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2D SESSION

S. 3702

To provide standards for facilities at which aliens in the custody of the Department of Homeland Security are detained, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 27, 2026

Mr. BOOKER (for himself, Ms. WARREN, Mr. WELCH, Mr. MARKEY, Mr. SANDERS, Mrs. MURRAY, Mr. PADILLA, Mr. KIM, Mr. WYDEN, Ms. DUCKWORTH, and Mr. SCHIFF) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide standards for facilities at which aliens in the custody of the Department of Homeland Security are detained, 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 “Dignity for Detained
5 Immigrants Act”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that detention, even for
8 a short period of time, inflicts severe, irreparable harm
9 on children and should be avoided.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) APPROPRIATE COMMITTEES OF CON-
4 GRESS.—The term “appropriate committees of Con-
5 gress” means—

6 (A) the Committee on the Judiciary of the
7 Senate;

8 (B) the Committee on Homeland Security
9 and Governmental Affairs of the Senate;

10 (C) the Committee on the Judiciary of the
11 House of Representatives; and

12 (D) the Committee on Homeland Security
13 of the House of Representatives.

14 (2) DEPARTMENT.—The term “Department”
15 means the Department of Homeland Security.

16 (3) INSPECTOR GENERAL.—The term “Inspec-
17 tor General” means the Inspector General of the De-
18 partment of Homeland Security.

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

21 **SEC. 4. STANDARDS FOR DEPARTMENT OF HOMELAND SE-**
22 **CURITY DETENTION FACILITIES.**

23 (a) RULEMAKING.—Not later than 1 year after the
24 date of the enactment of this Act, the Secretary, by regu-
25 lation, shall establish detention standards for each facility

1 at which aliens in the custody of the Department are de-
2 tained.

3 (b) **MINIMUM PROTECTION.**—The standards estab-
4 lished pursuant to subsection (a) shall provide, at a min-
5 imum, the level of protection for detainees described in
6 the American Bar Association’s Civil Immigration Deten-
7 tion Standards (adopted in August 2012 and modified in
8 August 2014).

9 (c) **BIENNIAL UPDATES.**—Not less frequently than
10 biennially, the Secretary shall review and update the
11 standards established pursuant to subsection (a), as ap-
12 propriate.

13 **SEC. 5. OVERSIGHT AND TRANSPARENCY.**

14 (a) **PERIODIC INSPECTIONS.**—

15 (1) **IN GENERAL.**—On a periodic basis, not less
16 frequently than annually, the Inspector General shall
17 conduct an unannounced, in-person inspection of
18 each facility at which aliens in the custody of the
19 Department are being detained to ensure that each
20 such facility is in compliance with the standards es-
21 tablished pursuant to section 4.

22 (2) **REPORT.**—Not later than 60 days after
23 conducting each inspection pursuant to paragraph
24 (1), the Inspector General shall—

1 (A) submit a report to the Secretary con-
2 taining the results of such inspection; and

3 (B) post such report to the public on an
4 internet website of the Department.

5 (3) FAILURE TO COMPLY WITH STANDARDS.—

6 (A) INITIAL FAILURE.—

7 (i) IN GENERAL.—If the Inspector
8 General determines that a facility has
9 failed to comply with the standards estab-
10 lished pursuant to section 4 for the first
11 time during any 2-year period, and such
12 noncompliance constitutes a deficiency that
13 threatens the health, safety, or rights of
14 any detainees housed at such facility—

15 (I) the Inspector General shall
16 notify the Secretary of such deter-
17 mination; and

18 (II) the Secretary—

19 (aa) in the case of a facility
20 not owned by the Department,
21 shall impose a meaningful fine of
22 not less than 10 percent of the
23 value of the contract with the fa-
24 cility; and

1 (bb) in the case of a facility
2 owned by the Department—

3 (AA) shall issue a writ-
4 ten warning to the facility
5 not later than 30 days after
6 receiving such notification
7 from the Inspector General,
8 which shall include remedial
9 measures to be carried out
10 not later than 60 days after
11 the issuance of such warn-
12 ing; and

13 (BB) not later than 60
14 days after the issuance of
15 the warning described in
16 subitem (AA), shall certify
17 to the Inspector General
18 that the remedial measures
19 have been carried out.

20 (ii) FOLLOW-UP INSPECTION.—Not
21 later than 180 days after the date on
22 which the Inspector General makes a noti-
23 fication pursuant to clause (i)(I), the In-
24 spector General shall conduct an in-person
25 inspection of the facility to determine

1 whether the facility has achieved compli-
2 ance with the standards established pursu-
3 ant to section 4.

4 (B) SUBSEQUENT FAILURES.—If the In-
5 specter General determines that a facility has
6 failed to comply with the standards established
7 pursuant to section 4 in 2 or more inspections
8 conducted pursuant to paragraph (1) during
9 any 2-year period, and such noncompliance con-
10 stitutes a deficiency that threatens the health,
11 safety, or rights of any detainees housed at
12 such facility—

13 (i) the Inspector General shall notify
14 the Secretary of such determination; and

15 (ii) the Secretary—

16 (I) in the case of a facility not
17 owned by the Department—

18 (aa) not later than 30 days
19 after receiving such notification,
20 shall transfer each detainee
21 housed at such facility to a facil-
22 ity that does comply with such
23 standards;

1 (bb) shall terminate the con-
2 tract with the owner or operator
3 of the facility; and

4 (cc) shall ensure that no
5 funds made available to the De-
6 partment are used to continue
7 such contract; and

8 (II) in the case of a facility
9 owned by the Department—

10 (aa) not later than 60 days
11 after receiving such notification,
12 shall transfer each detainee
13 housed at such facility to a facil-
14 ity that does comply with such
15 standards; and

16 (bb) shall suspend the use of
17 such facility until after the In-
18 spector General—

19 (AA) has certified to
20 the Secretary that such fa-
21 cility is in compliance with
22 such standards; and

23 (BB) makes available
24 to the public on an internet
25 website of the Department

1 information relating to the
2 remedial measures that have
3 been taken at such facility.

