

117TH CONGRESS
2D SESSION

H. R. 8638

To amend the Homeland Security Act of 2002 with respect to the definition of unaccompanied alien child, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2022

Mr. CAWTHORN introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Foreign Affairs, 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 amend the Homeland Security Act of 2002 with respect to the definition of unaccompanied alien child, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Overhaul Resettlement
5 Reasonably Act of 2022” or the “ORR Act of 2022”.

1 **SEC. 2. APPREHENSION AND DETENTION OF CERTAIN**
2 **ALIENS.**

3 Section 236 of the Immigration and Nationality Act
4 (8 U.S.C. 1266) is amended—

5 (1) by striking “Attorney General” each place
6 it appears and inserting “Secretary of Homeland Se-
7 curity”;

8 (2) by striking “Attorney General’s” each place
9 it appears and inserting “Secretary of Homeland Se-
10 curity’s”;

11 (3) by striking “the Service” each place it ap-
12 pears and inserting “the Department of Homeland
13 Security”;

14 (4) in subsection (a)—

15 (A) by striking paragraph (2)(A) and in-
16 serting the following new subparagraph:

17 “(A) bond of at least \$25,000 with secu-
18 rity approved by, and containing conditions pre-
19 scribed by, the Secretary of Homeland Security;
20 or”; and

21 (B) by striking paragraph (3) and insert-
22 ing the following new paragraph:

23 “(3) shall not provide the alien with work au-
24 thorization (including an ‘employment authorized’
25 endorsement or other appropriate work permit), un-
26 less the alien is lawfully admitted for permanent res-

1 idence or otherwise would (without regard to re-
 2 moval proceedings) be provided such authorization.”;
 3 and

4 (5) by striking subsection (c)(1)(C) and insert-
 5 ing the following new subparagraph:

6 “(C) is deportable under section
 7 1227(a)(2)(A)(i) of this title on the basis of an
 8 offense for which the alien has been sentenced
 9 to a term of imprisonment of at least 1 year,
 10 or”.

11 **SEC. 3. CHILDREN’S AFFAIRS.**

12 (a) AMENDMENT.—Section 462(g)(2) of the Home-
 13 land Security Act of 2002 (6 U.S.C. 279(g)(2)) is amend-
 14 ed—

15 (1) in subparagraph (B), by striking “; and”
 16 and inserting a semicolon;

17 (2) by redesignating subparagraph (C) as sub-
 18 paragraph (D); and

19 (3) by inserting after subparagraph (B) the fol-
 20 lowing new subparagraphs:

21 “(C) has been affirmatively certified by the
 22 Secretary of Homeland Security to have no af-
 23 filiation to a transnational criminal organization
 24 or international gang; and

1 “(D) does not have a parent or legal
2 guardian in the United States or such parent or
3 legal guardian is in the United States but is un-
4 able to demonstrate fitness to provide care and
5 physical custody to the child.”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this Act shall take effect on the date that is 120 days
8 after the date of the enactment of this Act.

9 (c) AUDIT OF INDIVIDUAL RECEIVING CERTAIN
10 SERVICES.—

11 (1) IN GENERAL.—Not later than 120 days
12 after the date of the enactment of this Act, the At-
13 torney General shall conduct an audit on aliens re-
14 ceiving services from the Office of Refugee Resettle-
15 ment to ensure they have no affiliation with a
16 transnational criminal organization and that each
17 unaccompanied alien child receiving services from
18 the Office of Refugee Resettlement is under the age
19 of 18 years old.

20 (2) RESULT.—If an unaccompanied alien child
21 is found to have an affiliation with a transnational
22 criminal organization pursuant to an audit con-
23 ducted under paragraph (1), such unaccompanied
24 alien child shall be placed in removal proceedings

1 under section 240 of the Immigration and Nation-
2 ality Act (8 U.S.C. 1229a).

