

110TH CONGRESS  
2D SESSION

# H. R. 7255

To reform immigration detention procedures, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 3, 2008

Ms. ROYBAL-ALLARD introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on 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

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## A BILL

To reform immigration detention procedures, 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 “Immigration Oversight  
5 and Fairness Act”.

1 **SEC. 2. ENHANCED PROTECTIONS FOR VULNERABLE UNAC-**  
2 **COMPANIED ALIEN CHILDREN AND FEMALE**  
3 **DETAINEES.**

4 (a) MANDATORY TRAINING.—The Secretary of  
5 Homeland Security, in consultation with the Office of Ref-  
6 ugee Resettlement of the Department of Health and  
7 Human Services and independent child welfare experts,  
8 shall mandate live training of all personnel who come into  
9 contact with unaccompanied alien children (as defined in  
10 section 462 of the Homeland Security Act of 2002 (6 U.S.  
11 C. 279)) in all relevant legal authorities, policies, and pro-  
12 cedures pertaining to this vulnerable population.

13 (b) CARE AND TRANSPORTATION.—Notwithstanding  
14 any other provision of law, the Secretary of Homeland Se-  
15 curity shall ensure that all unaccompanied children who  
16 will undergo any immigration proceedings before the De-  
17 partment of Homeland Security and the Executive Office  
18 for Immigration Review are duly transported and placed  
19 in the care and legal and physical custody of the Office  
20 of Refugee Resettlement within a maximum of 24 hours  
21 of their apprehension absent narrowly defined exceptional  
22 circumstances, including a natural disaster or comparable  
23 emergency beyond the control of the Department of  
24 Homeland Security or the Office of Refugee Resettlement.  
25 The Secretary of Homeland Security shall ensure that fe-  
26 male officers are responsible and at all times present dur-

1 ing the transfer and transport of female detainees who are  
2 in the custody of the Department of Homeland Security.

3 (c) QUALIFIED RESOURCES.—For purposes of this  
4 section, the Secretary of Homeland Security shall provide  
5 adequately trained and qualified staff resources at each  
6 major port of entry (as defined by the U.S. Customs and  
7 Border Protection station assigned to that port having in  
8 its custody over the past two fiscal years an average per  
9 year of 50 or more unaccompanied alien children (as de-  
10 fined in section 462 of the Homeland Security Act of 2002  
11 (6 U.S.C. 279))), including U.S. Customs and Border  
12 Protection agents charged primarily with the safe, swift,  
13 and humane transportation of unaccompanied alien chil-  
14 dren to Office of Refugee Resettlement custody and inde-  
15 pendent licensed social workers dedicated to ensuring the  
16 proper temporary care for the children while in Depart-  
17 ment of Homeland Security custody prior to their transfer  
18 to the Office of Refugee Resettlement, who will ensure  
19 that each child—

20 (1) receives emergency medical care;

21 (2) receives mental health care in case of trau-  
22 ma and has access to psychosocial health services;

23 (3) is provided with a pillow, linens, and suffi-  
24 cient blankets to rest at a comfortable temperature,

1 a bed, and a mattress placed in an area specifically  
2 designated for residential use;

3 (4) receives adequate nutrition;

4 (5) enjoys a safe and sanitary living environ-  
5 ment;

6 (6) receives educational materials; and

7 (7) has access to at least three hours per day  
8 of indoor and outdoor recreational programs and ac-  
9 tivities .

10 (d) NOTIFICATION.—The Secretary of Homeland Se-  
11 curity shall immediately notify the Office of Refugee Re-  
12 settlement of an unaccompanied alien child in the custody  
13 of the Department of Homeland Security to effectively and  
14 efficiently coordinate the child’s transfer to and placement  
15 with the Office of Refugee Resettlement.

16 (e) NOTICE OF RIGHTS AND ACCESS TO COUNSEL.—  
17 The Secretary of Homeland Security shall ensure that an  
18 independent licensed social worker, as described in sub-  
19 section (c), provides all unaccompanied alien children upon  
20 apprehension with both a video orientation and oral and  
21 written notice of their rights under the Immigration and  
22 Nationality Act including their rights to relief from re-  
23 moval and their rights to confer with counsel (as guaran-  
24 teed under section 292 of such Act), family, or friends  
25 while in the Department of Homeland Security’s tem-

1 porary custody and relevant complaint mechanisms to re-  
2 port any abuse or misconduct they may have experienced.  
3 The Secretary of Homeland Security shall ensure that the  
4 video orientation and written notice of rights is available  
5 in English and in the five most common native languages  
6 spoken by the unaccompanied children held in custody at  
7 that location during the preceding fiscal year, and that  
8 the oral notice of rights is available in English and in the  
9 most common native language spoken by the unaccom-  
10 panied children held in custody at that location during the  
11 preceding fiscal year.

12 (f) OTHER POLICIES AND PROCEDURES.—The Sec-  
13 retary shall further adopt fundamental child protection  
14 policies and procedures—

15 (1) for reliable age-determinations of children  
16 which exclude the use of fallible forensic testing of  
17 children’s bone and teeth developed in consultation  
18 with medical and child welfare experts;

19 (2) to ensure the safe and secure repatriation  
20 and reintegration of unaccompanied alien children to  
21 their home countries through specialized programs  
22 developed in close consultation with the Secretary of  
23 State, the Office of the Refugee Resettlement and  
24 reputable independent child welfare experts includ-  
25 ing placement of children with their families or non-

1 governmental agencies to provide food, shelter and  
2 vocational training and microfinance opportunities;

3 (3) to utilize all legal authorities to defer the  
4 child's removal if the child faces a risk of life-threat-  
5 ening harm upon return including due to the child's  
6 mental health or medical condition; and

7 (4) to ensure that unaccompanied alien children  
8 (as defined in section 462 of the Homeland Security  
9 Act of 2002 (6 U.S.C. 279)) are physically sepa-  
10 rated from any adult who is not an immediate fam-  
11 ily member and are separated by sight and sound  
12 from immigration detainees and inmates with crimi-  
13 nal convictions, pretrial inmates facing criminal  
14 prosecution, children who have been adjudicated  
15 delinquents or convicted of adult offenses or are  
16 pending delinquency or criminal proceedings, and  
17 those inmates exhibiting violent behavior while in de-  
18 tention as is consistent with the Juvenile Justice  
19 and Delinquency Prevention Act of 1974 (42 U.S.C.  
20 5601 et seq.).

