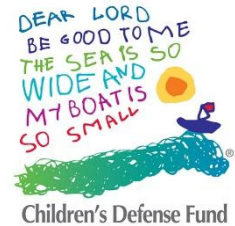


The Keep Families Together Act (S. 3036)



June 2018

On June 8th, 2018, Senator Dianne Feinstein (D-CA) and 31 other senators introduced the Keep Families Together Act (S.3036) to make it unlawful to separate children from their parents at the border unless they are being abused or neglected by their parent or are at risk of being trafficked. A child cannot be separated solely for the policy goal of deterring individuals from migrating to the United States or for the policy goal of promoting compliance with civil immigration laws. Protections would be established to ensure decisions to separate children from their parents are reviewed and recorded, that parents know the whereabouts of their child and receive monthly updates on the child's well-being, that annual counts of separations and the reason for them are maintained, and that those caring for the children are trained in child welfare, child development, and childhood trauma.

The Keep Families Together Act helps protect against the separation of children from their families at the border by offering the following protections:

Protecting against separation:

- The Keep Families Together Act prohibits an agent or officer of a designated agency¹ at the border from removing a child from a parent or legal guardian solely for the policy goal of deterring individuals from migrating to the United States or for the policy goal of promoting compliance with civil immigration laws.
- A child may not be removed from her parents at or near the border unless:
 - A state court determines the parental rights or rights of the guardian should be terminated;
 - A child welfare agency official with expertise in child trauma and development determines the child is in danger of abuse or neglect by the parent (which does not include migrating or crossing the US border with them) or is a danger to herself or others;
 - Upon the recommendation of an agent or officer, the Chief Patrol Agent or Area Port Director authorizes separation and documents it in writing due to the fact the child is a victim of or at risk of trafficking, the child is in danger of abuse or neglect or poses a danger to herself or others, or the child is likely not the biological child or legal ward of the adult.
- There shall be presumptions in favor of family unity and keeping siblings together, and a presumption that detention is not in the best interests of families and children

¹ Designated agencies include the Department of Homeland Security, Department of Justice, and the Department of Health and Human Services.

Training staff on the harms of separation:

- The Secretaries of Homeland Security and Health and Human Services must develop, and review and update annually (as appropriate) training and guidance for officers and agents with an emphasis on the best interests of the child, childhood trauma, attachment, and child development. All agents and officers must complete the training annually, with additional training for Chief Patrol Agents and Agent Port Directors.

Keeping families connected:

- The Secretary of Homeland Security shall publish public guidance on how parents/guardians may locate children separated from them after a best-interest determination (i.e. abuse, neglect, risk of self-harm, risk of trafficking); it must be developed in consultation with the Department of Health and Human Services, immigrant advocacy organizations, child welfare organizations, and state child welfare agencies.
 - All parents/guardians separated from their children shall be provided written notice of this public guidance to locate their children, which must be available in English, Spanish, and other languages as requested.
 - Parents/guardians with separated children must receive a monthly status report on the activities of their child, including information about the child's health and education, changes to the child's immigration status, and other information to promote and maintain family reunification.

Reporting on separation of children from their families:

- Within a year of the law's enactment and annually thereafter, the Secretary of Homeland Security shall submit a detailed report of all instances of guardian/child separations including a description of the adult and the child, length of the separation, charges against the parent and the outcome of the charges, the reason and evidence for separation, and whether the child was part of a sibling group or an unaccompanied alien child.
- The Comptroller General must conduct a study of the prosecution of asylum seekers from 2009 through 2018 that among other things includes the number of asylum seekers separated from their children as a result of being referred for prosecution.

Organizational endorsers of the Act upon introduction: American Academy of Pediatrics; Kids In Need of Defense (KIND); Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA); Children's Law Center; Young Center for Immigrant Rights; and Women's Refugee Coalition