

118TH CONGRESS  
1ST SESSION

# H. R. 2760

To provide standards for facilities at which aliens in the custody of the Department of Homeland Security are detained, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 2023

Ms. JAYAPAL (for herself, Mr. SMITH of Washington, Mr. AUCHINCLOSS, Ms. BALINT, Ms. BARRAGÁN, Mr. BEYER, Mr. BLUMENAUER, Ms. BONAMICI, Mr. BOWMAN, Mr. BOYLE of Pennsylvania, Ms. BROWN, Ms. BROWNLEY, Ms. BUSH, Mr. CÁRDENAS, Mr. CARSON, Mr. CARTER of Louisiana, Mr. CASAR, Mr. CASTEN, Mr. CASTRO of Texas, Mrs. CHERFILUS-McCORMICK, Ms. CHU, Mr. CICILLINE, Ms. CLARKE of New York, Mr. CLEAVER, Mr. COHEN, Mr. CONNOLLY, Ms. CROCKETT, Mr. CROW, Mr. DAVIS of Illinois, Ms. DEAN of Pennsylvania, Mr. DESAULNIER, Mrs. DINGELL, Mr. DOGGETT, Ms. ESCOBAR, Mr. ESPAILLAT, Mr. EVANS, Mrs. FOUSHEE, Ms. LOIS FRANKEL of Florida, Mr. GALLEGO, Mr. GARAMENDI, Mr. GARCÍA of Illinois, Mr. ROBERT GARCIA of California, Ms. GARCIA of Texas, Mr. GOMEZ, Mr. GREEN of Texas, Mr. HIMES, Mr. HUFFMAN, Mr. IVEY, Ms. JACKSON LEE, Ms. JACOBS, Mr. JOHNSON of Georgia, Ms. KAMLAGER-DOVE, Ms. KELLY of Illinois, Mr. KHANNA, Mr. KILMER, Mr. KRISHNAMOORTHY, Mr. LARSEN of Washington, Ms. LEE of California, Ms. LEE of Pennsylvania, Ms. LEGER FERNANDEZ, Mr. LEVIN, Mr. LIEU, Ms. LOFGREN, Ms. MATSUI, Ms. MCCOLLUM, Mr. MCGARVEY, Mr. MCGOVERN, Mr. MEEKS, Ms. MENG, Ms. MOORE of Wisconsin, Mr. NADLER, Mrs. NAPOLITANO, Ms. NORTON, Ms. OCASIO-CORTEZ, Ms. OMAR, Mr. PALLONE, Mr. PANETTA, Mr. PAYNE, Ms. PINGREE, Mr. POCAN, Ms. PRESSLEY, Mr. QUIGLEY, Mrs. RAMIREZ, Ms. SALINAS, Mr. SARBANES, Ms. SCANLON, Ms. SCHAKOWSKY, Ms. SEWELL, Mr. SHERMAN, Mr. SOTO, Ms. STANSBURY, Mr. SWALWELL, Mr. TAKANO, Mr. THANEDAR, Mr. THOMPSON of Mississippi, Ms. TITUS, Ms. TLAIB, Ms. TOKUDA, Mr. TRONE, Mr. VEASEY, Ms. VELÁZQUEZ, Mrs. WATSON COLEMAN, Ms. WILLIAMS of Georgia, Ms. WILSON of Florida, and Ms. DEGETTE) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

# A BILL

To provide standards for facilities at which aliens in the custody of the Department of Homeland Security are detained, 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 “Dignity for Detained  
5 Immigrants Act”.

6 **SEC. 2. SENSE OF CONGRESS.**

7        It is the sense of Congress that detention, even for  
8 a short period of time, inflicts severe, irreparable harm  
9 on children and should be avoided.

10 **SEC. 3. DEFINITIONS.**

11        In this Act:

12            (1) APPROPRIATE COMMITTEES OF CON-  
13        GRESS.—The term “appropriate committees of Con-  
14        gress” means—

15            (A) the Committee on the Judiciary of the  
16        Senate;

17            (B) the Committee on Homeland Security  
18        and Governmental Affairs of the Senate;

19            (C) the Committee on the Judiciary of the  
20        House of Representatives; and

1 (D) the Committee on Homeland Security  
2 of the House of Representatives.

3 (2) DEPARTMENT.—The term “Department”  
4 means the Department of Homeland Security.

5 (3) SECRETARY.—The term “Secretary” means  
6 the Secretary of Homeland Security.

7 **SEC. 4. STANDARDS FOR DEPARTMENT OF HOMELAND SE-**  
8 **CURITY DETENTION FACILITIES.**

9 (a) RULEMAKING.—Not later than 1 year after the  
10 date of the enactment of this Act, the Secretary shall, by  
11 regulation, establish detention standards for each facility  
12 at which aliens in the custody of the Department are de-  
13 tained.

14 (b) MINIMUM PROTECTION.—The standards estab-  
15 lished under subsection (a) shall provide, at a minimum,  
16 the level of protections for detainees described in the  
17 American Bar Association’s Civil Immigration Detention  
18 Standards (adopted in August 2012, and as modified in  
19 August 2014).

20 (c) BIENNIAL UPDATES.—Not less frequently than  
21 biennially, the Secretary shall review and update such  
22 standards, as appropriate.

