



(Original Signature of Member)

116TH CONGRESS
1ST SESSION

H. R. 2203

To increase transparency, accountability, and community engagement within the Department of Homeland Security, provide independent oversight of border security activities, improve training for agents and officers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. ESCOBAR introduced the following bill; which was referred to the
Committee on _____

A BILL

To increase transparency, accountability, and community engagement within the Department of Homeland Security, provide independent oversight of border security activities, improve training for agents and officers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

- 1 (I) 13 members shall be from the
- 2 northern border region and shall in-
- 3 clude—
- 4 (aa) two local government
- 5 elected officials;
- 6 (bb) two local law enforce-
- 7 ment officials;
- 8 (cc) two civil rights advo-
- 9 cates;
- 10 (dd) one business represent-
- 11 ative;
- 12 (ee) one higher education
- 13 representative;
- 14 (ff) one representative of a
- 15 faith community;
- 16 (gg) two representatives of
- 17 the U.S. Border Patrol; and
- 18 (hh) two tribal officials; and
- 19 (II) 17 members shall be from
- 20 the southern border region and shall
- 21 include—
- 22 (aa) three local government
- 23 elected officials;
- 24 (bb) three local law enforce-
- 25 ment officials;

1 (A) COMMISSION.—The Commission shall
2 meet at least semiannually, and may convene
3 additional meetings as necessary.

4 (B) SUBCOMMITTEES.—The northern bor-
5 der and southern border subcommittees shall
6 meet at least quarterly, and may convene addi-
7 tional meetings as necessary.

8 (4) DUTIES.—The Commission, and the north-
9 ern border and southern border subcommittees,
10 shall—

11 (A) develop recommendations for improve-
12 ments regarding border enforcement policies,
13 strategies, and programs that take into consid-
14 eration their impact on border communities;

15 (B) evaluate policies, strategies, and pro-
16 grams of Federal agencies operating along the
17 northern and southern borders to—

18 (i) protect—

19 (I) due process;

20 (II) the civil and human rights of
21 border residents and visitors; and

22 (III) private property rights of
23 land owners;

24 (ii) reduce the number of migrant
25 deaths; and

1 (5) ADDITIONAL RESPONSIBILITIES.—

2 (A) IN GENERAL.—In carrying out the du-
3 ties specified in paragraph (5), the Commission
4 shall take into consideration any recommenda-
5 tions and evaluations agreed upon by the north-
6 ern border and southern border subcommittees.

7 (B) SUBCOMMITTEE REPORTS.—The
8 northern border and southern border sub-
9 committees shall annually submit to the Chair
10 and Vice Chair of the Commission a publicly
11 available report containing the recommenda-
12 tions and evaluations of the subcommittees pur-
13 suant to paragraph (5).

14 (6) PROHIBITION ON COMPENSATION.—Mem-
15 bers of the Commission and the northern border and
16 southern border subcommittees may not receive pay,
17 allowances, or benefits from the Government by rea-
18 son of their service on the Commission or the sub-
19 committees.

20 (b) HEARINGS AND EVIDENCE.—The Commission or,
21 on the authority of the Commission, any subcommittee or
22 member thereof, may, for the purpose of carrying out this
23 Act hold such hearings, and sit and act at such times and
24 places, take such testimony, receive such evidence, and ad-
25 minister such oaths as the Commission or such designated

1 **SEC. 3. ESTABLISHMENT OF THE OFFICE OF THE OMBUDS-**
2 **MAN FOR BORDER AND IMMIGRATION RE-**
3 **LATED CONCERNS.**

4 (a) IN GENERAL.—Section 452 of the Homeland Se-
5 curity Act of 2002 (6 U.S.C. 272) is amended to read
6 as follows:

7 **“SEC. 452. OMBUDSMAN FOR BORDER AND IMMIGRATION**
8 **RELATED CONCERNS.**

9 “(a) IN GENERAL.—There shall be within the De-
10 partment an Ombudsman for Border and Immigration Re-
11 lated Concerns (in this section referred to as the ‘Ombuds-
12 man’). The individual appointed as Ombudsman shall have
13 a background in immigration or civil liberties law or law
14 enforcement. The Ombudsman shall report directly to the
15 Secretary.