3 **SEC. 4. MANDATORY DETENTION OF SUSPECTED TERROR-**
4 **ISTS AND MEMBERS OF OTHER CRIMINAL OR-**
5 **GANIZATIONS.**

6 (a) AMENDMENT.—Section 236A of the Immigration
7 and Nationality Act (8 U.S.C. 1226A) is amended—

8 (1) by striking the header and inserting “**MAN-**
9 **DATORY DETENTION OF SUSPECTED TERROR-**
10 **ISTS AND MEMBERS OF CRIMINAL ORGANIZA-**
11 **TIONS; HABEAS CORPUS; JUDICIAL REVIEW**”;

12 (2) by striking “Attorney General” each place
13 it appears and inserting “Secretary of Homeland Se-
14 curity”;

15 (3) in subsection (a)—

16 (A) by striking the header and inserting
17 “DETENTION OF TERRORIST ALIENS AND
18 MEMBERS OF OTHER CRIMINAL ORGANIZA-
19 TIONS”;

20 (B) by striking paragraph (2) and insert-
21 ing the following new paragraph:

22 “(2) RELEASE.—Except as provided in para-
23 graphs (5) and (6), the Secretary of Homeland Se-
24 curity shall maintain custody of such an alien until
25 the alien is removed from the United States. Except

1 as provided in paragraph (6), such custody shall be
2 maintained irrespective of any relief from removal
3 for which the alien may be eligible, or any relief
4 from removal granted the alien, until the Secretary
5 of Homeland Security determines that the alien is
6 no longer an alien who may be certified under para-
7 graph (3).”;

8 (C) by striking paragraph (5) and insert-
9 ing the following new paragraph:

10 “(5) COMMENCEMENT OF PROCEEDINGS.—The
11 Secretary of Homeland Security shall place an alien
12 detained under paragraph (1) in removal pro-
13 ceedings, or shall charge the alien with a criminal
14 offense, not later than 30 days after the commence-
15 ment of such detention. If the requirement of the
16 preceding sentence is not satisfied, the Secretary of
17 Homeland Security shall release the alien.”; and

18 (D) by striking paragraph (6) and insert-
19 ing the following new paragraph:

20 “(6) LIMITATION ON INDEFINITE DETEN-
21 TION.—An alien detained solely under paragraph (1)
22 who has not been removed under section
23 1231(a)(1)(A) of this title, and whose removal is un-
24 likely in the reasonably foreseeable future for rea-
25 sons other than the alien’s home country’s refusal to

1 issue appropriate travel documents for the alien or
2 otherwise accept return of the alien, may be detained
3 for additional periods of up to two years.”; and

4 (4) in subsection (b)(2)(A)—

5 (A) in clause (ii), by striking the semicolon
6 and inserting “; or”;

7 (B) in clause (iii), by striking “; or” and
8 inserting a period; and

9 (C) by striking clause (iv).

10 **SEC. 5. ENHANCING EFFORTS TO COMBAT THE TRAF-**
11 **FICKING OF CHILDREN.**

12 (a) AMENDMENT.—Section 235 of the William Wil-
13 berforce Trafficking Victims Protection Reauthorization
14 Act of 2008 (8 U.S.C. 1232) is amended—

15 (1) in subsection (a)—

16 (A) by striking paragraph (1) and insert-
17 ing the following new paragraph:

18 “(1) POLICIES AND PROCEDURES.—In order to
19 enhance the efforts of the United States to prevent
20 trafficking in persons, the Secretary of Homeland
21 Security, in consultation with the Secretary of State,
22 the Attorney General, and the Secretary of Health
23 and Human Services, shall develop policies and pro-
24 cedures to ensure that unaccompanied alien children
25 in the United States are safely repatriated to their

1 respective countries of nationality or of last habitual
2 residence.”;

3 (B) in paragraph (2)—

4 (i) by striking the header and insert-
5 ing “RULES FOR RETURN OF AN UNAC-
6 COMPANIED ALIEN CHILD TO THEIR COUN-
7 TRY OF NATIONALITY OR LAST HABITUAL
8 RESIDENCE”;

9 (ii) by striking subparagraph (A) and
10 inserting the following new subparagraph:

11 “(A) DETERMINATIONS.—Any unaccom-
12 panied alien child who is a national or habitual
13 resident of a country shall be treated in accord-
14 ance with subparagraph (B), if the Secretary of
15 Homeland Security determines, on a case-by-
16 case basis, that—

17 “(i) such unaccompanied alien child
18 meets the definition of ‘unaccompanied
19 alien child’ in section 462(g) of the Home-
20 land Security Act of 2002 (6 U.S.C.
21 279(g));

22 “(ii) such unaccompanied alien child
23 has not been a victim of a severe form of
24 trafficking in persons, and there is no
25 credible evidence that such unaccompanied

