Amendment # 4
Offered en bloc
w/ Amendment #5

AMENDMENT TO H.R. 1149

OFFERED BY MS. Jackson Lee

Strike section 2(a)(2)(B) and insert the following:

(B) by amending paragraph (3) to read as follows:

"(3) TRANSFERS OF UNACCOMPANIED ALIEN CHILDREN.—

"(A) IN GENERAL.—Except in the case of exceptional circumstances, any department or agency of the Federal Government that has an unaccompanied alien child in custody shall transfer the custody of such child to the Secretary of Health and Human Services not later than 72 hours after determining that such child is an unaccompanied alien child.

"(B) MANDATORY TRAINING.—The Secretary of Homeland Security, in consultation with the Secretary of Health and Human Services and independent child welfare experts, shall mandate appropriate training of all personnel who come into contact with unaccompanied alien children in the relevant legal authorities,

1 policies, practices, and procedures pertaining to
2 this vulnerable population.
3 "(C) CARE AND TRANSPORTATION.—Not-
4 withstanding any other provision of law, the
5 Secretary of Homeland Security shall ensure
6 that all unaccompanied alien children who will
7 undergo any immigration proceedings before
8 the Secretary or the Executive Office for Immi-
9 gration Review are duly transported and placed
10 in the care and legal and physical custody of
11 the Director of the Office of Refugee Resettle-
12 ment not later than 72 hours after their appre-
13 hension absent exceptional circumstances. In
14 exceptional circumstances, such as an influx of
15 children or a natural disaster, the Secretary
16 shall make emergency funds available to the Di-
17 rector of the Office of Refugee Resettlement for
18 the operation of emergency shelters. The Sec-
19 retary of Homeland Security, to the extent
20 practicable, shall ensure that female officers are
21 continuously present during the transfer and
22 transport of female unaccompanied children
23 who are in the custody of the Secretary.
24 "(D) QUALIFIED RESOURCES.—The Sec-
25 retary of Homeland Security shall provide ade-

1 quately trained and qualified staff and re-
2 sources, including the accommodation of child
3 welfare officials, at U.S. Customs and Border
4 Protection ports of entry and stations.
5 "(E) CHILD WELFARE PROFESSIONALS.—
6 "(i) IN GENERAL.—The Secretary of
7 Homeland Security, in consultation with
8 the Secretary of Health and Human Serv-
9 ices, shall hire or contract with inde-
10 pendent contractors for, on a full- or part-
11 time basis, child welfare professionals who
12 will provide assistance in the U.S. Customs
13 and Border Protection offices or stations
14 having in its custody an average of 25 or
15 more children per day in the past fiscal
16 year, and subject to review based upon the
17 current fiscal year's monthly statistical re-
18 ports.
19 "(ii) QUALIFICATIONS.—The Sec-
20 retary of Homeland Security, in consulta-
21 tion with the Secretary of Health and
22 Human Services, shall ensure that quali-
23 fied child welfare professionals, licensed in
24 social work, and with expertise in cul-
25 turally-competent, trauma-centered, and

1 developmentally appropriate interviewing
2 skills are available at ports of entry. Child
3 welfare professionals shall be proficient in
4 the most common language(s) spoken by
5 children apprehended at such ports of
6 entry.

7 "(iii) DUTIES.—Child welfare profes-
8 sionals described in clause (i) shall—

9 "(I) develop guidelines for treat-
10 ment of unaccompanied alien children
11 in the custody of the Commissioner of
12 U.S. Customs and Border Protection;

13 "(II) ensure allegations of abuse
14 or mistreatment are referred to the
15 appropriate State and Federal child
16 protection authorities and that the Di-
17 rector of U.S. Customs and Border
18 Protection and the Director of the Of-
19 fice of Refugee Resettlement satisfy
20 their obligations under applicable
21 child abuse reporting laws by—

22 "(aa) ensuring that children
23 can avail themselves of relevant
24 complaint mechanisms to report
25 abuse or misconduct;

1 "(bb) reporting abuse or
2 mistreatment to State or Federal
3 child protection authorities as re-
4 quired, as well as Department of
5 Homeland Security Office of the
6 Inspector General, Office of Civil
7 Rights and Civil Liberties, Cus-
8 toms and Border Protection In-
9 ternal Affairs Office, and the Di-
10 rector of the Office of Refugee
11 Resettlement; and
12 "(cc) providing notice to
13 area government subcontracted
14 legal service providers regarding
15 a child who has made an allega-
16 tion of abuse and directing pro-
17 vider to relevant authorities re-
18 garding availability of immigra-
19 tion and/or administrative relief
20 for individuals with pending civil
21 rights complaints;
22 "(III) conduct screening of all
23 unaccompanied alien children in ac-
24 cordance with subsection (a)(4) and
25 refrain from screening children from

