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(Original Signature of Member)

113TH CONGRESS
2D SESSION

H. R. _____

To modify the treatment of unaccompanied alien children who are in Federal custody by reason of their immigration status, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. CHAFFETZ introduced the following bill; which was referred to the Committee on _____

A BILL

To modify the treatment of unaccompanied alien children who are in Federal custody by reason of their immigration status, 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 “Asylum Reform and
5 Border Protection Act of 2014”.

6 **SEC. 2. SAFE REMOVAL OF MINORS.**

7 (a) COUNTRY AGREEMENTS.—Section 235(a)(2) of
8 the William Wilberforce Trafficking Victims Protection

1 Reauthorization Act of 2008 (8 U.S.C. 1232(a)(2)) is
2 amended to read as follows:

3 “(2) COUNTRY AGREEMENTS.—The Secretary
4 of State shall negotiate agreements between the
5 United States and other countries with respect to
6 the repatriation of children. Such agreements shall
7 be designed to protect children from severe forms of
8 trafficking in persons, and shall, at a minimum, pro-
9 vide that—

10 “(A) no child shall be returned to the
11 child’s country of nationality or of last habitual
12 residence unless returned to appropriate em-
13 ployees or officials, including child welfare offi-
14 cials where available, of the accepting country’s
15 government;

16 “(B) no child shall be returned to the
17 child’s country of nationality or of last habitual
18 residence outside of reasonable business hours;
19 and

20 “(C) border personnel of the countries that
21 are parties to such agreements are trained in
22 the terms of such agreements.”.

23 (b) REPEALS.—Section 235(a) of the William Wilber-
24 force Trafficking Victims Protection Reauthorization Act
25 of 2008 (8 U.S.C. 1232(a)) is amended—

- 1 (1) by striking paragraphs (3) and (4);
2 (2) by striking paragraph (5)(D); and
3 (3) by redesignating paragraph (5) as para-
4 graph (3).

5 (c) SCREENING OF APPLICANTS FOR ADMISSION.—
6 Section 235(b)(1)(A)(i) of the Immigration and Nation-
7 ality Act (8 U.S.C. 1225(b)(1)(A)(i)) is amended by strik-
8 ing “(other than an alien described in subparagraph (F))”
9 and inserting “(including a child, whether or not the child
10 is an unaccompanied alien child (as defined in section
11 462(g)(2) of the Homeland Security Act of 2002 (6
12 U.S.C. 279(g))), but not including an alien described in
13 subparagraph (F))”.

14 **SEC. 3. CLARIFICATION OF INTENT REGARDING TAXPAYER-**
15 **PROVIDED COUNSEL.**

16 Section 292 of the Immigration and Nationality Act
17 (8 U.S.C. 1362) is amended—

18 (1) by striking “(at no expense to the Govern-
19 ment)”; and

20 (2) by adding at the end the following:
21 “Notwithstanding any other provision of law, in no in-
22 stance shall the Government bear any expense for counsel
23 for any person in removal proceedings or in any appeal
24 proceedings before the Attorney General from any such
25 removal proceedings.”.

1 **SEC. 4. SPECIAL IMMIGRANT JUVENILE VISAS.**

2 Section 101(a)(27)(J)(i) of the Immigration and Na-
3 tionality Act (8 U.S.C. 1101(a)(27)(J)(i)) is amended by
4 striking “and whose reunification with 1 or both of the
5 immigrant’s parents is not viable due” and inserting “and
6 who cannot be reunified with either of the immigrant’s
7 parents due”.

8 **SEC. 5. CREDIBLE FEAR INTERVIEWS.**

9 Section 235(b)(1)(B)(v) of the Immigration and Na-
10 tionality Act (8 U.S.C. 1225(b)(1)(B)(v)) is amended by
11 striking “208.” and inserting “208, and it is more prob-
12 able than not that the statements made by the alien in
13 support of the alien’s claim are true.”.

14 **SEC. 6. RECORDING EXPEDITED REMOVAL AND CREDIBLE**
15 **FEAR INTERVIEWS.**

16 (a) IN GENERAL.—The Secretary of Homeland Secu-
17 rity shall establish quality assurance procedures and take
18 steps to effectively ensure that questions by employees of
19 the Department of Homeland Security exercising expe-
20 dited removal authority under section 235(b) of the Immi-
21 gration and Nationality act (8 U.S.C. 1225(b)) are asked
22 in a uniform, manner, and that both these questions and
23 the answers provided in response to them are recorded in
24 a uniform fashion.

