

Calendar No. 528

113TH CONGRESS
2^D SESSION

S. 2773

Making supplemental appropriations for the fiscal year ending September 30, 2014, for border security, law enforcement, humanitarian assistance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2014

Mr. CORNYN (for himself, Mr. GRASSLEY, and Mr. McCONNELL) introduced the following bill; which was read the first time

AUGUST 1, 2014

Read the second time and placed on the calendar

A BILL

Making supplemental appropriations for the fiscal year ending September 30, 2014, for border security, law enforcement, humanitarian assistance, 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 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated, for the
5 fiscal year ending September 30, 2014, and for other pur-
6 poses, namely:

DIVISION A—SUPPLEMENTAL APPROPRIATIONS

TITLE I

DEPARTMENTS OF COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

ADMINISTRATIVE REVIEW AND APPEALS

For an additional amount for “Administrative Review and Appeals”, \$63,200,000, to remain available until September 30, 2015, as follows:

(1) \$54,000,000 for the Executive Office for Immigration Review to hire 54 Immigration Judge Teams, which shall be trained and assigned to adjudicate juvenile cases.

(2) \$6,700,000 for the Executive Office for Immigration Review for the purchase of video teleconferencing equipment, digital audio recording devices, and other technology that will enable expanded immigration courtroom capacity and capability.

(3) \$2,500,000 for the Executive Office for Immigration Review’s Legal Orientation Program, of which not less than \$1,000,000 shall be for the Legal Orientation Program for Custodians:

12 *Provided further,* That the submitted plan shall en-
13 sure that juveniles will appear before an immigration
14 judge for an initial hearing not later than 10 days
15 after the juvenile is apprehended.

17 SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for “Salaries and Ex-
penses, General Legal Activities”, \$1,100,000, for nec-
essary expenses to respond to the significant rise in unac-
companied children and adults with children at the south-
west border and related activities, to remain available until
September 30, 2014.

1 TITLE II
2 DEPARTMENT OF HOMELAND SECURITY
3 U. S. CUSTOMS AND BORDER PROTECTION
4 SALARIES AND EXPENSES

5 For an additional amount for “Salaries and Ex-
6 penses” to cover necessary expenses to respond to the sig-
7 nificant rise in unaccompanied alien children and adults
8 with children at the Southwest border and related activi-
9 ties, including the acquisition, construction, improvement,
10 repair, and management of facilities, and for necessary ex-
11 penses related to border security, \$71,000,000, to remain
12 available until September 30, 2015.

13 U. S. IMMIGRATION AND CUSTOMS ENFORCEMENT
14 SALARIES AND EXPENSES

15 For an additional amount for “Salaries and Ex-
16 penses” to cover necessary expenses to respond to the sig-
17 nificant rise in unaccompanied alien children and adults
18 with children at the Southwest border and related activi-
19 ties, and for the necessary expenses for enforcement of
20 immigration and customs law, detention and removals of
21 adults with children crossing the border unlawfully, and
22 investigations, \$398,000,000, to remain available until
23 September 30, 2015, of which, \$50,000,000 shall be ex-
24 pended for 50 additional fugitive operations teams and not
25 less than \$14,000,000 shall be expended for vetted units

1 operations in Central America and human smuggling and
2 trafficking investigations: *Provided*, That the Secretary of
3 Homeland Security shall support no fewer than an addi-
4 tional 3,000 family and 800 other beds and substantially
5 increase the availability and utilization of detention space
6 for adults with children.

7 GENERAL PROVISIONS

8 SEC. 201. (a) For an additional amount for meeting
9 the data collection and reporting requirements of this Act
10 , \$5,000,000.

11 (b) Notwithstanding section 503 of Division F of the
12 Consolidated Appropriations Act, 2014 (Public Law 113–
13 76), funds made available under subsection (a) for data
14 collection and reporting requirements may be transferred
15 by the Secretary of Homeland Security between appropria-
16 tions for the same purpose.

17 (c) The Secretary may not make a transfer described
18 in subsection (b) until 15 days after notifying the Com-
19 mittee on Appropriations of the Senate and the Committee
20 on Appropriations of the House of Representatives of such
21 transfer.

1 TITLE III
2 DEPARTMENTS OF LABOR, HEALTH AND
3 HUMAN SERVICES, AND EDUCATION, AND
4 RELATED AGENCIES
5 DEPARTMENT OF HEALTH AND HUMAN SERVICES
6 ADMINISTRATION FOR CHILDREN AND FAMILIES
7 REFUGEE AND ENTRANT ASSISTANCE
8 (INCLUDING TRANSFER OF FUNDS)

9 For an additional amount for “Refugee and Entrant
10 Assistance”, \$150,000,000, to be merged with and avail-
11 able for the same period and purposes as funds appro-
12 priated in Public Law 113–76 “for carrying out such sec-
13 tions 414, 501, 462, and 235”: *Provided*, That funds ap-
14 propriated under this heading may also be used for other
15 medical response expenses of the Department of Health
16 and Human Services in assisting individuals identified
17 under subsection (b) of such section 235: *Provided further*,
18 That, the Secretary may, in this fiscal year and hereafter,
19 accept and use money, funds, property, and services of any
20 kind made available by gift, devise, bequest, grant, or
21 other donation for carrying out such sections: *Provided*
22 *further*, That funds appropriated under this heading for
23 medical response expenses may be transferred to and
24 merged with the “Public Health and Social Services Emer-
25 gency Fund”: *Provided further*, That transfer authority

1 under this heading is subject to the regular notification
 2 procedures of the Committee on Appropriations of the
 3 Senate and the Committee on Appropriations of the House
 4 of Representatives.

5 GENERAL PROVISIONS

6 (RESCISSION)

7 SEC. 301. Of the funds made available for perform-
 8 ance bonus payments under section 2105(a)(3)(E) of the
 9 Social Security Act (42 U.S.C. 1397ee(a)(3)(E)),
 10 \$1,700,000,000 is rescinded.

11 TITLE IV

12 GENERAL PROVISIONS—THIS TITLE

13 REPATRIATION AND REINTEGRATION

14 SEC. 401. (a) Of the funds appropriated in titles III
 15 and IV of division K of Public Law 113–76, and in prior
 16 Acts making appropriations for the Department of State,
 17 foreign operations, and related programs, for assistance
 18 for the countries in Central America, up to \$40,000,000
 19 shall be made available for such countries for repatriation
 20 and reintegration activities: *Provided*, That funds made
 21 available pursuant to this section may be obligated not-
 22 withstanding subsections (c) and (e) of section 7045 of
 23 division K of Public Law 113–76.

24 (b) Prior to the initial obligation of funds made avail-
 25 able pursuant to this section, but not later than 15 days

1 after the date of enactment of this Act, and every 90 days
2 thereafter until September 30, 2015, the Secretary of
3 State, in consultation with the Administrator of the
4 United States Agency for International Development, shall
5 submit to the appropriate congressional committees a re-
6 port on the obligation of funds made available pursuant
7 to this section by country and the steps taken by the gov-
8 ernment of each country to—

9 (1) improve border security;

10 (2) enforce laws and policies to stem the flow
11 of illegal entries into the United States;

12 (3) enact laws and implement new policies to
13 stem the flow of illegal entries into the United
14 States, including increasing penalties for human
15 smuggling;

16 (4) conduct public outreach campaigns to ex-
17 plain the dangers of the journey to the Southwest
18 Border of the United States and to emphasize the
19 lack of immigration benefits available; and

20 (5) cooperate with United States Federal agen-
21 cies to facilitate and expedite the return, repatri-
22 ation, and reintegration of illegal migrants arriving
23 at the Southwest Border of the United States.

24 (c) The Secretary of State shall suspend assistance
25 provided pursuant to this section to the government of a

1 country if such government is not making significant
2 progress on each item described in paragraphs (1) through
3 (5) of subsection (b): *Provided*, That assistance may only
4 be resumed if the Secretary reports to the appropriate
5 congressional committees that subsequent to the suspen-
6 sion of assistance such government is making significant
7 progress on each of the items enumerated in such sub-
8 section.

9 (d) Funds made available pursuant to this section
10 shall be subject to the regular notification procedures of
11 the Committee on Appropriations of the Senate and the
12 Committee on Appropriations of House of Representatives
13 and the Senate.

14 TITLE V

15 GENERAL PROVISIONS — THIS ACT

16 SEC. 501. Not later than 30 days after the date of
17 the enactment of this Act, the Attorney General, working
18 in coordination with the Secretary of Homeland Security
19 and the Secretary of Health and Human Services, shall
20 institute a process for collecting, exchanging, and sharing
21 specific data pertaining to individuals whose cases will be
22 adjudicated by the Executive Office for Immigration Re-
23 view that ensures that—

24 (1) the Department of Justice is capable of
25 electronically receiving information from the Depart-

1 ment of Homeland Security and the Department of
2 Health and Human Services related to the appre-
3 hension, processing, detention, placement, and adju-
4 dication of such individuals, including unaccom-
5 panied alien children;

6 (2) case files prepared by the Department of
7 Homeland Security after an individual has been
8 issued a notice to appear are electronically inte-
9 grated with information collected by the Department
10 of Justice's Executive Office for Immigration Review
11 during the adjudication process;

12 (3) cases are coded to reflect immigration sta-
13 tus and appropriate categories at apprehension, such
14 as unaccompanied alien children and family units;

15 (4) information pertaining to cases and dockets
16 are collected and maintained by the Department of
17 Justice in an electronic, searchable database that in-
18 cludes—

19 (A) the status of the individual appearing
20 before the court upon apprehension;

21 (B) the docket upon which the case is
22 placed;

23 (C) the individual's presence for court pro-
24 ceedings;

25 (D) the final disposition of each case;

1 (E) the number of days each case re-
2 mained on the docket before final disposition;
3 and

4 (F) any other information the Attorney
5 General determines to be necessary and appro-
6 priate; and

7 (5) the final disposition of an adjudication or
8 an order of removal is electronically submitted to—

9 (A) the Department of Homeland Security;
10 and

11 (B) the Department of Health and Human
12 Services, if appropriate.

