

106TH CONGRESS
2D SESSION

S. 3117

To establish an Office of Children’s Services within the Department of Justice to coordinate and implement Government actions involving unaccompanied alien children; to ensure that their best interests are held paramount in immigration proceedings and actions involving them; to prescribe standards for their custody, release, and detention; to improve policies for their permanent protection; and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 27 (legislative day, SEPTEMBER 22), 2000

Mr. DASCHLE (for Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To establish an Office of Children’s Services within the Department of Justice to coordinate and implement Government actions involving unaccompanied alien children; to ensure that their best interests are held paramount in immigration proceedings and actions involving them; to prescribe standards for their custody, release, and detention; to improve policies for their permanent protection; and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF**
 2 **CONTENTS.**

3 (a) **SHORT TITLE.**—This Act may be cited as the
 4 “Unaccompanied Alien Child Protection Act of 2000”.

5 (b) **REFERENCES IN ACT.**—Except as specifically
 6 provided in this Act, whenever in this Act an amendment
 7 or repeal is expressed as an amendment to or repeal of
 8 a provision, the reference shall be deemed to be made to
 9 the Immigration and Nationality Act (8 U.S.C. 1101 et
 10 seq.).

11 (c) **TABLE OF CONTENTS.**—The table of contents of
 12 this Act is as follows:

- Sec. 1. Short title; references in Act; table of contents.
- Sec. 2. Purposes.
- Sec. 3. Definitions.

TITLE I—STRUCTURAL CHANGES

- Sec. 101. Establishment of the Office of Children’s Services.
- Sec. 102. Establishment of Interagency Task Force on Unaccompanied Alien Children.
- Sec. 103. Effective date.

**TITLE II—PAROLE, CUSTODY, RELEASE, FAMILY REUNIFICATION,
AND DETENTION**

- Sec. 201. Parole and custody of unaccompanied alien children.
- Sec. 202. Family reunification for children with relatives in the United States.
- Sec. 203. Appropriate conditions for detention of unaccompanied alien children.
- Sec. 204. Report on the fate of repatriated unaccompanied children.
- Sec. 205. Establishing the age of an unaccompanied alien child.
- Sec. 206. Effective date.

**TITLE III—ACCESS BY UNACCOMPANIED ALIEN CHILDREN TO
GUARDIANS AD LITEM AND COUNSEL**

- Sec. 301. Right of unaccompanied children to guardians ad litem.
- Sec. 302. Right of unaccompanied children to counsel.
- Sec. 303. Effective date.

**TITLE IV—STRENGTHENING POLICIES FOR PERMANENT
PROTECTION OF CHILDREN**

- Sec. 401. Special immigrant juvenile visa.
 Sec. 402. Training for officials who come into contact with alien children.
 Sec. 403. Child Status Protection Act.
 Sec. 404. Effective dates.

TITLE V—CHILDREN REFUGEE AND ASYLUM SEEKERS

- Sec. 501. Guidelines for Children’s Asylum Claims.
 Sec. 502. Exceptions for unaccompanied alien children in asylum and refugee-like circumstances.
 Sec. 503. Unaccompanied refugee children.

TITLE VI—REPORTS TO CONGRESS

- Sec. 601. General Accounting Office report.

TITLE VII—AUTHORIZATION OF APPROPRIATIONS

- Sec. 701. Authorization of appropriations.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are to—

3 (1) recognize the special needs and cir-
 4 cumstances unaccompanied alien children encounter
 5 when navigating the immigration system of the
 6 United States;

7 (2) establish new governmental structures to
 8 ensure that the United States Government meets the
 9 special needs of unaccompanied alien children;

10 (3) ensure that United States Government au-
 11 thorities hold the best interests of the child para-
 12 mount when making decisions regarding an unac-
 13 companied alien child;

14 (4) establish Government policy in favor of fam-
 15 ily reunification whenever possible and, when family
 16 reunification is not possible, placement of unaccom-
 17 panied alien children in foster care with qualified,

1 adult guardians or with voluntary agencies, rather
2 than placing such children in detention;

3 (5) provide minimum standards for custody of
4 unaccompanied alien children;

5 (6) ensure that unaccompanied alien children in
6 immigration proceedings have appointed counsel,
7 and that such counsel have access to the child;

8 (7) ensure that children awaiting adjudication
9 of their immigration status not “age-out” while
10 awaiting processing by the Service of their petitions
11 and applications; and

12 (8) strengthen opportunities for permanent pro-
13 tection of such children for whom such protection is
14 warranted.

15 **SEC. 3. DEFINITIONS.**

16 (a) IN GENERAL.—In this Act:

17 (1) DIRECTOR.—The term “Director” means
18 the Director of the Office.

19 (2) OFFICE.—The term “Office” means the Of-
20 fice of Children’s Services established by section
21 101.

22 (3) SERVICE.—The term “Service” means the
23 Immigration and Naturalization Service.