23 **SEC. 5. OVERSIGHT AND TRANSPARENCY.**

24 (a) PERIODIC INSPECTIONS.—

1           (1) IN GENERAL.—On a periodic basis, not less  
2 frequently than annually, the Inspector General of  
3 the Department (referred to in this section as the  
4 “Inspector General”) shall conduct an unannounced,  
5 in-person inspection of each facility at which aliens  
6 in the custody of the Department are detained to en-  
7 sure that each such facility is in compliance with the  
8 standards established under section 4.

9           (2) REPORT.—Not later than 60 days after  
10 conducting an inspection under paragraph (1), the  
11 Inspector General shall—

12                   (A) submit a report to the Secretary con-  
13 taining the results of such inspection; and

14                   (B) make the report available to the public  
15 on the internet website of the Department.

16           (3) FAILURE TO COMPLY WITH STANDARDS.—

17                   (A) INITIAL FAILURE.—

18                           (i) IN GENERAL.—If the Inspector  
19 General determines that a facility has  
20 failed to comply with the standards estab-  
21 lished under section 4 for the first time  
22 during any 2-year period, and such non-  
23 compliance constitutes a deficiency that  
24 threatens the health, safety, or the due  
25 process rights of detainees—

1 (I) the Inspector General shall  
2 notify the Secretary of such deter-  
3 mination; and

4 (II) the Secretary shall—

5 (aa) in the case of a facility  
6 not owned by the Department,  
7 impose a meaningful fine of not  
8 less than 10 percent of the value  
9 of the contract with the facility;  
10 and

11 (bb) in the case of a facility  
12 owned by the Department—

13 (AA) issue a written  
14 warning to the facility not  
15 later than 30 days after re-  
16 ceiving such notification  
17 from the Inspector General,  
18 which shall include remedial  
19 measures to be carried out  
20 not later than 60 days after  
21 the issuance of the warning;  
22 and

23 (BB) not later than 60  
24 days after the issuance of a  
25 warning under subitem

1 (AA), certify to the Inspec-  
2 tor General that the reme-  
3 dial measures have been car-  
4 ried out.

5 (ii) FOLLOW-UP INSPECTION.—Not  
6 later than 180 days after the date on  
7 which the Inspector General makes a noti-  
8 fication under clause (i)(I), the Inspector  
9 General shall conduct an in-person inspec-  
10 tion of the facility to determine whether  
11 the facility has achieved compliance with  
12 the standards established under section 4.

13 (B) SUBSEQUENT FAILURES.—If the In-  
14 spector General determines that a facility has  
15 failed to comply with the standards established  
16 under section 4 in 2 or more inspections under  
17 paragraph (1) during any 2-year period, and  
18 such noncompliance constitutes a deficiency  
19 that threatens the health, safety, or the rights  
20 of detainees—

21 (i) the Inspector General shall notify  
22 the Secretary of such determination; and

23 (ii) the Secretary shall—

24 (I) in the case of a facility not  
25 owned by the Department—

1 (aa) not later than 30 days  
2 after receiving such notification,  
3 transfer each detainee to a facil-  
4 ity that does so comply; and

5 (bb) terminate the contract  
6 with the owner or operator of the  
7 facility; and

8 (II) in the case of a facility  
9 owned by the Department—

10 (aa) not later than 60 days  
11 after receiving such notification,  
12 transfer each detainee to a facil-  
13 ity that does so comply; and

14 (bb) suspend the use of such  
15 facility until such time as the In-  
16 spector General—

17 (AA) certifies to the  
18 Secretary that the facility is  
19 in compliance with such  
20 standards; and

21 (BB) makes available  
22 to the public on the internet  
23 website of the Department  
24 information relating to the  
25 remedial measures taken.

1 (b) DEATHS IN CUSTODY.—

2 (1) NOTIFICATION.—Not later than 24 hours  
3 after the death of an alien in the custody of the De-  
4 partment, the Secretary shall notify the appropriate  
5 committees of Congress of such death.

6 (2) INVESTIGATIONS.—

7 (A) IN GENERAL.—Not later than 30 days  
8 after the death of an alien in the custody of the  
9 Department, the Secretary shall conduct an in-  
10 vestigation into such death, which shall include  
11 a root cause analysis that identifies any  
12 changes to policies, practices, training curricula,  
13 staffing, or potential system-wide errors that  
14 may reduce the probability of such an event in  
15 the future.

16 (B) ROOT CAUSE ANALYSIS.—Each root  
17 cause analysis required by subparagraph (A)  
18 shall be carried out—

19 (i) by appropriately qualified per-  
20 sonnel, including 1 or more medical profes-  
21 sionals qualified in a field relevant to the  
22 death; and

23 (ii) in accordance with professional  
24 medical standards for investigating sentinel  
25 events in medical care facilities, including



1 the Sentinel Event Policy promulgated by  
2 The Joint Commission.

3 (C) PUBLIC REPORT.—Not later than 60  
4 days after such a death, the Secretary shall—

5 (i) issue a full report describing the  
6 results of the investigation required by  
7 subparagraph (A); and

8 (ii) make the report available to the  
9 public on the internet website of the De-  
10 partment.

11 (D) REVIEW BY INSPECTOR GENERAL.—  
12 Not later than 90 days after the death of an  
13 alien in the custody of the Department, the In-  
14 spector General shall conduct a review of the  
15 report issued under subparagraph (C) with re-  
16 spect to such death.