16 “(b) ORGANIZATIONAL INDEPENDENCE.—The Sec-
17 retary shall take appropriate action to ensure the inde-
18 pendence of the Ombudsman’s office from other officers
19 or employees of the Department engaged in border secu-
20 rity or immigration activities.

21 “(c) STAFFING.—The Secretary shall take appro-
22 priate action to ensure that the Ombudsman’s office is
23 sufficiently staffed and resourced to carry out its duties
24 effectively and efficiently.

25 “(d) FUNCTIONS.—The functions of the Ombudsman
26 shall be as follows:

1 Border Protection, U.S. Immigration and Customs
2 Enforcement, or United States Citizenship and Im-
3 migration Services.

4 “(5) To propose changes in the administrative
5 practices of U.S. Customs and Border Protection,
6 U.S. Immigration and Customs Enforcement, and
7 United States Citizenship and Immigration Services
8 to mitigate problems identified under this section.

9 “(6) To review, examine, and make rec-
10 ommendations regarding the border security and im-
11 migration and enforcement activities of U.S. Cus-
12 toms and Border Protection, U.S. Immigration and
13 Customs Enforcement, and United States Citizen-
14 ship and Immigration Services.

15 “(7) To establish a uniform and standardized
16 complaint process regarding complaints against any
17 individual employed by U.S. Customs and Border
18 Protection or U.S. Immigration and Customs En-
19 forcement for violations of standards of professional
20 conduct. Such complaint process shall have the fol-
21 lowing components:

22 “(A) Require that all complaints receive an
23 independent review and investigation completed
24 not later than one year from the date of receipt
25 of each such complaint.

1 ing and analyzing complaints and their resolu-
2 tion.

3 “(F) Provide publicly accessible records,
4 with copies of complaints, and their resolutions
5 permanently preserved and available for inspec-
6 tion, while maintaining the confidentiality of
7 complainants’ identities.

8 “(8) To establish an online detainee locator sys-
9 tem for individuals held in U.S. Customs and Border
10 Protection custody.

11 “(e) OTHER RESPONSIBILITIES.—In addition to the
12 functions specified in subsection (d), the Ombudsman
13 shall—

14 “(1) monitor the coverage and geographic allo-
15 cation of local offices of the Ombudsman, including
16 appointing local ombudsmen for border and immi-
17 gration related concerns;

18 “(2) evaluate and take personnel actions (in-
19 cluding dismissal) with respect to any employee of
20 the Ombudsman;

21 “(3) recommend disciplinary action, including
22 contract termination, suspension, and debarment, or
23 termination, suspension, and sanctions, to the appro-
24 priate departmental entity regarding any contractor
25 proven to have violated departmental policies or pro-

1 against the complainant or any individual identified
2 in such complaint.

3 “(3) Neither the filing of a complaint nor the
4 contents of a complaint shall in any way confer im-
5 munity or otherwise impact any removal or criminal
6 proceedings against a complainant or an individual
7 identified in such complaint.

8 “(4) No personally identifiable information re-
9 lated to an individual involved in a complaint which
10 would result in identification of such individual may
11 be published.

12 “(5) Complainants shall receive full assistance
13 from the Department in filing complaints, including
14 language assistance, accommodations for disabilities,
15 and accurate and complete responses to their ques-
16 tions.

17 “(g) REQUEST FOR INVESTIGATIONS.—The Ombuds-
18 man is authorized to request the Inspector General of the
19 Department to conduct inspections, investigations, and
20 audits related to subsections (d), (e), and (f).

