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RULES COMMITTEE PRINT 116–26
TEXT OF H.R. 3239, HUMANITARIAN STANDARDS
FOR INDIVIDUALS IN CUSTOMS AND BORDER
PROTECTION CUSTODY ACT

[Showing the text of H.R. 3239, as ordered reported by the
Committee on the Judiciary]

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Humanitarian Standards for Individuals in Customs and
4 Border Protection Custody Act”.

5 (b) **TABLE OF CONTENTS.**—The table of contents of
6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Initial health screening protocol.
- Sec. 3. Water, sanitation and hygiene.
- Sec. 4. Food and nutrition.
- Sec. 5. Shelter.
- Sec. 6. Coordination and Surge capacity.
- Sec. 7. Training.
- Sec. 8. Interfacility transfer of care.
- Sec. 9. Planning and initial implementation.
- Sec. 10. Contractor compliance.
- Sec. 11. Inspections.
- Sec. 12. GAO report.
- Sec. 13. Rule of construction.
- Sec. 14. Definitions.

7 **SEC. 2. INITIAL HEALTH SCREENING PROTOCOL.**

8 (a) **IN GENERAL.**—The Commissioner of U.S. Cus-
9 toms and Border Protection (referred to in this Act as
10 the “Commissioner”), in consultation with the Secretary

1 of Health and Human Services, the Administrator of the
2 Health Resources and Services Administration, and non-
3 governmental experts in the delivery of health care in hu-
4 manitarian crises and in the delivery of health care to chil-
5 dren, shall develop guidelines and protocols for the provi-
6 sion of health screenings and appropriate medical care for
7 individuals in the custody of U.S. Customs and Border
8 Protection (referred to in this Act as “CBP”), as required
9 under this section.

10 (b) INITIAL SCREENING AND MEDICAL ASSESS-
11 MENT.—The Commissioner shall ensure that any indi-
12 vidual who is detained in the custody of CBP (referred
13 to in this Act as a “detainee”) receives an initial in-person
14 screening by a licensed medical professional in accordance
15 with the standards described in subsection (c)—

16 (1) to assess and identify any illness, condition,
17 or age-appropriate mental or physical symptoms that
18 may have resulted from distressing or traumatic ex-
19 periences;

20 (2) to identify acute conditions and high-risk
21 vulnerabilities; and

22 (3) to ensure that appropriate healthcare is
23 provided to individuals as needed, including pedi-
24 atric, obstetric, and geriatric care.

1 (c) STANDARDIZATION OF INITIAL SCREENING AND
2 MEDICAL ASSESSMENT.—

3 (1) IN GENERAL.—The initial screening and
4 medical assessment shall include—

5 (A) an interview and the use of a stand-
6 ardized medical intake questionnaire or the
7 equivalent;

8 (B) screening of vital signs, including pulse
9 rate, body temperature, blood pressure, oxygen
10 saturation, and respiration rate;

11 (C) screening for blood glucose for known
12 or suspected diabetics;

13 (D) weight assessment of detainees under
14 12 years of age;

15 (E) a physical examination; and

16 (F) a risk-assessment and the development
17 of a plan for monitoring and care, when appro-
18 priate.

19 (2) PRESCRIPTION MEDICATION.—The medical
20 professional shall review any prescribed medication
21 that is in the detainee's possession or that was con-
22 fiscated by CBP upon arrival and determine if the
23 medication may be kept by the detainee for use dur-
24 ing detention, properly stored by CBP with appro-
25 priate access for use during detention, or maintained

1 with the detained individual's personal property. A
2 detainee may not be denied the use of necessary and
3 appropriate medication for the management of the
4 detainee's illness.

5 (3) RULE OF CONSTRUCTION.—Nothing in this
6 subsection shall be construed as requiring detainees
7 to disclose their medical status or history.

8 (d) TIMING.—

9 (1) IN GENERAL.—Except as provided in para-
10 graph (2), the initial screening and medical assess-
11 ment described in subsections (b) and (c) shall take
12 place as soon as practicable, but not later than 12
13 hours after a detainee's arrival at a CBP facility.