24 (4) UNACCOMPANIED ALIEN CHILD.—The term
25 “unaccompanied alien child” means a child who—

1 (A) has no lawful immigration status in
2 the United States;

3 (B) has not attained the age of 18; and

4 (C) with respect to whom—

5 (i) there is no parent or legal guard-
6 ian in the United States; or

7 (ii) no parent or legal guardian in the
8 United States is able to provide care and
9 physical custody.

10 (5) VOLUNTARY AGENCY.—The term “vol-
11 untary agency” means a private, nonprofit voluntary
12 agency with expertise in meeting the legal, cultural,
13 and psychological needs of unaccompanied alien chil-
14 dren.

15 (b) AMENDMENTS TO THE IMMIGRATION AND NA-
16 TIONALITY ACT.—Section 101(a) (8 U.S.C. 1101(a)) is
17 amended by adding at the end the following new para-
18 graphs:

19 “(50) The term ‘unaccompanied alien child’ means
20 a child who—

21 “(A) has no lawful immigration status in the
22 United States;

23 “(B) has not attained the age of 18; and

24 “(C) with respect to whom—

1 “(i) there is no parent or legal guardian in
2 the United States; or

3 “(ii) no parent or legal guardian in the
4 United States is able to provide care and phys-
5 ical custody.

6 “(51) The term ‘unaccompanied refugee children’
7 means persons described in section 101(a)(42) who—

8 “(A) have not attained the age of 18; and

9 “(B) with respect to whom there are no parents
10 or legal guardians in the country of first asylum
11 available to provide care and physical custody.”.

12 **TITLE I—STRUCTURAL CHANGES**

13 **SEC. 101. ESTABLISHMENT OF THE OFFICE OF CHILDREN’S** 14 **SERVICES.**

15 (a) ESTABLISHMENT.—

16 (1) IN GENERAL.—There is established within
17 the Immigration and Naturalization Service of the
18 Department of Justice the Office of Children’s Serv-
19 ices. The Office shall not be under the jurisdiction
20 of any district director of the Service and shall be
21 independent of any office of the Service.

22 (2) COMPONENTS.—The Office shall include
23 such other components, staff, and resources as the
24 Attorney General may determine necessary to carry
25 out the purposes of this Act.

1 (b) RESPONSIBILITIES OF OFFICE.—Under the gen-
2 eral authority of the Attorney General, the Office shall be
3 responsible for coordinating and implementing law and
4 policy for unaccompanied alien children who come into the
5 custody of the Service or the Office.

6 (c) DIRECTOR OF THE OFFICE OF CHILDREN’S
7 SERVICES.—

8 (1) IN GENERAL.—The Office shall be headed
9 by a Director of Children’s Services, who shall be
10 appointed by and report directly to the Attorney
11 General.

12 (2) COMPENSATION AT LEVEL IV OF EXECU-
13 TIVE SCHEDULE.—Section 5315 of title 5, United
14 States Code, is amended by adding at the end the
15 following:

16 “Director of the Office of Children’s Services.”.

17 (3) DUTIES.—The Director shall be responsible
18 for—

19 (A) ensuring that the best interests of the
20 child are held paramount in any immigration
21 proceeding or action involving an unaccom-
22 panied alien child;

23 (B) make custody, release, and detention
24 determinations for all unaccompanied alien chil-
25 dren apprehended by the Service or who other-

1 wise come into the custody of the Office (in
2 consultation with juvenile justice professionals,
3 where appropriate);

4 (C) implementing the custody, release, and
5 detention determinations made by the Office;

6 (D) implement, in consultation with the
7 voluntary agencies, policies with respect to the
8 care and detention of unaccompanied alien chil-
9 dren;

10 (E) chairing the Interagency Task Force
11 on Unaccompanied Alien Children established
12 in section 103;

13 (F) identifying a sufficient number of
14 qualified persons, entities, and facilities to
15 house unaccompanied alien children in accord-
16 ance with sections 202 and 203;

17 (G) overseeing the persons, entities, and
18 facilities described in sections 202 and 203 to
19 ensure their compliance with such provisions;

20 (H) compiling, updating, and publishing on
21 a quarterly basis a State-by-State list of profes-
22 sionals or other entities qualified to contract
23 with the Office to provide the services described
24 in sections 301 and 302;

1 (I) maintaining statistical information and
2 other data on unaccompanied alien children in
3 the Office's custody and care, and reporting
4 quarterly to the Judiciary Committees of the
5 House of Representatives and Senate on such
6 data, including with respect to each child—

7 (i) biographical information such as
8 the child's name, date of birth, country of
9 birth, and country of habitual residence;

10 (ii) the date on which such child came
11 into the custody of the Service or the Of-
12 fice;

13 (iii) information relating to the child's
14 placement, removal, or release from each
15 facility in which the child has resided;

16 (iv) in any case in which the child is
17 placed in detention, an explanation relating
18 to the detention; and

19 (v) information relating to the disposi-
20 tion of any actions in which the child is the
21 subject;

22 (J) collect and compile statistical informa-
23 tion from the Service, including Border Patrol
24 and inspections officers, on the unaccompanied

1 alien children with whom they come into con-
2 tact; and

3 (K) conduct investigations and inspections
4 of facilities and other entities in which unac-
5 companied alien children reside.

