

116TH CONGRESS
2D SESSION

H. R. 8008

To prohibit the use of for-profit facilities and detention centers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 11, 2020

Mr. GRIJALVA (for himself, Mr. RUSH, Mr. SERRANO, Mrs. NAPOLITANO, Ms. SCHAKOWSKY, Mr. MCGOVERN, Ms. LEE of California, Mr. BLUMENAUER, Ms. MENG, Mr. GALLEG0, Mr. WELCH, Ms. NORTON, Mr. GARCÍA of Illinois, Mr. JOHNSON of Georgia, Mr. KENNEDY, Mr. ESPAILLAT, Ms. VELÁZQUEZ, Mr. CARSON of Indiana, and Mr. VARGAS) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, Financial Services, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit the use of for-profit facilities and detention centers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Justice is Not For
5 Sale Act of 2020”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act—

3 (1) the term “core correctional services” means
4 the housing, transporting, safeguarding, protecting,
5 and disciplining of individuals—

6 (A) charged with or convicted of an of-
7 fense; or

8 (B) who are in custody for purposes of en-
9 forcing the immigration laws, as defined in sec-
10 tion 101(a) of the Immigration and Nationality
11 Act (8 U.S.C. 1101(a));

12 (2) the term “local government” means a city,
13 county, township, town, borough, parish, village, or
14 other general purpose political subdivision of a
15 State;

16 (3) the term “State” means a State of the
17 United States, the District of Columbia, the Com-
18 monwealth of Puerto Rico, or another common-
19 wealth, territory, or possession of the United States;
20 and

21 (4) the term “facility housing adult prisoners or
22 detainees in the custody of a State or local govern-
23 ment” includes for-profit civil commitment centers,
24 return to custody units, community corrections and
25 treatment centers, halfway houses and re-entry pro-
26 grams, restitution or day reporting centers, transi-

1 tional centers, mental health facilities, or other fa-
2 cilities or programs that are under contract with a
3 government entity to provide custody, control, super-
4 vision, treatment, and rehabilitation of prisoners or
5 detainees.

6 **SEC. 3. ELIMINATION OF FEDERAL CONTRACTS FOR PRI-**
7 **VATELY RUN PRISONS WITHIN 2 YEARS.**

8 (a) OPERATIONAL CONTROL.—Except as provided in
9 subsection (b), not later than 2 years after the date of
10 enactment of this Act—

11 (1) each facility housing adult prisoners or de-
12 tainees in the custody of the Federal Government
13 shall be under the direct, operational control of the
14 Federal Government; and

15 (2) core correctional services at each such facil-
16 ity shall be performed by employees of the Federal
17 Government.

18 (b) WAIVER AUTHORIZED.—If the Attorney General
19 determines that the Federal Government is unable to com-
20 ply with subsection (a) by the date that is 2 years after
21 the date of enactment of this Act, the Attorney General
22 may waive the application of subsection (a) for not more
23 than 1 year.

24 (c) ELECTRONIC MONITORING OF RELEASED PER-
25 SONS.—Electronic monitoring of the location of a person

1 released from the custody of the Federal Government may
2 be conducted only by a public entity under the supervision
3 and control of the Federal Government or a non-profit en-
4 tity that has a contract with the Federal Government to
5 perform such monitoring.

6 **SEC. 4. PROHIBITION ON PRIVATE FOR-PROFIT ENTITIES**
7 **RUNNING STATE AND LOCAL PRISONS OR DE-**
8 **TENTION ALTERNATIVES AFTER 2 YEARS.**

9 (a) OPERATIONAL CONTROL.—Except as provided in
10 subsection (b), on and after the date that is 2 years after
11 the date of enactment of this Act—

12 (1) no private for-profit entity engaged in or af-
13 fecting interstate commerce shall own or have direct,
14 operational control over a facility housing adult pris-
15 oners or detainees in the custody of the State or
16 local government; and

17 (2) no private for-profit entity engaged in or af-
18 fecting interstate commerce shall perform core cor-
19 rectional services at such a facility.

20 (b) WAIVER AUTHORIZED.—If the Attorney General
21 determines that a State or local government requires serv-
22 ices from a private for-profit entity that are described in
23 subsection (a) after the date that is 2 years after the date
24 of enactment of this Act, the Attorney General may waive

1 the application of subsection (a) as to that private for-
2 profit entity for not more than 1 year.

