

The Trump Administration Proposes to Gut Protections for Migrant Children;  
New Proposed Rule would Expand and Prolong Detention for Families  
and Children

**Public Comments are Due November 6.**

[Groups investigating conditions](#) in two large family detention centers in 2007 wrote this in a later updated report:

*“Family detention cannot be carried out humanely...Detention traumatizes families, undermines the basic family structure, and has a devastating psycho-social impact.”*

You joined with millions in outrage over the Trump Administration’s cruel policy of tearing children from their parents as they tried to cross the border to safety. That policy has been halted, by the public outrage and by court decisions. Now the Administration wants to detain thousands of families together while their immigration cases are decided – a process that could go on for years. Further, the new proposed rule would make it harder to reunite children with family members, and therefore keep children in custody longer – a new way to revive the abhorrent separation of children from their families.

**Please help to oppose this inhumane plan by submitting a comment.** Below you will find background information, [a link](#) to template comments, and [a link](#) for posting comments online.

**Why your comments matter:** The Departments of Homeland Security (DHS) and Health and Human Services (HHS) are obliged by law to take public comments into account. A large number of comments indicate widespread concern. If you represent an organization with related expertise, or are a professional such as a physician or nurse, educator, social worker, etc., or can describe the impact you would expect family detention might have on your community, your background is important. And bear in mind: comments are not just reviewed by the Trump Administration. They are also read by judges who will have to decide whether the Administration is exceeding its authority. Recently, a judge ruling against the Trump Administration’s approval of Medicaid work requirements in Kentucky cited public comments as contributing to his decision. So it’s really worth doing!

**What you’ll need to do:** Your comments have to be at least in part unique. So we’re providing you with key language you can incorporate, but you will need to describe your expertise or experience and the organization you represent, if you’re speaking for a group. We will also outline a number of points you may choose to add, for more variety. The thinking is that if at least 30 percent of your comment is unique to you, DHS and HHS cannot lump your comment in with other identical ones without separate review.

**Background:** (We are drawing upon the official Notice of Proposed Rule-Making ([NPRM](#)); very helpful materials compiled by the [National Immigrant Justice Center](#), a HEARTLAND ALLIANCE Program; [Families Belong Together](#); and other sources. Thanks for their great work!)

The Trump Administration wants to end protections initially agreed upon in a court settlement in 1996, and updated multiple times since. Under the **Flores Settlement Agreement (FSA)**, apprehended immigrant children, if they are not with a parent, must be transferred as quickly as possible from DHS to HHS oversight, to be housed in the least restrictive setting possible, in state-licensed facilities, and quickly placed with family members or others in communities. Because the Flores agreement recognized that detaining children is harmful, with or without their families, it limited the length of stay in secure facilities run by DHS to 20 days.

The Flores Settlement Agreement is to be terminated 45 days after the publication of final rules implementing the Agreement's provisions. So the Administration has published its proposed rule, but instead of implementing all the Flores protections for migrant children and families, it would substantially weaken them. The rule would allow family detentions to go on for an indefinite period, and would allow families to be held in facilities licensed by DHS, not states. It would allow protections for children to be suspended in case of "emergency," and would restrict release options. It would also make it more difficult to reunite children with parents who have been separately detained, and would restrict release of children to other family members when parents are not available.

The Trump Administration is proposing to hold migrant families with children for extended periods for the same reason it took children from parents and detained them separately: to discourage people from seeking refuge in this country. Violent and impoverished conditions in Honduras, Guatemala, and El Salvador have impelled many people to flee. Solutions are complex, but instead of focusing on initiatives to increase safety and opportunity in these countries, the Trump Administration has threatened to cut off the relatively small amounts of aid we do provide.

People seeking asylum have a right to enter the U.S. and present their case in immigration court. Families can be released to communities pending court action, and in the past programs have been successful in prompting families to appear in court at far lower cost than by locking them up, at the same time avoiding the long-lasting trauma to children caused by detention. Migrant families released to [the Family Case Management Program](#), which provided counsel to those families, had an almost perfect record in attending their required court sessions. The Trump Administration canceled that program and now wants to ramp up family detention.

***Key points for your comments:***

- **Children will be harmed if placed in "family jails."** There is extensive evidence from many investigations showing injury, illness, and emotional trauma among detained children.
- **Rapid expansion of family detention, with licensing and inspection of facilities conducted by DHS rather than independent state authorities, will invite abuses.**
- **Contrary to the Flores Settlement Agreement, the rule would make it harder to release children to family members in the community, forcing them to remain in detention longer.**

- **The proposed rule would expand the use of a designated “emergency” to suspend certain standards for care in custody or to delay release from detention.**
- **Family detention is far more costly than release to communities.**

#### **How to Submit Comments:**

You should draft your comments (you can use our [sample text](#) as a starting place) and submit them online as follows:

- Go to <https://www.regulations.gov>
- In the Search box, enter ICEB-2018-0002
- Click on “Comment Now”
- Paste your comments into the box provided
- Upload attachments (you can also upload your comments on organizational letterhead, or submit relevant reports or other documents)
- Type in your first and last name (required for submission)
- Click on “Continue”

For Sample Comment Text, click [here](#).