

116TH CONGRESS  
1ST SESSION

# S. 557

To reunite families separated at or near ports of entry.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2019

Ms. HARRIS (for herself, Mr. MERKLEY, Ms. CORTEZ MASTO, Mr. BLUMENTHAL, Mr. WYDEN, Mr. MARKEY, Mr. BENNET, Ms. DUCKWORTH, Mr. SANDERS, Ms. SMITH, Ms. WARREN, Mr. BOOKER, Ms. KLOBUCHAR, Mrs. GILLIBRAND, Mr. KAINE, and Mr. CARPER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To reunite families separated at or near ports of entry.

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.**

4 This Act may be cited as the “Reunite Every Unac-  
5 companied Newborn Infant, Toddler and other children  
6 Expeditiously Act” or the “REUNITE Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

1           (1) AGENCIES.—The term “agencies” means  
2 the Department of Homeland Security and the De-  
3 partment of Health and Human Services.

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

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

8                   (B) is the parent or legal guardian of an  
9 alien child; and

10                   (C) was apprehended by the Department  
11 of Homeland Security, the Department of Jus-  
12 tice, or any other entity authorized to enforce  
13 section 275 of the Immigration and Nationality  
14 Act (8 U.S.C. 1325).

15           (3) BORDER.—The term “border” means an  
16 international border of the United States.

17           (4) CHILD.—The term “child” means an alien  
18 who—

19                   (A) has not attained 18 years of age; and

20                   (B) has no permanent immigration status  
21 in the United States.

22           (5) DHS.—The term “DHS” means the De-  
23 partment of Homeland Security.

24           (6) HHS.—The term “HHS” means the De-  
25 partment of Health and Human Services.

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

2 (a) RULEMAKING.—

3 (1) GUIDANCE.—Not later than 10 days after  
4 the date of the enactment of this Act, the Secretary  
5 of Homeland Security and the Secretary of Health  
6 and Human Services, after consultation with human-  
7 itarian organizations, child welfare organizations,  
8 State child welfare agencies, and States contiguous  
9 to the border with Mexico, shall promulgate and  
10 publish guidance through a direct final rule that  
11 specifically describes the coordinated efforts that the  
12 agencies will undertake to aid an apprehended par-  
13 ent or legal guardian in locating and reuniting with  
14 any children separated from them at or near the  
15 port of entry, or within 100 miles of the border, pur-  
16 suant to applicable law.

17 (2) DEVELOPMENT; SERVICES; PUBLICATION.—

18 The guidance promulgated pursuant to paragraph  
19 (1)—

20 (A) shall be developed to protect the best  
21 interests of affected children;

22 (B) shall describe all pro bono or govern-  
23 ment-funded services, including immigration  
24 services, available for apprehended parents and  
25 legal guardians or affected children; and

1 (C) shall be made publicly available in  
2 writing and on the websites of the agencies.

3 (b) COVERAGE OF JOINT GUIDANCE.—The guidance  
4 published pursuant to subsection (a) shall outline the  
5 agencies' coordinated efforts, including efforts—

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

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

13 (A) to obtain daily-updated information  
14 about the location of their children and all  
15 scheduled immigration proceedings for their  
16 children; and

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

20 (3) to facilitate substantial daily access of non-  
21 governmental case workers, child advocates, and  
22 legal counsel to children separated from their par-  
23 ents and legal guardians to represent these chil-  
24 dren's best interests in custody decisions and immi-  
25 gration proceedings;

1           (4) to provide for humanitarian organizations  
2           and State and local child welfare agencies in the ju-  
3           risdictions in which the children are located to con-  
4           duct unannounced, independent weekly inspections  
5           of all DHS and HHS facilities at which children  
6           who are separated from their apprehended parents  
7           or legal guardians are in custody;

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

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

16                 (A) their parental and guardianship rights  
17                 with respect to their children who have been  
18                 designated as unaccompanied alien children;  
19                 and

20                 (B) their right to designate another par-  
21                 ent, legal guardian, or other qualified adult cus-  
22                 todian to sponsor and care for such children;

23          (7) to facilitate information sharing by parents  
24          and legal guardians about any arrangements to de-  
25          part the United States with their consulate, their