4 (b) DEATHS IN CUSTODY.—

5 (1) NOTIFICATION.—Not later than 24 hours
6 after the death of an alien in the custody of the De-
7 partment, the Secretary shall notify the appropriate
8 committees of Congress of such death.

9 (2) INVESTIGATIONS.—

10 (A) IN GENERAL.—Not later than 30 days
11 after the death of an alien in the custody of the
12 Department, the Secretary shall conduct an in-
13 vestigation into such death, which shall include
14 a root cause analysis that identifies any
15 changes to policies, practices, training curricula,
16 staffing, or potential systemwide errors that
17 may reduce the probability of such an event in
18 the future.

19 (B) ROOT CAUSE ANALYSIS.—Each root
20 cause analysis required under subparagraph (A)
21 shall be carried out—

22 (i) by appropriately qualified per-
23 sonnel, including 1 or more medical profes-
24 sionals qualified in a field relevant to the
25 cause of death; and

1 (ii) in accordance with professional
2 medical standards for investigating sentinel
3 events in medical care facilities, including
4 the Sentinel Event Policy adopted by The
5 Joint Commission in 1996.

6 (C) PUBLIC REPORT.—Not later than 60
7 days after a death described in paragraph (1),
8 the Secretary shall—

9 (i) issue a full report describing the
10 results of the investigation required under
11 subparagraph (A); and

12 (ii) make such report available to the
13 public on an internet website of the De-
14 partment.

15 (D) REVIEW BY INSPECTOR GENERAL.—
16 Not later than 90 days after the death of an
17 alien in the custody of the Department, the In-
18 spector General shall conduct a review of the
19 report issued pursuant to subparagraph (C)
20 with respect to such death.

21 (3) DEFINED TERM.—The term “death of an
22 alien in the custody of the Department” means the
23 death of an alien occurring while the alien is under
24 the supervision of the Department, regardless of—

25 (A) the location of the death; or

1 (B) whether the death—

2 (i) may have resulted from a health
3 problem that existed before or during the
4 detention of the alien; or

5 (ii) was exacerbated by such deten-
6 tion.

7 (c) REPORT TO CONGRESS.—

8 (1) IN GENERAL.—Not less frequently than an-
9 nually, the Secretary shall submit a report to the ap-
10 propriate committees of Congress regarding the in-
11 spections and oversight of facilities at which aliens
12 in the custody of the Department are being de-
13 tained.

14 (2) ELEMENTS.—Each report required under
15 paragraph (1) shall include, with respect to the pre-
16 ceding 12-month period—

17 (A) a list of the detention facilities found
18 by the Inspector General to be noncompliant
19 with the standards established pursuant to sec-
20 tion 4;

21 (B) for each such facility, a description of
22 the remedial actions taken, or planned to be
23 taken, by the Secretary to achieve compliance
24 with such standards; and

1 (C) a determination as to whether such re-
2 medial actions have brought such facility into
3 compliance with such standards.

4 (d) CLASSIFICATION OF DOCUMENTS FOR PURPOSES
5 OF FOIA.—The reports required under subsections (a)(2)
6 and (b)(2)(C) and any contract between the Department
7 and a private or public entity that provides for the use
8 of a facility not owned by the Department to detain aliens
9 in the custody of the Department are considered records
10 subject to public disclosure under section 552 of title 5,
11 United States Code, and do not qualify for the exception
12 under subsection (b)(4) of such section.

13 (e) FACILITIES MATRIX.—

14 (1) IN GENERAL.—On the first day of each
15 month, the Secretary shall ensure that a publicly ac-
16 cessible website of the Department contains the in-
17 formation described in paragraph (2) for each facil-
18 ity at which aliens in the custody of the Department
19 are being detained.

20 (2) ELEMENTS.—The information described in
21 this paragraph is, for each such facility—

22 (A) the name and location of the facility;

23 (B) whether the facility houses adults, chil-
24 dren, or both;

1 (C) the number of beds available in the fa-
2 cility on the last day of the preceding month,
3 disaggregated by gender;

4 (D) the total number of aliens detained in
5 the facility on the last day of the preceding
6 month, disaggregated by gender and classifica-
7 tion as a child or an adult;

8 (E) whether the facility is used to detain
9 aliens for longer than 72 hours;

10 (F) whether the facility is used to detain
11 aliens for longer than 7 days;

12 (G) the average number of aliens detained
13 in the facility during the current year and dur-
14 ing the preceding month, disaggregated by gen-
15 der and classification as a child or an adult;

16 (H) whether the facility is in compliance
17 with the standards established pursuant to sec-
18 tion 4;

19 (I) if the facility is not owned by the De-
20 partment, a description of the nature of the
21 contract providing for the detention of aliens at
22 such facility; and

23 (J) the average, median, 25th quartile, and
24 50th quartile number of days that aliens have

1 been detained at the facility during the pre-
2 ceding month.

