A medical professional trained and certified
15 to conduct such health screening.

16 (6) An emergency medicine physician or emer-
17 gency care provider on site, or if such a physician
18 is not available, an emergency medicine physician or
19 emergency care provider on call at all times for con-
20 sultation.

21 (7) Other professionals to meet the require-
22 ments of this section, such as physicians specializing
23 in pediatrics, family medicine, emergency medicine,
24 obstetrics and gynecology, geriatric medicine, inter-
25 nal medicine, and infectious diseases; nurse practi-

1 tioners; other nurses; physician assistants; licensed
2 social workers; mental health professionals; public
3 health professionals; and dieticians.

4 (8) Interpreters on site, or if an interpreter is
5 not available, an interpreter on call at all times.

6 (9) The capability to provide appropriate trans-
7 portation in the case of a medical emergency on site
8 or on call to arrive on site within 30 minutes.

9 (k) ETHICAL GUIDELINES.—The Commissioner shall
10 ensure that all medical assessments and procedures con-
11 ducted pursuant to this section—

12 (1) are conducted in accordance with ethical
13 guidelines in the applicable medical field; and

14 (2) respect human dignity.

15 **SEC. 3. WATER, SANITATION, AND HYGIENE.**

16 The Commissioner shall ensure that a detainee has
17 access to the following:

18 (1) Not less than one gallon of drinking water
19 per day, including age-appropriate fluids.

20 (2) A private, safe, clean, and reliable toilet
21 with proper waste disposal and a hand washing sta-
22 tion, with not less than one toilet available for every
23 12 male detainees, and 1 toilet per 8 female detain-
24 ees.

1 (3) A clean diaper changing facility, which in-
2 cludes proper waste disposal, a hand washing sta-
3 tion, and unrestricted access to diapers.

4 (4) Accommodations to ensure hygiene for el-
5 derly individuals and individuals with disabilities.

6 (5) The opportunity to bathe every day in a pri-
7 vate and secure manner.

8 (6) Adult diapers, in the case of an individual
9 who is incontinent.

10 (7) Products to maintain basic personal hy-
11 giene, including—

12 (A) soap, a toothbrush, toothpaste, and
13 feminine hygiene products; and

14 (B) proper handling and disposal methods
15 for used products.

16 **SEC. 4. FOOD AND NUTRITION.**

17 The Commissioner shall ensure that a detainee has
18 access to the following:

19 (1) In the case of an individual age 12 or older,
20 a diet that contains not less than 2,000 calories per
21 day.

22 (2) In the case of a child who is under the age
23 of 12, a diet that contains an appropriate number of
24 calories per day based on the child's age and weight.

25 (3) Three meals per day.

1 (4) Accommodations for any dietary need or re-
2 striction in the case of a pregnant or breastfeeding
3 woman, an infant, a child, an elderly individual, an
4 individual with a disability, an individual with a food
5 allergy, or an individual with religious dietary re-
6 strictions.

7 (5) Access to food in a manner that follows ap-
8 plicable food safety standards.

9 **SEC. 5. SHELTER.**

10 The Commissioner shall ensure that each facility at
11 which a detainee is detained meets the following require-
12 ments:

13 (1) Except as provided in paragraph (2), males
14 and females shall be detained separately.

15 (2) In the case of a minor child arriving in the
16 United States with an adult relative or legal guard-
17 ian, such child shall be detained with such relative
18 or legal guardian, with family cohesion maintained—

19 (A) unless this arrangement incites safety
20 or security concerns; and

21 (B) in no case shall such minor be de-
22 tained apart from such adult relative or legal
23 guardian, pursuant to subparagraph (A), with
24 other adults.

1 (3) In the case of a minor child arriving in the
2 United States without an adult relative or legal
3 guardian, such child—

4 (A) shall be detained in an age-appropriate
5 facility; and

6 (B) shall not be detained with adults.

7 (4) A detainee with a disability, including a
8 temporary disability, shall be held in a manner that
9 provides for his or her safety, comfort, and security.

10 (5) There shall be no less than 2 square meters
11 of space for each detainee.

12 (6) Each detainee shall be provided with tem-
13 perature appropriate clothing and bedding.

14 (7) The facility shall be well lit and well venti-
15 lated, with the humidity and temperature kept at
16 comfortable levels (between 68 and 74 degrees Fahr-
17 enheit).

18 (8) Detainees shall have access to the outdoors
19 for not less than 1 hour during the daylight hours
20 during each 24-hour period.

21 (9) Detainees shall have the ability to practice
22 their religion or not to practice a religion, as appli-
23 cable.

24 (10) Detainees shall have access to sufficient
25 time for sleeping without unnecessary disturbances

1 (including light and noise) throughout the night, be-
2 tween the hours of 10 p.m. and 6 a.m.

