

The HUMANE Act

Section 1. Short Title.

- The Helping Unaccompanied Minors and Alleviating National Emergency (HUMANE) Act.

Section 101. Repatriation of Unaccompanied Alien Children.

- Current law allows unaccompanied alien children from Mexico and Canada who are apprehended crossing the border illegally to give consent to be swiftly returned to their home country. Before allowing these children to give such consent, DHS officials must make a determination that the child is old enough to give informed consent, is not a victim of human trafficking, and is not claiming asylum in the United States.
- According to statistics from DHS and HHS, approximately 85% of unaccompanied alien children apprehended from these countries choose to be voluntarily returned to their home country without proceedings in immigration court.
- This section would treat all unaccompanied alien children equally under the law—giving them the choice to be swiftly repatriated to their home countries at no cost to the child or their family.

Section. 102. Expedited Due Process and Screening of Unaccompanied Alien Children.

- Under current law, all unaccompanied alien children (no matter their country of origin) who cannot be voluntarily returned to their home country are: (1) issued a Notice To Appear in immigration court for removal proceedings by DHS; (2) transferred to HHS custody, where they are screened for human trafficking and other serious abuse; and (3) generally placed to live with a family member or sponsor in the United States while they await their immigration court proceedings.
- Unfortunately, the majority of these children fail to respond to their Notice To Appear in immigration court—failing to avail themselves of the full protection of the law and choosing to live in the shadows without legal authorization.
- This section would require unaccompanied alien children who do not wish to be voluntarily returned to their home country to remain in HHS custody while they await an expedited immigration court hearing that must occur not more than 7 days after they are screened by child welfare officials.

- At this immigration court hearing the unaccompanied alien child would be given the opportunity to be represented by an attorney before a judge, where they could state their legal claim to remain in the United States. The judge would be required to issue their order within 72 hours of this hearing.
- If the child is unable to show that they are likely eligible for legal status or relief from removal under our immigration laws, the immigration judge would be required to order the child repatriated in their country of origin. HHS would be required to maintain protective custody of the child while they awaited return to their home country.
- If the child is able to show that they are likely eligible for legal status in the United States or relief from removal, the immigration judge would be required to place them in further immigration court proceedings to continue pursuing their claim. While the child awaited these proceedings, they would be allowed to remain in the United States in the custody of a family member or HHS-approved sponsor.
- If the child asserts a claim of asylum before the immigration judge, the child would be placed in asylum proceedings at United States Citizenship and Immigration Services (USCIS). If an asylum officer determines that the child is not eligible for legal status as an asylee, the officer would be required to order the child removed from the United States. The child would be required to be held in HHS protective custody throughout the entire duration of the asylum process to ensure their safety and presence at proceedings.
- The child would not be allowed to leave the custody of the United States Government until the conclusion of their immigration court or asylum proceedings unless: (1) *they are granted an order by an immigration judge finding that they are likely eligible for legal status in the United States;* or (2) *they are granted asylum status.*

Section 103. Due Process Protections for Unaccompanied Alien Children.

- This section allows unaccompanied alien children who were issued a Notice to Appear in immigration court between January 1, 2013 and the date of enactment to avail themselves of the new procedural provisions of this legislation.
- If such child appears before an immigration judge within 60 days of enactment, the child would be allowed to file a motion to have their Notice to Appear and any accompanying orders expunged, provided that they consent to be voluntarily returned to their home country or consent to be screened by the immigration judge for admission to the United States. If the child failed to show that they were eligible for legal status or relief under our immigration laws at this hearing, they

would be ordered removed from the United States and held in HHS protective custody until such time as they could be repatriated to their country of origin.

Section 104. Emergency Immigration Judge Resources.

- Requires the Department of Justice to designate up to 40 immigration judges, including the hiring of retired judges or magistrate judges, or the reassignment of current immigration judges, to conduct expedited hearings for unaccompanied alien children to ensure that their cases can be heard within 7 days of being screened by HHS officials.
- The average immigration judge is able to process 1,500 cases per year, though judges in busy courts can process up to 5,000 cases per year. This legislation would therefore allow for the processing of 60,000-200,000 expedited hearings for unaccompanied alien children per year.

Section 105. Protecting Children from Human Traffickers, Sex Offenders, and Other Criminals.

- Requires HHS to conduct biometric FBI criminal history checks on every person to whom an unaccompanied alien child may be transferred from HHS custody.
- Prohibits HHS from placing children in the custody of persons convicted of sex offenses, or crimes involving human trafficking.

TITLE II. Border Security and Trade Facilitation.

Section 201. Definitions.

- Defines key border security terms.

Section 202. Border Security Results.

- This section requires the Secretary of Homeland Security to issue a baseline report describing the current state of situational awareness and operational control of the border not later than 90 days of enactment. The Secretary is also required to update this report every 180 days until the border is deemed to be under operational control as defined in the act, and annually thereafter.
- This section also requires the report to include an identification of all Border Patrol sectors the Secretary deems to be a "high traffic area" and the illegal border crossing effectiveness rate for each Border Patrol sector along the Northern and Southern Borders.

Section 203. Strategy to Achieve Situational Awareness and Operational Control of the Border.

- In recent years, the Department of Homeland Security has measured border security effectiveness in terms of the number of individuals apprehended as well as the additional resources deployed to the border, including a doubling of the Border Patrol, miles of fence built, Unmanned Aerial Systems, and other border security technologies. Congress provided these resources as a tactical means necessary to achieving a strategic end, but, without objective and reliable metrics, does not know the extent to which our borders are secure.
- This section requires the Secretary of Homeland Security to submit a comprehensive strategy not later than 180 days after enactment to gain and maintain operational control of high traffic areas within two years after submission of the implementation plan, and to obtain operational control along all sectors of the southwest border within five years.
- This subsection requires the Secretary of Homeland Security to submit a detailed plan to implement the Border Security Strategy. This plan must include an implementation plan for each of the border security components and specify what protections will be put in place to ensure that staffing and other resources will not be diverted from the ports of entry to areas between the ports of entry.
- The implementation plan shall include an integrated master schedule and cost estimates, including lifecycle costs, and a comprehensive border security technology plan that includes the following elements: A justification for technology choices, deployment locations, a timetable for procurement and deployment, estimates of operation and maintenance costs, identification of impediments to deployment of such technology, and estimates of the cost effectiveness of various border security strategies and operations.
- This section also requires a review of the Secretary's implementation plan by the GAO, which is to submit findings within 90 days after receiving the plan.
- This subsection requires the Secretary of Homeland Security to implement objective metrics to measure the effectiveness of security on our nation's borders—allowing Congress and the American people to have an open and honest debate about the state of operational control at our borders.

Section 204. Prohibition on Land Border Crossing Fee Study.

- This section prohibits the Secretary of Homeland Security from conducting studies relating to imposing a border crossing fee for any passenger vehicles or pedestrian border crossers. This would apply for all land ports of entry on both the southern or northern borders. The President's Fiscal Year 2014 budget request included a request for funds to conduct this study. This study and the

imposition of such fees would harm legitimate commerce on the Southern border.

Section 205. Border Security Resources.

- **Authorizes increased border security and port of entry resources to execute the Comprehensive Southern Border Security strategy and achieve operational control of the Southern Border.**
- **Authorizes funds for the title 32 deployment of the National Guard to the Southern Border under the control of State Governors.**
- **Authorizes funds for assistance and reimbursement to state and local governments to deal with the humanitarian crisis on the Southern Border.**