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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.

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

(b) TABLE OF CONTENTS.—The table of contents of 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.

7 SEC. 2. INITIAL HEALTH SCREENING PROTOCOL.

(a) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection (referred to in this Act as the “Commissioner”), in consultation with the Secretary
of Health and Human Services, the Administrator of the Health Resources and Services Administration, and non-
governmental experts in the delivery of health care in hu-
manitarian crises and in the delivery of health care to chil-
dren, shall develop guidelines and protocols for the provi-
ssion of health screenings and appropriate medical care for
individuals in the custody of U.S. Customs and Border
Protection (referred to in this Act as “CBP”), as required
under this section.

(b) Initial Screening and Medical Assessment.—The Commissioner shall ensure that any indi-
vidual who is detained in the custody of CBP (referred
to in this Act as a “detainee”) receives an initial in-person
screening by a licensed medical professional in accordance
with the standards described in subsection (c)—

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

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

(3) to ensure that appropriate healthcare is
provided to individuals as needed, including pedi-
atriic, obstetric, and geriatric care.
(c) Standardization of Initial Screening and Medical Assessment.—

(1) In general.—The initial screening and medical assessment shall include—

(A) an interview and the use of a standardized medical intake questionnaire or the equivalent;

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

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

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

(E) a physical examination; and

(F) a risk-assessment and the development of a plan for monitoring and care, when appropriate.

(2) Prescription medication.—The medical professional shall review any prescribed medication that is in the detainee’s possession or that was confiscated by CBP upon arrival and determine if the medication may be kept by the detainee for use during detention, properly stored by CBP with appropriate access for use during detention, or maintained
with the detained individual’s personal property. A
detainee may not be denied the use of necessary and
appropriate medication for the management of the
detainee’s illness.

(3) **Rule of Construction.**—Nothing in this
subsection shall be construed as requiring detainees
to disclose their medical status or history.

(d) **Timing.**—

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

(2) **High Priority Individuals.**—The initial
screening and medical assessment described in sub-
sections (b) and (c) shall take place as soon as prac-
ticable, but not later than 6 hours after a detainee’s
arrival at a CBP facility if the individual reasonably
self-identifies as having a medical condition that re-
quires prompt medical attention or is—

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

(B) pregnant;
(C) a child (with priority given, as appropriate, to the youngest children); or

(D) elderly.

(e) FURTHER CARE.—

(1) IN GENERAL.—If, as a result of the initial health screening and medical assessment, the licensed medical professional conducting the screening or assessment determines that one or more of the detainee’s vital sign measurements are significantly outside normal ranges in accordance with the National Emergency Services Education Standards, or if the detainee is identified as high-risk or in need of medical intervention, the detainee shall be provided, as expeditiously as possible, with an in-person or technology-facilitated medical consultation with a licensed emergency care professional.

(2) RE-EVALUATION.—

(A) IN GENERAL.—Detainees described in paragraph (1) shall be re-evaluated within 24 hours and monitored thereafter as determined by an emergency care professional (and in the care of a consultation provided to a child, with a licensed emergency care professional with a background in pediatric care).
(B) REEVALUATION PRIOR TO TRANSPORTATION.—In addition to the re-evaluations under subparagraph (A), detainees shall have all vital signs re-evaluated and be cleared as safe to travel by a medical professional prior to transportation.

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

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

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

(1) the Commissioner shall establish guidelines for and ensure the presence of chaperones for all detainees during medical screenings and examinations
consistent with relevant guidelines in the American
Medical Association Code of Medical Ethics, and
recommendations of the American Academy of Pedi-
atries; and

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

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

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

(1) A private space that provides a comfortable
and considerate atmosphere for the patient and that
ensures the patient’s dignity and right to privacy
during the health screening and medical assessment
and any necessary follow-up care.

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

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

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

(j) PERSONNEL.—The Commissioner or the Adminis-
trator of General Services shall ensure that each location
to which detainees are first transported after an initial en-
counter has onsite at least one licensed medical profes-
sional to conduct health screenings. Other personnel that
are or may be necessary for carrying out the functions
described in subsection (e), such as licensed emergency
care professionals, specialty physicians (including physi-
cians specializing in pediatrics, family medicine, obstetrics
and gynecology, geriatric medicine, internal medicine, and
infectious diseases), nurse practitioners, other nurses, physician assistants, licensed social workers, mental health professionals, public health professionals, dieticians, interpreters, and chaperones, shall be located on site to the extent practicable, or if not practicable, shall be available on call.

(k) ETHICAL GUIDELINES.—The Commissioner shall ensure that all medical assessments and procedures conducted pursuant to this section are conducted in accordance with ethical guidelines in the applicable medical field, and respect human dignity.

SEC. 3. WATER, SANITATION AND HYGIENE.

