

117TH CONGRESS
1ST SESSION

H. R. 994

To prohibit the use of for-profit facilities and detention centers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2021

Mr. GRIJALVA (for himself, Mr. RUSH, Ms. SCHAKOWSKY, Ms. LEE of California, Mr. BLUMENAUER, Ms. MENG, Mr. GALLEG0, Ms. NORTON, Mr. ESPAILLAT, Ms. VELÁZQUEZ, Mr. CARSON, Ms. OMAR, Mr. SMITH of Washington, Mr. GOMEZ, Mr. MCGOVERN, Mr. SAN NICOLAS, Mr. POCAN, Mrs. WATSON COLEMAN, Mr. JONES, Mr. TAKANO, Mrs. NAPOLITANO, Ms. GARCIA of Texas, Ms. MCCOLLUM, Mr. VARGAS, Ms. BASS, Mr. JOHNSON of Georgia, Ms. JAYAPAL, Ms. TLAIB, Mr. WELCH, Ms. BARRAGÁN, Mr. CONNOLLY, Ms. OCASIO-CORTEZ, and Ms. ESCOBAR) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, Financial Services, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit the use of for-profit facilities and detention centers, 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.**

2 This Act may be cited as the “Justice is Not For
3 Sale Act of 2021”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act—

6 (1) the term “core correctional services” means
7 the housing, transporting, safeguarding, protecting,
8 and disciplining of individuals—

9 (A) charged with or convicted of an of-
10 fense; or

11 (B) who are in custody for purposes of en-
12 forcing the immigration laws, as defined in sec-
13 tion 101(a) of the Immigration and Nationality
14 Act (8 U.S.C. 1101(a));

15 (2) the term “local government” means a city,
16 county, township, town, borough, parish, village, or
17 other general purpose political subdivision of a
18 State;

19 (3) the term “State” means a State of the
20 United States, the District of Columbia, the Com-
21 monwealth of Puerto Rico, or another common-
22 wealth, territory, or possession of the United States;
23 and

24 (4) the term “facility housing adult prisoners or
25 detainees in the custody of a State or local govern-
26 ment” includes for-profit civil commitment centers,

1 return to custody units, community corrections and
2 treatment centers, halfway houses and re-entry pro-
3 grams, restitution or day reporting centers, transi-
4 tional centers, mental health facilities, or other fa-
5 cilities or programs that are under contract with a
6 government entity to provide custody, control, super-
7 vision, treatment, and rehabilitation of prisoners or
8 detainees.

9 **SEC. 3. ELIMINATION OF FEDERAL CONTRACTS FOR PRI-**
10 **VATELY RUN PRISONS WITHIN 2 YEARS.**

11 (a) OPERATIONAL CONTROL.—Except as provided in
12 subsection (b), not later than 2 years after the date of
13 enactment of this Act—

14 (1) each facility housing adult prisoners or de-
15 tainees in the custody of the Federal Government
16 shall be under the direct, operational control of the
17 Federal Government; and

18 (2) core correctional services at each such facil-
19 ity shall be performed by employees of the Federal
20 Government.

21 (b) WAIVER AUTHORIZED.—If the Attorney General
22 determines that the Federal Government is unable to com-
23 ply with subsection (a) by the date that is 2 years after
24 the date of enactment of this Act, the Attorney General

1 may waive the application of subsection (a) for not more
2 than 1 year.

3 (c) ELECTRONIC MONITORING OF RELEASED PER-
4 SONS.—Electronic monitoring of the location of a person
5 released from the custody of the Federal Government may
6 be conducted only by a public entity under the supervision
7 and control of the Federal Government or a non-profit en-
8 tity that has a contract with the Federal Government to
9 perform such monitoring.

10 **SEC. 4. PROHIBITION ON PRIVATE FOR-PROFIT ENTITIES**
11 **RUNNING STATE AND LOCAL PRISONS OR DE-**
12 **TENTION ALTERNATIVES AFTER 2 YEARS.**

13 (a) OPERATIONAL CONTROL.—Except as provided in
14 subsection (b), on and after the date that is 2 years after
15 the date of enactment of this Act—

16 (1) no private for-profit entity engaged in or af-
17 fecting interstate commerce shall own or have direct,
18 operational control over a facility housing adult pris-
19 oners or detainees in the custody of the State or
20 local government; and

21 (2) no private for-profit entity engaged in or af-
22 fecting interstate commerce shall perform core cor-
23 rectional services at such a facility.

