

115TH CONGRESS
2D SESSION

S. 3091

To limit the separation of families seeking asylum in the United States and expedite the asylum process for individuals arriving in the United States with children.

IN THE SENATE OF THE UNITED STATES

JUNE 19, 2018

Mr. CRUZ (for himself, Mr. BARRASSO, Mr. BLUNT, Mr. CRAPO, Mr. DAINES, Mrs. ERNST, Mr. HATCH, Mr. HOEVEN, Mr. INHOFE, Mr. RISCH, Mr. ROUNDS, Mr. ROBERTS, Mr. RUBIO, Mr. SASSE, Mr. SCOTT, Mr. TOOMEY, Mr. YOUNG, Mr. LEE, and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To limit the separation of families seeking asylum in the United States and expedite the asylum process for individuals arriving in the United States with children.

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 “Protect Kids and Par-
5 ents Act”.

1 **SEC. 2. ENSURING FAMILIES REMAIN TOGETHER.**

2 Notwithstanding any other provision of law, judicial
3 determination, consent decree, or settlement agreement:

4 (a) A child shall remain in the custody of and be de-
5 tained in the same facility as the Asylum Applicant who
6 is the child's parent or legal guardian during the pendency
7 of the Asylum Applicant's asylum or withholding of re-
8 moval proceedings.

9 (b) If a child has multiple parents or legal guardians
10 who are Asylum Applicants, that child shall remain in the
11 custody of and be detained in the same facility as all of
12 the child's parents and legal guardians during the pend-
13 ency of the Asylum Applicants' asylum or withholding of
14 removal proceedings; unless one of the child's parents or
15 legal guardians is present in the United States and not
16 in any form of detention, in which case the child shall be
17 placed in the custody of that parent or legal guardian.

18 **SEC. 3. FACILITIES FOR ASYLUM APPLICANTS WHO RETAIN**
19 **CUSTODY OF A CHILD.**

20 (a) The designated agencies shall maintain facilities
21 for the joint detention of Asylum Applicants who retain
22 custody of a child and the child. These facilities shall only
23 contain individuals who are under the age of 18 or are
24 the parents or legal guardians of individuals under the age
25 of 18.

1 (b) FUNDING.—There are authorized to be appro-
 2 priated for each of fiscal years 2019, 2020, and 2021 such
 3 sums as may be necessary to carry out this section.

4 **SEC. 4. INCREASING THE NUMBER OF AUTHORIZED IMMI-**
 5 **GRATION JUDGES.**

6 (a) INCREASE IN IMMIGRATION JUDGES.—The Attor-
 7 ney General of the United States shall increase the total
 8 number of immigration judges to adjudicate pending cases
 9 and efficiently process future cases by 375 judges.

10 (b) NECESSARY SUPPORT STAFF FOR IMMIGRATION
 11 JUDGES.—To address the shortage of support staff for
 12 immigration judges, the Attorney General shall ensure
 13 that each immigration judge has sufficient support staff,
 14 adequate technological and security resources, and appro-
 15 priate courtroom facilities.

16 (c) INCREASE IN BOARD OF IMMIGRATION APPEALS
 17 ATTORNEYS.—The Attorney General shall increase the
 18 number of Board of Immigration Appeals staff attorneys
 19 by sixty attorneys.

20 (d) NECESSARY SUPPORT STAFF FOR BOARD OF IM-
 21 MIGRATION APPEALS.—To address the shortage of sup-
 22 port staff for the Board of Immigration appeals, the At-
 23 torney General shall ensure that the Board of Immigration
 24 Appeals and its staff attorneys has sufficient support staff
 25 and adequate technological and security resources.

1 (e) PRIORITIZATION OF ASYLUM APPLICANTS.—Any
 2 immigration judges, Board of Immigration Appeals staff
 3 attorneys, and support staff hired under the authority of
 4 this section shall prioritize asylum applications that are
 5 filed by Asylum Applicants.