25 (b) FACTORS RELATING TO SWORN STATEMENTS.—
26 Where practicable, any sworn or signed written statement

1 taken of an alien as part of the record of a proceeding
2 under section 235(b)(1)(A) of the Immigration and Na-
3 tionality Act (8 U.S.C. 1225(b)(1)(A)) shall be accom-
4 panied by a recording of the interview which served as the
5 basis for that sworn statement.

6 (c) INTERPRETERS.—The Secretary shall ensure that
7 a competent interpreter, not affiliated with the govern-
8 ment of the country from which the alien may claim asy-
9 lum, is used when the interviewing officer does not speak
10 a language understood by the alien and there is no other
11 Federal, State, or local government employee available
12 who is able to interpret effectively, accurately, and impar-
13 tially.

14 (d) RECORDINGS IN IMMIGRATION PROCEEDINGS.—
15 Recordings of interviews of aliens subject to expedited re-
16 moval shall be included in the record of proceeding and
17 shall be considered as evidence in any further proceedings
18 involving the alien.

19 (e) NO PRIVATE RIGHT OF ACTION.—Nothing in this
20 section shall be construed to create any right, benefit,
21 trust, or responsibility, whether substantive or procedural,
22 enforceable in law or equity by a party against the United
23 States, its departments, agencies, instrumentalities, enti-
24 ties, officers, employees, or agents, or any person, nor does

1 this section create any right of review in any administra-
2 tive, judicial, or other proceeding.

3 **SEC. 7. PAROLE REFORM.**

4 (a) IN GENERAL.—Paragraph (5) of section 212(d)
5 (8 U.S.C. 1182(d)) is amended to read as follows:

6 “(5) HUMANITARIAN AND PUBLIC INTEREST
7 PAROLE.—

8 “(A) IN GENERAL.—Subject to the provi-
9 sions of this paragraph and section 214(f)(2),
10 the Secretary of Homeland Security, in the sole
11 discretion of the Secretary of Homeland Secu-
12 rity, may on a case-by-case basis parole an alien
13 into the United States temporarily, under such
14 conditions as the Secretary of Homeland Secu-
15 rity may prescribe, only—

16 “(i) for an urgent humanitarian rea-
17 son (as described under subparagraph
18 (B)); or

19 “(ii) for a reason deemed strictly in
20 the public interest (as described under sub-
21 paragraph (C)).

22 “(B) HUMANITARIAN PAROLE.—The Sec-
23 retary of Homeland Security may parole an
24 alien based on an urgent humanitarian reason
25 described in this subparagraph only if—

1 “(i) the alien has a medical emergency
2 and the alien cannot obtain necessary
3 treatment in the foreign state in which the
4 alien is residing or the medical emergency
5 is life-threatening and there is insufficient
6 time for the alien to be admitted through
7 the normal visa process;

8 “(ii) the alien is needed in the United
9 States in order to donate an organ or
10 other tissue for transplant into a close
11 family member; or

12 “(iii) the alien has a close family
13 member in the United States whose death
14 is imminent and the alien could not arrive
15 in the United States in time to see such
16 family member alive if the alien were to be
17 admitted through the normal visa process.

18 “(C) PUBLIC INTEREST PAROLE.—The
19 Secretary of Homeland Security may parole an
20 alien based on a reason deemed strictly in the
21 public interest described in this subparagraph
22 only if the alien has assisted the United States
23 Government in a matter, such as a criminal in-
24 vestigation, espionage, or other similar law en-
25 forcement activity, and either the alien’s pres-

1 ence in the United States is required by the
2 Government or the alien's life would be threat-
3 ened if the alien were not permitted to come to
4 the United States.

5 “(D) LIMITATION ON THE USE OF PAROLE
6 AUTHORITY.—The Secretary of Homeland Se-
7 curity may not use the parole authority under
8 this paragraph to permit to come to the United
9 States aliens who have applied for and have
10 been found to be ineligible for refugee status or
11 any alien to whom the provisions of this para-
12 graph do not apply.

13 “(E) PAROLE NOT AN ADMISSION.—Parole
14 of an alien under this paragraph shall not be
15 considered an admission of the alien into the
16 United States. When the purposes of the parole
17 of an alien have been served, as determined by
18 the Secretary of Homeland Security, the alien
19 shall immediately return or be returned to the
20 custody from which the alien was paroled and
21 the alien shall be considered for admission to
22 the United States on the same basis as other
23 similarly situated applicants for admission.