24 (b) WAIVER AUTHORIZED.—If the Attorney General
25 determines that a State or local government requires serv-

ices from a private for-profit entity that are described in subsection (a) after the date that is 2 years after the date of enactment of this Act, the Attorney General may waive the application of subsection (a) as to that private for-profit entity for not more than 1 year.

(c) ELECTRONIC MONITORING OF RELEASED PERSONS.—No private for-profit entity engaged in or affecting interstate commerce may operate electronic monitoring of the location of a person released from the custody of a State or local government.

(d) ENFORCEMENT.—The Attorney General may bring a civil action in an appropriate district court of the United States for such declaratory or injunctive relief as is necessary to carry out this section.

**SEC. 5. CFPB OVERSIGHT OF PROVIDERS OF MONEY
TRANSFER SERVICES FOR CORRECTIONAL
AND IMMIGRATION DETENTION FACILITIES.**

(a) DEFINITIONS.—In this section—

(1) the term “Bureau” means the Bureau of Consumer Financial Protection;

(2) the term “correctional facility” means a jail, prison, or other detention facility used to house people who have been arrested, detained, held, or convicted by a criminal justice agency or a court;

(3) the term “covered inmate” means—

1 (A) an individual who is being held, de-
2 tained, or incarcerated in a correctional facility;
3 and

4 (B) an individual who is being held in an
5 immigration detention facility;

6 (4) the term “covered provider” means a pro-
7 vider of a service, including a money transfer serv-
8 ice, that—

9 (A) facilitates the electronic transfer of
10 funds from an individual who is not a covered
11 inmate to a covered inmate;

12 (B) provides a payment to a covered in-
13 mate who is being released from a correctional
14 facility or an immigration detention facility; or

15 (C) provides a payment on behalf of a cov-
16 ered inmate; and

17 (5) the term “immigration detention facility”
18 means a Federal, State, or local government facility,
19 or a privately owned and operated facility, that is
20 used, in whole or in part, to hold individuals under
21 the authority of the Director of U.S. Immigration
22 and Customs Enforcement, including facilities that
23 hold such individuals under a contract or agreement
24 with the Department of Homeland Security.

1 (b) REASONABLE AND PROPORTIONAL FEE OR
2 CHARGE.—The amount of any fee or charge that a cov-
3 ered provider may impose with respect to a service de-
4 scribed in subparagraph (A), (B), or (C) of subsection
5 (a)(4) shall be reasonable and proportional to the relative
6 cost or value of the service.

7 (c) REQUIREMENT TO ISSUE REGULATIONS.—

8 (1) IN GENERAL.—Not later than 3 years after
9 the date of enactment of this Act, the Bureau shall
10 issue final rules to establish standards for assessing
11 whether the amount of any fee or charge described
12 in subsection (b) is reasonable and proportional to
13 the relative cost or value of the service provided by
14 a covered provider.

15 (2) CONSIDERATIONS.—In issuing the final
16 rules under paragraph (1), the Bureau shall con-
17 sider—

18 (A) whether there are alternative means
19 for transferring funds into correctional facilities
20 and immigration detention facilities;

21 (B) whether those alternatives can reason-
22 ably be considered comparable;

23 (C) differing cost structures for transfer-
24 ring funds into correctional facilities and immi-
25 gration detention facilities; and

1 (D) such other factors as the Bureau may
 2 determine necessary or appropriate.

3 (3) DIFFERENTIATION PERMITTED.—In issuing
 4 the final rules under paragraph (1), the Bureau may
 5 establish different standards for different types of
 6 fees and charges, as appropriate.

7 **SEC. 6. REQUIREMENTS FOR CONFINEMENT FACILITY**
 8 **COMMUNICATIONS SERVICES.**

9 (a) IN GENERAL.—Section 276 of the Communica-
 10 tions Act of 1934 (47 U.S.C. 276) is amended by adding
 11 at the end the following:

12 “(e) ADDITIONAL REQUIREMENTS FOR CONFINEMENT FACILITY COMMUNICATIONS SERVICES.—

13
 14 “(1) AUTHORITY.—

15 “(A) IN GENERAL.—All charges, practices,
 16 classifications, and regulations for and in con-
 17 nection with confinement facility communica-
 18 tions services shall be just and reasonable, and
 19 any such charge, practice, classification, or reg-
 20 ulation that is unjust or unreasonable is de-
 21 clared to be unlawful.