13 SEC. 502. Not later than 30 days after the date of
14 enactment of this Act, the Secretary of Homeland Secu-
15 rity, working in coordination with the Attorney General
16 and the Secretary of Health and Human Services, shall
17 institute a process for collecting, exchanging, and sharing
18 specific data pertaining to individuals who are appre-
19 hended or encountered for immigration enforcement pur-
20 poses by the Department of Homeland Security that en-
21 sures that—

22 (1) case files prepared by the Department of
23 Homeland Security after an individual has been
24 issued a notice to appear are electronically trans-
25 mitted to—

1 (A) the Department of Justice's Executive
2 Office for Immigration Review for integration
3 with case files prepared during the adjudication
4 process; and

5 (B) to the Department of Health and
6 Human Services, as appropriate, if the files re-
7 late to unaccompanied alien children;

8 (2) the Department of Homeland Security is
9 capable of electronically receiving information per-
10 taining to the disposition of an adjudication, includ-
11 ing removal orders and the individual's failure to ap-
12 pear for proceedings, from the Department of Jus-
13 tice's Executive Office for Immigration Review; and

14 (3) information is collected and shared with the
15 Department of Justice regarding the immigration
16 status and appropriate categories of such individuals
17 at the time of apprehension, such as—

18 (A) unaccompanied alien children or family
19 units;

20 (B) the location of their apprehension;

21 (C) the number of days they remain in the
22 custody of the Department of Homeland Secu-
23 rity;

24 (D) the reason for releasing the individual
25 from custody;

1 (E) the geographic location of their resi-
2 dence, if released from custody;

3 (F) any action taken by the Department of
4 Homeland Security after receiving information
5 from the Department of Justice regarding an
6 individual's failure to appear before the court;

7 (G) any action taken by the Department of
8 Homeland Security after receiving information
9 from the Department of Justice regarding the
10 disposition of an adjudication; and

11 (H) any other information that the Sec-
12 retary of Homeland Security determines to be
13 necessary and appropriate.

14 SEC. 503. Not later than 30 days after the date of
15 the enactment of this Act, the Secretary of Health and
16 Human Services, working in coordination with the Attor-
17 ney General and the Secretary of Homeland Security, shall
18 institute a process for collecting, exchanging, and sharing
19 specific data pertaining to unaccompanied alien children
20 that ensures that—

21 (1) the Department of Health and Human
22 Services is capable of electronically receiving infor-
23 mation from the Department of Homeland Security
24 and the Department of Justice related to the appre-

1 hension, processing, placement, and adjudication of
2 unaccompanied alien children;

3 (2) the Department of Health and Human
4 Services shares information with the Department of
5 Homeland Security regarding its capacity and capa-
6 bility to meet the 72-hour mandate required under
7 section 235(b)(3) of the William Wilberforce Traf-
8 ficking Victims Protection Reauthorization Act of
9 2008 (8 U.S.C. 1232(b)(3)); and

10 (3) information is collected and shared with the
11 Department of Justice and the Department of
12 Homeland Security regarding—

13 (A) the number of days a child remained
14 in the custody of the Department of Health and
15 Human Services;

16 (B) whether the child was placed in a facil-
17 ity operated by the Department of Defense;

18 (C) for children placed with a sponsor—

19 (i) the number of children placed with
20 the sponsor;

21 (ii) the relationship of the sponsor
22 taking custody of the child;

23 (iii) the type of background check
24 conducted on the potential sponsor; and

1 (iv) the geographic location of the
2 sponsor; and

3 (D) any other information the Attorney
4 General or the Secretary of Homeland Security
5 determines to be necessary and appropriate.

6 SEC. 504. The budgetary effects of this Act, for the
7 purpose of complying with the Statutory Pay-As-You-Go-
8 Act of 2010, shall be determined by reference to the latest
9 statement titled “Budgetary Effects of PAYGO Legisla-
10 tion” for this Act, submitted for printing in the Congres-
11 sional Record by the Chairman of the Senate Budget Com-
12 mittee, provided that such statement has been submitted
13 prior to the vote on passage.

14 SEC. 505. This Act may be cited as the “Protecting
15 Children and America’s Homeland Act of 2014”.

1 **DIVISION B—UNACCOMPANIED**
 2 **ALIEN CHILDREN AND BOR-**
 3 **DER SECURITY**
 4 **TITLE X—UNACCOMPANIED**
 5 **ALIEN CHILDREN**
 6 **Subtitle A—Protection and Due**
 7 **Process for Unaccompanied**
 8 **Alien Children**

9 **SEC. 1001. REPATRIATION OF UNACCOMPANIED ALIEN**
 10 **CHILDREN.**

11 Section 235(a) of the William Wilberforce Trafficking
 12 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
 13 1232(a)) is amended—

14 (1) in paragraph (2)—

15 (A) by amending the paragraph heading to
 16 read as follows: “RULES FOR UNACCOMPANIED
 17 ALIEN CHILDREN.—”;

18 (B) in subparagraph (A), in the matter
 19 preceding clause (i), by striking “who is a na-
 20 tional or habitual resident of a country that is
 21 contiguous with the United States”; and

22 (C) in subparagraph (C)—

23 (i) by amending the subparagraph
 24 heading to read as follows: “AGREEMENTS
 25 WITH FOREIGN COUNTRIES.—”; and

1 (ii) in the matter preceding clause (i),
2 by striking “countries contiguous to the
3 United States” and inserting “Canada, El
4 Salvador, Guatemala, Honduras, Mexico,
5 and any other foreign country that the
6 Secretary determines appropriate”;

7 (2) by redesignating paragraphs (3), (4), and
8 (5) as paragraphs (4), (5), and (6), respectively;

9 (3) inserting after paragraph (2) the following:

10 “(3) MANDATORY EXPEDITED REMOVAL OF
11 CRIMINALS AND GANG MEMBERS.—Notwithstanding
12 any other provision of law, the Secretary of Home-
13 land Security shall place an unaccompanied alien
14 child in a proceeding in accordance with section 235
15 of the Immigration and Nationality Act (8 U.S.C.
16 1225a) if, the Secretary determines or has reason to
17 believe the alien—

18 “(A) has been convicted of any offense car-
19 rying a maximum term of imprisonment of
20 more than 180 days;

21 “(B) has been convicted of an offense
22 which involved—

23 “(i) domestic violence (as defined in
24 section 40002(a) of the Violence Against
25 Women Act of 1994 (42 U.S.C. 13925(a));

1 “(ii) child abuse and neglect (as de-
2 fined in section 40002(a) of the Violence
3 Against Women Act of 1994 (42 U.S.C.
4 13925(a));

5 “(iii) assault resulting in bodily injury
6 (as defined in section 2266 of title 18,
7 United States Code);

8 “(iv) the violation of a protection
9 order (as defined in section 2266 of title
10 18, United States Code);

11 “(v) driving while intoxicated (as de-
12 fined in section 164 of title 23, United
13 States Code); or

14 “(vi) any offense under foreign law,
15 except for a purely political offense, which,
16 if the offense had been committed in the
17 United States, would render the alien inad-
18 missible under section 212(a) of the Immi-
19 gration and Nationality Act (8 U.S.C.
20 1182(a));

21 “(C) has been convicted of more than 1
22 criminal offense (other than minor traffic of-
23 fenses);

24 “(D) has engaged in, is engaged in, or is
25 likely to engage after entry in any terrorist ac-

tivity (as defined in section 212(a)(3)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iii)), or intends to participate or has participated in the activities of a foreign terrorist organization (as designated under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189));

“(E) is or was a member of a criminal gang (as defined in paragraph (53) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a));

“(F) provided materially false, fictitious, or fraudulent information regarding age or identity to the United States Government with the intent to wrongfully be classified as an unaccompanied alien child; or

“(G) has entered the United States more than 1 time in violation of section 275(a) of the Immigration and Nationality Act (8 U.S.C. 1325(a)), knowing that the entry was unlawful.”; and

(4) in subparagraph (D) of paragraph (6), as redesignated by paragraph (2)—

(A) by amending the subparagraph heading to read as follows: “EXPEDITED DUE PROC-

1 ESS AND SCREENING FOR UNACCOMPANIED
2 ALIEN CHILDREN.—”;

3 (B) in the matter preceding clause (i), by
4 striking “, except for an unaccompanied alien
5 child from a contiguous country subject to the
6 exceptions under subsection (a)(2), shall be—”
7 and inserting “who meets the criteria listed in
8 paragraph (2)(A)—”;

9 (C) by striking clause (i) and inserting the
10 following:

11 “(i) shall be placed in a proceeding in
12 accordance with section 235B of the Immi-
13 gration and Nationality Act, which shall
14 commence not later than 7 days after the
15 screening of an unaccompanied alien child
16 described in paragraph (4);”;

17 (D) by redesignating clauses (ii) and (iii)
18 as clauses (iii) and (iv), respectively;

19 (E) by inserting after clause (i) the fol-
20 lowing:

21 “(ii) may not be placed in the custody
22 of a nongovernmental sponsor or otherwise
23 released from the immediate custody of the
24 United States Government until the child
25 is repatriated unless the child—

1 “(I) is the subject of an order
 2 under section 235B(e)(1) of the Im-
 3 migration and Nationality Act; and

4 “(II) is placed or released in ac-
 5 cordance with subsection (c)(2)(C) of
 6 this section.”;

7 (F) in clause (iii), as redesignated, by in-
 8 serting “is” before “eligible”; and

9 (G) in clause (iv), as redesignated, by in-
 10 serting “shall be” before “provided”.

11 **SEC. 1002. EXPEDITED DUE PROCESS AND SCREENING FOR**
 12 **UNACCOMPANIED ALIEN CHILDREN.**

13 (a) HUMANE AND EXPEDITED INSPECTION AND
 14 SCREENING FOR UNACCOMPANIED ALIEN CHILDREN.—

15 (1) IN GENERAL.—Chapter 4 of title II of the
 16 Immigration and Nationality Act (8 U.S.C. 1221 et
 17 seq.) is amended by inserting after section 235A the
 18 following:

19 **“SEC. 235B. HUMANE AND EXPEDITED INSPECTION AND**
 20 **SCREENING FOR UNACCOMPANIED ALIEN**
 21 **CHILDREN.**

22 “(a) ASYLUM OFFICER DEFINED.—In this section,
 23 the term ‘asylum officer’ means an immigration officer
 24 who—

“(1) has had professional training in country conditions, asylum law, and interview techniques comparable to that provided to full-time adjudicators of applications under section 208; and

“(2) is supervised by an officer who—

“(A) meets the condition described in paragraph (1); and

“(B) has had substantial experience adjudicating asylum applications.

“(b) PROCEEDING.—

“(1) IN GENERAL.—Not later than 7 days after the screening of an unaccompanied alien child under section 235(a)(5) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(a)(5)), an immigration judge shall conduct and conclude a proceeding to inspect, screen, and determine the status of the unaccompanied alien child who is an applicant for admission to the United States.

“(2) TIME LIMIT.—Not later than 72 hours after the conclusion of a proceeding with respect to an unaccompanied alien child under this section, the immigration judge who conducted such proceeding shall issue an order pursuant to subsection (e).

“(c) CONDUCT OF PROCEEDING.—

1 “(1) AUTHORITY OF IMMIGRATION JUDGE.—

2 The immigration judge conducting a proceeding
3 under this section—

4 “(A) shall administer oaths, receive evi-
5 dence, and interrogate, examine, and cross-ex-
6 amine the unaccompanied alien child and any
7 witnesses;

8 “(B) may issue subpoenas for the attend-
9 ance of witnesses and presentation of evidence;

10 “(C) is authorized to sanction by civil
11 money penalty any action (or inaction) in con-
12 tempt of the judge’s proper exercise of author-
13 ity under this Act; and

14 “(D) shall determine whether the unac-
15 companied alien child meets any of the criteria
16 set out in subparagraphs (A) through (G) of
17 paragraph (3) of section 235(a) of the William
18 Wilberforce Trafficking Victims Protection Re-
19 authorization Act of 2008 (8 U.S.C. 1232(a)),
20 and if so, order the alien removed under sub-
21 section (e)(2) of this section.