3 (f) ONLINE DETAINEE LOCATOR SYSTEM.—The Sec-
4 retary shall ensure the online detainee locator system
5 maintained by the Department, or any successor system,
6 is updated not later than 12 hours after an alien is—

7 (1) taken into, or released from, custody by the
8 Department;

9 (2) transferred to, or detained in, a detention
10 facility; or

11 (3) removed from the United States.

12 (g) INFORMATION COLLECTED AND MAINTAINED
13 REGARDING ALIENS IN DHS CUSTODY.—The Secretary
14 shall collect and maintain, for each alien in the custody
15 of the Department—

16 (1) the gender and age of the alien;

17 (2) the date on which the alien was taken into
18 such custody;

19 (3) the country of nationality of the alien;

20 (4) whether the alien is considered a vulnerable
21 person (as such term is defined in section 236(c)(5)
22 of the Immigration and Nationality Act, as amended
23 by section 9(a) of this Act);

24 (5) the provision of law pursuant to which the
25 Secretary is authorized to detain the alien;

1 (6) the name of the facility in which the alien
2 is detained;

3 (7) if the alien was transferred to another de-
4 tention facility—

5 (A) a description of the transfer of the
6 alien to the other detention facility;

7 (B) the reason for the transfer; and

8 (C) if the transfer was effectuated despite
9 the presence of the alien’s legal counsel or im-
10 mediate relative in the jurisdiction of the origi-
11 nal detention facility, the justification for such
12 transfer;

13 (8) the status and basis of any removal pro-
14 ceedings to which the alien is the subject;

15 (9) the initial custody determination made by
16 U.S. Immigration and Customs Enforcement, in-
17 cluding any review of such determination;

18 (10) the date of the alien’s release or removal,
19 and the reason for such release or removal, as appli-
20 cable;

21 (11) whether the alien is subject to a final
22 order of removal;

23 (12) whether the alien was apprehended as part
24 of a family unit; and

1 (13) whether the alien was separated from a
2 family unit at the border or in the interior of the
3 United States.

4 **SEC. 6. CIVIL ACTIONS FOR VIOLATION OF STANDARDS.**

5 (a) **IN GENERAL.**—An individual who is detained in
6 a facility required to comply with the standards estab-
7 lished pursuant to section 4 and is injured as a result of
8 a violation of any such standard may file a claim in the
9 appropriate district court of the United States.

10 (b) **RECOVERY.**—In a civil action brought under this
11 section, the court may—

12 (1) order injunctive relief and award compen-
13 satory damages; and

14 (2) award the prevailing party reasonable attor-
15 ney fees and costs.

16 **SEC. 7. DETENTION FACILITY CONSTRUCTION AND MAIN-**
17 **TENANCE.**

18 (a) **RESTRICTION ON CONSTRUCTION.**—

19 (1) **IN GENERAL.**—Not later than 180 days be-
20 fore initiating, or entering into a contract for, the
21 construction of a new facility or the expansion of an
22 existing facility for the detention of aliens in the
23 custody of the Department, the Secretary shall sub-
24 mit to the appropriate committees of Congress a no-

1 tification of the plan to construct or expand such fa-
2 cility, including—

3 (A) the location, size, and capacity of such
4 facility;

5 (B) the anticipated timeline and cost of
6 constructing or expanding such facility; and

7 (C) the intended population to be detained
8 at such facility, including the gender and ages
9 of such population.

10 (2) PUBLIC AVAILABILITY.—The Secretary
11 shall make the information described in paragraph
12 (1) available to the public on an internet website of
13 the Department.

14 (b) PHASE-OUT OF PRIVATE DETENTION FACILITIES
15 AND USE OF JAILS.—

16 (1) SECURE DETENTION FACILITIES.—

17 (A) IN GENERAL.—The Secretary—

18 (i) may not enter into or extend any
19 contract or agreement with any public or
20 private for-profit entity that owns or oper-
21 ates a detention facility for the use of such
22 facility to detain aliens in the custody of
23 the Department; and

24 (ii) shall terminate any contract or
25 agreement described in clause (i) not later

1 than the date that is 3 years after the date
2 of the enactment of this Act.

3 (B) OWNERSHIP REQUIREMENT.—Begin-
4 ning on the date that is 3 years after the date
5 of the enactment of this Act, any facility at
6 which aliens in the custody of the Department
7 are detained shall be owned and operated by
8 the Department.

9 (2) ALTERNATIVES TO DETENTION PRO-
10 GRAMS.—

11 (A) IN GENERAL.—The Secretary—

12 (i) may not enter into or extend any
13 contract or agreement with any public or
14 private for-profit entity for the operation
15 of a program or the use of a facility for
16 nonresidential, detention-related activities
17 for aliens who are subject to monitoring by
18 the Department; and

19 (ii) shall terminate any contract or
20 agreement described in clause (i) not later
21 than the date that is 3 years after the date
22 of the enactment of this Act.

23 (B) OWNERSHIP AND OPERATION RE-
24 QUIREMENT.—Beginning on the date that is 3
25 years after the date of the enactment of this

1 Act, any program or facility used for the activi-
2 ties described in subparagraph (A)(i) shall be
3 owned and operated by a nonprofit organization
4 or the Department.