21 **SEC. 3. DETENTION CONDITIONS.**

22 (a) DETENTION REQUIREMENTS.—All detention fa-  
23 cilities shall fully comply with the following minimum re-  
24 quirements:

1           (1) ACCESS TO TELEPHONES.—Detention facili-  
2           ties shall provide to detainees reasonable and equi-  
3           table access to working telephones, and the ability to  
4           contact, free of charge, legal representatives, foreign  
5           consulates, the immigration courts, the Board of Im-  
6           migration Appeals, the Federal courts, and all others  
7           who are contacted for the purpose of obtaining legal  
8           representation. Detention facilities shall provide to  
9           detainees access to telephones during facility work-  
10          ing hours and on an emergency basis in accordance  
11          with the following:

12                   (A) The detention facility shall provide to  
13                   each detainee a copy of its rules governing tele-  
14                   phone access and shall post those rules, to-  
15                   gether with an explanation of how to make toll-  
16                   free calls, within sight of each telephone avail-  
17                   able to detainees. These rules shall be trans-  
18                   lated into Spanish and two additional languages  
19                   spoken by a substantial part of the detainee  
20                   population of the detention facility. If a deten-  
21                   tion facility has determined that more than 5  
22                   percent of its population is a certain ethnicity,  
23                   the document should be translated into that  
24                   ethnicity’s appropriate language. The detention  
25                   facility shall also provide oral interpretation and

1 written translation assistance to detainees in  
2 reading any relevant materials required to re-  
3 quest telephone access, including oral interpre-  
4 tation assistance for those who are not literate  
5 in English, Spanish, and other languages spo-  
6 ken by the detainee population of the facility.

7 (B) The rates charged for telephone calls  
8 shall be reasonable and equitable and shall not  
9 significantly impair detainees' access to tele-  
10 phones.

11 (C) The detention facility shall not restrict  
12 the number of calls detainees may place to their  
13 legal representatives or consular officials, or to  
14 any others for the purpose of obtaining legal  
15 representation, or limit the duration of those  
16 calls by rule or automatic cut-off, unless nec-  
17 essary for security reasons. The detention facil-  
18 ity shall have a reasonable number of working  
19 phones available to detainees, and at a min-  
20 imum one phone per each 25 users.

21 (D) The detention facility shall ensure the  
22 privacy of telephone conversations between de-  
23 tainees and legal representatives or consular of-  
24 ficials, and any other calls made for the pur-  
25 pose of obtaining legal representation. Means to

1 ensure privacy may include the use of privacy  
2 panels, the placement of phones in housing  
3 pods, and other appropriate measures.

4 (E) Detainees' telephone calls to a court,  
5 legal representative, or consular official, or for  
6 the purpose of obtaining legal representation,  
7 shall not be monitored or recorded without a  
8 court order and without prior notification to the  
9 detainee.

10 (F) The detention facility shall take and  
11 deliver telephone messages to detainees as  
12 promptly as possible, but no less often than  
13 twice a day. Detainees shall be permitted to  
14 make confidential telephone calls promptly  
15 within 8 hours of receipt of messages left by a  
16 court, legal representative, prospective legal  
17 representative, or consular official as soon as  
18 reasonably possible after the delivery of the  
19 message.

20 (2) QUALITY OF MEDICAL CARE.—Detention fa-  
21 cilities shall afford a continuum of prompt, high  
22 quality medical care, including care to address med-  
23 ical needs that existed prior to detention, at no cost  
24 to detainees. Such medical care shall address all de-  
25 tainee health needs and shall include chronic care,

1 dental care, eye care, mental health care, individual  
2 and group counseling, medical dietary needs, and  
3 other medically necessary specialized care in accord-  
4 ance with the following:

5 (A) All detention facilities shall maintain  
6 current accreditation by the National Commis-  
7 sion on Correctional Health Care and the Joint  
8 Commission on the Accreditation of Health  
9 Care Organizations. Detention facilities that are  
10 not accredited as of the date of the enactment  
11 of this Act will obtain such accreditation within  
12 one year, and if accreditation is not obtained by  
13 that time the Secretary of Homeland Security  
14 shall cease use of the facility. All standards,  
15 policies and practices shall at a minimum com-  
16 ply with the National Commission on Correc-  
17 tional Health Care Standards for Health Serv-  
18 ices in Jails.

19 (B) All detention facilities shall have a des-  
20 ignated on-site health authority who is a physi-  
21 cian, a health services administrator, or a  
22 health agency. Clinical decisions shall be made  
23 solely by a licensed health care provider.

24 (C) Each immigration detainee shall re-  
25 ceive a comprehensive medical and mental

1 health intake screening by a qualified health  
2 care professional upon arrival at the facility and  
3 each immigration detainee shall receive a com-  
4 prehensive medical and mental health examina-  
5 tion and assessment by a qualified health care  
6 professional not later than 14 days after ar-  
7 rival.

8 (D) Any decision to deny requested med-  
9 ical care or treatment, or care or treatment rec-  
10 ommended by any outside physician or spe-  
11 cialist, to a detainee shall be made within 72  
12 hours or earlier if medically necessary and shall  
13 be accompanied by a written explanation of the  
14 reasons for the denial. This decision and the  
15 written explanation of the decision shall be si-  
16 multaneously communicated to the detainee and  
17 to the Secretary of Homeland Security.

18 (E) Detainees shall be afforded an oppor-  
19 tunity to obtain an appeal of any decisions de-  
20 denying a request for medical treatment. Such an  
21 appeal or request for reconsideration shall be  
22 resolved in writing within 7 days or earlier if  
23 medically necessary by an appeals board that  
24 shall be composed of independent health care  
25 professionals in the fields relevant to the re-

1           quest for medical or mental health care. The  
2           written decision shall be conveyed to the on-site  
3           medical provider and the immigration detainee  
4           within 24 hours of a decision by the appeals  
5           board.

6           (F) Except in emergency situations where  
7           informed consent cannot reasonably be ob-  
8           tained, medical care and treatment shall be pro-  
9           vided only with the informed consent of the de-  
10          tainee or a person authorized by the detainee or  
11          applicable law to provide such consent.

12          (G) Involuntary psychotropic medication  
13          may be used only if allowed by applicable law  
14          and then only in emergency situations when a  
15          physician has determined, after personally ex-  
16          amining the patient, that—

17                 (i) a detainee is imminently dangerous  
18                 to self or others due to a mental illness;  
19                 and

20                 (ii) involuntary psychotropic medica-  
21                 tion is medically appropriate to treat the  
22                 mental illness and necessary to prevent  
23                 harm. If a detainee is represented by coun-  
24                 sel, the administration of any psychotropic  
25                 drug to the detainee shall be disclosed to

1           the detainee's counsel promptly and in any  
2           event within a reasonable time prior to any  
3           hearing in which the detainee will appear.