6 (4) DUTIES WITH RESPECT TO FOSTER CARE.—

7 In carrying out the duties described in paragraph
8 (3)(F), the Director shall assess the extent to which
9 the placement of unaccompanied alien children in
10 the foster care system established pursuant to sec-
11 tion 412(d)(2)(A) of the Immigration and Nation-
12 ality Act can and should be expanded.

13 (5) POWERS.—In carrying out the duties speci-
14 fied in paragraph (3), the Director shall have the
15 power to—

16 (A) contract with service providers to per-
17 form the services described in sections 202,
18 203, 301, and 302; and

19 (B) compel compliance with the terms and
20 conditions set forth in section 203, including
21 the power to terminate the contracts of pro-
22 viders that are not in compliance with such con-
23 ditions and reassign any child to a similar facil-
24 ity that is in compliance with such section.

1 (d) NO EFFECT ON INS, EOIR, AND DEPARTMENT
2 OF STATE ADJUDICATORY RESPONSIBILITIES.—Nothing
3 in this Act may be construed to transfer the responsibility
4 for adjudicating benefit determinations under the Immi-
5 gration and Nationality Act from the authority of any offi-
6 cial of the Service, the Executive Office of Immigration
7 Review of the Department of Justice, or the Department
8 of State.

9 **SEC. 102. ESTABLISHMENT OF INTERAGENCY TASK FORCE**
10 **ON UNACCOMPANIED ALIEN CHILDREN.**

11 (a) ESTABLISHMENT.—The President shall establish
12 an Interagency Task Force on Unaccompanied Alien Chil-
13 dren.

14 (b) APPOINTMENT.—The President shall appoint the
15 members of the Task Force, which shall include the Com-
16 missioner of Immigration and Naturalization, the Assist-
17 ant Secretary of State for Population, Refugees, and Mi-
18 gration, the Director of the Office of Refugee Resettle-
19 ment, the Director, and such other officials as may be des-
20 ignated by the President.

21 (c) CHAIRMAN.—The Task Force shall be chaired by
22 the Director.

23 (d) PARTICIPATION OF NONGOVERNMENTAL ORGA-
24 NIZATIONS.—The Chairman of the Task Force shall es-
25 tablish an advisory group that includes representatives of

1 State governments and voluntary agencies to ensure that
2 representatives of nongovernmental organizations and of
3 State governments participate regularly in the proceedings
4 of the Task Force.

5 (e) ACTIVITIES OF THE TASK FORCE.—In consulta-
6 tion with nongovernmental organizations, the Task Force
7 shall—

8 (1) coordinate the implementation of this Act;

9 (2) measure and evaluate the progress of the
10 United States in treating unaccompanied alien chil-
11 dren in United States custody; and

12 (3) expand interagency procedures to collect
13 and organize data, including significant research and
14 resource information on the needs and treatment of
15 unaccompanied alien children in the custody of the
16 United States Government.

17 **SEC. 103. EFFECTIVE DATE.**

18 This title shall take effect one year after the date of
19 enactment of this Act.

1 **TITLE II—PAROLE, CUSTODY,**
2 **RELEASE, FAMILY REUNIFI-**
3 **CATION, AND DETENTION**

4 **SEC. 201. PAROLE AND CUSTODY OF UNACCOMPANIED**
5 **ALIEN CHILDREN.**

6 (a) PAROLE OF CHILDREN.—Notwithstanding sec-
7 tion 241(a)(5) of the Immigration and Nationality Act,
8 an unaccompanied alien child found in the United States
9 shall, in accordance with sections 202 and 203 of this Act,
10 be promptly paroled into the United States for urgent hu-
11 manitarian reasons under section 212(d)(5) of the Immi-
12 gration and Nationality Act.

13 (b) CUSTODY OF CHILDREN.—

14 (1) ESTABLISHMENT OF JURISDICTION.—The
15 custody of all unaccompanied alien children, includ-
16 ing responsibility for their detention, where appro-
17 priate, shall be under the jurisdiction of the Office.

18 (2) NOTIFICATION.—Upon apprehension of an
19 unaccompanied alien child, the Service shall prompt-
20 ly notify the Office.

21 (3) PHYSICAL TRANSFER OF CHILD.—Not later
22 than 24 hours after apprehension of an unaccom-
23 panied alien child, the physical custody of such child
24 shall be transferred to the Office.

1 **SEC. 202. FAMILY REUNIFICATION FOR CHILDREN WITH**
2 **RELATIVES IN THE UNITED STATES.**

3 (a) PAROLE AUTHORITY.—

4 (1) ORDER OF PREFERENCE.—An unaccom-
5 panied alien child found in the United States shall
6 be promptly paroled under section 212(d)(5) of the
7 Immigration and Nationality Act to one of the fol-
8 lowing individuals in the following order of pref-
9 erence:

10 (A) A parent.