3 (c) ELECTRONIC MONITORING OF RELEASED PER-
4 SONS.—No private for-profit entity engaged in or affecting
5 interstate commerce may operate electronic monitoring of
6 the location of a person released from the custody of a
7 State or local government.

8 (d) ENFORCEMENT.—The Attorney General may
9 bring a civil action in an appropriate district court of the
10 United States for such declaratory or injunctive relief as
11 is necessary to carry out this section.

12 **SEC. 5. CFPB OVERSIGHT OF PROVIDERS OF MONEY**
13 **TRANSFER SERVICES FOR CORRECTIONAL**
14 **AND IMMIGRATION DETENTION FACILITIES.**

15 (a) DEFINITIONS.—In this section—

16 (1) the term “Bureau” means the Bureau of
17 Consumer Financial Protection;

18 (2) the term “correctional facility” means a jail,
19 prison, or other detention facility used to house peo-
20 ple who have been arrested, detained, held, or con-
21 victed by a criminal justice agency or a court;

22 (3) the term “covered inmate” means—

23 (A) an individual who is being held, de-
24 tained, or incarcerated in a correctional facility;
25 and

1 (B) an individual who is being held in an
2 immigration detention facility;

3 (4) the term “covered provider” means a pro-
4 vider of a service, including a money transfer serv-
5 ice, that—

6 (A) facilitates the electronic transfer of
7 funds from an individual who is not a covered
8 inmate to a covered inmate;

9 (B) provides a payment to a covered in-
10 mate who is being released from a correctional
11 facility or an immigration detention facility; or

12 (C) provides a payment on behalf of a cov-
13 ered inmate; and

14 (5) the term “immigration detention facility”
15 means a Federal, State, or local government facility,
16 or a privately owned and operated facility, that is
17 used, in whole or in part, to hold individuals under
18 the authority of the Director of U.S. Immigration
19 and Customs Enforcement, including facilities that
20 hold such individuals under a contract or agreement
21 with the Department of Homeland Security.

22 (b) REASONABLE AND PROPORTIONAL FEE OR
23 CHARGE.—The amount of any fee or charge that a cov-
24 ered provider may impose with respect to a service de-
25 scribed in subparagraph (A), (B), or (C) of subsection

1 (a)(4) shall be reasonable and proportional to the relative
2 cost or value of the service.

3 (c) REQUIREMENT TO ISSUE REGULATIONS.—

4 (1) IN GENERAL.—Not later than 3 years after
5 the date of enactment of this Act, the Bureau shall
6 issue final rules to establish standards for assessing
7 whether the amount of any fee or charge described
8 in subsection (b) is reasonable and proportional to
9 the relative cost or value of the service provided by
10 a covered provider.

11 (2) CONSIDERATIONS.—In issuing the final
12 rules under paragraph (1), the Bureau shall con-
13 sider—

14 (A) whether there are alternative means
15 for transferring funds into correctional facilities
16 and immigration detention facilities;

17 (B) whether those alternatives can reason-
18 ably be considered comparable;

19 (C) differing cost structures for transfer-
20 ring funds into correctional facilities and immi-
21 gration detention facilities; and

22 (D) such other factors as the Bureau may
23 determine necessary or appropriate.

24 (3) DIFFERENTIATION PERMITTED.—In issuing
25 the final rules under paragraph (1), the Bureau may

1 establish different standards for different types of
 2 fees and charges, as appropriate.

3 **SEC. 6. REQUIREMENTS FOR CONFINEMENT FACILITY**
 4 **COMMUNICATIONS SERVICES.**

5 (a) IN GENERAL.—Section 276 of the Communica-
 6 tions Act of 1934 (47 U.S.C. 276) is amended by adding
 7 at the end the following:

8 “(e) ADDITIONAL REQUIREMENTS FOR CONFINEMENT FACILITY COMMUNICATIONS SERVICES.—

10 “(1) AUTHORITY.—

11 “(A) IN GENERAL.—All charges, practices,
 12 classifications, and regulations for and in con-
 13 nection with confinement facility communica-
 14 tions services shall be just and reasonable, and
 15 any such charge, practice, classification, or reg-
 16 ulation that is unjust or unreasonable is de-
 17 clared to be unlawful.