1 children, their children's case worker, legal counsel,  
2 child advocate, and other adult custodians in ad-  
3 vance of their departure;

4 (8) to provide parents and legal guardians with  
5 an order of deportation or removal access to non-  
6 governmental organizations providing assistance  
7 with locating and reunifying their children;

8 (9) to provide cost-free transportation of chil-  
9 dren separated from their parents or legal guardians  
10 to reunite with them or another parent, legal guard-  
11 ian, or other qualified adult custodian to which the  
12 children consent;

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

17 (11) to provide free telephone calls between ap-  
18 prehended parents and their children; and

19 (12) to otherwise assist with the reunification  
20 of separated families.

21 (c) WRITTEN NOTIFICATION.—Shortly after guid-  
22 ance is published pursuant to subsection (a), the Secretary  
23 of Homeland Security, the Secretary of Health and  
24 Human Services, and the Attorney General shall provide  
25 each apprehended parent or legal guardian who has been

1 separated from his or her child with written notice, in  
2 English, Spanish, or another language understandable by  
3 the parent or legal guardian, upon request, of any guid-  
4 ance that may assist them in their efforts to locate and  
5 reunify with their children.

6 (d) REUNIFICATION REQUIRED.—The agencies shall  
7 ensure immediate reunification of children that remain  
8 separated from their apprehended parent or guardian.

9 (e) OTHER REQUIREMENTS.—The agencies shall—

10 (1) issue a privacy impact assessment related to  
11 the use of DNA testing under the section; and

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

14 (f) EXEMPTIONS.—The agencies may not reunite an  
15 apprehended parent or legal guardian with a separated  
16 child under this section if—

17 (1) the child has been determined to be a victim  
18 of trafficking, or is at significant risk of becoming  
19 a victim of trafficking, by that apprehended parent  
20 or guardian, as determined by a Chief Border Patrol  
21 Agent or Customs and Border Protection Area Port  
22 Director in their official and undelegated capacity;

23 (2) the child appears to be in danger of abuse  
24 or neglect at the hands of the apprehended parent  
25 or legal guardian;

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

5           (4) there is a strong likelihood that the adult is  
 6           not the apprehended parent or legal guardian of the  
 7           child.

8 **SEC. 4. DNA TESTING.**

9           (a) **USE OF OTHER TECHNIQUES.**—Before utilizing  
 10 DNA testing to determine family relationships, agencies  
 11 shall use other techniques commonly utilized by United  
 12 States courts for determining family relationships, includ-  
 13 ing—

14           (1) official documents;

15           (2) representations from a witness, parent, rel-  
 16           ative, or child; and

17           (3) observations of interactions between the  
 18           adult and the child.

19           (b) **DNA TESTING.**—

20           (1) **IN GENERAL.**—DNA testing may not be re-  
 21           quired as a condition of reunification if alternative  
 22           means of demonstrating a familial relationship have  
 23           been established. If reasonable suspicions remain  
 24           about a familial relationship after exhausting the



1 techniques referred to in subsection (a), DNA test-  
2 ing may be used.

3 (2) PROTOCOLS.—The agencies shall develop  
4 protocols for establishing a familial relationship if an  
5 individual does not consent to DNA testing or may  
6 not have a biological relationship with the child.

7 (3) TYPE OF TEST.—Whenever DNA testing is  
8 used, the agencies—

9 (A) shall use the least privacy-invasive type  
10 of DNA test available to confirm the claimed  
11 relationship; and

12 (B) may not charge the child or appre-  
13 hended parent or guardian for the costs of con-  
14 ducting such test.

15 (4) CONSENT.—The agencies shall—

16 (A) obtain the consent of any individual  
17 who is older than 18 years of age before con-  
18 ducting a DNA test;

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

23 (C) destroy DNA samples as soon as pos-  
24 sible, and not later than 7 days after com-  
25 pleting the required DNA matching tests, to

1 minimize any potential misuse of genetic infor-  
2 mation collected under this subsection.

3 (c) PROTECTION OF INFORMATION.—

4 (1) IN GENERAL.—If DNA testing is used for  
5 the purposes of reunification, the agencies shall en-  
6 sure the protection of privacy, genetic data, and per-  
7 sonal information of children, parents, all individuals  
8 being tested, and their relatives.

