



BACKGROUND

The loopholes in our immigration system undermine the well-being of immigrant children and families, as well as the integrity of the system itself. There are many opportunities for abuse—not only by those who would circumvent our laws to come to America but also by those in power who would circumvent our laws to implement policies Congress has been unwilling to pass. Predictably, surges of aliens at the border have increased at rates our country cannot support or sustain. This legislation addresses several of the major loopholes encouraging vulnerable people to take the dangerous, illegal paths of entry into the United States.

OVERVIEW

The Stopping Border Surges Act seeks to remedy a number of loopholes in our immigration laws, including:

The Flores Settlement Agreement

- The current interpretation of the *Flores* Settlement Agreement prohibits the government from holding unaccompanied minors for more than 20 days. The agreement was expansively interpreted in recent years to include any minor apprehended whether or not accompanied by an adult. Consequently, any adult claiming to be the parent of an accompanying child must also be released within 20 days of being apprehended. This perversely incentivizes non-parents to exploit unaccompanied minor aliens.
- This bill would eliminate the expansion of *Flores* by allowing alien children accompanied by parent to remain with that parent for the duration of the parent's adjudication. This would disincentivize non-parents from claiming an unknown child as their own, protecting alien children from danger. Additionally, this would disincentivize parents from bringing children with them on the hazardous journey to the U.S.
- The bill also requires DHS to release non-UAC alien children only into the custody of a parent or legal guardian.

Trafficking Victims Protection Reauthorization Act

- Currently, unaccompanied alien children from Mexico and Canada are returned to their homes quickly and safely if they are not human trafficking victims and if they are not found to have a credible fear of persecution. Children from other countries, however, must be placed in lengthy removal proceedings. In the interim, they are released into the U.S., often to the same adults who smuggled them into the country. This process incentivizes adults to enlist coyotes to smuggle children across the border. Extending the same seamless process available to children from Mexico and Canada to all unaccompanied alien children would remove this incentive and protect children.
- The bill also addresses the significant problems of cross-border child trafficking by (1) ensuring each victim of trafficking receives a hearing within 14 days of their arrival; and (2) requiring the Department of Health and Human Services to provide DHS with biographical information about the persons to whom these children are released.

First Safe Country

- To effectively provide asylum to people in need, we must both share the burden of providing asylum with likeminded countries and ensure those who receive asylum here meet the requisite standards. This bill would require an asylum seeker (unless the victim of severe trafficking) to apply for (and be denied) asylum in at least one of the safe countries on their route to the United States.

Other Various Loopholes:

- Tightens the “credible fear” standard to discourage fraudulent asylum claims;
- Promotes transparency by requiring DHS to establish quality assurance procedures for credible fear interviews;
- Discourages illegal entry by restricting asylum to aliens who arrive in the United States at a port of entry.
- Requires aliens to claim asylum within 6 months of arriving in the United States and have a pending application for one year before they are eligible for work authorization;
- Increases penalties for making false statements in asylum proceedings.

SUPPORT AND MORE INFORMATION

Please contact Leo_OMalley@judiciary-rep.senate.gov, senior counsel to Sen. Mike Lee, with any questions.