18 “(B) RULEMAKING REQUIRED.—Not later
 19 than 18 months after the date of the enactment
 20 of this subsection, the Commission shall issue
 21 rules to adopt, for the provision of confinement
 22 facility communications services, rates and an-
 23 cillary service charges that are just and reason-
 24 able, which shall be the maximum such rates
 25 and charges that a provider of confinement fa-

1 cility communications services may charge for
2 such services. In determining rates and charges
3 that are just and reasonable, the Commission
4 shall adopt such rates and charges based on the
5 average industry costs of providing such serv-
6 ices using data collected from providers of con-
7 finement facility communications services.

8 “(C) BIENNIAL REVIEW.—Not less fre-
9 quently than every 2 years following the
10 issuance of rules under subparagraph (B), the
11 Commission shall—

12 “(i) determine whether the rates and
13 ancillary service charges authorized by the
14 rules issued under such subparagraph re-
15 main just and reasonable; and

16 “(ii) if the Commission determines
17 under clause (i) that any such rate or
18 charge does not remain just and reason-
19 able, revise such rules so that such rate or
20 charge is just and reasonable.

21 “(2) INTERIM RATE CAPS.—Until the Commis-
22 sion issues the rules required by paragraph (1)(B),
23 a provider of confinement facility communications
24 services may not charge a rate for any voice service

1 communication using confinement facility commu-
2 nications services that exceeds the following:

3 “(A) For debit calling or prepaid calling,
4 \$0.04 per minute.

5 “(B) For collect calling, \$0.05 per minute.

6 “(3) ASSESSMENT ON PER-MINUTE BASIS.—Ex-
7 cept as provided in paragraph (4), a provider of con-
8 finement facility communications services—

9 “(A) shall assess all charges for a commu-
10 nication using such services on a per-minute
11 basis for the actual duration of the communica-
12 tion, measured from communication acceptance
13 to termination, rounded up to the next full
14 minute, except in the case of charges for serv-
15 ices that the confinement facility offers free of
16 charge or for amounts below the amounts per-
17 mitted under this subsection; and

18 “(B) may not charge a per-communication
19 or per-connection charge for a communication
20 using such services.

21 “(4) ANCILLARY SERVICE CHARGES.—

22 “(A) GENERAL PROHIBITION.—A provider
23 of confinement facility communications services
24 may not charge an ancillary service charge
25 other than—

1 “(i) if the Commission has not yet
2 issued the rules required by paragraph
3 (1)(B), a charge listed in subparagraph
4 (B) of this paragraph; or

5 “(ii) a charge authorized by the rules
6 adopted by the Commission under para-
7 graph (1).

8 “(B) PERMITTED CHARGES AND RATES.—
9 If the Commission has not yet issued the rules
10 required by paragraph (1)(B), a provider of
11 confinement facility communications services
12 may not charge a rate for an ancillary service
13 charge in excess of the following:

14 “(i) In the case of an automated pay-
15 ment fee, 2.9 percent of the total charge
16 on which the fee is assessed.

17 “(ii) In the case of a fee for single-call
18 and related services, the exact transaction
19 fee charged by the third-party provider,
20 with no markup.

21 “(iii) In the case of a live agent fee,
22 \$5.95 per use.

23 “(iv) In the case of a paper bill or
24 statement fee, \$2 per use.

1 “(v) In the case of a third-party fi-
2 nancial transaction fee, the exact fee, with
3 no markup, charged by the third party for
4 the transaction.

5 “(5) PROHIBITION ON SITE COMMISSIONS.—A
6 provider of confinement facility communications
7 services may not assess a site commission.

8 “(6) RELATIONSHIP TO STATE LAW.—A State
9 or political subdivision of a State may not enforce
10 any law, rule, regulation, standard, or other provi-
11 sion having the force or effect of law relating to con-
12 finement facility communications services that allows
13 for higher rates or other charges to be assessed for
14 such services than is permitted under any Federal
15 law or regulation relating to confinement facility
16 communications services.

17 “(7) DEFINITIONS.—In this subsection:

18 “(A) ANCILLARY SERVICE CHARGE.—The
19 term ‘ancillary service charge’ means any
20 charge a consumer may be assessed for the set-
21 ting up or use of a confinement facility commu-
22 nications service that is not included in the per-
23 minute charges assessed for individual commu-
24 nications.