24 “(F) REPORT TO CONGRESS.—Not later
25 than 90 days after the end of each fiscal year,

1 the Secretary of Homeland Security shall sub-
2 mit a report to the Committees on the Judici-
3 ary of the House of Representatives and the
4 Senate describing the number and categories of
5 aliens paroled into the United States under this
6 paragraph. Each such report shall contain in-
7 formation and data concerning the number and
8 categories of aliens paroled, the duration of pa-
9 role, and the current status of aliens paroled
10 during the preceding fiscal year.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall take effect on the first day of the first
13 month beginning more than 60 days after the date of the
14 enactment of this Act.

15 **SEC. 8. REPORT TO CONGRESS ON PAROLE PROCEDURES**
16 **AND STANDARDIZATION OF PAROLE PROCE-**
17 **DURES.**

18 (a) IN GENERAL.—The Attorney General and the
19 Secretary of Homeland Security shall jointly conduct a re-
20 view, and report to the Judiciary Committees of the House
21 of Representatives and the Senate, not later than 180 days
22 after the date of the enactment of this Act, and annually
23 thereafter, regarding the effectiveness of parole and cus-
24 tody determination procedures applicable to aliens who
25 have established a credible fear of persecution and are

1 awaiting a final determination regarding their asylum
2 claim by the immigration courts. The report shall include
3 the following:

4 (1) An analysis of the rate at which release
5 from detention (including release on parole) is grant-
6 ed to aliens who have established a credible fear of
7 persecution and are awaiting a final determination
8 regarding their asylum claim by the immigration
9 courts throughout the United States, and any dis-
10 parity that exists between locations or geographical
11 areas, including explanation of the reasons for this
12 disparity and what actions are being taken to have
13 consistent and uniform application of the standards
14 for granting parole.

15 (2) An analysis of the effect of the procedures
16 and policies applied with respect to parole and cus-
17 tody determinations both by the Attorney General
18 and the Secretary on the alien's pursuit of their asy-
19 lum claim before an immigration court.

20 (3) An analysis of the effectiveness of the pro-
21 cedures and policies applied with respect to parole
22 and custody determinations both by the Attorney
23 General and the Secretary in securing the alien's
24 presence at the immigration court proceedings.

1 (b) RECOMMENDATIONS.—The report should include
2 recommendations with respect to whether the existing pa-
3 role and custody determination procedures applicable to
4 aliens who have established a credible fear of persecution
5 and are awaiting a final determination regarding their
6 asylum claim by the immigration courts both respect the
7 interests of aliens and ensure the presence of the aliens
8 at the immigration court proceedings. The report should
9 include an assessment on corresponding failure to appear
10 rates, inabsentia orders, and absconders.

11 **SEC. 9. GROUNDS OF INADMISSIBILITY AND DEPORT-**
12 **ABILITY FOR ALIEN GANG MEMBERS.**

13 (a) DEFINITION OF GANG MEMBER.—Section 101(a)
14 of the Immigration and Nationality Act (8 U.S.C.
15 1101(a)) is amended by adding at the end the following:

16 “(53)(A) The term ‘criminal gang’ means an ongoing
17 group, club, organization, or association of 5 or more per-
18 sons that has as one of its primary purposes the commis-
19 sion of 1 or more of the following criminal offenses and
20 the members of which engage, or have engaged within the
21 past 5 years, in a continuing series of such offenses, or
22 that has been designated as a criminal gang by the Sec-
23 retary of Homeland Security, in consultation with the At-
24 torney General, as meeting these criteria. The offenses de-
25 scribed, whether in violation of Federal or State law or

1 foreign law and regardless of whether the offenses oc-
2 curred before, on, or after the date of the enactment of
3 this paragraph, are the following:

4 “(i) A ‘felony drug offense’ (as defined in sec-
5 tion 102 of the Controlled Substances Act (21
6 U.S.C. 802)).

7 “(ii) An offense under section 274 (relating to
8 bringing in and harboring certain aliens), section
9 277 (relating to aiding or assisting certain aliens to
10 enter the United States), or section 278 (relating to
11 importation of alien for immoral purpose).

12 “(iii) A crime of violence (as defined in section
13 16 of title 18, United States Code).

14 “(iv) A crime involving obstruction of justice,
15 tampering with or retaliating against a witness, vic-
16 tim, or informant, or burglary.