5 (3) IMPLEMENTATION PLAN.—Not later than
6 60 days after the date of the enactment of this Act,
7 the Secretary shall develop, and make publicly avail-
8 able, a plan and timeline for the implementation of
9 this subsection.

10 (c) FACILITY REQUIREMENT.—The Secretary shall
11 ensure that each facility used for the detention of aliens
12 has a visitor waiting and security screening area that is
13 indoor and climate-controlled.

14 **SEC. 8. APPEARANCE OF DETAINED ALIENS FOR OTHER**
15 **LEGAL MATTERS.**

16 The Secretary shall promulgate rules to ensure that
17 any alien detained in the custody of the Department who
18 is required to appear in Federal or State court (including
19 family court) for another matter is transported by an offi-
20 cer or employee of the Department to such court pro-
21 ceeding.

22 **SEC. 9. PROCEDURES FOR DETAINING ALIENS.**

23 (a) PROBABLE CAUSE AND CUSTODY DETERMINA-
24 TION HEARINGS.—Section 236 of the Immigration and

1 Nationality Act (8 U.S.C. 1226) is amended to read as
2 follows:

3 **“SEC. 236. APPREHENSION AND DETENTION OF ALIENS.**

4 “(a) ARREST, DETENTION, AND RELEASE.—

5 “(1) IN GENERAL.—On a warrant issued by an
6 immigration judge, or pursuant to section 287(a)(2),
7 the Secretary of Homeland Security may—

8 “(A) arrest an alien; and

9 “(B) in accordance with this section, de-
10 tain the alien or release the alien on bond, sub-
11 ject to conditions or recognizance, pending a de-
12 cision on whether the alien is to be removed
13 from the United States.

14 “(2) EXEMPTION FOR UNACCOMPANIED ALIEN
15 CHILDREN.—

16 “(A) IN GENERAL.—This section shall not
17 apply to unaccompanied alien children (as de-
18 fined in section 462(g)(2) of the Homeland Se-
19 curity Act of 2002 (6 U.S.C. 279(g)(2))).

20 “(B) TRANSFER OF CUSTODY.—Any unac-
21 companied alien child in the custody of the Sec-
22 retary of Homeland Security shall be trans-
23 ferred to the custody of the Secretary of Health
24 and Human Services pursuant to section
25 235(b)(3) of the William Wilberforce Traf-

1 ficking Victims Protection Reauthorization Act
2 of 2008 (8 U.S.C. 1232(b)(3)).

3 “(b) BOND DETERMINATION.—

4 “(1) IN GENERAL.—An immigration judge who
5 releases an alien on bond under this section shall—

6 “(A) consider, for purposes of setting the
7 amount of the bond, the alien’s financial posi-
8 tion and ability to pay the bond without impos-
9 ing financial hardship on the alien; and

10 “(B) set bond at an amount no greater
11 than necessary to ensure the alien’s appearance
12 for removal proceedings.

13 “(2) INABILITY TO PAY BOND.—The Secretary
14 of Homeland Security may not continue to detain an
15 alien solely based on the alien’s inability to pay
16 bond.

17 “(c) CUSTODY DETERMINATION.—

18 “(1) INITIAL DETERMINATION.—

19 “(A) IN GENERAL.—Not later than 48
20 hours after taking an alien into custody pursu-
21 ant to this section or section 235, or with re-
22 spect to an alien subject to a reinstated order
23 of removal pursuant to section 241(a)(5) who
24 has been found to have a credible or reasonable
25 fear of return, the Secretary of Homeland Secu-

1 rity shall make an initial custody determination
2 with regard to the alien, and provide such de-
3 termination in writing to the alien.

4 “(B) LEAST RESTRICTIVE CONDITIONS.—

5 With respect to a custody determination under
6 subparagraph (A), if the Secretary determines
7 that the release of an alien will not reasonably
8 ensure the appearance of the alien as required
9 or will endanger the safety of any other indi-
10 vidual or the community, the Secretary shall
11 impose the least restrictive conditions, as de-
12 scribed in paragraph (4).

13 “(2) TIMING.—

14 “(A) IN GENERAL.—An alien who seeks to
15 challenge the initial custody determination
16 under paragraph (1) shall be provided with the
17 opportunity for a hearing before an immigra-
18 tion judge not later than 72 hours after the ini-
19 tial custody determination to determine whether
20 the alien should be detained.

21 “(B) ACCESS TO COUNSEL.—On request
22 by an alien, or the legal counsel of an alien, an
23 immigration judge may grant a reasonable con-
24 tinuance of a hearing under subparagraph (A)

1 to provide the alien or such legal counsel addi-
2 tional time to prepare for the hearing.

3 “(3) PRESUMPTION OF RELEASE.—

4 “(A) IN GENERAL.—In a hearing under
5 this subsection, there shall be a presumption
6 that the alien should be released.

7 “(B) REBUTTAL.—

8 “(i) IN GENERAL.—The Secretary of
9 Homeland Security has the duty of rebut-
10 ting this presumption, which may only be
11 established based on clear and convincing
12 evidence, including credible and individual-
13 ized information, that—

14 “(I) the use of alternatives to de-
15 tention will not reasonably ensure the
16 appearance of the alien at removal
17 proceedings; or

18 “(II) the alien is a threat to any
19 other individual or the community.