22 “(B) RULEMAKING REQUIRED.—Not later
 23 than 18 months after the date of the enactment
 24 of this subsection, the Commission shall issue
 25 rules to adopt, for the provision of confinement

1 facility communications services, rates and an-
2 cillary service charges that are just and reason-
3 able, which shall be the maximum such rates
4 and charges that a provider of confinement fa-
5 cility communications services may charge for
6 such services. In determining rates and charges
7 that are just and reasonable, the Commission
8 shall adopt such rates and charges based on the
9 average industry costs of providing such serv-
10 ices using data collected from providers of con-
11 finement facility communications services.

12 “(C) BIENNIAL REVIEW.—Not less fre-
13 quently than every 2 years following the
14 issuance of rules under subparagraph (B), the
15 Commission shall—

16 “(i) determine whether the rates and
17 ancillary service charges authorized by the
18 rules issued under such subparagraph re-
19 main just and reasonable; and

20 “(ii) if the Commission determines
21 under clause (i) that any such rate or
22 charge does not remain just and reason-
23 able, revise such rules so that such rate or
24 charge is just and reasonable.

1 “(2) INTERIM RATE CAPS.—Until the Commis-
2 sion issues the rules required by paragraph (1)(B),
3 a provider of confinement facility communications
4 services may not charge a rate for any voice service
5 communication using confinement facility commu-
6 nications services that exceeds the following:

7 “(A) For debit calling or prepaid calling,
8 \$0.04 per minute.

9 “(B) For collect calling, \$0.05 per minute.

10 “(3) ASSESSMENT ON PER-MINUTE BASIS.—Ex-
11 cept as provided in paragraph (4), a provider of con-
12 finement facility communications services—

13 “(A) shall assess all charges for a commu-
14 nication using such services on a per-minute
15 basis for the actual duration of the communica-
16 tion, measured from communication acceptance
17 to termination, rounded up to the next full
18 minute, except in the case of charges for serv-
19 ices that the confinement facility offers free of
20 charge or for amounts below the amounts per-
21 mitted under this subsection; and

22 “(B) may not charge a per-communication
23 or per-connection charge for a communication
24 using such services.

25 “(4) ANCILLARY SERVICE CHARGES.—

1 “(A) GENERAL PROHIBITION.—A provider
2 of confinement facility communications services
3 may not charge an ancillary service charge
4 other than—

5 “(i) if the Commission has not yet
6 issued the rules required by paragraph
7 (1)(B), a charge listed in subparagraph
8 (B) of this paragraph; or

9 “(ii) a charge authorized by the rules
10 adopted by the Commission under para-
11 graph (1).

12 “(B) PERMITTED CHARGES AND RATES.—
13 If the Commission has not yet issued the rules
14 required by paragraph (1)(B), a provider of
15 confinement facility communications services
16 may not charge a rate for an ancillary service
17 charge in excess of the following:

18 “(i) In the case of an automated pay-
19 ment fee, 2.9 percent of the total charge
20 on which the fee is assessed.

21 “(ii) In the case of a fee for single-call
22 and related services, the exact transaction
23 fee charged by the third-party provider,
24 with no markup.

1 “(iii) In the case of a live agent fee,
2 \$5.95 per use.

3 “(iv) In the case of a paper bill or
4 statement fee, \$2 per use.

5 “(v) In the case of a third-party fi-
6 nancial transaction fee, the exact fee, with
7 no markup, charged by the third party for
8 the transaction.

9 “(5) PROHIBITION ON SITE COMMISSIONS.—A
10 provider of confinement facility communications
11 services may not assess a site commission.

12 “(6) RELATIONSHIP TO STATE LAW.—A State
13 or political subdivision of a State may not enforce
14 any law, rule, regulation, standard, or other provi-
15 sion having the force or effect of law relating to con-
16 finement facility communications services that allows
17 for higher rates or other charges to be assessed for
18 such services than is permitted under any Federal
19 law or regulation relating to confinement facility
20 communications services.

