

113TH CONGRESS
2D SESSION

H. R. 5137

To modify the treatment of unaccompanied alien children who are in Federal custody by reason of their immigration status, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 17, 2014

Mr. CHAFFETZ (for himself, Mr. GOODLATTE, Mr. SMITH of Texas, Mr. CHABOT, and Mr. FARENTHOLD) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Foreign Affairs, Agriculture, Natural Resources, and 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 modify the treatment of unaccompanied alien children who are in Federal custody by reason of their immigration status, 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 “Asylum Reform and
5 Border Protection Act of 2014”.

1 **SEC. 2. SAFE REMOVAL OF MINORS.**

2 (a) COUNTRY AGREEMENTS.—Section 235(a)(2) of
3 the William Wilberforce Trafficking Victims Protection
4 Reauthorization Act of 2008 (8 U.S.C. 1232(a)(2)) is
5 amended to read as follows:

6 “(2) COUNTRY AGREEMENTS.—The Secretary
7 of State shall negotiate agreements between the
8 United States and other countries with respect to
9 the repatriation of children. Such agreements shall
10 be designed to protect children from severe forms of
11 trafficking in persons, and shall, at a minimum, pro-
12 vide that—

13 “(A) no child shall be returned to the
14 child’s country of nationality or of last habitual
15 residence unless returned to appropriate em-
16 ployees or officials, including child welfare offi-
17 cials where available, of the accepting country’s
18 government;

19 “(B) no child shall be returned to the
20 child’s country of nationality or of last habitual
21 residence outside of reasonable business hours;
22 and

23 “(C) border personnel of the countries that
24 are parties to such agreements are trained in
25 the terms of such agreements.”.

1 (b) REPEALS.—Section 235(a) of the William Wilber-
2 force Trafficking Victims Protection Reauthorization Act
3 of 2008 (8 U.S.C. 1232(a)) is amended—

4 (1) by striking paragraphs (3) and (4);

5 (2) by striking paragraph (5)(D); and

6 (3) by redesignating paragraph (5) as para-
7 graph (3).

8 (c) SCREENING OF APPLICANTS FOR ADMISSION.—
9 Section 235(b)(1)(A)(i) of the Immigration and Nation-
10 ality Act (8 U.S.C. 1225(b)(1)(A)(i)) is amended by strik-
11 ing “(other than an alien described in subparagraph (F))”
12 and inserting “(including a child, whether or not the child
13 is an unaccompanied alien child (as defined in section
14 462(g)(2) of the Homeland Security Act of 2002 (6
15 U.S.C. 279(g))), but not including an alien described in
16 subparagraph (F))”.

17 **SEC. 3. CLARIFICATION OF INTENT REGARDING TAXPAYER-**
18 **PROVIDED COUNSEL.**

19 Section 292 of the Immigration and Nationality Act
20 (8 U.S.C. 1362) is amended—

21 (1) by striking “(at no expense to the Govern-
22 ment)”; and

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

24 “Notwithstanding any other provision of law, in no in-
25 stance shall the Government bear any expense for counsel

1 for any person in removal proceedings or in any appeal
2 proceedings before the Attorney General from any such
3 removal proceedings.”.

4 **SEC. 4. SPECIAL IMMIGRANT JUVENILE VISAS.**

5 Section 101(a)(27)(J)(i) of the Immigration and Na-
6 tionality Act (8 U.S.C. 1101(a)(27)(J)(i)) is amended by
7 striking “and whose reunification with 1 or both of the
8 immigrant’s parents is not viable due” and inserting “and
9 who cannot be reunified with either of the immigrant’s
10 parents due”.

11 **SEC. 5. CREDIBLE FEAR INTERVIEWS.**

12 Section 235(b)(1)(B)(v) of the Immigration and Na-
13 tionality Act (8 U.S.C. 1225(b)(1)(B)(v)) is amended by
14 striking “208.” and inserting “208, and it is more prob-
15 able than not that the statements made by the alien in
16 support of the alien’s claim are true.”.

