

July 13, 2022

Dear Members of Congress,

The undersigned 39 child welfare, legal, faith-based, medical, public health, humanitarian, and community organizations write to express our support for the Children's Safe Welcome Act. The Children's Safe Welcome Act ensures that children are in federal immigration custody for the least amount of time necessary, and while in custody, are treated with dignity in a manner consistent with child welfare principles. We urge you to support this legislation and codify a comprehensive framework of legal protections for these children.

Over the past decade, immigrant children – both unaccompanied children and children arriving with parents or legal guardians – have continued to arrive at the southern border of the United States, despite changes in presidential administrations and increasingly punitive policies intended to deter migration. These children constitute one of the world's most vulnerable groups. In many cases, they have fled to the United States in search of safety from war, persecution, abuse, and extreme violence. Yet too often after surviving their journey, children routinely experience significant harm while in U.S. government custody. It is past time to ensure that children in our care are protected from such dangers.

The Children's Safe Welcome Act:

- Mandates child protection professionals be present at the border to safely care for children.
- Increases minimum health and safety standards for children and families in CBP facilities. and places strict limits on children's time in CBP detention.
- Prohibits family separations, with extremely narrow exceptions, tailored to safety.
- Creates a process for keeping families together by allowing unaccompanied children who arrive at the border in the care of grandparents, adult siblings, or aunts or uncles (non-parent/non-legal guardian family members) to stay together.
- Prohibits the use of family detention facilities, without exception.
- Phases out the warehousing of children in large congregate care facilities and prioritizes family-based placements.
- Significantly limits the placement of children in harmful restrictive facilities.
- Limits the use of unlicensed facilities and children's time in emergency influx sites.
- Guarantees legal representation for unaccompanied children at every stage of removal proceedings.
- Establishes an Ombudsperson's Office to monitor compliance with the Act's provisions.

The United States immigration system was designed with only adults in mind. While children in other government systems have an established set of safeguards, immigrant children in government custody have only a patchwork of modest and rudimentary protections. These gaps have profoundly harmed thousands of children for decades.

For instance, CBP facilities were initially designed to detain single men and are fundamentally inappropriate for children. CBP's failure to provide safe conditions for children has been

extensively detailed in federal investigations, congressional hearings, litigation, and numerous advocacy organization's reports.¹

Additionally, children continue to be separated from family members at the border, causing long-lasting harm. A child should almost never be separated from a parent, with rare exceptions. Any decision to separate a child from a parent should be made by trained professionals, not law enforcement. Yet, separations continue today with little oversight or accountability for mistakes. At the same time, children arriving in the care of family members – such as grandparents, aunts or uncles, or siblings – are routinely separated, and the child sent to federal custody. This practice is not mandated under law and is grossly out of step with child welfare principles, which show that children who are not in the care of their parents do best when kept with kin whenever possible.

The Children's Safe Welcome Act would ensure that never again could children be separated from parents for political purposes, and that kids arriving in the care of loving relatives would be kept together unless the family member is determined to be unsafe. When children must be held in federal custody, the Children's Safe Welcome Act ensures that the Office of Refugee Resettlement, which is responsible for their care, prioritizes placing children in family-based settings or small shelters whenever possible, reducing its reliance on large-scale congregate care facilities and eliminating the use of unlicensed facilities in all but the rarest of circumstances.

The Children's Safe Welcome Act also ensures that children who arrive with parents or legal guardians are not detained in restrictive ICE family detention centers for months or years on end. Research shows that the incarceration of children, even with parents, has long-lasting negative psychological, developmental, and physical effects.² Although the Biden administration is not currently detaining families, there is nothing in place to prohibit it or a future administration from doing so in the future.