20 “(ii) CONSIDERATION.—The Attorney
21 General—

22 “(I) shall consider the totality of
23 each case; and

24 “(II) may not rely on an alien’s
25 criminal conviction, arrest, pending

1 criminal charge, or combination there-
2 of as the sole factor to justify the con-
3 tinued detention of the alien.

4 “(4) LEAST RESTRICTIVE CONDITIONS RE-
5 QUIRED.—

6 “(A) IN GENERAL.—If an immigration
7 judge determines, pursuant to a hearing under
8 this section, that the release of an alien will not
9 reasonably ensure the appearance of the alien
10 as required or will endanger the safety of any
11 other individual or the community, the immi-
12 gration judge shall order the least restrictive
13 conditions, or combination of conditions, that
14 the judge determines will reasonably ensure the
15 appearance of the alien as required and the
16 safety of any other person and the community,
17 which may include—

18 “(i) release on recognizance;

19 “(ii) secured or unsecured release on
20 bond; or

21 “(iii) participation in a program de-
22 scribed in subsection (f).

23 “(B) MONTHLY REVIEW.—Not less fre-
24 quently than monthly, the immigration judge

1 shall review any condition assigned to an alien
2 pursuant to subparagraph (A).

3 “(C) MODIFICATION OF CONDITIONS OF
4 SUPERVISION.—An immigration judge may
5 modify or rescind conditions of supervision im-
6 posed on an alien by the Secretary of Homeland
7 Security.

8 “(5) SPECIAL RULE FOR VULNERABLE PER-
9 SONS AND PRIMARY CAREGIVERS.—

10 “(A) IN GENERAL.—In the case of an alien
11 subject to a custody determination under this
12 subsection who is a vulnerable person or a pri-
13 mary caregiver, the alien may not be detained
14 unless the Secretary of Homeland Security
15 demonstrates, in addition to meeting the re-
16 quirements under paragraph (3), that it is un-
17 reasonable or not practicable to place the alien
18 in a community-based supervision program.

19 “(B) DEFINITIONS.—In this paragraph:

20 “(i) MATERIAL WITNESS.—The term
21 ‘material witness’ means an individual who
22 presents a declaration to an attorney inves-
23 tigating, prosecuting, or defending a work-
24 place claim or from the presiding officer
25 overseeing a workplace claim attesting

1 that, to the best of the declarant’s knowl-
2 edge and belief, reasonable cause exists to
3 believe that the testimony of the individual
4 will be relevant to the outcome of the
5 workplace claim.

6 “(ii) PRIMARY CAREGIVER.—The term
7 ‘primary caregiver’ means an individual
8 who is established to be a caregiver, par-
9 ent, or close relative caring for or traveling
10 with a child.

11 “(iii) VULNERABLE PERSON.—The
12 term ‘vulnerable person’ means an indi-
13 vidual who—

14 “(I) is younger than 21 years of
15 age or older than 60 years of age;

16 “(II) is pregnant;

17 “(III) identifies as lesbian, gay,
18 bisexual, transgender, queer, or
19 intersex;

20 “(IV) is a victim or witness of a
21 crime;

22 “(V) has filed a nonfrivolous civil
23 rights claim in a Federal or State
24 court;

1 “(VI) has filed, or is a material
2 witness to, a bonafide workplace
3 claim;

4 “(VII) has a serious mental or
5 physical illness or disability;

6 “(VIII) has been determined by
7 an asylum officer, in an interview con-
8 ducted in accordance with section
9 235(b)(1)(B), to have a credible fear
10 of persecution or torture;

11 “(IX) has limited English lan-
12 guage proficiency and is not provided
13 access to appropriate and meaningful
14 language services in a timely fashion;
15 or

16 “(X) has been determined by an
17 immigration judge or by the Secretary
18 of Homeland Security to have experi-
19 enced or to be experiencing severe
20 trauma or to be a survivor of torture
21 or gender-based violence, based on in-
22 formation obtained during intake,
23 from the alien’s attorney or legal serv-
24 ice provider, or through credible self-
25 reporting.

1 “(iv) WORKPLACE CLAIM.—The term
2 ‘workplace claim’ means any written or
3 oral claim, charge, complaint, or grievance
4 filed with, communicated to, or submitted
5 to the employer, a Federal, State, or local
6 agency or court, or an employee represent-
7 ative, related to the violation of applicable
8 Federal, State, or local labor laws, includ-
9 ing laws concerning wages and hours, labor
10 relations, family and medical leave, occupa-
11 tional health and safety, civil rights, or
12 nondiscrimination.

13 “(6) SUBSEQUENT DETERMINATIONS.—An
14 alien detained pursuant to this section shall be pro-
15 vided with a de novo custody determination hearing
16 under this subsection—

17 “(A) not later than 30 days after the date
18 of the enactment of the Dignity for Detained
19 Immigrants Act;

20 “(B) every 60 days; and

21 “(C) upon showing of a change in cir-
22 cumstances or good cause for such a hearing.

23 “(d) RELEASE UPON AN ORDER GRANTING RELIEF
24 FROM REMOVAL.—The Secretary of Homeland Security—

1 “(1) shall immediately release an alien with re-
2 spect to whom an immigration judge has entered an
3 order providing relief from removal (including an
4 order granting asylum or withholding, deferral, or
5 cancellation of removal) or an order terminating re-
6 moval proceedings, which order is pending appeal,
7 upon entry of the order; and

8 “(2) may impose only reasonable conditions on
9 the alien’s release from custody.