22 “(2) FORM OF PROCEEDING.—A proceeding
23 under this section may take place—

24 “(A) in person;

1 “(B) at a location agreed to by the parties,
2 in the absence of the unaccompanied alien child;

3 “(C) through video conference; or

4 “(D) through telephone conference.

5 “(3) PRESENCE OF ALIEN.—If it is impracti-
6 cable by reason of the mental incompetency of the
7 unaccompanied alien child for the alien to be present
8 at the proceeding, the Attorney General shall pre-
9 scribe safeguards to protect the rights and privileges
10 of the alien.

11 “(4) RIGHTS OF THE ALIEN.—In a proceeding
12 under this section—

13 “(A) the unaccompanied alien child shall
14 be given the privilege of being represented, at
15 no expense to the Government, by counsel of
16 the alien’s choosing who is authorized to prac-
17 tice in the proceedings;

18 “(B) the alien shall be given a reasonable
19 opportunity—

20 “(i) to examine the evidence against
21 the alien;

22 “(ii) to present evidence on the alien’s
23 own behalf; and

24 “(iii) to cross-examine witnesses pre-
25 sented by the Government;

1 “(C) the rights set forth in subparagraph
2 (B) shall not entitle the alien—

3 “(i) to examine such national security
4 information as the Government may prof-
5 fer in opposition to the alien’s admission to
6 the United States; or

7 “(ii) to an application by the alien for
8 discretionary relief under this Act; and

9 “(D) a complete record shall be kept of all
10 testimony and evidence produced at the pro-
11 ceeding.

12 “(5) WITHDRAWAL OF APPLICATION FOR AD-
13 MISSION.—An unaccompanied alien child applying
14 for admission to the United States may, and at any
15 time prior to the issuance of a final order of re-
16 moval, be permitted to withdraw the application and
17 immediately be returned to the alien’s country of na-
18 tionality or country of last habitual residence.

19 “(6) CONSEQUENCES OF FAILURE TO AP-
20 PEAR.—An unaccompanied alien child who does not
21 attend a proceeding under this section, shall be or-
22 dered removed, except under exceptional cir-
23 cumstances where the alien’s absence is the fault of
24 the Government, a medical emergency, or an act of
25 nature.

1 “(d) DECISION AND BURDEN OF PROOF.—

2 “(1) DECISION.—

3 “(A) IN GENERAL.—At the conclusion of a
4 proceeding under this section, the immigration
5 judge shall determine whether an unaccom-
6 panied alien child is likely to be—

7 “(i) admissible to the United States;

8 or

9 “(ii) eligible for any form of relief
10 from removal under this Act.

11 “(B) EVIDENCE.—The determination of
12 the immigration judge under subparagraph (A)
13 shall be based only on the evidence produced at
14 the hearing.

15 “(2) BURDEN OF PROOF.—

16 “(A) IN GENERAL.—In a proceeding under
17 this section, an unaccompanied alien child who
18 is an applicant for admission has the burden of
19 establishing, by a preponderance of the evi-
20 dence, that the alien—

21 “(i) is likely to be entitled to be law-
22 fully admitted to the United States or eli-
23 gible for any form of relief from removal
24 under this Act; or

1 “(ii) is lawfully present in the United
2 States pursuant to a prior admission.

3 “(B) ACCESS TO DOCUMENTS.—In meeting
4 the burden of proof under subparagraph (A)(ii),
5 the alien shall be given access to—

6 “(i) the alien’s visa or other entry
7 document, if any; and

8 “(ii) any other records and docu-
9 ments, not considered by the Attorney
10 General to be confidential, pertaining to
11 the alien’s admission or presence in the
12 United States.

13 “(e) ORDERS.—

14 “(1) PLACEMENT IN FURTHER PRO-
15 CEEDINGS.—If an immigration judge determines
16 that the unaccompanied alien child has met the bur-
17 den of proof under subsection (d)(2), the immigra-
18 tion judge shall—

19 “(A) order the alien to be placed in further
20 proceedings in accordance with section 240; and

21 “(B) order the Secretary of Homeland Se-
22 curity to place the alien on the U.S. Immigra-
23 tion and Customs Enforcement detained docket
24 for purposes of carrying out such proceedings.

1 “(2) ORDERS OF REMOVAL.—If an immigration
 2 judge determines that the unaccompanied alien child
 3 has not met the burden of proof required under sub-
 4 section (d)(2), the judge shall order the alien re-
 5 moved from the United States without further hear-
 6 ing or review unless the alien claims—

7 “(A) an intention to apply for asylum
 8 under section 208; or

9 “(B) a fear of persecution.

10 “(3) CLAIMS FOR ASYLUM.—If an unaccom-
 11 panied alien child described in paragraph (2) claims
 12 an intention to apply for asylum under section 208
 13 or a fear of persecution, the immigration judge shall
 14 order the alien referred for an interview by an asy-
 15 lum officer under subsection (f).

16 “(f) ASYLUM INTERVIEWS.—

17 “(1) CREDIBLE FEAR OF PERSECUTION DE-
 18 FINED.—In this subsection, the term ‘credible fear
 19 of persecution’ means, after taking into account the
 20 credibility of the statements made by an unaccom-
 21 panied alien child in support of the alien’s claim and
 22 such other facts as are known to the asylum officer,
 23 there is a significant possibility that the alien could
 24 establish eligibility for asylum under section 208.

1 “(2) CONDUCT BY ASYLUM OFFICER.—An asy-
2 lum officer shall conduct the interviews of an unac-
3 companied alien child referred under subsection
4 (e)(3).

5 “(3) REFERRAL OF CERTAIN ALIENS.—If the
6 asylum officer determines at the time of the inter-
7 view that an unaccompanied alien child has a cred-
8 ible fear of persecution, the alien shall be held in the
9 custody of the Secretary for Health and Human
10 Services pursuant to section 235(b) of the William
11 Wilberforce Trafficking Victims Protection Reau-
12 thorization Act of 2008 (8 U.S.C. 1232(b)) during
13 further consideration of the application for asylum.

14 “(4) REMOVAL WITHOUT FURTHER REVIEW IF
15 NO CREDIBLE FEAR OF PERSECUTION.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (C), if the asylum officer determines that
18 an unaccompanied alien child does not have a
19 credible fear of persecution, the asylum officer
20 shall order the alien removed from the United
21 States without further hearing or review.

22 “(B) RECORD OF DETERMINATION.—The
23 asylum officer shall prepare a written record of
24 a determination under subparagraph (A), which
25 shall include—

1 “(i) a summary of the material facts
2 as stated by the alien;

3 “(ii) such additional facts (if any) re-
4 lied upon by the asylum officer;

5 “(iii) the asylum officer’s analysis of
6 why, in light of such facts, the alien has
7 not established a credible fear of persecu-
8 tion; and

9 “(iv) a copy of the asylum officer’s
10 interview notes.

11 “(C) REVIEW OF DETERMINATION.—

12 “(i) RULEMAKING.—The Attorney
13 General shall establish, by regulation, a
14 process by which an immigration judge will
15 conduct a prompt review, upon the alien’s
16 request, of a determination under subpara-
17 graph (A) that the alien does not have a
18 credible fear of persecution.

19 “(ii) MANDATORY COMPONENTS.—
20 The review described in clause (i)—

21 “(I) shall include an opportunity
22 for the alien to be heard and ques-
23 tioned by the immigration judge, ei-
24 ther in person or by telephonic or
25 video connection; and

1 “(II) shall be concluded as expe-
 2 ditiously as possible, to the maximum
 3 extent practicable within 24 hours,
 4 but in no case later than 7 days after
 5 the date of the determination under
 6 subparagraph (A).

7 “(D) MANDATORY PROTECTIVE CUS-
 8 TODY.—Any alien subject to the procedures
 9 under this paragraph shall be held in the cus-
 10 tody of the Secretary of Health and Human
 11 Services pursuant to section 235(b) of the Wil-
 12 liam Wilberforce Trafficking Victims Protection
 13 Reauthorization Act of 2008 (8 U.S.C.
 14 1232(b))—

15 “(i) pending a final determination of
 16 an application for asylum under this sub-
 17 section; and

18 “(ii) after a determination under this
 19 subsection that the alien does not have a
 20 credible fear of persecution, until the alien
 21 is removed.

22 “(g) LIMITATION ON ADMINISTRATIVE REVIEW.—

23 “(1) IN GENERAL.—Except as provided in sub-
 24 section (f)(4)(C) and paragraph (2), a removal order

1 entered in accordance with subsection (e)(2) or
 2 (f)(4)(A) is not subject to administrative appeal.

3 “(2) RULEMAKING.—The Attorney General
 4 shall establish, by regulation, a process for the
 5 prompt review of an order under subsection (e)(2)
 6 against an alien who claims under oath, or as per-
 7 mitted under penalty of perjury under section 1746
 8 of title 28, United States Code, after having been
 9 warned of the penal ties for falsely making such
 10 claim under such conditions to have been—

11 “(A) lawfully admitted for permanent resi-
 12 dence;

13 “(B) admitted as a refugee under section
 14 207; or

15 “(C) granted asylum under section 208.

16 “(h) LAST IN, FIRST OUT.—In any proceedings, de-
 17 terminations, or removals under this section, priority shall
 18 be accorded to the alien who has most recently arrived
 19 in the United States.”.

20 (2) CLERICAL AMENDMENT.—The table of con-
 21 tents in the first section of the Immigration and Na-
 22 tionality Act is amended by inserting after the item
 23 relating to section 235A the following:

“Sec. 235B. Humane and expedited inspection and screening for unaccom-
 panied alien children.”.

1 (b) JUDICIAL REVIEW OF ORDERS OF REMOVAL.—
 2 Section 242 of the Immigration and Nationality Act (8
 3 U.S.C. 1252) is amended—

4 (1) in subsection (a)—

5 (A) in paragraph (1), by striking “section
 6 235(b)(1))” and inserting “section 235(b)(1) or
 7 an order of removal issued to an unaccom-
 8 panied alien child after proceedings under sec-
 9 tion 235B”; and

10 (B) in paragraph (2)—

11 (i) by inserting “or section 235B”
 12 after “section 235(b)(1)” each place it ap-
 13 pears; and

14 (ii) in subparagraph (A)—

15 (I) in the subparagraph heading,
 16 by inserting “OR 235B” after “SEC-
 17 TION 235(B)(1)”; and

18 (II) in clause (iii), by striking
 19 “section 235(b)(1)(B),” and inserting
 20 “section 235(b)(1)(B) or 235B(f);”;
 21 and

22 (2) in subsection (e)—

23 (A) in the subsection heading, by inserting
 24 “OR 235B” after “SECTION 235(B)(1)”;

1 (B) by inserting “or section 235B” after
 2 “section 235(b)(1)” each place it appears;

3 (C) in subparagraph (2)(C), by inserting
 4 “or section 235B(g)” after “section
 5 235(b)(1)(C)”; and

6 (D) in subparagraph (3)(A), by inserting
 7 “or section 235B” after “section 235(b)”.

