

House – Key Legislation Impacting Family Separation at the U.S./Mexico Border

(as of August 13, 2018)

	“Protect Family Values at the Border Act” (H.R. 2572)	“Keep Families Together Act” (H.R. 6135)	“Equal Protection of Unaccompanied Minors Act” (H.R. 6134)	“Central America Family Protection and Reunification Act” (H.R. 6193)	“Keep Families Together and Enforce the Law Act” (H.R. 6190)	“Protect Kids and Parents Act” (H.R. 6195)	“Preventing Family Separation for Immigrants with Disabilities Act” (H.R. 6232)	“Family Unity Rights and Protection Act” (H.R. 6236)	“Reunifying Separated Families Act of 2018” (H.R. 6304)	“Reunite Every Unaccompanied Newborn Infant, Toddler and other children Expeditiously Act” (REUNITE Act) (H.R. 6594)	
Introduction:	Rep. Lucille Roybal-Allard (D-CA) on May 19, 2017	Rep. Jerrold Nadler (D-NY) on June 19, 2018	Rep. Mark Meadows (R-NC) on June 19, 2018	Rep. Eliot Engel (D-NY) on June 22, 2018	Rep. Daniel Webster (R-FL) on June 21, 2018	Rep. Dave Brat (R-VA) on June 22, 2018	Rep. Sean Maloney (D-NY) on June 26, 2018	Rep. Karen Bass (D-CA) on June 27, 2018	Rep. Charlie Crist (D-FL) on July 3, 2018	Rep. Adriano Espaillat (D-NY) on July 26, 2018	
Cosponsors (as of 8/13/18):	29 Democrats	194 Democrats	11 Republicans	96 Democrats	10 Republicans	11 Republicans	15 Democrats	78 Democrats	10 Democrats	37 Democrats	
Purpose:	Does not directly limit family separation at the border, but does establish standards for migration deterrence programs, including consideration of family unity and best interest of the child when making decisions relating to prosecution or repatriation. Creates humane practices for repatriation and standards of care for migrants in custody.	Limits family separation at the border by including a prohibition on family separation except in certain instances (see below in “Limitation on Separation”).	Limits family separation at the border by expanding ability to detain accompanied children and overrides “Flores Settlement” protections. Revises current unaccompanied children system by rescinding non-contiguous country protections. Heightens evidentiary burden for asylum seekers.	Limits family separation at the border by creating a policy that families will not be separated for deterrence reasons and facilitates family reunification. Promotes research on gang and gender-based violence in the Northern Triangle.	Limits family separation at the border by expanding family detention. Overrides “Flores Settlement” protections for detention of accompanied children.	Limits family separation at the border by expanding detention of asylum-seeking families. Overrides “Flores Settlement” protections for detention of accompanied children and expedites the asylum process for certain families.	Limits family separation at the border by including a prohibition on family separation except in certain instances (see below in “Limitation on Separation”).	Limits family separation of disabled individuals at the border by including a prohibition on family separation except in certain instances (see below in “Limitation on Separation”).	Addresses reunification of families separated at the border. Also address adjudication of families’ immigration-related claims/proceedings.	Addresses reunification of families separated at the border. Also limits family separation at the border by including a prohibition on family separation except in certain instances (see below in “Limitation on Separation”).	Addresses reunification of families separated at the border. Limits use of DNA testing for purposes of reunification and adds privacy protections. Requires use of alternatives to detention, including the Family Case Management Program (FCMP). Requires legal counsel be provided for immigration proceedings of children and vulnerable migrants.