17 (3) DEFINITION OF DEATH OF AN ALIEN IN  
18 THE CUSTODY OF THE DEPARTMENT.—The term  
19 “death of an alien in the custody of the Depart-  
20 ment” means the death of an alien occurring while  
21 the alien is under the supervision of the Depart-  
22 ment, regardless of—

23 (A) the location of the death; or

24 (B) whether the death may have resulted  
25 from a health problem that existed before or

1           during, or was exacerbated by, the detention of  
2           the alien.

3           (c) REPORT TO CONGRESS.—

4           (1) IN GENERAL.—Not less frequently than an-  
5           nually, the Secretary shall submit to the appropriate  
6           committees of Congress a report on the inspections  
7           and oversight of facilities at which aliens in the cus-  
8           tody of the Department are detained.

9           (2) ELEMENTS.—Each report required by para-  
10          graph (1) shall include, for the preceding year—

11           (A) a list of each detention facility found  
12           by the Inspector General to be in noncompli-  
13           ance with the standards established under sec-  
14           tion 4;

15           (B) for each such facility, a description of  
16           the remedial actions taken, or planned to be  
17           taken, by the Secretary so as to achieve compli-  
18           ance with such standards; and

19           (C) a determination as to whether such re-  
20           medial actions have succeeded in bringing the  
21           facility into compliance with such standards.

22          (d) CLASSIFICATION OF DOCUMENTS FOR PURPOSES  
23          OF FOIA.—The reports required by subsections (a)(2)  
24          and (b)(2)(C), and any contract between the Department  
25          and a private or public entity that provides for the use

1 of a facility not owned by the Department to detain aliens  
2 in the custody of the Department, are considered records  
3 for purposes of section 552 of title 5, United States Code,  
4 and do not qualify for the exception under subsection  
5 (b)(4) of such section.

6 (e) FACILITIES MATRIX.—

7 (1) IN GENERAL.—On the first day of each  
8 month, the Secretary shall ensure that a publicly ac-  
9 cessible internet website of the Department contains  
10 the information described in paragraph (2) for each  
11 facility at which aliens in the custody of the Depart-  
12 ment are detained.

13 (2) ELEMENTS.—The information referred to in  
14 paragraph (1) is, for each such facility, the fol-  
15 lowing:

16 (A) The name and location of the facility.

17 (B) Whether the facility houses adults,  
18 children, or both.

19 (C) The number of beds available in the  
20 facility on the last day of the preceding month,  
21 disaggregated by gender.

22 (D) The total number of aliens detained in  
23 the facility on the last day of the preceding  
24 month, disaggregated by gender and classifica-  
25 tion as a child or as an adult.

1           (E) Whether the facility is used to detain  
2 aliens for longer than 72 hours.

3           (F) Whether the facility is used to detain  
4 aliens for longer than 7 days.

5           (G) The average number of aliens detained  
6 in the facility during the current year and dur-  
7 ing the preceding month, disaggregated by gen-  
8 der and classification as a child or as an adult.

9           (H) Whether the facility is in compliance  
10 with the standards established under section 4.

11           (I) In the case of a facility not owned by  
12 the Department, a description of the nature of  
13 the contract providing for the detention of  
14 aliens at the facility.

15           (J) The average, median, 25th quartile,  
16 and 50th quartile number of days that an alien  
17 has been detained at the facility during the pre-  
18 ceding month.

19           (f) ONLINE DETAINEE LOCATOR SYSTEM.—The Sec-  
20 retary shall ensure that the online detainee locator system  
21 maintained by the Department, or any successor system,  
22 is updated not later than 12 hours after an alien is—

23           (1) taken into, or released from, custody by the  
24 Department;

1           (2) transferred to, or detained in, a detention  
2 facility; or

3           (3) removed from the United States.

4           (g) INFORMATION COLLECTED AND MAINTAINED  
5 FOR ALIENS IN DHS CUSTODY.—The Secretary shall col-  
6 lect and maintain, for each alien in the custody of the De-  
7 partment, the following information:

8           (1) The gender and age of the alien.

9           (2) The date on which the alien was taken into  
10 such custody.

11           (3) The country of nationality of the alien.

12           (4) Whether the alien is considered a vulnerable  
13 person (as such term is defined in section 236(e)(5)  
14 of the Immigration and Nationality Act, as amended  
15 by section 9) or a primary caregiver.

16           (5) The provision of law pursuant to which the  
17 Secretary is authorized to detain the alien.

18           (6) The name of the facility in which the alien  
19 is detained.

20           (7) With respect to any transfer of the alien to  
21 another detention facility—

22                   (A) a description of the transfer of the  
23 alien to the other detention facility;

24                   (B) the reason for the transfer; and

1 (C) in the case of a transfer effectuated  
2 despite presence of the alien's legal counsel or  
3 immediate relative in the jurisdiction of the  
4 original detention facility, a justification for  
5 such transfer.

6 (8) The status and basis of any removal pro-  
7 ceedings of which the alien is the subject.

8 (9) The initial custody determination made by  
9 U.S. Immigration and Customs Enforcement, in-  
10 cluding any review of such determination.

11 (10) The date of the alien's release or removal,  
12 and the reason for such release or removal, as appli-  
13 cable.

14 (11) Whether the alien is subject to a final  
15 order of removal.

16 (12) Whether the alien was apprehended as  
17 part of a family unit.

18 (13) Whether the alien was separated from a  
19 family unit at the border or in the interior of the  
20 United States.

21 **SEC. 6. CIVIL ACTIONS.**

22 (a) CIVIL ACTION FOR VIOLATION OF STANDARDS.—

23 (1) IN GENERAL.—An individual detained in a  
24 facility required to comply with the standards estab-  
25 lished under section 4 who is injured as a result of

1 a violation of such standards may file a claim in the  
2 appropriate district court of the United States.