4           If a detainee is not represented by counsel, the  
5           administration of any psychotropic drug to the  
6           detainee shall, with the informed consent of the  
7           detainee, be disclosed to the Immigration Court  
8           prior to any hearing in which the detainee will  
9           appear. Any disclosure to the court by any per-  
10          son of the administration of a psychotropic  
11          drug to the detainee shall be filed under seal  
12          and may be disclosed to other persons only in  
13          the same manner and to the same extent that  
14          medical records may be disclosed. Any detainee  
15          who receives medication pursuant to this sub-  
16          paragraph must be afforded a hearing pursuant  
17          to the procedures set forth in 28 C.F.R.  
18          549.43, as described in *Washington v. Harper*,  
19          494 U.S. 210 (1990), before the detainee may  
20          receive medication again under this subpara-  
21          graph.

22                 (H) No drugs of any kind shall be admin-  
23                 istered to detainees without their informed con-  
24                 sent for the purpose of sedation or controlling

1 the detainee's behavior during transportation or  
2 removal or for the purpose of punishment.

3 (I) All detention facilities shall maintain  
4 complete medical records for every detainee,  
5 which shall be made available within 72 hours  
6 to any detention facility to which the detainee  
7 may be transferred. Medical records shall also  
8 be made available within 72 hours to a de-  
9 tainee, his legal representative, or other author-  
10 ized individuals upon request by the detainee.  
11 Any and all medical and mental health records  
12 of a detainee shall be treated as confidential, as  
13 required by the Health Insurance Portability  
14 and Accountability Act of 1996.

15 (J) For each fiscal year after the passage  
16 of this Act, the Secretary of Homeland Security  
17 shall report to the Congress on a semiannual  
18 basis, and to Department of Homeland Security  
19 Office of Inspector General within 48 hours of  
20 any in-custody death, information regarding the  
21 death of any person who is in the custody of  
22 U.S. Immigration and Customs Enforcement  
23 that, at a minimum, includes—

24 (i) the name, gender, national origin,  
25 alien number, and age of the deceased;

- 1 (ii) the date on which detention in  
2 U.S. Immigration and Customs Enforce-  
3 ment custody commenced;
- 4 (iii) the date and location of death;
- 5 (iv) the location of last detention;
- 6 (v) a brief description of the cir-  
7 cumstances surrounding the death;
- 8 (vi) the status and results of any in-  
9 vestigation(s) that has been conducted into  
10 the circumstances surrounding the death;
- 11 (vii) each location where the indi-  
12 vidual was held in U.S. Immigration and  
13 Customs Enforcement custody or the cus-  
14 tody of an entity contracting with U.S. Im-  
15 migration and Customs Enforcement and  
16 the dates during which the individual was  
17 held at each location; and
- 18 (viii) all medical records of the de-  
19 ceased.
- 20 (K) All detainee transfers shall take into  
21 consideration the detainee's health and medical  
22 fitness. Continuity of care shall be preserved  
23 during and after transfers, and detainees shall  
24 suffer no interruption in the provision of treat-  
25 ment, including prescription medication.

1           (3) SEXUAL ABUSE REGULATIONS CONCERNING  
2 CARE AND CUSTODY OF DETAINEES.—

3           (A) IN GENERAL.—Detention facilities  
4 shall take all necessary measures to prevent  
5 sexual abuse of detainees, including sexual as-  
6 saults, and shall observe the minimum stand-  
7 ards under the Prison Rape Elimination Act of  
8 2003 (42 U.S.C. 15601 et seq.).

9           (B) MEASURES WHERE ABUSE OCCURS.—  
10 Where sexual abuse occurs, detention facilities  
11 shall ensure that—

12           (i) prompt and appropriate medical  
13 intervention is taken to minimize medical  
14 and psychological trauma;

15           (ii) a medical history is taken and a  
16 physical examination is conducted by quali-  
17 fied and culturally appropriate medical  
18 professionals to determine the extent of  
19 physical injury and whether referral to an-  
20 other medical facility is indicated;

21           (iii) prophylactic treatment, emer-  
22 gency contraception, and follow-up for sex-  
23 ually transmitted diseases are provided;

24           (iv) the case is evaluated by a quali-  
25 fied mental health professional for crisis

1 intervention counseling and long-term fol-  
2 low-up;

3 (v) victims are separated from their  
4 abusers and are considered for release on  
5 parole or for an alternative to detention  
6 program; and

7 (vi) any and all medical and mental  
8 health records arising out of a detainee's  
9 allegation of sexual abuse shall be treated  
10 as confidential, as required by the Health  
11 Insurance Portability and Accountability  
12 Act of 1996.

13 (C) REPORTING.—A detention facility shall  
14 not subject any person to punishment or any  
15 other form of retaliation for reporting incidents  
16 of sexual abuse.

17 (D) INVESTIGATION.—In all cases of al-  
18 leged sexual abuse, the detention facility shall  
19 conduct a thorough and timely investigation  
20 and shall provide to the Secretary of Homeland  
21 Security a report of the circumstances and the  
22 response of the detention facility. If the report  
23 is not completed within 30 days after alleged  
24 sexual abuse comes to the attention of the de-  
25 tention facility, the detention facility shall sub-

1           mit to the Secretary of Homeland Security a  
2           description of the status of the investigation  
3           and an estimated date of completion 30 days  
4           after the alleged sexual abuse comes to the at-  
5           tention of the detention facility and every 30  
6           days thereafter until the report is provided to  
7           the Secretary of Homeland Security. The report  
8           required by this subsection shall include at min-  
9           imum a determination of whether the alleged  
10          sexual abuse occurred, an in-depth analysis of  
11          the relevant facts including the causes of any  
12          sexual abuse that may have occurred and  
13          whether and to what extent the alleged abuse  
14          indicates a failure of policy, a failure of train-  
15          ing, a failure of oversight, or a failure of man-  
16          agement, and a description of the actions that  
17          the facility will take to prevent the occurrence  
18          of similar incidents in the future and a plan for  
19          monitoring the implementation of those actions.  
20          The detention facility shall provide to the Sec-  
21          retary of Homeland Security periodic reports  
22          monitoring the implementation of the plan in  
23          accordance with the schedule set forth in such  
24          plan as approved by the Secretary of Homeland  
25          Security.