17 “(v) Any conduct punishable under sections
18 1028 and 1029 of title 18, United States Code (re-
19 lating to fraud and related activity in connection
20 with identification documents or access devices), sec-
21 tions 1581 through 1594 of such title (relating to
22 peonage, slavery and trafficking in persons), section
23 1952 of such title (relating to interstate and foreign
24 travel or transportation in aid of racketeering enter-
25 prises), section 1956 of such title (relating to the

1 laundering of monetary instruments), section 1957
2 of such title (relating to engaging in monetary trans-
3 actions in property derived from specified unlawful
4 activity), or sections 2312 through 2315 of such title
5 (relating to interstate transportation of stolen motor
6 vehicles or stolen property).

7 “(vi) A conspiracy to commit an offense de-
8 scribed in clauses (i) through (v).

9 “(B) Notwithstanding any other provision of law (in-
10 cluding any effective date), the term applies regardless of
11 whether the conduct occurred before, on, or after the date
12 of the enactment of this paragraph.”.

13 (b) INADMISSIBILITY.—Section 212(a)(2) of such Act
14 (8 U.S.C. 1182(a)(2)) is amended by adding at the end
15 the following:

16 “(J) ALIENS ASSOCIATED WITH CRIMINAL
17 GANGS.—Any alien is inadmissible who a con-
18 sular officer, the Secretary of Homeland Secu-
19 rity, or the Attorney General knows or has rea-
20 son to believe—

21 “(i) to be or to have been a member
22 of a criminal gang (as defined in section
23 101(a)(53)); or

24 “(ii) to have participated in the activi-
25 ties of a criminal gang (as defined in sec-

1 tion 101(a)(53)), knowing or having reason
2 to know that such activities will promote,
3 further, aid, or support the illegal activity
4 of the criminal gang.”.

5 (c) DEPORTABILITY.—Section 237(a)(2) of the Im-
6 migration and Nationality Act (8 U.S.C. 1227(a)(2)) is
7 amended by adding at the end the following:

8 “(G) ALIENS ASSOCIATED WITH CRIMINAL
9 GANGS.—Any alien is deportable who the Sec-
10 retary of Homeland Security or the Attorney
11 General knows or has reason to believe—

12 “(i) is or has been a member of a
13 criminal gang (as defined in section
14 101(a)(53)); or

15 “(ii) has participated in the activities
16 of a criminal gang (as so defined), knowing
17 or having reason to know that such activi-
18 ties will promote, further, aid, or support
19 the illegal activity of the criminal gang.”.

20 (d) DESIGNATION.—

21 (1) IN GENERAL.—Chapter 2 of title II of the
22 Immigration and Nationality Act (8 U.S.C. 1181 et
23 seq.) is amended by inserting after section 219 the
24 following:

1 “DESIGNATION

2 “SEC. 220. (a) IN GENERAL.—The Secretary of
3 Homeland Security, in consultation with the Attorney
4 General, and the Secretary of State may designate a group
5 or association as a criminal street gang if their conduct
6 is described in section 101(a)(53) or if the group or asso-
7 ciation conduct poses a significant risk that threatens the
8 security and the public safety of United States nationals
9 or the national security, homeland security, foreign policy,
10 or economy of the United States.

11 “(b) EFFECTIVE DATE.—Designations under sub-
12 section (a) shall remain in effect until the designation is
13 revoked after consultation between the Secretary of Home-
14 land Security, the Attorney General, and the Secretary of
15 State or is terminated in accordance with Federal law.”.

16 (2) CLERICAL AMENDMENT.—The table of con-
17 tents for such Act is amended by inserting after the
18 item relating to section 219 the following:

“220. Designation.”.

19 (e) MANDATORY DETENTION OF CRIMINAL STREET
20 GANG MEMBERS.—

21 (1) IN GENERAL.—Section 236(c)(1)(D) of the
22 Immigration and Nationality Act (8 U.S.C.
23 1226(c)(1)(D)) is amended—

24 (A) by inserting “or 212(a)(2)(J)” after
25 “212(a)(3)(B)”; and

1 (B) by inserting “237(a)(2)(G) or” before
2 “237(a)(4)(B)”.

3 (2) ANNUAL REPORT.—Not later than March 1
4 of each year (beginning 1 year after the date of the
5 enactment of this Act), the Secretary of Homeland
6 Security, after consultation with the appropriate
7 Federal agencies, shall submit a report to the Com-
8 mittees on the Judiciary of the House of Represent-
9 atives and of the Senate on the number of aliens de-
10 tained under the amendments made by paragraph
11 (1).