21 “(h) COORDINATION WITH DEPARTMENT COMPO-
22 NENTS.—

23 “(1) IN GENERAL.—The Director of United
24 States Citizenship and Immigration Services, the As-
25 sistant Secretary of U.S. Immigration and Customs

1 “(j) ANNUAL REPORTING.—Not later than June 30
2 of each year beginning in the year after the date of the
3 enactment of this subsection, the Ombudsman shall sub-
4 mit to the Committee on Homeland Security and the Com-
5 mittee on the Judiciary of the House of Representatives
6 and the Committee on Homeland Security and Govern-
7 mental Affairs and the Committee on the Judiciary of the
8 Senate a report that includes the following:

9 “(1) The number and type of complaints re-
10 ceived under this section, the demographics of com-
11 plainants, the results of investigations, including vio-
12 lations of standards and any disciplinary actions
13 taken, and an identification of any complaint pat-
14 terns that could be prevented or reduced by policy
15 training or practice changes.

16 “(2) An inventory of complaints referred to in
17 paragraph (1) for which action has been taken and
18 the time between receipt and resolution of each such
19 complaint.

20 “(3) An inventory of complaints referred to in
21 paragraph (1) for which action has not been taken
22 after one year, the period during which each com-
23 plaint has been open, and the reason for failure to
24 resolve each such complaint.

1 “(B) consult with border communities on
2 the development of policies, directives, and pro-
3 grams of the U.S. Border Patrol, the Office of
4 Field Operations, and U.S. Immigration and
5 Customs Enforcement; and

6 “(C) receive feedback from border commu-
7 nities on the performance of the U.S. Border
8 Patrol, the Office of Field Operations, and U.S.
9 Immigration and Customs Enforcement.

10 “(3) MEMBERSHIP.—Each Liaison Office shall
11 be comprised of equal representation from the bor-
12 der community and U.S. Customs and Border Pro-
13 tection and U.S. Immigration and Customs Enforce-
14 ment, including at least:

15 “(A) One member of the community in
16 which each U.S. Border Patrol sector is located
17 who has expertise in migration, local public
18 safety, civil and human rights, the local commu-
19 nity, or community relations.

20 “(B) One member of an Indian tribe (as
21 such term is defined in section 4(e) of the In-
22 dian Self-Determination and Education Assist-
23 ance Act (25 U.S.C. 5304(e)) or tribal organi-
24 zation.

1 later than one year after the date of the enactment of this
2 subsection, the Comptroller General of the United States
3 shall submit to the Committee on Homeland Security and
4 the Committee on the Judiciary of the House of Rep-
5 resentatives and the Committee on Homeland Security
6 and Governmental Affairs and the Committee on the Judi-
7 ciary of the Senate a report that assesses the following
8 issues:

9 “(1) How far into the United States interior
10 the current activities, operations (including check-
11 points), and claimed authority of U.S. Customs and
12 Border Protection extend.

13 “(2) The extent to which the area of activities,
14 operations, and claimed authority referred to in
15 paragraph (1) is necessary.

16 “(3) The effectiveness of U.S. Customs and
17 Border Protection’s interior enforcement and its im-
18 pact on civil, constitutional, and private property
19 rights.”.

20 (b) CLERICAL AMENDMENT.—The table of contents
21 of the Homeland Security Act of 2002 is amended by
22 amending the item relating to section 452 to read as fol-
23 lows:

“Sec. 452. Ombudsman for Border and Immigration Related Concerns.”.

1 with FLETC shall include individual courses for each of
2 the following issues:

3 (1) Community relations, including the fol-
4 lowing:

5 (A) Best practices in community policing.

6 (B) Policies limiting location of enforce-
7 ment and cooperation with local law enforce-
8 ment.

9 (C) Best practices in responding to griev-
10 ances and how to refer complaints to the Om-
11 budsman for Border and Immigration Related
12 Concerns in accordance with section 452 of the
13 Homeland Security Act of 2002, as amended by
14 section 3 of this Act.

15 (2) Interdiction, including the following:

16 (A) Instruction on formal and proper com-
17 mand language.

18 (B) Situational awareness of what lan-
19 guage is appropriate.

20 (C) Legal application of use of force poli-
21 cies and guidelines.

22 (D) Policies and training scenarios nec-
23 essary to ensure the agent or officer and the
24 community is safe when intervening in situa-
25 tions in urban areas, including—

1 (5) Standards of professional conduct, including
2 the following:

3 (A) Lawful use of force.

