

TITLE VIII--MISCELLANEOUS

Subtitle A--Unaccompanied Alien Child Protection Act of 2007

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the 'Unaccompanied Alien Child Protection Act of 2007'.

(b) TABLE OF CONTENTS- The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I--CUSTODY, RELEASE, FAMILY REUNIFICATION, AND DETENTION

Sec. 101. Procedures when encountering unaccompanied alien children.

Sec. 102. Family reunification for unaccompanied alien children with relatives in the United States.

Sec. 103. Appropriate conditions for detention of unaccompanied alien children.

Sec. 104. Repatriated unaccompanied alien children.

Sec. 105. Establishing the age of an unaccompanied alien child.

Sec. 106. Effective date.

TITLE II--ACCESS BY UNACCOMPANIED ALIEN CHILDREN TO CHILD ADVOCATES AND COUNSEL

Sec. 201. Child advocates.

Sec. 202. Counsel.

Sec. 203. Effective date; applicability.

TITLE III--STRENGTHENING POLICIES FOR PERMANENT

PROTECTION OF ALIEN CHILDREN

Sec. 301. Special immigrant juvenile classification.

Sec. 302. Training for officials and certain private parties who come into contact with unaccompanied alien children.

Sec. 303. Report.

TITLE IV--CHILDREN REFUGEE AND ASYLUM SEEKERS

Sec. 401. Guidelines for children's asylum claims.

Sec. 402. Unaccompanied refugee children.

Sec. 403. Exceptions for unaccompanied alien children in asylum and refugee-like circumstances.

TITLE V--AMENDMENTS TO THE HOMELAND SECURITY ACT OF 2002

Sec. 501. Additional responsibilities and powers of the Office of Refugee Resettlement with respect to unaccompanied alien children.

Sec. 502. Technical corrections.

Sec. 503. Effective date.

TITLE VI--AUTHORIZATION OF APPROPRIATIONS

Sec. 601. Authorization of appropriations.

SEC. 2. DEFINITIONS.

(a) IN GENERAL- In this Act:

(1) COMPETENT- The term `competent', in reference to counsel, means an attorney, or a representative authorized to represent unaccompanied alien children in immigration proceedings or matters, who--

(A) complies with the duties set forth in this Act;

(B) is--

(i) properly qualified to handle matters involving unaccompanied alien children; or

(ii) working under the auspices of a qualified nonprofit organization that is experienced in handling such matters; and

(C) if an attorney--

(i) is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia; and

(ii) is not under any order of any court suspending, enjoining, restraining, disbaring, or otherwise restricting the attorney in the practice of law.

(2) DEPARTMENT- The term `Department' means the Department of Homeland Security.

(3) DIRECTOR- The term `Director' means the Director of the Office.

(4) OFFICE- The term `Office' means the Office of Refugee Resettlement established by section 411 of the Immigration and Nationality Act (8 U.S.C. 1521).

(5) SECRETARY- The term `Secretary' means the Secretary of Homeland Security.

(6) UNACCOMPANIED ALIEN CHILD- The term `unaccompanied alien child' has the meaning given the term in 101(a)(51) of the Immigration and Nationality Act, as added by subsection (b).

(7) VOLUNTARY AGENCY- The term `voluntary agency' means a private, nonprofit voluntary agency with expertise in meeting the cultural, developmental, or psychological needs of unaccompanied alien children, as certified by the Director.

(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT- Section 101 (a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

`(51) The term `unaccompanied alien child' means a child who--

`(A) has no lawful immigration status in the United States;

` (B) has not attained 18 years of age; and

` (C) with respect to whom--

` (i) there is no parent or legal guardian in the United States; or

` (ii) no parent or legal guardian in the United States is available to provide care and physical custody.

` (52) The term `unaccompanied refugee children' means persons described in paragraph (42) who--

` (A) have not attained 18 years of age; and

` (B) with respect to whom there are no parents or legal guardians available to provide care and physical custody.'

(c) RULE OF CONSTRUCTION-

` (1) STATE COURTS ACTING IN LOCO PARENTIS- A department or agency of a State, or an individual or entity appointed by a State court or a juvenile court located in the United States, acting in loco parentis, shall not be considered a legal guardian for purposes of section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.

