AMENDMENT TO H.R. 6136
OFFERED BY MRS. TORRES OF CALIFORNIA

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

This Act may be cited as the “Keep Families Together Act”.

4 SEC. 2. LIMITATION ON THE SEPARATION OF FAMILIES.

(a) In general.—An agent or officer of a designated agency shall be prohibited from removing a child from his or her parent or legal guardian, at or near the port of entry or within 100 miles of a border of the United States, unless one of the following has occurred:

10 (1) A State court, authorized under State law,

terminates the rights of the parent or legal guardian, determines that it is in the best interests of the child to be removed from the parent or legal guardian, in accordance with the Adoption and Safe Families Act of 1997 (Public Law 105–89), or makes any similar determination that is legally authorized under State law.

(2) An official from the State or county child welfare agency with expertise in child trauma and
development makes a best interests determination that it is in the best interests of the child to be removed from the parent or legal guardian because the child is in danger of abuse or neglect at the hands of the parent or legal guardian, or is a danger to herself or others.

(3) The Chief Patrol Agent or the Area Port Director in their official and undelegated capacity, authorizes separation upon the recommendation by an agent or officer, based on a finding that—

(A) the child is a victim of trafficking or is at significant risk of becoming a victim of trafficking;

(B) there is a strong likelihood that the adult is not the parent or legal guardian of the child; or

(C) the child is in danger of abuse or neglect at the hands of the parent or legal guardian, or is a danger to themselves or others,

except that, in the case that a child is removed from his or her parent or legal guardian under this section, an independent child welfare expert licensed by the State or county in which the child was so removed, authorizes the separation not later than 48 hours after such removal, and if such expert does
not authorize such separation, the child shall be re-united with his or her parent or legal guardian not later than 48 hours after such determination.

(b) **Prohibition on Separation.**—

(1) **In general.**—A designated agency may not remove a child from a parent or legal guardian solely for the policy goal of deterring individuals from migrating to the United States or for the policy goal of promoting compliance with civil immigration laws.

(2) **Penalty for family separation.**—Any person who knowingly separates a child from his or her parent or legal guardian in violation of this section, shall be fined not more than $10,000.

(c) **Documentation Required.**—The Secretary shall ensure that a separation under subsection (a)(3) is documented in writing and includes, at a minimum, the reason for such separation, together with the stated evidence for such separation.

**SEC. 3. RECOMMENDATIONS FOR SEPARATION BY AGENTS OR OFFICERS.**

(a) **In general.**—Not later than 180 days after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Health and Human Services, shall develop training and guidance, with an empha-
sis on the best interests of the child, childhood trauma,
attachment, and child development, for use by agents and
officers of designated agencies, in order to standardize the
implementation of section 2(a)(3).

(b) ANNUAL REVIEW.—Not less frequently than an-
ually, the Secretary of Health and Human Services shall
review the guidance developed under subsection (a) and
make recommendations to the Secretary to ensure such
guidance is in accordance with current evidence and best
practices in child welfare, child development, and child-
hood trauma.

(c) REQUIREMENT.—The guidance under subsection
(a) shall incorporate the presumptions described in section
4.

(d) ADDITIONAL REQUIREMENTS.—

(1) EVIDENCE-BASED.—The guidance and
training developed under this section shall incor-
porate evidence-based practices.

(2) TRAINING REQUIRED.—

(A) All agents and officers of designated
agencies, upon hire, and annually thereafter,
shall complete training on adherence to the
guidance under this section.
(B) All Chief Patrol Agents and Area Port Directors, upon hire, and annually thereafter, shall complete—

(i) training on adherence to the guidance under this section; and

(ii) 90 minutes of child welfare practice training that is evidence-based and trauma-informed.

SEC. 4. PRESUMPTIONS.

The presumptions described in this section are the following:

(1) FAMILY UNITY.—There shall be a strong presumption in favor of family unity.

(2) SIBLINGS.—To the maximum extent practicable, the Secretary shall ensure that sibling groups remain intact.

(3) DETENTION.—In general, there is a presumption that detention is not in the best interests of families and children.

SEC. 5. REQUIRED POLICY FOR LOCATING SEPARATED CHILDREN.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall publish final public guidance that describes, with specificity, the manner in which a parent or legal guardian
may locate a child who was separated from the parent or legal guardian under section 2(a). In developing the public guidance, the Secretary shall consult with the Secretary of Health and Human Services, immigrant advocacy organizations, child welfare organizations, and State child welfare agencies.

(b) Written Notification.—The Secretary shall provide each parent or legal guardian who was separated, with written notice of the public guidance to locate a separated child.

(c) Language Access.—All guidance shall be available in English and Spanish, and at the request of the parent or legal guardian, either in the parent or legal guardian’s native language or in another language the parent or legal guardian understands, and manner that is understandable by the parent or legal guardian.

SEC. 6. REQUIRED INFORMATION FOR SEPARATED FAMILIES.

(a) In General.—Except as provided under subsection (c), the Secretary of Health and Human Services, in consultation with the heads of other designated agencies, on a weekly basis, shall provide the parent or legal guardian of a child who was separated, the following information, at a minimum:
(1) A status report on the child’s activities during the prior week.