8 **SEC. 1003. EXPEDITED DUE PROCESS FOR UNACCOM-**
 9 **PANIED ALIEN CHILDREN PRESENT IN THE**
 10 **UNITED STATES.**

11 (a) SPECIAL MOTIONS FOR UNACCOMPANIED ALIEN
 12 CHILDREN.—

13 (1) FILING AUTHORIZED.—During the 60-day
 14 period beginning on the date of the enactment of
 15 this Act, the Secretary of Homeland Security shall,
 16 notwithstanding any other provision of law, permit
 17 an unaccompanied alien child who was issued a no-
 18 tice to appear under section 239 of the Immigration
 19 and Nationality Act (8 U.S.C. 1229) during the pe-
 20 riod beginning on January 1, 2013, and ending on
 21 the date of the enactment of this Act—

22 (A) to appear, in-person, before an immi-
 23 gration judge who has been authorized by the
 24 Attorney General to conduct proceedings under

1 section 235B of the Immigration and Nation-
2 ality Act, as added by section 1002;

3 (B) to attest that the unaccompanied alien
4 child desires to apply for admission to the
5 United States; and

6 (C) to file a motion—

7 (i) to replace any notice to appear
8 issued between January 1, 2013, and the
9 date of the enactment of this Act under
10 such section 239 that has not resulted in
11 a final order of removal; and

12 (ii) to apply for admission to the
13 United States by being placed in pro-
14 ceedings under such section 235B.

15 (2) ADJUDICATION OF MOTION.—An immigra-
16 tion judge may, at the sole and unreviewable discre-
17 tion of the judge, grant a motion filed under para-
18 graph (1)(C) upon a finding that—

19 (A) the petitioner was an unaccompanied
20 alien child (as defined in section 235 of the Wil-
21 liam Wilberforce Trafficking Victims Protection
22 Reauthorization Act of 2008 (8 U.S.C. 1232))
23 on the date on which a notice to appear was
24 issued to the alien under section 239 of the Im-
25 migration and Nationality Act (8 U.S.C. 1229);

1 (B) the notice to appear was issued during
2 the period beginning on January 1, 2013, and
3 ending on the date of the enactment of this Act;

4 (C) the unaccompanied alien child is apply-
5 ing for admission to the United States; and

6 (D) the granting of such motion would not
7 be manifestly unjust.

8 (3) EFFECT OF MOTION.—Notwithstanding any
9 other provision of law, upon the granting of a mo-
10 tion to replace a notice to appear under paragraph
11 (2), the immigration judge who granted such motion
12 shall—

13 (A) while the petitioner remains in-person,
14 immediately inspect and screen the petitioner
15 for admission to the United States by con-
16 ducting a proceeding under section 235B of the
17 Immigration and Nationality Act, as added by
18 section 1002;

19 (B) immediately notify the petitioner of the
20 petitioner’s ability, under section 235B(c)(5) of
21 the Immigration and Nationality Act to with-
22 draw the petitioner’s application for admission
23 to the United States and immediately be re-
24 turned to the petitioner’s country of nationality
25 or country of last habitual residence; and

1 (C) replace the petitioner’s notice to ap-
 2 pear with an order under section 235B(e) of
 3 the Immigration and Nationality Act.

4 (4) PROTECTIVE CUSTODY.—An unaccompanied
 5 alien child who has been granted a motion under
 6 paragraph (2) shall be held in the custody of the
 7 Secretary of Health and Human Services pursuant
 8 to section 235 of the William Wilberforce Traf-
 9 ficking Victims Protection Reauthorization Act of
 10 2008 (8 U.S.C. 1232).

11 **SEC. 1004. CHILD WELFARE AND LAW ENFORCEMENT IN-**
 12 **FORMATION SHARING.**

13 Section 235(b) of the William Wilberforce Trafficking
 14 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
 15 1232(b)) is amended by adding at the end the following:

16 “(5) INFORMATION SHARING.—

17 “(A) IMMIGRATION STATUS.—If the Sec-
 18 retary of Health and Human Services considers
 19 placement of an unaccompanied alien child with
 20 a potential sponsor, the Secretary of Homeland
 21 Security shall provide to the Secretary of
 22 Health and Human Services the immigration
 23 status of such potential sponsor prior to the
 24 placement of the unaccompanied alien child.

1 “(B) OTHER INFORMATION.—The Sec-
 2 retary of Health and Human Services shall pro-
 3 vide to the Secretary of Homeland Security and
 4 the Attorney General any relevant information
 5 related to an unaccompanied alien child who is
 6 or has been in the custody of the Secretary of
 7 Health and Human Services, including the loca-
 8 tion of the child and any person to whom cus-
 9 tody of the child has been transferred, for any
 10 legitimate law enforcement objective, including
 11 enforcement of the immigration laws.”.

12 **SEC. 1005. ACCOUNTABILITY FOR CHILDREN AND TAX-**
 13 **PAYERS.**

14 Section 235(b) of the William Wilberforce Trafficking
 15 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
 16 1232(b)), as amended by section 1004, is further amended
 17 by inserting at the end the following:

18 “(6) INSPECTION OF FACILITIES.—The Inspec-
 19 tor General of the Department of Health and
 20 Human Services shall conduct regular inspections of
 21 facilities utilized by the Secretary of Health and
 22 Human Services to provide care and custody of an
 23 unaccompanied alien children who are in the imme-
 24 diate custody of the Secretary to ensure that such

1 facilities are operated in the most efficient manner
 2 practicable.

3 “(7) FACILITY OPERATIONS COSTS.—The Sec-
 4 retary of Health and Human Services shall ensure
 5 that facilities utilized to provide care and custody of
 6 unaccompanied alien children are operated efficiently
 7 and at a rate of cost that is not greater than \$500
 8 per day for each child housed or detained at such fa-
 9 cility, unless the Secretary certifies that compliance
 10 with this requirement is temporarily impossible due
 11 to emergency circumstances.”.

12 **SEC. 1006. CUSTODY OF UNACCOMPANIED ALIEN CHIL-**
 13 **DREN IN FORMAL REMOVAL PROCEEDING.**

14 Section 235(c) of the William Wilberforce Trafficking
 15 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
 16 1232(c)) is amended—

17 (1) in paragraph (2) by inserting at the end the
 18 following:

19 “(C) CHILDREN IN FORMAL REMOVAL
 20 PROCEEDINGS.—

21 “(i) LIMITATION ON PLACEMENT.—

22 An unaccompanied alien child who has
 23 been placed in a proceeding under section
 24 240 of the Immigration and Nationality
 25 Act (8 U.S.C. 1229a) may not be placed in

1 the custody of a nongovernmental sponsor
2 or otherwise released from the immediate
3 custody of the United States Government
4 unless—

5 “(I) the nongovernmental spon-
6 sor is a biological or adoptive parent
7 of the unaccompanied alien child;

8 “(II) the parent is legally present
9 in the United States at the time of
10 the placement;

11 “(III) the parent has undergone
12 a mandatory biometric criminal his-
13 tory check; and

14 “(IV) the Secretary of Health
15 and Human Services has determined
16 that the unaccompanied alien child is
17 not a danger to self, danger to the
18 community, or risk of flight.

19 “(ii) EXCEPTIONS.—If the Secretary
20 of Health and Human Services determines
21 that an unaccompanied alien child is a vic-
22 tim of severe forms of trafficking in per-
23 sons (as defined in section 103 of the
24 Trafficking Victims Protection Act of 2000
25 (22 U.S.C. 7102)), a special needs child

1 with a disability (as defined in section 3 of
2 the Americans with Disabilities Act of
3 1990 (42 U.S.C. 12102)), a child who has
4 been a victim of physical or sexual abuse
5 under circumstances that indicate that the
6 child's health or welfare has been signifi-
7 cantly harmed or threatened, or a child
8 with mental health needs that require on-
9 going assistance from a social welfare
10 agency, the unaccompanied alien child may
11 be placed with a grandparent or adult sib-
12 ling if the grandparent or adult sibling
13 meets the requirements set out in sub-
14 clauses (II), (III), and (IV) of clause (i).

15 “(iii) MONITORING.—

16 “(I) IN GENERAL.—An unaccom-
17 panied alien child who is 15, 16, or 17
18 years of age placed with a nongovern-
19 mental sponsor or, in the case of an
20 unaccompanied alien child younger
21 than 15 years of age placed with a
22 nongovernmental sponsor, such non-
23 governmental sponsor shall—

24 “(aa) enroll in the alter-
25 native to detention program of

1 U.S. Immigration and Customs
2 Enforcement; and

3 “(bb) continuously wear an
4 electronic ankle monitor while the
5 unaccompanied alien child is in
6 removal proceedings.

7 “(II) PENALTY FOR MONITOR
8 TAMPERING.—If an electronic ankle
9 monitor required by subclause (I) is
10 tampered with, the sponsor of the un-
11 accompanied alien child shall be sub-
12 ject to a civil penalty of \$150 for each
13 day the monitor is not functioning due
14 to the tampering, up to a maximum of
15 \$3,000.

16 “(iv) EFFECT OF VIOLATION OF CON-
17 DITIONS.—The Secretary of Health and
18 Human Services shall remove an unaccom-
19 panied alien child from a sponsor if the
20 sponsor violates the terms of the agree-
21 ment specifying the conditions under which
22 the alien was placed with the sponsor.

23 “(v) FAILURE TO APPEAR.—

24 “(I) CIVIL PENALTY.—If an un-
25 accompanied alien child is placed with

1 a sponsor and fails to appear in a
 2 mandatory court appearance, the
 3 sponsor shall be subject to a civil pen-
 4 alty of \$250 for each day until the
 5 alien appears in court, up to a max-
 6 imum of \$5,000.

7 “(II) BURDEN OF PROOF.—The
 8 sponsor is not subject to the penalty
 9 imposed under subclause (I) if the
 10 sponsor—

11 “(aa) appears in person and
 12 proves to the immigration court
 13 that the failure to appear by the
 14 unaccompanied alien child was
 15 not the fault of the sponsor; and

16 “(bb) supplies the immigra-
 17 tion court with documentary evi-
 18 dence that supports the assertion
 19 described in item (aa).

20 “(vi) PROHIBITION ON PLACEMENT
 21 WITH SEX OFFENDERS AND HUMAN TRAF-
 22 FICKERS.—The Secretary of Health and
 23 Human Services may not place an unac-
 24 companied alien child under this subpara-
 25 graph in the custody of an individual who

1 has been convicted of, or the Secretary has
2 reason to believe was otherwise involved in
3 the commission of—

4 “(I) a sex offense (as defined in
5 section 111 of the Sex Offender Reg-
6 istration and Notification Act (42
7 U.S. 16911)); or

8 “(II) a crime involving severe
9 forms of trafficking in persons (as de-
10 fined in section 103 of the Trafficking
11 Victims Protection Act of 2000 (22
12 U.S.C. 7102)).