4 (B) Complying with chain of command and
5 lawful orders.

6 (C) Conduct and ethical behavior toward
7 the public in a civil and professional manner.

8 (D) Respect for civil rights and protection
9 of the well-being of individuals.

10 (E) Non-racially biased questioning.

11 (F) De-escalation tactics and alternatives
12 to use of force.

13 (c) SUPERVISOR TRAINING.—In addition to the train-
14 ing and continuing education required under subsections
15 (a) and (b), the Secretary of Homeland Security shall es-
16 tablish policies and guidelines governing the continuing
17 education of agents and officers of U.S. Customs and Bor-
18 der Protection and U.S. Immigration and Customs En-
19 forcement who attain a supervisory or management posi-
20 tion. Such training and continuing education shall include
21 the following:

22 (1) Instruction relating to management and
23 leadership best practices.

24 (2) Refresher instruction or in-service training
25 relating to legal application of use of force policies

1 (2) CONSTITUTIONAL AUTHORITY SUBJECT
2 MATTER.—Continuing education under this sub-
3 section shall include a course on protecting the civil,
4 constitutional, human, and privacy rights of individ-
5 uals, with special emphasis on the scope of enforce-
6 ment authority, including chain of evidence practices
7 and document seizure, and use of force policies
8 available to agents and officers.

9 (3) ADDITIONAL SUBJECT MATTERS.—Con-
10 tinuing education under this subsection shall also in-
11 clude a course on the following:

12 (A) Scope of authority to conduct immigra-
13 tion enforcement activities, including interviews,
14 interrogations, stops, searches, arrests, and de-
15 tentions, in addition to identifying and detect-
16 ing fraudulent documents.

17 (B) Identifying, screening, and responsi-
18 bility for vulnerable populations, such as chil-
19 dren and victims of trafficking.

20 (C) Cultural and societal issues, including
21 understanding of the diversity of immigrant
22 communities, language and basic cultural
23 awareness of major migrant-sending countries,
24 and natural resource protection and environ-
25 mental policies along the border.

1 of the United States shall submit to the Committee on
2 Homeland Security of the House of Representatives and
3 the Committee on Homeland Security and Governmental
4 Affairs of the Senate a report that assesses the training
5 and education, including continuing education, required
6 under this section.

7 **SEC. 5. MANAGEMENT OF PORTS OF ENTRY.**

8 (a) IN GENERAL.—Not later than 180 days after the
9 date of the enactment of this Act, the Secretary of Home-
10 land Security shall submit to the Committee on Homeland
11 Security of the House of Representatives and the Com-
12 mittee on Homeland Security and Governmental Affairs
13 of the Senate a report that contains an assessment of the
14 current standards and guidelines for managing ports of
15 entry under the control of the Department of Homeland
16 Security. Such assessment shall include information relat-
17 ing to the following:

18 (1) Staffing levels and the need for additional
19 staffing.

20 (2) Rules governing the actions of Office of
21 Field Operations agents.

22 (3) Average delays for transit through air, land,
23 and sea ports of entry.

24 (4) An assessment of existing efforts and tech-
25 nologies used for border security, and the effect of

1 hinder or negatively impact the local or national
2 economies.

3 (2) Increasing the use of or updating tech-
4 nology at ports of entry at which there are average
5 delays of over two hours based on U.S. Customs and
6 Border Protection data collected during the previous
7 fiscal year.

8 (3) Publishing rules on the handling of docu-
9 ments at ports of entry.

10 (4) Establishing standards of conduct and de-
11 meanor when interacting with vulnerable popu-
12 lations, such as children and victims of human traf-
13 ficking, and individuals with border crossing cards.

14 (5) Establishing training courses relating to
15 management and leadership skills for supervisors
16 and managers at ports of entry.

