

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide for enhanced protections for vulnerable unaccompanied alien children and female detainees.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Ms. HIRONO

Viz:

1 On page 617, strike line 16 through 20, and insert
2 the following:

3 **SEC. 3611. PROTECTING CHILD TRAFFICKING VICTIMS.**

4 (a) SHORT TITLE.—This section may be cited as the
5 “Child Trafficking Victims Protection Act”.

6 (b) DEFINED TERM.—In this section, the term “un-
7 accompanied alien children” has the meaning given such
8 term in section 462 of the Homeland Security Act of 2002
9 (6 U.S.C. 279).

10 (c) MANDATORY TRAINING.—The Secretary, in con-
11 sultation with the Secretary of Health and Human Serv-
12 ices and independent child welfare experts, shall mandate

1 live training of all personnel who come into contact with
2 unaccompanied alien children in all relevant legal authori-
3 ties, policies, practices, and procedures pertaining to this
4 vulnerable population.

5 (d) CARE AND TRANSPORTATION.—Notwithstanding
6 any other provision of law, the Secretary shall ensure that
7 all unaccompanied children who will undergo any immigra-
8 tion proceedings before the Department or the Executive
9 Office for Immigration Review are duly transported and
10 placed in the care and legal and physical custody of the
11 Office of Refugee Resettlement not later than 72 hours
12 after their apprehension absent narrowly defined excep-
13 tional circumstances, including a natural disaster or com-
14 parable emergency beyond the control of the Secretary or
15 the Office of Refugee Resettlement. The Secretary shall
16 ensure that female officers are continuously present dur-
17 ing the transfer and transport of female detainees who are
18 in the custody of the Department.

19 (e) QUALIFIED RESOURCES.—The Secretary shall
20 provide adequately trained and qualified staff resources at
21 each major port of entry (as defined by the U.S. Customs
22 and Border Protection station assigned to that port having
23 in its custody during the past 2 fiscal years an yearly aver-
24 age of 50 or more unaccompanied alien children), includ-

1 ing the accommodation of child welfare professionals in
2 accordance with subsection (f).

3 (f) CHILD WELFARE PROFESSIONALS.—

4 (1) IN GENERAL.—The Senior Advisor on Traf-
5 ficking in Persons in the Office of the Assistant Sec-
6 retary for the Administration for Children and Fam-
7 ilies shall ensure that qualified child welfare profes-
8 sionals with expertise in culturally competent, trau-
9 ma-centered, and developmentally appropriate inter-
10 viewing skills are available at each major port of
11 entry described in subsection (e).

12 (2) DUTIES.—Child welfare professionals de-
13 scribed in paragraph (1) shall—

14 (A) in consultation with the Secretary and
15 the Assistant Secretary for the Administration
16 for Children and Families, develop guidelines
17 for treatment of unaccompanied alien children
18 in the custody of the Department;

19 (B) conduct screening on behalf of the De-
20 partment of all unaccompanied alien children in
21 accordance with section 235(a)(4) of the Wil-
22 liam Wilberforce Trafficking Victims Protection
23 Reauthorization Act of 2008 (8 U.S.C.
24 1232(a)(4));

1 (C) notify the Department and the Office
2 of Refugee Resettlement of children that meet
3 the notification and transfer requirements set
4 forth in subsections (a) and (b) of section 235
5 of such Act (8 U.S.C. 1232); and

6 (D) interview adult relatives accompanying
7 unaccompanied alien children; and

8 (E) provide an initial family relationship
9 and trafficking assessment and recommenda-
10 tions regarding unaccompanied alien children's
11 initial placements to the Office of Refugee Re-
12 settlement, which shall be conducted in accord-
13 ance with the time frame set forth in sub-
14 sections (a)(4) and (b)(3) of section 235 of
15 such Act (8 U.S.C. 1232); and

16 (F) ensure that each unaccompanied alien
17 child in the custody of U.S. Customs and Bor-
18 der Protection—

19 (i) receives emergency medical care
20 when necessary;

21 (ii) receives emergency medical and
22 mental health care that complies with the
23 standards adopted pursuant to section 8(c)
24 of the Prison Rape Elimination Act of
25 2003 (42 U.S.C. 15607(c)) whenever nec-

1 essary, including in cases in which a child
2 is at risk to harm himself, herself, or oth-
3 ers;

4 (iii) is provided with climate appro-
5 priate clothing, shoes, basic personal hy-
6 giene and sanitary products, a pillow, lin-
7 ens, and sufficient blankets to rest at a
8 comfortable temperature;

9 (iv) receives adequate nutrition;

10 (v) enjoys a safe and sanitary living
11 environment;

12 (vi) has access to daily recreational
13 programs and activities if held for a period
14 longer than 12 hours;

15 (vii) has access to legal services and
16 consular officials; and

17 (viii) is permitted to make supervised
18 phone calls to family members.

19 (3) FINAL DETERMINATIONS.—The Office of
20 Refugee Resettlement, in consultation with the Sen-
21 ior Advisor on Trafficking in Persons, in accordance
22 with applicable policies and procedures for sponsors,
23 shall submit final determinations on family relation-
24 ships to the Secretary, who shall consider such adult

1 relatives for community-based support alternatives
2 to detention.