13 “(vii) REQUIREMENTS OF CRIMINAL
14 BACKGROUND CHECK.—A biometric crimi-
15 nal history check required by clause (i)(IV)
16 shall be conducted using a set of finger-
17 prints or other biometric identifier
18 through—

19 “(I) the Federal Bureau of Inves-
20 tigation;

21 “(II) criminal history repositories
22 of all States that the individual lists
23 as current or former residences; and

24 “(III) any other State or Federal
25 database or repository that the Sec-

1 retary of Health and Human Services
2 determines is appropriate.”.

3 **SEC. 1007. FRAUD IN CONNECTION WITH THE TRANSFER OF**
4 **CUSTODY OF UNACCOMPANIED ALIEN CHIL-**
5 **DREN.**

6 (a) IN GENERAL.—Chapter 47 of title 18, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 **“§ 1041. Fraud in connection with the transfer of cus-**
10 **tody of unaccompanied alien children**

11 “(a) IN GENERAL.—It shall be unlawful for a person
12 to obtain custody of an unaccompanied alien child (as de-
13 fined in section 462(g) of the Homeland Security Act of
14 2002 (6 U.S.C. 279(g)) by—

15 “(1) making any materially false, fictitious, or
16 fraudulent statement or representation; or

17 “(2) making or using any false writing or docu-
18 ment knowing the same to contain any materially
19 false, fictitious, or fraudulent statement or entry.

20 “(b) PENALTIES.—

21 “(1) IN GENERAL.—Any person who violates, or
22 attempts or conspires to violate, this section shall be
23 fined under this title and imprisoned for not less
24 than 1 year.

1 “(2) ENHANCED PENALTY FOR TRAF-
 2 FICKING.—If the primary purpose of the violation,
 3 attempted violation, or conspiracy to violate this sec-
 4 tion was to subject the child to sexually explicit ac-
 5 tivity or any other form of exploitation, the offender
 6 shall be fined under this title and imprisoned for not
 7 less than 15 years.”.

8 (b) CLERICAL AMENDMENT.—The table of sections
 9 for chapter 47 of title 18, United States Code, is amended
 10 by inserting after the item relating to section 1040 the
 11 following:

 “1041. Fraud in connection with the transfer of custody of unaccompanied alien
 children.”.

12 **SEC. 1008. NOTIFICATION OF STATES, REPORTING, AND**
 13 **MONITORING.**

14 (a) NOTIFICATION.—Section 235 of the William Wil-
 15 berforce Trafficking Victims Protection Reauthorization
 16 Act of 2008 (8 U.S.C. 1232) is amended by adding at
 17 the end the following:

18 “(j) NOTIFICATION TO STATES.—

19 “(1) PRIOR TO PLACEMENT.—The Secretary of
 20 Homeland Security or the Secretary of Health and
 21 Human Services shall notify the Governor of a State
 22 not later than 48 hours prior to the placement of an
 23 unaccompanied alien child from in custody of such

1 Secretary in the care of a facility or sponsor in such
2 State.

3 “(2) INITIAL REPORTS.—Not later than 60
4 days after the date of the enactment of this Act, the
5 Secretary of Health and Human Services shall sub-
6 mit a report to the Governor of each State in which
7 an unaccompanied alien child was discharged to a
8 sponsor or placed in a facility while remaining in the
9 legal custody of the Secretary during the period be-
10 ginning October 1, 2013 and ending on the date of
11 the enactment of the Protecting Children and Amer-
12 ica’s Homeland Act of 2014.

13 “(3) MONTHLY REPORTS.—The Secretary of
14 Health and Human Services shall submit a monthly
15 report to the Governor of each State in which, dur-
16 ing the reporting period, unaccompanied alien chil-
17 dren were discharged to a sponsor or placed in a fa-
18 cility while remaining in the legal custody of the
19 Secretary of Health and Human Services.

20 “(4) CONTENTS.—Each report required to be
21 submitted to the Governor of a State by paragraph
22 (2) or (3) shall identify the number of unaccom-
23 panied alien children placed in the State during the
24 reporting period, disaggregated by—

1 “(A) the locality in which the aliens were
2 placed; and

3 “(B) the age of the aliens.”.

4 (b) MONITORING REQUIREMENT.—The Secretary of
5 Health and Human Services shall—

6 (1) require all sponsors to agree—

7 (A) to receive approval from the Secretary
8 of Health and Human Services prior to chang-
9 ing the location in which the sponsor is housing
10 an unaccompanied alien child placed in the
11 sponsor’s custody; and

12 (B) to provide a current address for the
13 child and the reason for the change of address;

14 (2) provide regular and frequent monitoring of
15 the physical and emotional well-being of each unac-
16 companied alien child who has been discharged to a
17 sponsor or remained in the legal custody of the Sec-
18 retary until the child’s immigration case is resolved;
19 and

20 (3) not later than 60 days after the date of the
21 enactment of this Act, provide to Congress a plan
22 for implementing the requirement of paragraph (2).

23 **SEC. 1009. EMERGENCY IMMIGRATION JUDGE RESOURCES.**

24 (a) DESIGNATION.—Not later than 14 days after the
25 date of the enactment of this Act, the Attorney General

1 shall designate up to 100 immigration judges, including
2 through the temporary or permanent hiring of retired im-
3 migration judges, magistrate judges, or administrative law
4 judges, or the reassignment of current immigration
5 judges, that are dedicated to—

6 (1) conducting humane and expedited inspec-
7 tion and screening for unaccompanied alien children
8 under section 235B of the Immigration and Nation-
9 ality Act, as added by section 1002; or

10 (2) reducing existing backlogs in immigration
11 court proceedings initiated under section 239 of the
12 Immigration and Nationality Act (8 U.S.C. 1229).

13 (b) REQUIREMENT.—The Attorney General shall en-
14 sure that sufficient immigration judge resources are dedi-
15 cated to the purpose described in subsection (a)(1) to com-
16 ply with the requirement under section 235B(b)(1) of the
17 Immigration and Nationality Act, as added by section
18 1002.

19 **SEC. 1010. REPORTS TO CONGRESS.**

20 (a) REPORTS ON CARE OF UNACCOMPANIED ALIEN
21 CHILD.—Not later than December 31, 2014 and Sep-
22 tember 30, 2015, the Secretary of Health and Human
23 Services shall submit to Congress and make publically
24 available a report that includes—

1 (1) a detailed summary of the contracts in ef-
2 fect to care for and house unaccompanied alien chil-
3 dren, including the names and locations of contrac-
4 tors and the facilities being used;

5 (2) the cost per day to care for and house an
6 unaccompanied alien child, including an explanation
7 of such cost;

8 (3) the number of unaccompanied alien children
9 who have been released to a sponsor, if any;

10 (4) a list of the States to which unaccompanied
11 alien children have been released from the custody of
12 the Secretary of Health and Human Services to the
13 care of a sponsor or placement in a facility;

14 (5) the number of unaccompanied alien children
15 who have been released to a sponsor who is not law-
16 fully present in the United States, including the
17 country of nationality or last habitual residence and
18 age of such children;

19 (6) a determination of whether more than 1 un-
20 accompanied alien child has been released to the
21 same sponsor, including the number of children who
22 were released to such sponsor;

23 (7) an assessment of the extent to which the
24 Secretary of Health and Human Services is moni-
25 toring the release of unaccompanied alien children,

1 including home studies done and ankle bracelets or
2 other devices used;

3 (8) an assessment of the extent to which the
4 Secretary of Health and Human Services is making
5 efforts—

6 (A) to educate unaccompanied alien chil-
7 dren about their legal rights; and

8 (B) to provide unaccompanied alien chil-
9 dren with access to pro bono counsel; and

10 (9) the extent of the public health issues of un-
11 accompanied alien children, including contagious dis-
12 eases, the benefits or medical services provided, and
13 the outreach to States and localities about public
14 health issues, that could affect the public.

15 (b) REPORTS ON REPATRIATION AGREEMENTS.—
16 Not later than February 31, 2015 and August 31, 2015,
17 the Secretary of State shall submit to Congress and make
18 publically available a report that—

19 (1) describes—

20 (A) any repatriation agreement for unac-
21 companied alien children in effect and a copy of
22 such agreement; and

23 (B) any such repatriation agreement that
24 is being considered or negotiated; and

1 (2) describes the funding provided to the 20
2 countries that have the highest number of nationals
3 entering the United States as unaccompanied alien
4 children, including amounts provided—

5 (A) to deter the nationals of each country
6 from illegally entering the United States; and

7 (B) to care for or reintegrate repatriated
8 unaccompanied alien children in the country of
9 nationality or last habitual residence.

10 (c) REPORTS ON RETURNS TO COUNTRY OF NATION-
11 ALITY.—Not later than December 31, 2014 and Sep-
12 tember 30, 2015, the Secretary of Homeland Security
13 shall submit to Congress and make publically available a
14 report that describes—

15 (1) the number of unaccompanied alien children
16 who have voluntarily returned to their country of na-
17 tionality or habitual residence, disaggregated by—

18 (A) country of nationality or habitual resi-
19 dence; and

20 (B) age of the unaccompanied alien chil-
21 dren;

22 (2) the number of unaccompanied alien children
23 who have been returned to their country of nation-
24 ality or habitual residence, including assessment of

1 the length of time such children were present in the
 2 United States;

3 (3) the number of unaccompanied alien children
 4 who have not been returned to their country of na-
 5 tionality or habitual residence pending travel docu-
 6 ments or other requirements from such country, in-
 7 cluding how long they have been waiting to return;
 8 and

9 (4) the number of unaccompanied alien children
 10 who were granted relief in the United States, wheth-
 11 er through asylum or any other immigration benefit.

12 (d) REPORTS ON IMMIGRATION PROCEEDINGS.—Not
 13 later than September 30, 2015, and once every 3 months
 14 thereafter, the Director of the Executive Office for Immi-
 15 gration Review shall submit to Congress and make pub-
 16 lically available a report that describes—

17 (1) the number of unaccompanied alien children
 18 who, after proceedings under section 235B of the
 19 Immigration and Nationality Act, as added by sec-
 20 tion 1002, were returned to their country of nation-
 21 ality or habitual residence, disaggregated by—

22 (A) country of nationality or residence; and

23 (B) age and gender of such aliens;

24 (2) the number of unaccompanied alien children
 25 who, after proceedings under such section 235B,

1 prove a claim of admissibility and are place in pro-
 2 ceedings under section 240 of the Immigration and
 3 Nationality Act (8 U.S.C. 1229a);

4 (3) the number of unaccompanied alien children
 5 who fail to appear at a removal hearing that such
 6 alien was required to attend;

7 (4) the number of sponsors who were levied a
 8 penalty, including the amount and whether the pen-
 9 alty was collected, for the failure of an unaccom-
 10 panied alien child to appear at a removal hearing;
 11 and

12 (5) the number of aliens that are classified as
 13 unaccompanied alien children, the ages and coun-
 14 tries of nationality of such children, and the orders
 15 issued by the immigration judge at the conclusion of
 16 proceedings under such section 235B for such chil-
 17 dren.