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Discusses Use of Family Detention?	No. However, establishes that migration deterrence programs must consider whether: (i) the individual is traveling with family; (ii) repatriation would create protection concerns; and (iii) repatriation or referral for prosecution would be in the best interest of that individual’s child, promotes family unity, or creates protection concerns.	Yes. Includes a presumption that it is not in the best interest of families and children to be detained.	Yes. States that children are to be detained with their parents. Specifically, seeks to override the Flores Settlement Agreement by mandating that accompanied children be treated like adults for purposes of detention, expedited removal, etc. States that there is no presumption that accompanied children should not be detained and limits release of these children to anyone who is not a parent/legal guardian.	No. Not included in text.	Yes. States that children are to be detained with their parents. Specifically, prohibits DHS from following the Flores Settlement Agreement and requires parents arriving with children to be kept in family detention during the pendency of their criminal or civil proceedings, with limited exceptions. States that family detention centers must be: secure, safe, and provide families with suitable living accommodations, access to drinking water and food, and medical assistance during emergencies.	Yes. States that children are to be detained with their asylum-seeking parents/legal guardians.* Specifically, seeks to override the Flores Settlement Agreement by requiring that the Department of Homeland Security (DHS) keep asylum-seeking parents/legal guardians in family detention with their children during the pendency of their asylum or withholding of removal proceedings. <i>*H.R. 6195 only applies to asylum-seeking families who have sought asylum or withholding of removal within 48 hours of detention.</i>	No. Not included in text.	No. Not included in text.	No. Not included in text.	Yes. States that parents or legal guardians are to be released on bond, parole, or alternative to detention program unless DHS demonstrates that there is a substantial risk that the individual is likely to cause harm to himself or others. Within 72 hours, the individual has the opportunity to appeal this determination before an immigration judge.

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Detention Beds?	No. Not included in text.	No. Not included in text.	No. Not included in text.	No. Not included in text.	Yes. Requires DHS to enter into an agreement with the Department of Justice (DOJ) to secure additional family detention centers, and requires DHS to increase the number of family detention beds by at least 1,000.	Yes. Authorizes “necessary” appropriations for 2019-2021 to maintain family detention centers.	No. Not included in text.	No. Not included in text.	No. Not included in text.	No. Not explicitly included in text. However, does reallocate \$50 million from ICE’s FY 2018 enforcement, detention, and removal operation funding to carry out reunifications and alternatives to detention.
Limitation on Family Separation at the Border?	No. Not included in text.	Yes. Designated officers cannot separate a child from a parent/legal guardian at a Port of Entry (POE) or within 100 miles of the border unless certain circumstances occur. Separation cannot be used for the sole policy goal of deterring migration. Includes a penalty of up to \$10,000 for knowing violations of this policy. States a presumption of family unity and that sibling groups should be kept together.	No. Not included in text.	Yes. Sets a policy that immigrant families would not be separated as a deterrent to migration and that families previously separated due to zero-tolerance policy should be reunited. Requires Department of State (DOS) to develop a strategy to address the health and developmental needs of families who have been separated.	Yes. See “Family Detention” above.	Yes. States a presumption of family unity and that sibling groups should be kept together.	Yes. Designated officers cannot separate a disabled migrant from his or her family at a Port of Entry (POE) or within 100 miles of the border unless certain circumstances occur. Separation of disabled migrants from their family cannot be used for the sole policy goal of deterring migration.	No. Not explicitly addressed in text, but see family adjudication provisions in “Other Provisions of Note” (below).	Yes. Designated officers cannot separate a child from a parent/legal guardian at a Port of Entry (POE) or within 100 miles of the border unless certain circumstances occur. Separation cannot be used for the sole policy goal of deterring migration. Includes a penalty of up to \$10,000 for knowing violations of this policy.	No. Not explicitly included in text. But see “Procedures for Parents Attempting to Locate Their Separated Children?” below.

