

111TH CONGRESS  
1ST SESSION

# S. 1550

To ensure that individuals detained by the Department of Homeland Security are treated humanely, provided adequate medical care, and granted certain specified rights.

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## IN THE SENATE OF THE UNITED STATES

JULY 30, 2009

Mr. MENENDEZ (for himself and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To ensure that individuals detained by the Department of Homeland Security are treated humanely, provided adequate medical care, and granted certain specified rights.

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 “Safe Treatment, Avoid-  
5       ing Needless Deaths, and Abuse Reduction in the Deten-  
6       tion System Act” or the “Strong STANDARDS Act”.

7       **SEC. 2. DEFINITIONS.**

8       In this Act:

1           (1) DETAINEE.—The term “detainee” means  
2           an individual who is subject to detention under the  
3           Immigration and Nationality Act.

4           (2) DETENTION.—The term “detention” means  
5           government custody or any other deprivation of an  
6           individual’s freedom of movement by government  
7           agents.

8           (3) DETENTION FACILITY.—The term “deten-  
9           tion facility” means any Federal, State, local govern-  
10          ment facility, or privately owned and operated facil-  
11          ity that is used to hold detainees for more than 72  
12          hours.

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

15          (5) SHORT-TERM DETENTION FACILITY.—The  
16          term “short-term detention facility” means any Fed-  
17          eral, State, local government, or privately owned and  
18          operated facility that is used to hold immigration de-  
19          tainees for 72 hours or less.

20          (6) UNACCOMPANIED ALIEN CHILDREN.—The  
21          term “unaccompanied alien children” has the mean-  
22          ing given the term in section 462(g) of the Home-  
23          land Security Act of 2002 (6 U.S.C. 279(g)).

24 **SEC. 3. DETENTION CONDITIONS.**

25          (a) IN GENERAL.—The Secretary shall—

1           (1) ensure that all detainees are treated hu-  
2           manely and granted the protections described in this  
3           section; and

4           (2) comply with the minimum requirements set  
5           forth in this section.

6           (b) QUALITY OF MEDICAL CARE.—

7           (1) RIGHT TO MEDICAL CARE.—Each detainee  
8           has the right to—

9                   (A) prompt and adequate medical care, de-  
10                  signed to ensure continuity of care, at no cost  
11                  to the detainee;

12                  (B) care to address medical needs that ex-  
13                  isted prior to detention; and

14                  (C) primary care, emergency care, chronic  
15                  care, reproductive health care, prenatal care,  
16                  dental care, eye care, mental health care, and  
17                  other medically necessary specialized care.

18           (2) SCREENINGS AND EXAMINATIONS.—Each  
19           detainee shall receive—

20                   (A) a comprehensive medical, dental, and  
21                  mental health intake screening, including  
22                  screening for sexual abuse or assault by a li-  
23                  censed health care professional upon arrival at  
24                  a detention facility or short-term detention fa-  
25                  cility; and

1 (B) a comprehensive medical and mental  
2 health examination by a licensed health care  
3 professional not later than 14 days after the de-  
4 tainee's arrival at a detention facility.

5 (3) MEDICATIONS AND TREATMENT.—

6 (A) PRESCRIPTIONS.—Each detainee tak-  
7 ing prescribed medications prior to detention  
8 shall be allowed to continue taking such medica-  
9 tions, on schedule and without interruption,  
10 until and unless a licensed health care profes-  
11 sional examines the immigration detainee and  
12 decides upon an alternative course of treatment.  
13 Detainees who arrive at a detention facility  
14 without prescription medications and report  
15 being on such medications shall be evaluated by  
16 a qualified health care professional not later  
17 than 24 hours after arrival. All decisions to dis-  
18 continue or modify a detainee's reported pre-  
19 scription medication regimen shall be conveyed  
20 to the detainee in a language that the detainee  
21 understands and shall be recorded in writing in  
22 the detainee's medical records.

23 (B) PSYCHOTROPIC MEDICATION.—Medi-  
24 cation may not be forcibly administered to a de-  
25 tainee to facilitate transport, removal, or other-

1 wise to control the detainee's behavior. Involun-  
2 tary psychotropic medication may only be used,  
3 to the extent authorized by applicable law, in  
4 emergency situations after a physician has per-  
5 sonally examined the detainee and determined  
6 that—

7 (i) the detainee is imminently dan-  
8 gerous to self or others due to a mental ill-  
9 ness; and

10 (ii) involuntary psychotropic medica-  
11 tion is medically appropriate to treat the  
12 mental illness and necessary to prevent  
13 harm.