12 (f) ASYLUM CLAIMS BASED ON GANG AFFILI-
13 ATION.—

14 (1) INAPPLICABILITY OF RESTRICTION ON RE-
15 MOVAL TO CERTAIN COUNTRIES.—Section
16 241(b)(3)(B) of the Immigration and Nationality
17 Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the
18 matter preceding clause (i), by inserting “who is de-
19 scribed in section 212(a)(2)(J)(i) or section
20 237(a)(2)(G)(i) or who is” after “to an alien”.

21 (2) INELIGIBILITY FOR ASYLUM.—Section
22 208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A))
23 is amended—

24 (A) in clause (v), by striking “or” at the
25 end;

1 (B) by redesignating clause (vi) as clause
2 (vii); and

3 (C) by inserting after clause (v) the fol-
4 lowing:

5 “(vi) the alien is described in section
6 212(a)(2)(J)(i) or section 237(a)(2)(G)(i)
7 (relating to participation in criminal street
8 gangs); or”.

9 (g) TEMPORARY PROTECTED STATUS.—Section 244
10 of such Act (8 U.S.C. 1254a) is amended—

11 (1) by striking “Attorney General” each place
12 it appears and inserting “Secretary of Homeland Se-
13 curity”;

14 (2) in subparagraph (c)(2)(B)—

15 (A) in clause (i), by striking “or” at the
16 end;

17 (B) in clause (ii), by striking the period
18 and inserting “; or”; and

19 (C) by adding at the end the following:

20 “(iii) the alien is, or at any time after
21 admission has been, a member of a crimi-
22 nal gang (as defined in section
23 101(a)(53)).”; and

24 (3) in subsection (d)—

25 (A) by striking paragraph (3); and

1 (B) in paragraph (4), by adding at the end
2 the following: “The Secretary of Homeland Se-
3 curity may detain an alien provided temporary
4 protected status under this section whenever
5 appropriate under any other provision of law.”.

6 (h) SPECIAL IMMIGRANT JUVENILE VISAS.—Section
7 101(a)(27)(J)(iii) of the Immigration and Nationality Act
8 (8 U.S.C. 1101(a)(27)(J)(iii)) is amended—

9 (1) in subclause (I), by striking “and”;

10 (2) in subclause (II), by inserting “and” at the
11 end; and

12 (3) by adding at the end the following:

13 “(III) no alien who is, or was at any
14 time after admission has been, a member
15 of a criminal gang (as defined in section
16 101(a)(53)) shall be eligible for any immi-
17 gration benefit under this subparagraph;”.

18 (i) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect on the date of the enactment
20 of this Act and shall apply to acts that occur before, on,
21 or after the date of the enactment of this Act.

22 **SEC. 10. UNACCOMPANIED ALIEN CHILD DEFINED.**

23 Section 462(g)(2) of the Homeland Security Act of
24 2002 (6 U.S.C. 279(g)(2)) is amended to read as follows:

25 “(2) The term ‘unaccompanied alien child’—

1 “(A) means an alien who—

2 “(i) has no lawful immigration status
3 in the United States;

4 “(ii) has not attained 18 years of age;
5 and

6 “(iii) with respect to whom—

7 “(I) there is no parent or legal
8 guardian in the United States;

9 “(II) no parent or legal guardian
10 in the United States is available to
11 provide care and physical custody; or

12 “(III) no sibling over 18 years of
13 age, aunt, uncle, grandparent, or
14 cousin over 18 years of age is avail-
15 able to provide care and physical cus-
16 tody; except that

17 “(B) such term shall cease to include an
18 alien if at any time a parent, legal guardian,
19 sibling over 18 years of age, aunt, uncle, grand-
20 parent, or cousin over 18 years of age of the
21 alien is found in the United States and is avail-
22 able to provide care and physical custody (and
23 the Secretary of Homeland Security and the
24 Secretary of Health and Human Services shall

1 revoke accordingly any prior designation of the
2 alien under this paragraph).”.

3 **SEC. 11. MODIFICATIONS TO PREFERENTIAL AVAILABILITY**
4 **FOR ASYLUM FOR UNACCOMPANIED ALIEN**
5 **MINORS.**

6 Section 208 of the Immigration and Nationality Act
7 (8 U.S.C. 1158) is amended—

- 8 (1) by striking subsection (a)(2)(E); and
9 (2) by striking subsection (b)(3)(C).