6 (f) FUNDING.—There are authorized to be appro-
 7 priated for each of fiscal years 2019, 2020, and 2021 such
 8 sums as may be necessary to carry out this section.

9 **SEC. 5. INCREASING THE NUMBER OF AVAILABLE DEPART-**
 10 **MENT OF HOMELAND SECURITY EMPLOYEES.**

11 (a) INCREASE IN DEPARTMENT OF HOMELAND SE-
 12 CURITY PERSONNEL.—The Secretary of Homeland Secu-
 13 rity shall increase the total number of Department per-
 14 sonnel that are responsible for processing asylum applica-
 15 tions filed by Asylum Applicants by 200 individuals. Posi-
 16 tions authorized before the date of the enactment of this
 17 Act and any existing officer vacancies within the Depart-
 18 ment of Homeland Security on such date of enactment
 19 shall not count towards the increase mandated by this
 20 paragraph.

21 (b) INCREASE IN DEPARTMENT OF HOMELAND SE-
 22 CURITY PERSONNEL.—The Secretary is authorized to pro-
 23 cure space, temporary facilities, and to hire the required
 24 administrative and legal support staff, on an expedited

1 basis, to accommodate the additional positions authorized
2 under this section.

3 (c) FUNDING.—There are authorized to be appro-
4 priated for each of fiscal years 2019, 2020, and 2021 such
5 sums as may be necessary to carry out this section.

6 **SEC. 6. ESTABLISHING DEADLINES FOR PROCESSING OF**
7 **ASYLUM APPLICANTS.**

8 Notwithstanding any other provision of law, judicial
9 determination, consent decree, or settlement agreement:

10 (a) IN GENERAL.—

11 (1) The Attorney General and Secretary of
12 Homeland Security shall establish within 60 days of
13 the enactment of this Act procedures for the expe-
14 dited consideration of asylum applications filed by
15 Asylum Applicants, pursuant to the guidelines set
16 forth in this Act.

17 (2) An asylum application filed by Asylum Ap-
18 plicants must be governed by the expedited proce-
19 dures set forth by this Act, as opposed to existing
20 asylum law, procedures, regulations, and timelines.
21 But unless modified by this Act or the procedures
22 set forth in, regulations promulgated pursuant to,
23 and timelines established by this Act, the standards,
24 procedures, and burdens of proof established by ex-
25 isting law and regulations for asylum applications

1 shall apply to an asylum application filed by an Asy-
2 lum Applicant.

3 (3) Until the Attorney General and Secretary of
4 Homeland Security have established procedures for
5 expedited consideration of asylum applications under
6 this section, any asylum application filed by an Asy-
7 lum Applicant shall be reviewed under existing law,
8 regulations, and procedures for the evaluation of an
9 asylum claim. Other sections of this Act, including
10 sections 2, 3, and 8, will nonetheless begin to apply
11 to Asylum Applicants upon enactment of this Act.

12 (b) ASYLUM INTERVIEWS.—

13 (1) Within 24 hours of an initial referral from
14 immigration officials of an asylum application by an
15 Asylum Applicant, an asylum officer shall conduct
16 an asylum interview of the Asylum Applicant.

17 (2) The Attorney General shall provide informa-
18 tion concerning the asylum interview described in
19 this section to Asylum Applicants at least twelve
20 hours prior to the asylum interview. An Asylum Ap-
21 plicant may consult with a person or persons of the
22 Asylum Applicant's choosing prior to the interview
23 or any review thereof, according to regulations pre-
24 scribed by the Attorney General. Such consultation

1 shall be at no expense to the Government and shall
2 not unreasonably delay the process.

3 (3) Within 24 hours of the start of an asylum
4 interview, the asylum officer must make a deter-
5 mination of whether the Asylum Application has a
6 credible fear of persecution.

7 (4) If the officer determines that the Asylum
8 Applicant has a credible fear of persecution, the
9 Asylum Applicant shall be detained for further con-
10 sideration of the application for asylum and referred
11 for an asylum determination consistent with sub-
12 section (d).