(2) Information about the education and health of the child, including any medical treatment provided to the child or medical treatment recommended for the child.

(3) Information about changes to the child’s immigration status.

(4) Other information about the child, designed to promote and maintain family reunification, as the Secretary of Health and Human Services determines in his or her discretion.

(b) PHONE COMMUNICATION.—Except as provided under subsection (c), the Secretary of Health and Human Services, in consultation with the heads of other designated agencies, on a weekly basis, shall provide the parent or legal guardian of a child who was separated with phone communication between the parent or legal guardian and his or her child.

(c) EXCEPTION.—No information under subsection (a) or phone communication under subsection (b) shall be provided to a parent or legal guardian in the case that a qualified child welfare expert with care and custody of the child, a child’s advocate, the child’s legal representation, or the child him or herself concludes it is harmful
or dangerous to the child to communicate with the parent or legal guardian.

SEC. 7. ANNUAL REPORT ON FAMILY SEPARATION.

Not later than 180 days after the date of the enactment of this Act, and every 6 months thereafter, the Secretary, in consultation with the heads of other designated agencies, shall submit a report to the committees of jurisdiction, describing each instance in which a child was separated from a parent or legal guardian, including the following:

(1) The relationship of the adult to the child.

(2) The age and gender of the adult and child.

(3) The length of separation.

(4) Whether the adult was charged with a crime, and if the adult was charged with a crime, the type of crime.

(5) Whether the adult made a claim for asylum, expressed a fear to return, or applied for other immigration relief.

(6) Whether the adult was prosecuted if charged with a crime and the associated outcome of such charges.

(7) The stated reason for, and evidence in support of, the separation.
(8) If the child was part of a sibling group at the time of the separation, whether the group has had physical contact and visitation.

(9) Whether the child was rendered an unaccompanied alien child.

(10) Other information in the Secretary’s discretion.

SEC. 8. CLARIFICATION OF PARENTAL RIGHTS.

If a child is separated from a parent or legal guardian, and a State court has not made a determination that the parental rights have been terminated, there is a presumption that—

(1) the parental rights remain intact; and

(2) the separation does not constitute an affirmative determination of abuse or neglect under Federal or State law.

SEC. 9. CLARIFICATION OF EXISTING LAW.

(a) FEDERAL LAW.—Nothing in this Act shall be interpreted to supersede or modify Federal child welfare law, where applicable, including the Adoption and Safe Families Act of 1997 (Public Law 105–89).

(b) STATE LAW.—Nothing in this Act shall be interpreted to supersede or modify State child welfare laws where applicable.
SEC. 10. LIMITATION ON THE PROSECUTION OF ASYLUM SEEKERS.

(a) IN GENERAL.—An alien who has expressed a credible or reasonable fear of persecution, filed an application for asylum or withholding of removal, or expressed an intent to file such an application, may not be prosecuted under section 275(a) or 276(a) of the Immigration and Nationality Act (8 U.S.C. 1325(a), 1326(a)) until the date on which any such application has been finally adjudicated, including any appeals thereto.

(b) AFFIRMATIVE DEFENSE.—In the case that an alien is prosecuted under section 275(a) or 276(a) of the Immigration and Nationality Act (8 U.S.C. 1325(a), 1326(a)) in violation of subsection (a), it shall be a defense that the alien has expressed a credible or reasonable fear of persecution, filed an application for asylum or withholding of removal, or expressed an intent to file such an application, and that such application has not been finally adjudicated, including any appeals thereto.

(c) TREATY OBLIGATIONS.—In accordance with the treaty obligations of the United States under Article 31 of the United Nations Convention Relating to the Status of Refugees, no alien who has been granted asylum or withholding of removal in the United States may be prosecuted under section 275(a) or 276(a) of the Immigration and Nationality Act (8 U.S.C. 1325(a), 1326(a)).
SEC. 11. DEFINITIONS.

In this Act:

(1) DESIGNATED AGENCY.—The term “designated agency” means—

(A) the Department of Homeland Security;
(B) the Department of Justice; and
(C) the Department of Health and Human Services.

(2) AGENT OR OFFICER.—The term “agent or officer” includes contractors of the Federal Government.

(3) CHILD.—The term “child” means an individual who—

(A) has not reached the age of 18; and
(B) has no permanent immigration status.

(4) COMMITTEES OF JURISDICTION.—The term “committees of jurisdiction” means—

(A) the Committee on the Judiciary and the Committee on Health, Education, Labor, and Pensions of the Senate; and
(B) the Committee on the Judiciary and the Committee on Education and the Workforce of the House of Representatives.

(5) FINDING.—The term “finding” means an individualized written assessment or screening for-
12

malized as required under section 2(c), and con-

sistent with sections 3, 4, and 8.

(6) IN DANGER OF ABUSE OR NEGLECT AT THE

HAND OF THE PARENT OR LEGAL GUARDIAN.—The

term “in danger of abuse or neglect at the hands of

the parent or legal guardian” does not include mi-
grating to or crossing of a border of the United

States.

(7) SECRETARY.—Unless otherwise specified,

the term “Secretary” means the Secretary of Home-

land Security.