14 (2) HIGH PRIORITY INDIVIDUALS.—The initial
15 screening and medical assessment described in sub-
16 sections (b) and (c) shall take place as soon as prac-
17 ticable, but not later than 6 hours after a detainee's
18 arrival at a CBP facility if the individual reasonably
19 self-identifies as having a medical condition that re-
20 quires prompt medical attention or is—

21 (A) exhibiting signs of acute or potentially
22 severe physical or mental illness, or otherwise
23 has an acute or chronic physical or mental dis-
24 ability or illness;

25 (B) pregnant;

1 (C) a child (with priority given, as appro-
2 priate, to the youngest children); or

3 (D) elderly.

4 (e) FURTHER CARE.—

5 (1) IN GENERAL.—If, as a result of the initial
6 health screening and medical assessment, the li-
7 censed medical professional conducting the screening
8 or assessment determines that one or more of the
9 detainee's vital sign measurements are significantly
10 outside normal ranges in accordance with the Na-
11 tional Emergency Services Education Standards, or
12 if the detainee is identified as high-risk or in need
13 of medical intervention, the detainee shall be pro-
14 vided, as expeditiously as possible, with an in-person
15 or technology-facilitated medical consultation with a
16 licensed emergency care professional.

17 (2) RE-EVALUATION.—

18 (A) IN GENERAL.—Detainees described in
19 paragraph (1) shall be re-evaluated within 24
20 hours and monitored thereafter as determined
21 by an emergency care professional (and in the
22 care of a consultation provided to a child, with
23 a licensed emergency care professional with a
24 background in pediatric care).

1 (B) REEVALUATION PRIOR TO TRANSPOR-
2 TATION.—In addition to the re-evaluations
3 under subparagraph (A), detainees shall have
4 all vital signs re-evaluated and be cleared as
5 safe to travel by a medical professional prior to
6 transportation.

7 (3) PSYCHOLOGICAL AND MENTAL CARE.—The
8 Commissioner shall ensure that detainees who have
9 experienced physical or sexual violence or who have
10 experienced events that may cause severe trauma or
11 toxic stress, are provided access to basic, humane,
12 and supportive psychological assistance.

13 (f) INTERPRETERS.—To ensure that health
14 screenings and medical care required under this section
15 are carried out in the best interests of the detainee, the
16 Commissioner shall ensure that language-appropriate in-
17 terpretation services, including indigenous languages, are
18 provided to each detainee and that each detainee is in-
19 formed of the availability of interpretation services.

20 (g) CHAPERONES.—To ensure that health screenings
21 and medical care required under this section are carried
22 out in the best interests of the detainee—

23 (1) the Commissioner shall establish guidelines
24 for and ensure the presence of chaperones for all de-
25 tainees during medical screenings and examinations

1 consistent with relevant guidelines in the American
2 Medical Association Code of Medical Ethics, and
3 recommendations of the American Academy of Pedi-
4 atrics; and

5 (2) to the extent practicable, the physical exam-
6 ination of a child shall always be performed in the
7 presence of a parent or legal guardian or in the
8 presence of the detainee's closest present adult rel-
9 ative if a parent or legal guardian is unavailable.

10 (h) DOCUMENTATION.—The Commissioner shall en-
11 sure that the health screenings and medical care required
12 under this section, along with any other medical evalua-
13 tions and interventions for detainees, are documented in
14 accordance with commonly accepted standards in the
15 United States for medical record documentation. Such
16 documentation shall be provided to any individual who re-
17 ceived a health screening and subsequent medical treat-
18 ment upon release from CBP custody.

19 (i) INFRASTRUCTURE AND EQUIPMENT.—The Com-
20 missioner or the Administrator of General Services shall
21 ensure that each location to which detainees are first
22 transported after an initial encounter with an agent or of-
23 ficer of CBP has the following:

24 (1) A private space that provides a comfortable
25 and considerate atmosphere for the patient and that

1 ensures the patient's dignity and right to privacy
2 during the health screening and medical assessment
3 and any necessary follow-up care.

