To limit the separation of families at or near ports of entry.

IN THE SENATE OF THE UNITED STATES

Mrs. Feinstein (for herself, Mr. Schumer, Ms. Harris, Mr. Leahy, Mrs. Murray, Mr. Wyden, Mr. Durbin, Mr. Reed, Mr. Nelson, Mr. Carper, Mr. Menendez, Mr. Sanders, Mr. Casey, Ms. Klobuchar, Mrs. Shaheen, Mr. Warner, Mr. Merkley, Mr. Bennet, Mr. Blumenthal, Mr. Schatz, Mr. Murphy, Ms. Hirono, Mr. King, Mr. Kaine, Ms. Warren, Mr. Markey, Mr. Booker, Ms. Cortez Masto, and Ms. Baldwin) introduced the following bill; which was read twice and referred to the Committee on __________________

A BILL

To limit the separation of families at or near ports of entry.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Keep Families Together Act”.

SEC. 2. LIMITATION ON THE SEPARATION OF FAMILIES.

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

(1) A State court, authorized under State law, terminates the rights of a parent or legal guardian, determines that it is in the best interests of the child to be removed from his or her parent or legal guardian, in accordance with the Adoption and Safe Families Act of 1997 (Public Law 105–89), or makes any similar determination that is legally authorized under State law.

(2) An official from the State or county child welfare agency with expertise in child trauma and development makes a best interests determination that it is in the best interests of the child to be removed from his or her parent or legal guardian because the child is in danger of abuse or neglect at the hands of the parent or legal guardian, or is a danger to herself or others.

(3) The Chief Patrol Agent or the Area Port Director in their official and undelegated capacity, authorizes separation upon the recommendation by an agent or officer, based on a finding that—

(A) the child is a victim of trafficking or is at significant risk of becoming a victim of trafficking;
(B) there is a strong likelihood that the adult is not the parent or legal guardian of the child; or

(C) the child is in danger of abuse or neglect at the hands of the parent or legal guardian, or is a danger to themselves or others.

(b) PROHIBITION ON SEPARATION.—An agency may not remove 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.

(c) DOCUMENTATION REQUIRED.—The Secretary shall ensure that a separation under subsection (a)(3) is documented in writing and includes, at a minimum, the reason for such separation, together with the stated evidence for such separation.

SEC. 3. RECOMMENDATIONS FOR SEPARATION BY AGENTS OR OFFICERS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Health and Human Services, shall develop training and guidance, with an emphasis on the best interests of the child, childhood trauma, attachment, and child development, for use by the agents
and officers, in order to standardize the implementation of section 2(a)(3).

(b) ANNUAL REVIEW.—Not less frequently than annually, the Secretary of Health and Human Services shall review the guidance developed under subsection (a) and make recommendations to the Secretary to ensure such guidance is in accordance with current evidence and best practices in child welfare, child development, and childhood trauma.

(c) REQUIREMENT.—The guidance under subsection (a) shall incorporate the presumptions described in section 4.

(d) ADDITIONAL REQUIREMENTS.—

(1) EVIDENCE-BASED.—The guidance and training developed under this section shall incorporate evidence-based practices.

(2) TRAINING REQUIRED.—

(A) All agents and officers of designated agencies, upon hire, and annually thereafter, shall complete training on adherence to the guidance under this section.

(B) All Chief Patrol Agents and Area Port Directors, upon hire, and annually thereafter, shall complete—
(i) training on adherence to the guidance under this section; and
(ii) 90 minutes of child welfare practice training that is evidence-based and trauma-informed.

SEC. 4. PRESUMPTIONS.

The presumptions described in this section are the following:

(1) FAMILY UNITY.—There shall be a strong presumption in favor of family unity.

(2) SIBLINGS.—To the maximum extent practicable, the Secretary shall ensure that sibling groups remain intact.

(3) DETENTION.—In general, there is a presumption that detention is not in the best interests of families and children.

SEC. 5. REQUIRED POLICY FOR LOCATING SEPARATED CHILDREN.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall publish final public guidance that describes, with specificity, the manner in which a parent or legal guardian may locate a child who was separated from the parent or legal guardian under section 2(a). In developing the public guidance, the Secretary shall consult with the Secretary
of Health and Human Services, immigrant advocacy organizations, child welfare organizations, and State child welfare agencies.

(b) **Written Notification.**—The Secretary shall provide each parent or legal guardian who was separated, with written notice of the public guidance to locate a separated child.

(c) **Language Access.**—All guidance shall be available in English and Spanish, and at the request of the parent or legal guardian, in the language or manner that is understandable by the parent or legal guardian.