The Children's Safe Welcome Act strengthens and complements existing protections for immigrant children, such as the 2008 Trafficking Victims Protection Reauthorization Act ("TVPRA") and the 1997 *Flores* Settlement Agreement. It ensures that protections will remain in place regardless of the status of the *Flores* Settlement Agreement so that immigrant children in federal custody are not vulnerable to losing protections currently only provided in the Settlement. It guards against the harms that shifting politics have had on the safety and well-being of immigrant children.

As organizations composed of pediatricians, social workers, lawyers, child welfare specialists, community leaders, public health leaders, and human rights advocates, we urge you to seize this opportunity to enact the Children's Safe Welcome Act which prioritizes children's best interests, transforming how the United States ensures the safety of immigrant children in government custody.

Sincerely,

Bazelon Center for Mental Health Law

CAIR Coalition
 Center for Human Rights & Constitutional Law
 Center for Law and Social Policy (CLASP)
 Center for the Human Rights of Children at Loyola University Chicago School of Law
 Child Welfare League of America
 CHILDREN AT RISK
 Children's Defense Fund
 Children's Rights
 Church World Service
 Columbia Law School Immigrants' Rights Clinic
 Disability Rights California
 Disability Rights Florida
 First Focus Campaign for Children
 Florence Immigrant & Refugee Rights Project
 Human Rights Center, School of Law, University of California Berkeley
 Immigrant Health Equity and Legal Partnerships (ImmHELP)
 Immigrant Legal Defense
 International Refugee Assistance Project
 Juvenile Law Center
 Kids in Need of Defense
 Legal Services for Children
 Mental Health Advocacy Services
 Michigan Immigrant Rights Center
 National Association of Counsel for Children
 National Center for Youth Law
 National Immigrant Justice Center
 Our Children Oregon
 Physicians for Human Rights (PHR)
 Prevention Institute
 Public Counsel
 RAICES
 Save the Children
 The Children's Partnership
 Tulane Law School's Immigrant Rights Clinic
 UC Davis Immigration Law Clinic
 UNICEF USA
 Women's Refugee Commission
 Young Center for Immigrant Children's Rights

Endnotes

¹ See, e.g., Office of the Inspector General, U.S. Department of Homeland Security, *Capping report: CBP struggled to provide adequate detention conditions during 2019 migrant surge*, June 2020, <https://www.oig.dhs.gov/sites/default/files/assets/2020-06/OIG-20-38-Jun20.pdf>; House Comm. on Oversight & Reform, *The Trump Administration's Child Separation Policy: Substantiated Allegations of Mistreatment*, July

2019, <https://oversight.house.gov/legislation/hearings/the-trump-administration-s-child-separation-policy-substantiated-allegations-of->; National Center for Youth Law, *Motion Seeks to End Health and Safety Crisis for Detained Migrant Children*, June 2019, <https://youthlaw.org/news/motion-seeks-end-health-and-safety-crisis-detained-migrant-children->; Human Rights Watch, *In the freezer: Abusive conditions for women and children in US immigration custody*, February 2018, <https://www.hrw.org/report/2018/02/28/freezer/abusive-conditions-women-and-children-us-immigration-holding-cells#>; Americans for Immigrant Justice, *Do my rights matter? The mistreatment of unaccompanied children in CBP custody*, October 2020, <https://aijustice.org/wp-content/uploads/2020/10/Do-My-Rights-Matter-The-Mistreatment-of-Unaccompanied-Children-in-CBP-Custody.pdf>.

² See Women's Refugee Commission, *Locking Up Family Values, Again: The Detention of Immigrant Families*, October 2014, <https://www.womensrefugeecommission.org/resources/document/1085-locking-up-family-values-again>; *Flores v. Johnson*, No. cv-85-04544-DMG, Declaration of Dr. Luis Zayas, ECF 101-7, at ¶¶ 1-6 (C.D. Cal. Dec. 10, 2014); Children's Defense Fund–Texas, *From Guards to Guardians: Healthy Community Alternatives to Immigrant Detention*, May 2021, <https://cdf-texas.org/protecting-immigrant-communities/guards-to-guardians/>.