18 **Subtitle B—Cooperation With**
 19 **Countries of Nationality of Un-**
 20 **accompanied Alien Children**

21 **SEC. 1021. IN-COUNTRY REFUGEE PROCESSING.**

22 (a) FINDINGS.—Congress makes the following find-
 23 ings:

24 (1) Consistent with section 101(a)(42)(B) of
 25 the Immigration and Nationality Act (8 U.S.C.

1 1101(a)(42)(B)) and section 207(e) of such Act (8
2 U.S.C. 1157(e)), special circumstances currently
3 exist due to grave humanitarian concerns throughout
4 the travel, and attempts to travel, to the United
5 States by unaccompanied children sufficient to jus-
6 tify and require, for fiscal years 2014 and 2015, the
7 allowance of processing of in-country refugee appli-
8 cations in El Salvador, Guatemala, and Honduras in
9 order to prevent such children from undertaking the
10 long and dangerous journey across Central America
11 and Mexico.

12 (2) Grave humanitarian concerns exist due to—

13 (A) at least 60,000 unaccompanied chil-
14 dren having undertaken the long and dangerous
15 journey to the United States from Central
16 America in fiscal year 2014 alone;

17 (B) substantial reports of unaccompanied
18 children becoming, during the course of their
19 journey intended for the United States, victims
20 of—

21 (i) significant injury, including loss of
22 limbs;

23 (ii) severe forms of violence;

24 (iii) death due to accident and inten-
25 tional killing;

1 (iv) severe forms of human traf-
 2 ficking;

3 (v) kidnap for ransom; and

4 (vi) sexual assault and rape; and

5 (C) the likelihood that the vast majority of
 6 the unaccompanied children seeking admission
 7 or immigration relief, including through appli-
 8 cation as a refugee or claims of asylum, do not
 9 qualify for such admission or relief, and there-
 10 fore will be repatriated.

11 (3) While special circumstances currently exist
 12 to justify in-country refugee application processing
 13 for El Salvador, Guatemala, and Honduras, it is ap-
 14 propriate to determine the admissibility of individ-
 15 uals applying for refugee status from those countries
 16 according to current law and granting administrative
 17 relief in instances in which refugee or asylum appli-
 18 cations are denied, or are expected to be denied,
 19 would exacerbate the grave humanitarian concerns
 20 described in paragraph (2) by further encouraging
 21 attempts at migration.

22 (b) AUTHORITY FOR IN-COUNTRY REFUGEE PROC-
 23 ESSING.—Notwithstanding section 101(a)(42)(B) of the
 24 Immigration and Nationality Act (8 U.S.C.
 25 1101(a)(42)(B)), for fiscal years 2014 and 2015, the Sec-

1 retary of State, in consultation with the Secretary of
 2 Homeland Security and the Director of the Office of Ref-
 3 ugee Resettlement of the Department of Health and
 4 Human Services, shall process an application for refugee
 5 status—

6 (1) for an alien who is a national of El Sal-
 7 vador, Guatemala, or Honduras and is located in
 8 such country; or

9 (2) in the case of an alien having no nation-
 10 ality, for an alien who is habitually residing in such
 11 country and is located in such country.

12 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
 13 tion may be construed as a grant of immigration benefit
 14 or relief, nor as a change to existing law regarding the
 15 eligibility for any individual for such benefit or relief, other
 16 than to the extent refugee applications shall be permitted
 17 in-country in accordance with this section.

18 **SEC. 1022. REFUGEE ADMISSIONS FROM CERTAIN COUN-**
 19 **TRIES.**

20 Notwithstanding any other provision of law, the
 21 President, in determining the number of refugees who may
 22 be admitted under section 207(a) of the Immigration and
 23 Nationality Act (8 U.S.C. 1157(a))—

24 (1) for fiscal year 2014, may —

1 (A) allocate the unallocated reserve refugee
 2 number set out in the Presidential Memo-
 3 randum on Refugee Admissions for Fiscal Year
 4 2014 issued on October 2, 2013 to admit refu-
 5 gees from Central America; and

6 (B) allocate any unused admissions allo-
 7 cated to a particular region for Central Amer-
 8 ican refugee admissions; and

9 (2) for fiscal year 2015, shall include Central
 10 America among the regional allocations included in
 11 the Presidential determination for refugee admis-
 12 sions that fiscal year.

13 **SEC. 1023. FOREIGN GOVERNMENT COOPERATION IN REPA-**
 14 **TRIATION OF UNACCOMPANIED ALIEN CHIL-**
 15 **DREN.**

16 (a) CERTIFICATION.—

17 (1) IN GENERAL.—Subject to paragraph (2), on
 18 the date that is 60 days after the date of the enact-
 19 ment of this Act, and annually thereafter, the Presi-
 20 dent shall make a certification of whether the Gov-
 21 ernment of El Salvador, Guatemala, or Honduras—

22 (A) is actively working to reduce the num-
 23 ber of unaccompanied alien children from that
 24 country who are attempting to migrate north-

1 ward in order to illegally enter the United
2 States;

3 (B) is cooperating with the Government of
4 the United States to facilitate the repatriation
5 of unaccompanied alien children who are re-
6 moved from the United States and returned to
7 their country of nationality or habitual resi-
8 dence; and

9 (C) has negotiated or is actively negoti-
10 ating an agreement under section 235(a)(2)(C)
11 of the William Wilberforce Trafficking Victims
12 Protection Reauthorization Act of 2008 (8
13 U.S.C. 1232(a)(2)(C)), as amended by section
14 1001.

15 (2) INTERIM CERTIFICATION.—If prior to the
16 date an annual certification is required by paragraph
17 (1) the President determines the most recent such
18 certification for the Government of El Salvador,
19 Guatemala, or Honduras is no longer accurate, the
20 President may make an accurate certification for
21 that country prior to such date.

22 (b) LIMITATION ON ASSISTANCE.—The Federal Gov-
23 ernment may not provide any assistance (other than secu-
24 rity assistance) to El Salvador, Guatemala, or Honduras
25 unless in the most recent certification for that country

1 under subsection (a) is that the Government of El Sal-
 2 vador, Guatemala, or Honduras, respectively, meets the
 3 requirements of subparagraphs (A), (B), and (C) of sub-
 4 section (a)(1).

5 **TITLE XI—CRIMINAL ALIENS**

6 **SEC. 1101. ALIEN GANG MEMBERS.**

7 (a) DEFINITION.—Section 101(a) of the Immigration
 8 and Nationality Act (8 U.S.C. 1101(a)) is amended by
 9 adding at the end the following:

10 “(53)(A) The term ‘criminal gang’ means an
 11 ongoing group, club, organization, or association of
 12 5 or more persons—

13 “(i)(I) that has as 1 of its primary pur-
 14 poses the commission of 1 or more of the crimi-
 15 nal offenses described in subparagraph (B); and

16 “(II) the members of which engage, or
 17 have engaged within the past 5 years, in a con-
 18 tinuing series of offenses described in subpara-
 19 graph (B); or

20 “(ii) that has been designated as a crimi-
 21 nal gang under section 220 by the Secretary of
 22 Homeland Security, in consultation with the At-
 23 torney General, or the Secretary of State.

24 “(B) The offenses described in this subpara-
 25 graph, whether in violation of Federal or State law

1 or foreign law and regardless of whether the offenses
2 occurred before, on, or after the date of the enact-
3 ment of the Protecting Children and America's
4 Homeland Act of 2014, are the following:

5 “(i) A ‘felony drug offense’ (as defined in
6 section 102 of the Controlled Substances Act
7 (21 U.S.C. 802)).

8 “(ii) An offense under section 274 (relat-
9 ing to bringing in and harboring certain aliens),
10 section 277 (relating to aiding or assisting cer-
11 tain aliens to enter the United States), or sec-
12 tion 278 (relating to importation of alien for
13 immoral purpose).

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

16 “(iv) A crime involving obstruction of jus-
17 tice, tampering with or retaliating against a
18 witness, victim, or informant, or burglary.

19 “(v) Any conduct punishable under sec-
20 tions 1028 and 1029 of title 18, United States
21 Code (relating to fraud and related activity in
22 connection with identification documents or ac-
23 cess devices), sections 1581 through 1594 of
24 such title (relating to peonage, slavery and traf-
25 ficking in persons), section 1952 of such title

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

11 “(vi) A conspiracy to commit an offense
 12 described in clauses (i) through (v).

13 “(C) Notwithstanding any other provision of
 14 law (including any effective date), the term ‘criminal
 15 gang’ applies regardless of whether the conduct oc-
 16 curred before, on, or after the date of the enactment
 17 of this paragraph.”.

18 (b) INADMISSIBILITY.—Section 212(a)(2) of the Im-
 19 migration and Nationality Act (8 U.S.C. 1182(a)(2)) is
 20 amended by adding at the end the following:

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

1 “(i) is or has been a member of a
2 criminal gang; or

3 “(ii) has participated in the activities
4 of a criminal gang knowing or having rea-
5 son to know that such activities will pro-
6 mote, further, aid, or support the illegal
7 activity of the criminal gang.”.

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

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

15 “(i) is or has been a member of a
16 criminal gang; or

17 “(ii) has participated in the activities
18 of a criminal gang knowing or having rea-
19 son to know that such activities will pro-
20 mote, further, aid, or support the illegal
21 activity of the criminal gang.”.

22 (d) DESIGNATION.—

23 (1) IN GENERAL.—Chapter 2 of title II of the
24 Immigration and Nationality Act (8 U.S.C. 1181 et

1 seq.) is amended by inserting after section 219 the
 2 following:

3 **“SEC. 220. DESIGNATION OF CRIMINAL GANGS.**

4 “(a) IN GENERAL.—The Secretary of Homeland Se-
 5 curity, in consultation with the Attorney General, or the
 6 Secretary of State may designate a group or association
 7 as a criminal gang if their conduct is described in section
 8 101(a)(53) or if the group or association conduct poses
 9 a significant risk that threatens the security and the pub-
 10 lic safety of nationals of the United States or the national
 11 security, homeland security, foreign policy, or economy of
 12 the United States.

13 “(b) EFFECTIVE DATE.—A designation made under
 14 subsection (a) shall remain in effect until the designation
 15 is revoked after consultation between the Secretary of
 16 Homeland Security, the Attorney General, and the Sec-
 17 retary of State or is terminated in accordance with Fed-
 18 eral law.”.

19 (2) CLERICAL AMENDMENT.—The table of con-
 20 tents in the first section of the Immigration and Na-
 21 tionality Act is amended by inserting after the item
 22 relating to section 219 the following:

“220. Designation of criminal gangs.”.