1 alien child is at risk of being trafficked
2 upon return to the child's country of na-
3 tionality or of last habitual residence;

4 “(iii) such unaccompanied alien child
5 does not have an evidence-based credible or
6 reasonable fear of returning to the child's
7 country of nationality or of last habitual
8 residence owing to a credible fear of perse-
9 cution; and

10 “(iv) the unaccompanied alien child is
11 able to make an independent decision to
12 withdraw his or her application for admis-
13 sion to the United States.”;

14 (iii) by striking clauses (i) and (ii) of
15 subparagraph (B) and inserting the fol-
16 lowing new clauses:

17 “(i) permit such unaccompanied alien
18 child to withdraw their application for ad-
19 mission pursuant to section 235(a)(4) of
20 the Immigration and Nationality Act (8
21 U.S.C. 1225(a)(4)); and

22 “(ii) return such unaccompanied alien
23 child to his or her country of nationality or
24 country of last habitual residence.”; and

1 (iv) by striking subparagraph (C) and
2 inserting the following new subparagraph:

3 “(C) UNACCOMPANIED ALIEN CHILDREN
4 RETURN AGREEMENTS WITH OTHER COUN-
5 TRIES.—The Secretary of Homeland Security
6 shall negotiate agreements between the United
7 States and other countries with respect to the
8 repatriation of unaccompanied alien children.
9 Such agreements shall be designed to protect
10 unaccompanied alien children from severe forms
11 of trafficking in persons, and shall, at a min-
12 imum, provide that—

13 “(i) no unaccompanied alien child
14 shall be returned to his or her country of
15 nationality or of last habitual residence un-
16 less returned to appropriate employees or
17 officials, including child welfare officials
18 where available, of the accepting country’s
19 government;

20 “(ii) no unaccompanied alien child
21 shall be returned to his or her country of
22 nationality or of last habitual residence
23 outside of reasonable business hours; and

24 “(iii) border personnel of the coun-
25 tries that are parties to such agreements

1 are trained in the terms of such agree-
2 ments.”;

3 (C) by striking paragraph (4) and insert-
4 ing the following new paragraph:

5 “(4) SCREENING.—

6 “(A) IN GENERAL.—Not later than 96
7 hours after the Secretary of Homeland Security
8 determines the age of an apprehended alien who
9 is believed to be described in paragraph (2)(A),
10 but in any event prior to returning such alien
11 to the alien’s country of nationality or of last
12 habitual residence, the alien shall be screened to
13 determine whether the alien meets the criteria
14 listed in paragraph (2)(A). If the alien does not
15 meet such criteria, or if no determination can
16 be made within 96 hours of the Department of
17 Homeland Security’s determination of the age
18 of the apprehended alien, the alien shall imme-
19 diately be transferred to the Secretary of
20 Health and Human Services and treated in ac-
21 cordance with subsection (b).

22 “(B) NO PRECLUSION OF EARLIER TRANS-
23 FER.—Nothing in paragraph (A) shall prevent
24 the earlier transfer of an apprehended alien
25 from the Secretary of Homeland Security to the

1 Secretary of Health and Human Services, pro-
2 vided the Secretary of Homeland Security has,
3 based on documentary or forensic information,
4 both determined that the apprehended alien is
5 in fact an ‘unaccompanied alien child’ as such
6 term is defined in section 462(g) of the Home-
7 land Security Act of 2002 (6 U.S.C. 279(g)),
8 and has certified to the Department of Health
9 and Human Services to that effect.

10 “(C) DETERMINATION OF ADULT STA-
11 TUS.—

12 “(i) IN GENERAL.—If the Secretary of
13 Homeland Security determines that an ap-
14 prehended alien who previously self-identi-
15 fied or was identified as a child is deter-
16 mined, based on biographic, biometric, or
17 forensic information, to be an adult, the
18 apprehended alien shall not be transferred
19 to the Secretary of Health and Human
20 Services, and shall remain in the custody
21 of the Department of Homeland Security.

