



Trafficking Victims Protection Reauthorization Act Safeguards Children

Congress passed the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) with strong bipartisan support in 2008, and President George W. Bush signed it into law. The bill protects victims of human trafficking and includes provisions for unaccompanied migrant children (UAC) who are often vulnerable to trafficking en route to or while in the United States. But these protections for unaccompanied children are now at risk, with a number of recent legislative proposals attempting to roll them back.

The best interest of the child should be paramount in addressing UACs. Child safety should not be compromised for the sake of expediency. We need to ensure that potential amendments to TVPRA will not make UACs more vulnerable to violence and trafficking.

TVPRA is critical to keeping children safe from violence and exploitation. Our nation has a strong tradition of caring for and protecting the most vulnerable by responding in compassionate and humane ways. The protections in the TVPRA for unaccompanied children are consistent with those values. The TVPRA requires that after an unaccompanied child is screened by Customs and Border Protection (CBP) officers, he or she must be transferred to custody of Office of Refugee Resettlement (ORR) within the Department of Health and Human Services (HHS), typically within a 72-hour period, for care and further screening. This requirement puts children in the care of an agency set up to safeguard their best interest, rather than an agency whose mission is to enforce immigration laws.

Current TVPRA protections provide meaningful asylum and trafficking screening. By allowing children adequate time to be screened by people who specifically trained for the task, TVPRA helps ensure that children are properly assessed for trafficking and asylum claims and not returned to gangs, cartels and other dangers that they were trying to escape. CBP officers serve a particular role in our immigration system: They protect our borders. They are not adjudicators of asylum claims, nor should they be.

Weakening current TVPRA protections would trade the safety of children for expediency. Under TVPRA, asylum officers must [transfer](#) UACs from countries other than Mexico or Canada (along with UAC from those two countries that were apprehended away from the border) to the care and custody of HHS and place them in formal removal proceedings. Some of the recent proposals to change the TVPRA so that Central American children are processed within 48 hours, similar to children from the two contiguous countries, are risky and inadequate. Hurrying these children's screening will result in more victims being deported back to danger because children who have been subjected to trauma need more than a few hours to disclose the abuse.

Almost all UACs come from El Salvador, Guatemala, Honduras – the Northern Triangle - and Mexico. The three neighboring Northern Triangle countries consistently [rank](#) among the [most violent countries](#) in the world. In 2015, El Salvador became [the most violent not-at-war country](#) on the World, as its gang-related violence pushed the country’s murder rate to 103 per hundred thousand. Although, the number has since fallen by one third, all the three countries still have the world’s highest murder rates.

Raising credible fear standards will make the screening process less likely to identify individuals with bona fide asylum claims. Under TVPRA, a U.S. Citizenship and Immigration Services (USCIS) asylum officer must [interview](#) all asylum seekers, including UACs, to determine if they face “credible fear” of persecution or torture or of returning to their home countries to determine whether they are eligible to continue the process to seek asylum. Asylum officers refer only individuals found to have “credible fear” or who state they are seeking asylum to immigration court proceedings and an immigration judge decides their eligibility for the protection. Heightening credible fear standards would require asylum officers to seek evidence of such fear in addition to the applicant’s statements. Asylum seekers would have to provide physical proof of persecution in their countries and explain any potential inconsistencies and discrepancies that in some cases may not be relevant to their claims. Changing these standards could result in rejecting valid asylum claims and returning people to countries where they face persecution especially for UACs, as most of them leave their homes suddenly without any documents or preparation and may not too young to explain their situation fully. Such a change would also violate the [principle of nonrefoulement](#), the basic international principle that an individual should not be returned to a country in which he or she will face harm of persecution based on race, religion, nationality, membership of a particular social group or political opinion.

Safe placement of eligible UACs and appropriate treatment of all asylum-seeking children is crucial for their future development. TVPRA [requires](#) authorities to place eligible UACs promptly in the “least restrictive setting possible” while awaiting their court hearing. That typically means placement with a parent, relative or other sponsor in the U.S., or alternatively in a shelter or foster home if no sponsor can be found. Targeting sponsors of UACs by prolonged investigation of their immigration statuses, or even initiating their removal proceedings if they are unlawfully present in the U.S. as suggested by some would discourage individuals from sponsoring UACs and increase the psychological strain UACs experience because they would have to stay in ORR custody and be placed in foster care rather than with family.

Under TVPRA, an undocumented child is [eligible](#) for special immigrant juvenile status (SIJS) if reunification with one or both parents is not possible due to abuse, neglect or abandonment. Modifying the criteria establishing eligibility for SIJS making children eligible only if they were abused, neglected or abandoned by both parents would put many children in danger of violence and further abuse. For [example](#), an unauthorized immigrant child who was abused by one parent living outside of the U.S. and has another non-abusive parent in the U.S. would not be eligible for SIJS status and potentially would be returned to the abusive parent after being deported.

Lastly, TVPRA [directs](#) immigration authorities to follow special legal procedures for asylum-seeking children, including access to counsel and child advocates. However, some of the recent proposals require DHS to treat children, who did not qualify as unaccompanied, like adults in immigration

removal, stripping them of these special protections for minors. These children would be required to go through regular proceedings, including apprehension, detention, expedited removal, and mandatory detention. Children are not adults and should not be treated that way. Such an approach could cause serious harm and have long-lasting impact on the children's physical and mental health, development and wellbeing.

Congress must ensure safe repatriation of ineligible UACs. Under the TVPRA, the State Department must ensure that UACs, who are not eligible to stay in the U.S., are [safely](#) repatriated into their country of nationality. The U.S. currently has agreements with our neighboring countries – Mexico and Canada - that guarantee the children are returned to appropriate officials during reasonable business hours. Removing the clause about UAC repatriation to contiguous countries would prohibit more UACs from seeking asylum in the U.S. and make them more vulnerable to violence and trafficking in their home countries.