

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R.
OFFERED BY M. _____**

Page 53, strike line 1, and all that follows through
page 55, line 19, and insert the following:

1 TITLE IV—ORLIN’S LAW

2 SEC. 401. SPECIAL RULE FOR PARENTS.

3 (a) PARENTS.—Not later than 2 hours after taking
4 an alien into custody under the immigration laws (as such
5 term is defined in section 101 of the Immigration and Na-
6 tionality Act (8 U.S.C. 1101)), and prior to transferring
7 the alien to a detention facility, the Secretary of Homeland
8 Security shall request information from the alien on
9 whether the alien is a covered parent and document the
10 response.

11 (b) LIMITATION ON DETENTION.—If the Secretary of
12 Homeland Security determines that an alien who is in cus-
13 tody under the immigration laws is a covered parent, the
14 Secretary shall release such alien unless an immigration
15 judge determines that the Secretary has demonstrated, by
16 clear and convincing evidence, that the alien poses an indi-
17 vidualized risk to the safety of any other person or the

1 community that cannot be mitigated through placement
2 in a supervised release program.

3 (c) SAFETY RISKS.—In the case that a covered par-
4 ent poses an individualized risk described in subsection
5 (b), the Secretary of Homeland Security shall determine
6 the least restrictive placement for the individual, including
7 placement in a community-based supervision program
8 under section 236(g) of the Immigration and Nationality
9 Act.

10 (d) REQUIREMENT.—In the case that an alien is in
11 custody under the immigration laws, the Secretary of
12 Homeland Security shall inquire about the parental sta-
13 tus, or a change in parental status, of such alien during
14 any interaction relating to the determination of the alien's
15 immigration status and no less than once each month.

16 **SEC. 402. IDENTIFYING DETAINED PARENTS.**

17 (a) DETAINED ALIENS.—Any covered parent in the
18 custody of the Department of Homeland Security shall be
19 allowed to—

20 (1) make telephone calls, without charge, to ar-
21 range for the care of each of their dependent chil-
22 dren prior to any transfer, including in preparation
23 for removal;

24 (2) arrange regular in person visits with each of
25 their dependent children; and

1 (3) make daily telephone and video calls to each
2 of their dependent children, without charge.

3 (b) LIMITATION ON TRANSFERS.—The Secretary of
4 Homeland Security may not transfer a covered parent who
5 is detained under the immigration laws to an area of re-
6 sponsibility of U.S. Immigration and Customs Enforce-
7 ment that is a different area of responsibility than the
8 area in which the covered parent was initially detained or
9 the habitual place of residence of the child of such parent,
10 except in exceptional circumstances or if legally required.

11 **SEC. 403. ATTENDING COURT PROCEEDINGS.**

12 (a) IN GENERAL.—The Secretary of Homeland Secu-
13 rity shall ensure that any covered parent has the oppor-
14 tunity to—

15 (1) initiate or participate fully and, to the ex-
16 tent practicable, in person in—

17 (A) any family court proceeding;

18 (B) any other proceeding that may impact
19 the right of the individual to take custody of
20 their dependent child; and

21 (C) any case planning activity;

22 (2) make confidential telephone calls, without
23 charge, to any legal counsel, relevant child welfare
24 agency or applicable contracted entity or provider,
25 community and family members, or family court as

1 often as necessary to ensure that the best interests
2 of such dependent child, including a preference for
3 family unity whenever appropriate, may be consid-
4 ered in a child welfare agency or family court pro-
5 ceeding;

6 (3) fully comply with each family court or child
7 welfare agency order impacting the custody of such
8 dependent child;

9 (4) submit United States passport applications
10 or other relevant travel document applications for
11 the purpose of obtaining travel documents for such
12 dependent child;

13 (5) have timely and free access to a notary pub-
14 lic for purposes of applying for a passport for such
15 dependent child or executing guardianship or other
16 agreements to ensure the safety of such dependent
17 child;

18 (6) have adequate time and opportunity before
19 removal to obtain passports, apostilled birth certifi-
20 cates, travel documents, medical records, educational
21 records, and other necessary records on behalf of
22 such dependent child if such child will accompany
23 the individual to the country of removal or eventu-
24 ally join the individual in such country;

1 (7) have adequate time and access to any docu-
2 ments in the possession of the Secretary of Home-
3 land Security that are necessary to make arrange-
4 ments for the dependent child's care, travel, or safe-
5 ty, including access to any identity document and
6 passport of the covered parent;

7 (8) have adequate time and notice regarding
8 their dependent child's travel arrangements with re-
9 spect to removal, including the time of travel, report-
10 ing location, manner of transportation, and who is
11 facilitating such travel; and

12 (9) share information regarding such travel ar-
13 rangements with his or her legal counsel, consulate,
14 dependent child, child welfare agencies, or other
15 caregivers before the alien departs the United
16 States.

17 (b) IMMIGRATION COURT PROCEEDINGS.—During a
18 proceeding before an immigration court the immigration
19 judge shall, as the judge determines necessary, appoint
20 counsel to a covered parent, at the expense of the Govern-
21 ment, during family integrity custody review proceedings.

