

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To prohibit the expansion of immigration detention facilities, to improve the oversight of such facilities, and for other purposes.

**IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.**

**S. 1494**

To amend the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to protect alien minors and to amend the Immigration and Nationality Act to end abuse of the asylum system and establish refugee application and processing centers outside the United States, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Ms. HARRIS

Viz:

1 At the end of the bill, add the following:

2 **SECTION 1. DETENTION OVERSIGHT; NOT EXPANSION.**

3 (a) **SHORT TITLES.**—This section may be cited as the  
4 “Detention Oversight, Not Expansion Act” or the  
5 “DONE Act”.

6 (b) **FINDINGS.**—Congress makes the following find-  
7 ings:

8 (1) Despite a significant decrease in border ap-  
9 prehensions, the Federal immigrant detention sys-

1       tem expanded dramatically between 1994 and 2019,  
2       with the average daily population of detained non-  
3       citizens increasing from fewer than 7,000 during fis-  
4       cal year 1994 to approximately 48,000 during fiscal  
5       year 2019. This population consists of increasing  
6       numbers of children and women, including pregnant  
7       women and asylum seekers.

8               (2) U.S. Immigration and Customs Enforce-  
9       ment (referred to in this section as “ICE”) inspec-  
10      tions of detention facilities are performed by field of-  
11      fices, facility staff, or divisions within ICE head-  
12      quarters and are not conducted by qualified inde-  
13      pendent third parties. Since the inspectors are not  
14      independent, they often misrepresent conditions in-  
15      side the facilities and rarely impose consequences for  
16      violations. For example, an outside review of 8 facili-  
17      ties concluded that although ICE identified viola-  
18      tions of medical standards as contributing factors to  
19      deaths in detention, routine ICE detention facility  
20      inspections before and even after the deaths failed to  
21      acknowledge (and even dismissed) those violations.

22              (3) Multiple Federal oversight bodies, including  
23      the Department of Homeland Security’s Office of  
24      Inspector General, ICE’s Advisory Committee on  
25      Family Residential Centers, and the Government Ac-

1       countability Office, have documented poor conditions  
2       and inhumane detainee treatment, including medical  
3       negligence, in immigration detention facilities. State  
4       oversight bodies, including the Office of the Attorney  
5       General of California, have also noted abuses at de-  
6       tention centers within their borders.

7               (4) Since 2003, more than 170 deaths have  
8       been reported in immigration detention facilities, a  
9       significant number of which resulted from egregious  
10      violations of ICE medical care standards, which were  
11      often overlooked during ICE inspections of facilities.  
12      Since the inauguration of President Trump, more  
13      than 24 people have died in ICE custody.

14             (5) The Department of Homeland Security Of-  
15      fice for Civil Rights and Civil Liberties and the Of-  
16      fice of Inspector General have received formal com-  
17      plaints and numerous allegations of inadequate med-  
18      ical care for pregnant women who are in custody in  
19      such facilities.

20             (6) Responses by the Department of Homeland  
21      Security to Freedom of Information Act requests  
22      suggest that fewer than 3 percent of the claims of  
23      sexual and physical abuse of detainees in such facili-  
24      ties have been investigated by the Office of Inspector  
25      General.

1           (7) Multiple Federal oversight bodies, including  
2           the Homeland Security Advisory Council, have docu-  
3           mented limited oversight and management account-  
4           ability of immigration detention facilities, including  
5           a lack of reasonable inspections and deficient con-  
6           tracting practices.

7           (8) Some immigration detention facilities have  
8           unreasonably restricted visitation and access by at-  
9           torneys and community groups in violation of appli-  
10          cable requirements, raising serious due process con-  
11          cerns.

12          (9) The Department of Homeland Security  
13          seeks to vastly expand the immigration detention  
14          system despite the availability of a wide array of  
15          community-based alternatives to detention that pro-  
16          vide cheaper, more compassionate, rights-respecting  
17          responses to migration.