17 **SEC. 6. REPORTING REQUIREMENTS.**

18 (a) ANNUAL CBP REPORT ON MISSION AND PER-
19 SONNEL BY BORDER PATROL SECTOR.—Not later than
20 one year after the date of the enactment of this Act and
21 annually thereafter, the Commissioner of U.S. Customs
22 and Border Protection shall submit to the Committee on
23 Homeland Security of the House of Representatives and
24 the Committee on Homeland Security and Governmental

1 (5) An impact assessment of the loss of trade
2 and commerce due to inadequate staffing at land
3 ports of entry by U.S. Customs and Border Protec-
4 tion agents and officers.

5 (b) REPORT ON MIGRANT DEATHS.—

6 (1) CBP AND ICE.—Not later than 180 days
7 after the date of the enactment of this Act, the
8 Commissioner of U.S. Customs and Border Protec-
9 tion and the Director of U.S. Immigration and Cus-
10 toms Enforcement shall jointly submit to the Comp-
11 troller General of the United States, the Committee
12 on Homeland Security of the House of Representa-
13 tives, and the Committee on Homeland Security and
14 Governmental Affairs of the Senate a report relating
15 to deaths occurring along the United States-Mexico
16 border, including information on the following:

17 (A) The number of documented migrant
18 deaths.

19 (B) A geographical breakdown of where
20 such migrant deaths occur.

21 (C) To the extent possible, the cause of
22 death for each migrant.

23 (D) The extent to which border technology,
24 physical barriers, and enforcement programs
25 have contributed to such migrant deaths.

1 ness of its programs to address the frequency
2 of migrant deaths.

3 (D) The extent of data and information
4 sharing and cooperation between U.S. Customs
5 and Border Protection, U.S. Immigration and
6 Customs Enforcement, local and State law en-
7 forcement, foreign diplomatic and consular
8 posts, and nongovernmental organizations to
9 accurately identify deceased individuals and no-
10 tify family members and compare information
11 to missing persons registries.

12 (c) GAO REPORT ON USE OF FORCE.—

13 (1) IN GENERAL.—Not later than one year
14 after the date of the enactment of this Act, the
15 Comptroller General of the United States shall ex-
16 amine the extent to which U.S. Customs and Border
17 Protection and U.S. Immigration and Customs En-
18 forcement have clarified use of force policies, includ-
19 ing the following (and any recommendations related
20 to the following):

21 (A) The extent to which U.S. Customs and
22 Border Protection and U.S. Immigration and
23 Customs Enforcement have implemented new
24 training tactics to improve use of force policies,
25 including how the use of force policy conforms

1 used was justified and whether it could have
2 been avoided through different tactics or train-
3 ing, better supervision, different tools, adher-
4 ence to policy, or changes in policy.

5 (F) How U.S. Customs and Border Protec-
6 tion and U.S. Immigration and Customs En-
7 forcement could implement best law enforce-
8 ment practices to improve policies for trans-
9 parent communication with family members of
10 individuals injured or killed by U.S. Customs
11 and Border Protection or U.S. Immigration and
12 Customs Enforcement agent's and officer's use
13 of force, including updates on any pending in-
14 vestigations, and policies for timely notification
15 of such injuries and deaths following such uses
16 of force to the Commissioner of U.S. Customs
17 and Border Protection or the Director of U.S.
18 Immigration and Customs Enforcement (as the
19 case may be), the Joint Intake Center of the
20 Department of Homeland Security, the Office
21 of Inspector General of the Department, the Of-
22 fice for Civil Rights and Civil Liberties of the
23 Department, the Offices of Public Affairs of the
24 Department, Congress, and the applicable con-
25 sulates, if appropriate.

1 of Representatives and the Committee on Homeland
2 Security and Governmental Affairs of the Senate a
3 written notification explaining why such rec-
4 ommendations are not being so implemented.

5 (d) GAO REPORT ON BODY WORN CAMERAS.—Not
6 later than one year after the date of the enactment of this
7 Act, the Comptroller General of the United States shall
8 assess the potential implementation by U.S. Customs and
9 Border Protection and U.S. Immigration and Customs
10 Enforcement of body worn cameras for all agents and offi-
11 cers of U.S. Customs and Border Protection and U.S. Im-
12 migration and Customs Enforcement, including relating to
13 storage and public availability of associated data.