11 (B) A legal guardian.

12 (C) An adult relative.

13 (D) An entity designated by the parent or
14 legal guardian that is capable and willing to
15 care for the child's well-being.

16 (E) A State-licensed juvenile shelter, group
17 home, or foster home willing to accept legal cus-
18 tody of the child.

19 (F) An adult or entity seeking custody of
20 the child when it appears that there is no other
21 likely alternative to long-term detention and
22 family reunification does not appear to be a
23 reasonable alternative.

24 (2) HOME STUDY.—Notwithstanding the provi-
25 sions of paragraph (1), no unaccompanied alien child
26 shall be paroled to a person or entity unless a valid

1 home-study conducted by an agency of the State of
2 the child's proposed residence, by an agency author-
3 ized by that State to conduct such a study, or by an
4 appropriate voluntary agency contracted with by the
5 Office to conduct such studies has found that the
6 person or entity is capable of providing for the
7 child's physical, mental, and financial well-being.

8 (3) PROTECTION FROM SMUGGLERS.—The Di-
9 rector shall take steps to ensure that unaccompanied
10 alien children are protected from smugglers or oth-
11 ers seeking to victimize or otherwise engage such
12 children in criminal, harmful, or exploitative activity.

13 (4) GRANTS AND CONTRACTS.—The Director is
14 authorized to make grants to, and enter into con-
15 tracts with, voluntary agencies to carry out the pro-
16 visions of this section.

17 (5) REIMBURSEMENT OF STATE EXPENSES.—
18 The Director is authorized to reimburse States for
19 any expenses they incur in providing assistance to
20 unaccompanied alien children who are served pursu-
21 ant to this Act.

22 (b) CONFIDENTIALITY.—All information relating to
23 the immigration status of a person listed in subsection (a)
24 shall remain confidential and may be used only for the

1 purposes of determining such person's qualifications under
2 subsection (a)(1).

3 (c) REGULATIONS.—The Attorney General shall by
4 regulation set forth criteria for parole determinations
5 under this section that take into account what is in the
6 best interests of each child.

7 **SEC. 203. APPROPRIATE CONDITIONS FOR DETENTION OF**
8 **UNACCOMPANIED ALIEN CHILDREN.**

9 (a) STANDARDS FOR SETTINGS.—

10 (1) Except as provided in paragraph (2), an un-
11 accompanied alien child shall not be placed in an
12 adult detention facility or a facility housing delin-
13 quent children.

14 (2) An unaccompanied alien child who has ex-
15 hibited a pattern of violent behavior that endangers
16 himself or others may be detained in a segregated
17 fashion in a facility appropriate for delinquent chil-
18 dren.

19 (3) The settings referred to in subsection (a)
20 must be licensed by an appropriate State agency to
21 provide residential, group, or foster care services for
22 dependent children and shall be operated by vol-
23 untary agencies.

24 (4) The conditions of such settings must be in
25 keeping with the bests interests of the child. At a

1 minimum, the Director shall develop standards for
2 conditions of detention in such settings that provide
3 for—

4 (A) educational services appropriate to the
5 child's age, language, development, and edu-
6 cational history;

7 (B) medical care;

8 (C) mental health care, including treat-
9 ment of trauma;

10 (D) access to telephones;

11 (E) access to legal services;

12 (F) access to interpreters;

13 (G) supervision by professionals trained in
14 the care of children, taking into account the
15 special cultural, linguistic, and experiential
16 needs of children in immigration proceedings;

17 (H) recreational programs and activities;

18 (I) spiritual and religious needs; and

19 (J) dietary needs.

20 (c) PROHIBITION OF CERTAIN PRACTICES.—The Di-
21 rector shall develop procedures prohibiting the use of—

22 (1) shackling, handcuffing, or other restraints
23 on children;

24 (2) solitary confinement; or

25 (3) pat or strip searches.

1 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion shall be construed to supersede procedures favoring
3 release of children to appropriate adults or entities or
4 placement in the least secure setting possible, as defined
5 in the August 12, 1996, Stipulated Settlement Agreement
6 under Flores v. Reno. The Director shall ensure that such
7 practices are in accordance with this section to ensure that
8 children are promptly paroled to appropriate parties or
9 placed in appropriate shelter or foster care in keeping with
10 the best interests of the child.

11 **SEC. 204. REPORT ON THE FATE OF REPATRIATED UNAC-**
12 **COMPANIED CHILDREN.**

13 Beginning not later than 18 months after the date
14 of enactment of this Act, and annually thereafter, the Di-
15 rector shall submit a report to the Judiciary Committees
16 of the House of Representatives and Senate on the treat-
17 ment of children ordered removed from the United States
18 under section 240 of the Immigration and Nationality Act.
19 Such report shall include at a minimum the following in-
20 formation:

21 (1) The number of alien children ordered re-
22 moved and the number of alien children actually re-
23 moved from the United States;

24 (2) The type of immigration relief sought and
25 denied to such alien children.