10 **SEC. 12. NOTIFICATION AND TRANSFER OF CUSTODY RE-**
11 **GARDING UNACCOMPANIED ALIEN MINORS.**

12 Section 235(b) of the William Wilberforce Trafficking
13 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
14 1232(b)) is amended—

- 15 (1) in paragraph (2), by striking “48 hours”
16 and inserting “7 days”; and
17 (2) in paragraph (3), by striking “72 hours”
18 and inserting “30 days”.

19 **SEC. 13. INFORMATION SHARING BETWEEN DEPARTMENT**
20 **OF HEALTH AND HUMAN SERVICES AND DE-**
21 **PARTMENT OF HOMELAND SECURITY.**

22 Section 235(b) of the William Wilberforce Trafficking
23 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
24 1232(b)) is amended by adding at the end the following:

1 “(5) INFORMATION SHARING.—The Secretary
2 of Health and Human Services shall share with the
3 Secretary of Homeland Security any information re-
4 quested on a child who has been determined to be
5 an unaccompanied alien child and who is or has
6 been in the custody of the Secretary of Health and
7 Human Services, including the location of the child
8 and any person to whom custody of the child has
9 been transferred, for any legitimate law enforcement
10 objective, including enforcement of the immigration
11 laws.”.

12 **SEC. 14. SAFE THIRD COUNTRY.**

13 Section 208(a)(2)(A) of the Immigration and Nation-
14 ality Act (8 U.S.C. 1158(a)(2)(A)) is amended—

15 (1) by striking “Attorney General” and insert-
16 ing “Secretary of Homeland Security”; and

17 (2) by striking “removed, pursuant to a bilat-
18 eral or multilateral agreement, to” and inserting
19 “removed to”.

20 **SEC. 15. ADDITIONAL IMMIGRATION JUDGES AND ICE**
21 **PROSECUTORS.**

22 (a) EXECUTIVE OFFICE FOR IMMIGRATION RE-
23 VIEW.—Subject to the availability of appropriations, in
24 each of fiscal years 2014 through 2016, the Attorney Gen-
25 eral shall increase by not less than 50 the number of posi-

1 tions for full-time immigration judges within the Executive
2 Office for Immigration Review above the number of such
3 positions for which funds were allotted for fiscal year
4 2013.

5 (b) IMMIGRATION AND CUSTOMS ENFORCEMENT OF-
6 FICE OF THE PRINCIPAL LEGAL ADVISOR.—Subject to
7 the availability of appropriations, in each of fiscal years
8 2014 through 2016, the Secretary of Homeland Security
9 shall increase by not less than 60 the number of positions
10 for full-time trial attorneys within the Immigration and
11 Customs Enforcement Office of the Principal Legal Advi-
12 sor above the number of such positions for which funds
13 were allotted for fiscal year 2013.

14 **SEC. 16. PROHIBITION ON ACTIONS THAT IMPEDE BORDER**
15 **SECURITY ON CERTAIN FEDERAL LAND.**

16 (a) SHORT TITLE.—This section may be cited as the
17 “National Security and Federal Lands Protection Act”.

18 (b) PROHIBITION ON SECRETARIES OF THE INTE-
19 RIOR AND AGRICULTURE.—The Secretary of the Interior
20 or the Secretary of Agriculture shall not impede, prohibit,
21 or restrict activities of U.S. Customs and Border Protec-
22 tion on Federal land located within 100 miles of an inter-
23 national land border that is under the jurisdiction of the
24 Secretary of the Interior or the Secretary of Agriculture,
25 to execute search and rescue operations and to prevent

1 all unlawful entries into the United States, including en-
2 tries by terrorists, other unlawful aliens, instruments of
3 terrorism, narcotics, and other contraband through the
4 international land borders of the United States.

5 (c) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND
6 BORDER PROTECTION.—U.S. Customs and Border Pro-
7 tection shall have immediate access to Federal land within
8 100 miles of the international land border under the juris-
9 diction of the Secretary of the Interior or the Secretary
10 of Agriculture for purposes of conducting the following ac-
11 tivities on such land that prevent all unlawful entries into
12 the United States, including entries by terrorists, other
13 unlawful aliens, instruments of terrorism, narcotics, and
14 other contraband through the international land borders
15 of the United States:

- 16 (1) Construction and maintenance of roads.
- 17 (2) Construction and maintenance of barriers.
- 18 (3) Use of vehicles to patrol, apprehend, or res-
19 cue.
- 20 (4) Installation, maintenance, and operation of
21 communications and surveillance equipment and sen-
22 sors.
- 23 (5) Deployment of temporary tactical infra-
24 structure.