The Commissioner shall ensure that detainees have access to—

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

(2) a private, safe, clean, and reliable permanent or portable toilet with proper waste disposal and a hand washing station, with not less than one toilet available for every 12 male detainees, and 1 toilet for every 8 female detainees;

(3) a clean diaper changing facility, which includes proper waste disposal, a hand washing station, and unrestricted access to diapers;
(4) the opportunity to bathe daily in a permanent or portable shower that is private and secure; and

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

SEC. 4. FOOD AND NUTRITION.

The Commissioner shall ensure that detainees have access to—

(1) three meals per day including—

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

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

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

(3) access to food in a manner that follows applicable food safety standards.
SEC. 5. SHELTER.

The Commissioner shall ensure that each facility at which a detainee is detained meets the following requirements:

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

(2) In the case of a minor child arriving in the United States with an adult relative or legal guardian, such child shall be detained with such relative or legal guardian unless such an arrangement poses safety or security concerns. In no case shall a minor who is detained apart from an adult relative or legal guardian as a result of such safety or security concerns be detained with other adults.

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

(4) A detainee with a temporary or permanent disability shall be held in an accessible location and in a manner that provides for his or her safety, comfort, and security, with accommodations provided as needed.

(5) No detainee shall be placed in a room for any period of time if the detainee’s placement would
exceed the maximum occupancy level as determined
by the appropriate building code, fire marshal, or
other authority.

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

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

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

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

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

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

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

and
(B) ensure the physical and mental safety of detainees who identify as lesbian, gay, bisexual, transgender, and intersex.

(12) The facility shall have video-monitoring to provide for the safety of the detained population and to prevent sexual abuse and physical harm of vulnerable detainees.

(13) The Commissioner shall ensure that language-appropriate “Detainee Bill of Rights”, including indigenous languages, are posted or otherwise made available in all areas where detainees are located. The “Detainee Bill of Rights” shall include all rights afforded to the detainee under this Act.

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

SEC. 6. COORDINATION AND SURGE CAPACITY.

The Secretary of Homeland Security shall enter into memoranda of understanding with appropriate Federal agencies, such as the Department of Health and Human Services, and applicable emergency government relief services, as well as contracts with health care, public health, social work, and transportation professionals, for purposes
of addressing surge capacity and ensuring compliance with this Act.

SEC. 7. TRAINING.

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

(1) humanitarian response protocols and standards;

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

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

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

SEC. 8. INTERFACILITY TRANSFER OF CARE.

(a) TRANSFER.—When a detainee is discharged from a medical facility or emergency department, the Commissioner shall ensure that responsibility of care is transferred from the medical facility or emergency department to an accepting licensed health care provider of CBP.

(b) RESPONSIBILITIES OF ACCEPTING PROVIDERS.—Such accepting licensed health care provider shall review
the medical facility or emergency department’s evaluation, diagnosis, treatment, management, and discharge care instructions to assess the safety of the discharge and transfer and to provide necessary follow-up care.

SEC. 9. PLANNING AND INITIAL IMPLEMENTATION.

(a) PLANNING.—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a detailed plan delineating the timeline, process, and challenges of carrying out the requirements of this Act.

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

SEC. 10. CONTRACTOR COMPLIANCE.

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

SEC. 11. INSPECTIONS.

(a) IN GENERAL.—The Inspector General of the Department of Homeland Security shall—

(1) conduct unannounced inspections of ports of entry, border patrol stations, and detention facilities administered by CBP or contractors of CBP; and
(2) submit to Congress, reports on the results of such inspections as well as other reports of the Inspector General related to custody operations.

(b) PARTICULAR ATTENTION.—In carrying out subsection (a), the Inspector General of the Department of Homeland Security shall pay particular attention to—

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

(2) remedial actions taken by CBP; and

(3) the health needs of detainees.

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

SEC. 12. GAO REPORT.

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

(1) not later than 6 months after the date of enactment of this Act, commence a study on implementation of, and compliance with, this Act; and

(2) not later than 1 year after the date of enactment of this Act, submit a report to Congress on the results of such study.

(b) ISSUES TO BE STUDIED.—The study required by subsection (a) shall examine the management and oversight by CBP of ports of entry, border patrol stations, and
other detention facilities, including the extent to which
CBP and the Department of Homeland Security have ef-
fective processes in place to comply with this Act. The
study shall also examine the extent to which CBP per-
sonnel, in carrying out this Act, make abusive, derisive,
profane, or harassing statements or gestures, or engage
in any other conduct evidencing hatred or invidious preju-
dice to or about one person or group on account of race,
color, religion, national origin, sex, sexual orientation, age,
or disability, including on social media.

SEC. 13. RULE OF CONSTRUCTION.

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

SEC. 14. DEFINITIONS.

In this Act:

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

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

(3) U.S. CUSTOMS AND BORDER PROTECTION
FACILITY.—The term “U.S. Customs and Border
Protection Facility” includes—
(A) U.S. Border Patrol stations;

(B) ports of entry;

(C) checkpoints;

(D) forward operating bases;

(E) secondary inspection areas; and

(F) short-term custody facilities.

(4) FORWARD OPERATING BASE.—The term “forward operating base” means a permanent facility established by CBP in forward or remote locations, and designated as such by CBP.