

119TH CONGRESS  
1ST SESSION

# H. R. 6397

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

DECEMBER 3, 2025

Ms. JAYAPAL (for herself, Mr. SMITH of Washington, Ms. ADAMS, Mr. AMO, Ms. ANSARI, Ms. BALINT, Ms. BARRAGÁN, Mr. BEYER, Ms. BONAMICI, Mr. BOYLE of Pennsylvania, Ms. BROWN, Ms. BROWNLEY, Mr. CARSON, Mr. CARTER of Louisiana, Mr. CASAR, Mr. CASTEN, Mr. CASTRO of Texas, Mrs. CHERFILUS-McCORMICK, Ms. CHU, Ms. CLARKE of New York, Mr. CLEAVER, Mr. COHEN, Mr. CORREA, Ms. CROCKETT, Mr. CROW, Mr. DAVIS of Illinois, Ms. DEAN of Pennsylvania, Ms. DEGETTE, Mr. DESAULNIER, Ms. DEXTER, Mrs. DINGELL, Mr. DOGGETT, Ms. ESCOBAR, Mr. ESPAILLAT, Mr. EVANS of Pennsylvania, Mrs. FLETCHER, Mrs. FOUSHEE, Ms. FRIEDMAN, Mr. FROST, Mr. GARAMENDI, Mr. GARCÍA of Illinois, Mr. GARCIA of California, Ms. GARCIA of Texas, Mr. GOLDMAN of New York, Mr. GOMEZ, Mr. GREEN of Texas, Mrs. GRIJALVA, Mrs. HAYES, Mr. HORSFORD, Ms. HOYLE of Oregon, Mr. HUFFMAN, Mr. IVEY, Mr. JACKSON of Illinois, Ms. JACOBS, Mr. JOHNSON of Georgia, Ms. JOHNSON of Texas, Ms. KAMLAGER-DOVE, Ms. KELLY of Illinois, Mr. KHANNA, Mr. KRISHNAMOORTHY, Ms. LEE of Pennsylvania, Ms. LEGER FERNANDEZ, Mr. LEVIN, Mr. LIEU, Ms. LOFGREN, Ms. MATSUI, Ms. MCCLELLAN, Ms. MCCOLLUM, Mr. MCGARVEY, Mr. MCGOVERN, Mrs. McIVER, Mr. MEEKS, Mr. MENENDEZ, Ms. MENG, Ms. MOORE of Wisconsin, Mr. MOULTON, Mr. MULLIN, Mr. NADLER, Mr. NORCROSS, Ms. NORTON, Ms. OCASIO-CORTEZ, Ms. OMAR, Mr. PALONE, Mr. PANETTA, Ms. PINGREE, Mr. POCAN, Ms. PRESSLEY, Mr. QUIGLEY, Mrs. RAMIREZ, Ms. RANDALL, Mr. RASKIN, Ms. RIVAS, Ms. ROSS, Mr. RUIZ, Ms. SALINAS, Ms. SÁNCHEZ, Ms. SCANLON, Ms. SCHAKOWSKY, Ms. SIMON, Mr. SOTO, Ms. STANSBURY, Ms. STRICKLAND, Mr. SWALWELL, Mr. TAKANO, Mr. THANEDAR, Mr. THOMPSON of Mississippi, Mr. THOMPSON of California, Ms. TITUS, Ms. TLAIB, Ms. TOKUDA, Mr. TONKO, Mr. TORRES of New York, Mrs. TRAHAN, Mr. VARGAS, Mr. VEASEY, Ms. VELÁZQUEZ, Ms. WASSERMAN SCHULTZ, Ms. WATERS, Mrs. WATSON COLEMAN, Ms. WILLIAMS of Georgia, Ms. WILSON of Florida, Ms. LOIS FRANKEL of Florida, Mr. HERNÁNDEZ, and Mrs. SYKES) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Home-

land 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

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## 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;

1 (C) the Committee on the Judiciary of the  
2 House of Representatives; and

3 (D) the Committee on Homeland Security  
4 of the House of Representatives.

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

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

9 **SEC. 4. STANDARDS FOR DEPARTMENT OF HOMELAND SE-**  
10 **CURITY DETENTION FACILITIES.**

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

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

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

1 **SEC. 5. OVERSIGHT AND TRANSPARENCY.**

2 (a) PERIODIC INSPECTIONS.—

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

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

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

16 (B) make the report available to the public  
17 on the internet website of the Department.