1 “(B) AUTOMATED PAYMENT FEE.—The
2 term ‘automated payment fee’ means a credit
3 card payment, debit card payment, or bill proc-
4 essing fee, including a fee for a payment made
5 by means of interactive voice response, the
6 internet, or a kiosk.

7 “(C) COLLECT CALLING.—The term ‘col-
8 lect calling’ means an arrangement whereby a
9 credit-qualified party agrees to pay for charges
10 associated with a communication made to such
11 party using confinement facility communica-
12 tions services and originating from within a
13 confinement facility.

14 “(D) CONFINEMENT FACILITY.—The term
15 ‘confinement facility’—

16 “(i) means a jail or a prison; and

17 “(ii) includes any juvenile, detention,
18 work release, or mental health facility that
19 is used primarily to hold individuals who
20 are—

21 “(I) awaiting adjudication of
22 criminal charges or an immigration
23 matter; or

24 “(II) serving a sentence for a
25 criminal conviction.

1 “(E) CONFINEMENT FACILITY COMMU-
2 NICATIONS SERVICE.—The term ‘confinement
3 facility communications service’ means a service
4 that allows incarcerated persons to make elec-
5 tronic communications (whether intrastate,
6 interstate, or international and whether made
7 using video, audio, or any other communicative
8 method, including advanced communications
9 services) to individuals outside the confinement
10 facility, or to individuals inside the confinement
11 facility, where the incarcerated person is being
12 held, regardless of the technology used to de-
13 liver the service.

14 “(F) CONSUMER.—The term ‘consumer’
15 means the party paying a provider of confine-
16 ment facility communications services.

17 “(G) DEBIT CALLING.—The term ‘debit
18 calling’ means a presubscription or comparable
19 service which allows an incarcerated person, or
20 someone acting on an incarcerated person’s be-
21 half, to fund an account set up through a pro-
22 vider that can be used to pay for confinement
23 facility communications services originated by
24 the incarcerated person.

1 “(H) FEE FOR SINGLE-CALL AND RE-
2 LATED SERVICES.—The term ‘fee for single-call
3 and related services’ means a billing arrange-
4 ment whereby communications made by an in-
5 carcerated person using collect calling are billed
6 through a third party on a per-communication
7 basis, where the recipient does not have an ac-
8 count with the provider of confinement facility
9 communications services.

10 “(I) INCARCERATED PERSON.—The term
11 ‘incarcerated person’ means a person detained
12 at a confinement facility, regardless of the du-
13 ration of the detention.

14 “(J) JAIL.—The term ‘jail’—

15 “(i) means a facility of a law enforce-
16 ment agency of the Federal Government or
17 of a State or political subdivision of a
18 State that is used primarily to hold indi-
19 viduals who are—

20 “(I) awaiting adjudication of
21 criminal charges;

22 “(II) post-conviction and com-
23 mitted to confinement for sentences of
24 one year or less; or

1 “(III) post-conviction and await-
2 ing transfer to another facility; and

3 “(ii) includes—

4 “(I) city, county, or regional fa-
5 cilities that have contracted with a
6 private company to manage day-to-
7 day operations;

8 “(II) privately-owned and oper-
9 ated facilities primarily engaged in
10 housing city, county, or regional in-
11 carcerated persons; and

12 “(III) facilities used to detain in-
13 dividuals pursuant to a contract with
14 U.S. Immigration and Customs En-
15 forcement.

16 “(K) LIVE AGENT FEE.—The term ‘live
17 agent fee’ means a fee associated with the op-
18 tional use of a live operator to complete a con-
19 finement facility communications service trans-
20 action.

21 “(L) PAPER BILL OR STATEMENT FEE.—
22 The term ‘paper bill or statement fee’ means a
23 fee associated with providing a consumer an op-
24 tional paper billing statement.

1 “(M) PER-COMMUNICATION OR PER-CON-
2 NECTION CHARGE.—The term ‘per-communica-
3 tion or per-connection charge’ means a one-time
4 fee charged to a consumer at the initiation of
5 a communication.

6 “(N) PREPAID CALLING.—The term ‘pre-
7 paid calling’ means a calling arrangement that
8 allows a consumer to pay in advance for a spec-
9 ified amount of confinement facility commu-
10 nications services.