21 “(7) DEFINITIONS.—In this subsection:

22 “(A) ANCILLARY SERVICE CHARGE.—The
23 term ‘ancillary service charge’ means any
24 charge a consumer may be assessed for the set-
25 ting up or use of a confinement facility commu-

1 communications service that is not included in the per-
2 minute charges assessed for individual commu-
3 nications.

4 “(B) AUTOMATED PAYMENT FEE.—The
5 term ‘automated payment fee’ means a credit
6 card payment, debit card payment, or bill proc-
7 essing fee, including a fee for a payment made
8 by means of interactive voice response, the
9 internet, or a kiosk.

10 “(C) COLLECT CALLING.—The term ‘col-
11 lect calling’ means an arrangement whereby a
12 credit-qualified party agrees to pay for charges
13 associated with a communication made to such
14 party using confinement facility communica-
15 tions services and originating from within a
16 confinement facility.

17 “(D) CONFINEMENT FACILITY.—The term
18 ‘confinement facility’—

19 “(i) means a jail or a prison; and

20 “(ii) includes any juvenile, detention,
21 work release, or mental health facility that
22 is used primarily to hold individuals who
23 are—

1 “(I) awaiting adjudication of
2 criminal charges or an immigration
3 matter; or

4 “(II) serving a sentence for a
5 criminal conviction.

6 “(E) CONFINEMENT FACILITY COMMU-
7 NICATIONS SERVICE.—The term ‘confinement
8 facility communications service’ means a service
9 that allows incarcerated persons to make elec-
10 tronic communications (whether intrastate,
11 interstate, or international and whether made
12 using video, audio, or any other communicative
13 method, including advanced communications
14 services) to individuals outside the confinement
15 facility, or to individuals inside the confinement
16 facility, where the incarcerated person is being
17 held, regardless of the technology used to de-
18 liver the service.

19 “(F) CONSUMER.—The term ‘consumer’
20 means the party paying a provider of confine-
21 ment facility communications services.

22 “(G) DEBIT CALLING.—The term ‘debit
23 calling’ means a presubscription or comparable
24 service which allows an incarcerated person, or
25 someone acting on an incarcerated person’s be-

1 half, to fund an account set up through a pro-
2 vider that can be used to pay for confinement
3 facility communications services originated by
4 the incarcerated person.

5 “(H) FEE FOR SINGLE-CALL AND RE-
6 LATED SERVICES.—The term ‘fee for single-call
7 and related services’ means a billing arrange-
8 ment whereby communications made by an in-
9 carcerated person using collect calling are billed
10 through a third party on a per-communication
11 basis, where the recipient does not have an ac-
12 count with the provider of confinement facility
13 communications services.

14 “(I) INCARCERATED PERSON.—The term
15 ‘incarcerated person’ means a person detained
16 at a confinement facility, regardless of the du-
17 ration of the detention.

18 “(J) JAIL.—The term ‘jail’—

19 “(i) means a facility of a law enforce-
20 ment agency of the Federal Government or
21 of a State or political subdivision of a
22 State that is used primarily to hold indi-
23 viduals who are—

24 “(I) awaiting adjudication of
25 criminal charges;

1 “(II) post-conviction and com-
2 mitted to confinement for sentences of
3 one year or less; or

4 “(III) post-conviction and await-
5 ing transfer to another facility; and

6 “(ii) includes—

7 “(I) city, county, or regional fa-
8 cilities that have contracted with a
9 private company to manage day-to-
10 day operations;

11 “(II) privately-owned and oper-
12 ated facilities primarily engaged in
13 housing city, county, or regional in-
14 carcerated persons; and

15 “(III) facilities used to detain in-
16 dividuals pursuant to a contract with
17 U.S. Immigration and Customs En-
18 forcement.

19 “(K) LIVE AGENT FEE.—The term ‘live
20 agent fee’ means a fee associated with the op-
21 tional use of a live operator to complete a con-
22 finement facility communications service trans-
23 action.

24 “(L) PAPER BILL OR STATEMENT FEE.—

25 The term ‘paper bill or statement fee’ means a

1 fee associated with providing a consumer an op-
2 tional paper billing statement.

3 “(M) PER-COMMUNICATION OR PER-CON-
4 NECTION CHARGE.—The term ‘per-communica-
5 tion or per-connection charge’ means a one-time
6 fee charged to a consumer at the initiation of
7 a communication.