22 “(ii) REDETERMINATION.—Following
23 a determination pursuant to clause (i), if
24 the Secretary of Homeland Security re-
25 ceives an evidence-based credible finding

1 that an alien determined to be a child pur-
2 suant to clause (i) has obtained the age of
3 18 years old, the Secretary shall conduct
4 an additional biometric assessment to de-
5 termine the age of such alien. If the alien
6 is determined to be an adult, they shall be
7 transferred to the custody of the Depart-
8 ment of Homeland Security.”; and

9 (D) by striking paragraph (5) and insert-
10 ing the following new paragraph:

11 “(5) ENSURING THE SAFE REPATRIATION OF
12 UNACCOMPANIED ALIEN CHILDREN.—

13 “(A) REPATRIATION PROGRAM.—To pro-
14 tect children from trafficking and exploitation,
15 the Secretary of Homeland Security shall final-
16 ize a program not later 60 days after the enact-
17 ment of the ‘Overhaul Resettlement Reasonably
18 Act of 2022’, in consultation with the Secretary
19 of Health and Human Services and the Sec-
20 retary of State, to develop and implement best
21 practices to ensure the rapid, safe, and sustain-
22 able repatriation of unaccompanied alien chil-
23 dren to their respective country of nationality
24 or of last habitual residence, including place-

1 ment with their respective families, legal guard-
2 ians, or other sponsoring agencies.

3 “(B) ASSESSMENT OF COUNTRY CONDI-
4 TIONS.—To assess the fitness of a country for
5 the purpose of receiving unaccompanied alien
6 children from the United States, the Secretary
7 of Homeland Security shall consider the fol-
8 lowing factors in the following order of priority:

9 “(i) The existence or absence of diplo-
10 matic relations between the United States
11 and that country.

12 “(ii) The amount of Federal funding
13 the United States provides to that country.

14 “(iii) The degree to which that coun-
15 try cooperates with the United States and
16 other countries in bilateral or multilateral
17 national security or law enforcement ef-
18 forts.

19 “(iv) The annual gross domestic prod-
20 uct of that country and its global rank by
21 annual gross domestic product.

22 “(v) Any materials produced by the
23 United States Government that supply in-
24 formation about the degree of human

1 smuggling and trafficking that occurs in
2 that country.

3 “(vi) Any other information that may
4 assist the Secretary of Homeland Security
5 in efforts to repatriate unaccompanied
6 alien children to that country.

7 “(C) REPORT ON REPATRIATION OF UNAC-
8 COMPANIED ALIEN CHILDREN.—Not later than
9 January 1 of each year, the Secretary of Home-
10 land Security and the Secretary of Health and
11 Human Services, in consultation with the Sec-
12 retary of State, shall submit a report to the
13 Committee on the Judiciary of the Senate and
14 the Committee on the Judiciary of the House of
15 Representatives on efforts to improve repatri-
16 ation programs for unaccompanied alien chil-
17 dren, and shall include—

18 “(i) the number of unaccompanied
19 alien children ordered removed and the
20 number of such children actually removed
21 from the United States;

22 “(ii) a statement of the nationalities,
23 ages, and genders of such children;

24 “(iii) a description of the policies and
25 procedures used to effect the removal of

1 such children from the United States and
2 the steps taken to ensure that such chil-
3 dren were safely and humanely repatriated
4 to their country of nationality or of last
5 habitual residence, including a description
6 of the repatriation program used pursuant
7 to subparagraph (A);

8 “(iv) a description of the type of im-
9 migration relief sought and denied to such
10 children;

11 “(v) any information gathered in as-
12 sessments of country and local conditions
13 pursuant to paragraph (2);

14 “(vi) the number of aliens who self-
15 identify or are identified as unaccompanied
16 alien children but are ultimately deter-
17 mined to be adults by the Department of
18 Homeland Security; and

19 “(vii) statistical information and other
20 data on unaccompanied alien children as
21 provided for in section 462 of the Home-
22 land Security Act of 2002 (6 U.S.C. 279).

23 “(D) PLACEMENT IN REMOVAL PRO-
24 CEEDINGS.—Any unaccompanied alien child
25 sought to be removed by the Department of

1 Homeland Security, except for an unaccom-
2 panied alien child subject to exceptions under
3 subsection (a)(2), shall be—

4 “(i) placed in removal proceedings
5 under section 240 of the Immigration and
6 Nationality Act (8 U.S.C. 1229a);

7 “(ii) eligible for relief under section
8 240B of such Act (8 U.S.C. 1229c) at no
9 cost to the child; and

10 “(iii) provided access to counsel in ac-
11 cordance with subsection (c)(5).”;

12 (2) by striking subsection (b)(4) and inserting
13 the following paragraphs:

14 “(4) ALIEN AGE DETERMINATIONS.—

15 “(A) IN GENERAL.—The Secretary of
16 Homeland Security, in consultation with the
17 Secretary of Health and Human Services and
18 other appropriate Federal agencies, shall de-
19 velop procedures and provide resources that fa-
20 cilitate the prompt determination of the age of
21 an alien in the custody of the head of each Fed-
22 eral agency.