13 (5) If the officer determines that the Asylum
14 Applicant does not have a credible fear of persecu-
15 tion, the Asylum Applicant has 24 hours to request
16 review by an Immigration Judge. If the Asylum Ap-
17 plicant does not request review of the determination
18 within that time period, a Final Order of Removal
19 shall be issued.

20 (6) The asylum officer shall prepare a written
21 record of a determination that the Asylum Applicant
22 does not have a credible fear of persecution. Such
23 record shall include a summary of the material facts
24 as stated by the Asylum Applicant, such additional
25 facts (if any) relied upon by the officer, and the offi-

cer's analysis of why, in the light of such facts, the Asylum Applicant has not established a credible fear of persecution. A copy of the officer's interview notes shall be attached to the written summary.

(c) APPEARANCE BEFORE IMMIGRATION JUDGE.—

(1) In the case of an Asylum Applicant referred to an Immigration Judge following a determination of credible fear of persecution by the asylum officer or an Asylum Applicant who requests review by an Immigration Judge of a determination that the Asylum Applicant does not have a credible fear of persecution, the Attorney General shall present the Asylum Applicant before an immigration judge for a hearing within 24 hours of the referral or request.

(2) The Immigration Judge shall make a determination of asylum or withholding of removal eligibility within 120 hours of such a hearing.

(3) If the Immigration Judge determines the Asylum Applicant is eligible for asylum or withholding of removal, the judge will order that asylum or withholding of removal be granted.

(4) If the Immigration Judge determines that the Asylum Applicant is not eligible for asylum or withholding of removal, the Asylum Applicant has 24 hours to request review by the Board of Immi-

1 gration Appeals. If the Asylum Applicant does not
2 request review of the determination within that time
3 period, a Final Order of Removal will be issued.

4 (5) The Immigration Judge shall prepare a
5 written record of a determination that the Asylum
6 Applicant is not eligible for asylum or withholding of
7 removal. Such record shall include a summary of the
8 material facts as stated by the Asylum Applicant,
9 such additional facts (if any) relied upon by the Im-
10 migration Judge, and the Immigration Judge's anal-
11 ysis of why, in the light of such facts, the Asylum
12 Applicant has not established eligibility for asylum
13 or withholding of removal.

14 (d) REVIEW BY BOARD OF IMMIGRATION APPEALS.—

15 (1) In the case of an Asylum Applicant who re-
16 quests review by the Board of Immigration Appeals
17 of a determination by an Immigration Judge that he
18 or she is not eligible for asylum or withholding of re-
19 moval, the Attorney General shall present the re-
20 quest for review to the Board of Immigration Ap-
21 peals within 24 hours of the request.

22 (2) The Board of Immigration Appeals shall
23 make a determination of asylum or withholding of
24 removal eligibility within 24 hours of receiving the
25 request.

1 (3) If the Board of Immigration Appeals deter-
2 mines the Asylum Applicant is eligible for asylum or
3 withholding of removal, the Board of Immigration
4 Appeals will order that asylum or withholding of re-
5 moval be granted.

6 (4) If the Board of Immigration Appeals deter-
7 mines that the Asylum Applicant is not eligible for
8 asylum or withholding of removal, the Asylum Appli-
9 cant has 24 hours to request review by the Attorney
10 General. If the Asylum Applicant does not request
11 review of the determination within that time period,
12 a Final Order of Removal will be issued.

13 (e) REVIEW BY ATTORNEY GENERAL.—

14 (1) In the case of an Asylum Applicant who re-
15 quests review by the Attorney General of a deter-
16 mination by the Board of Immigration Appeals that
17 he or she is not eligible for asylum or withholding
18 of removal, the Attorney General shall make a deter-
19 mination of asylum or withholding of removal eligi-
20 bility within 24 hours of receiving the request.

21 (2) If the Attorney General determines the Asy-
22 lum Applicant is eligible for asylum or withholding
23 of removal, the Attorney General will order that asy-
24 lum be granted.