10 “(e) PROHIBITION ON DETENTION OF CHILDREN.—
11 Notwithstanding any other provision of this Act, the Sec-
12 retary of Homeland Security may not detain in a facility
13 operated or contracted by U.S. Immigration and Customs
14 Enforcement any individual who is younger than 18 years
15 of age.

16 “(f) COMMUNITY-BASED CASE MANAGEMENT PRO-
17 GRAM.—

18 “(1) IN GENERAL.—The Secretary of Homeland
19 Security shall establish, outside of the purview of
20 U.S. Immigration and Customs Enforcement, a com-
21 munity-based case management program that—

22 “(A) provides alternatives to detaining
23 aliens;

24 “(B) offers a continuum of community-
25 based support options and services, including—

1 “(i) case management; and
2 “(ii) access to—
3 “(I) social services;
4 “(II) medical and mental health
5 services;
6 “(III) housing;
7 “(IV) transportation; and
8 “(V) legal services; and
9 “(C) provides services in the appropriate
10 language.

11 “(2) PROHIBITION ON ELECTRONIC SURVEIL-
12 LANCE.—The program under paragraph (1) may not
13 include, as an alternative to detention, the provision
14 of ankle monitors or other forms of electronic sur-
15 veillance.

16 “(3) CASE MANAGEMENT STUDY.—Not later
17 than 180 days after the date of the enactment of the
18 Dignity for Detained Immigrants Act, the Secretary
19 of Homeland Security shall conduct a study to ex-
20 amine best practices of government-funded case
21 management and related services, including explor-
22 ing the feasibility of the Department of Homeland
23 Security funding case management services.

24 “(4) CONTRACTS.—

1 “(A) IN GENERAL.—The Secretary of
2 Homeland Security may enter into 1 or more
3 contracts to operate the case management pro-
4 gram established pursuant to paragraph (1).

5 “(B) PRIORITIZATION.—In entering into a
6 contract under subparagraph (A), the Secretary
7 shall give priority to direct contracts with quali-
8 fied nongovernmental, community-based organi-
9 zations that have experience providing services
10 to immigrant, refugee, and asylum-seeking pop-
11 ulations.

12 “(5) INDIVIDUALIZED DETERMINATION RE-
13 QUIRED.—

14 “(A) IN GENERAL.—In determining wheth-
15 er to order an alien to participate in a case
16 management program under this subsection,
17 the Secretary of Homeland Security or the im-
18 migration judge, as appropriate, shall make an
19 individualized determination to determine the
20 appropriate level of supervision for the alien.

21 “(B) EXEMPTION.—Participation in a case
22 management program under this subsection
23 may not be ordered for an alien for whom it is
24 determined that release on reasonable bond or
25 recognizance will reasonably ensure the appear-

1 ance of the alien as required and the safety of
2 any other person and the community.

3 “(6) PROHIBITION ON FEES FOR ALTERNATIVES TO DETENTION.—An alien who is required
4 to participate in a specific alternatives to detention
5 program or service may not be charged a fee for
6 such participation.
7

8 “(7) CASE MANAGEMENT REVIEW.—Not later
9 than 180 days after the date of the enactment of the
10 Dignity for Detained Immigrants Act, the Secretary
11 shall conduct a review of—

12 “(A) best practices in federally funded case
13 management programs; and

14 “(B) the feasibility of transferring alter-
15 natives to detention case management programs
16 out of the purview of the Department of Home-
17 land Security.”.

18 (b) PROBABLE CAUSE HEARING.—Section 287(a) of
19 the Immigration and Nationality Act (8 U.S.C. 1357(a))
20 is amended by striking the subsection designation and all
21 that follows through the end of paragraph (2) and insert-
22 ing the following:

23 “(a) IN GENERAL.—Any officer or employee of the
24 Department of Homeland Security who is authorized,

1 under regulations prescribed by the Secretary of Home-
2 land Security, shall have power, without warrant—

3 “(1) to interrogate any alien or person believed
4 to be an alien as to the person’s right to be or to
5 remain in the United States, provided that such in-
6 terrogation is not based on the person’s race, eth-
7 nicity, national origin, religion, sexual orientation,
8 color, spoken language, or English language pro-
9 ficiency; and

10 “(2) to arrest any alien who, in the presence or
11 view of the officer or employee, is entering or at-
12 tempting to enter the United States in violation of
13 any law or regulation made pursuant to law regu-
14 lating the admission, exclusion, expulsion, or re-
15 moval of aliens, or to arrest any alien in the United
16 States, if—

17 “(A) the officer or employee has probable
18 cause to believe that—

19 “(i) the alien is in the United States
20 in violation of any such law or regulation;
21 and

22 “(ii) is likely to escape before a war-
23 rant can be obtained for the arrest of the
24 alien;

1 “(B) the officer or employee has reason to
2 believe the alien would knowingly and willfully
3 fail to appear in immigration court in response
4 to a properly served notice to appear; and

5 “(C) not later than 48 hours after being
6 taken into custody, the alien is provided with a
7 hearing before an immigration judge to deter-
8 mine whether there was probable cause for such
9 arrest, including probable cause to believe the
10 alien would have knowingly and willfully failed
11 to appear as required under subparagraph (B)
12 if the alien had not been arrested, which burden
13 to establish probable cause shall be on the De-
14 partment of Homeland Security;”.