23 “(B) PRESUMPTION OF ADULTHOOD.—

24 Any procedures developed by the Secretary of
25 Homeland Security in accordance with para-

graph (A) shall permit a presumption by all Federal agencies that an alien is an adult until such time as either a biographic, biometric, or forensic determination can reasonably determine that an alien is a child.

“(C) BIOMETRIC AND FORENSIC TOOLS AUTHORIZED.—The Department of Homeland Security is authorized to use all available biometric and forensic tools as part of the procedures to be developed by the Secretary of Homeland Security in accordance with paragraph (A).

“(5) MANDATORY DEPARTMENT OF JUSTICE REFERRAL AND RESPONSE.—In the event an alien who initially self-identifies or is identified as a child is subsequently determined, based on biographic, biometric, or forensic information, to be an adult, the Secretary of Homeland Security shall within 10 business days of determination of the alien’s age, send a formal referral for criminal investigation of the alien to the Attorney General in order to determine if the alien violated any provision of title 18, United States Code, or any Federal regulation, and the Attorney General shall, within 10 business days of the receipt of that referral, provide formal written

1 notification to the Secretary of Homeland Security
2 as to whether the Attorney General intends to take
3 any further investigative or prosecutorial action, as
4 well as the basis for the Attorney General's decision.

5 “(6) NOTIFICATION.—For the purposes of the
6 Secretary of Homeland Security making an age de-
7 termination and certification on the age of an alien
8 in accordance with subsection (b)(4), each head of
9 each Federal department or agency shall notify the
10 Secretary of Homeland Security within 48 hours
11 upon—

12 “(A) the apprehension or discovery of an
13 unaccompanied alien child; or

14 “(B) any claim or suspicion that an alien
15 in the custody of such department or agency is
16 under 18 years of age.

17 “(7) TRANSFER OF UNACCOMPANIED ALIEN
18 CHILD.—Except in the case of an exceptional cir-
19 cumstance, a Federal department or agency that has
20 in custody an unaccompanied alien child shall trans-
21 fer custody of such child to the Secretary of Home-
22 land Security not later than 96 hours after deter-
23 mining that such child is an unaccompanied alien
24 child, so that the Department of Homeland Security
25 can make an age determination and certification of

1 the age of the alien in accordance with subsection
2 (a)(4).”;

3 (3) in subsection (c)—

4 (A) by striking paragraph (1) and insert-
5 ing the following paragraph:

6 “(1) POLICIES AND PROGRAMS.—The Secretary
7 of Health and Human Services and the Secretary of
8 Homeland Security, in consultation with the Attor-
9 ney General and Secretary of State, shall establish
10 policies and programs to ensure that unaccompanied
11 alien children in the United States are protected
12 from traffickers and other persons seeking to vic-
13 timize, profit from, or otherwise engage such chil-
14 dren in criminal, harmful, or exploitative activity, in-
15 cluding policies and programs reflecting best prac-
16 tices in witness security programs.”;

17 (B) by striking paragraphs (2) and (3) and
18 inserting the following new paragraphs:

19 “(2) SAFE AND SECURE PLACEMENTS.—

20 “(A) MINORS IN DEPARTMENT OF HEALTH
21 AND HUMAN SERVICES CUSTODY.—

22 “(i) IN GENERAL.—Subject to section
23 462(b)(2) of the Homeland Security Act o
24 20092 (6 U.S.C. 279(b)(2)), an unaccom-
25 panied alien child who is placed in the cus-

1 tody of the Secretary of Health and
2 Human Services subsequent to the Sec-
3 retary of Homeland Security’s age deter-
4 mination and certification efforts required
5 by paragraph (4) of subsection (b) of this
6 section shall be promptly placed in the set-
7 ting that is deemed to be in the best inter-
8 est of both the child and the general public
9 as assessed by the Secretary of Health and
10 Human Services.

