

The Humane Enforcement and Legal Protections (HELP) for Separated Children Act

On December 12, 2006, Immigrations and Customs Enforcement carried out enforcement actions in Colorado, Iowa, Minnesota, Nebraska, Texas, and Utah, arresting 1,500 unauthorized immigrants. The raids left numerous children—most of them citizens and legal residents—without their parents and with no way to find them. One second-grader in Worthington, Minnesota came home from school to find his 2 year-old brother alone and his parents gone. For the next week, he cared for his brother while his grandmother drove to meet them.

Between July 1, 2010 and September 31, 2012, ICE issued a total of 204,810 removals for parents of U.S. citizen children. On average, 23,000 removals are issued for parents of U.S. citizen children every quarter, a rate that has held steady over the past two years.¹ When parents are detained or removed, children may be left at home or school because the Department of Homeland Security does not have a policy to allow apprehended parents to make arrangements for their children's care. These children are also at great risk of unnecessarily being placed into the child welfare system, at great cost to states. Children whose parents are detained or removed can go for months without speaking to or visiting their parents, and are at great risk of permanent family separation. Because it is so difficult for detained and removed parents to participate in the family court proceedings or complete court orders that child welfare involvement necessitates, parental rights are sometimes terminated and some children are even adopted by American families. In 2011, at least 5,100 children were in foster care because of their parents' detention or removal, and independent research by the Applied Research Center estimates that 15,000 more children will enter the child welfare system within five years if policies are not put in place to reverse this trend.²

The **Humane Enforcement and Legal Protections (HELP) for Separated Children Act** builds upon humanitarian protections proposed and enacted by the Bush and Obama administrations to protect children whose parents are involved in immigration enforcement actions, and to keep children out of the child welfare system when such involvement is not necessary to ensure children's safety. Specifically, the bill:

- (1) **Allows parents to make calls to arrange for the care of their children and ensures that children can call or visit their parents while they are detained;**
- (2) **Allows parents to participate in child welfare and family court proceedings affecting their children;**
- (3) **Ensures that parents can coordinate their departures with their children's;**
- (4) **Requires ICE to consider the best interests of children in detention, release, and transfer decisions affecting their parents; and**
- (5) **Provides training for ICE and detention facility personnel on best practices for protecting children**

Why HELP Separated Children is beneficial:

1. **The HELP Separated Children Act reduces the collateral consequences of enforcement on child well-being.** Despite increased use of prosecutorial discretion, current enforcement, detention and removal policies continue to result in the separation of children) from their parents. In fact, 5.5 million children, 4.5 million of whom are U.S. citizens, have at least one undocumented parent and are therefore at risk of being separated from a parent at any time.³ Research also consistently shows that separation from a parent due to immigration enforcement measures has adverse consequences on a child's health, emotional and economic well-being, and educational achievement.⁴

¹ColorLines, *Deportations of Parents of U.S.-Born Citizens*, http://colorlines.com/archives/2012/12/deportations_of_parents_of_us-born_citizens_122012.html (December 17, 2012).

²Applied Research Center, *Shattered Families: The Perilous Intersection between Immigration Enforcement and the Child Welfare System* (November 2011).

³Passel, J., Cohn, D'Vera (2011). "Unauthorized Immigrant Population: National and State Trends, 2010." Washington, DC: Pew Hispanic Center

⁴Chaudry, A.J., Capps, R., Pedroza, J.M., Casteneda, R.M., Santos, R., & Scott, M.M. 2010. *Facing Our Future: Children in the Aftermath of Immigrant Enforcement*. Washington, DC: The Urban Institute

Between July 1, 2010, and Sept. 31, 2012, nearly 23 percent of all deportations—or, 204,810 deportations—were issued for parents with U.S. citizen children.⁵ Quarterly removal rates of parents held steady over a two-year period, with roughly 23,000 removals of parents issued every quarter. By putting in place smart, responsible, and humane time of apprehension protocols, we can help ensure that a parent’s involvement in the immigration system does not cause children harm or result in their entering the child welfare system.

2. **The HELP Separated Children Act allows ICE personnel to focus on doing their job.** The HELP Separated Children Act provides DHS personnel with clear guidelines for handling cases in which the apprehension of a parent affects a U.S. citizen child. By directing personnel to allow parents two phone calls to arrange childcare, HELP takes the guesswork out of decision-making when children are involved, and frees up DHS personnel to focus on enforcement priorities.
3. **The HELP Separated Children Act is smart immigration policy.** Keeping children out of the child welfare system increases the likelihood that they will be able to reunite with their removed parents in the parent’s home country, thereby reducing incentives for the parent to return.
4. **The HELP Separated Children Act is fiscally responsible and allows child welfare systems to focus on children in need.** When children enter the child welfare system unnecessarily, states bear the financial burden. The vast majority of parents who are involved in the immigration system are loving, willing, and appropriate caregivers for their children. These parents desperately want to reunify with their children at the conclusion of their immigration case, but involvement with the child welfare system jeopardizes their prospects. The child welfare system’s resources should be used to care for abandoned, abused, and neglected children, NOT children with loving parents who have family or friends available to provide care pending conclusion of the parent’s immigration proceedings.
5. **The HELP Separated Children Act keeps families together and keeps children safe.** The simple provision of phone calls will help keep many children of apprehended parents from entering the child welfare system. But HELP also improves family reunification prospects when children enter the system due to a parent’s detention or removal. Children do best when they are with their parents. HELP improves the likelihood that children will be able to communicate with a detained or removed parent, and ensures that parents will be able to participate in child welfare case plans and family court proceedings that affect their ability to get their children back. HELP also increases the likelihood that parents who wish to take their children with them to the home country will have the time and resources necessary to arrange for their children’s travel.

This bill was developed with the First Focus Campaign for Children and the Women’s Refugee Commission. It is supported by a coalition of child welfare, faith, and immigrant advocacy groups, including:

First Focus Campaign for Children
Women’s Refugee Commission

⁵ ColorLines, *Deportations of Parents of U.S.-Born Citizens*, http://colorlines.com/archives/2012/12/deportations_of_parents_of_us-born_citizens_122012.html (December 17, 2012).