15 (c) MANDATORY DETENTION REPEALED.—

16 (1) IN GENERAL.—The Immigration and Na-
17 tionality Act (8 U.S.C. 1101 et seq.) is amended—

18 (A) in section 235(b) (8 U.S.C. 1225(b))—

19 (i) in paragraph (1)(B)—

20 (I) in clause (ii), by striking “de-
21 tained” and inserting “referred”; and

22 (II) in clause (iii), by striking
23 subclause (IV); and

24 (ii) in paragraph (2)(A), by striking
25 “detained” and inserting “referred”;

1 (B) by striking section 236A (8 U.S.C.
2 1226a);

3 (C) in section 238(a)(2) (8 U.S.C.
4 1228(a)(2)), by striking “pursuant to section
5 236(c),”; and

6 (D) in section 506(a)(2) (8 U.S.C.
7 1536(a)(2))—

8 (i) by amending the paragraph head-
9 ing to read as follows: “RELEASE HEARING
10 FOR ALIENS DETAINED”; and

11 (ii) in subparagraph (A)—

12 (I) by amending the subpara-
13 graph heading to read as follows: “IN
14 GENERAL”;

15 (II) in the matter preceding
16 clause (i), by striking “lawfully admit-
17 ted for permanent residence”;

18 (III) by striking clause (i); and

19 (IV) by redesignating clauses (ii)
20 and (iii) as clauses (i) and (ii), respec-
21 tively.

22 (2) CONFORMING AMENDMENTS.—

23 (A) CLERICAL AMENDMENT.—The table of
24 contents of the Immigration and Nationality

1 Act (8 U.S.C. 1101 et seq.) is amended by
2 striking the item relating to section 236A.

3 (B) TECHNICAL AMENDMENTS.—Section
4 241(c)(3)(A)(ii) of the Immigration and Na-
5 tionality Act (8 U.S.C. 1231(c)(3)(A)(ii)) is
6 amended—

7 (i) in subclause (I), by striking the
8 comma at the end and inserting “; or”;

9 (ii) in subclause (II), by striking “,
10 or” and inserting a period; and

11 (iii) by striking subclause (III).

12 (d) ALIENS ORDERED REMOVED.—

13 (1) IN GENERAL.—Section 241(a) of the Immi-
14 gration and Nationality Act (8 U.S.C. 1231(a)) is
15 amended—

16 (A) in paragraph (1), by striking “90
17 days” each place such phrase appears and in-
18 serting “60 days”;

19 (B) by amending paragraph (2) to read as
20 follows:

21 “(2) INITIAL CUSTODY REDETERMINATION
22 HEARING.—

23 “(A) IN GENERAL.—Not later than 72
24 hours after the entry of a final administrative
25 order of removal, the alien ordered removed

1 shall be provided with a custody redetermina-
2 tion hearing before an immigration judge.

3 “(B) PRESUMPTION OF DETENTION.—For
4 purposes of the hearing required under sub-
5 paragraph (A), the alien shall be detained dur-
6 ing the removal period unless the alien dem-
7 onstrates by the preponderance of the evidence
8 that—

9 “(i) the alien’s removal is not reason-
10 ably foreseeable; or

11 “(ii) the alien does not pose a risk to
12 the safety of any individual or the commu-
13 nity.”;

14 (C) in paragraph (3)—

15 (i) in the paragraph heading, by strik-
16 ing “90-DAY” and inserting “60-DAY”; and

17 (ii) in the matter preceding subpara-
18 graph (A), by striking “the alien, pending
19 removal, shall be subject to supervision
20 under” and inserting “except as provided
21 in paragraph (6), any alien who has been
22 detained during the removal period shall be
23 released from custody, pending removal,
24 subject to individualized supervision re-
25 quirements in accordance with”;

1 (D) by amending paragraph (6) to read as
2 follows:

3 “(6) SUBSEQUENT CUSTODY REDETERMINA-
4 TION HEARINGS.—

5 “(A) IN GENERAL.—The Secretary of
6 Homeland Security may request a subsequent
7 redetermination hearing before an immigration
8 judge seeking continued detention for an alien
9 ordered to be detained pursuant to paragraph
10 (2) who was not removed during the removal
11 period.

12 “(B) STANDARD.—An alien may only be
13 detained after the removal period upon a show-
14 ing by the Secretary of Homeland Security
15 that—

16 “(i) the alien’s removal is reasonably
17 foreseeable; or

18 “(ii) the alien poses a risk to the safe-
19 ty of an individual or the community,
20 which—

21 “(I) may only be established
22 based on credible and individualized
23 information; and

24 “(II) may not be established
25 based solely on the fact that the alien

1 has been charged with, or is suspected
2 of, a crime.

3 “(C) PERIOD OF DETENTION.—

4 “(i) IN GENERAL.—An alien may not
5 be detained pursuant to an order under
6 this paragraph for longer than 60 days.

7 “(ii) SUBSEQUENT REDETERMINA-
8 TION HEARING.—The Secretary of Home-
9 land Security may seek subsequent redeter-
10 mination hearings under this paragraph in
11 order to continue detaining an alien be-
12 yond each such 60-day period.”; and

13 (E) by striking paragraph (7).