3 (11) Officers, employees, and contracted per-
4 sonnel of CBP shall—

5 (A) follow medical standards for the isola-
6 tion and prevention of communicable diseases;
7 and

8 (B) ensure the physical and mental safety
9 of lesbian, gay, bisexual, transgender, and
10 intersex detainees.

11 (12) The facility shall have video-monitoring—

12 (A) to provide for the safety of children
13 and disabled individuals, or any safety need
14 considerations; and

15 (B) to prevent the sexual abuse or physical
16 harm of vulnerable detainees.

17 **SEC. 6. COORDINATION AND SURGE CAPACITY.**

18 The Secretary of Homeland Security, acting through
19 the Commissioner or an operational commander or other
20 appropriate official within the Department of Homeland
21 Security, shall enter into memoranda of understanding
22 with appropriate Federal agencies, such as the Depart-
23 ment of Health and Human Services, the Federal Emer-
24 gency Management Agency, and applicable emergency
25 government relief services, and contracts with health care,

1 public health, social work, and transportation profes-
2 sionals, for purposes of coordinating—

3 (1) compliance with this Act; and

4 (2) addressing surge capacity.

5 **SEC. 7. TRAINING.**

6 The Commissioner shall ensure that personnel of
7 CBP are professionally trained to focus on the following:

8 (1) Annual humanitarian response and stand-
9 ards training to comply with this Act.

10 (2) Evidence of physical and mental illness, in-
11 cluding common signs of high-risk and medical dis-
12 tress in children and high-priority populations.

13 (3) Vulnerabilities and indicators of child sexual
14 exploitation and effective responses to missing mi-
15 grant children including by leveraging the resources
16 of the National Center for Missing and Exploited
17 Children.

18 (4) Procedures to report incidents of suspected
19 child sexual abuse and exploitation directly to the
20 CyberTipline of the National Center for Missing and
21 Exploited Children (or any successor tipline).

22 **SEC. 8. INTERFACILITY TRANSFER OF CARE.**

23 (a) TRANSFER.—When a detainee is discharged from
24 a medical facility or emergency department, the Commis-
25 sioner shall ensure a transfer of responsibility of care from

1 the medical provider at such medical facility or emergency
2 department to an accepting licensed health care provider
3 of CBP.

4 (b) RESPONSIBILITIES OF ACCEPTING PROVIDER.—

5 Such accepting licensed health care provider shall review
6 the medical facility or emergency department’s evaluation,
7 diagnosis, treatment, management, and discharge care in-
8 structions—

9 (1) to assess for the safety of the discharge and
10 transfer; and

11 (2) to provide necessary follow-up care.

12 **SEC. 9. PLANNING AND INITIAL IMPLEMENTATION.**

13 (a) PLANNING.—No later than 30 days after the date
14 of enactment of this Act, the Secretary of Homeland Secu-
15 rity shall submit a detailed plan to the Congress delin-
16 eating the timeline, process, and challenges of carrying
17 this Act.

18 (b) IMPLEMENTATION.—The Secretary of Homeland
19 Security shall ensure that this Act is implemented not
20 later than 6 months after the date of enactment of this
21 Act.

22 **SEC. 10. CONTRACTOR COMPLIANCE.**

23 The Secretary of Homeland Security shall ensure
24 that all personnel contracted to carry out this Act do so
25 in accordance with the requirements of this Act.

1 **SEC. 11. INSPECTIONS.**

2 (a) IN GENERAL.—The Inspector General of the De-
3 partment of Homeland Security shall—

4 (1) conduct unannounced inspections of ports of
5 entry, border patrol stations, and detention facilities
6 of or administered by CBP or contractors of CBP;
7 and

8 (2) submit to the Congress reports on the re-
9 sults of the inspections under paragraph (1) and
10 other reports of the Inspector General related to
11 custody operations.

12 (b) PARTICULAR ATTENTION.—In carrying out sub-
13 section (a), the Inspector General of the Department of
14 Homeland Security shall pay particular attention to—

15 (1) the degree of compliance by CBP with the
16 requirements of this Act;

17 (2) remedial actions taken by CBP; and

18 (3) the health needs of the detainees.

19 **SEC. 12. GAO REPORT.**

20 (a) IN GENERAL.—The Comptroller General of the
21 United States shall—

22 (1) not later than 6 months after the date of
23 enactment of this Act, commence a study on imple-
24 mentation of, and compliance with, this Act; and

1 (2) not later than 1 year after the date of en-
2 actment of this Act, submit a report to the Congress
3 on the results of such study.

4 (b) ISSUES TO BE STUDIED.—The study required by
5 subsection (a) shall examine the management and over-
6 sight by CBP of ports of entry, border patrol stations, and
7 other detention facilities, including the extent to which
8 CBP and the Department of Homeland Security have ef-
9 fective processes in place to comply with this Act.

10 **SEC. 13. RULE OF CONSTRUCTION.**

11 Nothing in this Act shall be construed to authorize
12 CBP to detain individuals for longer than 72 hours.

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