17 **SEC. 6. RECORDING EXPEDITED REMOVAL AND CREDIBLE**
18 **FEAR INTERVIEWS.**

19 (a) IN GENERAL.—The Secretary of Homeland Secu-
20 rity shall establish quality assurance procedures and take
21 steps to effectively ensure that questions by employees of
22 the Department of Homeland Security exercising expe-
23 dited removal authority under section 235(b) of the Immi-
24 gration and Nationality Act (8 U.S.C. 1225(b)) are asked
25 in a uniform manner, and that both these questions and

1 the answers provided in response to them are recorded in
2 a uniform fashion.

3 (b) FACTORS RELATING TO SWORN STATEMENTS.—

4 Where practicable, any sworn or signed written statement
5 taken of an alien as part of the record of a proceeding
6 under section 235(b)(1)(A) of the Immigration and Na-
7 tionality Act (8 U.S.C. 1225(b)(1)(A)) shall be accom-
8 panied by a recording of the interview which served as the
9 basis for that sworn statement.

10 (c) INTERPRETERS.—The Secretary shall ensure that
11 a competent interpreter, not affiliated with the govern-
12 ment of the country from which the alien may claim asy-
13 lum, is used when the interviewing officer does not speak
14 a language understood by the alien and there is no other
15 Federal, State, or local government employee available
16 who is able to interpret effectively, accurately, and impar-
17 tially.

18 (d) RECORDINGS IN IMMIGRATION PROCEEDINGS.—

19 Recordings of interviews of aliens subject to expedited re-
20 moval shall be included in the record of proceeding and
21 shall be considered as evidence in any further proceedings
22 involving the alien.

23 (e) NO PRIVATE RIGHT OF ACTION.—Nothing in this

24 section shall be construed to create any right, benefit,
25 trust, or responsibility, whether substantive or procedural,

1 enforceable in law or equity by a party against the United
2 States, its departments, agencies, instrumentalities, enti-
3 ties, officers, employees, or agents, or any person, nor does
4 this section create any right of review in any administra-
5 tive, judicial, or other proceeding.

6 **SEC. 7. PAROLE REFORM.**

7 (a) IN GENERAL.—Paragraph (5) of section 212(d)
8 (8 U.S.C. 1182(d)) is amended to read as follows:

9 “(5) HUMANITARIAN AND PUBLIC INTEREST
10 PAROLE.—

11 “(A) IN GENERAL.—Subject to the provi-
12 sions of this paragraph and section 214(f)(2),
13 the Secretary of Homeland Security, in the sole
14 discretion of the Secretary of Homeland Secu-
15 rity, may on a case-by-case basis parole an alien
16 into the United States temporarily, under such
17 conditions as the Secretary of Homeland Secu-
18 rity may prescribe, only—

19 “(i) for an urgent humanitarian rea-
20 son (as described under subparagraph
21 (B)); or

22 “(ii) for a reason deemed strictly in
23 the public interest (as described under sub-
24 paragraph (C)).

1 “(B) HUMANITARIAN PAROLE.—The Sec-
2 retary of Homeland Security may parole an
3 alien based on an urgent humanitarian reason
4 described in this subparagraph only if—

5 “(i) the alien has a medical emergency
6 and the alien cannot obtain necessary
7 treatment in the foreign state in which the
8 alien is residing or the medical emergency
9 is life-threatening and there is insufficient
10 time for the alien to be admitted through
11 the normal visa process;

12 “(ii) the alien is needed in the United
13 States in order to donate an organ or
14 other tissue for transplant into a close
15 family member; or

16 “(iii) the alien has a close family
17 member in the United States whose death
18 is imminent and the alien could not arrive
19 in the United States in time to see such
20 family member alive if the alien were to be
21 admitted through the normal visa process.

22 “(C) PUBLIC INTEREST PAROLE.—The
23 Secretary of Homeland Security may parole an
24 alien based on a reason deemed strictly in the
25 public interest described in this subparagraph

1 only if the alien has assisted the United States
2 Government in a matter, such as a criminal in-
3 vestigation, espionage, or other similar law en-
4 forcement activity, and either the alien’s pres-
5 ence in the United States is required by the
6 Government or the alien’s life would be threat-
7 ened if the alien were not permitted to come to
8 the United States.

9 “(D) LIMITATION ON THE USE OF PAROLE
10 AUTHORITY.—The Secretary of Homeland Se-
11 curity may not use the parole authority under
12 this paragraph to permit to come to the United
13 States aliens who have applied for and have
14 been found to be ineligible for refugee status or
15 any alien to whom the provisions of this para-
16 graph do not apply.