1 (4) TRANSFER OF DETAINEES.—

2 (A) PROCEDURES.—In adopting proce-  
3 dures governing the transfer of individuals de-  
4 tained under section 236 of the Immigration  
5 and Nationality Act (8 U.S.C. 1226), the Sec-  
6 retary of Homeland Security shall promulgate  
7 regulations requiring officials of the Depart-  
8 ment of Homeland Security to give substantial  
9 weight to—

10 (i) the detainee’s access to legal rep-  
11 resentation;

12 (ii) the detainee’s residence prior to  
13 apprehension;

14 (iii) the location of family members;

15 (iv) the stage of any legal proceeding  
16 involving the detainee;

17 (v) the proximity of the transferee fa-  
18 cility to the venue of such proceeding;

19 (vi) the detainee’s health and medical  
20 fitness; and

21 (vii) whether the detainee has a pend-  
22 ing application with United States Citizen-  
23 ship and Immigration Services or the Ex-  
24 ecutive Office for Immigration Review or

1           has appeared for a merits or calendar  
2           hearing.

3           (B) NOTICE.—Unless exigent cir-  
4           cumstances dictate an immediate transfer—

5                   (i) the Secretary of Homeland Secu-  
6                   rity shall provide not less than 72 hours  
7                   notice to any detainee prior to transferring  
8                   the detainee to another detention facility;

9                   (ii) detainees shall be afforded at least  
10                  one toll-free call following any transfer,  
11                  and within 24 hours after the detainee’s  
12                  arrival at the transferee facility, the Sec-  
13                  retary of Homeland Security shall notify  
14                  the detainee’s legal representative or if un-  
15                  represented, an adult family member or  
16                  other person designated by the detainee, of  
17                  the transfer and the detainee’s new loca-  
18                  tion;

19                  (iii) if removal proceedings are pend-  
20                  ing, the Secretary of Homeland Security  
21                  shall also promptly notify the Immigration  
22                  Court, Board of Immigration Appeals, or  
23                  the Circuit Court of Appeals, as appro-  
24                  priate of the transfer and the detainee’s  
25                  new address; and

1 (iv) the Secretary of Homeland Secu-  
2 rity shall not transfer any detainee who  
3 has already requested, and is awaiting, a  
4 bond hearing or a bond redetermination  
5 hearing.

6 (C) ATTORNEY-CLIENT RELATIONSHIPS.—  
7 The Secretary may not transfer a detainee who  
8 has an existing attorney-client relationship to  
9 another facility if such transfer will—

10 (i) impair the existing attorney client  
11 relationship; or

12 (ii) prejudice the rights of the de-  
13 tainee in any legal proceeding.

14 (D) EXCEPTION.—The Secretary may  
15 transfer a detainee who has an existing attor-  
16 ney-client relationship to an alternate detention  
17 facility if such transfer is necessitated by a  
18 highly unusual emergency, such as a natural  
19 disaster or comparable emergency.

20 (E) PROTECTING DETAINEES LEGAL  
21 RIGHTS.—If the Secretary determines that a  
22 transfer is necessary due to a highly unusual  
23 emergency, the Secretary shall ensure that the  
24 detainee's legal rights are not prejudiced and  
25 the existing attorney-client relationship is not

1           impaired, including evaluating the location of  
2           the detention facility based on its proximity to  
3           the detainee’s counsel or nongovernmental or  
4           pro bono organizations providing free or low  
5           cost immigration legal services.

6           (F) RECORD.—In cases in which a de-  
7           tainee is transferred, the Secretary shall make  
8           a record of the reasons and circumstances ne-  
9           cessitating such transfer.

10          (5) NOTICE.—

11           (A) IN GENERAL.—Section 236 of the Im-  
12           migration and Nationality Act (8 U.S.C. 1226)  
13           is amended by adding at the end the following:

14          “(f) NOTICE.—The Secretary of Homeland Security  
15          shall file the notice to appear or other relevant charging  
16          document with the immigration court and serve such no-  
17          tice on every alien detained under this Act, within 48  
18          hours of the detention of such alien. Any alien, held for  
19          more than 48 hours shall be brought before an immigra-  
20          tion judge for a custody determination within 72 hours  
21          of the arrest or detention of such alien. The requirements  
22          of this provision may be tolled for no more than 30 days  
23          upon request from an alien who demonstrates prima facie  
24          eligibility for affirmative relief. The Secretary of Home-  
25          land Security shall—

1           “(1) document when a notice to appear is  
2           served on a detainee in order to determine compli-  
3           ance by the Department of Homeland Security with  
4           the 48-hour notice requirement; and

5           “(2) submit to the Committees on the Judiciary  
6           of the Senate and the House of Representatives an  
7           annual report concerning the Department of Home-  
8           land Security’s compliance with such notice require-  
9           ment.”.

10                           (B) APPLICABILITY OF OTHER LAW.—

11           Nothing in section 236(f) of the Immigration  
12           and Nationality Act, as added by subparagraph  
13           (A), shall be construed to repeal section 236A  
14           of such Act (8 U.S.C. 1226a).

15           (b) REGULATIONS CONCERNING CARE AND CUSTODY  
16           OF DETAINEES.—

17           (1) RULEMAKING.—The Secretary of Homeland  
18           Security shall promulgate new rules, or modify exist-  
19           ing rules, based on the report of the detention advi-  
20           sory committee established under paragraph (2), to  
21           ensure detainees are treated humanely and held in  
22           the least restrictive setting necessary for their safety  
23           and to ensure compliance with the general minimum  
24           requirements set forth in paragraph (3), standards  
25           regarding classification of detainees set forth in

1 paragraph (4), and the special standards for vulner-  
2 able populations set forth in paragraph (5). The  
3 rules required under this subsection shall be promul-  
4 gated not later than 1 year after the Secretary of  
5 Homeland Security receives the report of the deten-  
6 tion advisory committee established under paragraph  
7 (2) or 1 year after such report is due, whichever is  
8 earlier.

9 (2) DETENTION ADVISORY COMMITTEE.—The  
10 Secretary of Homeland Security shall convene, and  
11 receive a report from a detention advisory committee  
12 comprised of experts from U.S. Immigration and  
13 Customs Enforcement, U.S. Customs and Border  
14 Protection, the Office of Refugee Resettlement, and  
15 Division of Immigration Health Services in the De-  
16 partment of Health and Human Services, and an  
17 equal number of independent experts from non-  
18 governmental organizations and intergovernmental  
19 organizations with expertise in working on behalf of  
20 aliens detained under immigration laws and vulner-  
21 able populations. The independent experts shall at a  
22 minimum include representatives of the American  
23 Bar Association and the United Nations High Com-  
24 missioner for Refugees. The detention advisory com-  
25 mittee shall review and revise all the guidelines

1 found in the Secretary of Homeland Security’s De-  
2 tention Operations Manual, as amended, based on  
3 identifiable deficiencies and best practices that treat  
4 aliens both safely and humanely. The detention advi-  
5 sory committee shall submit a report to the Sec-  
6 retary of Homeland Security within 12 months after  
7 the date of the enactment of this Act. For good  
8 cause, the Secretary of Homeland Security may ex-  
9 tend the time for submission of the advisory commit-  
10 tees report for an additional six months.