11 “(O) PRISON.—The term ‘prison’—

12 “(i) means a facility operated by a
13 State or Federal agency that is used pri-
14 marily to confine individuals convicted of
15 felonies and sentenced to terms in excess
16 of one year; and

17 “(ii) includes—

18 “(I) public and private facilities
19 that provide outsource housing to
20 State or Federal agencies such as
21 State Departments of Correction and
22 the Federal Bureau of Prisons; and

23 “(II) facilities that would other-
24 wise be jails but in which the majority
25 of incarcerated persons are post-con-

1 viction or are committed to confine-
2 ment for sentences of longer than one
3 year.

4 “(P) PROVIDER OF CONFINEMENT FACIL-
5 ITY COMMUNICATIONS SERVICES.—The term
6 ‘provider of confinement facility communica-
7 tions services’ means any communications serv-
8 ice provider that provides confinement facility
9 communications services, regardless of the tech-
10 nology used.

11 “(Q) SITE COMMISSION.—The term ‘site
12 commission’ means any monetary payment, in-
13 kind payment, gift, exchange of services or
14 goods, fee, technology allowance, or product
15 that a provider of confinement facility commu-
16 nications services or an affiliate of a provider of
17 confinement facility communications services
18 may pay, give, donate, or otherwise provide
19 to—

20 “(i) an entity that operates a confine-
21 ment facility;

22 “(ii) an entity with which the provider
23 of confinement facility communications
24 services enters into an agreement to pro-

1 vide confinement facility communications
2 services;

3 “(iii) a governmental agency that
4 oversees a confinement facility;

5 “(iv) the State or political subdivision
6 of a State where a confinement facility is
7 located; or

8 “(v) an agent or other representative
9 of an entity described in any of clauses (i)
10 through (iv).

11 “(R) THIRD-PARTY FINANCIAL TRANS-
12 ACTION FEE.—The term ‘third-party financial
13 transaction fee’ means the exact fee, with no
14 markup, that a provider of confinement facility
15 communications services is charged by a third
16 party to transfer money or process a financial
17 transaction to facilitate the ability of a con-
18 sumer to make an account payment via a third
19 party.

20 “(S) VOICE SERVICE.—The term ‘voice
21 service’—

22 “(i) means any service that is inter-
23 connected with the public switched tele-
24 phone network and that furnishes voice
25 communications to an end user using re-

1 sources from the North American Num-
2 bering Plan or any successor to the North
3 American Numbering Plan adopted by the
4 Commission under section 251(e)(1); and

5 “(ii) includes—

6 “(I) transmissions from a tele-
7 phone facsimile machine, computer, or
8 other device to a telephone facsimile
9 machine; and

10 “(II) without limitation, any
11 service that enables real-time, two-way
12 voice communications, including any
13 service that requires internet protocol-
14 compatible customer premises equip-
15 ment (commonly known as ‘CPE’)
16 and permits out-bound calling, wheth-
17 er or not the service is one-way or
18 two-way voice over internet protocol.”.

19 (b) CONFORMING AMENDMENT.—Section 276(d) of
20 the Communications Act of 1934 (47 U.S.C. 276(d)) is
21 amended by striking “inmate telephone service in correc-
22 tional institutions” and inserting “confinement facility
23 communications services (as defined in subsection
24 (e)(7))”.

25 (c) EXISTING CONTRACTS.—

1 (1) IN GENERAL.—In the case of a contract
2 that was entered into and under which a provider of
3 confinement facility communications services was
4 providing such services at a confinement facility on
5 or before the date of the enactment of this Act—

6 (A) paragraphs (1) through (5) of sub-
7 section (e) of section 276 of the Communica-
8 tions Act of 1934, as added by subsection (a)
9 of this section, shall apply to the provision of
10 confinement facility communications services by
11 such provider at such facility beginning on the
12 earlier of—

13 (i) the date that is 60 days after such
14 date of enactment; or

15 (ii) the date of the termination of the
16 contract; and

17 (B) the terms of such contract may not be
18 extended after such date of enactment, whether
19 by exercise of an option or otherwise.

20 (2) DEFINITIONS.—In this subsection, the
21 terms “confinement facility”, “confinement facility
22 communications service”, and “provider of confine-
23 ment facility communications services” have the
24 meanings given such terms in paragraph (7) of sub-
25 section (e) of section 276 of the Communications

1 Act of 1934, as added by subsection (a) of this sec-
2 tion.

3 (d) **AUTHORITY.**—Section 2(b) of the Communica-
4 tions Act of 1934 (47 U.S.C. 152(b)) is amended by in-
5 serting “section 276,” after “227, inclusive,”.