18 (3) FAILURE TO COMPLY WITH STANDARDS.—

19 (A) INITIAL FAILURE.—

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

1                   threatens the health, safety, or the due  
2                   process rights of detainees—

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

6                   (II) the Secretary shall—

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

13                  (bb) in the case of a facility  
14                  owned by the Department—

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

1 (BB) not later than 60  
2 days after the issuance of a  
3 warning under subitem  
4 (AA), certify to the Inspec-  
5 tor General that the reme-  
6 dial measures have been car-  
7 ried out.

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

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

24 (i) the Inspector General shall notify  
25 the Secretary of such determination; and

1 (ii) the Secretary shall—

2 (I) in the case of a facility not  
3 owned by the Department—

4 (aa) not later than 30 days  
5 after receiving such notification,  
6 transfer each detainee to a facil-  
7 ity that does so comply;

8 (bb) terminate the contract  
9 with the owner or operator of the  
10 facility; and

11 (cc) ensure that no funds  
12 made available to the Depart-  
13 ment be used to continue such  
14 contract; and

15 (II) in the case of a facility  
16 owned by the Department—

17 (aa) not later than 60 days  
18 after receiving such notification,  
19 transfer each detainee to a facil-  
20 ity that does so comply; and

21 (bb) suspend the use of such  
22 facility until such time as the In-  
23 spector General—

24 (AA) certifies to the  
25 Secretary that the facility is

1 in compliance with such  
2 standards; and

3 (BB) makes available  
4 to the public on the internet  
5 website of the Department  
6 information relating to the  
7 remedial measures taken.

8 (b) DEATHS IN CUSTODY.—

9 (1) NOTIFICATION.—Not later than 24 hours  
10 after the death of an alien in the custody of the De-  
11 partment, the Secretary shall notify the appropriate  
12 committees of Congress of such death.

13 (2) INVESTIGATIONS.—

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

23 (B) ROOT CAUSE ANALYSIS.—Each root  
24 cause analysis required by subparagraph (A)  
25 shall be carried out—

1 (i) by appropriately qualified per-  
2 sonnel, including 1 or more medical profes-  
3 sionals qualified in a field relevant to the  
4 death; and

5 (ii) in accordance with professional  
6 medical standards for investigating sentinel  
7 events in medical care facilities, including  
8 the Sentinel Event Policy promulgated by  
9 The Joint Commission.

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

12 (i) issue a full report describing the  
13 results of the investigation required by  
14 subparagraph (A); and

15 (ii) make the report available to the  
16 public on the internet website of the De-  
17 partment.

18 (D) REVIEW BY INSPECTOR GENERAL.—  
19 Not later than 90 days after the death of an  
20 alien in the custody of the Department, the In-  
21 spector General shall conduct a review of the  
22 report issued under subparagraph (C) with re-  
23 spect to such death.

24 (3) DEFINITION OF DEATH OF AN ALIEN IN  
25 THE CUSTODY OF THE DEPARTMENT.—The term

1 “death of an alien in the custody of the Depart-  
2 ment” means the death of an alien occurring while  
3 the alien is under the supervision of the Depart-  
4 ment, regardless of—

5 (A) the location of the death; or

6 (B) whether the death may have resulted  
7 from a health problem that existed before or  
8 during, or was exacerbated by, the detention of  
9 the alien.

10 (c) REPORT TO CONGRESS.—

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

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

18 (A) a list of each detention facility found  
19 by the Inspector General to be in noncompli-  
20 ance with the standards established under sec-  
21 tion 4;

22 (B) for each such facility, a description of  
23 the remedial actions taken, or planned to be  
24 taken, by the Secretary so as to achieve compli-  
25 ance with such standards; and

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

4 (d) CLASSIFICATION OF DOCUMENTS FOR PURPOSES  
5 OF FOIA.—The reports required by subsections (a)(2)  
6 and (b)(2)(C), and any contract between the Department  
7 and a private or public entity that provides for the use  
8 of a facility not owned by the Department to detain aliens  
9 in the custody of the Department, are considered records  
10 for purposes of section 552 of title 5, United States Code,  
11 and do not qualify for the exception under subsection  
12 (b)(4) of such section.

13 (e) FACILITIES MATRIX.—

14 (1) IN GENERAL.—On the first day of each  
15 month, the Secretary shall ensure that a publicly ac-  
16 cessible internet website of the Department contains  
17 the information described in paragraph (2) for each  
18 facility at which aliens in the custody of the Depart-  
19 ment are detained.

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

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

24 (B) Whether the facility houses adults,  
25 children, or both.

1           (C) The number of beds available in the  
2 facility on the last day of the preceding month,  
3 disaggregated by gender.