14 (C) TREATMENT.—Each detainee shall be  
15 provided medically necessary treatment, includ-  
16 ing prenatal care, prenatal vitamins, hormonal  
17 therapies, and birth control. Female detainees  
18 shall be provided with adequate access to sani-  
19 tary products.

20 (4) MEDICAL CARE DECISIONS.—Any decision  
21 regarding requested medical care for a detainee—

22 (A) shall be made in writing by an on-site  
23 licensed health care professional not later than  
24 72 hours after such medical care is requested;  
25 and

1 (B) shall be immediately communicated to  
2 the detainee.

3 (5) ADMINISTRATIVE APPEALS PROCESS.—

4 (A) IN GENERAL.—Detention facilities, in  
5 conjunction with the Department of Homeland  
6 Security, shall ensure that detainees, medical  
7 providers, and legally appointed advocates have  
8 the opportunity to appeal a denial of requested  
9 health care services by an on-site provider to an  
10 independent appeals board.

11 (B) APPEALS BOARD.—The appeals board  
12 shall include health care professionals in the  
13 fields relevant to the request for medical or  
14 mental health care.

15 (C) DECISION.—Not later than 7 days  
16 after an appeal is received by the appeals board  
17 under this paragraph, or earlier if medically  
18 necessary, the appeals board shall issue a writ-  
19 ten decision regarding the appeal and notify the  
20 detention facility and the appellee of such deci-  
21 sion.

22 (6) REVIEW OF ON-SITE MEDICAL PROVIDER  
23 REQUESTS.—

24 (A) IN GENERAL.—The Secretary shall re-  
25 spond within 72 hours to any request by an on-

1 site medical provider for authorization to pro-  
2 vide medical or mental health care to a de-  
3 tainee.

4 (B) WRITTEN EXPLANATION.—If the Sec-  
5 retary denies or fails to grant a request de-  
6 scribed in subparagraph (A), the Secretary shall  
7 immediately provide a written explanation of  
8 the reasons for such decision to the on-site  
9 medical provider and the detainee.

10 (C) APPEALS BOARD.—The on-site medical  
11 provider and the detainee (or the detainee’s le-  
12 gally appointed advocate) shall be permitted to  
13 appeal the denial of, or failure to grant, a re-  
14 quest described in subparagraph (A) to an inde-  
15 pendent appeals board.

16 (D) DECISION.—Not later than 7 days  
17 after an appeal is received by the appeals board  
18 under this paragraph, or earlier if medically  
19 necessary, the appeals board shall issue a writ-  
20 ten decision regarding the appeal and notify the  
21 on-site medical provider, the detainee, and the  
22 detention facility of such decision.

23 (7) CONDITIONAL RELEASE.—

24 (A) IN GENERAL.—If a licensed health  
25 care professional determines that a detainee has

1 a medical or mental health care condition, is  
2 pregnant, or is a nursing mother, the Secretary  
3 shall consider releasing the detainee on parole,  
4 on bond, or into a secure alternatives program.

5 (B) REEVALUATION.—If a detainee de-  
6 scribed in subparagraph (A) is not initially re-  
7 leased under this paragraph, the Secretary shall  
8 periodically reevaluate the situation of the de-  
9 tainee to determine if such a release would be  
10 appropriate.

11 (C) DISCHARGE PLANNING.—Upon re-  
12 moval or release, all detainees with serious med-  
13 ical or mental health conditions and women who  
14 are pregnant shall receive discharge planning to  
15 ensure continuity of care for a reasonable pe-  
16 riod of time.

17 (8) MEDICAL RECORDS.—

18 (A) IN GENERAL.—The Secretary shall  
19 maintain complete, confidential medical records  
20 for every detainee and make such records avail-  
21 able to a detainee or to individuals authorized  
22 by the detainee not later than 72 hours after  
23 receiving a request for such records.

