

May 8, 2023

## **H.R. 2 is Dangerous for Vulnerable Children**

Children arriving at our border [alone and separated from family](#) have traveled thousands of miles, persisting against hardships that include violence, persecution, abuse, and trafficking while seeking safety. For two decades, bipartisan Congresses have passed laws to enshrine [unaccompanied and separated children's rights](#). This Congress, the extremist and cruel H.R. 2, Secure the Border Act of 2023, would gut protections for children. Dangerous provisions include:

### **Family Detention for Asylum-Seeking Families.**

- Title IV, Sec. 401 would require family detention for families who attempt to enter the U.S. to seek asylum, as well as any families who previously entered the U.S. without visas. Countless health experts have explained why jailing children is harmful to both their short- and long-term well-being. Even the federal government's own [Advisory Committee](#)—appointed by then Secretary of Homeland Security Jeh Johnson—urged the United States to end family jails, explaining that detention is neither appropriate nor necessary for families.
- This section also includes a “notwithstanding” clause that would prohibit a state from requiring that family jails or other facilities that detain children be licensed by the state. State licensing of facilities for children mandates that these facilities meet minimum requirements to protect children from abuse and exploitation and to provide appropriate spaces for children. Prohibiting licensing [puts children at risk](#).

### **Disingenuous Narratives About “Protecting” Children by Decimating the Framework That Enshrines Their Rights.**

- Title V, Sec. 501 begins with disingenuous “findings” that advance the argument that key protections for children seeking safety have incentivized children's migration. This is a false narrative that must be rejected. Children migrate to escape violence and persecution, such as persecution due to gender identity or their family's political affiliation. [The 1997 Flores Settlement Agreement and the 2008 Trafficking Victims Protection Reauthorization Act \(TVPRA\) are not loopholes](#) and eliminating either one would end more than two decades of progress toward a more child-appropriate immigration system.
- This section refers to [recent and devastating media reports](#) documenting the horrific experiences of some unaccompanied youth who face labor exploitation by American companies who hire children for dangerous work. Such reports shed light on nationwide trends of increasing child labor violations, weakening child labor protections in several states, and tighter immigration restrictions. These trends point to multi-system failures and highlight the need to prioritize changes in policy and practice that will keep all children safe. Dismantling protections for unaccompanied children will not end exploitative child labor.

### **Amending the TVPRA to Send Children Back to the Danger They've Fled.**

- Title V, Section 502 decimates protections for children by unwinding TVPRA provisions to severely limit key protections for the care, release, and due process rights of unaccompanied children. Sec. 502 provisions include:

- Ending protections for children by expanding the contiguous country provision to all children. [The contiguous country provision has already failed unaccompanied children](#); it is wholly inadequate to identify children at risk of trafficking or persecution and would likely result in an extraordinarily high percentage of unaccompanied children being sent back to danger without any evaluation from an independent decision-maker. Mexican children are routinely sent back across the border under contiguous country screening.
- Subjecting children to expedited removal. [Expedited removal prioritizes speed over fairness and jeopardizes children's rights and best interests](#), particular rights to safety, liberty, and family integrity. This provision would gut the TVPRA's intention of granting children who are seeking legal protection specific protections to acknowledge their needs based on their age and developmental stage.
- Dramatically inflating the amount of time children may be detained by CBP to 30 days. [Border Patrol facilities fail to meet](#) even the most basic standards of adequate food, hygiene, beds, and medical attention.
- Requiring info-sharing between HHS and DHS regarding children's sponsors and their immigration status. If sponsors do not have status, DHS is directed to initiate removal proceedings against children's sponsors. This direction to take private information obtained from detained children to find, arrest, and deport their family members and caregivers is morally repugnant and would lead to prolonged family separation.
- Ending access to government-funded legal representation. The deck is already stacked against children in our legal system. Attorneys not only guide children through the immigration process but can guard against or identify other violations of their rights, such as exploitation and labor trafficking. Ending children's access to government-funded attorneys means blocking their shot at a [fair process](#).
- Sec. 503 of Title V amends the INA to make [Special Immigrant Juvenile Status](#), a form of protection that explicitly considers children's best interests, more difficult to achieve by requiring children show reunification with both parents or a viable legal guardian is precluded by abuse, neglect, or abandonment.
  - Children who would otherwise be eligible for work authorization, Medicaid, and other public assistance through SIJS would be denied access to those benefits and rendered more vulnerable—increasing trafficking risk.

Congress must reject this extremist and dangerous bill and instead embrace policies that strengthen protections for unaccompanied children, such as by ensuring they have a right to counsel and that Child Advocates are available as needed. Lawmakers must now rise to this critical moment by refusing to repeat anti-child, anti-immigrant rhetoric that targets vulnerable children and families and choosing instead laws and policies that recognize the humanity and dignity of immigrant children. Congress must support what all children need and deserve: safety, family unity, and resources and protections to grow and thrive.