22 **SEC. 404. PARENTAL RIGHTS.**

23 If a dependent child is physically separated from a
24 covered parent as a result of such parent's detention under
25 the immigration laws, and a State court has not made a

1 determination that the parental rights of such parent have
2 been terminated, there is a presumption that—

3 (1) the parental rights remain intact; and

4 (2) such separation does not constitute an af-
5 firmative determination of abandonment, abuse, or
6 neglect under Federal or State law.

7 **SEC. 405. REMOVAL OF DETAINED PARENTS.**

8 (a) REQUEST FOR REMOVAL WITH DEPENDENT
9 CHILD.—The Secretary of Homeland Security shall pro-
10 vide oral and written notice to each covered parent who
11 is subject to a final order of removal, in each covered par-
12 ent's preferred language, that the alien may, in writing—

13 (1) request removal from the United States
14 with, and to the same country as, their dependent
15 children; and

16 (2) amend a request described in paragraph
17 (1).

18 (b) RULE OF CONSTRUCTION.—Nothing in this sec-
19 tion may be construed to give effect to any request under
20 this section made under duress or any other coercive con-
21 dition.

22 **SEC. 406. REPORTING REQUIREMENTS.**

23 (a) IN GENERAL.—On a quarterly basis, the Sec-
24 retary of Homeland shall publish on the Department of
25 Homeland Security website—

1 (1) the number of covered parents that were—

2 (A) detained by U.S. Immigration and
3 Customs Enforcement;

4 (B) transferred to the custody of the De-
5 partment of Homeland Security from a State or
6 local law enforcement agency;

7 (C) supported by the Secretary to make
8 custody arrangements for each of their depend-
9 ent children immediately after being taken into
10 custody; and

11 (D) supported by the Director of U.S. Im-
12 migration and Customs Enforcement to make
13 custody arrangements while in U.S. Immigra-
14 tion and Customs Enforcement custody;

15 (2) the number of such aliens in any ongoing
16 proceeding, disaggregated by type of proceeding in-
17 cluding family court, child welfare, or guardianship
18 proceeding;

19 (3) the number of such aliens with respect to
20 which U.S. Immigration and Customs Enforcement
21 facilitated participation in such proceedings;

22 (4) the minimum, maximum, average, and me-
23 dian duration for which covered parents who are de-
24 tained by U.S. Immigration and Customs Enforce-
25 ment are in the custody;

1 (5) information on the placement of dependent
2 children whose parent is a detained alien, including
3 placement in foster care; and

4 (6) the number of dependent children removed
5 with their parent, disaggregated by the citizenship
6 status and age of such children.

7 (b) SUBMISSION TO CONGRESS.—

8 (1) IN GENERAL.—Not later than 180 days
9 after the date of the enactment of this Act, and
10 every 180 days thereafter, the Secretary of Home-
11 land Security shall submit a report that contains the
12 information collected under subsection (a) for the
13 preceding 180-day period to—

14 (A) the Committee on the Judiciary, Com-
15 mittee on Homeland Security and Govern-
16 mental Affairs, and the Committee on Health,
17 Education, Labor, and Pensions of the Senate;
18 and

19 (B) the Committee on the Judiciary, Com-
20 mittee and Homeland Security, and the Com-
21 mittee on Education and Workforce of the
22 House of Representatives.

23 (2) INITIAL REPORT.—The initial report sub-
24 mitted under paragraph (1) shall include a detailed
25 summary of the efforts of the Secretary to carry out

1 this title, including a description of the manner in
2 which the Secretary plans collect and store the data
3 required to be included in each report.

4 (3) SUBSEQUENT REPORTS.—Each subsequent
5 report submitted under paragraph (1) shall include,
6 for the preceding 180-day period—

7 (A) the number employees of the Depart-
8 ment, coordinating entities, and detention facili-
9 ties provided annual training under section 8;
10 and

11 (B) the number of new employees of the
12 Department, coordinating entities, and deten-
13 tion facilities who have been provided an initial
14 training under that section.

15 (c) METHODS.—In carrying out this section, the Sec-
16 retary shall ensure that—

17 (1) the methods for collecting information are
18 consistent from year to year so as to enable the
19 tracking of trends across years; and

20 (2) personally identifiable information is pro-
21 tected.

22 **SEC. 407. SAVINGS CLAUSE.**

23 Nothing in this title may be construed to impede,
24 delay, or limit the obligations of the Secretary of Home-

land Security, the Attorney General, or the Secretary of Health and Human Services under—

(1) section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232);

(2) section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279); or

(3) the stipulated settlement agreement filed in the United States District Court for the Central District of California on January 17, 1997 (CV 85–10BUR26159 V3Y S.L.C.4544–RJK) (commonly known as the “Flores Settlement Agreement”).

SEC. 408. DEFINITIONS.

In this title:

(1) COVERED PARENT.—The term “covered parent” means an alien who is a parent of a dependent child, which child is physically present in the United States.

(2) DEPENDENT CHILD.—The term “dependent child” means an individual who—

(A) has not attained the age of 18; or

(B) is incapable of self-support because of physical, medical, or mental disability.

(3) PARENT.—The term “parent” means—

1 (A) a biological or adoptive parent, or an
2 adult otherwise recognized by the law of a for-
3 eign country as a parent, whose parental rights
4 have not been relinquished or terminated under
5 State law or the law of a foreign country;

6 (B) a legal guardian of a child under State
7 law or the law of a foreign country; or

8 (C) a kin caregiver.