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

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

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

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

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

18          (I) In the case of a facility not owned by  
19 the Department, a description of the nature of  
20 the contract providing for the detention of  
21 aliens at the facility.

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

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

5 (1) taken into, or released from, custody by the  
6 Department;

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

9 (3) removed from the United States.

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

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

15 (2) The date on which the alien was taken into  
16 such custody.

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

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

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

24 (6) The name of the facility in which the alien  
25 is detained.

1           (7) With respect to any transfer of the alien to  
2 another detention facility—

3           (A) a description of the transfer of the  
4 alien to the other detention facility;

5           (B) the reason for the transfer; and

6           (C) in the case of a transfer effectuated  
7 despite presence of the alien’s legal counsel or  
8 immediate relative in the jurisdiction of the  
9 original detention facility, a justification for  
10 such transfer.

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

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

16          (10) The date of the alien’s release or removal,  
17 and the reason for such release or removal, as appli-  
18 cable.

19          (11) Whether the alien is subject to a final  
20 order of removal.

21          (12) Whether the alien was apprehended as  
22 part of a family unit.

23          (13) Whether the alien was separated from a  
24 family unit at the border or in the interior of the  
25 United States.

1 **SEC. 6. CIVIL ACTIONS.**

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

3 (1) IN GENERAL.—An individual detained in a  
4 facility required to comply with the standards estab-  
5 lished under section 4 who is injured as a result of  
6 a violation of such standards may file a claim in the  
7 appropriate district court of the United States.

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

12 **SEC. 7. DETENTION FACILITY CONSTRUCTION AND MAIN-**  
13 **TENANCE.**

14 (a) RESTRICTION ON CONSTRUCTION.—

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

23 (A) the location, size, and capacity of such  
24 facility;

25 (B) the anticipated timeline and cost of  
26 constructing or expanding such facility; and

1 (C) the intended population to be detained  
2 at such facility, including the gender and ages  
3 of such population.

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

8 (b) PHASE-OUT OF PRIVATE DETENTION FACILITIES  
9 AND USE OF JAILS.—

10 (1) SECURE DETENTION FACILITIES.—

11 (A) IN GENERAL.—The Secretary—

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

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

22 (B) OWNERSHIP REQUIREMENT.—Begin-  
23 ning on the date that is 3 years after the date  
24 of the enactment of this Act, any facility at  
25 which aliens in the custody of the Department

1 are detained shall be owned and operated by  
2 the Department.

3 (2) ALTERNATIVES TO DETENTION PRO-  
4 GRAMS.—

5 (A) IN GENERAL.—The Secretary—

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

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

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

24 (3) IMPLEMENTATION PLAN.—Not later than  
25 60 days after the date of the enactment of this Act,

1 the Secretary shall develop, and make publicly avail-  
2 able, a plan and timeline for the implementation of  
3 this subsection.

4 (c) FACILITY REQUIREMENT.—The Secretary shall  
5 ensure that each facility for the detention of aliens has  
6 a visitor waiting and security screening area that is indoor  
7 and climate-controlled.

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

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

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

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

21 “APPREHENSION AND DETENTION OF ALIENS

22 “SEC. 236. (a) ARREST, DETENTION, AND RE-  
23 LEASE.—

24 “(1) IN GENERAL.—On a warrant issued by an  
25 immigration judge, or pursuant to section 287(a)(2),  
26 the Secretary of Homeland Security may arrest an

1 alien, and in accordance with this section, detain the  
2 alien or release the alien on bond, subject to condi-  
3 tions, or recognizance, pending a decision on wheth-  
4 er the alien is to be removed from the United States.

5 “(2) EXEMPTION FOR UNACCOMPANIED ALIEN  
6 CHILDREN.—

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

11 “(B) TRANSFER OF CUSTODY.—Any unac-  
12 companied alien child in the custody of the Sec-  
13 retary of Homeland Security shall be trans-  
14 ferred to the custody of the Secretary of Health  
15 and Human Services pursuant to section  
16 235(b)(3) of the William Wilberforce Traf-  
17 ficking Victims Protection Reauthorization Act  
18 of 2008 (8 U.S.C. 1232(b)(3)).