14 **SEC. 7. DEPARTMENT OF HOMELAND SECURITY ACCOUNT-**
15 **ABILITY AND TRANSPARENCY.**

16 (a) DEFINITIONS.—In this section:

17 (1) BORDER SECURITY.—The term “border se-
18 curity” means the prevention of unlawful entries
19 into the United States, including entries by individ-
20 uals, instruments of terrorism, narcotics, and other
21 contraband.

22 (2) CHECKPOINT.—The term “checkpoint”
23 means a location—

24 (A) at which vehicles or individuals trav-
25 eling through the location are stopped by a law

1 (4) PATROL STOP.—The term “patrol stop”
2 means search, seizure, or interrogation of a motor-
3 ist, passenger, or pedestrian initiated anywhere ex-
4 cept as part of an inspection at a port of entry or
5 a primary inspection at a checkpoint.

6 (5) PRIMARY INSPECTION.—The term “primary
7 inspection” means an initial inspection of a vehicle
8 or individual at a checkpoint.

9 (6) SECONDARY INSPECTION.—The term “sec-
10 ondary inspection” means a further inspection of a
11 vehicle or individual that is conducted following a
12 primary inspection.

13 (b) DATA COLLECTION BY LAW ENFORCEMENT OF-
14 FICIALS ENFORCING UNITED STATES LAWS AND REGU-
15 LATIONS AND MAKING BORDER SECURITY STOPS.—

16 (1) REQUIREMENT FOR DATA COLLECTION RE-
17 GARDING STOPS AND SEARCHES.—A law enforce-
18 ment official who initiates a patrol stop or who de-
19 tains any individual beyond a brief and limited in-
20 quiry, such as a primary inspection at a checkpoint,
21 shall record—

22 (A) the date, time, and location of the con-
23 tact;

24 (B) the law enforcement official’s basis for,
25 or circumstances surrounding, the contact, in-

1 moval proceedings were subsequently initiated
2 against the individual;

3 (I) whether a body-worn camera or any
4 other video or audio recording exists that re-
5 corded the stop or detention;

6 (J) whether force was used by the law en-
7 forcement official and, if so, the type of force,
8 justification for using force, and whether the
9 use of force resulted in injury or death;

10 (K) whether any complaint was made by
11 the individual subject to the contact, and if
12 so—

13 (i) which oversight components within
14 or outside of the Department of Homeland
15 Security investigated the complaint;

16 (ii) how long the investigation lasted;

17 (iii) a description of the methods of
18 investigation used; and

19 (iv) the badge number of the law en-
20 forcement official involved in the com-
21 plaint;

22 (L) if the contact was initiated by a State
23 or local law enforcement agency—

24 (i) the reason for involvement of a
25 Federal law enforcement official;

1 (O) if the contact occurred at a location
2 proximate to a place of worship or religious
3 ceremony, school or education-related place or
4 event, courthouse or other civic building pro-
5 viding services accessible to the public, hospital,
6 medical treatment, or health care facility, at a
7 public demonstration, or an attorney's office,
8 including a public defender or legal aid office;
9 and

10 (P) if the contact occurred at a location
11 described in subparagraph (O), why that loca-
12 tion was chosen and any supervisory approval
13 that was sought to carry out the contact at the
14 location.

15 (2) REQUIREMENT FOR U.S. CUSTOMS AND
16 BORDER PROTECTION DATA COLLECTION REGARD-
17 ING CHECKPOINTS.—The Commissioner of U.S. Cus-
18 toms and Border Protection shall collect data on—

19 (A) the number of permanent and tem-
20 porary checkpoints utilized by agents and offi-
21 cers of U.S. Customs and Border Protection;

22 (B) the location of each such checkpoint;

23 (C) the dates on which a temporary check-
24 point was used; and

1 (ii) the data collected under para-
2 graph (2) by the Commissioner of U.S.
3 Customs and Border Protection; and

4 (iii) an analysis for all incidents inves-
5 tigated by the Department of Homeland
6 Security's Office of Inspector General,
7 U.S. Customs and Border Protection's Of-
8 fice of Professional Responsibility, or U.S.
9 Immigration and Customs Enforcement's
10 Office of Professional Responsibility to de-
11 termine whether the data required to be
12 collected under this Act were properly re-
13 corded and, if not, the corrective measures
14 that were or will be taken.