24 (B) TRANSFER OF MEDICAL RECORDS.—  
25 Immediately upon a detainee's transfer between



1           detention facilities, the detainee's complete  
2           medical records, including any transfer sum-  
3           mary, shall be provided to the receiving deten-  
4           tion facility.

5           (c) TRANSFERS OF DETAINEES.—

6           (1) NOTICE.—Absent exigent circumstances,  
7           such as a natural disaster or comparable emergency,  
8           the Secretary shall provide not less than 72 hours  
9           written notice to any detainee before transferring  
10          such detainee to another detention facility. Not later  
11          than 24 hours after such transfer, the Secretary  
12          shall notify the detainee's legal representative or  
13          other person designated by the detainee of the trans-  
14          fer, by telephone and in writing.

15          (2) PROCEDURES.—Absent exigent cir-  
16          cumstances, such as a natural disaster or com-  
17          parable emergency, the Secretary shall not transfer  
18          a detainee to another detention facility if such trans-  
19          fer would—

20                 (A) impair an existing attorney-client rela-  
21                 tionship;

22                 (B) prejudice the rights of the detainee in  
23                 any legal proceeding, including any Federal,  
24                 State, or administrative proceeding; or

1 (C) negatively affect the detainee's health,  
2 including by interrupting the continuity of med-  
3 ical care or provision of prescription medication.

4 (d) ACCESS TO TELEPHONES.—

5 (1) IN GENERAL.—Not later than 6 hours after  
6 the commencement of a detention of a detainee, the  
7 detainee shall be provided reasonable access to a  
8 telephone, with at least 1 working telephone avail-  
9 able for every 25 detainees.

10 (2) CONTACTS.—Each detainee has the right to  
11 contact by telephone, free of charge—

12 (A) legal representatives;

13 (B) nongovernmental organizations des-  
14 igned by the Secretary;

15 (C) consular officials;

16 (D) Federal and State courts in which the  
17 detainee is, or may become, involved in a legal  
18 proceeding; and

19 (E) all government immigration agencies  
20 and adjudicatory bodies, including the Office of  
21 the Inspector General of the Department of  
22 Homeland Security and the Office for Civil  
23 Rights and Civil Liberties of the Department of  
24 Homeland Security, through confidential toll-  
25 free numbers.

1           (3) EMERGENCIES.—Each detainee subject to  
2 expedited removal or who is experiencing a personal  
3 or family emergency, including the need to arrange  
4 care for dependents, shall be allowed to make con-  
5 fidential calls at no charge.

6           (4) PRIVACY.—Each detainee has the right to  
7 privacy of telephone conversations made for the pur-  
8 pose of obtaining legal representation or related to  
9 legal matters.

10          (5) RATES.—The Secretary shall ensure that  
11 rates charged in detention facilities for telephone  
12 calls are reasonable and do not significantly impair  
13 the detainee’s right to make telephone calls.

14          (e) PHYSICAL AND SEXUAL ABUSE.—

15           (1) IN GENERAL.—No detainee, whether in a  
16 detention facility or short-term detention facility,  
17 shall be subject to degrading or inhumane treatment  
18 such as physical abuse, sexual abuse or harassment,  
19 or arbitrary punishment.

20           (2) PREVENTION.—Detention facilities shall  
21 take all necessary measures—

22               (A) to prevent sexual abuse and sexual as-  
23 saults of detainees;

1 (B) to provide medical and mental health  
2 treatment to victims of sexual abuse and sexual  
3 assaults; and

4 (C) to comply fully with the national  
5 standards for the detection, prevention, reduc-  
6 tion, and punishment of prison rape adopted  
7 pursuant to section 8 of the Prison Rape Elimini-  
8 nation Act of 2003 (42 U.S.C. 15607).

9 (f) LIMITATIONS ON SOLITARY CONFINEMENT,  
10 SHACKLING, AND STRIP SEARCHES.—

11 (1) EXTRAORDINARY CIRCUMSTANCES.—The  
12 use of solitary confinement, shackling, and strip  
13 searches of detainees shall be limited to situations  
14 where the use of such techniques is necessitated by  
15 extraordinary circumstances when the safety of  
16 other persons is at imminent risk. These techniques  
17 may not be used for the purpose of humiliating de-  
18 tainees either within or outside the detention facility.

