

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5460
OFFERED BY MR. BIGGS OF ARIZONA**

Add at the end of the bill the following:

1 **SEC. 3. CLARIFICATION OF STANDARDS FOR FAMILY DE-**
2 **TENTION.**

3 (a) IN GENERAL.—Section 235 of the William Wil-
4 berforce Trafficking Victims Protection Reauthorization
5 Act of 2008 (8 U.S.C. 1232) is amended by adding at
6 the end the following:

7 “(j) CONSTRUCTION.—

8 “(1) IN GENERAL.—Notwithstanding any other
9 provision of law, judicial determination, consent de-
10 cree, or settlement agreement, the detention of any
11 alien child who is not an unaccompanied alien child
12 shall be governed by sections 217, 235, 236, and
13 241 of the Immigration and Nationality Act (8
14 U.S.C. 1187, 1225, 1226, and 1231). There is no
15 presumption that an alien child who is not an unac-
16 companied alien child should not be detained, and all
17 such determinations shall be in the discretion of the
18 Secretary of Homeland Security.

1 “(2) RELEASE OF MINORS OTHER THAN UNAC-
2 COMPANIED ALIENS.—In no circumstances shall an
3 alien minor who is not an unaccompanied alien child
4 be released by the Secretary of Homeland Security
5 other than to a parent or legal guardian, who is law-
6 fully present in the United States.

7 “(3) FAMILY DETENTION.—The Secretary of
8 Homeland Security shall—

9 “(A) maintain the care and custody of an
10 alien, during the period during which the
11 charges described in clause (i) are pending,
12 who—

13 “(i) is charged only with a mis-
14 demeanor offense under section 275(a) of
15 the Immigration and Nationality Act (8
16 U.S.C. 1325(a)); and

17 “(ii) entered the United States with
18 the alien’s child who has not attained 18
19 years of age; and

20 “(B) detain the alien with the alien’s
21 child.”.

22 (b) SENSE OF CONGRESS.—It is the sense of Con-
23 gress that the amendments in this section to section 235
24 of the William Wilberforce Trafficking Victims Protection
25 Reauthorization Act of 2008 (8 U.S.C. 1232) are intended

1 to satisfy the requirements of the Settlement Agreement
2 in *Flores v. Meese*, No. 85–4544 (C.D. Cal) as approved
3 by the court on January 28, 1997, with respect to its in-
4 terpretation in *Flores v. Johnson*, 212 F. Supp. 3d 864
5 (C.D. Cal. 2015), that the agreement applies to accom-
6 panied minors.

7 (c) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall take effect on the date of the enact-
9 ment of this Act and shall apply to all actions that occur
10 before, on, or after the date of the enactment of this Act.

11 (d) PREEMPTION OF STATE LICENSING REQUIRE-
12 MENTS.—Notwithstanding any other provision of law, ju-
13 dicial determination, consent decree, or settlement agree-
14 ment, no State may require that an immigration detention
15 facility used to detain children who have not attained 18
16 years of age, or families consisting of one or more of such
17 children and the parents or legal guardians of such chil-
18 dren, that is located in that State, be licensed by the State
19 or any political subdivision thereof.