3 (2) RECOVERY.—In a civil action under this  
4 subsection, the court may order injunctive relief and  
5 compensatory damages, and may award the pre-  
6 vailing party reasonable attorney fees, and costs.

7 **SEC. 7. DETENTION FACILITY CONSTRUCTION AND MAIN-**  
8 **TENANCE.**

9 (a) RESTRICTION ON CONSTRUCTION.—

10 (1) IN GENERAL.—Not later than 180 days be-  
11 fore initiating, or entering into a contract for, the  
12 construction of a new facility or the expansion of an  
13 existing facility for the detention of aliens in the  
14 custody of the Department, the Secretary shall sub-  
15 mit to the appropriate committees of Congress a no-  
16 tification of the plan to construct or expand such fa-  
17 cility, including—

18 (A) the location, size, and capacity of such  
19 facility;

20 (B) the anticipated timeline and cost of  
21 constructing or expanding such facility; and

22 (C) the intended population to be detained  
23 at such facility, including the gender and ages  
24 of such population.

1           (2) PUBLIC AVAILABILITY.—The Secretary  
2 shall make the information described in paragraph  
3 (1) available to the public on the internet website of  
4 the Department.

5           (b) PHASE-OUT OF PRIVATE DETENTION FACILITIES  
6 AND USE OF JAILS.—

7           (1) SECURE DETENTION FACILITIES.—

8           (A) IN GENERAL.—The Secretary—

9                   (i) may not enter into or extend any  
10 contract or agreement with any public or  
11 private for-profit entity that owns or oper-  
12 ates a detention facility for use of such fa-  
13 cility to detain aliens in the custody of the  
14 Department; and

15                   (ii) shall terminate any contract or  
16 agreement described in clause (i) not later  
17 than the date that is 3 years after the date  
18 of the enactment of this Act.

19           (B) OWNERSHIP REQUIREMENT.—Begin-  
20 ning on the date that is 3 years after the date  
21 of the enactment of this Act, any facility at  
22 which aliens in the custody of the Department  
23 are detained shall be owned and operated by  
24 the Department.



1           (2) ALTERNATIVES TO DETENTION PRO-  
2 GRAMS.—

3           (A) IN GENERAL.—The Secretary—

4                   (i) may not enter into or extend any  
5 contract or agreement with any public or  
6 private for-profit entity for the operation  
7 of a program or the use of a facility for  
8 nonresidential, detention-related activities  
9 for aliens who are subject to monitoring by  
10 the Department; and

11                   (ii) shall terminate any contract or  
12 agreement described in clause (i) not later  
13 than the date that is 3 years after the date  
14 of the enactment of this Act.

15           (B) OWNERSHIP AND OPERATION RE-  
16 QUIREMENT.—Beginning on the date that is 3  
17 years after the date of the enactment of this  
18 Act, any program or facility used for the activi-  
19 ties described in subparagraph (A)(i) shall be  
20 owned and operated by a nonprofit organization  
21 or the Department.

22           (3) IMPLEMENTATION PLAN.—Not later than  
23 60 days after the date of the enactment of this Act,  
24 the Secretary shall develop, and make publicly avail-

1       able, a plan and timeline for the implementation of  
2       this subsection.

3       **SEC. 8. APPEARANCE OF DETAINED ALIENS FOR OTHER**  
4                                   **LEGAL MATTERS.**

5       The Secretary shall establish rules to ensure that any  
6 alien detained in the custody of the Department who is  
7 required to appear in Federal or State court (including  
8 family court) for another matter is transported by an offi-  
9 cer or employee of the Department to such court pro-  
10 ceeding.

11       **SEC. 9. PROCEDURES FOR DETAINING ALIENS.**

12       (a) PROBABLE CAUSE AND CUSTODY DETERMINA-  
13 TION HEARINGS.—Section 236 of the Immigration and  
14 Nationality Act (8 U.S.C. 1226) is amended to read as  
15 follows:

16               “APPREHENSION AND DETENTION OF ALIENS

17               “SEC. 236. (a) ARREST, DETENTION, AND RE-  
18 LEASE.—

19               “(1) IN GENERAL.—On a warrant issued by an  
20 immigration judge, or pursuant to section 287(a)(2),  
21 the Secretary of Homeland Security may arrest an  
22 alien, and in accordance with this section, detain the  
23 alien or release the alien on bond, subject to condi-  
24 tions, or recognizance, pending a decision on wheth-  
25 er the alien is to be removed from the United States.

1           “(2) EXEMPTION FOR UNACCOMPANIED ALIEN  
2 CHILDREN.—

3           “(A) IN GENERAL.—This section shall not  
4 apply to unaccompanied alien children (as de-  
5 fined in section 462(g)(2) of the Homeland Se-  
6 curity Act of 2002 (6 U.S.C. 279(g)(2))).

7           “(B) TRANSFER OF CUSTODY.—Any unac-  
8 companied alien child in the custody of the Sec-  
9 retary of Homeland Security shall be trans-  
10 ferred to the custody of the Secretary of Health  
11 and Human Services pursuant to section  
12 235(b)(3) of the William Wilberforce Traf-  
13 ficking Victims Protection Reauthorization Act  
14 of 2008 (8 U.S.C. 1232(b)(3)).