9 (2) OTHER USES PROHIBITED.—Agencies and  
10 private entities may only access, use, or store any  
11 personal DNA information collected under this sub-  
12 section for family reunification purposes and are  
13 prohibited from sharing any such data or samples  
14 with agencies other than those carrying out the re-  
15 unification process. Information collected under this  
16 section may not be used by any agency or contractor  
17 for any other purpose, including criminal or immi-  
18 gration enforcement.

19 (d) DNA MATCH.—

20 (1) REUNIFICATION.—As soon as a DNA  
21 match is identified, the agencies shall reunite family  
22 members as expeditiously as possible.

23 (2) NO MATCH; NO CONSENT.—A refusal to  
24 consent to a DNA test or the failure to identify a  
25 match between a child and an apprehended parent

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

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

6 (B) the familial relationship may be established  
7 through alternate means.

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

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

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

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

1 nizations to implement secure alternatives that  
2 maintain custody over the alien.

3 (2) ELIGIBILITY DETERMINATION.—

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

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

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

1 provided with an opportunity to appeal such de-  
2 termination in a hearing before an immigration  
3 judge.

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

6 (1) IN GENERAL.—Not later than 7 days after  
7 the date of the enactment of this Act, the Secretary  
8 of Homeland Security shall restore the U.S. Immi-  
9 gration and Customs Enforcement 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 be run through a contract with a not-for-profit enti-  
15 ty.

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 an unaccompanied

1 alien child, as an unaccompanied alien child for the dura-  
2 tion of his or her immigration proceedings.

3 (e) **AUTOMATIC STAY OF REMOVAL OF PARENTS AND**  
4 **LEGAL GUARDIANS DURING CHILD'S IMMIGRATION PRO-**  
5 **CEEDINGS.**—Until the earlier of the date on which the  
6 child's immigration proceedings are concluded or the date  
7 on which the child attains 18 years of age, the Secretary  
8 of Homeland Security may not remove an apprehended  
9 parent or legal guardian of such child from the United  
10 States unless the apprehended parent or legal guardian,  
11 after being afforded the opportunity for legal consultation,  
12 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 (1) forced labor or human trafficking under  
2 section 1589, 1590, or 1591 of title 18, United  
3 States Code; or

4 (2) child exploitation under section 2251,  
5 2251A, 2252, or 2252A of title 18, United States  
6 Code.

7 **SEC. 7. ESTABLISHMENT OF OFFICE FOR LOCATING AND**  
8 **REUNITING CHILDREN WITH PARENTS.**

9 (a) IN GENERAL.—The Secretary of Homeland Secu-  
10 rity, the Attorney General, and the Secretary of Health  
11 and Human Services shall jointly establish an interagency  
12 office, which—

13 (1) shall be known as the “Office for Locating  
14 and Reuniting Children with Parents” (referred to  
15 in this section as the “Office”); and

16 (2) shall be responsible for expediting and fa-  
17 cilitating the reunification of alien children and par-  
18 ents separated after entering the United States.

19 (b) DUTIES.—The Office shall—

20 (1) expeditiously implement guidance des-  
21 ignated for its jurisdiction under section 3;

22 (2) establish 24-hour priority data and informa-  
23 tion communication networks between HHS, DHS,  
24 and the Department of Justice; and

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           alien children with their parents, pursuant to the  
6           final rule promulgated under section 3.

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 apprehend parent or legal guard-  
12          ian;

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

16          (3) the physical location of parents who have  
17          yet to be reunited with their children, including the  
18          parents who have been deported without their chil-  
19          dren;

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

23          (5) an outline of the progress made in imple-  
24          menting the guidance published pursuant to section  
25          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 law.

19 **SEC. 9. REALLOCATION OF DEPARTMENT OF HOMELAND**  
20 **SECURITY APPROPRIATIONS.**

21 (a) IN GENERAL.—Of the amount allocated to U.S.  
22 Immigration and Customs Enforcement for fiscal year  
23 2019 for enforcement, detention, and removal operations,  
24 \$50,000,000 shall be reallocated to carry out sections 3  
25 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.

○