**SEC. 6. REQUIRED INFORMATION FOR SEPARATED FAMILIES.**

Not less frequently than once every month, the Secretary shall provide the parent or legal guardian of a child who was separated, the following information, at a minimum:

1. A status report on the monthly activities of the child.
2. Information about the education and health of the child, including any medical treatment provided to the child or medical treatment recommended for the child.
3. Information about changes to the child’s immigration status.
(4) Other information about the child, designed to promote and maintain family reunification, as the Secretary determines in his or her discretion.

SEC. 7. ANNUAL REPORT ON FAMILY SEPARATION.

Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to the committees of jurisdiction that describes each instance in which a child was separated from a parent or legal guardian and includes, for each such instance, the following:

(1) The relationship of the adult and the child.

(2) The age and gender of the adult and child.

(3) The length of separation.

(4) Whether the adult was charged with a crime, and if the adult was charged with a crime, the type of crime.

(5) Whether the adult made a claim for asylum, expressed a fear to return, or applied for other immigration relief.

(6) Whether the adult was prosecuted if charged with a crime and the associated outcome of such charges.

(7) The stated reason for, and evidence in support of, the separation.
(8) If the child was part of a sibling group at the time of separation, whether the sibling group has had physical contact and visitation.

(9) Whether the child was rendered an unaccompanied alien child.

(10) Other information in the Secretary’s discretion.

SEC. 8. CLARIFICATION OF PARENTAL RIGHTS.

If a child is separated from a parent or legal guardian, and a State court has not made a determination that the parental rights have been terminated, there is a presumption that—

(1) the parental rights remain intact; and

(2) the separation does not constitute an affirmative determination of abuse or neglect under Federal or State law.

SEC. 9. CLARIFICATION OF EXISTING LAW.

(a) Federal Law.—Nothing in this Act shall be interpreted to supersede or modify Federal child welfare law, where applicable, including the Adoption and Safe Families Act of 1997 (Public Law 105–89).

(b) State Law.—Nothing in this Act shall be interpreted to supersede or modify State child welfare laws where applicable.
SEC. 10. GAO REPORT ON PROSECUTION OF ASYLUM SEEKERS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the prosecution of asylum seekers during the period beginning on January 1, 2008 and ending on December 31, 2018, including—

(1) the total number of persons who claimed a fear of persecution, received a favorable credible fear determination, and were referred for prosecution;

(2) an overview and analysis of the metrics used by the Department of Homeland Security and the Department of Justice to track the number of asylum seekers referred for prosecution;

(3) the total number of asylum seekers referred for prosecution, a breakdown and description of the criminal charges filed against asylum seekers during such period, and a breakdown and description of the convictions secured;

(4) the total number of asylum seekers who were separated from their children as a result of being referred for prosecution;

(5) a breakdown of the resources spent on prosecuting asylum seekers during such period, as well as any diversion of resources required to prosecute asylum seekers, and any costs imposed on States and localities;
(6) the total number of asylum seekers who were referred for prosecution and also went through immigration proceedings; and

(7) the total number of asylum seekers referred for prosecution who were deported before going through immigration proceedings.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report that describes the results of the study conducted pursuant to subsection (a).

SEC. 11. DEFINITIONS.

In this Act:

(1) AGENT; OFFICER.—The terms “agent” and “officer” include contractors of the Federal Government.

(2) CHILD.—The term “child” means an individual who—

(A) has not reached the age of 18; and

(B) has no permanent immigration status.

(3) COMMITTEES OF JURISDICTION.—The term “committees of jurisdiction” means—

(A) the Committee on the Judiciary and the Committee on Health, Education, Labor, and Pensions of the Senate; and
(B) the Committee on the Judiciary of the House of Representatives.

(4) DANGER OF ABUSE OR NEGLECT AT THE HANDS OF THE PARENT OR LEGAL GUARDIAN.—The term “danger of abuse or neglect at the hands of the parent or legal guardian” shall not mean migrating to or crossing the United States border.

(5) DESIGNATED AGENCY.—The term “designated agency” means—

(A) the Department of Homeland Security;

(B) the Department of Justice; and

(C) the Department of Health and Human Services.

(6) FINDING.—The term “finding” means an individualized written assessment or screening by the trained agent or officer that includes a consultation with a child welfare specialist, formalized as required under section 2(c) and consistent with sections 3, 4, and 8.

(7) SECRETARY.—Unless otherwise specified, the term “Secretary” means the Secretary of Homeland Security.