11 (3) GENERAL MINIMUM REQUIREMENTS.—The  
12 Secretary of Homeland Security’s rules regarding  
13 conditions of detention shall ensure that the fol-  
14 lowing requirements are met:

15 (A) FAIR AND HUMANE TREATMENT.—De-  
16 tainees shall not be subject to cruel, degrading  
17 or inhumane treatment such as verbal or phys-  
18 ical abuse or harassment, sexual abuse or har-  
19 assment, or arbitrary punishment.

20 (B) USE OF FORCE AND RESTRAINTS.—  
21 Detainees shall not be subjected to shackling,  
22 handcuffing, solitary confinement, Tasers, elec-  
23 tric shields, restraint chairs, or strip searches  
24 unless and to the extent that such techniques  
25 are necessary to ensure the security of other de-

1           tainees, staff, or the public and where no less  
2           coercive or degrading measures are available to  
3           achieve that end. These techniques shall in no  
4           event be used for the purpose of humiliating de-  
5           tainees either within or outside the detention  
6           facility. Detention facilities shall adopt written  
7           policies pertaining to the use of force and the  
8           use of restraints, and shall train all staff on the  
9           proper use of such devices.

10           (C) INVESTIGATION OF GRIEVANCES.—De-  
11           tainees shall have the right to prompt, effective,  
12           transparent, and impartial grievance proce-  
13           dures. Such procedures shall include review of  
14           grievances by officials of the Department of  
15           Homeland Security who do not work at the  
16           same detention facility where the detainee filing  
17           the grievance is detained in accordance with the  
18           following:

19                   (i) An otherwise valid grievance shall  
20                   not be denied for noncompliance with a  
21                   procedural requirement if such noncompli-  
22                   ance is due to ignorance, fear, excusable  
23                   neglect or other reasonable cause.

24                   (ii) Detainees shall be afforded the  
25                   opportunity to complain to staff of U.S.

1 Immigration and Customs Enforcement di-  
2 rectly and confidentially, outside the griev-  
3 ance process.

4 (iii) Detainees shall not be subject to  
5 retaliation for making use of the grievance  
6 procedure or procedure for complaining di-  
7 rectly to staff of U.S. Immigration and  
8 Customs Enforcement.

9 (iv) Detention facilities shall orally in-  
10 form detainees of the grievance procedure  
11 and the procedure for complaining directly  
12 to staff of U.S. Immigration and Customs  
13 Enforcement and shall provide to every de-  
14 tainee a copy of those procedures within 24  
15 hours after admission. The detention facil-  
16 ity shall provide oral interpretation and  
17 written translation assistance to detainees  
18 in completing any grievance or complaint  
19 forms or other relevant materials required  
20 to comply with grievance procedures.

21 (v) Detention facilities shall make an  
22 annual report regarding the grievances re-  
23 ceived, the responses made, and the time  
24 period for response, and such report shall

1           be submitted to the Secretary of Homeland  
2           Security on January 31 of each year.

3                   (vi) All grievances shall be inves-  
4                   tigated.

5                   (D) LOCATION OF FACILITIES.—Detention  
6           facilities shall be located, to the extent prac-  
7           ticable, near sources of free or low-cost legal  
8           representation provided by pro bono counsel or  
9           a nongovernmental organization with expertise  
10          in asylum or immigration law.

11                   (E) ACCESS TO LEGAL MATERIALS.—De-  
12          tainees shall have available an on-site law li-  
13          brary with sufficient space to facilitate detain-  
14          ees' legal research and preparation of docu-  
15          ments. The law library's holdings shall include  
16          up-to-date copies of legal materials designated  
17          by the Secretary of Homeland Security, includ-  
18          ing immigration law materials. The law library  
19          shall be provided with adequate equipment for  
20          legal research and the preparation of legal doc-  
21          uments. Such equipment shall include, at a  
22          minimum, computers, printers, typewriters, and  
23          copiers. Information regarding the availability  
24          of the library, procedures for requesting its use,  
25          and instruction on the use of the library and li-

1           brary equipment shall be provided to all detain-  
2           ees at the time of admission into the detention  
3           facility, and shall be posted in the law library  
4           together with a list of the library's holdings.  
5           The detention facility will make available to de-  
6           tainees any assistance that may be necessary to  
7           allow detainees to use the library effectively and  
8           shall provide special assistance as the Secretary  
9           of Homeland Security may prescribe to detain-  
10          ees who are not literate in English. Library  
11          services, including access to databases and  
12          printing and copying, shall be provided without  
13          charge to detainees.

14                 (F) LEGAL VISITS.—Detainees shall be en-  
15          titled to private meetings with their current or  
16          prospective legal representatives or their legal  
17          assistants. Interpreters shall be allowed to ac-  
18          company legal representatives and legal assist-  
19          ants on legal visits subject to appropriate secu-  
20          rity procedures. Legal visits shall be permitted  
21          a minimum of 8 hours per day on regular busi-  
22          ness days and 4 hours per day on weekends and  
23          holidays, except that if lack of space for inter-  
24          views at the detention facility, the conduct of  
25          immigration hearings on site, or other factors

1 lead to excessive delay between the time the  
2 legal representative is ready to visit the de-  
3 tainee and the time space becomes available,  
4 the Secretary of Homeland Security shall re-  
5 quire such additional time for legal visits or  
6 other measures as may be sufficient to avoid ex-  
7 cessive delay. Excessive delay for purposes of  
8 this paragraph is delay of 2 hours or more, oc-  
9 ccurring more than 2 times per month over a  
10 12-month period. Detention facilities shall  
11 maintain a procedure allowing legal representa-  
12 tives and legal assistants to call ahead to deter-  
13 mine if a detainee is held at that facility, and  
14 they shall take messages from legal representa-  
15 tives and promptly deliver them to the detainee.  
16 Messengers, including individuals who are not  
17 attorneys, legal representatives, or legal assist-  
18 ants, shall be permitted to deliver documents  
19 for detainees to and from the facility. Detention  
20 facilities shall promptly and prominently post  
21 the most current official list of pro bono legal  
22 organizations and their contact information in  
23 detainee housing units and other appropriate  
24 areas, and such lists shall be updated by the  
25 Secretary of Homeland Security on a semi-an-

1 nual basis. Detention facilities may not retaliate  
2 in any way, including denial or limitation of ac-  
3 cess to detention facilities, for complaints or  
4 public or private statements made by legal rep-  
5 resentatives regarding the detention facility's  
6 compliance with regulations relating to condi-  
7 tions of detention.