15       “(b) BOND DETERMINATION.—

16       “(1) IN GENERAL.—An immigration judge who  
17 releases an alien on bond under this section shall—

18           “(A) consider, for purposes of setting the  
19 amount of the bond, the alien’s financial posi-  
20 tion and ability to pay the bond without impos-  
21 ing financial hardship on the alien; and

22           “(B) set bond at an amount no greater  
23 than necessary to ensure the alien’s appearance  
24 for removal proceedings.

1           “(2) INABILITY TO PAY BOND.—The Secretary  
2 of Homeland Security may not continue to detain an  
3 alien solely based on the alien’s inability to pay  
4 bond.

5           “(c) CUSTODY DETERMINATION.—

6           “(1) INITIAL DETERMINATION.—

7           “(A) IN GENERAL.—Not later than 48  
8 hours after taking an alien into custody pursu-  
9 ant to this section or section 235, or with re-  
10 spect to an alien subject to a reinstated order  
11 of removal pursuant to section 241(a)(5) who  
12 has been found to have a credible or reasonable  
13 fear of return, the Secretary of Homeland Secu-  
14 rity shall make an initial custody determination  
15 with regard to the alien, and provide such de-  
16 termination in writing to the alien.

17           “(B) LEAST RESTRICTIVE CONDITIONS.—

18 With respect to a custody determination under  
19 subparagraph (A), if the Secretary determines  
20 that the release of an alien will not reasonably  
21 ensure the appearance of the alien as required  
22 or will endanger the safety of any other person  
23 or the community, the Secretary shall impose  
24 the least restrictive conditions, as described in  
25 paragraph (4).

1           “(2) TIMING.—

2                   “(A) IN GENERAL.—An alien who seeks to  
3 challenge the initial custody determination  
4 under paragraph (1) shall be provided with the  
5 opportunity for a hearing before an immigra-  
6 tion judge not later than 72 hours after the ini-  
7 tial custody determination to determine whether  
8 the alien should be detained.

9                   “(B) ACCESS TO COUNSEL.—On request  
10 by an alien, or the legal counsel of an alien, an  
11 immigration judge may grant a reasonable con-  
12 tinuance of a hearing under subparagraph (A)  
13 to provide the alien or such legal counsel addi-  
14 tional time to prepare for the hearing.

15           “(3) PRESUMPTION OF RELEASE.—

16                   “(A) IN GENERAL.—In a hearing under  
17 this subsection, there shall be a presumption  
18 that the alien should be released.

19                   “(B) REBUTTAL.—

20                           “(i) IN GENERAL.—The Secretary of  
21 Homeland Security has the duty of rebut-  
22 ting this presumption, which may only be  
23 shown based on clear and convincing evi-  
24 dence, including credible and individualized  
25 information, that the use of alternatives to

1           detention will not reasonably ensure the  
2           appearance of the alien at removal pro-  
3           ceedings, or that the alien is a threat to  
4           another person or the community.

5           “(ii) CONSIDERATION.—The Attorney  
6           General—

7                   “(I) shall consider the totality of  
8                   each case; and

9                   “(II) may not rely on an alien’s  
10                  criminal conviction, arrest, pending  
11                  criminal charge, or combination there-  
12                  of as the sole factor to justify the con-  
13                  tinued detention of the alien.

14           “(4) LEAST RESTRICTIVE CONDITIONS RE-  
15           QUIRED.—

16                   “(A) IN GENERAL.—If an immigration  
17                  judge determines, pursuant to a hearing under  
18                  this section, that the release of an alien will not  
19                  reasonably ensure the appearance of the alien  
20                  as required or will endanger the safety of any  
21                  other person or the community, the immigra-  
22                  tion judge shall order the least restrictive condi-  
23                  tions, or combination of conditions, that the  
24                  judge determines will reasonably ensure the ap-  
25                  pearance of the alien as required and the safety

1 of any other person and the community, which  
2 may include—

3 “(i) release on recognizance;

4 “(ii) secured or unsecured release on  
5 bond; or

6 “(iii) participation in a program de-  
7 scribed in subsection (f).

8 “(B) MONTHLY REVIEW.—Not less fre-  
9 quently than monthly, the immigration judge  
10 shall review any condition assigned to an alien  
11 pursuant to subparagraph (A).

12 “(C) MODIFICATION OF CONDITIONS OF  
13 SUPERVISION.—An immigration judge may  
14 modify or rescind conditions of supervision im-  
15 posed on an alien by the Secretary of Homeland  
16 Security.

17 “(5) SPECIAL RULE FOR VULNERABLE PER-  
18 SONS AND PRIMARY CAREGIVERS.—

19 “(A) IN GENERAL.—In the case of an alien  
20 subject to a custody determination under this  
21 subsection who is a vulnerable person or a pri-  
22 mary caregiver, the alien may not be detained  
23 unless the Secretary of Homeland Security  
24 demonstrates, in addition to the requirements  
25 under paragraph (3), that it is unreasonable or

1 not practicable to place the alien in a commu-  
2 nity-based supervision program.

3 “(B) DEFINITIONS.—In this paragraph:

4 “(i) MATERIAL WITNESS.—The term  
5 ‘material witness’ means an individual who  
6 presents a declaration to an attorney inves-  
7 tigating, prosecuting, or defending the  
8 workplace claim or from the presiding offi-  
9 cer overseeing the workplace claim attest-  
10 ing that, to the best of the declarant’s  
11 knowledge and belief, reasonable cause ex-  
12 ists to believe that the testimony of the in-  
13 dividual will be relevant to the outcome of  
14 the workplace claim.

