

117TH CONGRESS  
2D SESSION

# H. R. 8356

To amend the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 with respect to minor children, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2022

Mr. CRENSHAW (for himself, Mr. ELLZEY, Mr. FALLON, Mr. GIMENEZ, Ms. VAN DUYNE, Mr. WEBER of Texas, Mr. BABIN, Mr. BRADY, Ms. GRANGER, Mr. BURGESS, Mr. POSEY, and Mr. PFLUGER) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 with respect to minor children, 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 “Flores Settlement Up-  
5 date and Establishment Act of 2022”.

1 **SEC. 2. HOLDING AND PROCESSING OF MINOR CHILDREN.**

2 (a) TREATMENT OF MINOR CHILDREN.—Not later  
3 than 90 days after the date of the enactment of this Act  
4 the Secretary of Homeland Security shall:

5 (1) Permit a minor child to be held by the Sec-  
6 retary of Homeland Security for not more than 120  
7 days prior to being transferred to the Secretary of  
8 Health and Human Services.

9 (2) Require each member of a family unit seek-  
10 ing asylum at the United States-Mexico border to  
11 take a DNA test, within 72 hours of such family  
12 unit encountering the U.S. Customs and Border  
13 Protection, to ensure that the minor children and an  
14 adult of the family unit are first-degree or second-  
15 degree relatives (as described in section 1635.3 of  
16 title 29, Code of Federal Regulations (or any suc-  
17 cessor thereto)).

18 (3) Require the detention and segregation, at  
19 the same site, of minor children and each adult in  
20 a family unit until evidence of a familial relationship  
21 is established pursuant to paragraph (2).

22 (4) Segregate unaccompanied alien children  
23 from non-related adults.

24 (5) Segregate unaccompanied alien children  
25 who are prepubescent from post-pubescent unaccom-  
26 panied alien children.

1           (6) Segregate a family unit from other popu-  
2           lations at the same facility.

3           (7) Require that the Commissioner of the U.S.  
4           Customs and Border Protection provide each minor  
5           child:

6                   (A) Facilities that are safe and sanitary.

7                   (B) Access to toilets, sinks, and hygiene  
8           facilities where non-related adults are not  
9           present at the time of use.

10                  (C) Access to drinking water and food.

11                  (D) Access to appropriate medical assist-  
12           ance.

13                  (E) Facilities that have adequate tempera-  
14           ture control and ventilation.

15                  (F) Adequate supervision to protect the  
16           minor child.

17           (b) PROSECUTION OF CERTAIN ADULTS.—If the Sec-  
18           retary of Homeland Security determines that minor child  
19           and adult, presenting as a family unit, are not first-degree  
20           or second-degree relatives (as described in section 1635.3  
21           of title 29, Code of Federal Regulations (or any successor  
22           thereto)) pursuant to the DNA test required under sub-  
23           section (a)(2), the adult shall be referred to the Attorney  
24           General for appropriate action under—

1 (1) section 1201 of title 18, United States  
2 Code;

3 (2) section 274 of the Immigration and Nation-  
4 ality Act (8 U.S.C. 1324);

5 (3) section 2422 of title 18, United States  
6 Code;

7 (4) section 1591 of title 18, United States  
8 Code; or

9 (5) any other Federal law determined by the  
10 Attorney General to be appropriate.

11 (c) TRANSFER OF UNACCOMPANIED ALIEN CHILD.—  
12 Section 235(b)(3) of the William Wilberforce Trafficking  
13 Victims Protection Reauthorization Act of 2008 (8 U.S.C.  
14 1232(b)(3)) is amended by striking “72 hours” and in-  
15 serting “120 days”.

16 (d) RELEASE OF UNACCOMPANIED ALIEN CHILD.—  
17 Section 235(c)(3) of the William Wilberforce Trafficking  
18 Victims Protection Reauthorization Act of 2008 (8 U.S.C.  
19 1232(c)(3)) is amended by adding at the end the following  
20 new subparagraph:

21 “(D) ADDITIONAL REQUIREMENTS FOR  
22 PROPOSED CUSTODIANS.—

23 “(i) LAWFUL PRESENCE.—An unac-  
24 companied alien child may not be placed  
25 with a proposed custodian unless the Sec-

1           retary of Health and Human Services, in  
2           consultation with the Secretary of Home-  
3           land Security, determines that such custo-  
4           dian is lawfully present in the United  
5           States.

6           “(ii) FAMILIAL RELATION.—An unac-  
7           companied alien child may not be placed  
8           with a proposed custodian unless the Sec-  
9           retary of Health and Human Services, in  
10          consultation with the Secretary of Home-  
11          land Security, determines that such custo-  
12          dian is a first-degree or second-degree rel-  
13          ative of the unaccompanied alien child as  
14          defined in section 1635.3 of title 29, Code  
15          of Federal Regulations (or any successor  
16          thereto).