1 (3) If the Attorney General determines that the
2 Asylum Applicant is not eligible for asylum or with-
3 holding of removal, a Final Order of Removal will be
4 issued.

5 (f) ISSUANCE OF FINAL ORDER OF REMOVAL.—Fol-
6 lowing a determination by the Attorney General that the
7 Asylum Applicant is not eligible for asylum or withholding
8 of removal, there shall be no additional review prior to
9 the issuance of a Final Order of Removal.

10 (g) GRANT OF ASYLUM.—If asylum or withholding
11 of removal is granted to an Asylum Applicant pursuant
12 to these expedited procedures, the grant will be conditional
13 and the Asylum Applicant shall remain in detention until
14 the identity of the applicant has been checked against all
15 appropriate records or databases maintained by the Attor-
16 ney General and by the Secretary of State, including the
17 Automated Visa Lookout System, to determine any
18 grounds on which the alien may be inadmissible to, exclud-
19 able from, removable from, or deportable from the United
20 States, or ineligible to apply for or be granted asylum or
21 withholding of removal.

22 (h) EXTENSIONS OF DEADLINES ON BEHALF OF
23 DESIGNATED AGENCIES.—A designated agency may seek
24 an extension of any of the deadlines set forth in this sub-
25 section by applying for an extension with an Immigration

1 Judge. The Immigration Judge must issue an order stat-
 2 ing that the designated agency has established that good
 3 cause warrants the granting of an extension. An extension
 4 may be granted for up to thirty days. Only two extensions
 5 may be granted, in total, to a designated agency during
 6 the entirety of an Asylum Applicant's asylum application
 7 process. Any extensions of the deadlines shall not affect
 8 the detention of the Asylum Applicant.

9 (i) EXTENSIONS OF DEADLINES ON BEHALF OF ASY-
 10 LUM APPLICANTS.—An Asylum Applicant may seek an ex-
 11 tension of any of the deadlines set forth in this subsection
 12 by applying for an extension with an Immigration Judge.
 13 The Immigration Judge must issue an order stating that
 14 the Asylum Applicant has established that good cause war-
 15 rants the granting of an extension. An extension may be
 16 granted for up to thirty days. Only two extensions may
 17 be granted, in total, to an Asylum Applicant during the
 18 entirety of the Asylum Applicant's asylum application
 19 process. Any extensions of the deadlines shall not affect
 20 the detention of the Asylum Applicant.

21 **SEC. 7. CONSEQUENCES OF DENIAL OF ASYLUM APPLICA-**
 22 **TION.**

23 Notwithstanding any other provision of law, judicial
 24 determination, consent decree, or settlement agreement:

1 (a) Once a Final Order of Removal for an Asylum
2 Applicant is issued, the designated agency shall remove
3 from the United States within four days the Asylum Appli-
4 cant and any child for whom the Asylum Applicant is the
5 parent or legal guardian and has been detained with the
6 Asylum Applicant.

7 (1) EXCEPTION.—If the child has a parent or
8 legal guardian who will be remaining physically
9 present in the United States when the Asylum Ap-
10 plicant is removed, the child will remain in or be
11 placed in the custody of that parent or legal guard-
12 ian.

13 (b) An Asylum Applicant whose asylum application
14 is denied pursuant to the process outlined in this Act shall
15 not be prosecuted for illegal entry as a result of the entry
16 into the United States that led to the filing of the asylum
17 application adjudicated under the process outlined in this
18 Act, but will instead be removed from the United States.
19 An Asylum Applicant may be prosecuted for any other vio-
20 lation of the law if and once their asylum application has
21 been denied. If the Asylum Applicant is prosecuted for an
22 immigration crime that is not a crime of violence, the pro-
23 visions of this Act that require that a child shall remain
24 in the custody of and be detained in the same facility as
25 the Asylum Applicant, and any other exceptions and re-

1 requirements thereof set forth in this Act, shall continue to
2 apply.