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Allows for Separation in Certain Limited Circumstances?	No. Not included in the text.	Yes. Separation may occur if: (1) A state court terminates parental rights or determines separation is in the best interest of the child; (2) A state child welfare agency determines that separation is in the best interest of the child; or (3) The Chief Patrol Agent or Area Port Director authorizes separation due to findings that: (i) the child is a victim of or is at risk of trafficking; (ii) there is a strong likelihood that the adult is not the child’s parent/legal guardian; (iii) the child is in danger of abuse or neglect by the parent/legal guardian; or (iv) the child is a danger to himself or others (subject to an independent review of this abuse/neglect determination by child welfare expert licensed by the State or county).	No. Not included in text.	No. Not included in text.	Yes. Separation may occur if DHS: (1) Is unable to verify that the adult is the child’s parent; (2) Determines that the parent: (i) has a violent criminal history; (ii) has committed or been convicted of an aggravated felony, crime involving attempted use of physical force or threatened use of deadly force, assault resulting in injury, or a crime which is a ground of inadmissibility or deportability; (3) Determines the child has been the victim of domestic or sexual abuse; (4) Finds that the child is a victim of or is at risk of trafficking; (5) Finds that the child is in danger of abuse or neglect by the parent; or (6) Finds that the child is a danger to himself or others.	Yes. Separation may occur if: (1) There is release of the child to a non-detained parent/legal guardian, when available in the U.S.; (2) If the parent(s) in detention consent(s) to separation; (3) A state court terminates parental rights or determines separation is in the best interest of the child; (4) A state child welfare agency determines that separation is in the best interest of the child; or (5) The Chief Patrol Agent or Area Port Director authorizes separation due to findings that: (i) the child is a victim of or is at risk of trafficking; (ii) there is a strong likelihood that the adult is not the child’s parent/legal guardian; (iii) the child is in danger of abuse or neglect by the parent/legal guardian; or (iv) the child is a danger to himself or others.	Yes. Separation may occur if: (1) A state court terminates family member’s rights or determines separation is in the best interest of the family member; (2) A state welfare agency determines that separation is in the best interest of the individual; or (3) The Chief Patrol Agent or Area Port Director authorizes separation due to findings that: (i) the individual is a victim of or is at risk of trafficking; (ii) there is a strong likelihood that the adult is not the individual’s family member; (iii) the individual is in danger of abuse or neglect by the family member; or (iv) the individual is a danger to himself or others	No. Not included in text.	Yes. Separation may occur if: (1) A state court terminates parental rights or determines separation is in the best interest of the child; (2) A state child welfare agency determines that separation is in the best interest of the child; or (3) The Chief Patrol Agent or Area Port Director authorizes separation due to findings that: (i) the child is a victim of or is at risk of trafficking; (ii) there is a strong likelihood that the adult is not the child’s parent/legal guardian; (iii) the child is in danger of abuse or neglect by the parent/legal guardian; or (iv) the child is a danger to himself or others (subject to an independent review of this abuse/neglect determination by child welfare expert licensed by the State or county).	Yes. Reunification cannot occur if: (1) The Chief Patrol Agent or Area Port Director determines that the child is a victim of or is at risk of trafficking; (2) The child appears to be in danger of abuse or neglect by the parent/legal guardian; (3) A state court or child welfare agency determines that the child is a danger to himself or others; or (4) There is a strong likelihood that the adult is not the child’s parent/legal guardian.

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Training of DHS Employees on Separation Policies?	Yes. DHS, in conjunction with HHS and other agencies, is directed to develop child welfare-informed training for Customs and Border Protection.	Yes. DHS, in conjunction with Health and Human Services (HHS), is directed to develop child welfare-informed training and guidance within 180 days for use by DHS agents and officers. This guidance will be reviewed at least annually.	No. Not included in text.	No. Not included in text.	No. Not included in text.	Yes. DHS, in conjunction with HHS, is directed to develop child welfare informed training and guidance within 180 days for use by DHS agents and officers. This guidance will be reviewed at least annually.	No. Not included in text.	No. Not included in text.	No. Not included in text.	No. Not included in text.
Reporting to Congress on Family Separation?	Yes. Requires annual reporting by DHS on the impact deterrence programs have on migrant families traveling together.	Yes. Requires reporting by DHS every six months to Congress on instances of family separation.	No. Not included in text.	Yes. Requires reporting by DOS within 30 days and by the GAO within 180 days on steps taken to address separation and facilitate reunification.	No. Not included in text.	Yes. Requires annual reporting by DHS to Congress on instances of family separation. Also, GAO report required on prosecution of asylum seekers from 2008- 2018.	No. Not included in text.	Yes. Requires reporting by HHS, DHS, DOD, and DOJ within 14 days on efforts to reunify separated families.	Yes. Requires reporting by the Inspector General within 90 days on whether the location of any separated children is unknown and whether the policy of separating children was intended for deterrence purposes.	Yes. Requires new inter-agency office on reunification to submit weekly reports to Congress on reunification efforts and number of children that remain separated.