23 (e) MANDATORY DETENTION OF CRIMINAL GANG
 24 MEMBERS.—

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 striking “section 212(a)(3)(B)” and
 5 inserting “paragraph (2)(J) or (3)(B) of section
 6 212(a)”;

7 (B) by striking “237(a)(4)(B),” and in-
 8 serting “paragraph (2)(G) or (4)(B) of section
 9 237(a),”.

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

19 (f) ASYLUM CLAIMS BASED ON GANG AFFILI-
 20 ATION.—

21 (1) INAPPLICABILITY OF RESTRICTION ON RE-
 22 MOVAL TO CERTAIN COUNTRIES.—Section
 23 241(b)(3)(B) of the Immigration and Nationality
 24 Act (8 U.S.C. 1231(b)(3)(B)) is amended, in the
 25 matter preceding clause (i), by inserting “who is de-

1 scribed in section 212(a)(2)(J)(i) or section
2 237(a)(2)(G)(i) or who is” after “to an alien”.

3 (2) INELIGIBILITY FOR ASYLUM.—Section
4 208(b)(2)(A) of the Immigration and Nationality
5 Act (8 U.S.C. 1158(b)(2)(A)) is amended—

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

8 (B) by redesignating clause (vi) as clause
9 (vii); and

10 (C) by inserting after clause (v) the fol-
11 lowing:

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

16 (g) TEMPORARY PROTECTED STATUS.—Section 244
17 of the Immigration and Nationality Act (8 U.S.C. 1254a)
18 is amended—

19 (1) by striking “Attorney General” each place
20 that term appears and inserting “Secretary of
21 Homeland Security”;

22 (2) in subparagraph (c)(2)(B)—

23 (A) in clause (i), by striking “States, or”
24 and inserting “States;”;

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

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

4 “(iii) the alien is, or at any time after
5 admission has been, a member of a criminal
6 gang.”; and

7 (3) in subsection (d)—

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

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

14 (h) SPECIAL IMMIGRANT JUVENILE VISAS.—Section
15 101(a)(27)(J)(iii) of the Immigration and Nationality Act
16 (8 U.S.C. 1101(a)(27)(J)(iii)) is amended—

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

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

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

21 “(III) no alien who is, or was at
22 any time after admission has been, a
23 member of a criminal gang shall be eligible
24 for any immigration benefit
25 under this subparagraph;”.

1 (i) EFFECTIVE DATE.—The amendments made by
 2 this section shall take effect on the date of the enactment
 3 of this Act and shall apply to acts that occur before, on,
 4 or after the date of the enactment of this Act.

5 **SEC. 1102. MANDATORY EXPEDITED REMOVAL OF DAN-**
 6 **GEROUS CRIMINALS, TERRORISTS, AND GANG**
 7 **MEMBERS.**

8 (a) IN GENERAL.—Notwithstanding any other provi-
 9 sion of law, an immigration officer who finds an alien de-
 10 scribed in subsection (b) at a land border or port of entry
 11 of the United States and determines that such alien is in-
 12 admissible under the Immigration and Nationality Act (8
 13 U.S.C. 1101 et seq.) shall treat such alien in accordance
 14 with section 235 of the Immigration and Nationality Act
 15 (8 U.S.C. 1225).

16 (b) THREATS TO PUBLIC SAFETY.—An alien de-
 17 scribed in this subsection is an alien who the Secretary
 18 of Homeland Security determines, or has reason to be-
 19 lieve—

20 (1) has been convicted of any offense carrying
 21 a maximum term of imprisonment of more than 180
 22 days;

23 (2) has been convicted of an offense which in-
 24 volved—

1 (A) domestic violence (as defined in section
2 40002(a) of the Violence Against Women Act of
3 1994 (42 U.S.C. 13925(a));

4 (B) child abuse and neglect (as defined in
5 section 40002(a) of the Violence Against
6 Women Act of 1994 (42 U.S.C. 13925(a));

7 (C) assault resulting in bodily injury (as
8 defined in section 2266 of title 18, United
9 States Code);

10 (D) the violation of a protection order (as
11 defined in section 2266 of title 18, United
12 States Code);

13 (E) driving while intoxicated (as defined in
14 section 164 of title 23, United States Code); or

15 (F) any offense under foreign law, except
16 for a purely political offense, which, if the of-
17 fense had been committed in the United States,
18 would render the alien inadmissible under sec-
19 tion 212(a) of the Immigration and Nationality
20 Act (8 U.S.C. 1182(a));

21 (3) has been convicted of more than 1 criminal
22 offense (other than minor traffic offenses);

23 (4) has engaged in, is engaged in, or is likely
24 to engage after entry in any terrorist activity (as de-
25 fined in section 212(a)(3)(B)(iii) of the Immigration

1 and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iii)),
2 or intends to participate or has participated in the
3 activities of a foreign terrorist organization (as des-
4 ignated under section 219 of the Immigration and
5 Nationality Act (8 U.S.C. 1189));

6 (5) is or was a member of a criminal street
7 gang (as defined in paragraph (53) of section 101(a)
8 of the Immigration and Nationality Act (8 U.S.C.
9 1101(a)), as added by section 1101(a)); or

10 (6) has entered the United States more than 1
11 time in violation of section 275(a) of the Immigra-
12 tion and Nationality Act (8 U.S.C. 1325(a)), know-
13 ing that the entry was unlawful.

14 **SEC. 1103. FUGITIVE OPERATIONS.**

15 The Secretary of Homeland Security is authorized to
16 hire 350 U.S. Immigration and Customs Enforcement de-
17 tention officers that comprise 50 Fugitive Operations
18 Teams responsible for identifying, locating, and arresting
19 fugitive aliens.

20 **SEC. 1104. ADDITIONAL DETENTION CAPACITY FOR FAMILY**
21 **UNITS.**

22 Not later than 1 year after the date of the enactment
23 of this Act, the Secretary of Homeland Security shall in-
24 crease the number of detention beds available for aliens
25 placed in removal proceedings under the Immigration and

1 Nationality Act (8 U.S.C. 1101 et seq.) by not less than
2 5,000, including such detention beds available for family
3 units.

4 **TITLE XII—BORDER SECURITY**

5 **SEC. 1201. REDUCING INCENTIVES FOR ILLEGAL IMMIGRA-** 6 **TION.**

7 No Federal funds or resources may be used to issue
8 a new directive, memorandum, or Executive Order that
9 provides for relief from removal or work authorization to
10 a class of individuals who are not otherwise eligible for
11 such relief under the Immigration and Nationality Act (8
12 U.S.C. 1101 et seq.) or such work authorization, including
13 expanding deferred action for childhood arrivals.

14 **SEC. 1202. BORDER SECURITY ON CERTAIN FEDERAL** 15 **LANDS.**

16 (a) DEFINITIONS.—In this section:

17 (1) FEDERAL LANDS.—The term “Federal
18 lands” includes all land under the control of the Sec-
19 retary concerned that is located within the South-
20 west border region in the State of Arizona along the
21 international border between the United States and
22 Mexico.

23 (2) SECRETARY CONCERNED.—The term “Sec-
24 retary concerned” means—

1 (A) with respect to land under the jurisdic-
2 tion of the Secretary of Agriculture, the Sec-
3 retary of Agriculture; and

4 (B) with respect to land under the jurisdic-
5 tion of the Secretary of the Interior, the Sec-
6 retary of the Interior.

7 (b) SUPPORT FOR BORDER SECURITY NEEDS.—To
8 achieve effective control of Federal lands—

9 (1) the Secretary concerned, notwithstanding
10 any other provision of law, shall authorize and pro-
11 vide U.S. Customs and Border Protection personnel
12 with immediate access to Federal lands for security
13 activities, including—

14 (A) routine motorized patrols; and

15 (B) the deployment of communications,
16 surveillance, and detection equipment;

17 (2) the security activities described in para-
18 graph (1) shall be conducted, to the maximum ex-
19 tent practicable, in a manner that the Secretary de-
20 termines will best protect the natural and cultural
21 resources on Federal lands; and

22 (3) the Secretary concerned may provide edu-
23 cation and training to U.S. Customs and Border
24 Protection personnel on the natural and cultural re-
25 sources present on individual Federal land units.

1 (c) PROGRAMMATIC ENVIRONMENTAL IMPACT
2 STATEMENT.—

3 (1) IN GENERAL.—After implementing sub-
4 section (b), the Secretary, in consultation with the
5 Secretaries concerned, shall prepare and publish in
6 the Federal Register a notice of intent to prepare a
7 programmatic environmental impact statement in
8 accordance with the National Environmental Policy
9 Act of 1969 (42 U.S.C. 4321 et seq.) to analyze the
10 impacts of the activities described in subsection (b).

11 (2) EFFECT ON PROCESSING APPLICATION AND
12 SPECIAL USE PERMITS.—The pending completion of
13 a programmatic environmental impact statement
14 under this section shall not result in any delay in the
15 processing or approving of applications or special
16 use permits by the Secretaries concerned for the ac-
17 tivities described in subsection (b).

18 (3) AMENDMENT OF LAND USE PLANS.—The
19 Secretaries concerned shall amend any land use
20 plans, as appropriate, upon completion of the pro-
21 grammatic environmental impact statement de-
22 scribed in paragraph (1).

23 (4) SCOPE OF PROGRAMMATIC ENVIRONMENTAL
24 IMPACT STATEMENT.—The programmatic environ-

1 mental impact statement described in paragraph
 2 (1)—

3 (A) may be used to advise the Secretary of
 4 Homeland Security on the impact on natural
 5 and cultural resources on Federal lands; and

6 (B) shall not control, delay, or restrict ac-
 7 tions by the Secretary of Homeland Security to
 8 achieve effective control on Federal lands.

9 (d) INTERMINGLED STATE AND PRIVATE LAND.—
 10 This section shall not apply to any private or State-owned
 11 land within the boundaries of Federal lands.

12 **SEC. 1203. STATE AND LOCAL ASSISTANCE TO ALLEVIATE**
 13 **HUMANITARIAN CRISIS.**

14 (a) STATE AND LOCAL ASSISTANCE.—The Adminis-
 15 trator of the Federal Emergency Management Agency
 16 shall enhance law enforcement preparedness, humani-
 17 tarian responses, and operational readiness along the
 18 international border between the United States and Mex-
 19 ico through Operation Stonegarden.

20 (b) GRANTS AND REIMBURSEMENTS.—

21 (1) IN GENERAL.—Amounts made available to
 22 carry out this section shall be allocated for grants
 23 and reimbursements to State and local governments
 24 in Border Patrol Sectors on the along the inter-

1 national border between the United States and Mex-
2 ico for—

3 (A) costs personnel, overtime, and travel;

4 (B) costs related to combating illegal im-
5 migration and drug smuggling; and

6 (C) costs related to providing humani-
7 tarian relief to unaccompanied alien children
8 and family units who have entered the United
9 States.

10 (2) FUNDING FOR STATE AND LOCAL GOVERN-
11 MENTS.—Allocations for grants and reimbursements
12 to State and local governments under this paragraph
13 shall be made by the Administrator of the Federal
14 Emergency Management Agency through a competi-
15 tive process.