4 (2) All necessary and appropriate medical
5 equipment and facilities to conduct the health
6 screenings and follow-up care required under this
7 section, to treat trauma, to provide emergency care,
8 including resuscitation of individuals of all ages, and
9 to prevent the spread of communicable diseases.

10 (3) Basic over-the-counter medications appro-
11 priate for all age groups.

12 (4) Appropriate transportation to medical facili-
13 ties in the case of a medical emergency, or an on-
14 call service with the ability to arrive at the CBP fa-
15 cility within 30 minutes.

16 (j) PERSONNEL.—The Commissioner or the Adminis-
17 trator of General Services shall ensure that each location
18 to which detainees are first transported after an initial en-
19 counter has onsite at least one licensed medical profes-
20 sional to conduct health screenings. Other personnel that
21 are or may be necessary for carrying out the functions
22 described in subsection (e), such as licensed emergency
23 care professionals, specialty physicians (including physi-
24 cians specializing in pediatrics, family medicine, obstetrics
25 and gynecology, geriatric medicine, internal medicine, and

1 infectious diseases), nurse practitioners, other nurses,
2 physician assistants, licensed social workers, mental health
3 professionals, public health professionals, dietitians, inter-
4 preters, and chaperones, shall be located on site to the
5 extent practicable, or if not practicable, shall be available
6 on call.

7 (k) **ETHICAL GUIDELINES.**—The Commissioner shall
8 ensure that all medical assessments and procedures con-
9 ducted pursuant to this section are conducted in accord-
10 ance with ethical guidelines in the applicable medical field,
11 and respect human dignity.

12 **SEC. 3. WATER, SANITATION AND HYGIENE.**

13 The Commissioner shall ensure that detainees have
14 access to—

15 (1) not less than one gallon of drinking water
16 per person per day, and age-appropriate fluids as
17 needed;

18 (2) a private, safe, clean, and reliable perma-
19 nent or portable toilet with proper waste disposal
20 and a hand washing station, with not less than one
21 toilet available for every 12 male detainees, and 1
22 toilet for every 8 female detainees;

23 (3) a clean diaper changing facility, which in-
24 cludes proper waste disposal, a hand washing sta-
25 tion, and unrestricted access to diapers;

1 (4) the opportunity to bathe daily in a perma-
2 nent or portable shower that is private and secure;
3 and

4 (5) products for individuals of all age groups
5 and with disabilities to maintain basic personal hy-
6 giene, including soap, a toothbrush, toothpaste,
7 adult diapers, and feminine hygiene products, as well
8 as receptacles for the proper storage and disposal of
9 such products.

10 **SEC. 4. FOOD AND NUTRITION.**

11 The Commissioner shall ensure that detainees have
12 access to—

13 (1) three meals per day including—

14 (A) in the case of an individual age 12 or
15 older, a diet that contains not less than 2,000
16 calories per day; and

17 (B) in the case of a child who is under the
18 age of 12, a diet that contains an appropriate
19 number of calories per day based on the child's
20 age and weight;

21 (2) accommodations for any dietary needs or
22 restrictions; and

23 (3) access to food in a manner that follows ap-
24 plicable food safety standards.

1 **SEC. 5. SHELTER.**

2 The Commissioner shall ensure that each facility at
3 which a detainee is detained meets the following require-
4 ments:

5 (1) Except as provided in paragraph (2), males
6 and females shall be detained separately.

7 (2) In the case of a minor child arriving in the
8 United States with an adult relative or legal guard-
9 ian, such child shall be detained with such relative
10 or legal guardian unless such an arrangement poses
11 safety or security concerns. In no case shall a minor
12 who is detained apart from an adult relative or legal
13 guardian as a result of such safety or security con-
14 cerns be detained with other adults.