8 (G) SPECIAL CORRESPONDENCE.—Special  
9 correspondence shall not be read by staff of the  
10 detention facility or other personnel, contrac-  
11 tors, or agents of the Department of Homeland  
12 Security, and shall not be opened outside the  
13 presence of the detainee. For this purpose, spe-  
14 cial correspondence includes detainees' written  
15 communications to or from private attorneys  
16 and other legal representatives; government at-  
17 torneys; judges and courts; embassies and con-  
18 sulates; the president and vice president of the  
19 United States, members of the Congress, offi-  
20 cers and other personnel of the Department of  
21 Justice; officers and other personnel of the De-  
22 partment of Homeland Security; officers and  
23 other personnel of the U.S. Public Health Serv-  
24 ice; administrators of grievance systems; state  
25 and local officials, representatives of the news

1 media, and representatives of nongovernmental  
2 organizations and intergovernmental organiza-  
3 tions working on behalf of aliens held in deten-  
4 tion and vulnerable populations. Correspond-  
5 ence will only be treated as special correspond-  
6 ence if marked “special correspondence” or  
7 “legal mail” or if the title and office of the  
8 sender (for incoming correspondence) or ad-  
9 dressee (for outgoing correspondence) are un-  
10 ambiguously identified on the envelope, clearly  
11 indicating that the correspondence is special  
12 correspondence. Special correspondence shall be  
13 promptly delivered and promptly posted. In  
14 general, correspondence will be deemed prompt-  
15 ly delivered if it is delivered to the detainee  
16 within 24 hours after its receipt by the deten-  
17 tion facility, and correspondence will be deemed  
18 promptly posted if it is placed into the United  
19 States mail the next day on which the Post Of-  
20 fice is open for business after the detainee  
21 places the correspondence in the location des-  
22 ignated by the facility for outgoing mail.

23 (H) ACCESS TO DETENTION FACILITIES.—  
24 Detention facilities shall afford access as fol-  
25 lows:

1 (i) Subject to reasonable conditions to  
2 protect the security of the facility, deten-  
3 tion facilities shall afford access to private  
4 attorneys, other legal representatives and  
5 legal personnel such as paralegals and  
6 Board of Immigration Appeals accredited  
7 representatives; government attorneys;  
8 judges and courts; embassies and con-  
9 sulates; the president and vice president of  
10 the United States, members of Congress  
11 and their staff; officers and other per-  
12 sonnel of the Department of Justice; offi-  
13 cers and other personnel of the Depart-  
14 ment of Homeland Security; officers and  
15 other personnel of the U.S. Public Health  
16 Service; administrators of grievance sys-  
17 tems; state and local officials, representa-  
18 tives of the news media, and representa-  
19 tives of nongovernmental organizations,  
20 community service organizations, and  
21 intergovernmental organizations.

22 (ii) Independent nongovernmental or-  
23 ganizations shall be permitted to conduct  
24 site visits and meet privately with detain-

1           ees to monitor compliance with regulations  
2           regarding conditions of detention.

3           (iii) Detention facilities shall accom-  
4           modate requests for facility tours within a  
5           reasonable time not to exceed 1 week.

6           (iv) Access of media representatives to  
7           detention facilities and individual detainees  
8           may be restricted only to the extent nec-  
9           essary to preserve the privacy of detainees,  
10          the security and good order of the facility,  
11          the safety of the interviewer, national secu-  
12          rity, or any other obligation imposed by  
13          law or court order. Such access may not be  
14          restricted based on the content of the  
15          media representative's reporting, and retal-  
16          iation against detainees and members of  
17          the media based on the content of their  
18          speech shall be prohibited.

19          (v) Detention facilities may not retali-  
20          ate in any way, including denial or limita-  
21          tion of access to detention facilities,  
22          against any visitor for complaints, or pub-  
23          lic or private statements, regarding the de-  
24          tention facility's compliance with regula-  
25          tions relating to conditions of detention.

1           (I) TRANSLATION CAPABILITIES.—Deten-  
2           tion facilities shall employ staff that, to the ex-  
3           tent practicable, is qualified in the languages  
4           represented in the population of detainees at  
5           each such facility and shall provide alternative  
6           translation services where necessary.

7           (J) RECREATIONAL PROGRAMS AND AC-  
8           TIVITIES.—Detainees shall be afforded access of  
9           at least one hour per day to indoor and outdoor  
10          recreational programs and activities.

11          (K) SAFE AND SANITARY LIVING ENVIRON-  
12          MENT.—Detention facilities shall house no more  
13          individuals than permitted by the rated bed ca-  
14          pacity for the facility, where the rated bed ca-  
15          pacity is defined by the original design capacity,  
16          plus or minus capacity changes resulting from  
17          building additions, reductions, or revisions.  
18          Each detainee shall receive appropriate clothing  
19          and a bed and a mattress placed in an area  
20          specifically designated for residential use, rath-  
21          er than an area re-tasked for residential use  
22          such as common dayrooms, recreation areas, or  
23          visitation rooms. Detention facilities shall be  
24          maintained in a safe and sanitary condition,  
25          and adequate ventilation and reasonably com-

1            comfortable indoor temperatures shall be main-  
2            tained at all times.

3            (L) LEGAL ORIENTATION TO ENSURE EF-  
4            FECTIVE IMMIGRATION PROCEEDINGS.—All  
5            alien detainees shall receive the legal orientation  
6            program including, for unaccompanied alien  
7            children, a child-centered model from an inde-  
8            pendent nongovernmental organization as im-  
9            plemented by the Executive Office for Immigra-  
10          tion Review in order to maximize the efficiency  
11          and effectiveness of immigration proceedings  
12          and to reduce detention costs.

13          (4) CLASSIFICATION.—The Secretary of Home-  
14          land Security's rules shall ensure that detainees with  
15          no history of a criminal conviction are separated by  
16          sight and sound from detainees and inmates with  
17          criminal convictions, pretrial inmates facing criminal  
18          prosecution, and those inmates exhibiting violent be-  
19          havior while in detention.