19 (2) PROTECTED CLASSES.—Solitary confine-  
20 ment, shackling, and strip searches may not be used  
21 on pregnant women, nursing mothers, women in  
22 labor or delivery, or children who are younger than  
23 18 years of age. Strip searches may not be con-  
24 ducted in front of children who are younger than 21  
25 years of age.

1           (3) WRITTEN POLICIES.—Detention facilities  
2 shall—

3                   (A) adopt written policies pertaining to the  
4 use of force and the use of restraints; and

5                   (B) train all staff on the proper use of  
6 such techniques and devices.

7       (g) LOCATION OF DETENTION FACILITIES.—

8           (1) NEW FACILITIES.—All detention facilities  
9 first used by the Department of Homeland Security  
10 after the date of the enactment of this Act shall be  
11 located within 50 miles of a community in which  
12 there is a demonstrated capacity to provide free or  
13 low-cost legal representation by—

14                   (A) nonprofit legal aid organizations; or

15                   (B) pro bono attorneys with expertise in  
16 asylum or immigration law.

17       (2) EXISTING FACILITIES.—Not later than Jan-  
18 uary 1, 2012, all detention facilities used by the De-  
19 partment of Homeland Security shall meet the loca-  
20 tion requirement described in paragraph (1).

21       (3) REPORT.—If the Secretary fails to comply  
22 with the requirement under paragraph (2) by Janu-  
23 ary 1, 2012, the Secretary shall submit a report to  
24 Congress on such date, and annually thereafter,  
25 that—

1 (A) explains the reasons for such failure;  
2 and

3 (B) describes the specific plans of the Sec-  
4 retary to meet such requirement.

5 (h) TRANSLATION CAPABILITIES.—Detention facili-  
6 ties and short-term detention facilities shall—

7 (1) employ staff who are professionally qualified  
8 in any language spoken by more than 10 percent of  
9 its detainee population;

10 (2) arrange for alternative translation services,  
11 as needed, in the exceptional circumstances when  
12 trained bilingual staff members are unavailable to  
13 translate; and

14 (3) provide notices and written materials to de-  
15 tainees in the native language of such detainees if  
16 such language is spoken by more than 5 percent of  
17 the detainees in the facility.

18 (i) LEGAL ACCESS.—All detention facilities shall pro-  
19 vide detainees with—

20 (1) access to legal information, including an on-  
21 site law library with up-to-date legal materials and  
22 law databases;

23 (2) free access to the necessary equipment and  
24 materials for legal research and correspondence,

1       such as computers, printers, copiers, and type-  
2       writers;

3           (3) information regarding the availability of  
4       legal information and services to assist those with  
5       limited English proficiency or disabilities;

6           (4) confidential meeting space to confer with  
7       legal counsel; and

8           (5) services to send confidential legal docu-  
9       ments to legal counsel, government offices, and legal  
10      organizations.

11      (j) VISITORS.—

12           (1) LEGAL REPRESENTATION.—Detainees in  
13      detention facilities have the right to meet privately  
14      with current or prospective legal representatives, in-  
15      terpreters, and other legal support staff for at least  
16      8 hours per day on regular business days and 4  
17      hours per day on weekends and holidays, subject to  
18      appropriate security procedures. Legal visits may  
19      only be restricted for narrowly defined exceptional  
20      circumstances, such as a natural disaster or com-  
21      parable emergency.

22           (2) PRO BONO ORGANIZATIONS.—Detention fa-  
23      cilities shall prominently post, in detainee housing  
24      units and other appropriate areas, official lists of  
25      pro bono legal organizations and their contact infor-

1 mation, which shall be updated semiannually by the  
2 Secretary.

3 (3) RELIGIOUS, CULTURAL, AND SPIRITUAL  
4 VISITORS.—Detainees have the right to reasonable  
5 access to religious or other qualified individuals to  
6 address religious, cultural, and spiritual consider-  
7 ations.

8 (4) CHILDREN.—Detainees have the right to  
9 regular, private contact visits with children who are  
10 younger than 18 years of age.

11 (k) RECREATIONAL PROGRAMS AND ACTIVITIES.—  
12 Detention facilities shall provide detainees with access to  
13 at least 1 hour of indoor and outdoor recreational pro-  
14 grams and activities each day.