15 (3) In the case of an unaccompanied minor ar-
16 riving in the United States without an adult relative
17 or legal guardian, such child shall be detained in an
18 age-appropriate facility and shall not be detained
19 with adults.

20 (4) A detainee with a temporary or permanent
21 disability shall be held in an accessible location and
22 in a manner that provides for his or her safety, com-
23 fort, and security, with accommodations provided as
24 needed.

25 (5) No detainee shall be placed in a room for
26 any period of time if the detainee's placement would

1 exceed the maximum occupancy level as determined
2 by the appropriate building code, fire marshal, or
3 other authority.

4 (6) Each detainee shall be provided with tem-
5 perature appropriate clothing and bedding.

6 (7) The facility shall be well lit and well venti-
7 lated, with the humidity and temperature kept at
8 comfortable levels (between 68 and 74 degrees Fahr-
9 enheit).

10 (8) Detainees who are in custody for more than
11 48 hours shall have access to the outdoors for not
12 less than 1 hour during the daylight hours during
13 each 24-hour period.

14 (9) Detainees shall have the ability to practice
15 their religion or not to practice a religion, as appli-
16 cable.

17 (10) Detainees shall have access to lighting and
18 noise levels that are safe and conducive for sleeping
19 throughout the night between the hours of 10 p.m.
20 and 6 a.m.

21 (11) Officers, employees, and contracted per-
22 sonnel of CBP shall—

23 (A) follow medical standards for the isola-
24 tion and prevention of communicable diseases;
25 and

1 (B) ensure the physical and mental safety
2 of detainees who identify as lesbian, gay, bisex-
3 ual, transgender, and intersex.

4 (12) The facility shall have video-monitoring to
5 provide for the safety of the detained population and
6 to prevent sexual abuse and physical harm of vulner-
7 able detainees.

8 (13) The Commissioner shall ensure that lan-
9 guage-appropriate “Detainee Bill of Rights”, includ-
10 ing indigenous languages, are posted or otherwise
11 made available in all areas where detainees are lo-
12 cated. The “Detainee Bill of Rights” shall include
13 all rights afforded to the detainee under this Act.

14 (14) Video from video-monitoring must be pre-
15 served for 90 days and the detention facility must
16 maintain certified records that the video-monitoring
17 is properly working at all times.

18 **SEC. 6. COORDINATION AND SURGE CAPACITY.**

19 The Secretary of Homeland Security shall enter into
20 memoranda of understanding with appropriate Federal
21 agencies, such as the Department of Health and Human
22 Services, and applicable emergency government relief serv-
23 ices, as well as contracts with health care, public health,
24 social work, and transportation professionals, for purposes

1 of addressing surge capacity and ensuring compliance with
2 this Act.

3 **SEC. 7. TRAINING.**

4 The Commissioner shall ensure that CBP personnel
5 assigned to each short-term custodial facility are profes-
6 sionally trained, including continuing education as the
7 Commissioner deems appropriate, in all subjects necessary
8 to ensure compliance with this Act, including—

9 (1) humanitarian response protocols and stand-
10 ards;

11 (2) indicators of physical and mental illness,
12 and medical distress in children and adults;

13 (3) indicators of child sexual exploitation and
14 effective responses to missing migrant children; and

15 (4) procedures to report incidents of suspected
16 child sexual abuse and exploitation directly to the
17 National Center for Missing and Exploited Children.

18 **SEC. 8. INTERFACILITY TRANSFER OF CARE.**

19 (a) TRANSFER.—When a detainee is discharged from
20 a medical facility or emergency department, the Commis-
21 sioner shall ensure that responsibility of care is trans-
22 ferred from the medical facility or emergency department
23 to an accepting licensed health care provider of CBP.

24 (b) RESPONSIBILITIES OF ACCEPTING PROVIDERS.—
25 Such accepting licensed health care provider shall review

1 the medical facility or emergency department's evaluation,
2 diagnosis, treatment, management, and discharge care in-
3 structions to assess the safety of the discharge and trans-
4 fer and to provide necessary follow-up care.