18          (10) Although the Family Case Management  
19          Program operated at a fraction of the cost of deten-  
20          tion and resulted in nearly a 100 percent compliance  
21          rate among participants, the Department of Home-  
22          land Security terminated the program without pro-  
23          viding any justification.

24          (c) DEFINITIONS.—In this section:



1 (iii) intergovernmental service agree-  
2 ments;

3 (iv) service processing centers;

4 (v) United States Marshals Service  
5 intergovernmental agreements on which  
6 U.S. Immigration and Customs Enforce-  
7 ment is an authorized user; and

8 (vi) juvenile or family detention facili-  
9 ties; and

10 (B) does not include improvements or ren-  
11 ovations unrelated to the increase of current  
12 immigration bed usage or activation of unused  
13 immigration bed capacity.

14 (3) IMMIGRATION DETENTION FACILITY.—The  
15 term “immigration detention facility” means any  
16 site at which U.S. Immigration and Customs En-  
17 forcement holds noncitizens in custody for any pe-  
18 riod.

19 (d) MORATORIUM ON EXPANSION OF IMMIGRATION  
20 DETENTION FACILITIES.—

21 (1) IN GENERAL.—The Secretary of Homeland  
22 Security may not use any Federal funds for the con-  
23 struction or expansion of immigration detention fa-  
24 cilities.

1           (2) REPORTING.—Not later than 1 year after  
2           the date of the enactment of this Act, the Secretary  
3           of Homeland Security shall submit a report to the  
4           appropriate congressional committees that contains  
5           a detailed plan on—

6                   (A) how the number of immigration deten-  
7                   tion beds will be decreased to 50 percent of the  
8                   number of beds available during fiscal year  
9                   2018; and

10                   (B) how to implement community-based al-  
11                   ternatives to detention, as a substitute for de-  
12                   tention in a facility, which is developed in con-  
13                   sultation with stakeholders, including nonprofit  
14                   legal service providers, nonprofit shelter pro-  
15                   viders, and detention visitation programs.

16           (3) NOTIFICATION.—

17                   (A) IN GENERAL.—If the Secretary of  
18                   Homeland Security determines that more immi-  
19                   gration detention space will be needed, the Sec-  
20                   retary, not later than 60 days before such an-  
21                   ticipated need, shall submit a written justifica-  
22                   tion of such need to the chair and ranking  
23                   member of the appropriate congressional com-  
24                   mittees.

1           (B) SAVINGS PROVISION.—Nothing in this  
2           paragraph may be construed to authorize the  
3           use of Federal funds to expand immigration de-  
4           tention facilities without explicit statutory au-  
5           thorization after the date of the enactment of  
6           this Act.

7           (4) ENDING A CONTRACT.—If a facility is  
8           deemed less than adequate in the 2 most recent in-  
9           spections, audits, or investigations conducted by the  
10          Office of Inspector General of the Department of  
11          Homeland Security pursuant to subsection (e)(1)(A),  
12          the Department of Homeland Security may not con-  
13          tinue to contract with such facility.

14          (e) INCREASED OVERSIGHT OF IMMIGRATION DE-  
15          TENTION FACILITIES.—

16               (1) INSPECTIONS; AUDITS; INVESTIGATIONS.—  
17          In addition to exercising its responsibilities and du-  
18          ties under the Inspector General Act of 1978 (5  
19          U.S.C. App.), the Office of the Inspector General of  
20          the Department of Homeland Security shall—

21                       (A) conduct—

22                               (i) unannounced periodic inspections  
23                               of immigration detention facilities not less  
24                               frequently than annually;



1                   (ii) audits of immigration detention  
2 facilities to ensure compliance with the na-  
3 tional standards established under the Vio-  
4 lence Against Women Reauthorization Act  
5 of 2013 (Public Law 113–4) and the  
6 Standards to Prevent, Detect, and Re-  
7 spond to Sexual Abuse and Assault in Con-  
8 finement Facilities (79 Fed. Reg. 13099 et  
9 seq.), which were published by the Depart-  
10 ment of Homeland Security on March 7,  
11 2014; and