8 “(N) PREPAID CALLING.—The term ‘pre-
9 paid calling’ means a calling arrangement that
10 allows a consumer to pay in advance for a spec-
11 ified amount of confinement facility commu-
12 nications services.

13 “(O) PRISON.—The term ‘prison’—

14 “(i) means a facility operated by a
15 State or Federal agency that is used pri-
16 marily to confine individuals convicted of
17 felonies and sentenced to terms in excess
18 of one year; and

19 “(ii) includes—

20 “(I) public and private facilities
21 that provide outsource housing to
22 State or Federal agencies such as
23 State Departments of Correction and
24 the Federal Bureau of Prisons; and

1 “(II) facilities that would other-
2 wise be jails but in which the majority
3 of incarcerated persons are post-con-
4 viction or are committed to confine-
5 ment for sentences of longer than one
6 year.

7 “(P) PROVIDER OF CONFINEMENT FACIL-
8 ITY COMMUNICATIONS SERVICES.—The term
9 ‘provider of confinement facility communica-
10 tions services’ means any communications serv-
11 ice provider that provides confinement facility
12 communications services, regardless of the tech-
13 nology used.

14 “(Q) SITE COMMISSION.—The term ‘site
15 commission’ means any monetary payment, in-
16 kind payment, gift, exchange of services or
17 goods, fee, technology allowance, or product
18 that a provider of confinement facility commu-
19 nications services or an affiliate of a provider of
20 confinement facility communications services
21 may pay, give, donate, or otherwise provide
22 to—

23 “(i) an entity that operates a confine-
24 ment facility;

1 “(ii) an entity with which the provider
2 of confinement facility communications
3 services enters into an agreement to pro-
4 vide confinement facility communications
5 services;

6 “(iii) a governmental agency that
7 oversees a confinement facility;

8 “(iv) the State or political subdivision
9 of a State where a confinement facility is
10 located; or

11 “(v) an agent or other representative
12 of an entity described in any of clauses (i)
13 through (iv).

14 “(R) THIRD-PARTY FINANCIAL TRANS-
15 ACTION FEE.—The term ‘third-party financial
16 transaction fee’ means the exact fee, with no
17 markup, that a provider of confinement facility
18 communications services is charged by a third
19 party to transfer money or process a financial
20 transaction to facilitate the ability of a con-
21 sumer to make an account payment via a third
22 party.

23 “(S) VOICE SERVICE.—The term ‘voice
24 service’—

1 “(i) means any service that is inter-
2 connected with the public switched tele-
3 phone network and that furnishes voice
4 communications to an end user using re-
5 sources from the North American Num-
6 bering Plan or any successor to the North
7 American Numbering Plan adopted by the
8 Commission under section 251(e)(1); and

9 “(ii) includes—

10 “(I) transmissions from a tele-
11 phone facsimile machine, computer, or
12 other device to a telephone facsimile
13 machine; and

14 “(II) without limitation, any
15 service that enables real-time, two-way
16 voice communications, including any
17 service that requires internet protocol-
18 compatible customer premises equip-
19 ment (commonly known as ‘CPE’)
20 and permits out-bound calling, wheth-
21 er or not the service is one-way or
22 two-way voice over internet protocol.”.

23 (b) CONFORMING AMENDMENT.—Section 276(d) of
24 the Communications Act of 1934 (47 U.S.C. 276(d)) is
25 amended by striking “inmate telephone service in correc-

1 tional institutions” and inserting “confinement facility
 2 communications services (as defined in subsection
 3 (e)(7))”.

4 (c) EXISTING CONTRACTS.—

5 (1) IN GENERAL.—In the case of a contract
 6 that was entered into and under which a provider of
 7 confinement facility communications services was
 8 providing such services at a confinement facility on
 9 or before the date of the enactment of this Act—

10 (A) paragraphs (1) through (5) of sub-
 11 section (e) of section 276 of the Communica-
 12 tions Act of 1934, as added by subsection (a)
 13 of this section, shall apply to the provision of
 14 confinement facility communications services by
 15 such provider at such facility beginning on the
 16 earlier of—

17 (i) the date that is 60 days after such
 18 date of enactment; or

19 (ii) the date of the termination of the
 20 contract; and

21 (B) the terms of such contract may not be
 22 extended after such date of enactment, whether
 23 by exercise of an option or otherwise.