1 (d) CLARIFICATION RELATING TO WAIVER AUTHOR-
2 ITY.—

3 (1) IN GENERAL.—Notwithstanding any other
4 provision of law (including any termination date re-
5 lating to the waiver referred to in this subsection),
6 the waiver by the Secretary of Homeland Security
7 on April 1, 2008, under section 102(c)(1) of the Ille-
8 gal Immigration Reform and Immigrant Responsi-
9 bility Act of 1996 (8 U.S.C. 1103 note; Public Law
10 104–208) of the laws described in paragraph (2)
11 with respect to certain sections of the international
12 border between the United States and Mexico and
13 between the United States and Canada shall be con-
14 sidered to apply to all Federal land under the juris-
15 diction of the Secretary of the Interior or the Sec-
16 retary of Agriculture within 100 miles of the inter-
17 national land borders of the United States for the
18 activities of U.S. Customs and Border Protection de-
19 scribed in subsection (c).

20 (2) DESCRIPTION OF LAWS WAIVED.—The laws
21 referred to in paragraph (1) are limited to the Wil-
22 derness Act (16 U.S.C. 1131 et seq.), the National
23 Environmental Policy Act of 1969 (42 U.S.C. 4321
24 et seq.), the Endangered Species Act of 1973 (16
25 U.S.C. 1531 et seq.), the National Historic Preser-

1 vation Act (16 U.S.C. 470 et seq.), Public Law 86–
2 523 (16 U.S.C. 469 et seq.), the Act of June 8,
3 1906 (commonly known as the “Antiquities Act of
4 1906”; 16 U.S.C. 431 et seq.), the Wild and Scenic
5 Rivers Act (16 U.S.C. 1271 et seq.), the Federal
6 Land Policy and Management Act of 1976 (43
7 U.S.C. 1701 et seq.), the National Wildlife Refuge
8 System Administration Act of 1966 (16 U.S.C.
9 668dd et seq.), the Fish and Wildlife Act of 1956
10 (16 U.S.C. 742a et seq.), the Fish and Wildlife Co-
11 ordination Act (16 U.S.C. 661 et seq.), subchapter
12 II of chapter 5, and chapter 7, of title 5, United
13 States Code (commonly known as the “Administra-
14 tive Procedure Act”), the National Park Service Or-
15 ganic Act (16 U.S.C. 1 et seq.), the General Au-
16 thorities Act of 1970 (Public Law 91–383) (16
17 U.S.C. 1a-1 et seq.), sections 401(7), 403, and 404
18 of the National Parks and Recreation Act of 1978
19 (Public Law 95–625, 92 Stat. 3467), and the Ari-
20 zona Desert Wilderness Act of 1990 (16 U.S.C.
21 1132 note; Public Law 101–628).

22 (e) PROTECTION OF LEGAL USES.—This section
23 shall not be construed to provide—

24 (1) authority to restrict legal uses, such as
25 grazing, hunting, mining, or public-use recreational

1 and backcountry airstrips on land under the jurisdic-
2 tion of the Secretary of the Interior or the Secretary
3 of Agriculture; or

4 (2) any additional authority to restrict legal ac-
5 cess to such land.

6 (f) EFFECT ON STATE AND PRIVATE LAND.—This
7 Act shall—

8 (1) have no force or effect on State or private
9 lands; and

10 (2) not provide authority on or access to State
11 or private lands.

12 (g) TRIBAL SOVEREIGNTY.—Nothing in this section
13 supersedes, replaces, negates, or diminishes treaties or
14 other agreements between the United States and Indian
15 tribes.

16 **SEC. 17. MINORS IN CUSTODY.**

17 (a) MINORS IN DEPARTMENT OF HEALTH AND
18 HUMAN SERVICES CUSTODY.—Section 235(c)(2) of the
19 William Wilberforce Trafficking Victims Protection Reau-
20 thorization Act of 2008 (8 U.S.C. 1232(c)(2)) is amended
21 by striking the last two sentences.