17 “(E) PAROLE NOT AN ADMISSION.—Parole
18 of an alien under this paragraph shall not be
19 considered an admission of the alien into the
20 United States. When the purposes of the parole
21 of an alien have been served, as determined by
22 the Secretary of Homeland Security, the alien
23 shall immediately return or be returned to the
24 custody from which the alien was paroled and
25 the alien shall be considered for admission to

1 the United States on the same basis as other
2 similarly situated applicants for admission.

3 “(F) REPORT TO CONGRESS.—Not later
4 than 90 days after the end of each fiscal year,
5 the Secretary of Homeland Security shall sub-
6 mit a report to the Committees on the Judici-
7 ary of the House of Representatives and the
8 Senate describing the number and categories of
9 aliens paroled into the United States under this
10 paragraph. Each such report shall contain in-
11 formation and data concerning the number and
12 categories of aliens paroled, the duration of pa-
13 role, and the current status of aliens paroled
14 during the preceding fiscal year.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 subsection (a) shall take effect on the first day of the first
17 month beginning more than 60 days after the date of the
18 enactment of this Act.

19 **SEC. 8. REPORT TO CONGRESS ON PAROLE PROCEDURES**
20 **AND STANDARDIZATION OF PAROLE PROCE-**
21 **DURES.**

22 (a) IN GENERAL.—The Attorney General and the
23 Secretary of Homeland Security shall jointly conduct a re-
24 view, and report to the Judiciary Committees of the House
25 of Representatives and the Senate, not later than 180 days

1 after the date of the enactment of this Act, and annually
2 thereafter, regarding the effectiveness of parole and cus-
3 tody determination procedures applicable to aliens who
4 have established a credible fear of persecution and are
5 awaiting a final determination regarding their asylum
6 claim by the immigration courts. The report shall include
7 the following:

8 (1) An analysis of the rate at which release
9 from detention (including release on parole) is grant-
10 ed to aliens who have established a credible fear of
11 persecution and are awaiting a final determination
12 regarding their asylum claim by the immigration
13 courts throughout the United States, and any dis-
14 parity that exists between locations or geographical
15 areas, including explanation of the reasons for this
16 disparity and what actions are being taken to have
17 consistent and uniform application of the standards
18 for granting parole.

19 (2) An analysis of the effect of the procedures
20 and policies applied with respect to parole and cus-
21 tody determinations both by the Attorney General
22 and the Secretary on the alien's pursuit of their asy-
23 lum claim before an immigration court.

24 (3) An analysis of the effectiveness of the pro-
25 cedures and policies applied with respect to parole

1 and custody determinations both by the Attorney
2 General and the Secretary in securing the alien's
3 presence at the immigration court proceedings.

4 (b) RECOMMENDATIONS.—The report should include
5 recommendations with respect to whether the existing pa-
6 role and custody determination procedures applicable to
7 aliens who have established a credible fear of persecution
8 and are awaiting a final determination regarding their
9 asylum claim by the immigration courts both respect the
10 interests of aliens and ensure the presence of the aliens
11 at the immigration court proceedings. The report should
12 include an assessment on corresponding failure to appear
13 rates, inabsentia orders, and absconders.

14 **SEC. 9. GROUNDS OF INADMISSIBILITY AND DEPORT-**
15 **ABILITY FOR ALIEN GANG MEMBERS.**

16 (a) DEFINITION OF GANG MEMBER.—Section 101(a)
17 of the Immigration and Nationality Act (8 U.S.C.
18 1101(a)) is amended by adding at the end the following:

19 “(53)(A) The term ‘criminal gang’ means an ongoing
20 group, club, organization, or association of 5 or more per-
21 sons that has as one of its primary purposes the commis-
22 sion of 1 or more of the following criminal offenses and
23 the members of which engage, or have engaged within the
24 past 5 years, in a continuing series of such offenses, or
25 that has been designated as a criminal gang by the Sec-

1 retary of Homeland Security, in consultation with the At-
2 torney General, as meeting these criteria. The offenses de-
3 scribed, whether in violation of Federal or State law or
4 foreign law and regardless of whether the offenses oc-
5 curred before, on, or after the date of the enactment of
6 this paragraph, are the following:

7 “(i) A ‘felony drug offense’ (as defined in sec-
8 tion 102 of the Controlled Substances Act (21
9 U.S.C. 802)).