15 (B) OTHER LAW ENFORCEMENT OFFI-
16 CIALS.—The head of each agency, department,
17 or other entity that employs law enforcement
18 officials other than agents and officers referred
19 to in subparagraph (A) shall—

20 (i) compile the data collected by such
21 law enforcement officials pursuant to para-
22 graph (1); and

23 (ii) submit the compiled data to the
24 Secretary of Homeland Security.

1 public, except for particular data if the Secretary of
2 Homeland Security—

3 (A) explicitly invokes an exemption con-
4 tained in paragraphs (1) through (9) of section
5 552(b) of title 5, United States Code; and

6 (B) provides a written explanation for the
7 exemption's applicability.

8 (3) PRIVACY.—The Secretary may not report
9 unique personal identifying information of persons
10 stopped, searched, or subjected to a property sei-
11 zure, for purposes of this section.

12 (4) PUBLICATION.—The data compiled under
13 subsection (b)(4) shall be made available to the pub-
14 lic to the extent the release of such data is permis-
15 sible under Federal law.

16 **SEC. 8. LIMITATION ON THE SEPARATION OF FAMILIES.**

17 (a) IN GENERAL.—An agent or officer of a des-
18 ignated agency shall be prohibited from removing a child
19 from his or her parent or legal guardian, at or near the
20 port of entry or within 100 miles of a border of the United
21 States, unless one of the following has occurred:

22 (1) A State court, authorized under State law,
23 terminates the rights of the parent or legal guard-
24 ian, determines that it is in the best interests of the
25 child to be removed from the parent or legal guard-

1 except that, in the case that a child is removed from
2 his or her parent or legal guardian under this sec-
3 tion, an independent child welfare expert licensed by
4 the State or county in which the child was so re-
5 moved, authorizes the separation not later than 48
6 hours after such removal, and if such expert does
7 not authorize such separation, the child shall be re-
8 united with his or her parent or legal guardian not
9 later than 48 hours after such determination.

10 (b) PROHIBITION ON SEPARATION.—

11 (1) IN GENERAL.—A designated agency may
12 not remove a child from a parent or legal guardian
13 solely for the policy goal of deterring individuals
14 from migrating to the United States or for the pol-
15 icy goal of promoting compliance with civil immigra-
16 tion laws.

17 (2) PENALTY FOR FAMILY SEPARATION.—Any
18 person who knowingly separates a child from his or
19 her parent or legal guardian in violation of this sec-
20 tion, shall be fined not more than \$10,000.

21 (c) DOCUMENTATION REQUIRED.—The Secretary
22 shall ensure that a separation under subsection (a)(3) is
23 documented in writing and includes, at a minimum, the
24 reason for such separation, together with the stated evi-
25 dence for such separation.

1 (3) is included on the paperwork of the child
2 and the parent or legal guardian of the child.

3 (c) CONTACT INFORMATION.—The Secretary of
4 Homeland Security and the Secretary of Health and
5 Human Services shall advise a child who has been removed
6 pursuant to section 8 and the parent or legal guardian
7 of the child on the manner in which the child and the par-
8 ent or legal guardian may be contacted during the term
9 of the removal.

10 **SEC. 10. INDEPENDENCE OF IMMIGRATION JUDGES.**

11 Not later than 1 year after the date of enactment
12 of this Act, the Comptroller General of the United States
13 shall submit to Congress a report, which shall be published
14 and made available to the public, on the feasibility of es-
15 tablishing an immigration court outside the executive
16 branch composed of judges appointed for a fixed term with
17 jurisdiction over cases arising out of the Immigration and
18 Nationality Act (8 U.S.C. 1101 et seq.) or any other immi-
19 gration law of the United States and the appeal of such
20 cases, the impact that such an immigration court will have
21 on the case backlog of immigration judges, barriers to the
22 creation of such an immigration court, and recommenda-
23 tions for Congress.