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The "One Big Beautiful Bill Act's" Impacts on Unaccompanied Children: Analysis and Recommendations

The recently enacted budget reconciliation bill, referred to as the "One Big Beautiful Bill Act" (OBBB), erodes core safeguards for unaccompanied children, placing this already vulnerable population at heightened risk of trafficking, exploitation, and other danger. Among other provisions, OBBB imposes unprecedented and onerous fees that will impede and even block many unaccompanied children's pursuit of life-saving humanitarian protection in the United States. It also provides funding for summary returns of certain unaccompanied children at the border that risk sending those children directly into harm's way, as well as for intrusive physical examinations of children as young as two and three years old for "gang-related markings."

This KIND policy brief outlines these and other key OBBB provisions impacting unaccompanied children. It then provides recommendations to the Executive Branch and Congress for not only minimizing resulting harms but also restoring and expanding vital safeguards for these children while strengthening orderliness and efficiency in the U.S. immigration system.

Key Provisions Impacting Unaccompanied Children

OBBB imposes novel and unreasonable fees that will hinder and often outright bar unaccompanied children's access to humanitarian protection in the United States. These fees make children more vulnerable to traffickers and other bad actors who will exploit these fees to prey on impacted children.

These fees include, for example:

- **A new, minimum $5,000 fee for arriving at the U.S. southern border** between ports of entry in pursuit of safety, which for many unaccompanied children may constitute their sole viable avenue for seeking legal protection;
- **A new, minimum $250 fee for applying for Special Immigrant Juvenile Status,** a form of humanitarian protection for abused, abandoned, and neglected youth;
- **A new, minimum $100 fee for applying for asylum;**
- **A new, minimum fee of $100 per year while awaiting asylum** adjudication amid years-long backlogs;
- **A new, minimum $550 fee for asylum applicants to apply for an employment authorization document,** which for many tender-age and teenage children alike serves as an essential form of identification in the United States, as well as an additional $275 fee for each employment authorization document renewal.
- **A new, minimum $5,000 fee for certain individuals who are ordered removed from the United States** "in absentia"—that is, during hearings at which those individuals did not appear. Unfortunately, many if not most, unaccompanied children lack attorneys, and it is often virtually impossible for unrepresented children to understand court hearing notices and arrange the logistics necessary to appear for hearings at the proper location and time.

Any of these fees could prove prohibitive for many unaccompanied children in need of protection. The overwhelming majority of children will be unable to afford the $5,000 border arrival fee alone. It is patently unreasonable to require a 12-year-old at the border, much less a two-year-old, to somehow transact $5,000 in payment to the Department of Homeland Security (DHS) merely for the opportunity to seek safety.

Although OBBB permits a waiver process for some fees, including the border arrival and Special Immigrant Juvenile Status fees, it prohibits waivers of other fees. Fee waiver processes have historically proven both complex and restrictive, not least for unaccompanied children. This is especially the case for children without legal counsel to help them comprehend and navigate fee waiver application forms.

The bill provides funding that the Administration could attempt to use to summarily return any unaccompanied child despite trafficking and other protection concerns.

Prior to OBBB, under the bipartisan Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), DHS must transfer into Office of Refugee Resettlement (ORR) custody and place into immigration court proceedings all unaccompanied children from non-contiguous countries, ensuring robust screenings of these children by ORR child welfare experts for evidence of human trafficking as well as a fair opportunity to seek legal protection from such harm. By contrast, DHS law enforcement officials need only conduct cursory protection screenings of Mexican and Canadian unaccompanied children before they can "withdraw [their] application for admission" and DHS can summarily return them. In practice, these screenings have consistently failed to properly identify trafficking indicators and other protection needs and have resulted in the summary return of children with valid protection claims.

OBBB provides funding for, among other purposes, removal of "specified" unaccompanied children at the border who DHS determines do not face trafficking or other protection risks. DHS should interpret this provision in accordance with the TVPRA, using the funding only in connection with children from Mexico and Canada. It is possible, however, that DHS could seek to apply the provision to unaccompanied children from contiguous and non-contiguous countries alike—in other words, to administer the deficient screening process currently applied to Mexican and Canadian children to children from all countries. Doing so would strip away these children's opportunity for robust screenings in ORR custody and a fair legal process before an immigration judge.

The OBBB provides funding for Customs and Border Protection (CBP) personnel to conduct intrusive physical examinations of unaccompanied children at the border who are as young as 12 years old, and for ORR personnel to conduct such examinations of children in ORR custody who are of any age.