19 “(b) BOND DETERMINATION.—

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

22 “(A) consider, for purposes of setting the  
23 amount of the bond, the alien’s financial posi-  
24 tion and ability to pay the bond without impos-  
25 ing financial hardship on the alien; and

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

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

8           “(c) CUSTODY DETERMINATION.—

9           “(1) INITIAL DETERMINATION.—

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

20           “(B) LEAST RESTRICTIVE CONDITIONS.—

21           With respect to a custody determination under  
22           subparagraph (A), if the Secretary determines  
23           that the release of an alien will not reasonably  
24           ensure the appearance of the alien as required  
25           or will endanger the safety of any other person

1 or the community, the Secretary shall impose  
2 the least restrictive conditions, as described in  
3 paragraph (4).

4 “(2) TIMING.—

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

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

18 “(3) PRESUMPTION OF RELEASE.—

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

22 “(B) REBUTTAL.—

23 “(i) IN GENERAL.—The Secretary of  
24 Homeland Security has the duty of rebut-  
25 ting this presumption, which may only be

1 shown based on clear and convincing evi-  
2 dence, including credible and individualized  
3 information, that the use of alternatives to  
4 detention will not reasonably ensure the  
5 appearance of the alien at removal pro-  
6 ceedings, or that the alien is a threat to  
7 another person or the community.

8 “(ii) CONSIDERATION.—The Attorney  
9 General—

10 “(I) shall consider the totality of  
11 each case; and

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

17 “(4) LEAST RESTRICTIVE CONDITIONS RE-  
18 QUIRED.—

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

1 tions, or combination of conditions, that the  
2 judge determines will reasonably ensure the ap-  
3 pearance of the alien as required and the safety  
4 of any other person and the community, which  
5 may include—

6 “(i) release on recognizance;

7 “(ii) secured or unsecured release on  
8 bond; or

9 “(iii) participation in a program de-  
10 scribed in subsection (f).

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

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

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

22 “(A) IN GENERAL.—In the case of an alien  
23 subject to a custody determination under this  
24 subsection who is a vulnerable person or a pri-  
25 mary caregiver, the alien may not be detained

1 unless the Secretary of Homeland Security  
2 demonstrates, in addition to the requirements  
3 under paragraph (3), that it is unreasonable or  
4 not practicable to place the alien in a commu-  
5 nity-based supervision program.

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

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

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

23 “(iii) VULNERABLE PERSON.—The  
24 term ‘vulnerable person’ means an indi-  
25 vidual who—

1                   “(I) is under 21 years of age or  
2                   over 60 years of age;

3                   “(II) is pregnant;

4                   “(III) identifies as lesbian, gay,  
5                   bisexual, transgender, queer, or  
6                   intersex;

7                   “(IV) is a victim or witness of a  
8                   crime;

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

11                  “(VI) has filed, or is a material  
12                  witness to, a bonafide workplace  
13                  claim;

14                  “(VII) has a serious mental or  
15                  physical illness or disability;

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

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

1                   “(X) has been determined by an  
2                   immigration judge or by the Secretary  
3                   of Homeland Security to have experi-  
4                   enced or to be experiencing severe  
5                   trauma or to be a survivor of torture  
6                   or gender-based violence, based on in-  
7                   formation obtained during intake,  
8                   from the alien’s attorney or legal serv-  
9                   ice provider, or through credible self-  
10                  reporting.

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

23                  “(6) SUBSEQUENT DETERMINATIONS.—An  
24                  alien detained under this section shall be provided

1 with a de novo custody determination hearing under  
2 this subsection—

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

5 “(B) every 60 days; and

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

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

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

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

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

1       “(f) COMMUNITY-BASED CASE MANAGEMENT PRO-  
2 GRAM.—

3               “(1) IN GENERAL.—The Secretary of Homeland  
4 Security shall establish, outside of the purview of  
5 U.S. Immigration and Customs Enforcement, a com-  
6 munity-based case management program that—

7                       “(A) provides alternatives to detaining  
8 aliens;

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

11                               “(i) case management; and

12                               “(ii) access to—

13                                       “(I) social services;

14                                       “(II) medical and mental health  
15 services;

16                                       “(III) housing;

17                                       “(IV) transportation; and

18                                       “(V) legal services; and

19                       “(C) provides services in the appropriate  
20 language.

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

1           “(3) Within 180 days, the Secretary shall un-  
2           dertake a study to examine best practices of govern-  
3           ment-funded case management and related services,  
4           including exploring the possibility of funding case  
5           management services out of the Department.

6           “(4) CONTRACTS.—

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

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

18          “(5) INDIVIDUALIZED DETERMINATION RE-  
19          QUIRED.—

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

1           “(B) EXEMPTION.—Participation in a pro-  
2           gram under this subsection may not be ordered  
3           for an alien for whom it is determined that re-  
4           lease on reasonable bond or recognizance will  
5           reasonably ensure the appearance of the alien  
6           as required and the safety of any other person  
7           and the community.