24 (2) DEFINITIONS.—In this subsection, the
 25 terms “confinement facility”, “confinement facility

1 communications service”, and “provider of confine-
2 ment facility communications services” have the
3 meanings given such terms in paragraph (7) of sub-
4 section (e) of section 276 of the Communications
5 Act of 1934, as added by subsection (a) of this sec-
6 tion.

7 (d) **AUTHORITY.**—Section 2(b) of the Communica-
8 tions Act of 1934 (47 U.S.C. 152(b)) is amended by in-
9 serting “section 276,” after “227, inclusive,”.

10 **SEC. 7. OVERSIGHT OF DETENTION FACILITIES.**

11 (a) **DEFINITIONS.**—In this section:

12 (1) **APPLICABLE STANDARDS.**—The term “ap-
13 plicable standards” means the most recent version of
14 detention standards and detention-related policies
15 issued by the Secretary of Homeland Security or the
16 Director of U.S. Immigration and Customs Enforce-
17 ment.

18 (2) **DETENTION FACILITY.**—The term “deten-
19 tion facility” means a Federal, State, or local gov-
20 ernment facility, or a privately owned and operated
21 facility, that is used, in whole or in part, to hold in-
22 dividuals under the authority of the Director of U.S.
23 Immigration and Customs Enforcement, including
24 facilities that hold such individuals under a contract

1 or agreement with the Department of Homeland Se-
2 curity.

3 (b) DETENTION REQUIREMENTS.—The Secretary of
4 Homeland Security shall ensure that all persons detained
5 pursuant to the Immigration and Nationality Act (8
6 U.S.C. 1101 et seq.) are treated humanely and benefit
7 from the protections set forth in this section.

8 (c) OVERSIGHT REQUIREMENTS.—

9 (1) ANNUAL INSPECTION.—All detention facili-
10 ties housing noncitizens in the custody of the De-
11 partment of Homeland Security shall be inspected,
12 for compliance with applicable detention standards
13 issued by the Secretary and other applicable regula-
14 tions, by—

15 (A) the Immigration Detention Ombuds-
16 man at least biannually; and

17 (B) an independent, third-party auditor at
18 least biannually.

19 (2) ROUTINE OVERSIGHT.—In addition to the
20 inspections required under paragraph (1), the Sec-
21 retary shall conduct routine oversight of the deten-
22 tion facilities described in paragraph (1), including
23 unannounced inspections.

24 (3) AVAILABILITY OF RECORDS.—All detention
25 facility contracts, memoranda of agreement, audits,

1 inspections, evaluations and reviews, include those
2 conducted by the Office for Civil Rights and Civil
3 Liberties and the Office of Inspector General of the
4 Department of Homeland Security, shall be consid-
5 ered public records for purposes of section 552(f)(2)
6 of title 5, United States Code.

7 (4) CONSULTATION.—The Secretary shall seek
8 input from nongovernmental organizations regarding
9 their independent opinion of specific facilities.

10 (5) REPORT OF IMMIGRATION DETENTION OM-
11 BUDSMAN.—The Immigration Detention Ombuds-
12 man shall submit a report to Congress on a bi-an-
13 nual basis on its activities, findings, and rec-
14 ommendations, based on the inspections conducted
15 under paragraph (1), including a copy of any com-
16 plaint form or mechanism created, the number and
17 types of complaints received, the number of com-
18 plaints investigated, and the number of inspections
19 under paragraph (1) that the Ombudsman con-
20 ducted during the previous 6-month period, includ-
21 ing any unannounced inspections.

22 (d) COMPLIANCE MECHANISMS.—

23 (1) AGREEMENTS.—

24 (A) NEW AGREEMENTS.—Compliance with
25 applicable standards of the Secretary of Home-

1 land Security and all applicable regulations, and
2 meaningful financial penalties for failure to
3 comply, shall be a material term in any new
4 contract, memorandum of agreement, or any re-
5 negotiation, modification, or renewal of an ex-
6 isting contract or agreement, including fee ne-
7 gotiations, executed with detention facilities.

8 (B) EXISTING AGREEMENTS.—Not later
9 than 180 days after the date of the enactment
10 of this Act, the Secretary shall secure a modi-
11 fication incorporating these terms for any exist-
12 ing contracts or agreements that will not be re-
13 negotiated, renewed, or otherwise modified.