10 “(ii) An offense under section 274 (relating to
11 bringing in and harboring certain aliens), section
12 277 (relating to aiding or assisting certain aliens to
13 enter the United States), or section 278 (relating to
14 importation of alien for immoral purpose).

15 “(iii) A crime of violence (as defined in section
16 16 of title 18, United States Code).

17 “(iv) A crime involving obstruction of justice,
18 tampering with or retaliating against a witness, vic-
19 tim, or informant, or burglary.

20 “(v) Any conduct punishable under sections
21 1028 and 1029 of title 18, United States Code (re-
22 lating to fraud and related activity in connection
23 with identification documents or access devices), sec-
24 tions 1581 through 1594 of such title (relating to
25 peonage, slavery and trafficking in persons), section

1 1952 of such title (relating to interstate and foreign
2 travel or transportation in aid of racketeering enter-
3 prises), section 1956 of such title (relating to the
4 laundering of monetary instruments), section 1957
5 of such title (relating to engaging in monetary trans-
6 actions in property derived from specified unlawful
7 activity), or sections 2312 through 2315 of such title
8 (relating to interstate transportation of stolen motor
9 vehicles or stolen property).

10 “(vi) A conspiracy to commit an offense de-
11 scribed in clauses (i) through (v).

12 “(B) Notwithstanding any other provision of law (in-
13 cluding any effective date), the term applies regardless of
14 whether the conduct occurred before, on, or after the date
15 of the enactment of this paragraph.”.

16 (b) INADMISSIBILITY.—Section 212(a)(2) of such Act
17 (8 U.S.C. 1182(a)(2)) is amended by adding at the end
18 the following:

19 “(J) ALIENS ASSOCIATED WITH CRIMINAL
20 GANGS.—Any alien is inadmissible who a con-
21 sular officer, the Secretary of Homeland Secu-
22 rity, or the Attorney General knows or has rea-
23 son to believe—

1 “(i) to be or to have been a member
2 of a criminal gang (as defined in section
3 101(a)(53)); or

4 “(ii) to have participated in the activi-
5 ties of a criminal gang (as defined in sec-
6 tion 101(a)(53)), knowing or having reason
7 to know that such activities will promote,
8 further, aid, or support the illegal activity
9 of the criminal gang.”.

10 (c) DEPORTABILITY.—Section 237(a)(2) of the Im-
11 migration and Nationality Act (8 U.S.C. 1227(a)(2)) is
12 amended by adding at the end the following:

13 “(G) ALIENS ASSOCIATED WITH CRIMINAL
14 GANGS.—Any alien is deportable who the Sec-
15 retary of Homeland Security or the Attorney
16 General knows or has reason to believe—

17 “(i) is or has been a member of a
18 criminal gang (as defined in section
19 101(a)(53)); or

20 “(ii) has participated in the activities
21 of a criminal gang (as so defined), knowing
22 or having reason to know that such activi-
23 ties will promote, further, aid, or support
24 the illegal activity of the criminal gang.”.

25 (d) DESIGNATION.—

1 (1) IN GENERAL.—Section 236(c)(1)(D) of the
2 Immigration and Nationality Act (8 U.S.C.
3 1226(c)(1)(D)) is amended—

4 (A) by inserting “or 212(a)(2)(J)” after
5 “212(a)(3)(B)”; and

6 (B) by inserting “237(a)(2)(G) or” before
7 “237(a)(4)(B)”.

8 (2) ANNUAL REPORT.—Not later than March 1
9 of each year (beginning 1 year after the date of the
10 enactment of this Act), the Secretary of Homeland
11 Security, after consultation with the appropriate
12 Federal agencies, shall submit a report to the Com-
13 mittees on the Judiciary of the House of Represent-
14 atives and of the Senate on the number of aliens de-
15 tained under the amendments made by paragraph
16 (1).

17 (f) ASYLUM CLAIMS BASED ON GANG AFFILI-
18 ATION.—

19 (1) INAPPLICABILITY OF RESTRICTION ON RE-
20 MOVAL TO CERTAIN COUNTRIES.—Section
21 241(b)(3)(B) of the Immigration and Nationality
22 Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the
23 matter preceding clause (i), by inserting “who is de-
24 scribed in section 212(a)(2)(J)(i) or section
25 237(a)(2)(G)(i) or who is” after “to an alien”.