1 **TITLE III—ACCESS BY UNAC-**
2 **COMPANIED ALIEN CHIL-**
3 **DREN TO GUARDIANS AD**
4 **LITEM AND COUNSEL**

5 **SEC. 301. RIGHT OF UNACCOMPANIED CHILDREN TO**
6 **GUARDIANS AD LITEM.**

7 (a) GUARDIAN AD LITEM.—

8 (1) APPOINTMENT.—The Director shall appoint
9 a guardian ad litem who meets the qualifications de-
10 scribed in paragraph (3) for each unaccompanied
11 alien child not later than 72 hours after the Office
12 assumes physical or constructive custody of such
13 child. In appointing such guardian ad litem, the Di-
14 rector is encouraged, wherever possible, to contract
15 with voluntary agencies that meet the qualifications
16 described in paragraph (2).

17 (2) QUALIFICATIONS OF GUARDIAN AD
18 LITEM.—

19 (A) No person shall serve as a guardian ad
20 litem who is not—

21 (i) a child welfare professional or
22 other individual who has received training
23 in child welfare matters; and

1 (ii) possessing of special training on
2 the nature of problems encountered by un-
3 accompanied alien children.

4 (B) A guardian ad litem shall not be an
5 employee of the Service.

6 (3) DUTIES.—The guardian ad litem shall—

7 (A) conduct interviews with the child in a
8 manner that is appropriate, taking into account
9 the child's age;

10 (B) investigate the facts and circumstances
11 relevant to such child's presence in the United
12 States, including facts and circumstances aris-
13 ing in the country of the child's nationality or
14 last habitual residence and facts and cir-
15 cumstances arising subsequent to the child's de-
16 parture from such country;

17 (C) develop recommendations on whether
18 the child should voluntarily depart from the
19 United States or apply for relief from removal;

20 (D) develop recommendations on issues
21 relative to the child's custody, detention, and
22 release;

23 (E) otherwise ensure that the child's best
24 interests are promoted while the child partici-

1 pates in, or is subject to, proceedings or actions
2 under the Immigration and Nationality Act;

3 (F) ensure that the child understands such
4 determinations and proceedings; and

5 (G) report findings and recommendations
6 to the Director of the Office and the Executive
7 Office of Immigration Review.

8 (4) TERMINATION OF APPOINTMENT.—The
9 guardian ad litem shall carry out the duties de-
10 scribed in paragraph (3) until—

11 (A) they are completed,

12 (B) the child departs the United States,

13 (C) the child is granted permanent resi-
14 dent status in the United States, or

15 (D) the child attains the age of 18,

16 whichever occurs first.

17 (5) POWERS.—The guardian ad litem—

18 (A) shall have access to the child at all
19 times, including while such child is being held
20 in detention or in the care of a foster family;

21 (B) shall be permitted to review all records
22 and information relating to such proceedings;

23 (C) may seek independent evaluations of
24 the child;

1 (c) DUTIES.—Counsel shall represent the child in all
2 proceedings and actions relating to the child’s immigration
3 status or other actions involving the Service.

4 (d) ACCESS TO CHILD.—Counsel shall have access to
5 the child, including while such child is being held in deten-
6 tion or in the care of a foster family.

7 (e) TERMINATION OF APPOINTMENT.—Counsel shall
8 carry out the duties described in subsection (b) until—

9 (1) they are completed,

10 (2) the child departs the United States,

11 (3) the child is granted withholding of removal
12 under section 241(b)(3) of the Immigration and Na-
13 tionality Act,

14 (4) the child is granted protection under the
15 Convention Against Torture,

16 (5) the child is granted asylum in the United
17 States under section 208 of the Immigration and
18 Nationality Act,

19 (6) the child is granted permanent resident sta-
20 tus in the United States, or

21 (7) the child attains 18 years of age,

22 whichever occurs first.

23 (f) NOTICE TO COUNSEL DURING IMMIGRATION PRO-
24 CEEDINGS.—

1 (1) Counsel shall be given prompt and adequate
2 notice of all immigration matters affecting or involv-
3 ing the child, including adjudications, proceedings,
4 and processing, before such actions are taken.

5 (2) A child may not give consent to any immi-
6 gration action, including consenting to voluntary de-
7 parture, unless first afforded an opportunity to con-
8 sult with counsel.

9 (g) ACCESS TO RECOMMENDATIONS OF GUARDIAN
10 AD LITEM.—Counsel shall be afforded an opportunity to
11 review the recommendation by the guardian ad litem af-
12 fecting or involving the juvenile client.

13 **SEC. 303. EFFECTIVE DATE.**

14 This title shall become effective one year after the
15 date of enactment of this Act. The provisions of this title
16 shall apply to all unaccompanied children in the custody
17 of the Service or Office on, before, or after the date of
18 enactment of this Act.