While characterized as a means of identifying gang insignia, these provisions of OBBB raise profound concerns over potential mistreatment and traumatization of children in U.S. government facilities, including children who fled to the United States to escape physical abuse. It is alarming that OBBB fails to enumerate any safeguards governing these examinations, or any age restrictions at all on examinations of children in ORR custody, opening the possibility that government personnel could seek to conduct strip searches of tender-age children.

OBBB provides funding to ORR to collect information on sponsors that ORR could potentially share with DHS for immigration enforcement purposes, thereby deterring sponsors from coming forward and leaving unaccompanied children to languish in government custody.

Rigorous vetting of prospective sponsors of unaccompanied children is vital to ensuring the safety and well-being of those children following their release from government custody. But sharing that information with DHS for immigration enforcement purposes has the opposite effect—it deters suitable, loving sponsors from coming forward to begin with, leading to less safe sponsor placements that expose children to heightened risk of trafficking and exploitation, and resulting in unaccompanied children's protracted government custody. Unfortunately, the Administration has already dismantled key firewalls against harmful information sharing, including by eliminating regulatory safeguards that restricted ORR from sharing information on the immigration status of children's potential sponsors. Should ORR share with DHS information collected using OBBB-provided funding for immigration enforcement purposes, children will become less safe.

Improvements to Bill Text That Will Help Protect Unaccompanied Children

Though OBBB as passed is deeply harmful to unaccompanied children, earlier versions of the bill were, in key respects, even more destructive. Members of Congress and advocates contributed to the elimination or weakening of various misguided provisions as the Act advanced through the legislative process. Salient bill text improvements that will help protect the safety and well-being of unaccompanied children include the:

- **Elimination of onerous sponsorship fees** that would have required prospective sponsors of unaccompanied children, including their own parents and legal guardians, to pay $8,500 to obtain children's release from government custody—a measure that would have shut out the vast majority of loving family members from serving as caretakers;
- **Reduction of minimum fees** for Special Immigrant Juvenile petitions for abused, abandoned, and neglected youth from $550 to $250, and for asylum applications from $1000 to $100; and
- **Requirement that DHS furnish fee waiver processes** for the border arrival and Special Immigrant Juvenile Status petition fees.

Recommendations to the Executive Branch

1. ORR should ensure full and uninterrupted implementation of its unaccompanied children's legal services program, including through robust allocation to the program of funding appropriated by Congress. OBBB's imposition of onerous new fees and a historic, complex fee waiver processes, together with other provisions that impair unaccompanied children's fair and orderly pursuit of humanitarian protection in the United States, make legal representation of these children more vital than ever as a matter of both due process and government efficiency. Attorneys will also help ensure that children appear for their immigration court hearings, limiting in absentia decisions.

2. DHS and the Department of Justice (DOJ) should establish unaccompanied child-specific fee waiver processes that properly account for this population's vulnerabilities. These processes would conserve government resources by streamlining the unique operational challenges of adjudicating fee waivers for children who seek protection alone and who often have little or no financial recourse. The determination that a minor is an unaccompanied child should itself constitute the primary criterion for fee waiver approval. As appropriate, officials should auto-initiate these fee-waiver processes in recognition of the inability of many unaccompanied children to comprehend and navigate those processes on their own. Among other contexts, a child-appropriate fee waiver process is crucial upon encountering unaccompanied children at the U.S. southern border who may be subject to $5,000 fees at the time of encounter.

3. In the rare case that unaccompanied children are deemed ineligible for available fee waivers, DHS and DOJ should set and maintain fees for unaccompanied children at no higher than the minimum levels provided for in OBBB to best ensure that these children receive a meaningful opportunity to seek relief for which they may be legally eligible.

4. DHS and DOJ should immediately and clearly communicate to the public all current fee rates as well as fee collection and waiver mechanisms.

5. DDHS should interpret subsection 10051(8) of OBBB, which provides funding for the removal of "specified" unaccompanied children at the U.S. southern border, to apply exclusively to children who are from Mexico and Canada. This interpretation would be consistent with longstanding TVPRA requirements and would ensure that most unaccompanied children at the border are transferred into child-appropriate shelters where they can receive robust protection screenings and can present their protection claims to an immigration judge. Should DHS nonetheless apply this subsection to unaccompanied children from all countries, it is critical that it administer child- appropriate and thorough screenings at the border to identify trafficking indicators and other protection concerns, thereby helping prevent the summary return of unaccompanied children to human traffickers and other bad actors. DHS Office of Health Security Child Well-Being Specialists should advise CBP agents and officers on performing these screenings in a child-appropriate and trauma-informed manner and, when practicable, conduct the screenings directly. For all children subject to these "specified" unaccompanied child screenings, DHS should uphold the TVPRA requirement that DHS determine that a "child is able to make an independent decision" not to seek protection in the United States before DHS summarily returns that child. These children should uniformly have access to counsel as well as child advocates as appropriate during border screenings.