(2) CLARIFICATION OF THE DEFINITION OF UNACCOMPANIED ALIEN CHILD- For the purposes of section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)) and this Act, a parent or legal guardian shall not be considered to be available to provide care and physical custody of an alien child unless such parent is in the physical presence of, and able to exercise parental responsibilities over, such child at the time of such child's apprehension and during the child's detention.

**TITLE I--CUSTODY, RELEASE, FAMILY REUNIFICATION, AND
DETENTION**

**SEC. 101. PROCEDURES WHEN ENCOUNTERING
UNACCOMPANIED ALIEN CHILDREN.**

(a) UNACCOMPANIED CHILDREN FOUND ALONG THE UNITED STATES BORDER OR AT UNITED STATES PORTS OF ENTRY-

(1) IN GENERAL- Subject to paragraph (2), an immigration officer who finds an unaccompanied alien child described in paragraph (2) at a land

border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) shall--

(A) permit such child to withdraw the child's application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)); and

(B) return such child to the child's country of nationality or country of last habitual residence.

(2) SPECIAL RULE FOR CONTIGUOUS COUNTRIES-

(A) IN GENERAL- Any child who is a national or habitual resident of a country, which is contiguous with the United States and has an agreement in writing with the United States that provides for the safe return and orderly repatriation of unaccompanied alien children who are nationals or habitual residents of such country, shall be treated in accordance with paragraph (1) if the Secretary determines, on a case-by-case basis, that--

(i) such child is a national or habitual resident of a country described in this subparagraph;

(ii) such child does not have a fear of returning to the child's country of nationality or country of last habitual residence owing to a fear of persecution;

(iii) the return of such child to the child's country of nationality or country of last habitual residence would not endanger the life or safety of such child; and

(iv) the child is able to make an independent decision to withdraw the child's application for admission due to age or other lack of capacity.

(B) RIGHT OF CONSULTATION- Any child described in subparagraph (A) shall have the right, and shall be informed of that right in the child's native language--

(i) to consult with a consular officer from the child's country of nationality or country of last habitual residence prior to repatriation; and

(ii) to consult, telephonically, with the Office.

(3) RULE FOR APPREHENSIONS AT THE BORDER- The custody of unaccompanied alien children not described in paragraph (2) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with subsection (b).

(b) CARE AND CUSTODY OF UNACCOMPANIED ALIEN CHILDREN FOUND IN THE INTERIOR OF THE UNITED STATES-

(1) ESTABLISHMENT OF JURISDICTION-

(A) IN GENERAL- Except as otherwise provided under subparagraphs (B) and (C) and subsection (a), the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be under the jurisdiction of the Office.

(B) EXCEPTION FOR CHILDREN WHO HAVE COMMITTED CRIMES- Notwithstanding subparagraph (A), the Department of Justice shall retain or assume the custody and care of any unaccompanied alien who is--

(i) in the custody of the Department of Justice pending prosecution for a Federal crime other than a violation of the Immigration and Nationality Act; or

(ii) serving a sentence pursuant to a conviction for a Federal crime.

(C) EXCEPTION FOR CHILDREN WHO THREATEN NATIONAL SECURITY- Notwithstanding subparagraph (A), the Department shall retain or assume the custody and care of an unaccompanied alien child if the Secretary has substantial evidence, based on an individualized determination, that such child could personally endanger the national security of the United States.

(2) NOTIFICATION-

(A) IN GENERAL- Each department or agency of the Federal Government shall promptly notify the Office upon--

(i) the apprehension of an unaccompanied alien child;

(ii) the discovery that an alien in the custody of such department or agency is an unaccompanied alien child;

(iii) any claim by an alien in the custody of such department or agency that such alien is younger than 18 years of age; or

(iv) any suspicion that an alien in the custody of such department or agency who has claimed to be at least 18 years of age is actually younger than 18 years of age.

(B) SPECIAL RULE- The Director shall--

(i) make an age determination for an alien described in clause (iii) or (iv) of subparagraph (A) in accordance with section 105; and

(ii) take whatever other steps are necessary to determine whether such alien is eligible for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C.