1 (2) INELIGIBILITY FOR ASYLUM.—Section
2 208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A))
3 is amended—

4 (A) in clause (v), by striking “or” at the
5 end;

6 (B) by redesignating clause (vi) as clause
7 (vii); and

8 (C) by inserting after clause (v) the fol-
9 lowing:

10 “(vi) the alien is described in section
11 212(a)(2)(J)(i) or section 237(a)(2)(G)(i)
12 (relating to participation in criminal street
13 gangs); or”.

14 (g) TEMPORARY PROTECTED STATUS.—Section 244
15 of such Act (8 U.S.C. 1254a) is amended—

16 (1) by striking “Attorney General” each place
17 it appears and inserting “Secretary of Homeland Se-
18 curity”;

19 (2) in subparagraph (c)(2)(B)—

20 (A) in clause (i), by striking “or” at the
21 end;

22 (B) in clause (ii), by striking the period
23 and inserting “; or”; and

24 (C) by adding at the end the following:

1 “(iii) the alien is, or at any time after
2 admission has been, a member of a crimi-
3 nal gang (as defined in section
4 101(a)(53)).”; and

5 (3) in subsection (d)—

6 (A) by striking paragraph (3); and

7 (B) in paragraph (4), by adding at the end
8 the following: “The Secretary of Homeland Se-
9 curity may detain an alien provided temporary
10 protected status under this section whenever
11 appropriate under any other provision of law.”.

12 (h) SPECIAL IMMIGRANT JUVENILE VISAS.—Section
13 101(a)(27)(J)(iii) of the Immigration and Nationality Act
14 (8 U.S.C. 1101(a)(27)(J)(iii)) is amended—

15 (1) in subclause (I), by striking “and”;

16 (2) in subclause (II), by inserting “and” at the
17 end; and

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

19 “(III) no alien who is, or was at any
20 time after admission has been, a member
21 of a criminal gang (as defined in section
22 101(a)(53)) shall be eligible for any immi-
23 gration benefit under this subparagraph;”.

24 (i) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect on the date of the enactment

1 of this Act and shall apply to acts that occur before, on,
2 or after the date of the enactment of this Act.

3 **SEC. 10. UNACCOMPANIED ALIEN CHILD DEFINED.**

4 Section 462(g)(2) of the Homeland Security Act of
5 2002 (6 U.S.C. 279(g)(2)) is amended to read as follows:

6 “(2) The term ‘unaccompanied alien child’—

7 “(A) means an alien who—

8 “(i) has no lawful immigration status
9 in the United States;

10 “(ii) has not attained 18 years of age;

11 and

12 “(iii) with respect to whom—

13 “(I) there is no parent or legal
14 guardian in the United States;

15 “(II) no parent or legal guardian
16 in the United States is available to
17 provide care and physical custody; or

18 “(III) no sibling over 18 years of
19 age, aunt, uncle, grandparent, or
20 cousin over 18 years of age is avail-
21 able to provide care and physical cus-
22 tody; except that

23 “(B) such term shall cease to include an
24 alien if at any time a parent, legal guardian,
25 sibling over 18 years of age, aunt, uncle, grand-

1 parent, or cousin over 18 years of age of the
2 alien is found in the United States and is avail-
3 able to provide care and physical custody (and
4 the Secretary of Homeland Security and the
5 Secretary of Health and Human Services shall
6 revoke accordingly any prior designation of the
7 alien under this paragraph).”.

8 **SEC. 11. MODIFICATIONS TO PREFERENTIAL AVAILABILITY**
9 **FOR ASYLUM FOR UNACCOMPANIED ALIEN**
10 **MINORS.**

11 Section 208 of the Immigration and Nationality Act
12 (8 U.S.C. 1158) is amended—

13 (1) by striking subsection (a)(2)(E); and

14 (2) by striking subsection (b)(3)(C).

15 **SEC. 12. NOTIFICATION AND TRANSFER OF CUSTODY RE-**
16 **GARDING UNACCOMPANIED ALIEN MINORS.**

17 Section 235(b) of the William Wilberforce Trafficking
18 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
19 1232(b)) is amended—

20 (1) in paragraph (2), by striking “48 hours”
21 and inserting “7 days”; and

22 (2) in paragraph (3), by striking “72 hours”
23 and inserting “30 days”.

