

110TH CONGRESS
2^D SESSION

H. R. 5950

To require the Secretary of Homeland Security to establish procedures for the timely and effective delivery of medical and mental health care to all immigration detainees in custody, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2008

Ms. ZOE LOFGREN of California introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To require the Secretary of Homeland Security to establish procedures for the timely and effective delivery of medical and mental health care to all immigration detainees in custody, 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 “Detainee Basic Medical
5 Care Act of 2008”.

1 **SEC. 2. MEDICAL CARE STANDARDS FOR IMMIGRATION DE-**
2 **TAINÉES OF THE DEPARTMENT OF HOME-**
3 **LAND SECURITY.**

4 (a) IN GENERAL.—The Secretary of Homeland Secu-
5 rity shall establish procedures for the timely and effective
6 delivery of medical and mental health care to all immigra-
7 tion detainees in the custody of the Department of Home-
8 land Security. Such procedures shall address all immigra-
9 tion detainee health needs, including primary care, emer-
10 gency care, chronic care, prenatal care, dental care, eye
11 care, mental health care, medical dietary needs, and other
12 medically necessary specialized care.

13 (b) MEDICAL SCREENINGS AND EXAMINATIONS.—
14 The Secretary's procedures shall be designed to ensure
15 continuity of medical and mental health care services for
16 each immigration detainee upon arrival at a detention fa-
17 cility. At a minimum, such procedures shall be designed
18 to ensure that—

19 (1) each immigration detainee receives a com-
20 prehensive medical and mental health intake screen-
21 ing by a qualified health care professional upon ar-
22 rival at the facility;

23 (2) each immigration detainee receives a com-
24 prehensive medical and mental health examination
25 and assessment by a qualified health care profes-
26 sional not later than 14 days after arrival;

1 (3) each immigration detainee taking prescribed
2 medications prior to detention is allowed to continue
3 taking such medications, on schedule and without
4 interruption, until and unless a qualified health care
5 professional examines the immigration detainee and
6 decides upon an alternative course of treatment; and

7 (4) subject to the immigration laws (as defined
8 in section 101(a)(17) of the Immigration and Na-
9 tionality Act (8 U.S.C. 1101(a)(17))), each immigra-
10 tion detainee with a serious medical or mental health
11 care condition is given priority consideration for re-
12 lease on parole, on bond, or into an alternative to
13 detention program, with periodic reevaluations for
14 such immigration detainees not initially released.

15 (c) CONTINUITY OF CARE.—The Secretary’s proce-
16 dures shall be designed to ensure continuity of medical
17 and mental health care services for each immigration de-
18 tainee throughout detention. At a minimum, such proce-
19 dures shall be designed to ensure that—

20 (1) immigration detainees are informed of avail-
21 able medical and mental health care services and
22 how to request such services;

23 (2) a prompt response is provided to any re-
24 quest for medical or mental health care;

1 (3) treatment decisions are based solely on pro-
2 fessional clinical judgments;

3 (4) prescribed medications and medically nec-
4 essary treatment are provided to immigration detain-
5 ees on schedule and without interruption; and

6 (5) the medical and mental health of an immi-
7 gration detainee is considered prior to any decision
8 to transfer the immigration detainee to another de-
9 tention facility, and such immigration detainee suf-
10 fers no interruption in the provision of medical
11 treatment, including the delivery of prescribed medi-
12 cations, during and after such transfer.

13 (d) **MEDICAL RECORDS.**—The Secretary’s procedures
14 shall be designed to ensure the availability of medical
15 records to appropriate personnel. At a minimum, such pro-
16 cedures shall be designed to ensure that—

17 (1) immediately upon an immigration detainee’s
18 transfer from one detention facility to another, the
19 immigration detainee’s complete medical records, in-
20 cluding any transfer summary, are provided to the
21 receiving facility;

22 (2) within 72 hours of receiving a written re-
23 quest, an immigration detainee’s complete medical
24 records are provided to the immigration detainee or

1 any person designated by the immigration detainee;
2 and

3 (3) an immigration detainee shall be provided
4 the appropriate forms where necessary to comply
5 with this subsection and relevant privacy laws.

6 (e) ADMINISTRATIVE APPEALS PROCESS.—The Sec-
7 retary’s procedures shall include an administrative appeals
8 process for denials of medical or mental health care. At
9 a minimum, such procedures shall be designed to ensure
10 that—

11 (1) the Secretary responds promptly to any re-
12 quest by an on-site medical provider for authoriza-
13 tion to provide medical or mental health care to an
14 immigration detainee;

15 (2) in each case in which the Secretary denies
16 or fails to grant such a request, a written expla-
17 nation of the reasons for the decision shall be con-
18 veyed without delay to the on-site medical provider
19 and the immigration detainee;

20 (3) the on-site medical provider and immigra-
21 tion detainee (or legally appointed advocate) are pro-
22 vided an opportunity to appeal the denial of or fail-
23 ure to grant the requested health care service; and

24 (4) such appeal is resolved in writing within 30
25 days by an impartial board, which shall include

1 health care professionals in the fields relevant to the
2 request for medical or mental health care, and the
3 written decision is conveyed without delay to the on-
4 site medical provider and the immigration detainee.

5 (f) DISCHARGE PLANNING.—The Secretary’s proce-
6 dures shall include discharge planning to ensure continuity
7 of care, for a reasonable period of time, upon removal or
8 release for persons with serious medical or mental health
9 conditions.

10 (g) REPORTING REQUIREMENTS.—The Secretary of
11 Homeland Security shall report to the Offices of Inspector
12 General for the Department of Homeland Security and the
13 Department of Justice, within 48 hours, information re-
14 garding the death of any immigration detainee in the Sec-
15 retary’s custody. Not later than 60 days after the end of
16 each fiscal year, the Secretary shall submit a report to
17 the Committee on the Judiciary of the Senate and the
18 Committee on the Judiciary of the House of Representa-
19 tives containing detailed information regarding the death
20 of all immigration detainees in the Secretary’s custody
21 during the preceding fiscal year.

22 **SEC. 3. DEFINITIONS.**

23 In this Act—

24 (1) “detention facility” means any Federal,
25 State, or local facility used by the Secretary of

1 Homeland Security to hold immigration detainees
2 for more than 72 hours, regardless of whether use
3 of such facility is subject to a contract or other
4 agreement.

5 (2) “immigration detainee” means any person
6 in the custody of the Secretary of Homeland Secu-
7 rity under the immigration laws (as defined in sec-
8 tion 101(a)(17) of the Immigration and Nationality
9 Act (8 U.S.C. 1101(a)(17))) at any detention facil-
10 ity.

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