14 (C) CANCELLATION OF AGREEMENTS.—
15 Unless the Secretary provides a reasonable ex-
16 tension to a specific detention facility that is
17 negotiating in good faith, contracts or agree-
18 ments with detention facilities that are not
19 modified within 1 year of the date of the enact-
20 ment of this Act will be cancelled.

21 (D) PROVISION OF INFORMATION.—In
22 making modifications under this paragraph, the
23 Secretary shall require that detention facilities
24 provide to the Secretary all contracts, memo-
25 randa of agreement, evaluations, and reviews

1 regarding the facility on a regular basis. The
2 Secretary shall make these materials publicly
3 available on a timely and regular basis.

4 (2) FINANCIAL PENALTIES.—

5 (A) REQUIREMENT TO IMPOSE.—Subject
6 to subparagraph (C), the Secretary shall impose
7 meaningful financial penalties upon facilities
8 that fail to comply with applicable detention
9 standards issued by the Secretary and other ap-
10 plicable regulations.

11 (B) TIMING OF IMPOSITION.—Financial
12 penalties imposed under subparagraph (A) shall
13 be imposed immediately after a facility fails to
14 achieve an adequate or the equivalent median
15 score in any performance evaluation.

16 (C) WAIVER.—The requirements of sub-
17 paragraph (A) may be waived if the facility cor-
18 rects the noted deficiencies and receives an ade-
19 quate score in not more than 90 days.

20 (D) MULTIPLE OFFENDERS.—If the Sec-
21 retary determines that a facility has been per-
22 sistent and substantially violating the deten-
23 tion standards issued by the Secretary, includ-
24 ing by scoring less than adequate or the equiva-
25 lent median score in 2 consecutive inspections—

1 (i) the Secretary shall terminate con-
2 tracts or agreements with such facilities
3 within 60 days; or

4 (ii) in the case of facilities operated by
5 the Secretary, the Secretary shall close
6 such facilities within 90 days.

7 (e) REPORTING REQUIREMENTS.—

8 (1) OBJECTIVES.—Not later than June 30 of
9 each year, the Secretary of Homeland Security shall
10 submit a report to the Committee on the Judiciary
11 of the Senate and the Committee on the Judiciary
12 of the House of Representatives that describes the
13 inspection and oversight activities at detention facili-
14 ties.

15 (2) CONTENTS.—Each report submitted under
16 paragraph (1) shall include—

17 (A) a description of each detention facility
18 found to be in noncompliance with applicable
19 detention standards issued by the Department
20 of Homeland Security and other applicable reg-
21 ulations;

22 (B) a description of the actions taken by
23 the Department to remedy any findings of non-
24 compliance or other identified problems, includ-

ing financial penalties, contract or agreement termination, or facility closure; and

(C) information regarding whether the actions described in subparagraph (B) resulted in compliance with applicable detention standards and regulations.

SEC. 8. REPLACEMENT OF FAMILY DETENTION WITH ALTERNATIVES.

Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended by adding at the end the following:

“(f) PROHIBITION ON DETENTION OF FAMILIES.—

“(1) PROHIBITION.—Notwithstanding any other provision of this Act, the Secretary of Homeland Security is prohibited from—

“(A) detaining a family unit under the authority of this section; or

“(B) separating a family unit whose members were apprehended together in order to detain a family member under this section.

“(2) ALTERNATIVES TO DETENTION.—

“(A) IN GENERAL.—The Secretary of Homeland Security shall establish community-based and community-supported case management programs operated by nonprofit organiza-

tions for family units who are prohibited from being detained pursuant to paragraph (1), which programs shall impose the least onerous obligations possible on participants.

“(B) PROHIBITION ON CERTAIN ALTERNATIVES.—The Secretary may not use an ankle-worn or other GPS tracking device as an alternative to detention under this paragraph.”.

SEC. 9. PRIVATE RIGHT OF ACTION.

(a) IN GENERAL.—A person aggrieved of any violation of this Act or an amendment made by this Act may bring a civil action in an appropriate district court of the United States.

(b) RELIEF.—For a prevailing plaintiff in a civil action brought under subsection (a), the court—

(1) shall award damages in the amount equal to the greater of—

(A) the actual damages of the plaintiff; or

(B) \$1,000 for each violation of this Act or an amendment made by this Act;

(2) may order injunctive relief; and

(3) shall award reasonable attorney fees.

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