3 (4) REPORT.—Not later than 18 months after
4 the date of the enactment of this Act, and annually
5 thereafter, the Senior Advisor on Trafficking in Per-
6 sons shall submit a report to Congress that—

7 (A) describes the screening procedures
8 used by the child welfare professionals to screen
9 unaccompanied alien children;

10 (B) assesses the effectiveness of such
11 screenings; and

12 (C) includes data on all unaccompanied
13 alien children who were screened by child wel-
14 fare professionals;

15 (g) IMMEDIATE NOTIFICATION.—The Secretary shall
16 immediately notify the Office of Refugee Resettlement of
17 an unaccompanied alien child in the custody of the De-
18 partment to effectively and efficiently coordinate the
19 child's transfer to and placement with the Office of Ref-
20 ugee Resettlement.

21 (h) NOTICE OF RIGHTS AND RIGHT TO ACCESS TO
22 COUNSEL.—

23 (1) IN GENERAL.—The Secretary shall ensure
24 that all unaccompanied alien children, upon appre-
25 hension, are provided—

1 (A) an interview and screening with a child
2 welfare professional described in subsection
3 (f)(1); and

4 (B) a video orientation and oral and writ-
5 ten notice of their rights under the Immigration
6 and Nationality Act, including—

7 (i) their right to relief from removal;

8 (ii) their right to confer with counsel
9 (as guaranteed under section 292 of such
10 Act (8 U.S.C. 1362)), family, or friends
11 while in the temporary custody of the De-
12 partment; and

13 (iii) relevant complaint mechanisms to
14 report any abuse or misconduct they may
15 have experienced.

16 (2) LANGUAGES.—The Secretary shall ensure
17 that—

18 (A) the video orientation and written no-
19 tice of rights described in paragraph (1) is
20 available in English and in the 5 most common
21 native languages spoken by the unaccompanied
22 children held in custody at that location during
23 the preceding fiscal year; and

24 (B) the oral notice of rights is available in
25 English and in the most common native lan-

1 guage spoken by the unaccompanied children
2 held in custody at that location during the pre-
3 ceding fiscal year.

4 (i) CONFIDENTIALITY.—The Secretary of Health and
5 Human Services shall maintain the privacy and confiden-
6 tiality of all information gathered in the course of pro-
7 viding care, custody, placement and follow-up services to
8 unaccompanied alien children, consistent with the best in-
9 terest of the unaccompanied alien child, by not disclosing
10 such information to other government agencies or non-
11 parental third parties unless such disclosure is—

12 (1) recorded in writing and placed in the child’s
13 file;

14 (2) in the child’s best interest; and

15 (3)(A) authorized by the child or by an ap-
16 proved sponsor in accordance with section 235 of the
17 William Wilberforce Trafficking Victims Protection
18 Reauthorization Act of 2008 (8 U.S.C. 1232) and
19 the Health Insurance Portability and Accountability
20 Act (Public Law 104–191); or

21 (B) provided to a duly recognized law enforce-
22 ment entity to prevent imminent and serious harm
23 to another individual.

1 (j) OTHER POLICIES AND PROCEDURES.—The Sec-
2 retary shall adopt fundamental child protection policies
3 and procedures—

4 (1) for reliable age determinations of children,
5 developed in consultation with medical and child wel-
6 fare experts, which exclude the use of fallible foren-
7 sic testing of children’s bone and teeth;

8 (2) to ensure the safe and secure repatriation
9 and reintegration of unaccompanied alien children to
10 their home countries through specialized programs
11 developed in close consultation with the Secretary of
12 State, the Office of the Refugee Resettlement, and
13 reputable independent child welfare experts, includ-
14 ing placement of children with their families or non-
15 governmental agencies to provide food, shelter, and
16 vocational training and microfinance opportunities;

17 (3) to utilize all legal authorities to defer the
18 child’s removal if the child faces a risk of life-threat-
19 ening harm upon return including due to the child’s
20 mental health or medical condition; and

21 (4) to ensure, in accordance with the Juvenile
22 Justice and Delinquency Prevention Act of 1974 (42
23 U.S.C. 5601 et seq.), that unaccompanied alien chil-
24 dren, while in detention, are—

- 1 (A) physically separated from any adult
2 who is not an immediate family member; and
3 (B) separated by sight and sound from—
4 (i) immigration detainees and inmates
5 with criminal convictions;
6 (ii) pretrial inmates facing criminal
7 prosecution; and
8 (iii) inmates exhibiting violent behav-
9 ior.

10 (k) TRANSFER OF FUNDS.—

11 (1) AUTHORIZATION.—The Secretary, in ac-
12 cordance with a written agreement between the Sec-
13 retary and the Secretary of Health and Human
14 Services, shall transfer such amounts as may be nec-
15 essary to carry out the duties described in subsection
16 (f)(2) from amounts appropriated for U.S. Customs
17 and Border Protection to the Department of Health
18 and Human Services.

19 (2) REPORT.—Not later than 15 days before
20 any proposed transfer under paragraph (1), the Sec-
21 retary of Health and Human Services, in consulta-
22 tion with the Secretary, shall submit a detailed ex-
23 penditure plan that describes the actions proposed to
24 be taken with amounts transferred under such para-
25 graph to—

1 (A) the Committee on Appropriations of
2 the Senate; and

3 (B) the Committee on Appropriations of
4 the House of Representatives.

5 **SEC. 3612. RULE OF CONSTRUCTION.**

6 Nothing in this subtitle may be construed to preempt
7 or alter any other rights or remedies, including any causes
8 of action, available under any Federal or State law.

9 **SEC. 3613. REGULATIONS.**