12                   (iii) investigations focused on health,  
13 safety, and due process concerns at immi-  
14 gration detention facilities, including—

15                               (I) deaths in custody;

16                               (II) detainee access to medical  
17 and mental health care, including  
18 pregnant women and other vulnerable  
19 populations;

20                               (III) sexual assault and harass-  
21 ment; and

22                               (IV) compliance with legal visita-  
23 tion and access requirements;

24                   (B) measure inspections, audits, and inves-  
25 tigation conducted pursuant to subparagraph

1 (A) against the American Bar Association's  
2 Civil Detention Standards, in addition to the  
3 U.S. Immigration and Customs Enforcement  
4 standards to which each facility is held;

5 (C) deliver a conclusion on adequacy at the  
6 conclusion of each inspection, audit, and inves-  
7 tigation conducted pursuant to subparagraph  
8 (A); and

9 (D) make publicly available the results of  
10 the inspections, audits, and investigations con-  
11 ducted pursuant to subparagraph (A) without  
12 compromising the confidentiality of individuals  
13 who submitted complaints.

14 (2) CIVIL RIGHTS AND CIVIL LIBERTIES.—

15 (A) IN GENERAL.—The Office for Civil  
16 Rights and Civil Liberties of the Department of  
17 Homeland Security shall conduct investigations  
18 of civil rights and civil liberties complaints in  
19 immigration detention facilities in accordance  
20 with section 8I(f) of the Inspector General Act  
21 of 1978 (5 U.S.C. App.).

22 (B) INFORMATION REQUESTS.—Each com-  
23 ponent agency of the Department of Homeland  
24 Security shall comply with all document and in-  
25 formation requests from the Office for Civil

1 Rights and Civil Liberties to facilitate investiga-  
2 tions under this subsection.

3 (3) REPORTING REQUIREMENTS.—

4 (A) OFFICE OF INSPECTOR GENERAL.—  
5 The Inspector General of the Department of  
6 Homeland Security shall—

7 (i) not later than 60 days after any  
8 inspection, audit, or investigation, submit a  
9 report to the appropriate congressional  
10 committees that summarizes the results, in  
11 accordance with paragraph (1); and

12 (ii) release aggregate data on its  
13 website on a quarterly basis, without com-  
14 promising confidentiality, regarding—

15 (I) complaints lodged about or  
16 from an immigration detention facil-  
17 ity;

18 (II) actions taken in response to  
19 such complaints; and

20 (III) investigation outcomes.

21 (B) OFFICE OF CIVIL RIGHTS AND CIVIL  
22 LIBERTIES.—The Office for Civil Rights and  
23 Civil Liberties of the Department of Homeland  
24 Security shall—

1 (i) not later than 60 days after the  
2 conclusion of any investigation under para-  
3 graph (2), submit a report to the appro-  
4 priate congressional committees that sum-  
5 marizes the results of the investigation;  
6 and

7 (ii) release aggregate data on its  
8 website on a quarterly basis, without com-  
9 promising confidentiality, regarding—

10 (I) complaints lodged about or  
11 from an immigration detention facil-  
12 ity;

13 (II) actions taken in response to  
14 such complaints; and

15 (III) investigation outcomes.

16 (4) AUTHORIZATION OF APPROPRIATIONS.—In  
17 addition to amount otherwise authorized to be ap-  
18 propriated for such purposes, there is authorized to  
19 be appropriated to the Department of Homeland Se-  
20 curity, for each of the fiscal years 2020 through  
21 2028—

22 (A) \$45,000,000 to conduct and report on  
23 the inspections, audits, and investigations re-  
24 quired under paragraph (1); and

1 (B) \$10,000,000 to conduct and report on  
2 the investigations required under paragraph  
3 (2).