

**AMENDMENT TO THE AMENDMENT IN THE NA-  
TURE OF A SUBSTITUTE OFFERED BY MR.  
McCLINTOCK  
OFFERED BY M\_\_ . \_\_\_\_\_**

Page 57, strike line 23 and all that follows through line 9 on page 60, and insert the following:

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

3                   “(3) TRANSFERS OF UNACCOMPANIED ALIEN  
4 CHILDREN.—

5                   “(A) IN GENERAL.—Except in the case of  
6 exceptional circumstances, any department or  
7 agency of the Federal Government that has an  
8 unaccompanied alien child in custody shall  
9 transfer the custody of such child to the Sec-  
10 retary of Health and Human Services not later  
11 than 72 hours after determining that such child  
12 is an unaccompanied alien child.

13                   “(B) MANDATORY TRAINING.—The Sec-  
14 retary of Homeland Security, in consultation  
15 with the Secretary of Health and Human Serv-  
16 ices and independent child welfare experts, shall  
17 mandate appropriate training of all personnel

1           who come into contact with unaccompanied  
2           alien children in the relevant legal authorities,  
3           policies, practices, and procedures pertaining to  
4           this vulnerable population.

5           “(C) CARE AND TRANSPORTATION.—Not-  
6           withstanding any other provision of law, the  
7           Secretary of Homeland Security shall ensure  
8           that all unaccompanied alien children who will  
9           undergo any immigration proceedings before an  
10          immigration judge or the Attorney General are  
11          duly transported and placed in the care and  
12          legal and physical custody of the Director of the  
13          Office of Refugee Resettlement not later than  
14          72 hours after their apprehension absent excep-  
15          tional circumstances. In exceptional cir-  
16          cumstances, such as an influx of children or a  
17          natural disaster, the Secretary shall make emer-  
18          gency funds available to the Director of the Of-  
19          fice of Refugee Resettlement for the operation  
20          of emergency shelters. The Secretary of Home-  
21          land Security, to the extent practicable, shall  
22          ensure that female officers are continuously  
23          present during the transfer and transport of fe-  
24          male unaccompanied children who are in the  
25          custody of the Secretary.

1           “(D) QUALIFIED RESOURCES.—The Sec-  
2           retary of Homeland Security shall provide ade-  
3           quately trained and qualified staff and re-  
4           sources, including the accommodation of child  
5           welfare officials, at U.S. Customs and Border  
6           Protection ports of entry and stations.

7           “(E) CHILD WELFARE PROFESSIONALS.—  
8           “(i) IN GENERAL.—The Secretary of  
9           Homeland Security, in consultation with  
10          the Secretary of Health and Human Serv-  
11          ices, shall hire or contract with inde-  
12          pendent contractors for, on a full- or part-  
13          time basis, child welfare professionals who  
14          will provide assistance in the U.S. Customs  
15          and Border Protection offices or stations  
16          having in its custody an average of 25 or  
17          more children per day in the past fiscal  
18          year, and subject to review based upon the  
19          current fiscal year’s monthly statistical re-  
20          ports.

21          “(ii) QUALIFICATIONS.—The Sec-  
22          retary of Homeland Security, in consulta-  
23          tion with the Secretary of Health and  
24          Human Services, shall ensure that quali-  
25          fied child welfare professionals, licensed in

1 social work, and with expertise in cul-  
2 turally-competent, trauma-centered, and  
3 developmentally appropriate interviewing  
4 skills are available at ports of entry. Child  
5 welfare professionals shall be proficient in  
6 the most common language(s) spoken by  
7 children apprehended at such ports of  
8 entry.

9 “(iii) DUTIES.—Child welfare profes-  
10 sionals described in clause (i) shall—

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

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

24 “(aa) ensuring that children  
25 can avail themselves of relevant

1 complaint mechanisms to report  
2 abuse or misconduct;

3 “(bb) reporting abuse or  
4 mistreatment to State or Federal  
5 child protection authorities as re-  
6 quired, as well as Department of  
7 Homeland Security Office of the  
8 Inspector General, Office of Civil  
9 Rights and Civil Liberties, Cus-  
10 toms and Border Protection In-  
11 ternal Affairs Office, and the Di-  
12 rector of the Office of Refugee  
13 Resettlement; and

14 “(cc) providing notice to  
15 area government subcontracted  
16 legal service providers regarding  
17 a child who has made an allega-  
18 tion of abuse and directing pro-  
19 vider to relevant authorities re-  
20 garding availability of immigra-  
21 tion and/or administrative relief  
22 for individuals with pending civil  
23 rights complaints;

24 “(III) conduct screening of all  
25 unaccompanied alien children in ac-

1 cordance with subsection (a)(4) and  
2 refrain from screening children from  
3 non-contiguous countries who will un-  
4 dergo screening at the Office of Ref-  
5 ugee Resettlement;

6 “(IV) notify the Secretary of  
7 Homeland Security and the Director  
8 of the Office of Refugee Resettlement  
9 of children that potentially meet the  
10 notification and transfer require-  
11 ments, including children for whom a  
12 determination cannot be made, as set  
13 forth in subsection (a) and this sub-  
14 section;

15 “(V) provide a best interest  
16 placement recommendation for accom-  
17 panied children and families to the  
18 Director of U.S. Immigration and  
19 Customs Enforcement that takes into  
20 consideration the best interests of the  
21 child and applicable law, favoring a  
22 policy of release;

23 “(VI) interview adult relatives ac-  
24 companying unaccompanied alien chil-  
25 dren;

1 “(VII) provide an initial family  
2 relationship and trafficking assess-  
3 ment and recommendations regarding  
4 unaccompanied alien children’s initial  
5 placements to the Director of the Of-  
6 fice of Refugee Resettlement, which  
7 shall be conducted in accordance with  
8 the time frame set forth in subsection  
9 (a)(4) and this paragraph;

10 “(VIII) ensure that each unac-  
11 companied alien child in the custody  
12 of the Commissioner of U.S. Customs  
13 and Border Protection—

14 “(aa) receives emergency  
15 medical care when necessary;

16 “(bb) receives emergency  
17 medical and mental health care  
18 that complies with the standards  
19 adopted pursuant to section 8(c)  
20 of the Prison Rape Elimination  
21 Act of 2003 (42 U.S.C.  
22 15607(c)) whenever necessary,  
23 including in cases in which a  
24 child is at risk to harm himself,  
25 herself, or others;

1           “(cc) is provided with cli-  
2           mate appropriate clothing, shoes,  
3           basic personal hygiene and sani-  
4           tary products, a pillow, linens,  
5           and sufficient blankets to rest at  
6           a comfortable temperature;

7           “(dd) receives adequate nu-  
8           trition;

9           “(ee) enjoys a safe and sani-  
10          tary living environment;

11          “(ff) has access to daily rec-  
12          reational programs and activities  
13          if held for a period longer than  
14          24 hours;

15          “(gg) has access to legal  
16          services and consular officials;  
17          and

18          “(hh) is permitted to make  
19          supervised phone calls to family  
20          members.

21          “(IX) develop procedures to  
22          maintain the best interests of the  
23          child in any migration deterrence pro-  
24          grams for family units carried out at  
25          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 “(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.”.