8           “(6) PROHIBITION ON FEES FOR ALTER-  
9           NATIVES TO DETENTION.—An alien who is required  
10          to participate in a specific alternatives to detention  
11          program or service may not be charged a fee for  
12          such participation.

13          “(7) CASE MANAGEMENT REVIEW.—Not later  
14          than 180 days after the date of the enactment of the  
15          Dignity for Detained Immigrants Act, the Secretary  
16          shall conduct a review of—

17                 “(A) best practices in federally funded case  
18                 management programs; and

19                 “(B) the feasibility of transferring alter-  
20                 natives to detention case management programs  
21                 out of the purview of the Department of Home-  
22                 land Security.”.

23          (b) PROBABLE CAUSE HEARING.—Section 287(a) of  
24          the Immigration and Nationality Act (8 U.S.C.  
25          1357(a)(2)) is amended by striking the subsection des-

1 ignation and all that follows through “United States;” in  
2 paragraph (2) and inserting the following:

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

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

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

21 “(A) the officer or employee has probable  
22 cause to believe that—

23 “(i) the alien is in the United States  
24 in violation of any such law or regulation;  
25 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 on the

1 fact that the alien has been charged with  
2 or is 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”;

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”;

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

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”;

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”—

7 (1) means the confinement of an individual to  
8 the individual’s cell, alone or with a cellmate, wheth-  
9 er pursuant to disciplinary, administrative, or classi-  
10 fication action; and

11 (2) does not include the confinement of an indi-  
12 vidual to an individual’s cell during designated sleep-  
13 ing time.

14 **SEC. 11. LEGAL ORIENTATION.**

15 (a) PROGRAM.—The Secretary of Homeland Security  
16 shall ensure that each facility used to detain aliens pro-  
17 vides access to the Legal Orientation Program (or any  
18 successor program), to be operated by a nonprofit non-  
19 governmental organization with demonstrated immigra-  
20 tion law expertise, for each alien detained at such facility,  
21 whether or not such facility is owned by the Department.

22 (b) ORIENTATION.—The Secretary of Homeland Se-  
23 curity shall ensure that each alien described in subsection  
24 (a) receives a legal orientation under such subsection,  
25 which may be provided in a group setting, as soon as prac-

1 ticable after entering the detention facility, but in no case  
2 after the initial hearing before an immigration judge.

3 **SEC. 12. ACCESS TO COUNSEL.**

4 The Secretary of Homeland Security shall permit an  
5 alien who has counsel in accordance with section 292 of  
6 the Immigration and Nationality Act (8 U.S.C. 1362) to  
7 access such counsel, in a private, confidential setting, in-  
8 cluding through confidential contact with counsel through  
9 in person, telephonic, or televideo meetings.

10 **SEC. 13. CONGRESSIONAL OVERSIGHT.**

11 (a) OVERSIGHT.—The Secretary of Homeland Secu-  
12 rity shall permit a covered person to enter, for the purpose  
13 of conducting oversight, any facility operated by or for the  
14 Department used to detain or otherwise house aliens for  
15 any period of time, and may not make any temporary  
16 modification at any such facility that in any way alters  
17 what is observed by a visiting covered person, compared  
18 to what would be observed in the absence of such modifica-  
19 tion.

20 (b) NO PRIOR NOTICE FOR MEMBERS.—A covered  
21 person described in subsection (b)(1) may not be required  
22 to provide prior notice of the intent to enter a facility de-  
23 scribed in subsection (a) for the purpose of conducting  
24 oversight.

25 (c) NOTICE FOR EMPLOYEES.—

1           (1) EMPLOYEES NOT ACCOMPANYING A MEM-  
2           BER.—Except as provided in paragraph (2), the Sec-  
3           retary of Homeland Security may require a covered  
4           person described in subsection (b)(2) to provide no-  
5           tice to a facility described in subsection (a) at least  
6           24 hours in advance of entry into such facility.

7           (2) EMPLOYEES ACCOMPANYING A MEMBER.—  
8           The notice described in paragraph (1) shall not be  
9           required for a covered person described in subsection  
10          (b)(2) who is accompanying a covered person de-  
11          scribed in subsection (b)(1).

12          (d) COVERED PERSON DEFINED.—In this section,  
13          the term “covered person” means—

14               (1) a Member of Congress; and

15               (2) an employee of the House of Representa-  
16          tives or the Senate designated by such a Member for  
17          the purpose of this section.

○