

UAC: Attempt to Stop Trafficking Creates Child Trafficking Industry

Federal Agency Oversight: [ORR](#)

Dependents: N/A

The Basics:

- The William Wilberforce Trafficking Victims Protection Act (TVPPRA) was [passed](#) in the last lame duck Congress of the George W. Bush Administration in 2008 without a single roll-call vote in either the House of Representatives or the Senate.
- This legislation, in part, created a new pathway for processing unaccompanied alien children (UAC), as defined at [6 U.S.C. 279](#), as aliens under 18 with no lawful immigration status and no parent or legal guardian in the United States able to take custody and care of them.
- The TVPPRA creates a distinction between UACs from contiguous countries (Canada and Mexico) and UACs from non-contiguous countries.
 - Contiguous UACs: UACs who are nationals of a contiguous country are allowed to be returned to their home country and family.
 - Non-contiguous UACs: Other UACs must be transferred by the Border Patrol to the Office of Refugee Resettlement (ORR, and office in the Department of Health and Human Services (HHS)) within 72 hours of being taken into custody. The TVPPRA requires them to be held in the least restrictive setting while being placed in removal proceedings and offered the opportunity to apply for asylum with a USCIS Asylum Officer (as opposed to making their asylum claim during removal proceedings before an immigration judge, as is standard practice).
 - ORR tries to place UACs with an adult sponsor in the United States. The sponsor may be a parent or legal guardian, regardless of that person's legal status, or an unrelated adult who offers to take in the UAC, again regardless of the adult's legal status. ORR's primary goal has been to move the UAC out of government custody as quickly as possible.

The Problem:

- Neither the Border Patrol nor ORR has an effective way of verifying the age or criminal history of aliens claiming to be UACs. This has led to adult aliens and gang members being allowed to remain in the United States.
- Placing the UAC in the control of ORR has been a disaster, as neither ORR nor its parent agency, HHS, has demonstrated the capacity for effective guardianship of minors. With a goal of moving the UACs to sponsors as quickly as possible, ORR has failed to properly vet sponsors, leading to sex and labor trafficking of significant numbers of

UACs. Furthermore, ORRs lack of follow up with sponsors and UACs has resulted in tens of thousands of UACs being “lost.”

- The TVPRA was drafted for bona fide child victims of human trafficking. It was not designed with any recognition that parents would willingly send their children to the U.S. border with smugglers, or that cartels would profit from intentionally separating children from their families, to take advantage of the loophole.
 - There is no serious effort to determine whether alien minors were actually trafficked, versus smuggled or even arriving voluntarily. Instead, if they credibly claim to be minors from a non-contiguous country, they are shunted off to ORR.
 - The contiguous versus non-contiguous distinction functionally allows non-contiguous UACs to remain in the United States indefinitely.
- Not surprisingly, the number of non-contiguous UACs began to [climb dramatically](#) after President Obama’s DHS issued the Deferred Action for Childhood Arrivals ([DACA](#)) amnesty on June 15, 2012, which gave employment authorization and protection from removal for children brought to the United States illegally.
- In March 2023, a [Florida Grand Jury presentment](#) reviewing UAC treatment found:
 - ORR lost contact with nearly 20,000 UACs during a 10-month period in 2021.
 - HHS and the U.S. Department of Justice received thousands of allegations of sexual abuse.
 - One UAC was “pimped out” by the alien’s “aunt” (whom the UAC did not know before arriving in the United States); some UACs ran away from sponsors because they were being sold for sex; and ORR placed a teenage girl in a house with unknown men with no private bedroom.
 - ORR discouraged employees from reviewing the addresses of sponsors, and some sponsors used the addresses of strip clubs, empty lots surrounded by stacked shipping containers, and open fields.
 - Criminal history, lack of legal immigration status, and even total refusal to submit to a background check did not disqualify sponsors from being given custody of UACs. One sponsor was given custody despite having spent time in a Florida prison for battery of a child.
- The *New York Times* found that the Biden Administration [ignored](#) warnings from ORR staff and lost contact with thousands of UACs, who, according to the *Times*, [were working in dangerous jobs](#).
- The Department of Homeland Security (DHS) Office of Inspector General (OIG) found ICE failed to issue Notices to Appear (NTAs) in immigration court to [233,000](#) UACs between FY 2019 and FY 2023. It also found that more than 31,000 children were given to sponsors who had no physical address on file.



LEGISLATIVE RECOMMENDATION: The TVPRA should be amended to eliminate the distinction between children arriving from contiguous and non-contiguous countries, so that all alien minors can be expeditiously returned to their home countries and reunited with their families. Additionally, Congress must require HHS to report UAC sponsors whom they believe are in the country illegally to DHS for prosecution, clarify that Special Immigrant Juvenile (SIJ) status is unavailable to UACs if they can't be reunited with either parent in the U.S, and abrogate the Flores Settlement Agreement so that all aliens, including minors, can be detained until they are removed from the United States. These actions would effectively deter the horrific trafficking of children that TVPRA has incentivized and made the U.S. government a partner in.

ADMINISTRATIVE RECOMMENDATION: UACs who are delivered to a parent or legal guardian in the United States should have their UAC status rescinded, since that status only applies to aliens without a parent or legal guardian in the United States able to take custody of them. In any case where the parent or legal guardian is illegally present, the parent or guardian and the UAC should be removed to the country of origin together. Every potential sponsor of a UAC must be thoroughly vetted, and be lawfully present in the United States.