1 **SEC. 13. INFORMATION SHARING BETWEEN DEPARTMENT**
2 **OF HEALTH AND HUMAN SERVICES AND DE-**
3 **PARTMENT OF HOMELAND SECURITY.**

4 Section 235(b) of the William Wilberforce Trafficking
5 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
6 1232(b)) is amended by adding at the end the following:

7 “(5) INFORMATION SHARING.—The Secretary
8 of Health and Human Services shall share with the
9 Secretary of Homeland Security any information re-
10 quested on a child who has been determined to be
11 an unaccompanied alien child and who is or has
12 been in the custody of the Secretary of Health and
13 Human Services, including the location of the child
14 and any person to whom custody of the child has
15 been transferred, for any legitimate law enforcement
16 objective, including enforcement of the immigration
17 laws.”.

18 **SEC. 14. SAFE THIRD COUNTRY.**

19 Section 208(a)(2)(A) of the Immigration and Nation-
20 ality Act (8 U.S.C. 1158(a)(2)(A)) is amended—

21 (1) by striking “Attorney General” and insert-
22 ing “Secretary of Homeland Security”; and

23 (2) by striking “removed, pursuant to a bilat-
24 eral or multilateral agreement, to” and inserting
25 “removed to”.

1 **SEC. 15. ADDITIONAL IMMIGRATION JUDGES AND ICE**
2 **PROSECUTORS.**

3 (a) EXECUTIVE OFFICE FOR IMMIGRATION RE-
4 VIEW.—Subject to the availability of appropriations, in
5 each of fiscal years 2014 through 2016, the Attorney Gen-
6 eral shall increase by not less than 50 the number of posi-
7 tions for full-time immigration judges within the Executive
8 Office for Immigration Review above the number of such
9 positions for which funds were allotted for fiscal year
10 2013.

11 (b) IMMIGRATION AND CUSTOMS ENFORCEMENT OF-
12 FICE OF THE PRINCIPAL LEGAL ADVISOR.—Subject to
13 the availability of appropriations, in each of fiscal years
14 2014 through 2016, the Secretary of Homeland Security
15 shall increase by not less than 60 the number of positions
16 for full-time trial attorneys within the Immigration and
17 Customs Enforcement Office of the Principal Legal Advi-
18 sor above the number of such positions for which funds
19 were allotted for fiscal year 2013.

20 **SEC. 16. PROHIBITION ON ACTIONS THAT IMPEDE BORDER**
21 **SECURITY ON CERTAIN FEDERAL LAND.**

22 (a) SHORT TITLE.—This section may be cited as the
23 “National Security and Federal Lands Protection Act”.

24 (b) PROHIBITION ON SECRETARIES OF THE INTE-
25 RIOR AND AGRICULTURE.—The Secretary of the Interior
26 or the Secretary of Agriculture shall not impede, prohibit,

1 or restrict activities of U.S. Customs and Border Protec-
2 tion on Federal land located within 100 miles of an inter-
3 national land border that is under the jurisdiction of the
4 Secretary of the Interior or the Secretary of Agriculture,
5 to execute search and rescue operations and to prevent
6 all unlawful entries into the United States, including en-
7 tries by terrorists, other unlawful aliens, instruments of
8 terrorism, narcotics, and other contraband through the
9 international land borders of the United States.

10 (c) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND
11 BORDER PROTECTION.—U.S. Customs and Border Pro-
12 tection shall have immediate access to Federal land within
13 100 miles of the international land border under the juris-
14 diction of the Secretary of the Interior or the Secretary
15 of Agriculture for purposes of conducting the following ac-
16 tivities on such land that prevent all unlawful entries into
17 the United States, including entries by terrorists, other
18 unlawful aliens, instruments of terrorism, narcotics, and
19 other contraband through the international land borders
20 of the United States:

- 21 (1) Construction and maintenance of roads.
- 22 (2) Construction and maintenance of barriers.
- 23 (3) Use of vehicles to patrol, apprehend, or res-
24 cue.

1 (4) Installation, maintenance, and operation of
2 communications and surveillance equipment and sen-
3 sors.