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Procedures for Parents Attempting to Locate Their Separated Children?	No, not directly. However, includes a question to migrants in the mandated CBP exit interview regarding whether they have been provided information about where their separated family members are and when they will be reunited.	Yes. Requires DHS, in consultation with HHS, state child welfare agencies, and relevant NGOs, to issue public guidance within 180 days of enactment on how parents/legal guardians can locate their children. Requires such guidance to be given to impacted parents/legal guardians. Unless deemed harmful to the child, also requires DHS to provide the impacted parent/legal guardian with phone communication and weekly reports on: the activities of the child, the education and health of the child, any changes to the child’s immigration status, and any other relevant information.	No. Not included in text.	Yes. Directs DOS to work with Northern Triangle governments and citizens to help facilitate reunification of those families who were separated.	No. Not included in text.	Yes. Requires DHS, in consultation with HHS, to issue public guidance within 180 days of enactment on the manner in which asylum-seeking parents/legal guardians can locate their children. Requires such guidance to be given to impacted parents/legal guardians.	Yes. Requires DHS to provide the impacted family member with monthly reports on: the activities of the separated individual, the education and health of the separated individual, any changes to the separated individual’s immigration status, and any other relevant information.	Yes. Requires agencies to establish policies and procedures to ensure reunification of children that were separated from a parent/legal guardian on or after April 6, 2018. Requires agencies to notify impacted parents/legal guardians of these policies and procedures, the location of their child, and the means by which they can contact their child. This notification requirements extends to cases in which the child or parent/legal guardian has been removed from the U.S. Requires the agencies to create a registry of separated individuals to assist with reunification efforts. Limits use of information in the registry to reunification efforts.	Yes. Requires agencies to ensure immediate reunification of children that were separated from a parent/legal guardian on or after April 6, 2018 (with exceptions noted in “Allows for Separation in Certain Limited Circumstances?” above).	Yes. Requires agencies to ensure immediate reunification of children that remain separated (with exceptions noted in “Allows for Separation in Certain Limited Circumstances?” above) and require establishment of an inter-agency office to facilitate reunification. Further, requires DHS and HHS, in consultation with state and NGO agencies, to publish a final rule that describes the coordinated effort to aid separated parents/legal guardians in locating their children. Requires agencies to outline, in part, efforts to develop family tracing, ensure no cost communication, facilitate children’s access to child advocates, ensure children have legal counsel, allow for outside inspection of facilities, locate repatriated parents, notify parent/legal guardians of their rights, etc. Requires such guidance to be given to impacted parents/legal guardians. Requires agencies to use other methods to determine family relationships prior to utilizing DNA testing, and adds consent and privacy requirements for DNA testing.
Addresses Parental Rights?	No. Not included in text.	Yes. Provides presumption that parental rights remain despite of separation (barring court action) and that separation by DHS does not constitute abuse or neglect.	No. Not included in text.	No. Not included in text.	No. Not included in text.	Yes. Provides presumption that parental rights remain despite of separation (barring court action) and that separation by DHS does not constitute abuse or neglect.	No. Not included in text.	Yes. Address instances in which the state shall file for termination of parental rights and prerequisites to filing, including efforts to reunify.	No. Not included in text.	No. Not included in text.

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Directs DHS and DOJ to Prioritize/Expedite Cases and Prosecution of Families?	No. Not included in text.	No. Not included in text.	No. Not included in text.	No. Not included in text.	Yes. Directs DHS and DOJ to prioritize cases of accompanied children and their families, to the extent practicable.	Yes. Directs DOJ to prioritize cases of asylum-seeking parents/legal guardians detained with their families. Also requires guidelines on expedited processing of asylum applications filed by these families (e.g., asylum interview within 24 hours, credible fear determination within 24 hours, 24 hours for review hearing by immigration judge (IJ), etc.).* <i>*Extensions provided in certain circumstances.</i> Requires deportation within 4 days when applicant receives final order denying asylum and bars prosecution for illegal entry.	No. Not included in text.	No. Not included in text.	No. Not included in text.	No. Not included in text.
Increase in Number of Immigration Judges?	No. Not included in text.	No. Not included in text.	No. Not included in text.	No. Not included in text.	Yes. Requires DOJ to increase the number of IJ teams by at least 225.	Yes. Requires the DOJ to increase the number of IJs by 375 (plus sufficient support staff and resources). Directs DOJ to increase Board of Immigration Appeals Attorneys by 60 (plus sufficient support staff and resources). Authorizes “necessary” appropriations for 2019-2021 to carry this out.	No. Not included in text.	No. Not included in text.	No. Not included in text.	No. Not included in text.