15 “(ii) PRIMARY CAREGIVER.—The term  
16 ‘primary caregiver’ means an individual  
17 who is established to be a caregiver, par-  
18 ent, or close relative caring for or traveling  
19 with a child.

20 “(iii) VULNERABLE PERSON.—The  
21 term ‘vulnerable person’ means an indi-  
22 vidual who—

23 “(I) is under 21 years of age or  
24 over 60 years of age;

25 “(II) is pregnant;



1           “(III) identifies as lesbian, gay,  
2           bisexual, transgender, queer, or  
3           intersex;

4           “(IV) is a victim or witness of a  
5           crime;

6           “(V) has filed a nonfrivolous civil  
7           rights claim in Federal or State court;

8           “(VI) has filed, or is a material  
9           witness to, a bonafide workplace  
10          claim;

11          “(VII) has a serious mental or  
12          physical illness or disability;

13          “(VIII) has been determined by  
14          an asylum officer in an interview con-  
15          ducted under section 235(b)(1)(B) to  
16          have a credible fear of persecution or  
17          torture;

18          “(IX) has limited English lan-  
19          guage proficiency and is not provided  
20          access to appropriate and meaningful  
21          language services in a timely fashion;  
22          or

23          “(X) has been determined by an  
24          immigration judge or by the Secretary  
25          of Homeland Security to have experi-

1           enced or to be experiencing severe  
2           trauma or to be a survivor of torture  
3           or gender-based violence, based on in-  
4           formation obtained during intake,  
5           from the alien’s attorney or legal serv-  
6           ice provider, or through credible self-  
7           reporting.

8           “(iv) WORKPLACE CLAIM.—The term  
9           ‘workplace claim’ means any written or  
10          oral claim, charge, complaint, or grievance  
11          filed with, communicated to, or submitted  
12          to the employer, a Federal, State, or local  
13          agency or court, or an employee represent-  
14          ative related to the violation of applicable  
15          Federal, State, and local labor laws, in-  
16          cluding laws concerning wages and hours,  
17          labor relations, family and medical leave,  
18          occupational health and safety, civil rights,  
19          or nondiscrimination.

20          “(6) SUBSEQUENT DETERMINATIONS.—An  
21          alien detained under this section shall be provided  
22          with a de novo custody determination hearing under  
23          this subsection—

24                  “(A) not later than 30 days after the date  
25                  of the enactment of this Act;

1           “(B) every 60 days; and

2           “(C) upon showing of a change in cir-  
3           cumstances or good cause for such a hearing.

4           “(d) RELEASE UPON AN ORDER GRANTING RELIEF  
5 FROM REMOVAL.—The Secretary of Homeland Security—

6           “(1) shall immediately release an alien with re-  
7           spect to whom an immigration judge has entered an  
8           order providing relief from removal (including an  
9           order granting asylum or withholding, deferral, or  
10          cancellation of removal) or an order terminating re-  
11          moval proceedings, which order is pending appeal,  
12          upon entry of the order; and

13          “(2) may impose only reasonable conditions on  
14          the alien’s release from custody.

15          “(e) PROHIBITION ON DETENTION OF CHILDREN.—  
16 Notwithstanding any other provision of this Act, the Sec-  
17 retary of Homeland Security may not detain in a facility  
18 operated or contracted by U.S. Immigration and Customs  
19 Enforcement any individual who is under the age of 18  
20 years.

21          “(f) COMMUNITY-BASED CASE MANAGEMENT PRO-  
22 GRAM.—

23          “(1) IN GENERAL.—The Secretary of Homeland  
24          Security shall establish, outside of the purview of

1 U.S. Immigration and Customs Enforcement, a com-  
2 munity-based case management program that—

3 “(A) provides alternatives to detaining  
4 aliens;

5 “(B) offers a continuum of community-  
6 based support options and services, including—

7 “(i) case management; and

8 “(ii) access to—

9 “(I) social services;

10 “(II) medical and mental health  
11 services;

12 “(III) housing;

13 “(IV) transportation; and

14 “(V) legal services; and

15 “(C) provides services in the appropriate  
16 language.

17 “(2) PROHIBITION ON ELECTRONIC SURVEIL-  
18 LANCE.—The program under paragraph (1) may not  
19 include, as an alternative to detention, the provision  
20 of ankle monitors or other forms of electronic sur-  
21 veillance.

22 “(3) Within 180 days, the Secretary shall un-  
23 dertake a study to examine best practices of govern-  
24 ment-funded case management and related services,

1 including exploring the possibility of funding case  
2 management services out of the Department.

3 “(4) CONTRACTS.—

4 “(A) IN GENERAL.—The Secretary may  
5 enter into 1 or more contracts to operate the  
6 case management program described in para-  
7 graph (1).

8 “(B) PRIORITIZATION.—In entering into a  
9 contract under subparagraph (A), the Secretary  
10 shall give priority to direct contracts with quali-  
11 fied nongovernmental community-based organi-  
12 zations that have experience providing services  
13 to immigrant, refugee, and asylum-seeking pop-  
14 ulations.

15 “(5) INDIVIDUALIZED DETERMINATION RE-  
16 QUIRED.—

17 “(A) IN GENERAL.—In determining wheth-  
18 er to order an alien to participate in a program  
19 under this subsection, the Secretary or the im-  
20 migration judge, as appropriate, shall make an  
21 individualized determination to determine the  
22 appropriate level of supervision for the alien.