6. ORR and DHS should ensure that any information on sponsors, sponsor household members, or unaccompanied children collected by ORR using the funding provided in section 87001 of OBBB not be used to target those individuals for removal or other immigration enforcement purposes. ORR information sharing with DHS should be narrowly circumscribed and governed by children's best interests.

7. Any strip searches or other intrusive physical examinations of unaccompanied children at the U.S. southern border and/or in ORR custody performed using funding provided under OBBB sections 87001 and/or 100051 should be:

    - Confined only to exceptional and clearly defined circumstances;
    - Governed by guidance developed in coordination with the DHS Child Well-Being Program, ORR child welfare professionals, and other child welfare experts, and that reflects child-appropriate, trauma-informed best practices; and

- Feature necessary safeguards, including noticed, robust complaint and redress mechanisms to help prevent, combat, and ensure accountability for any potential abuse and/or other mistreatment of unaccompanied children.

8 The federal government should ensure the safe return and reintegration of any unaccompanied children who are removed from the United States and/or who choose to depart to their countries of origin following a full and fair legal process, including by ensuring that such children:

- Have received a full legal screening by a licensed attorney prior to their return;
- Receive reintegration services in their countries of origin, such as educational and job training assistance, to advance children's successful and enduring reintegration and to help prevent the need for remigration.

Recommendations to Congress

1 As part of its Fiscal Year 2026 annual appropriations package, Congress should:

- Appropriate robust funding for, and expressly direct continued and full implementation of, ORR's unaccompanied children's legal services program;
- Direct DHS to exempt unaccompanied children from the $5,000 border apprehension fee to help ensure these children's access to protection and to prevent human traffickers from exploiting that fee; and
- Maintain current funding levels for the DHS Child Well-Being Program, whose Child Well-Being Specialists should play a central role in upholding appropriate treatment of unaccompanied children at the U.S. southern border.

2 Congress should request a U.S. Government and Accountability Office (GAO) report that assesses the impact of reconciliation-imposed fees on unaccompanied children's access to protection in the United States, including as regards the fairness and efficiency of these children's DHS and immigration court adjudications.

3 Congress should conduct vigorous oversight of the implementation and consequences of OBBB provisions impacting unaccompanied children, including by:

- Requesting copies of any and all policies, procedures, guidance, memoranda, training materials, and other documents relating to implementation and outcomes of such provisions as well as full hearings/briefings from the Administration on the same;
- Seeking regularly updated statistics on:
  - Unaccompanied child fee waiver application adjudications, including applications received, approved, denied, and pending, broken down by fee/form type, age, gender, and country of origin;
  - The number of unaccompanied children removed or otherwise returned from the United States subsequent to fee waiver denials, broken down by fee/form type, age, gender, country of origin, and country of return;
  - The number, if any, of unaccompanied children apprehended at the border who are from non-contiguous countries and who are returned to their countries of origin or third countries without being transferred into ORR custody and receiving the opportunity to present their protection claims to an immigration judge;
  - The number, if any, of strip searches and/or other intrusive physical examinations conducted of unaccompanied children at the border and in ORR custody, broken down by age, gender, country of origin, location, and performing agency; and

- The number of immigration enforcement actions, if any, taken by DHS based on information shared by ORR, as disaggregated by: (1) whether the action comprised (a) placement into detention, (b) referral for a decision whether to initiate removal proceedings, (c) initiation of removal proceedings, (d) removal, or (e) a different immigration enforcement action; and (2) whether the action was taken against: (a) an unaccompanied child, (b) a sponsor, (c) a prospective sponsor, or (d) a household member or alternate caregiver.

4 Congress should pass legislation that not only restores key safeguards for unaccompanied children but also expands upon those safeguards to deliver a U.S. federal framework that fully upholds the safety of and due process for unaccompanied children while also advancing the orderliness and efficiency of the U.S. immigration system. Key measures towards this end include:

- Authorizing legislation that would codify exemptions for unaccompanied children from onerous fees required under OBBB;
- The Fair Day in Court for Kids Act, led by Senator Hirono, which would guarantee counsel for all unaccompanied children; and
- The Children's Safe Welcome Act, led by Senator Merkley and Representative Sydney Kamlager-Dove, which would strengthen safeguards for unaccompanied children across the U.S. immigration system.

The budget reconciliation bill marks a profound setback for the safety and well-being of unaccompanied children. But with the appropriate administrative and congressional commitment and action, the U.S. federal protection system for these children can and will recover and ultimately become stronger than ever.