3 (c) A denial of an asylum application pursuant to the
4 process outlined in this Act shall not prejudice a subse-
5 quent asylum application by the same Asylum Applicant
6 on the same grounds if it is later filed after the Asylum
7 Applicant arrives at a legal port of entry and files an asy-
8 lum application, unless it is determined that the Asylum
9 Applicant engaged in fraud during his prior asylum appli-
10 cation that was denied pursuant to the process outlined
11 in this Act.

12 **SEC. 8. EXCEPTIONS TO ENSURING FAMILIES REMAIN TO-**
13 **GETHER.**

14 (a) An agent or officer of a designated agency shall
15 be permitted to remove a child from the custody of an
16 Asylum Applicant that is the child's parent or legal guard-
17 ian with that Asylum Applicant's consent. If a child has
18 multiple parents or legal guardians in detention, all par-
19 ents or legal guardians with custody of the child must con-
20 sent to have the child removed from their custody before
21 an agent or officer of a designated agency is permitted
22 to remove the child; otherwise, the child will remain with
23 the parent or legal guardian who does not wish for the
24 child to be removed.

1 (b) An agent or officer of a designated agency shall
2 be permitted to remove a child from the custody of an
3 Asylum Applicant without that Asylum Applicant's con-
4 sent if the following has occurred:

5 (1) A State court, authorized under State law,
6 terminates the rights of a parent or legal guardian,
7 determines that it is in the best interests of the child
8 to be removed from his or her parent or legal guard-
9 ian, in accordance with the Adoption and Safe Fam-
10 ilies Act of 1997 (Public Law 105–89), or makes
11 any similar determination that is legally authorized
12 under State law.

13 (2) An official from the State or county child
14 welfare agency with expertise in child trauma and
15 development makes a best interests determination
16 that it is in the best interests of the child to be re-
17 moved from his or her parent or legal guardian be-
18 cause the child is in danger of abuse or neglect at
19 the hands of the parent or legal guardian, or is a
20 danger to herself or others.

21 (3) The Chief Patrol Agent or the Area Port
22 Director, or their designees, authorizes separation
23 upon the recommendation by an agent or officer,
24 based on a finding that—

1 (A) the child is a victim of trafficking or
2 is at significant risk of becoming a victim of
3 trafficking;

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

7 (C) the child is in danger of abuse or ne-
8 glect at the hands of the parent or legal guard-
9 ian, or is a danger to themselves or others.

10 (c) DOCUMENTATION REQUIRED.—The Secretary
11 shall ensure that a separation under subsection (a)(3) is
12 documented in writing and includes, at a minimum, the
13 reason for such separation, together with the stated evi-
14 dence for such separation.

15 **SEC. 9. RECOMMENDATIONS FOR SEPARATIONS BY**
16 **AGENTS OR OFFICERS.**

17 (a) IN GENERAL.—Not later than 180 days after the
18 date of the enactment of this Act, the Secretary, in con-
19 sultation with the Secretary of Health and Human Serv-
20 ices, shall develop training and guidance, with an empha-
21 sis on the best interests of the child, childhood trauma,
22 attachment, and child development, for use by the agents
23 and officers, in order to standardize the implementation
24 of section 8(b)(3).

1 (b) ANNUAL REVIEW.—Not less frequently than an-
2 nually, the Secretary of Health and Human Services shall
3 review the guidance developed under subsection (a) and
4 make recommendations to the Secretary to ensure such
5 guidance is in accordance with current evidence and best
6 practices in child welfare, child development, and child-
7 hood trauma.

8 (c) REQUIREMENT.—The guidance under subsection
9 (a) shall incorporate the presumptions described in section
10 10.

11 (d) ADDITIONAL REQUIREMENTS.—

12 (1) EVIDENCE-BASED.—The guidance and
13 training developed under this section shall incor-
14 porate evidence-based practices.

15 (2) TRAINING REQUIRED.—

16 (A) All agents and officers of designated
17 agencies, upon hire, and annually thereafter,
18 shall complete training on adherence to the
19 guidance under this section.