23 “(B) EXEMPTION.—Participation in a pro-  
24 gram under this subsection may not be ordered  
25 for an alien for whom it is determined that re-

1            lease on reasonable bond or recognizance will  
2            reasonably ensure the appearance of the alien  
3            as required and the safety of any other person  
4            and the community.

5            “(6) PROHIBITION ON FEES FOR ALTERNATIVES TO DETENTION.—An alien who is required  
6            to participate in a specific alternatives to detention  
7            program or service may not be charged a fee for  
8            such participation.

9            “(7) CASE MANAGEMENT REVIEW.—Not later  
10           than 180 days after the date of the enactment of the  
11           Dignity for Detained Immigrants Act, the Secretary  
12           shall conduct a review of—

13                    “(A) best practices in federally funded case  
14                    management programs; and

15                    “(B) the feasibility of transferring alter-  
16                    natives to detention case management programs  
17                    out of the purview of the Department of Home-  
18                    land Security.”.

19            (b) PROBABLE CAUSE HEARING.—Section 287(a) of  
20            the Immigration and Nationality Act (8 U.S.C.  
21            1357(a)(2)) is amended by striking the subsection des-  
22            ignation and all that follows through “United States;” in  
23            paragraph (2) and inserting the following:  
24

1       “(a) IN GENERAL.—Any officer or employee of the  
2 Department of Homeland Security authorized under regu-  
3 lations prescribed by the Secretary of Homeland Security  
4 shall have power without warrant—

5               “(1) to interrogate any alien or person believed  
6 to be an alien as to the person’s right to be or to  
7 remain in the United States, provided that such in-  
8 terrogation is not based on the person’s race, eth-  
9 nicity, national origin, religion, sexual orientation,  
10 color, spoken language, or English language pro-  
11 ficiency; and

12               “(2) to arrest any alien who, in the presence or  
13 view of the officer or employee, is entering or at-  
14 tempting to enter the United States in violation of  
15 any law or regulation made pursuant to law regu-  
16 lating the admission, exclusion, expulsion, or re-  
17 moval of aliens, or to arrest any alien in the United  
18 States, if—

19                       “(A) the officer or employee has probable  
20 cause to believe that—

21                               “(i) the alien is in the United States  
22 in violation of any such law or regulation;  
23 and

1                   “(ii) is likely to escape before a war-  
2                   rant can be obtained for the arrest of the  
3                   alien;

4                   “(B) the officer or employee has reason to  
5                   believe that the alien would knowingly and will-  
6                   fully fail to appear in immigration court in re-  
7                   sponse to a properly served notice to appear;  
8                   and

9                   “(C) not later than 48 hours after being  
10                  taken into custody, the alien is provided with a  
11                  hearing before an immigration judge to deter-  
12                  mine whether there was probable cause for such  
13                  arrest, including probable cause to believe that  
14                  the alien would have knowingly and willfully  
15                  failed to appear as required under subpara-  
16                  graph (B) if the alien had not been arrested,  
17                  which burden to establish probable cause shall  
18                  be on the Department of Homeland Security;”.

19                  (c) MANDATORY DETENTION REPEALED.—

20                  (1) IN GENERAL.—The Immigration and Na-  
21                  tionality Act (8 U.S.C. 1101 et seq.) is amended—

22                          (A) in section 235(b) (8 U.S.C. 1225(b))—

23                                  (i) in paragraph (1)(B)—

24    (I) in clause (ii), by striking “de-  
25    tained” and inserting “referred”; and



1 (II) in clause (iii), by striking  
2 subclause (IV); and

3 (ii) in paragraph (2)(A), by striking  
4 “detained” and inserting “referred”;

5 (B) by striking section 236A (8 U.S.C.  
6 1226);

7 (C) in section 238(a)(2) (8 U.S.C.  
8 1228(a)(2)), by striking “pursuant to section  
9 236(c),”; and

10 (D) in section 506(a)(2) (8 U.S.C.  
11 1536(a)(2))—

12 (i) by amending the heading to read  
13 as follows: “RELEASE HEARING FOR  
14 ALIENS DETAINED”; and

15 (ii) in subparagraph (A)—

16 (I) by amending the heading to  
17 read as follows: “IN GENERAL”;

18 (II) in the matter preceding  
19 clause (i), by striking “lawfully admit-  
20 ted for permanent residence”;

21 (III) by striking clause (i); and

22 (IV) by redesignating clauses (ii)  
23 and (iii) as clauses (i) and (ii), respec-  
24 tively.

25 (2) CONFORMING AMENDMENTS.—

1           (A) The table of sections for the Immigra-  
2           tion and Nationality Act (8 U.S.C. 1101 et  
3           seq.) is amended by striking the item relating  
4           to section 236A.

5           (B) Section 241(c)(3)(A)(ii) of the Immi-  
6           gration and Nationality Act (8 U.S.C.  
7           1231(c)(3)(A)(ii)) is amended—

8                   (i) in subclause (I), by striking the  
9                   comma at the end and inserting “; or”;

10                   (ii) in subclause (II), by striking “,  
11                   or” and inserting a period; and

12                   (iii) by striking subclause (III).

