

Oppose the McCain Amendment No. 3407 to Eliminate Protections for Unaccompanied Children

The McCain amendment would strip away critical protections in the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008 for all unaccompanied children arriving in the United States. The amendment would subject all unaccompanied children to the lower, inadequate standard of protection currently used primarily for Mexican children. If passed, Customs and Border Protection (CBP) would do only a cursory screening of these children for persecution and trafficking within 48 hours and then quickly repatriate the children. However, CBP lacks the necessary training on how to effectively screen children. This amendment would mean most children would be immediately sent back to their country of origin without ever being able to present their case to a judge.

The amendment also includes language that would increase refugee admissions out of the Northern Triangle region by 5,000 per country for a total of 15,000 refugees. While we support the call for increased refugee processing from the region, it cannot be viewed as a “fix-all” solution. The United States must continue to adhere to international law and provide access to asylum and other forms legal relief for those in need of immediate protection. Furthermore, 15,000 refugee admissions per year will be insufficient compared to the number of those seeking refuge.

The amendment trades the safety of children for expediency.

The Northern Triangle of Central America continues to be among the most violent in the world. While El Salvador is currently the most violent country in the hemisphere, violence levels remain high in neighboring Honduras and Guatemala. The Central American children fleeing these countries are escaping sexual violence, femicide, and forced gang recruitment. Deporting these children could very well mean returning them to further violence, abuse, and even death.

Unaccompanied children will be detained in Border Patrol stations or jail-like detention centers that do not have adequate food, shelter or beds. By prolonging children’s stay in CBP custody, the amendment puts unaccompanied children at risk of abuse or sexual assault by strangers. In June of 2014, advocacy groups filed a complaint with over one hundred cases of abuse and maltreatment while in CBP custody. The amendment denies many unaccompanied children adequate care and protection Congress deemed appropriate in the Homeland Security Act of 2002 when it transferred the authority for the screening and care of these vulnerable children to the Office of Refugee Resettlement.

This amendment would make the limited and faulty screening process currently in use for unaccompanied children from Mexico applicable to all unaccompanied children. CBP typically interviews children about persecution or trafficking within 12 hours of apprehension. That is insufficient time for a victimized child to be physically and psychologically ready to talk about sensitive traumatic events. Rape, sexual assault and child abuse victims often take weeks, months or longer before they can speak about such crimes.

The amendment would subject Central American children to a flawed, unfair process that should not be used on Mexican children.

In 2015 the Government Accountability Office found that CBP has been unable to adequately screen Mexican children. Ninety-five percent of Mexican children were routinely returned to harm despite, in some cases, findings of trafficking and fear of persecution indicators.

Unaccompanied children need a safe space to talk about violence and abuse. A jail-like Border Patrol station is no place for an interview to happen, especially while they are still recovering from a harrowing journey and are likely hungry, cold, and scared. Furthermore, Border Patrol agents lack the necessary training on child welfare, trauma, abuse, and sexual assault to conduct the appropriate screenings, putting children who may be eligible for relief at risk of falling through the cracks and being returned to dangerous situations. Victims may be further traumatized when questioned by officials who lack training in sexual assault and other trauma-informed interviewing techniques.

Children will be denied proper medical care, including expert forensic care, if they are subject to a streamlined deportation process rather than the appropriate care and screening required for victims of sexual and other forms of violence. Deporting children from Border Patrol stations before they are adequately screened or have access to an attorney, child advocate or a judge is fundamentally unfair and places children in danger. If a child is unable to make her case in short order to a CBP agent, she can be returned almost immediately to her home country and the unsafe conditions which she fled.

America should protect all children, not place them in harms way.

The best interest of the child should be paramount. Child safety should not be compromised for the sake of expediency.

Subjecting all children to the failed Mexican screening process would be a retreat from America's commitment as a humanitarian leader and undermine our American values of putting children first and protecting them from harm.

All children deserve protection, and Congress should be focused on strengthening protections rather than weakening them. There is no valid reason for treating vulnerable unaccompanied children differently based on their country of origin. We should ensure that Mexican children are better protected instead of watering down the protection afforded to all children.

Signed by:

**Alliance to End Slavery & Trafficking
American Immigration Lawyers Association
Central American Resource Center (CARECEN)
The Evangelical Lutheran Church in America (ELCA)
First Focus Campaign for Children
Freedom Network USA
Free the Slaves**

Futures Without Violence
Guatemala Human Rights Commission/ USA
International Rescue Committee
Latin American Working Group
Lutheran Immigration and Refugee Service
National Immigrant Justice Center
Washington Office on Latin America (WOLA)
We Belong Together
Women's Refugee Commission
World Vision
Young Center for Immigrant Children's Rights at the University of Chicago