20 (B) All Chief Patrol Agents and Area Port
21 Directors, upon hire, and annually thereafter,
22 shall complete—

23 (i) training on adherence to the guid-
24 ance under this section; and

1 (ii) 90 minutes of child welfare prac-
2 tice training that is evidence-based and
3 trauma-informed.

4 **SEC. 10. PRESUMPTIONS.**

5 The presumptions described in this Act are the fol-
6 lowing:

7 (1) FAMILY UNITY.—There shall be a strong
8 presumption in favor of family unity.

9 (2) SIBLINGS.—To the maximum extent prac-
10 ticable, the Secretary shall ensure that sibling
11 groups remain intact.

12 **SEC. 11. REQUIRED POLICY FOR LOCATING SEPARATED**
13 **CHILDREN.**

14 (a) IN GENERAL.—Not later than 180 days after the
15 date of the enactment of this Act, the Secretary shall pub-
16 lish final public guidance that describes, with specificity,
17 the manner in which an Asylum Applicant may locate a
18 child they were the parent or legal guardian of that was
19 separated from them prior to the enactment of this Act.
20 In developing the public guidance, the Secretary shall con-
21 sult with the Secretary of Health and Human Services.

22 (b) WRITTEN NOTIFICATION.—The Secretary shall
23 provide each Asylum Applicant who was separated from
24 a child they were the parent or legal guardian of with writ-

1 ten notice of the public guidance to locate the separated
2 child.

3 (c) LANGUAGE ACCESS.—All guidance shall be avail-
4 able in English and Spanish, and at the request of the
5 Asylum Applicant, in the language or manner that is un-
6 derstandable by the Asylum Applicant.

7 **SEC. 12. ANNUAL REPORT ON FAMILY SEPARATION.**

8 Not later than 1 year after the date of the enactment
9 of this Act, and annually thereafter, the Secretary shall
10 submit a report to the committees of jurisdiction that de-
11 scribes each instance in which a child was separated from
12 a parent or legal guardian and includes, for each such in-
13 stance, the following:

14 (1) The relationship of the adult and the child.

15 (2) The age and gender of the adult and child.

16 (3) The length of separation.

17 (4) Whether the adult was charged with a
18 crime, and if the adult was charged with a crime,
19 the type of crime.

20 (5) Whether the adult made a claim for asylum,
21 expressed a fear to return, or applied for other im-
22 migration relief.

23 (6) Whether the adult was prosecuted if
24 charged with a crime and the associated outcome of
25 such charges.

1 (7) The stated reason for, and evidence in sup-
2 port of, the separation.

3 (8) If the child was part of a sibling group at
4 the time of separation, whether the sibling group has
5 had physical contact and visitation.

6 (9) Whether the child was rendered an unac-
7 panied alien child.

8 (10) Other information in the Secretary's dis-
9 cretion.

10 **SEC. 13. CLARIFICATION OF PARENTAL RIGHTS.**

11 If a child is separated from a parent or legal guard-
12 ian, and a State court has not made a determination that
13 the parental rights have been terminated, there is a pre-
14 sumption that—

15 (1) the parental rights remain intact; and

16 (2) the separation does not constitute an af-
17 firmative determination of abuse or neglect under
18 Federal or State law.

19 **SEC. 14. CLARIFICATION OF EXISTING LAW.**

20 (a) Nothing in this Act shall be interpreted to super-
21 sede or modify Federal child welfare law, where applicable,
22 including the Adoption and Safe Families Act of 1997
23 (Public Law 105–89).

24 (b) Nothing in this Act shall be interpreted to super-
25 sede or modify State child welfare laws where applicable.

1 (c) Nothing in this Act shall be interpreted to grant
2 any due process rights to any individual who entered this
3 country illegally.

4 (d) Nothing in this act shall alter how an unaccom-
5 panied alien under the age of eighteen is treated under
6 existing law.