20          (5) VULNERABLE POPULATIONS.—The Sec-  
21          retary of Homeland Security's rules regarding condi-  
22          tions of detention for vulnerable populations shall—

23                (A) recognize the unique needs of asylum  
24                seekers, victims of torture and trafficking, fami-  
25                lies with children, detainees who do not speak

1 English, detainees with special religious, cul-  
2 tural or spiritual considerations, and vulnerable  
3 populations listed in section 4(c); and

4 (B) ensure that procedures and conditions  
5 of detention are appropriate for such vulnerable  
6 populations.

7 (6) STAFFING.—For purposes of this subsection  
8 and protecting vulnerable populations, the Secretary  
9 of Homeland Security shall appoint at least three  
10 members to the Directorate of Policy at the GS–15  
11 level with substantial academic credentials and ex-  
12 pertise in working directly with vulnerable popu-  
13 lations including children, families and victims of  
14 trafficking, trauma, and torture who shall be respon-  
15 sible for setting, implementing, and overseeing policy  
16 and regulatory developments concerning vulnerable  
17 populations.

18 **SEC. 4. SECURE ALTERNATIVES TO DETENTION.**

19 (a) IN GENERAL.—Subject to the availability of ap-  
20 propriations, the Secretary of Homeland Security shall  
21 fully implement and utilize secure alternatives to detention  
22 programs.

23 (b) SECURE ALTERNATIVES TO DETENTION PRO-  
24 GRAMS.—

1           (1) NATURE OF THE PROGRAM.—For purposes  
2 of this section, the programs referred to in sub-  
3 section (a) are programs under which eligible aliens  
4 are released under supervision, assistance and moni-  
5 toring that ensure they appear at all immigration  
6 interviews, appointments, and hearings. The ele-  
7 ments of the secure alternatives to detention pro-  
8 grams are—

9                   (A) group presentations and individual  
10 screening;

11                   (B) provision of services to aliens released;  
12 and

13                   (C) on-going assistance, supervision, and  
14 monitoring.

15           (2) VOLUNTARY PARTICIPATION.—An alien’s  
16 participation in the program is voluntary and shall  
17 not confer any rights or benefits to the alien under  
18 the Immigration and Nationality Act (8 U.S.C. 1101  
19 et seq.).

20           (3) PROGRAM DEVELOPMENT.—The program  
21 shall be developed in accordance with the following  
22 guidelines:

23                   (A) The Secretary of Homeland Security  
24 shall design the program in consultation with  
25 nongovernmental organizations and academic

1 experts in both the immigration and the crimi-  
2 nal justice fields.

3 (B) All aliens in the custody of the Depart-  
4 ment of Homeland Security deemed eligible for  
5 secure alternatives to detention programs shall  
6 be released in the least restrictive setting need-  
7 ed to ensure appearance at all immigration  
8 interviews, appointments and hearings. The  
9 programs shall utilize a continuum of methods,  
10 including releasing the alien to an individual or  
11 organizational sponsor, a supervised group  
12 home, or a supervised, non-penal community  
13 setting.

14 (C) Nongovernmental organizations and  
15 state and local social service agencies that serve  
16 immigrants shall be contracted to conduct  
17 group and individual screening and provide  
18 services to program participants.

19 (D) The Secretary of Homeland Security  
20 shall ensure that each alien participates in a  
21 legal presentation provided through the legal  
22 orientation presentation program administered  
23 by the Executive Office for Immigration Re-  
24 view.

1 (c) PROTECTION OF VULNERABLE POPULATIONS.—

2 Within 72 hours of detaining an alien, the Department  
3 of Homeland Security shall screen the alien to determine  
4 if he or she falls into the following designated groups. Any  
5 alien described in the following designated groups who  
6 meets the criteria set forth under section 236(b) of the  
7 Immigration and Nationality Act, as amended by this Act,  
8 shall be released on parole, a reasonable bond, or the  
9 alien's own recognizance subject to the requirements of  
10 such section 236(b):

11 (1) Aliens who have serious medical or mental  
12 health needs or a disability.

13 (2) Pregnant or nursing women.

14 (3) Aliens who are being detained with one or  
15 more of their children.

16 (4) Aliens who provide financial, physical, and  
17 other direct support to their minor children, parents,  
18 or other dependents.

19 (5) Aliens who are over the age of 65.

20 (6) Children (as defined at section 101(c)(1) of  
21 the Immigration and Nationality Act (8 U.S.C.  
22 1101(c)(1))).

23 (7) Victims of abuse, violence, crime or traf-  
24 ficking.

1           (8) Asylum seekers and torture survivors who  
2           have demonstrated a credible fear of persecution or  
3           a reasonable fear of torture.

4           (9) Other groups designated in regulations or  
5           guidance promulgated after the date of the enact-  
6           ment of this Act by the Secretary of Homeland Se-  
7           curity.

8           (10) Individuals who have a nonfrivolous claim  
9           to United States citizenship or aliens who are eligi-  
10          ble for relief under a provision of the Immigration  
11          and Nationality Act.

12          (d) OPTIONS REGARDING DETENTION DECISIONS  
13          FOR VULNERABLE POPULATIONS AND PLACEMENT IN AL-  
14          TERNATIVES TO DETENTION.—Section 236 of the Immi-  
15          gration and Nationality Act (8 U.S.C. 1226) is amend-  
16          ed—

17                 (1) in subsection (a)—

18                         (A) in the matter preceding paragraph (1),  
19                         by striking “(c)” and inserting “(d)”;

20                         (B) in paragraph (2)—

21                                 (i) in subparagraph (A), by striking  
22                                 “or” at the end;

23                                 (ii) in subparagraph (B), by striking  
24                                 “but” at the end; and

1 (iii) by inserting after subparagraph

2 (B) the following:

3 “(C) the alien’s own recognizance; and”;

4 (C) by redesignating paragraph (3) as  
5 paragraph (4); and

6 (D) by inserting after paragraph (2) the  
7 following:

8 “(3) may enroll the alien in a secure alter-  
9 natives to detention program; but”;

10 (2) by redesignating subsections (b), (c), (d),  
11 and (e) as subsections (e), (f), (g), and (h) respec-  
12 tively;

13 (3) by inserting after subsection (a) the fol-  
14 lowing:

15 “(b) CUSTODY DECISIONS FOR VULNERABLE POPU-  
16 LATIONS.—

17 “(1) IN GENERAL.—Not later than 72 hours  
18 after an alien’s detention unless the 72 hour require-  
19 ment is waived in writing by the alien, an alien who  
20 is a member of a vulnerable population (as defined  
21 by subsection (c)) shall be released from the Depart-  
22 ment of Homeland Security’s custody and shall not  
23 be subject to electronic monitoring unless the De-  
24 partment of Homeland Security demonstrates that  
25 the alien—

1           “(A) is subject to mandatory detention  
2           under section 235(b)(1)(B)(iii)(IV), 236(c) or  
3           236A; or

4           “(B) poses a flight risk or a risk to others  
5           or national security.