6 **SEC. 7. OVERSIGHT OF DETENTION FACILITIES.**

7 (a) **DEFINITIONS.**—In this section:

8 (1) **APPLICABLE STANDARDS.**—The term “ap-
9 plicable standards” means the most recent version of
10 detention standards and detention-related policies
11 issued by the Secretary of Homeland Security or the
12 Director of U.S. Immigration and Customs Enforce-
13 ment.

14 (2) **DETENTION FACILITY.**—The term “deten-
15 tion facility” means a Federal, State, or local gov-
16 ernment facility, or a privately owned and operated
17 facility, that is used, in whole or in part, to hold in-
18 dividuals under the authority of the Director of U.S.
19 Immigration and Customs Enforcement, including
20 facilities that hold such individuals under a contract
21 or agreement with the Department of Homeland Se-
22 curity.

23 (b) **DETENTION REQUIREMENTS.**—The Secretary of
24 Homeland Security shall ensure that all persons detained
25 pursuant to the Immigration and Nationality Act (8

1 U.S.C. 1101 et seq.) are treated humanely and benefit
2 from the protections set forth in this section.

3 (c) OVERSIGHT REQUIREMENTS.—

4 (1) ANNUAL INSPECTION.—All detention facili-
5 ties housing noncitizens in the custody of the De-
6 partment of Homeland Security shall be inspected,
7 for compliance with applicable detention standards
8 issued by the Secretary and other applicable regula-
9 tions, by—

10 (A) the Immigration Detention Ombuds-
11 man at least biannually; and

12 (B) an independent, third-party auditor at
13 least biannually.

14 (2) ROUTINE OVERSIGHT.—In addition to the
15 inspections required under paragraph (1), the Sec-
16 retary shall conduct routine oversight of the deten-
17 tion facilities described in paragraph (1), including
18 unannounced inspections.

19 (3) AVAILABILITY OF RECORDS.—All detention
20 facility contracts, memoranda of agreement, audits,
21 inspections, evaluations and reviews, include those
22 conducted by the Office for Civil Rights and Civil
23 Liberties and the Office of Inspector General of the
24 Department of Homeland Security, shall be consid-

1 ered records for purposes of section 552(f)(2) of title
2 5, United States Code.

3 (4) CONSULTATION.—The Secretary shall seek
4 input from nongovernmental organizations regarding
5 their independent opinion of specific facilities.

6 (5) REPORT OF IMMIGRATION DETENTION OM-
7 BUDSMAN.—The Immigration Detention Ombuds-
8 man shall submit a report to Congress on a bi-an-
9 nual basis on its activities, findings, and rec-
10 ommendations, based on the inspections conducted
11 under paragraph (1), including a copy of any com-
12 plaint form or mechanism created, the number and
13 types of complaints received, the number of com-
14 plaints investigated, and the number of inspections
15 under paragraph (1) that the Ombudsman con-
16 ducted during the previous 6-month period, includ-
17 ing any unannounced inspections.

18 (d) COMPLIANCE MECHANISMS.—

19 (1) AGREEMENTS.—

20 (A) NEW AGREEMENTS.—Compliance with
21 applicable standards of the Secretary of Home-
22 land Security and all applicable regulations, and
23 meaningful financial penalties for failure to
24 comply, shall be a material term in any new
25 contract, memorandum of agreement, or any re-

1 negotiation, modification, or renewal of an ex-
2 isting contract or agreement, including fee ne-
3 gotiations, executed with detention facilities.

4 (B) EXISTING AGREEMENTS.—Not later
5 than 180 days after the date of the enactment
6 of this Act, the Secretary shall secure a modi-
7 fication incorporating these terms for any exist-
8 ing contracts or agreements that will not be re-
9 negotiated, renewed, or otherwise modified.

10 (C) CANCELLATION OF AGREEMENTS.—
11 Unless the Secretary provides a reasonable ex-
12 tension to a specific detention facility that is
13 negotiating in good faith, contracts or agree-
14 ments with detention facilities that are not
15 modified within 1 year of the date of the enact-
16 ment of this Act will be cancelled.