14 (2) TECHNICAL AND CONFORMING AMEND-
15 MENTS.—The Immigration and Nationality Act (8
16 U.S.C. 1101 et seq.) is amended—

17 (A) in section 238 (8 U.S.C. 1228)—

18 (i) in subsection (a), by amending
19 paragraph (1) to read as follows:

20 “(1) IN GENERAL.—The Attorney General shall
21 provide for the availability of special removal pro-
22 ceedings at certain Federal, State, and local correc-
23 tional facilities for aliens convicted of any criminal
24 offense described in subparagraphs (A)(iii), (B), (C),
25 or (D), of section 237(a)(2), or any offense de-

1 scribed in section 237(a)(2)(A)(ii) for which both
2 predicate offenses are, without regard to the date of
3 their commission, otherwise described in section
4 237(a)(2)(A)(i). Such proceedings shall be conducted
5 in conformity with section 240 (except as otherwise
6 provided under this section), and in a manner which
7 eliminates the need for additional detention at any
8 processing center of the Department of Homeland
9 Security and in a manner that ensures expeditious
10 removal following the end of the alien’s incarceration
11 for the underlying sentence. Nothing in this section
12 may be construed to create any substantive or proce-
13 dural right or benefit that is legally enforceable by
14 any party against the United States or its agencies
15 or officers or any other person.”;

16 (ii) by redesignating the second sub-
17 section (c) as subsection (d); and

18 (iii) in subsection (d), as redesign-
19 nated—

20 (I) in paragraph (2)(B), by strik-
21 ing “section 241(a)(2)(A)” and insert-
22 ing “section 237(a)(2)(A)”;

23 (II) in paragraph (4), by striking
24 “section 241(a)” and inserting “sec-
25 tion 237(a)”;

1 (B) in section 276(b)(4) (8 U.S.C.
2 1326(b)(4)), by striking “section 241(a)(4)(B)”
3 and inserting “section 237(a)(4)(B)”; and

4 (C) in section 501(1) (8 U.S.C. 1531(1)),
5 by striking “section 241(a)(4)(B)” and insert-
6 ing “section 237(a)(4)(B)”.

7 **SEC. 10. PROHIBITION ON SOLITARY CONFINEMENT.**

8 (a) IN GENERAL.—An individual in the custody of
9 the Department may not be placed in solitary confine-
10 ment.

11 (b) DEFINED TERM.—In this section, the term “solitary
12 confinement”—

13 (1) means the confinement of an individual to
14 the individual’s cell, alone or with a cellmate, wheth-
15 er pursuant to disciplinary, administrative, or classifi-
16 cation action; and

17 (2) does not include the confinement of an indi-
18 vidual to such individual’s assigned cell during des-
19 ignated sleeping time.

20 **SEC. 11. LEGAL ORIENTATION.**

21 (a) PROGRAM.—The Secretary of Homeland Security
22 shall ensure that each facility used to detain aliens pro-
23 vides each alien detained in such facility with access to
24 the Legal Orientation Program (or any successor pro-
25 gram), whether or not such facility is owned by the De-

1 partment. Such program shall be operated by a nonprofit,
2 nongovernmental organization with demonstrated immi-
3 gration law expertise.

4 (b) ORIENTATION.—The Secretary of Homeland Se-
5 curity shall ensure that each alien described in subsection
6 (a) receives the legal orientation required under such sub-
7 section, which may be provided in a group setting, as soon
8 as practicable after entering the detention facility, which
9 orientation may not be delayed until after the initial hear-
10 ing before an immigration judge.

11 **SEC. 12. ACCESS TO COUNSEL.**

12 The Secretary of Homeland Security shall permit an
13 alien who has obtained counsel in accordance with section
14 292 of the Immigration and Nationality Act (8 U.S.C.
15 1362) to access such counsel, including through confiden-
16 tial contact with such counsel through in person, tele-
17 phonic, or televideo meetings.

18 **SEC. 13. CONGRESSIONAL OVERSIGHT.**

19 (a) DEFINED TERM.—In this section, the term “cov-
20 ered person” means—

21 (1) a Member of Congress; or

22 (2) an employee of the Senate or the House of
23 Representatives designated by a Member of Con-
24 gress for the purposes of this section.

1 (b) IN GENERAL.—The Secretary of Homeland Secu-
2 rity—

3 (1) shall permit a covered person to enter, for
4 the purpose of conducting oversight, any facility op-
5 erated by or for the Department to detain or other-
6 wise house aliens for any period; and

7 (2) may not make any temporary modification
8 at any such facility that alters what is observed by
9 a visiting covered person, compared to what would
10 be observed in the absence of such modification.

11 (c) NO ADVANCE NOTICE FOR COVERED PERSONS.—
12 A Member of Congress may not be required to provide
13 advance notice of his or her intent to enter a facility de-
14 scribed in subsection (b)(1) for the purpose of conducting
15 oversight.

16 (d) NOTICE FOR EMPLOYEES.—

17 (1) EMPLOYEES NOT ACCOMPANYING A COV-
18 ERED PERSON.—Except as provided in paragraph
19 (2), the Secretary of Homeland Security may require
20 a covered person described in subsection (a)(2) to
21 provide notice to the operator of a facility described
22 in subsection (b)(1) at least 24 hours in advance of
23 the entry of such covered person if he or she is not
24 accompanied by a Member of Congress.

1 (2) EMPLOYEES ACCOMPANYING A COVERED
2 PERSON.—The notice required under paragraph (1)
3 shall not be required for a covered person described
4 in subsection (a)(2) who is accompanied by a Mem-
5 ber of Congress.

○