19 **TITLE IV—STRENGTHENING**
20 **POLICIES FOR PERMANENT**
21 **PROTECTION OF CHILDREN**

22 **SEC. 401. SPECIAL IMMIGRANT JUVENILE VISA.**

23 (a) J VISA.—Section 101(a)(27)(J) (8 U.S.C.
24 1101(a)(27)(J)) is amended to read as follows:

1 “(J) an immigrant who is present in the United
2 States—

3 “(i) who has been declared dependent on a
4 juvenile court located in the United States or
5 whom such a court has legally committed to, or
6 placed under the custody of, a department or
7 agency of a State, or an individual or entity ap-
8 pointed by a State, and who has been deemed
9 eligible by that court for long-term foster care
10 due to abuse, neglect, or abandonment, or a
11 similar basis found under State law;

12 “(ii) for whom it has been determined in
13 administrative or judicial proceedings that it
14 would not be in the alien’s best interest to be
15 returned to the alien’s or parent’s previous
16 country of nationality or country of last habit-
17 ual residence; and

18 “(iii) for whom the Office of Children’s
19 Services of the Department of Justice has cer-
20 tified to the Commissioner that the classifica-
21 tion of an alien as a special immigrant under
22 this subparagraph has not been made solely to
23 provide an immigration benefit to that alien;

24 except that no natural parent or prior adoptive par-
25 ent of any alien provided special immigrant status

1 under this subparagraph shall thereafter, by virtue
2 of such parentage, be accorded any right, privilege,
3 or status under this Act;”.

4 (b) ADJUSTMENT OF STATUS.—Section 245(h)(2) (8
5 U.S.C. 1255(h)(2)) is amended—

6 (1) by amending subparagraph (A) to read as
7 follows:

8 “(A) paragraphs (1), (4), (5), (6), and
9 (7)(A) of section 212(a) shall not apply;”;

10 (2) in subparagraph (B), by striking the period
11 and inserting “, and”; and

12 (3) by adding at the end the following new sub-
13 paragraph:

14 “(C) the Attorney General may waive
15 paragraphs (2)(A) and (2)(B) in the case of an
16 offense which arose as a consequence of the
17 child being unaccompanied.”.

18 (c) TRANSITION RULE.—

19 (1) IN GENERAL.—An alien described in para-
20 graph (2) who files an application under section
21 101(a)(27)(J), as amended by subsection (a), before
22 the end of the period described in paragraph (3)
23 shall not be denied such visa because of the alien’s
24 age and state of emancipation at the time of final
25 adjudication of the application.

1 (2) CRITERIA FOR TRANSITIONAL ELIGI-
 2 BILITY.—Paragraph (1) shall apply to an alien who,
 3 on or after November 29, 1990, was under the juris-
 4 diction of State-licensed foster care and who—

5 (A) was a dependent of a juvenile court or
 6 other court of competent jurisdiction on or after
 7 such date;

8 (B) was emancipated from such State fos-
 9 ter care system on or before the date of enact-
 10 ment of this Act; and

11 (C) with respect to whom no application
 12 for a visa under section 101(a)(27)(J) of the
 13 Immigration and Nationality Act was filed prior
 14 to the date of enactment of this Act.

15 (3) PERIOD OF APPLICABILITY.—No alien may
 16 apply for relief under this section later than three
 17 years after the effective date of this title or two
 18 years after the promulgation of any regulation im-
 19 plementing this title, whichever is later.

20 **SEC. 402. TRAINING FOR OFFICIALS WHO COME INTO CON-**
 21 **TACT WITH ALIEN CHILDREN.**

22 The Attorney General, acting jointly with the Sec-
 23 retary of Health and Human Services, shall provide train-
 24 ing for State and county officials, such training to be
 25 available to child welfare specialists, teachers, public coun-

1 sel, juvenile counsel, and juvenile judges who come into
2 contact with unaccompanied alien children. The training
3 shall provide education on the processes pertaining to un-
4 accompanied alien children with pending immigration sta-
5 tus and the available relief. The Director shall be respon-
6 sible for establishing a core curriculum that can be incor-
7 porated into currently existing education, training, or ori-
8 entation modules or formats that are currently used by
9 these professionals.

10 **SEC. 403. CHILD STATUS PROTECTION ACT.**

11 (a) IMMIGRANT VISA ISSUANCE FOR CHILDREN WHO
12 AGE-OUT WHILE AWAITING PROCESSING OF IMMEDIATE
13 RELATIVE PETITIONS.—Section 201(b)(2)(A) (8 U.S.C.
14 1151(b)(2)(A)) is amended by adding at the end the fol-
15 lowing:

16 “(iii) In the case of an alien who is an unmar-
17 ried child of a citizen of the United States on, be-
18 fore, or after the date of enactment of this clause
19 and who attains the age of 21 after the date on
20 which a petition is filed with the Attorney General
21 under section 204 to classify the alien as an imme-
22 diate relative under this clause, such alien shall, for
23 the purposes of this subsection, retain the legal sta-
24 tus of child as defined in section 101(b)(2) of this

1 Act, for the purposes of entitlement to obtaining an
2 immigrant visa.

3 “(iv) In the case of an alien who was a child
4 of a parent lawfully admitted for permanent resi-
5 dence on the date on which a petition was filed with
6 the Attorney General under section 204 to classify
7 the alien as an immigrant under subsection
8 203(a)(2)(A) and whose parent subsequently became
9 a naturalized citizen of the United States, such alien
10 shall, for the purposes of this subsection, retain the
11 legal status of child as defined in section 101(b)(2)
12 of this Act, for the purposes of entitlement to ob-
13 taining an immigrant visa, if the alien remains un-
14 married.