4 (5) Deployment of temporary tactical infra-
5 structure.

6 (d) CLARIFICATION RELATING TO WAIVER AUTHOR-
7 ITY.—

8 (1) IN GENERAL.—Notwithstanding any other
9 provision of law (including any termination date re-
10 lating to the waiver referred to in this subsection),
11 the waiver by the Secretary of Homeland Security
12 on April 1, 2008, under section 102(c)(1) of the Ille-
13 gal Immigration Reform and Immigrant Responsi-
14 bility Act of 1996 (8 U.S.C. 1103 note; Public Law
15 104–208) of the laws described in paragraph (2)
16 with respect to certain sections of the international
17 border between the United States and Mexico and
18 between the United States and Canada shall be con-
19 sidered to apply to all Federal land under the juris-
20 diction of the Secretary of the Interior or the Sec-
21 retary of Agriculture within 100 miles of the inter-
22 national land borders of the United States for the
23 activities of U.S. Customs and Border Protection de-
24 scribed in subsection (c).

1 (2) DESCRIPTION OF LAWS WAIVED.—The laws
2 referred to in paragraph (1) are limited to the Wil-
3 derness Act (16 U.S.C. 1131 et seq.), the National
4 Environmental Policy Act of 1969 (42 U.S.C. 4321
5 et seq.), the Endangered Species Act of 1973 (16
6 U.S.C. 1531 et seq.), the National Historic Preser-
7 vation Act (16 U.S.C. 470 et seq.), Public Law 86-
8 523 (16 U.S.C. 469 et seq.), the Act of June 8,
9 1906 (commonly known as the “Antiquities Act of
10 1906”; 16 U.S.C. 431 et seq.), the Wild and Scenic
11 Rivers Act (16 U.S.C. 1271 et seq.), the Federal
12 Land Policy and Management Act of 1976 (43
13 U.S.C. 1701 et seq.), the National Wildlife Refuge
14 System Administration Act of 1966 (16 U.S.C.
15 668dd et seq.), the Fish and Wildlife Act of 1956
16 (16 U.S.C. 742a et seq.), the Fish and Wildlife Co-
17 ordination Act (16 U.S.C. 661 et seq.), subchapter
18 II of chapter 5, and chapter 7, of title 5, United
19 States Code (commonly known as the “Administra-
20 tive Procedure Act”), the National Park Service Or-
21 ganic Act (16 U.S.C. 1 et seq.), the General Au-
22 thorities Act of 1970 (Public Law 91–383) (16
23 U.S.C. 1a–1 et seq.), sections 401(7), 403, and 404
24 of the National Parks and Recreation Act of 1978
25 (Public Law 95–625, 92 Stat. 3467), and the Ari-

1 zona Desert Wilderness Act of 1990 (16 U.S.C.
2 1132 note; Public Law 101–628).

3 (e) PROTECTION OF LEGAL USES.—This section
4 shall not be construed to provide—

5 (1) authority to restrict legal uses, such as
6 grazing, hunting, mining, or public-use recreational
7 and backcountry airstrips on land under the jurisdic-
8 tion of the Secretary of the Interior or the Secretary
9 of Agriculture; or

10 (2) any additional authority to restrict legal ac-
11 cess to such land.

12 (f) EFFECT ON STATE AND PRIVATE LAND.—This
13 Act shall—

14 (1) have no force or effect on State or private
15 lands; and

16 (2) not provide authority on or access to State
17 or private lands.

18 (g) TRIBAL SOVEREIGNTY.—Nothing in this section
19 supersedes, replaces, negates, or diminishes treaties or
20 other agreements between the United States and Indian
21 tribes.

22 **SEC. 17. MINORS IN CUSTODY.**

23 (a) MINORS IN DEPARTMENT OF HEALTH AND
24 HUMAN SERVICES CUSTODY.—Section 235(c)(2) of the
25 William Wilberforce Trafficking Victims Protection Reau-

1 thORIZATION Act of 2008 (8 U.S.C. 1232(c)(2)) is amended
2 by striking the last two sentences.

