



WOMEN'S REFUGEE COMMISSION

HELP Separated Children Act (S. 3522)

INTRODUCTION

In recent years, immigration enforcement has expanded dramatically. Many people are now apprehended following a home raid or contact with the criminal justice system. Unlike in large-scale worksite raids, no humanitarian protocols apply to these types of apprehensions. As a result, many parents—including parents of U.S. citizen children—are detained without an opportunity to arrange care for their children, and their children are placed into the child welfare system. Because the immigration and child welfare systems are not well-calibrated, detained parents often struggle to maintain a relationship with their children and to reunite with them at the conclusion of their immigration case. In too many cases, families face permanent separation, and, in the most extreme cases, detained parents find their parental rights challenged, and even terminated.

HELP SEPARATED CHILDREN ACT (S.3522)

The Humane Enforcement and Legal Protections (HELP) Separated Children Act (S. 3522) was introduced in the Senate by Senator Al Franken (D-MN) and Senator Herb Kohl (D-WI) during the 111th Congress.¹ By requiring that protocols and procedures be put in place to protect family unity and parents' ability to make decisions in the best interest of their children, the HELP Separated Children Act is critical in enhancing children's well-being and safeguarding parents' due process rights. We hope that this legislation will be reintroduced early in the current Congress.

HIGHLIGHTS

- Stipulates that Department of Homeland Security (DHS) and its surrogates coordinate with child welfare agencies or nongovernmental organizations to screen all apprehended individuals within six hours of apprehension in order to determine whether an individual is the parent of a minor child in the United States and requires that DHS consider the best interest of children in all decisions relating to the detention, release or transfer of parents.
- Grants all persons believed to be parents of a child in the U.S. with a phone call within eight hours of apprehension to make childcare arrangements.
- Prohibits DHS from transferring parents from the area in which they are apprehended until care arrangements have been made for their children and parents know how to contact them.
- Ensures that detained parents are able to comply with reunification plans and participate in any proceedings impacting custody of their children.
- Promotes family unity at the conclusion of a parent's immigration case by facilitating parent's ability to obtain travel documents for his or her children and to depart with their children if they so choose.
- Requires that DHS personnel and surrogates who regularly come into contact with children or parents receive training in the protections established by the legislation.

¹ The legislation was introduced on June 22, 2010. A similar bill, also known as the HELP Separated Children Act (H.R. 3531), was introduced in the House of Representatives by Representative Lynn Woolsey (D-CA6) on July 31, 2009.