15 “(v) In the case of an alien who was the mar-
16 ried son or daughter of a United States citizen on
17 the date on which a petition was filed with the At-
18 torney General under section 204 to classify the
19 alien as an immigrant under subsection 203(a)(3),
20 who subsequently becomes unmarried, and who was
21 under 21 years of age on the date of the legal termi-
22 nation of the alien’s marriage, such alien shall retain
23 the legal status of child as defined in section
24 101(b)(2) of this Act, for the purposes of entitle-

1 ment to obtaining an immigrant visa, if the alien re-
2 mains unmarried.”.

3 (c) IMMIGRANT VISA ISSUANCE FOR CHILDREN WHO
4 AGE-OUT WHILE AWAITING PROCESSING OF SECOND
5 PREFERENCE PETITIONS.—Section 203(a)(2) (8 U.S.C.
6 1153(a)(2)) is amended by adding at the end the following
7 new subparagraph:

8 “(C) A child of an alien lawfully admitted
9 for permanent residence for whom a family-
10 sponsored immigrant petition has been ap-
11 proved by the Attorney General and who has
12 filed an application for an immigrant visa or
13 adjustment of status, pursuant to such regula-
14 tions as the Attorney General may prescribe be-
15 fore attaining the age of 21, may retain the
16 legal status of a child, as defined in section
17 101(b)(1) of this Act, for purposes of allocation
18 of visas, even if he or she attains the age of 21
19 prior to obtaining an immigrant visa or adjust-
20 ment of status, if the alien remains unmar-
21 ried.”.

22 (d) IMMIGRANT VISA ISSUANCE FOR CHILDREN WHO
23 AGE-OUT WHILE AWAITING PROCESSING OF OTHER
24 FAMILY-BASED PREFERENCE, EMPLOYMENT, AND DI-

1 UNIVERSITY PETITIONS.—Section 203(d) (8 U.S.C. 1153(d))
2 is amended to read as follows:

3 “(d) TREATMENT OF FAMILY MEMBERS.—

4 “(1) A spouse or child as defined in subpara-
5 graph (A), (B), (C), (D), or (E) of section 101(b)(1)
6 shall, if not otherwise entitled to immigrant status
7 and the immediate issuance of a visa under sub-
8 section (a), (b), or (c), be entitled to the same sta-
9 tus, and the same order of consideration provided in
10 the respective subsection, if accompanying or fol-
11 lowing to join, the spouse or parent.

12 “(2) A child who is accompanying or following
13 to join his or her parent under this section may re-
14 tain the legal status of child as defined in section
15 101(b)(2) of this Act, for purposes of entitlement to
16 the same immigrant status of his or her parent, even
17 if he or she attains the age of 21 prior to obtaining
18 an immigrant visa or adjustment of status if—

19 “(A) the child remains unmarried; and,

20 “(B) the immigrant visa application filed
21 on behalf of the child is filed prior to the child’s
22 21st birthday.”.

23 (e)(1) Notwithstanding any other provision of law, an
24 alien child who is accompanying or following to join his
25 or her parent under any of the provisions of law specified

1 in paragraph (2) may retain the legal status of child, as
2 defined in section 101(b)(2) of the Immigration and Na-
3 tionality Act, for purposes of entitlement to the same sta-
4 tus of his or her parent, even if he or she attains the age
5 of 21 prior to obtaining approval for status if—

6 (A) the child remains unmarried; and

7 (B) the application for such status was filed on
8 behalf of the child prior to the child's 21st birthday.

9 (2) The provisions of law specified in this paragraph
10 are the following:

11 (A) Section 101(a)(27)(J) of the Immigration
12 and Nationality Act.

13 (B) Section 208 of such Act.

14 (C) The Nicaraguan and Central American Re-
15 lief Act (as contained in Public Law 105–100; 8
16 U.S.C. 1255 note).

17 (D) The Haitian Refugee Immigration Fairness
18 Act of 1998 (as added by section 101(h) of division
19 A of Public Law 105–277; 8 U.S.C. 1255 note).

20 **SEC. 404. EFFECTIVE DATES.**

21 (a) The amendment made by section 401 shall apply
22 to all children who were in the United States before, on,
23 or after the date of enactment of this Act.