17          “(iii) CRIMINAL CONVICTION.—An un-  
18          accompanied alien child may not be placed  
19          with a proposed custodian unless the Sec-  
20          retary of Health and Human Services, in  
21          consultation with the Secretary of Home-  
22          land Security, determines that such custo-  
23          dian has not been convicted, or have a  
24          charge pending at the time of consider-  
25          ation of being a proposed custodian, for a

1 crime of violence (as defined by section 16  
2 of title 18, United States Code), a sexual  
3 offense, an offense with respect to human  
4 trafficking, or kidnapping (as described in  
5 section 1201 of title 18, United States  
6 Code) at the Federal, State, or local level.

7 “(iv) DEFINITIONS.—For the pur-  
8 poses of this subparagraph:

9 “(I) CRIME OF VIOLENCE.—The  
10 term ‘crime of violence’ shall have the  
11 meaning given such term in section 16  
12 of title 18, United States Code.

13 “(II) SEXUAL OFFENSE.—The  
14 term ‘sexual offense’ means an act de-  
15 scribed in subsections (a) through (d)  
16 of section 920, title 10, United States  
17 Code.

18 “(III) OFFENSE WITH RESPECT  
19 TO HUMAN TRAFFICKING.—The term  
20 ‘offense with respect to human traf-  
21 ficking’ means—

22 “(aa) sex trafficking in  
23 which a commercial sex act is in-  
24 duced by force, fraud, or coer-  
25 sion, or in which the person in-

1                   duced to perform such act has  
2                   not attained 18 years of age; or  
3                   “(bb) the recruitment, har-  
4                   boring, transportation, provision,  
5                   or obtaining of a person for labor  
6                   or services, through the use of  
7                   force, fraud, or coercion for the  
8                   purpose of subjection to involun-  
9                   tary servitude, peonage, debt  
10                  bondage, or slavery.”.

11           (e) AGE DETERMINATIONS.—Section 235(b)(4) of  
12 the William Wilberforce Trafficking Victims Protection  
13 Reauthorization Act of 2008 (8 U.S.C. 1232(b)(4)) is  
14 amended—

15           (1) by striking “The Secretary of Health and  
16           Human Services, in consultation” and inserting:

17                   “(A) IN GENERAL.—The Secretary of  
18                   Health and Human Services, in consultation”;  
19                   and

20           (2) by adding at the end the following new sub-  
21           paragraphs:

22                   “(B) RULE OF CONSTRUCTION.—

23                           “(i) REASONABLE PERSON.—Nothing  
24                           in this paragraph may be construed—

1                   “(I) to prevent the Secretary of  
2                   Homeland Security from treating an  
3                   alien who claims to be a minor, but  
4                   for whom the Commissioner of the  
5                   U.S. Customs and Border Protection  
6                   reasonably concludes is an adult, as  
7                   an adult; or

8                   “(II) to prevent the Commis-  
9                   sioner of the U.S. Customs and Bor-  
10                  der Protection from segregating a  
11                  minor child from other minor children  
12                  if they reasonably conclude such  
13                  minor child is a threat to other minor  
14                  children.

15                  “(ii) DISPLAY OF CERTAIN AFFILI-  
16                  ATION.—Nothing in this paragraph may be  
17                  construed to prevent the Secretary of  
18                  Homeland Security from treating a minor  
19                  child who has a tattoo or other means of  
20                  affiliation, including jewelry, medallion, or  
21                  other item, to a known gang, cartel, or  
22                  other transnational criminal organizations  
23                  as an adult.

24                  “(iii) TRANSNATIONAL CRIMINAL OR-  
25                  GANIZATION DEFINED.—For the purposes



1           of this subparagraph, the term  
2           ‘transnational criminal organization’ means  
3           a self-perpetuating association of individ-  
4           uals who operate, wholly or in part, by ille-  
5           gal means and irrespective of geography.’’.

6           (f) AUTHORIZATION OF APPROPRIATION.—

7           (1) DNA TESTING.—There is authorized to be  
8           appropriated to carry out the DNA testing required  
9           under subsection (a)(2) \$35,000,000 for fiscal year  
10          2023, to remain available through September 30,  
11          2025.

12          (2) FACILITIES.—There is authorized to be ap-  
13          propriated for the construction of permanent struc-  
14          tures, leased spaces, and contracted staffing for the  
15          purposes described in subsection (a)(1)  
16          \$115,000,000 for fiscal year 2023, to remain avail-  
17          able through September 30, 2025.

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