22 (b) MINORS IN EXPEDITED REMOVAL PRO-
23 CEEDINGS.—Section 235(b)(1)(B)(ii) of the Immigration
24 and Nationality Act (8 U.S.C. 1225(b)(1)(B)(ii)) is
25 amended by striking “asylum.” and inserting “asylum (or

1 may be detained if the alien is an unaccompanied alien
2 child (as defined in section 462(g)(2) of the Homeland Se-
3 curity Act of 2002 (6 U.S.C. 279(g))).”.

4 **SEC. 18. FOREIGN ASSISTANCE FOR REPATRIATION.**

5 (a) **SUSPENSION OF FOREIGN ASSISTANCE.**—The
6 Secretary of State shall immediately suspend all foreign
7 assistance, including under United States Agency for
8 International Development programs, the Central Amer-
9 ican Regional Security Initiative, or the International Nar-
10 cotic Control Law Enforcement program, to any large
11 sending country that—

12 (1) refuses to negotiate an agreement under
13 section 235(a)(2) of the William Wilberforce Traf-
14 ficking Victims Protection Reauthorization Act of
15 2008 (8 U.S.C. 1232(a)(2)), as amended by section
16 2 of this Act; or

17 (2) refuses to accept from the United States re-
18 patriated unaccompanied alien children (as defined
19 in section 462(g)(2) of the Homeland Security Act
20 of 2002 (6 U.S.C. 279(g))) who are nationals or
21 residents of the sending country.

22 (b) **USE OF FOREIGN ASSISTANCE FOR REPATRI-**
23 **ATION.**—The Secretary of State shall provide any addi-
24 tional foreign assistance from the United States that such
25 Secretary determines is needed to implement an agree-

1 ment under section 235(a)(2) of the William Wilberforce
2 Trafficking Victims Protection Reauthorization Act of
3 2008 (8 U.S.C. 1232(a)(2)), as amended by section 2 of
4 this Act, or safely to repatriate or reintegrate nationals
5 or residents of a large sending country without increasing
6 the total quantity of foreign assistance to such country.
7 Such country may use any earlier foreign assistance for
8 the purpose of repatriation or implementation of any
9 agreement under such section 235(a)(2).

10 (c) DEFINITION OF LARGE SENDING PROGRAM.—
11 For purposes of this section, the term “large sending
12 country” means—

13 (1) any country which was the country of na-
14 tionality or last habitual residence for 1,000 or more
15 unaccompanied alien children (as defined in section
16 462(g)(2) of the Homeland Security Act of 2002 (6
17 U.S.C. 279(g))) who entered the United States in a
18 single fiscal year in any of the prior 3 fiscal years;
19 and

20 (2) any other country which the Secretary of
21 Homeland Security deems appropriate.

22 (d) EFFECTIVE DATE.—This section shall take effect
23 on the date of the enactment of this Act and shall apply
24 with respect to any unaccompanied alien child (as defined

1 in section 462(g)(2) of the Homeland Security Act of 2002
2 (6 U.S.C. 279(g))) apprehended on or after such date.

3 **SEC. 19. REPORTS.**

4 (a) IN GENERAL.—Not later than 6 month after the
5 date of the enactment of this Act, and annually thereafter,
6 the Secretary of State and the Secretary of Health and
7 Human Services, with assistance from the Secretary of
8 Homeland Security, shall submit a report to the Com-
9 mittee on the Judiciary of the Senate and the Committee
10 on the Judiciary of the House of Representatives on ef-
11 forts to improve repatriation programs for unaccompanied
12 alien children (as defined in section 462(g)(2) of the
13 Homeland Security Act of 2002 (6 U.S.C. 279(g))). Such
14 reports shall include the following:

15 (1) The average time that such a child is de-
16 tained after apprehension until removal.

17 (2) The number of such children detained im-
18 properly beyond the required time periods under
19 paragraphs (2) and (3) of section 235(b) of the Wil-
20 liam Wilberforce Trafficking Victims Protection Re-
21 authorization Act of 2008 (8 U.S.C. 1232(b)).

22 (3) A statement of the funds used to effectuate
23 the repatriation of such children, including any
24 funds that were reallocated from foreign assistance
25 accounts as of the date of the enactment of this Act.

1 (b) EFFECTIVE DATE.—This section shall take effect
2 on the date of the enactment of this Act and shall apply
3 with respect to any unaccompanied alien child (as defined
4 in section 462(g)(2) of the Homeland Security Act of 2002
5 (6 U.S.C. 279(g))) apprehended on or after such date.