5 **SEC. 9. PLANNING AND INITIAL IMPLEMENTATION.**

6 (a) **PLANNING.**—Not later than 60 days after the
7 date of enactment of this Act, the Secretary of Homeland
8 Security shall submit to Congress a detailed plan delin-
9 eating the timeline, process, and challenges of carrying out
10 the requirements of this Act.

11 (b) **IMPLEMENTATION.**—The Secretary of Homeland
12 Security shall ensure that the requirements of this Act are
13 implemented not later than 6 months after the date of
14 enactment.

15 **SEC. 10. CONTRACTOR COMPLIANCE.**

16 The Secretary of Homeland Security shall ensure
17 that all personnel contracted to carry out this Act do so
18 in accordance with the requirements of this Act.

19 **SEC. 11. INSPECTIONS.**

20 (a) **IN GENERAL.**—The Inspector General of the De-
21 partment of Homeland Security shall—

22 (1) conduct unannounced inspections of ports of
23 entry, border patrol stations, and detention facilities
24 administered by CBP or contractors of CBP; and

1 (2) submit to Congress, reports on the results
2 of such inspections as well as other reports of the
3 Inspector General related to custody operations.

4 (b) PARTICULAR ATTENTION.—In carrying out sub-
5 section (a), the Inspector General of the Department of
6 Homeland Security shall pay particular attention to—

7 (1) the degree of compliance by CBP with the
8 requirements of this Act;

9 (2) remedial actions taken by CBP; and

10 (3) the health needs of detainees.

11 (c) ACCESS TO FACILITIES.—The Commissioner may
12 not deny a Member of Congress entrance to any facility
13 or building used, owned, or operated by CBP.

14 **SEC. 12. GAO REPORT.**

15 (a) IN GENERAL.—The Comptroller General of the
16 United States shall—

17 (1) not later than 6 months after the date of
18 enactment of this Act, commence a study on imple-
19 mentation of, and compliance with, this Act; and

20 (2) not later than 1 year after the date of en-
21 actment of this Act, submit a report to Congress on
22 the results of such study.

23 (b) ISSUES TO BE STUDIED.—The study required by
24 subsection (a) shall examine the management and over-
25 sight by CBP of ports of entry, border patrol stations, and

1 other detention facilities, including the extent to which
2 CBP and the Department of Homeland Security have ef-
3 fective processes in place to comply with this Act. The
4 study shall also examine the extent to which CBP per-
5 sonnel, in carrying out this Act, make abusive, derisive,
6 profane, or harassing statements or gestures, or engage
7 in any other conduct evidencing hatred or invidious preju-
8 dice to or about one person or group on account of race,
9 color, religion, national origin, sex, sexual orientation, age,
10 or disability, including on social media.

11 **SEC. 13. RULE OF CONSTRUCTION.**

12 Nothing in this Act shall be construed to authorize
13 CBP to detain individuals for longer than 72 hours.

14 **SEC. 14. DEFINITIONS.**

15 In this Act:

16 (1) INTERPRETATION SERVICES.—The term
17 “interpretation services” includes translation serv-
18 ices that are performed either in-person or through
19 a telephone or video service.

20 (2) CHILD.—The term “child” has the meaning
21 given the term in section 101(b)(1) of the Immigra-
22 tion and Nationality Act (8 U.S.C. 1101(b)(1)).

23 (3) U.S. CUSTOMS AND BORDER PROTECTION
24 FACILITY.—The term “U.S. Customs and Border
25 Protection Facility” includes—

- 1 (A) U.S. Border Patrol stations;
- 2 (B) ports of entry;
- 3 (C) checkpoints;
- 4 (D) forward operating bases;
- 5 (E) secondary inspection areas; and
- 6 (F) short-term custody facilities.

7 (4) FORWARD OPERATING BASE.—The term
8 “forward operating base” means a permanent facil-
9 ity established by CBP in forward or remote loca-
10 tions, and designated as such by CBP.