3 (b) MINORS IN EXPEDITED REMOVAL PRO-
4 CEEDINGS.—Section 235(b)(1)(B)(ii) of the Immigration
5 and Nationality Act (8 U.S.C. 1225(b)(1)(B)(ii)) is
6 amended by striking “asylum.” and inserting “asylum (or
7 may be detained if the alien is an unaccompanied alien
8 child (as defined in section 462(g)(2) of the Homeland Se-
9 curity Act of 2002 (6 U.S.C. 279(g))).”.

10 **SEC. 18. FOREIGN ASSISTANCE FOR REPATRIATION.**

11 (a) SUSPENSION OF FOREIGN ASSISTANCE.—The
12 Secretary of State shall immediately suspend all foreign
13 assistance, including under United States Agency for
14 International Development programs, the Central Amer-
15 ican Regional Security Initiative, or the International Nar-
16 cotic Control Law Enforcement program, to any large
17 sending country that—

18 (1) refuses to negotiate an agreement under
19 section 235(a)(2) of the William Wilberforce Traf-
20 ficking Victims Protection Reauthorization Act of
21 2008 (8 U.S.C. 1232(a)(2)), as amended by section
22 2 of this Act; or

23 (2) refuses to accept from the United States re-
24 patriated unaccompanied alien children (as defined
25 in section 462(g)(2) of the Homeland Security Act

1 of 2002 (6 U.S.C. 279(g))) who are nationals or
2 residents of the sending country.

3 (b) USE OF FOREIGN ASSISTANCE FOR REPATRI-
4 ATION.—The Secretary of State shall provide any addi-
5 tional foreign assistance from the United States that such
6 Secretary determines is needed to implement an agree-
7 ment under section 235(a)(2) of the William Wilberforce
8 Trafficking Victims Protection Reauthorization Act of
9 2008 (8 U.S.C. 1232(a)(2)), as amended by section 2 of
10 this Act, or safely to repatriate or reintegrate nationals
11 or residents of a large sending country without increasing
12 the total quantity of foreign assistance to such country.
13 Such country may use any earlier foreign assistance for
14 the purpose of repatriation or implementation of any
15 agreement under such section 235(a)(2).

16 (c) DEFINITION OF LARGE SENDING PROGRAM.—
17 For purposes of this section, the term “large sending
18 country” means—

19 (1) any country which was the country of na-
20 tionality or last habitual residence for 1,000 or more
21 unaccompanied alien children (as defined in section
22 462(g)(2) of the Homeland Security Act of 2002 (6
23 U.S.C. 279(g))) who entered the United States in a
24 single fiscal year in any of the prior 3 fiscal years;
25 and

1 (2) any other country which the Secretary of
2 Homeland Security deems appropriate.

3 (d) **EFFECTIVE DATE.**—This section shall take effect
4 on the date of the enactment of this Act and shall apply
5 with respect to any unaccompanied alien child (as defined
6 in section 462(g)(2) of the Homeland Security Act of 2002
7 (6 U.S.C. 279(g))) apprehended on or after such date.

8 **SEC. 19. REPORTS.**

9 (a) **IN GENERAL.**—Not later than 6 months after the
10 date of the enactment of this Act, and annually thereafter,
11 the Secretary of State and the Secretary of Health and
12 Human Services, with assistance from the Secretary of
13 Homeland Security, shall submit a report to the Com-
14 mittee on the Judiciary of the Senate and the Committee
15 on the Judiciary of the House of Representatives on ef-
16 forts to improve repatriation programs for unaccompanied
17 alien children (as defined in section 462(g)(2) of the
18 Homeland Security Act of 2002 (6 U.S.C. 279(g))). Such
19 reports shall include the following:

20 (1) The average time that such a child is de-
21 tained after apprehension until removal.

22 (2) The number of such children detained im-
23 properly beyond the required time periods under
24 paragraphs (2) and (3) of section 235(b) of the Wil-

1 liam Wilberforce Trafficking Victims Protection Re-
2 authorization Act of 2008 (8 U.S.C. 1232(b)).

3 (3) A statement of the funds used to effectuate
4 the repatriation of such children, including any
5 funds that were reallocated from foreign assistance
6 accounts as of the date of the enactment of this Act.

7 (b) EFFECTIVE DATE.—This section shall take effect
8 on the date of the enactment of this Act and shall apply
9 with respect to any unaccompanied alien child (as defined
10 in section 462(g)(2) of the Homeland Security Act of 2002
11 (6 U.S.C. 279(g))) apprehended on or after such date.

○