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Increase in Hiring of DHS Personnel?	No. Not included in text.	No. Not included in text.	No. Not included in text.	No. Not included in text.	No. Not included in text.	Yes. Directs DHS to hire an additional 200 asylum officers (plus sufficient support staff and resources). Authorizes “necessary” appropriations for 2019-2021 to carry this out.	No. Not included in text.	No. Not included in text.	No. Not included in text.	No. Not included in text.
Other Provisions of Note:	Requires DHS to certify that they are only removing individuals through an exit/entry point on the border during daylight hours, with certain exceptions. Requires DHS to establish short-term custody standards for care of individuals in all CBP holding facilities. Requires reporting on deaths in CBP custody and use of force.	Includes prohibition on prosecuting those who have expressed a credible fear of persecution, while their claim is pending, or those who have been granted asylum or withholding of removal, for illegal entry or illegal reentry.	In part, includes provisions to rollback current protections in the Trafficking Victims Protection Reauthorization Act of 2008 for children from non-contiguous countries (e.g., Guatemala, Honduras, El Salvador), makes it more difficult for children to obtain Special Immigrant Juvenile Status, and heightens requirements for asylum seekers.	Requires strategy on combatting gender-based violence in the Northern Triangle. Requires DOS to submit annual reports (for 5 years) on gender-based violence in the Northern Triangle, as well as on gang and organized crime related-violence. Requires DOS to establish and office to study serious crimes committed against migrants during the first year after their removal from the U.S. (or against U.S. citizen who left due to a parent’s deportation).	N/A	Even after grant of asylum or withholding of removal, families must remain in detention until a background check has occurred to determine if there are any ground on which they are inadmissible or deportable.	N/A	Includes provision to ensure that immigrant families’ immigration claims/proceedings are consolidated, with limited exceptions, for purposes of adjudication to promote family unity.	N/A	For separated children, their unaccompanied child designation will remain through the duration of their immigration proceedings. Additionally, removal of their parents/legal guardians is stayed during the pendency of the child’s immigration proceedings or until the child turns 18 (whichever is earlier or unless the parent consents to removal). Requires legal counsel be provided for immigration proceedings of children and vulnerable migrants. Limits bond determinations to \$1,500, except in cases of aggravated felonies.

Other House Bills Addressing Family Separation:

[H.R. 5950](#): “Humane Enforcement and Legal Protections for Separated Children Act” – Introduced by Rep. Lucille Roybal-Allard (D-CA) on May 23, 2018

[H.R. 6173](#): No Short Title – Introduced by Rep. Stephen Knight (R-CA) on June 21, 2018

[H.R. 6183](#): “Family Reunification Act” – Introduced by Rep. Bill Huizenga (R-MI) on June 21, 2018

[H.R. 6180](#): “Mental Health Care for Children Inhumanely Separated from Parents by the Federal Government Act of 2018” – Introduced by Rep. Nanette Barragan (D-CA) on June 21, 2018

[H.R. 6254](#): “Compassionate Calling and Immigrant Family Reunification Act of 2018” – Introduced by Rep. Frank Pallone, Jr. (D-NJ) on June 27, 2018

[H.R. 6326](#): “Reunite Separated Families Act of 2018” – Introduced by Rep. Michael Capuano (D-MA) on July 10, 2018

[H.R. 6172](#): “Reunite Children with Their Parents Act” – Introduced by Rep. Brendan Boyle (D-PA) on August 2, 2018