16 (c) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated for fiscal years 2014
18 and 2015 such sums as may be necessary to carry out
19 this section.

20 **SEC. 1204. PREVENTING ORGANIZED SMUGGLING.**

21 (a) UNLAWFULLY HINDERING IMMIGRATION, BOR-
22 DER, OR CUSTOMS CONTROLS.—

23 (1) AMENDMENT TO TITLE 18, UNITED STATES
24 CODE.—

1 (A) IN GENERAL.—Chapter 27 of title 18,
2 United States Code, is amended by adding at
3 the end the following:

4 **“§ 556. Unlawfully hindering immigration, border, or**
5 **customs controls**

6 “(a) ILLICIT SPOTTING.—Any person who knowingly
7 transmits to another person the location, movement, or ac-
8 tivities of any Federal, State, or tribal law enforcement
9 agency with the intent to further a Federal crime relating
10 to United States immigration, customs, importation of
11 controlled substances, agriculture products, or monetary
12 instruments, or other border controls shall be fined under
13 this title, imprisoned not more than 10 years, or both.

14 “(b) DESTRUCTION OF UNITED STATES BORDER
15 CONTROLS.—Any person who knowingly and without law-
16 ful authorization destroys, alters, or damages any fence,
17 barrier, sensor, camera, or other physical or electronic de-
18 vice deployed by the Federal Government to control the
19 international border of the United States or a port of
20 entry, or otherwise seeks to construct, excavate, or make
21 any structure intended to defeat, circumvent or evade any
22 such fence, barrier, sensor camera, or other physical or
23 electronic device deployed by the Federal Government to
24 control the international border of the United States or
25 a port of entry—

1 “(1) shall be fined under this title, imprisoned
2 not more than 10 years, or both; and

3 “(2) if, at the time of the offense, the person
4 uses or carries a firearm or, in furtherance of any
5 such crime, possesses a firearm, shall be fined under
6 this title, imprisoned not more than 20 years, or
7 both.

8 “(c) CONSPIRACY AND ATTEMPT.—Any person who
9 attempts or conspires to violate subsection (a) or (b) shall
10 be punished in the same manner as a person who com-
11 pletes a violation of such subsection.”.

12 (B) CLERICAL AMENDMENT.—The table of
13 sections for chapter 27 of title 18, United
14 States Code, is amended by inserting after the
15 item relating to section 555 the following:

“556. Unlawfully hindering immigration, border, or customs controls.”.

16 (2) PROHIBITING CARRYING OR USE OF A FIRE-
17 ARM DURING AND IN RELATION TO AN ALIEN SMUG-
18 GLING CRIME.—Section 924(c) of title 18, United
19 States Code, is amended—

20 (A) in paragraph (1)—

21 (i) in subparagraph (A), by inserting
22 “, alien smuggling crime,” after “crime of
23 violence” each place such term appears;
24 and

1 (ii) in subparagraph (D)(ii), by insert-
 2 ing “, alien smuggling crime,” after “crime
 3 of violence”; and

4 (B) by adding at the end the following:

5 “(6) For purposes of this subsection, the term
 6 ‘alien smuggling crime’ means any felony punishable
 7 under section 274(a), 277, or 278 of the Immigra-
 8 tion and Nationality Act (8 U.S.C. 1324(a), 1327,
 9 and 1328).”.

10 (3) STATUTE OF LIMITATIONS.—Section 3298
 11 of title 18, United States Code, is amended by in-
 12 serting “556 (hindering immigration, border, or cus-
 13 toms controls), 1598 (organized human smuggling),”
 14 before “1581”.

15 (b) ORGANIZED HUMAN SMUGGLING.—

16 (1) AMENDMENT TO TITLE 18, UNITED STATES
 17 CODE.—Chapter 77 of title 18, United States Code,
 18 is amended by adding at the end the following:

19 **“§ 1598. Organized human smuggling**

20 “(a) PROHIBITED ACTIVITIES.—It shall be unlawful
 21 for any person, while acting for profit or other financial
 22 gain, to knowingly direct or participate in an effort or
 23 scheme to assist or cause 3 or more persons—

24 “(1) to enter, attempt to enter, or prepare to
 25 enter the United States—

1 “(A) by fraud, falsehood, or other corrupt
2 means;

3 “(B) at any place other than a port or
4 place of entry designated by the Secretary of
5 Homeland Security; or

6 “(C) in a manner not prescribed by the im-
7 migration laws and regulations of the United
8 States;

9 “(2) to travel by air, land, or sea toward the
10 United States (whether directly or indirectly)—

11 “(A) knowing that the persons seek to
12 enter or attempt to enter the United States
13 without lawful authority; and

14 “(B) with the intent to aid or further such
15 entry or attempted entry; or

16 “(3) to be transported or moved outside of the
17 United States—

18 “(A) knowing that such persons are aliens
19 in unlawful transit from 1 country to another
20 or on the high seas; and

21 “(B) under circumstances in which the
22 persons are seeking to enter the United States
23 without official permission or legal authority.

24 “(b) CONSPIRACY AND ATTEMPT.—Any person who
25 attempts or conspires to violate subsection (a) shall be

1 punished in the same manner as a person who completes
2 a violation of such subsection.

3 “(c) BASE PENALTY.—Except as provided in sub-
4 section (d), any person who violates subsection (a) or (b)
5 shall be fined under this title, imprisoned for not more
6 than 20 years, or both.

7 “(d) ENHANCED PENALTIES.—Any person who vio-
8 lates subsection (a) or (b)—

9 “(1) in the case of a violation causing a serious
10 bodily injury (as defined in section 1365) to any per-
11 son, shall be fined under this title, imprisoned for
12 not more than 30 years, or both;

13 “(2) in the case of a violation causing the life
14 of any person to be placed in jeopardy, shall be fined
15 under this title, imprisoned for not more than 30
16 years, or both;

17 “(3) in the case of a violation involving 10 or
18 more persons, shall be fined under this title, impris-
19 oned for not more than 30 years, or both;

20 “(4) in the case of a violation involving the
21 bribery or corruption of a United States or foreign
22 government official, shall be fined under this title,
23 imprisoned for not more than 30 years, or both;

24 “(5) in the case of a violation involving robbery
25 or extortion (as such terms are defined in paragraph

1 (1) or (2), respectively, of section 1951(b)), shall be
 2 fined under this title, imprisoned for not more than
 3 30 years, or both;

4 “(6) in the case of a violation causing any per-
 5 son to be subjected to an involuntary sexual act (as
 6 defined in section 2246(2)), shall be fined under this
 7 title, imprisoned for not more than 30 years, or
 8 both;

9 “(7) in the case of a violation resulting in the
 10 death of any person, shall be fined under this title,
 11 imprisoned for any term of years or for life, or both;

12 “(8) in the case of a violation in which any
 13 alien is confined or restrained, including by the tak-
 14 ing of clothing, goods, or personal identification doc-
 15 uments, shall be fined under this title, imprisoned
 16 for not more than 10 years, or both; or

17 “(9) in the case of smuggling an unaccom-
 18 panied alien child (as defined in section 462(g)(2) of
 19 the Homeland Security Act of 2002 (6 U.S.C.
 20 279(g)(2)), shall be fined under this title or impris-
 21 oned not more than 20 years.

22 “(e) DEFINITIONS.—In this section:

23 “(1) EFFORT OR SCHEME TO ASSIST OR CAUSE
 24 3 OR MORE PERSONS.—The term ‘effort or scheme
 25 to assist or cause 3 or more persons’ does not re-

quire that the 3 or more persons enter, attempt to enter, prepare to enter, or travel at the same time if such acts are completed during a 1-year period.

“(2) **LAWFUL AUTHORITY.**—The term ‘lawful authority’—

“(A) means permission, authorization, or license that is expressly provided for under the immigration laws of the United States; and

“(B) does not include—

“(i) any authority described in subparagraph (A) that was secured by fraud or otherwise unlawfully obtained; or

“(ii) any authority that was sought, but not approved.”.

(2) **CLERICAL AMENDMENT.**—The table of sections for chapter 77 of title 18, United States Code, is amended by inserting after the item relating to section 1597 the following:

“1598. Organized human smuggling.”.

(c) **STRATEGY TO COMBAT HUMAN SMUGGLING.**—

(1) **HIGH TRAFFIC AREAS OF HUMAN SMUGGLING DEFINED.**—In this subsection, the term “high traffic areas of human smuggling” means the United States ports of entry and areas between such ports that have relatively high levels of human smuggling

1 activity, as measured by U.S. Customs and Border
2 Protection.

3 (2) IMPLEMENTATION.—Not later than 1 year
4 after the date of the enactment of this Act, the Sec-
5 retary of Homeland Security shall implement a
6 strategy to deter, detect, and interdict human smug-
7 gling across the international land and maritime
8 borders of the United States.

9 (3) COMPONENTS.—The strategy referred to in
10 paragraph (2) shall include—

11 (A) efforts to increase coordination be-
12 tween the border and maritime security compo-
13 nents of the Department of Homeland Security;

14 (B) an identification of intelligence gaps
15 impeding the ability to deter, detect, and inter-
16 dict human smuggling across the international
17 land and maritime borders of the United
18 States;

19 (C) efforts to increase information sharing
20 with State and local governments and other
21 Federal agencies;

22 (D) efforts to provide, in coordination with
23 the Federal Law Enforcement Training Center,
24 training for the border and maritime security
25 components of the Department of Homeland

1 Security to deter, detect, and interdict human
 2 smuggling across the international land and
 3 maritime borders of the United States; and

4 (E) the identification of the high traffic
 5 areas of human smuggling.

6 (4) REPORT.—

7 (A) IN GENERAL.—Not later than 6
 8 months after the date of the enactment of this
 9 Act, the Secretary of Homeland Security shall
 10 submit a report that describes the strategy to
 11 be implemented under paragraph (2), including
 12 the components listed in paragraph (3), to—

13 (i) the Committee on Homeland Secu-
 14 rity and Governmental Affairs of the Sen-
 15 ate; and

16 (ii) the Committee on Homeland Se-
 17 curity of the House of Representatives.

18 (B) FORM.—The Secretary may submit
 19 the report required under subparagraph (A) in
 20 classified form if the Secretary determines that
 21 such form is appropriate.

22 (5) ANNUAL LIST OF HIGH TRAFFIC AREAS.—

23 Not later than February 1st of the first year begin-
 24 ning after the date of the enactment of this Act, and
 25 annually thereafter, the Secretary of Homeland Se-

1 curity shall submit a list of the high traffic areas of
2 human smuggling referred to—

3 (A) the Committee on Homeland Security
4 and Governmental Affairs of the Senate; and

5 (B) the Committee on Homeland Security
6 of the House of Representatives.

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2^D Session

S. 2773

A BILL

Making supplemental appropriations for the fiscal year ending September 30, 2014, for border security, law enforcement, humanitarian assistance, and for other purposes.

AUGUST 1, 2014

Read the second time and placed on the calendar