17 (D) PROVISION OF INFORMATION.—In
18 making modifications under this paragraph, the
19 Secretary shall require that detention facilities
20 provide to the Secretary all contracts, memo-
21 randa of agreement, evaluations, and reviews
22 regarding the facility on a regular basis. The
23 Secretary shall make these materials publicly
24 available on a timely and regular basis.

25 (2) FINANCIAL PENALTIES.—

1 (A) REQUIREMENT TO IMPOSE.—Subject
2 to subparagraph (C), the Secretary shall impose
3 meaningful financial penalties upon facilities
4 that fail to comply with applicable detention
5 standards issued by the Secretary and other ap-
6 plicable regulations.

7 (B) TIMING OF IMPOSITION.—Financial
8 penalties imposed under subparagraph (A) shall
9 be imposed immediately after a facility fails to
10 achieve an adequate or the equivalent median
11 score in any performance evaluation.

12 (C) WAIVER.—The requirements of sub-
13 paragraph (A) may be waived if the facility cor-
14 rects the noted deficiencies and receives an ade-
15 quate score in not more than 90 days.

16 (D) MULTIPLE OFFENDERS.—If the Sec-
17 retary determines that a facility has been per-
18 >sistently and substantially violating the deten-
19 tion standards issued by the Secretary, includ-
20 ing by scoring less than adequate or the equiva-
21 lent median score in 2 consecutive inspections—

22 (i) the Secretary shall terminate con-
23 tracts or agreements with such facilities
24 within 60 days; or

1 (ii) in the case of facilities operated by
2 the Secretary, the Secretary shall close
3 such facilities within 90 days.

4 (e) REPORTING REQUIREMENTS.—

5 (1) OBJECTIVES.—Not later than June 30 of
6 each year, the Secretary of Homeland Security shall
7 submit a report to the Committee on the Judiciary
8 of the Senate and the Committee on the Judiciary
9 of the House of Representatives that describes the
10 inspection and oversight activities at detention facili-
11 ties.

12 (2) CONTENTS.—Each report submitted under
13 paragraph (1) shall include—

14 (A) a description of each detention facility
15 found to be in noncompliance with applicable
16 detention standards issued by the Department
17 of Homeland Security and other applicable reg-
18 ulations;

19 (B) a description of the actions taken by
20 the Department to remedy any findings of non-
21 compliance or other identified problems, includ-
22 ing financial penalties, contract or agreement
23 termination, or facility closure; and

24 (C) information regarding whether the ac-
25 tions described in subparagraph (B) resulted in

1 compliance with applicable detention standards
2 and regulations.

3 **SEC. 8. REPLACEMENT OF FAMILY DETENTION WITH AL-**
4 **TERNATIVES.**

5 Section 236 of the Immigration and Nationality Act
6 (8 U.S.C. 1226) is amended by adding at the end the fol-
7 lowing:

8 “(f) PROHIBITION ON DETENTION OF FAMILIES.—

9 “(1) PROHIBITION.—Notwithstanding any other
10 provision of this Act, the Secretary of Homeland Se-
11 curity is prohibited from—

12 “(A) detaining a family unit under the au-
13 thority of this section; or

14 “(B) separating a family unit whose mem-
15 bers were apprehended together in order to de-
16 tain a family member under this section.

17 “(2) ALTERNATIVES TO DETENTION.—

18 “(A) IN GENERAL.—The Secretary of
19 Homeland Security shall establish community-
20 based and community-supported case manage-
21 ment programs operated by nonprofit organiza-
22 tions for family units who are prohibited from
23 being detained pursuant to paragraph (1).

24 “(B) PROHIBITION ON CERTAIN ALTER-
25 NATIVES.—The Secretary may not use an

1 ankle-worn or other GPS tracking device as an
2 alternative to detention under this paragraph.”.

3 **SEC. 9. PRIVATE RIGHT OF ACTION.**

4 (a) IN GENERAL.—A person aggrieved of any viola-
5 tion of this Act or an amendment made by this Act may
6 bring a civil action in an appropriate district court of the
7 United States.

8 (b) RELIEF.—For a prevailing plaintiff in a civil ac-
9 tion brought under subsection (a), the court—

10 (1) shall award damages in the amount equal to
11 the greater of—

12 (A) the actual damages of the plaintiff; or

13 (B) \$1,000 for each violation of this Act or
14 an amendment made by this Act;

15 (2) may order injunctive relief; and

16 (3) shall award reasonable attorney fees.

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