15 (l) TRAINING OF PERSONNEL.—All personnel in de-  
16 tention facilities and short-term detention facilities shall  
17 be given comprehensive, specialized training and regular,  
18 periodic updates, including—

19 (1) an overview of immigration detention and  
20 all detention standards;

21 (2) the characteristics of the noncitizen de-  
22 tainee population, including special characteristics of  
23 vulnerable groups; and

24 (3) the due process and grievance procedures to  
25 protect the rights of detainees.



1 (m) TRANSPORTATION.—The Secretary shall ensure  
2 that—

3 (1) each detainee is safely transported, which  
4 shall include the appropriate use of safety harnesses  
5 and occupancy limitations of vehicles; and

6 (2) female officers are responsible and at all  
7 times present during the transfer and transport of  
8 female detainees who are in the custody of the De-  
9 partment of Homeland Security.

10 (n) VULNERABLE POPULATIONS.—Detention facility  
11 conditions and minimum requirements for detention facili-  
12 ties shall recognize and accommodate the unique needs of  
13 vulnerable detainees, including—

14 (1) families with children;

15 (2) asylum seekers;

16 (3) victims of abuse, torture, or trafficking;

17 (4) individuals who are older than 65 years of  
18 age;

19 (5) pregnant women; and

20 (6) nursing mothers.

21 (o) CHILDREN.—The Secretary shall ensure that un-  
22 accompanied alien children are—

23 (1) physically separated from any adult who is  
24 not an immediate family member; and

25 (2) separated by sight and sound from—

1 (A) immigration detainees and inmates  
2 with criminal convictions;

3 (B) pretrial inmates facing criminal pros-  
4 ecution;

5 (C) children who have been adjudicated  
6 delinquents or convicted of adult offenses or are  
7 pending delinquency or criminal proceedings;  
8 and

9 (D) inmates exhibiting violent behavior  
10 while in detention.

11 **SEC. 4. SPECIFIC DETENTION REQUIREMENTS FOR SHORT-**  
12 **TERM DETENTION FACILITIES.**

13 (a) ACCESS TO BASIC NEEDS, PEOPLE, AND PROP-  
14 erty.—

15 (1) BASIC NEEDS.—All detainees in short-term  
16 detention facilities shall receive—

17 (A) potable water;

18 (B) food, if detained for more than 5  
19 hours;

20 (C) basic toiletries, diapers, sanitary prod-  
21 ucts, and blankets; and

22 (D) access to bathroom facilities.

23 (2) PEOPLE.—The Secretary shall provide con-  
24 sular officials with access to detainees held at any  
25 short-term detention facility. Detainees shall be af-

1       forded reasonable access to a licensed health care  
2       professional. The Secretary shall ensure that nursing  
3       mothers in such facilities have access to their chil-  
4       dren.

5           (3) PROPERTY.—Any property belonging to a  
6       detainee that was confiscated by an official of the  
7       Department of Homeland Security shall be returned  
8       to the detainee upon repatriation or transfer.

9       (b) PROTECTIONS FOR CHILDREN.—

10           (1) QUALIFIED STAFF.—The Secretary shall  
11       ensure that adequately trained and qualified staff  
12       are stationed at each major port of entry at which,  
13       during the most recent 2 fiscal years, an average of  
14       not fewer than 50 unaccompanied alien children per  
15       year have been held by United States Customs and  
16       Border Protection, which staff shall include—

17           (A) independent licensed social workers  
18       dedicated to ensuring the proper temporary  
19       care for the children while in the custody of  
20       United States Customs and Border Protection;  
21       and

22           (B) agents charged primarily with the safe,  
23       swift, and humane transportation of such chil-  
24       dren to the custody of the Office of Refugee Re-  
25       settlement.

1           (2) SPECIFIC RIGHTS.—The social workers de-  
2       scribed in paragraph (1)(A) shall ensure that each  
3       unaccompanied alien child—

4                   (A) receives emergency medical care;

5                   (B) receives mental health care in case of  
6       trauma;

7                   (C) has access to psychosocial health serv-  
8       ices;

9                   (D) is provided with—

10                   (i) a pillow, linens, and sufficient  
11       blankets to rest at a comfortable tempera-  
12       ture; and

13                   (ii) a bed and mattress placed in an  
14       area specifically designated for residential  
15       use;

16                   (E) receives adequate nutrition;

17                   (F) enjoys a safe and sanitary living envi-  
18       ronment;

19                   (G) receives educational materials; and

20                   (H) has access to at least 3 hours of in-  
21       door and outdoor recreational programs and ac-  
22       tivities per day.