11 “(ii) CRITERIA FOR PLACEMENT.—In
12 making such placement, the Secretary of
13 Health and Human Services shall consider
14 age, actual or possible gang or criminal or-
15 ganization affiliation or membership, dan-
16 ger to self, danger to the community, and
17 risk of flight.

18 “(iii) PERIOD PLACEMENT REVIEW.—
19 The placement of a child in a secure facil-
20 ity shall be reviewed, at a minimum, once
21 every six months, in accordance with pro-
22 cedures prescribed by the Secretary of
23 Health and Human Services, to determine
24 if such placement remains in the interest
25 of national security or public safety.

1 “(B) TRANSFER OF ALIENS FROM DE-
2 PARTMENT OF HEALTH AND HUMAN SERVICES
3 TO DEPARTMENT OF HOMELAND SECURITY.—

4 “(i) IN GENERAL.—Not later than six
5 months prior to an unaccompanied alien
6 child’s determined age of 18, the Secretary
7 of Health and Human Services shall trans-
8 fer such alien to the Department of Home-
9 land Security for placement in removal
10 proceedings.

11 “(ii) EXCEPTION FOR SPONSOR
12 PLACEMENT CONSIDERATION.—In a situa-
13 tion where an unaccompanied alien child is
14 actively being considered for placement
15 with a sponsor six months prior to the
16 alien child’s determined eighteenth birth-
17 day, the alien child may remain in the De-
18 partment of Health and Human Services’
19 custody up until his or her eighteenth
20 birthday during such sponsor placement
21 consideration, but shall be immediately
22 transferred to the Department of Home-
23 land Security’s custody upon the denial of
24 a sponsor’s application or the alien child’s
25 eighteenth birthday, whichever comes first.

1 “(3) SAFETY AND SUITABILITY ASSESS-
2 MENTS.—

3 “(A) IN GENERAL.—Subject to the re-
4 quirements of subparagraph (B), an unaccom-
5 panied alien child may not be placed with an in-
6 dividual or organizational sponsor unless the
7 Secretary of Health and Human Services makes
8 a formal determination that the proposed spon-
9 sor is capable of providing for the child’s phys-
10 ical and mental well-being.

11 “(B) CRITERIA FOR EVALUATION OF PO-
12 TENTIAL INDIVIDUAL SPONSOR.—The formal
13 determination required under subparagraph (A)
14 for a potential individual sponsor shall, at a
15 minimum, be based on an evaluation of the fol-
16 lowing criteria:

17 “(i) The immigration status of both
18 the potential individual sponsor and any
19 other individual in the potential individual
20 sponsor’s household or residence.

21 “(ii) The submission of biographic or
22 biometric information, including finger-
23 prints, DNA, or legal documentation dem-
24 onstrating a familial relationship, both for
25 the purposes of determining the potential

1 individual sponsor’s identity and ensuring
2 a familial relationship in the case that a
3 familial relationship is asserted.

4 “(iii) A background and fitness check
5 on the potential individual sponsor that
6 uses Department of Homeland Security,
7 Department of Justice, Department of the
8 Treasury, and other Federal databases, in-
9 cluding any database containing criminal
10 records.

11 “(iv) Proof of the potential individual
12 sponsor’s ability to work, current employ-
13 ment or existing income, property, assets,
14 and debts in order to ensure appropriate
15 financial resources for care of the unac-
16 companied alien child.

17 “(v) Proof of potential individual
18 sponsor’s health insurance in order to en-
19 sure appropriate medical care of the unac-
20 companied alien child.

21 “(vi) Any past or present medical, in-
22 cluding psychiatric, condition of the poten-
23 tial individual sponsor or other individual
24 in the potential individual sponsor’s house-
25 hold or residence that could pose a health

1 or safety risk for the unaccompanied alien
2 child.

3 “(vii) Any other information deemed
4 appropriate by the Secretary of Health and
5 Human Services for the purposes of mak-
6 ing a formal determination of fitness of a
7 potential sponsor.

8 “(C) CRITERIA FOR EVALUATION OF PO-
9 TENTIAL ORGANIZATIONAL SPONSORS.—The
10 formal determination required under paragraph
11 (A) for potential organizational sponsors shall
12 be, at a minimum, based on an evaluation of
13 the following criteria:

14 “(i) Appropriate licensing and other
15 proof of fitness to care for an unaccom-
16 panied alien child.

