

Statement to the House Judiciary Subcommittee on Immigration Integrity, Security, and Enforcement pertaining to its [hearing](#) entitled “The Biden Border Crisis: Exploitation of Unaccompanied Alien Children” on Wednesday, April 26, 2023

On behalf of Church World Service, First Focus on Children, Women's Refugee Commission, Legal Aid Justice Center, National Immigrant Justice Center, the Young Center, Michigan Immigrant Rights Center, and Save the Children, we urge the Committee to exercise its oversight responsibility to strengthen the U.S. child protection systems to prevent abuse and improve services, particularly for unaccompanied children. These organizations work with or on behalf of children to advance their safety, health, and well-being. We urge the Committee to do everything in its power to ensure that federal, state, and local authorities improve access to due process, legal representation, and child-appropriate services – and work together to prevent child labor exploitation.

Now is a critical time for Congress and the administration to ensure that children are protected from exploitative labor and trafficking by putting children's safety, health, and well-being at the center of immigration and federal child welfare policies. Children have long fled persecution, trafficking, and abuse in their home country – alone and with trusted family members – and made a perilous journey to find safety. The Committee must ensure that when they arrive, children and their caregivers receive support so that children can avoid or escape exploitative and dangerous working conditions. The Committee must also ensure children have access to child-appropriate, trauma-informed care and services that help them thrive in their homes and communities.

Overview: Unaccompanied Children and the Office of Refugee Resettlement (ORR) Procedures

Unaccompanied children are among the most vulnerable children who arrive to the United States. Most are fleeing threats and violence. It is [common](#) that unaccompanied children have suffered violence or abuse, and some have faced trafficking. Children who survive such traumas need special protections – specialized processes that can present a sense of safety and rebuild broken trust. Recognizing this need, in 2008 Congress unanimously passed, and President George W. Bush signed, the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA). To protect children from trafficking and abuse, the TVPRA requires that unaccompanied children are immediately transferred to the care of the Office of Refugee Resettlement (ORR) within the U.S. Department of Health and Human Services (HHS) to be placed in the least restrictive setting in their best interests, have access to services to support their recovery from trauma and abuse, and are promptly and safely released to vetted sponsors.

ORR uses the term “case management” to encompass its reunification and sponsor vetting procedures. The [ORR case management process](#) works with the child to establish contact with the child's parents, identify several potential sponsors, and then [systematically vet the sponsors](#). In all cases, case managers will confirm the identity of a potential sponsor, determine whether a potential sponsor can offer a safe and stable home environment for the child, confer with the child and parent (if the sponsor is not a parent), and finally reunify child and sponsor. Final determinations as to suitability are made by ORR's Federal Field Specialists (FFS). After release, ORR may designate children to receive post-release services (PRS). Approximately [20-30% of children received PRS prior to FY22](#) (low: 17.8%, FY2016; high: 32.8% FY17); ORR under the current administration has rightfully committed to providing PRS to all children by FY2025.

Protection for Children through Strengthening and Enforcing Labor Law

We urge Congress to hold companies accountable for profiting off the labor exploitation of children. We note that [recent reports](#) revealed that multiple corporations violated federal child labor laws. Yet, these [companies have faced few consequences](#) for their role or willful ignorance that exploited children's labor and put children in danger. We urge Congress to hold these companies accountable by questioning them about their hiring practices and eliminating the limits to fines that can be imposed on companies that commit child labor violations. We also ask Congress to work to close the loopholes in the Fair Labor Standards Act that allow children ages 12 and up to work legally in agriculture in dangerous

conditions. It is imperative for Congress to conduct robust oversight over and ensure sufficient resources to enforce child labor protections.

Congress must hold the administration accountable to ensure the Department of Labor (DOL) and its state offices protect children from labor exploitation at the national, state, and local levels. We urge Congress to increase funding to the DOL Wage and Hour Division (WHD) so that WHD can conduct proactive, strategic enforcement investigations, which entails targeting high-violation industries. WHD should also prioritize co-enforcement through sustained partnerships with worker and community organizations embedded in low-wage worker communities and high-violation sectors.

Protection for Children through Family Reunification and Family-Based Settings

We urge Congress to reject efforts to add duplicative and unnecessary barriers for children to be released from ORR custody. Like all children separated from family, [the best setting for unaccompanied children](#) who need to recover from their traumatic experiences and fairly pursue their immigration case is with family or in a family-based setting. Fortunately, [over 80 percent of unaccompanied children](#) have a parent or close family relative in the United States who could be a potential sponsor of their release from government custody.