7 **SEC. 15. GAO REPORT ON PROSECUTION OF ASYLUM SEEK-**
8 **ERS.**

9 (a) STUDY.—The Comptroller General of the United
10 States shall conduct a study of the prosecution of asylum
11 seekers during the period beginning on January 1, 2008
12 and ending on December 31, 2018, including—

13 (1) the total number of persons who claimed a
14 fear of persecution, received a favorable credible fear
15 determination, and were referred for prosecution;

16 (2) an overview and analysis of the metrics
17 used by the Department of Homeland Security and
18 the Department of Justice to track the number of
19 asylum seekers referred for prosecution;

20 (3) the total number of asylum seekers referred
21 for prosecution, a breakdown and description of the
22 criminal charges filed against asylum seekers during
23 such period, and a breakdown and description of the
24 convictions secured;

1 (4) the total number of asylum seekers who
2 were separated from their children as a result of
3 being referred for prosecution;

4 (5) a breakdown of the resources spent on pros-
5 ecuting asylum seekers during such period, as well
6 as any diversion of resources required to prosecute
7 asylum seekers, and any costs imposed on States
8 and localities;

9 (6) the total number of asylum seekers who
10 were referred for prosecution and also went through
11 immigration proceedings; and

12 (7) the total number of asylum seekers referred
13 for prosecution who were deported before going
14 through immigration proceedings.

15 (b) REPORT.—Not later than 1 year after the date
16 of the enactment of this Act, the Comptroller General shall
17 submit to Congress a report that describes the results of
18 the study conducted pursuant to subsection (a).

19 **SEC. 16. DEFINITIONS.**

20 In this Act:

21 (1) AGENT; OFFICER.—The terms “agent” and
22 “officer” include contractors of the Federal Govern-
23 ment.

24 (2) ASYLUM APPLICANT.—The term “Asylum
25 Applicant” means an alien who (a) has no perma-

1 nent immigration status; (b) is detained by the
2 United States government at or near a port of entry
3 or within 100 miles of the border of the United
4 States while having custody of and being in the pres-
5 ence of a child for whom the alien is a parent or
6 legal guardian; and (c) seeks, within 48 hours of de-
7 tention, asylum pursuant to section 208 of the Im-
8 migration and Nationality Act, withholding of re-
9 moval pursuant to section 241(b)(3) of the Immigra-
10 tion and Nationality Act, or withholding of removal
11 pursuant to the Convention Against Torture.

12 (3) ASYLUM APPLICATION.—The term “asylum
13 application” means an application for asylum pursu-
14 ant to section 208 of the Immigration and Nation-
15 ality Act, an application for withholding of removal
16 under section 241(b)(3) of the Immigration and Na-
17 tionality Act, and/or an application for withholding
18 of removal pursuant to the Convention Against Tor-
19 ture.

20 (4) CHILD.—The term “child” means an indi-
21 vidual who—

22 (A) has not reached the age of 18;

23 (B) has no permanent immigration status;

24 and

1 (C) was in the custody and presence of a
2 parent or legal guardian when the parent or
3 legal guardian was detained for illegally enter-
4 ing into the United States at or near a port of
5 entry or within 100 miles of the border of the
6 United States.

7 (5) COMMITTEES OF JURISDICTION.—The term
8 “committees of jurisdiction” means—

9 (A) the Committee on the Judiciary and
10 the Committee on Health, Education, Labor,
11 and Pensions of the Senate; and

12 (B) the Committee on the Judiciary of the
13 House of Representatives.

14 (6) DANGER OF ABUSE OR NEGLECT AT THE
15 HANDS OF THE PARENT OR LEGAL GUARDIAN.—The
16 term “danger of abuse or neglect at the hands of the
17 parent or legal guardian” shall not mean migrating
18 to or crossing the United States border.

19 (7) DESIGNATED AGENCY.—The term “des-
20 ignated agency” means—

21 (A) the Department of Homeland Security;

22 (B) the Department of Justice; and

23 (C) the Department of Health and Human
24 Services.

1 (8) SECRETARY.—Unless otherwise specified,
2 the term “Secretary” means the Secretary of Home-
3 land Security.

○