1 non-contiguous countries who will un-
2 dergo screening at the Office of Ref-
3 ugee Resettlement;
4 "(IV) notify the Secretary of
5 Homeland Security and the Director
6 of the Office of Refugee Resettlement
7 of children that potentially meet the
8 notification and transfer require-
9 ments, including children for whom a
10 determination cannot be made, as set
11 forth in subsection (a) and this sub-
12 section;
13 "(V) provide a best interest
14 placement recommendation for accom-
15 panied children and families to the
16 Director of U.S. Immigration and
17 Customs Enforcement that takes into
18 consideration the best interests of the
19 child and applicable law, favoring a
20 policy of release;
21 "(VI) interview adult relatives ac-
22 companying unaccompanied alien chil-
23 dren;
24 "(VII) provide an initial family
25 relationship and trafficking assess-

1 ment and recommendations regarding
2 unaccompanied alien children's initial
3 placements to the Director of the Of-
4 fice of Refugee Resettlement, which
5 shall be conducted in accordance with
6 the time frame set forth in subsection
7 (a)(4) and this paragraph;
8 "(VIII) ensure that each unac-
9 companied alien child in the custody
10 of the Commissioner of U.S. Customs
11 and Border Protection—
12 "(aa) receives emergency
13 medical care when necessary;
14 "(bb) receives emergency
15 medical and mental health care
16 that complies with the standards
17 adopted pursuant to section 8(c)
18 of the Prison Rape Elimination
19 Act of 2003 (42 U.S.C.
20 15607(c)) whenever necessary,
21 including in cases in which a
22 child is at risk to harm himself,
23 herself, or others;
24 "(cc) is provided with cli-
25 mate appropriate clothing, shoes,

1 basic personal hygiene and sani-
2 tary products, a pillow, linens,
3 and sufficient blankets to rest at
4 a comfortable temperature;
5 "(dd) receives adequate nu-
6 trition;
7 "(ee) enjoys a safe and sani-
8 tary living environment;
9 "(ff) has access to daily rec-
10 reational programs and activities
11 if held for a period longer than
12 24 hours;
13 "(gg) has access to legal
14 services and consular officials;
15 and
16 "(hh) is permitted to make
17 supervised phone calls to family
18 members.
19 "(IX) develop procedures to
20 maintain the best interests of the
21 child in any migration deterrence pro-
22 grams for family units carried out at
23 a border, including—

1 "(aa) inquiring whether a
2 child is traveling with a parent or
3 legal guardian;
4 "(bb) ascertaining whether
5 the removal location of an appre-
6 hended parent or legal guardian
7 of the child presents any humani-
8 tarian concern or concern related
9 to such apprehended individual's
10 physical safety; and
11 "(cc) ensuring that, with re-
12 spect to a decision related to the
13 removal or referral for prosecu-
14 tion of such apprehended indi-
15 vidual, due consideration is given
16 to—
17 "(AA) the best interests
18 of such apprehended individ-
19 ual's child, if any;
20 "(BB) family unity
21 whenever possible; and
22 "(CC) other public in-
23 terest factors, including hu-
24 manitarian concerns and
25 concerns related to such ap-

1 prehended individual's phys-
2 ical safety; and
3 "(X) coordinate with the Mexican
4 Consulate to ensure the safe repatri-
5 ation of Mexican children.
6 "(F) MONITORING.—The Secretary of
7 Homeland Security, in consultation with the
8 child welfare professional, shall develop proce-
9 dures to provide regular access to non-govern-
10 mental organizations for human rights moni-
11 toring.
12 "(G) REPORT.—Not later than 18 months
13 after the date of the enactment of the Protec-
14 tion of Children Act of 2015, and annually
15 thereafter, the Secretary shall submit a report
16 to Congress that—
17 "(i) describes the screening proce-
18 dures used by the child welfare profes-
19 sionals to screen unaccompanied alien chil-
20 dren and children accompanied by a parent
21 or legal guardian;
22 "(ii) assesses the effectiveness of such
23 screenings; and

1 "(iii) includes data on all unaccom-
2 panied alien children who were screened by
3 child welfare professionals;
4 "(H) OTHER POLICIES AND PROCE-
5 DURES.—The Secretary shall adopt funda-
6 mental child protection policies and proce-
7 dures—
8 "(i) for reliable age determinations of
9 children, developed in consultation with
10 medical and child welfare experts, which
11 exclude the use of fallible forensic testing
12 of children's bone and teeth;
13 "(ii) to utilize all legal authorities to
14 defer the child's removal if the child faces
15 a risk of life-threatening harm upon return
16 including due to the child's mental health
17 or medical condition; and
18 "(iii) to ensure, in accordance with
19 the Juvenile Justice and Delinquency Pre-
20 vention Act of 1974 (42 U.S.C. 5601 et
21 seq.), that unaccompanied alien children,
22 while in detention, are—
23 "(I) physically separated from
24 any adult who is not an immediate
25 family member; and

1 "(II) separated from—

2 "(aa) immigration detainees

3 and inmates with criminal convic-

4 tions;

5 "(bb) pretrial inmates facing

6 criminal prosecution; and

7 "(cc) inmates exhibiting vio-

8 lent behavior."; and

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