23       (c) CONFIDENTIALITY.—

24           (1) IN GENERAL.—The Secretary of Health and  
25       Human Services shall maintain the privacy and con-

1        confidentiality of all information gathered in the course  
2        of providing care, custody, placement, and follow-up  
3        services to unaccompanied alien children, consistent  
4        with the best interest of such children, by not dis-  
5        closing such information to other government agen-  
6        cies or nonparental third parties, except as provided  
7        under paragraph (2).

8            (2) LIMITED DISCLOSURE OF INFORMATION.—

9        The Secretary may only disclose information regard-  
10       ing an unaccompanied alien child if—

11            (A) the child authorizes such disclosure

12            and such is consistent with the child’s best in-  
13            terest; or

14            (B) the disclosure is to a duly recognized

15            law enforcement entity and is necessary to pre-  
16            vent imminent and serious harm to another in-  
17            dividual.

18            (3) WRITTEN RECORD.—All disclosures under

19        paragraph (2) shall be duly recorded in writing and  
20        placed in the child’s file.

21       **SEC. 5. RULEMAKING AND ENFORCEMENT.**

22            (a) REGULATIONS.—

23            (1) NOTICE OF PROPOSED RULEMAKING.—Not

24        later than 60 days after the date of the enactment  
25        of this Act, the Secretary shall issue a notice of pro-

1 posed rulemaking regarding the implementation of  
2 this Act.

3 (2) FINAL REGULATIONS.—Not later than 180  
4 days after the date of the enactment of this Act, the  
5 Secretary shall promulgate regulations, which shall  
6 be binding upon all detention facilities and short-  
7 term detention facilities, to ensure that the detention  
8 requirements under sections 3 and 4 are fully imple-  
9 mented and enforced and that all facilities comply  
10 with the regulations.

11 (b) ENFORCEMENT.—

12 (1) IN GENERAL.—The Secretary shall enforce  
13 all regulations and standards promulgated under  
14 subsection (a). Not later than 180 days after the  
15 date of the enactment of this Act, the Secretary  
16 shall issue guidance to detention facilities and short-  
17 term detention facilities to ensure compliance with  
18 all the detention requirements under sections 3 and  
19 4.

20 (2) INVESTIGATION.—

21 (A) GRIEVANCES.—Each detainee has the  
22 right to file grievances with the staff of deten-  
23 tion facilities, short-term detention facilities,  
24 and the Department of Homeland Security, and

1 shall be protected from retaliation for exercising  
2 such right.

3 (B) REVIEW.—The Secretary shall—

4 (i) review any grievance or other com-  
5 plaint containing evidence that a detention  
6 facility or short-term detention facility has  
7 violated any requirement under this Act;

8 (ii) issue a determination in writing to  
9 the complainant indicating the Secretary's  
10 findings regarding the alleged violation not  
11 later than 30 days after receiving such  
12 complaint;

13 (iii) remedy any violation not later  
14 than 30 days after issuing a determination  
15 under clause (ii); and

16 (iv) promptly advise the complainant  
17 of the remedy referred to in clause (iii).

18 (C) WRITTEN RESPONSE.—If the Sec-  
19 retary issues a written response under subpara-  
20 graph (B)(ii) indicating that no violation has  
21 occurred, such response shall constitute final  
22 agency action for the purposes of section 702 of  
23 title 5, United States Code.

1           (3) PENALTIES.—The Secretary shall enforce  
2 compliance with the detention requirements under  
3 sections 3 and 4 by—

4           (A) imposing financial penalties upon de-  
5 tention facilities and short-term detention facili-  
6 ties that are not in compliance with such re-  
7 quirements; and

8           (B) terminating the contracts of such fa-  
9 cilities if such noncompliance persists.

10          (4) COMPLIANCE OFFICER.—

11          (A) DESIGNATION.—Each detention facil-  
12 ity and short-term detention facility shall des-  
13 ignate an officer to ensure compliance with the  
14 provisions of this Act.