1 (b) The amendments made by section 403 shall apply
2 to all applications and petitions filed before, on, or after
3 the date of enactment of this Act.

4 **TITLE V—CHILDREN REFUGEE**
5 **AND ASYLUM SEEKERS**

6 **SEC. 501. GUIDELINES FOR CHILDREN'S ASYLUM CLAIMS.**

7 (a) SENSE OF CONGRESS.—Congress commends the
8 Service for its issuance of its “Guidelines for Children’s
9 Asylum Claims”, dated December 1998, and encourages
10 and supports the Service’s implementation of such guide-
11 lines in an effort to facilitate the handling of children’s
12 asylum claims. Congress calls upon the Executive Office
13 for Immigration Review of the Department of Justice to
14 adopt the “Guidelines for Children’s Asylum Claims” in
15 its handling of children’s asylum claims before immigra-
16 tion judges and the Board of Immigration Appeals.

17 (b) TRAINING.—The Attorney General shall provide
18 at least annually comprehensive training under the
19 “Guidelines for Children’s Asylum Claims” to asylum offi-
20 cers, immigration judges, members of the Board of Immi-
21 gration Appeals, and immigration officers who have con-
22 tact with children in order to familiarize and sensitize such
23 officers to the needs of children asylum seekers. Voluntary
24 agencies shall be allowed to assist in such training.

1 **SEC. 502. EXCEPTIONS FOR UNACCOMPANIED ALIEN CHIL-**
2 **DREN IN ASYLUM AND REFUGEE-LIKE CIR-**
3 **CUMSTANCES.**

4 (a) EXCEPTION FROM EXPEDITED REMOVAL.—Sec-
5 tion 235(b)(1)(F) (8 U.S.C. 1225(b)(1)(F)) is amended
6 by striking “an alien” and inserting “unaccompanied alien
7 child or an alien”.

8 (b) EXCEPTION FROM TIME LIMIT FOR FILING ASY-
9 LUM APPLICATION.—Section 208(a)(2) (8 U.S.C.
10 1158(a)(2)) is amended by adding at the end the following
11 new subparagraph:

12 “(E) Subparagraphs (A) and (B) shall not
13 apply to an unaccompanied alien child.”.

14 **SEC. 503. UNACCOMPANIED REFUGEE CHILDREN.**

15 (a) IDENTIFYING UNACCOMPANIED REFUGEE CHIL-
16 DREN.—Section 207(e) (8 U.S.C. 1157(e)) is amended—

17 (1) by redesignating paragraphs (3) through
18 (7) as paragraphs (4) through (8); and

19 (2) by inserting after paragraph (2) the fol-
20 lowing new paragraph:

21 “(3) An analysis of the worldwide situation
22 faced by unaccompanied refugee children, by region.
23 Such analysis shall include an assessment of—

24 “(A) the number of unaccompanied refugee
25 children, by region;

1 “(B) the capacity of the Department of
2 State to identify such refugees;

3 “(C) the capacity of the international com-
4 munity to care for and protect such refugees;

5 “(D) the capacity of the voluntary agency
6 community to resettle such refugees in the
7 United States;

8 “(E) the degree to which the United States
9 plans to resettle such refugees in the United
10 States in the coming fiscal year; and

11 “(F) the fate that will befall such unac-
12 companied refugee children for whom resettle-
13 ment in the United States is not possible.”.

14 (b) TRAINING ON THE NEEDS OF UNACCOMPANIED
15 REFUGEE CHILDREN.—Section 207(f)(2) (8 U.S.C.
16 1157(f)(2)) is amended by—

17 (1) striking “and” after “countries,”; and

18 (2) inserting before the period at the end the
19 following: “, and instruction on the needs of unac-
20 companied refugee children”.

21 **TITLE VI—REPORTS TO**
22 **CONGRESS**

23 **SEC. 601. GENERAL ACCOUNTING OFFICE REPORT.**

24 Not later than 18 months after the date of enactment
25 of this Act, the Comptroller General of the United States

1 shall submit a report to the Judiciary Committees of the
2 Senate and House of Representatives concerning the im-
3 plementation of this Act. Such report shall assess the ef-
4 fectiveness of the Office in meeting the purposes of the
5 Act, and shall specifically include—

6 (1) the elements described in the report found
7 in section 101(c)(3)(I);

8 (2) the elements of the report described in sec-
9 tion 204; and

10 (3) the analysis described in section 207(e)(3)
11 of the Immigration and Nationality Act, as added by
12 section 503(a)(2) of this Act.

13 **TITLE VII—AUTHORIZATION OF** 14 **APPROPRIATIONS**

15 **SEC. 701. AUTHORIZATION OF APPROPRIATIONS.**

16 (a) **IN GENERAL.**—There are authorized to be appro-
17 priated such sums as may be necessary to carry out the
18 provisions of this Act.

19 (b) **AVAILABILITY OF FUNDS.**—Amounts appro-
20 priated pursuant to subsection (a) are authorized to re-
21 main available until expended.

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