13           (d) ALIENS ORDERED REMOVED.—

14                   (1) IN GENERAL.—Section 241(a) of the Immi-  
15                   gration and Nationality Act (8 U.S.C. 1231(a)) is  
16                   amended—

17                           (A) in paragraph (1), by striking “90  
18                           days” each place it appears and inserting “60  
19                           days”;

20                           (B) by amending paragraph (2) to read as  
21                           follows:

22                                   “(2) INITIAL CUSTODY REDETERMINATION  
23                   HEARING.—

24   “(A) IN GENERAL.—Not later than 72  
25   hours after the entry of a final administrative

1 order of removal, the alien ordered removed  
2 shall be provided with a custody redetermina-  
3 tion hearing before an immigration judge.

4 “(B) PRESUMPTION OF DETENTION.—For  
5 purposes of the hearing under subparagraph  
6 (A), the alien shall be detained during the re-  
7 moval period unless the alien demonstrates by  
8 the preponderance of the evidence that—

9 “(i) the alien’s removal is not reason-  
10 ably foreseeable; and

11 “(ii) the alien does not pose a risk to  
12 the safety of any individual or to the com-  
13 munity.”;

14 (C) in paragraph (3)—

15 (i) in the paragraph heading, by strik-  
16 ing “90-DAY” and inserting “60-DAY”; and

17 (ii) in the matter preceding subpara-  
18 graph (A), by striking “the alien, pending  
19 removal, shall be subject to supervision  
20 under” and inserting the following: “except  
21 as provided in paragraph (6), any alien  
22 who has been detained during the removal  
23 period shall be released from custody,  
24 pending removal, subject to individualized

1 supervision requirements in accordance  
2 with”;

3 (D) by amending paragraph (6) to read as  
4 follows:

5 “(6) SUBSEQUENT CUSTODY REDETERMINA-  
6 TION HEARINGS.—

7 “(A) IN GENERAL.—The Secretary of  
8 Homeland Security may request a subsequent  
9 redetermination hearing before an immigration  
10 judge seeking continued detention for an alien  
11 ordered to be detained pursuant to paragraph  
12 (2) who has not been removed within the re-  
13 moval period.

14 “(B) STANDARD.—An alien may only be  
15 detained after the removal period upon a show-  
16 ing by the Secretary of Homeland Security  
17 that—

18 “(i) the alien’s removal is reasonably  
19 foreseeable; or

20 “(ii) the alien poses a risk to the safe-  
21 ty of an individual or the community,  
22 which may only be established based on  
23 credible and individualized information and  
24 may not be established based only the fact

1 that the alien has been charged with or is  
2 suspected of a crime.

3 “(C) PERIOD OF DETENTION.—

4 “(i) IN GENERAL.—An alien may not  
5 be detained pursuant to an order under  
6 this paragraph for longer than a 60-day  
7 period.

8 “(ii) SUBSEQUENT REDETERMINA-  
9 TION HEARING.—The Secretary of Home-  
10 land Security may seek subsequent redeter-  
11 mination hearings under this paragraph in  
12 order to continue detaining an alien be-  
13 yond each such 60-day period.”; and

14 (E) by striking paragraph (7).

15 (2) TECHNICAL AND CONFORMING AMEND-  
16 MENTS.—The Immigration and Nationality Act (8  
17 U.S.C. 1101 et seq.) is amended—

18 (A) in section 238 (8 U.S.C. 1228)—

19 (i) in subsection (a)(1)—

20 (I) by moving the paragraph 2  
21 ems to the right;

22 (II) by amending the paragraph  
23 heading to read as follows: “IN GEN-  
24 ERAL”; and

25 (III) in the first sentence—

1 (aa) by striking “section  
2 241(a)(2)(A)(iii)” and inserting  
3 “section 237(a)(2)(A)(iii)”;

4 (bb) by striking “section  
5 241(a)(2)(A)(ii)” and inserting  
6 “section 237(a)(2)(A)(ii)”; and

7 (cc) by striking “section  
8 241(a)(2)(A)(i)” and inserting  
9 “237(a)(2)(A)(i)”;

10 (ii) in the second subsection (c)—

11 (I) in paragraph (2)(B), by strik-  
12 ing “section 241(a)(2)(A)” and insert-  
13 ing “section 237(a)(2)(A)”; and

14 (II) in paragraph (4), by striking  
15 “section 241(a)” and inserting “sec-  
16 tion 237(a)”; and

17 (iii) by redesignating the second sub-  
18 section (c) as subsection (d);

19 (B) in section 276(b)(4) (8 U.S.C.  
20 1326(b)(4)), by striking “section 241(a)(4)(B)”  
21 and inserting “section 237(a)(4)(B)”; and

22 (C) in section 501(1) (8 U.S.C. 1531(1)),  
23 by striking “section 241(a)(4)(B)” and insert-  
24 ing “section 237(a)(4)(B)”.

1 **SEC. 10. PROHIBITION ON SOLITARY CONFINEMENT.**

2 (a) IN GENERAL.—An individual in the custody of  
3 the Department may not be placed in solitary confine-  
4 ment.

5 (b) DEFINITION OF SOLITARY CONFINEMENT.—In  
6 this section, the term “solitary confinement” means—

7 (1) in the case of an individual who is older  
8 than 21 years of age, the state of being confined to  
9 the individual’s cell, alone or with a cellmate, for  
10 more than 22 hours during a 24-hour period, with  
11 very limited out-of-cell time and severely restricted  
12 activity, movement, and social interaction whether  
13 pursuant to disciplinary, administrative, or classi-  
14 fication action; and

15 (2) in the case of an individual who is 21 years  
16 of age or younger, involuntary confinement alone in  
17 a cell, room, or other area for a period greater than  
18 3 hours.

○