17 “(ii) Proof that all of the organiza-
18 tion’s employees are authorized to work in
19 the United States.

20 “(iii) Any other information deemed
21 appropriate by the Secretary of Health and
22 Human Services for the purposes of mak-
23 ing a formal determination of fitness of a
24 potential organizational sponsor.

“(D) UNACCOMPANIED ALIEN CHILD
PLACEMENT AUDITS.—

“(i) IN GENERAL.—The Secretary of
Homeland Security and the Secretary of
Health and Human Services shall conduct
both pre-placement audits and post-place-
ment audits of the residences and facilities
of individual and organizational sponsors
to ensure initial and continuous suitability
of sponsors, locations of the residences and
facilities, and other conditions for alien
child placement.

“(ii) JOINT AGENCY RESPONSIBILITY.—Not later than 60 days after the
date of the enactment of ‘Overhaul Reset-
tlement Reasonably Act of 2022’, the Sec-
retary of Homeland Security, in consulta-
tion with the Secretary of Health and
Human Services shall develop and imple-
ment a joint plan of action ensuring suit-
ability of placement of unaccompanied
alien children in accordance with clause (i).
The Secretary of Homeland Security shall
be responsible for inspecting residence and
facility inspections and any law enforce-

1 ment investigations as a result of such in-
2 spection.

3 “(iii) PLACEMENT RESTRICTIONS.—

4 The Secretary of Health and Human Serv-
5 ices shall not place any unaccompanied
6 alien child with any individual or organiza-
7 tional sponsor until such time as the Sec-
8 retary of Homeland Security has con-
9 ducted a pre-placement audit and provided
10 written notice of fitness of such sponsor
11 based on that pre-placement audit to the
12 Secretary of Health and Human Services.

13 “(iv) RANDOMIZED POST-PLACEMENT

14 AUDITS.—Subsequent to a placement of an
15 unaccompanied alien child with an indi-
16 vidual or organizational sponsor by the
17 Secretary of Health and Human Services,
18 the Secretary of Homeland Security shall
19 conduct random post-placement audits of
20 such sponsor, without providing advance
21 notice of the audit to the sponsor.

22 “(v) PLACEMENT REVOCATIONS.—If,

23 upon a post-placement audit of an unac-
24 companied alien child’s individual or orga-
25 nizational sponsor in accordance with

1 clause (iv), the Secretary of Homeland Se-
2 curity determines that such sponsor is no
3 longer suitable for that unaccompanied
4 alien child, the Secretary of Homeland Se-
5 curity shall remove the unaccompanied
6 alien child from the sponsor's possession,
7 return the unaccompanied alien child to
8 the Secretary of Health and Human Serv-
9 ices, and, within 5 business days, provide
10 written notice to the Secretary of Health
11 and Human Services about the conditions
12 and circumstances justifying the removal
13 of the unaccompanied alien child from the
14 sponsor's possession.

15 “(vi) MANDATORY DEPARTMENT OF
16 JUSTICE REFERRAL AND RESPONSE.—In
17 the event of any removal of an unaccom-
18 panied alien child from the possession of
19 any individual or organizational sponsor in
20 accordance with clause (v), the Secretary
21 of Homeland Security shall, within 10
22 business days of returning the unaccom-
23 panied alien child to the Secretary of
24 Health and Human Services, send a formal
25 referral for criminal investigation of the

1 sponsor to the Attorney General if the Sec-
2 retary of Homeland Security's basis for re-
3 moving the unaccompanied alien child from
4 the sponsor's possession was any form of
5 criminal conduct prohibited by title 18,
6 United States Code, or any Federal regula-
7 tion, and the Attorney General shall, with-
8 in 10 business days of the receipt of that
9 referral, provide formal written notification
10 to the Secretary of Homeland Security and
11 the Secretary of Health and Human Serv-
12 ices as to whether the Attorney General in-
13 tends to take any further investigative or
14 prosecutorial action, as well as the basis
15 for the Attorney General's decision.

16 “(vii) MANDATORY REMOVAL OF AN
17 ALIEN DEEMED TO BE UNLAWFULLY
18 PRESENT.—In the event of any removal of
19 an unaccompanied alien child from the
20 possession of any individual or organiza-
21 tional sponsor in accordance with clause
22 (v), the Secretary of Homeland Security
23 shall immediately detain and initiate re-
24 moval proceedings against an alien deemed

1 to be unlawfully present encountered in the
2 course of that post-placement audit.