In the past, additional sponsor vetting included information sharing with the Department of Homeland Security (DHS), including for individuals in a potential sponsor's household. If potential sponsors fear that their information will be shared with DHS, they are unlikely to come forward to sponsor a child from HHS custody. As a result, children will face prolonged stays in government custody and be separated from family, mostly in [large, institutionalized settings](#) that are known to be [harmful to children](#). The 2018 memorandum of agreement between HHS and DHS bore this out—it led to children [languishing in Customs and Border Protection \(CBP\) jails](#) and in [HHS custody for prolonged periods](#) while HHS extended its vetting of sponsors. This resulted in deteriorating physical, mental, and behavioral health for these children. Then-Assistant Secretary of the Administration for Children and Families Lynn Johnson, appointed by President Trump, [reversed extra vetting for sponsors of unaccompanied children](#), stating that “the government makes lousy parents” and the extra screening “is not adding anything to the protection and safety of children.” Since then, the current administration rightly [terminated](#) the 2018 memorandum to restore the safe and timely transfer of children, without undermining safeguards, to ensure unaccompanied children are unified with properly vetted sponsors who can safely care for them while they await immigration proceedings. Congress must not turn back the clock towards unnecessary and harmful additional requirements, while ORR already has a panoply of tools to vet sponsorship applications and ensure child safety.

We urge Congress to continue to direct ORR to reduce reliance on congregate care settings for unaccompanied children – and ensure ORR has the necessary resources for and is equipped to prioritize small-scale placements. Congregate care is not a “neutral” placement. Most unaccompanied children stay in large, group settings known as congregate care until they reunify with family. Child welfare research and practice are aligned: Congregate care settings must be used as sparingly as possible for the best interests of children – which Congress recognized in the domestic child-welfare system in passing the [Family First Prevention Services Act](#) – and should never be used for younger children. Congress further directed ORR to prioritize small-scale and alternative placements through appropriations legislation, most recently in FY 2023. The [2021 policy recommendations from the American Academy of Pediatrics](#) summarized: “The evidence is clear; children fare best in families. Systemic over reliance on low-quality non-therapeutic congregate care creates poorer health, social, educational, occupational, and economic outcomes for children and youth across the lifespan.” Overall congregate care settings produce worse outcomes for children than other family-based or alternative placement environments.

Protection for Children through Congressionally-Funded Social and Legal Community-Based Services

We urge Congress to focus additional child protection action and reforms to ORR processes on supporting robust, community-based, service-oriented interventions. Our organizations’

experiences working with unaccompanied children has shown time and again that the most effective way to protect children from exploitative labor is to support them and their families in their communities. Support includes ensuring that children and families are connected to individuals in the community who can provide assistance if a child ends up in an exploitative job, and individuals and services that support families and reduce the need for teenagers to work.

Congress should robustly fund: post-release services, promptly-completed and culturally competent home studies, child advocates, and legal representation for all unaccompanied children. Robustly-funded, promptly-implemented, and culturally competent post-release services and home studies ensure that family reunifications are and remain safe and stable. Post-release services provide each child with access to education, medical and mental healthcare, legal representation, and other services. Through child-centered, trauma-informed, culturally and linguistically competent case management, these services ensure that each child has a safe and stable home placement where they can learn, grow, and thrive. The services also provide parental support to new caregivers and facilitate integration with local communities. For children who had child advocates while in federal custody or for situations in which a child advocate would be valuable post-release, these should be provided. Child advocates push decision-makers to prioritize each child's best interests, including their safety and well-being. Attorneys guide children through the immigration process, try to ensure [a fair adjudication of their immigration cases](#), and [can identify rights violations](#), such as exploitation and trafficking. Children and families need support to thrive.

Congress should also invest in the capacity of local social-services agencies, schools, medical and mental health providers, and ORR to improve the continuity of services for unaccompanied children in local communities. Unaccompanied children face significant challenges in new communities and greater support is needed to ensure a successful reunification. Existing supportive services in the community are often diffuse, lack coordination and support, and may encounter barriers to obtaining adequate information. Communities and states must set up and adequately resource robust practices for supporting children as they are reunified with sponsors and to provide ongoing support if needed. Schools should be adequately resourced to support immigrant children's health and well-being.

For unaccompanied immigrant children who are old enough, wish to work, and are eligible for work authorization, we urge Congress to remove or reduce the waiting period for Employment Authorization Documents (EADs). Often unaccompanied children of legal working age seek employment opportunities so that they can earn money to support themselves and their families, who likely remain in danger or face other adverse situations. EADs help ensure that these children can obtain safe and legal work. It is critical that these children are also provided with education and support so that they can continue to attend school and pursue safe and healthy work opportunities that are appropriate for minors.

Finally, we urge Congress to hold the administration accountable for fully restoring asylum protections, including for immigrant families and children. We urge the administration to refrain from restricting asylum following the lifting of Title 42. Policies restricting asylum have resulted in [family separation](#) such that children are separated from adults they know and love, increasing the risk of exploitation. Expedited processing also [hurts children](#), as do [asylum bans](#) and [digital barriers](#) designed to disqualify families from seeking protection under U.S. and international law. We urge Congress and the administration to restore asylum protections and invest in the capacity to humanely welcome and process asylum seekers – including asylum-seeking families, unaccompanied children, and immigrants – in a way that lifts up their inherent dignity. When the U.S. government prevents people from seeking safety through our asylum process, we put kids in more danger because their family and trusted caregivers cannot access protection.