6           “(2) RELEASE.—An alien shall be released  
7           under this subsection—

8           “(A) on the alien’s own recognizance;

9           “(B) by posting a reasonable bond under  
10          subsection (a); or

11          “(C) on parole in accordance with section  
12          212(d)(5)(A).

13          “(c) PARTICIPATION IN ALTERNATIVES TO DETEN-  
14          TION.—An alien who is denied release on recognizance, pa-  
15          role, or bond, or is unable to pay the bond shall be selected  
16          for participation in a secure alternatives to detention pro-  
17          gram unless the Department of Homeland Security dem-  
18          onstrates by substantial evidence that the alien—

19          “(1) is subject to mandatory detention under  
20          section 235(b)(1)(B)(iii)(IV) or 236A; or

21          “(2) is a flight risk or the alien’s participation  
22          in the program would create a risk to others or na-  
23          tional security.

1       “(d) DECISIONS UNDER THIS SECTION.—In the case  
2 of a decision under subsection (a), (b), or (c), the following  
3 shall apply:

4           “(1) The decision shall be made in writing and  
5 shall be served upon the individual in the language  
6 spoken by the alien. A decision to continue detention  
7 without bond or parole shall specify in writing the  
8 reasons for that decision.

9           “(2) The decision shall be served upon the alien  
10 within 72 hours of the individual’s detention or, in  
11 the case of an individual subject to section 235, 238,  
12 or 241(a)(5) within 72 hours of a positive credible  
13 or reasonable fear determination.

14           “(3) An alien subject to this section, including  
15 all aliens who are entitled to a removal hearing  
16 under section 240, may at any time after being  
17 served with the Secretary of Homeland Security’s  
18 decision under subsections (a), (b), or (c) request a  
19 redetermination of that decision by an immigration  
20 judge.

21           “(4) All custody decisions by the Secretary of  
22 Homeland Security shall be subject to redetermina-  
23 tion by an immigration judge. Nothing in this sub-  
24 section shall be construed to prevent an individual  
25 from requesting a bond redetermination.

1           “(5) The Attorney General or an immigration  
2           judge, at any time, may redetermine an alien’s clas-  
3           sification under subsection (c), the bond of someone  
4           released, or the custody status of someone placed in  
5           an alternatives to detention program. Nothing in  
6           this subsection would preclude a person from being  
7           released on bond after initially participating in an  
8           alternatives to detention program.”; and

9           (4) in subsection (f), as redesignated, in para-  
10          graph (2), by inserting “or for humanitarian rea-  
11          sons,” after “such an investigation,”.

12          (e) ELIGIBILITY AND OPERATIONS.—Nothing in this  
13          section shall be construed to modify the care and custody  
14          of unaccompanied alien children (as defined in section  
15          462(g)(2) of the Homeland Security Act (6 U.S.C.  
16          279(g)(2))) who shall be considered to be in the care and  
17          exclusive legal and physical custody of the Department of  
18          Health and Human Services. Such children shall be sub-  
19          ject to removal proceedings under section 240 of the Im-  
20          migration and Nationality Act (8 U.S.C. 1229a), with the  
21          exception of children from contiguous countries eligible for  
22          administrative voluntary departure, and shall not be per-  
23          mitted to participate in the program.

24          (f) LESS RESTRICTIVE CUSTODIAL DETENTION.—If  
25          an alien is determined not to meet the requirements for

1 release on recognizance, bond or parole, or subsequently  
2 does not meet the requirements for secure alternatives to  
3 detention programs, the alien shall be considered for  
4 placement in less restrictive forms of custody:

5 (1) Less restrictive forms of custodial detention  
6 include electronic monitoring such as the use of  
7 ankle bracelets that monitor an individual's move-  
8 ment and the use of similar electronic devices.

9 (2) An individualized determination shall be  
10 made in each alien's case about the use of electronic  
11 monitoring.

12 (3) Aliens who would otherwise be subject to  
13 detention including under section 236 of such Act (8  
14 U.S.C. 1226) may be placed in electronic monitoring  
15 or other less restrictive forms of custody.

16 (4) Subject to the availability of appropriations,  
17 facilities shall be developed and used that offer the  
18 least restrictive secure setting for aliens in custody.

19 **SEC. 5. PROGRAM OVERSIGHT AND REVIEW.**

20 (a) RELATIONSHIPS OF APPLICATION TO CERTAIN  
21 ORDERS.—An alien who is present in the United States  
22 and has been ordered excluded, deported, removed, or or-  
23 dered to depart voluntarily from the United States under  
24 any provision of the Immigration and Nationality Act—

1           (1) notwithstanding such order, may be selected  
2           for a secure alternatives to detention program; and

3           (2) shall not be required to file a separate mo-  
4           tion to reopen, reconsider, or vacate the exclusion,  
5           deportation, removal, or voluntary departure order.

6           (b) IMPLEMENTING REGULATIONS.—Not later than  
7           180 days after the date of the enactment of this Act, the  
8           Secretary of Homeland Security shall promulgate regula-  
9           tions to implement the secure alternatives to detention  
10          programs.

11          (c) REPORTING REQUIREMENTS.—Not later than  
12          365 days after the date of the enactment of this Act and  
13          annually thereafter, the Secretary of Homeland Security  
14          shall submit to the Committee on Homeland Security of  
15          the House of Representatives, the Committee on the Judi-  
16          ciary of the House of Representatives, the Committee on  
17          Homeland Security and Governmental Affairs of the Sen-  
18          ate, and the Committee on the Judiciary of the Senate  
19          a report that details all policies, regulations, and actions  
20          taken to comply with the provisions in this Act and the  
21          amendments made by this Act, including efforts to in-  
22          crease the use of the secure alternatives to detention pro-  
23          grams, and a description of efforts taken to ensure that  
24          all aliens in expedited removal proceedings are residing  
25          under conditions that are safe, secure, and healthy.

1       (d) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to the Secretary of  
3 Homeland Security such sums as may be necessary to  
4 carry out this Act and the amendments made by this Act.  
5 Amounts appropriated pursuant to this subsection shall  
6 remain available until expended.

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