3 “(viii) MANDATORY BAR OF PROBLEM-
4 ATIC SPONSORS.—In the event of a re-
5 moval of an unaccompanied alien child
6 from the possession of any individual or
7 organizational sponsor and receipt of writ-
8 ten notification from the Secretary of
9 Homeland Security about the conditions
10 and circumstances justifying the removal
11 of the unaccompanied alien child from the
12 sponsor’s possession in accordance with
13 clause (v), the Secretary of Health and
14 Human Services shall remove that sponsor
15 from eligibility to serve as a sponsor for
16 any future unaccompanied alien children.

17 “(ix) LIMITS ON REGULATORY IMPLE-
18 MENTATION.—The Secretary of Homeland
19 Security and the Secretary of Health and
20 Human Services may, through regulation,
21 improve or expand the scope or processes
22 for auditing potential and actual placement
23 of an unaccompanied alien child, but shall
24 not limit or waive any requirements estab-
25 lished in this subparagraph.”;

1 (4) by striking paragraph (6)(E) and inserting
2 the following new subparagraph:

3 “(E) ASSESSMENT OF CHILD ADVOCATE
4 PROGRAM.—

5 “(i) IN GENERAL.—Not later than
6 March 30 of each year, the Comptroller
7 General of the United States shall provide
8 an annual update regarding the effective-
9 ness of, and any recommendations for im-
10 proving, the Child Advocate Program oper-
11 ated by the Secretary of Health and
12 Human Services.

13 “(ii) MATTERS TO BE STUDIED.—In
14 the annual updates required under clause
15 (i), the Comptroller General shall—

16 “(I) analyze the effectiveness of
17 existing child advocate programs in
18 improving outcomes for unaccom-
19 panied alien children;

20 “(II) evaluate the implementation
21 of child advocate programs in new
22 sites pursuant to subparagraph (B);

23 “(III) evaluate the extent to
24 which unaccompanied alien children
25 are receiving child advocate services

1 and assess the possible budgetary im-
2 plications of increased participation in
3 the program;

4 “(IV) evaluate the barriers to im-
5 proving outcomes for unaccompanied
6 alien children;

7 “(V) evaluate and identify the
8 international and domestic individuals
9 and organizations that are responsible
10 for the smuggling or trafficking of un-
11 accompanied alien children; and

12 “(VI) make recommendations on
13 statutory, regulatory, and internal
14 agency guidance changes to improve
15 the Child Advocate Program in rela-
16 tion to the matters analyzed under
17 subclauses (I) through (V).

18 “(iii) GAO REPORT.—Not later than
19 March 30 of each year, the Comptroller
20 General of the United States shall submit
21 the results of the study required under this
22 subparagraph to—

23 “(I) the Committee on the Judi-
24 ciary of the Senate and House of Rep-
25 resentatives;

1 “(II) the Committee on Home-
2 land Security and Government Affairs
3 of the Senate;

4 “(III) the Committee on Health,
5 Education, Labor, and Pensions of
6 the Senate;

7 “(IV) the Committee on Home-
8 land Security of the House of Rep-
9 resentatives; and

10 “(V) the Committee on Edu-
11 cation and Labor of the House of
12 Representatives.

13 “(iv) AUTHORIZATION OF APPROPRIA-
14 TIONS.—There is authorized to be appro-
15 priated \$3,000,000 for each of the fiscal
16 years **【to be supplied】** to **【to be sup-
17 plied】**.”; and

18 (5) by striking subsection (e) and inserting the
19 following new subsection:

20 “(e) TRAINING.—The Secretary of State, the Sec-
21 retary of Homeland Security, the Secretary of Health and
22 Human Services, and the Attorney General shall provide
23 specialized training to all Federal personnel, and upon re-
24 quest, State and local personnel, who have substantive
25 contact with unaccompanied alien children. Such per-

1 sonnel shall be trained to work with unaccompanied alien
2 children, including identifying children who are victims of
3 severe forms of trafficking in persons, and children for
4 whom asylum or special immigrant relief may be appro-
5 priate, including children described in subsection (a)(2).”.

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