15          (B) DUTIES.—Each officer designated  
16 under subparagraph (A) shall—

17           (i) investigate all evidence pertaining  
18 to a violation of this Act; and

19           (ii) if a violation is identified, remedy  
20 the violation within 30 days.

21          (C) JUDICIAL REVIEW.—A detainee may  
22 not seek judicial review of the detention facili-  
23 ty's determination until after the passage of the  
24 30-day period, except where irreparable harm  
25 would result.



1 (c) RULE OF CONSTRUCTION.—Nothing in the sec-  
2 tion may be construed to preclude review of noncompliance  
3 with this Act under—

4 (1) section 1331 or 2241 of title 28, United  
5 States Code; or

6 (2) section 1979 of the Revised Statutes (42  
7 U.S.C. 1983).

8 (d) PUNITIVE DAMAGES.—No individual may seek  
9 punitive damages for any violation under this Act.

10 **SEC. 6. IMMIGRATION DETENTION COMMISSION.**

11 (a) APPOINTMENT.—The Secretary shall appoint and  
12 convene an Immigration Detention Commission (referred  
13 to in this section as the “Commission”), which shall be  
14 comprised of—

15 (1) experts from United States Immigration  
16 and Customs Enforcement, United States Customs  
17 and Border Protection, the Office of Refugee Reset-  
18 tlement, and the Division of Immigration Health  
19 Services of the Department of Health and Human  
20 Services; and

21 (2) independent experts, in a number equal to  
22 the number of experts appointed under paragraph  
23 (1), from nongovernmental organizations and inter-  
24 governmental organizations with expertise in work-

1       ing on behalf of detainees and other vulnerable pop-  
2       ulations.

3       (b) DUTIES.—The Commission shall conduct inde-  
4       pendent investigations, and evaluate and report on the  
5       compliance of detention facilities, short-term detention fa-  
6       cilities, and the Department of Homeland Security with  
7       the detention requirements under sections 3 and 4.

8       (c) BIENNIAL REPORTS.—Not later than 60 days  
9       after the end of the first fiscal year beginning after the  
10      date of the enactment of this Act, and every 2 years there-  
11      after, the Commission shall submit a report containing the  
12      findings of its investigations and evaluations under sub-  
13      section (b) to—

14           (1) the Committee on the Judiciary of the Sen-  
15      ate;

16           (2) the Committee on Homeland Security and  
17      Governmental Affairs of the Senate;

18           (3) the Committee on the Judiciary of the  
19      House of Representatives; and

20           (4) the Committee on Homeland Security of the  
21      House of Representatives.

22   **SEC. 7. DEATH IN CUSTODY REPORTING REQUIREMENT.**

23       (a) IN GENERAL.—If an individual dies while in the  
24      custody of the Department of Homeland Security or en  
25      route to or from such custody—

1           (1) the supervising official at the detention fa-  
2           cility or short-term detention facility at which the  
3           death took place shall immediately notify the Sec-  
4           retary of such death; and

5           (2) not later than 48 hours after receiving a no-  
6           tification under paragraph (1), the Secretary shall  
7           report the death to—

8                   (A) the Office of the Inspector General of  
9                   the Department of Homeland Security; and

10                   (B) the Department of Justice.

11       (b) REPORT TO CONGRESS.—Not later than 60 days  
12 after the end of each fiscal year, the Secretary shall sub-  
13 mit a report containing detailed information regarding all  
14 the deaths of individuals in the custody of the Department  
15 of Homeland Security during the preceding fiscal year to  
16 the committees set forth in section 6(c).

17       (c) CONTENTS.—The reports submitted under sub-  
18 section (a)(2) and subsection (b) shall include—

19           (1) the name, gender, race, ethnicity, and age  
20           of the deceased;

21           (2) the date, time, and location of death;

22           (3) the law enforcement agency that detained,  
23           arrested, or was in the process of arresting the de-  
24           ceased;

- 1           (4) a description of the circumstances sur-  
2       rounding the death;
- 3           (5) the status and results of any investigation  
4       that has been conducted into the circumstances sur-  
5       rounding the death; and
- 6           (6) all medical records of the deceased.

