

Accountability in Immigration Detention Act of 2014: Section by Section

Sec. 1 SHORT TITLE

Sec. 2 MINIMUM DETENTION CENTER STANDARDS

Establishes minimum detention requirements requiring the Secretary of Homeland Security to ensure that all persons detained are treated humanely and that the following minimum requirements are met:

Fair and humane treatment – Detainees shall not be subject to inhumane treatment.

Detention Facility Standards- Facilities shall comply with the Prison Rape Elimination Act (PREA).

Limitations on solitary confinement – any use of solitary confinement shall be reviewed for any placement lasting at least 3 days and shall be reviewed weekly, at a minimum by the field office director.

Investigation of grievances – No detainee shall be retaliated against for filing a complaint or grievance or for organizing peaceful demonstrations.

Access to telephones – The rates charged for telephone calls shall be reasonable and shall not significantly impair detainee’s access to telephones.

Location of facilities – All new detention facilities shall be located within 50 miles of a community in which there is a demonstrated capacity to provide free or low cost legal representation by nonprofit legal aid or pro bono attorneys with expertise in immigration laws.

Procedures governing transfer of detainees – Procedures governing the transfer of detainees shall take into account, the detainee’s access to legal representation, proximity of the facility to the venue of asylum or removal proceedings, proximity to scheduled bond hearings, and proximity to family members.

Interpretation and translation capabilities – Detention facilities shall employ staff, including medical personnel, who, to the extent practicable are qualified in the languages represented in the population of detainees at a detention facility.

Recreational programs and activities – All detainees, including those placed in administrative or disciplinary segregation, shall be afforded daily access to indoor and outdoor recreational programs and activities.

Vulnerable Populations – Conditions of detention shall accommodate the unique needs of asylum seekers, victims of torture and trafficking, families with children, people with religious, spiritual, or cultural considerations, pregnant women, nursing mothers, individuals older than 65, and other vulnerable populations.

Quality of Medical Care – All facilities shall maintain accreditation by the National Commission on Correctional Health Care and the Secretary shall ensure that prompt and adequate medical care is provided at no cost to detainees.

Voluntary Work – Detainees shall not be the primary source of labor for the essential function required to operate detention facilities. All work opportunities shall comply with OSHA. The rate of pay shall be

reviewed by the Secretary on an annual basis. The Secretary shall make publically available a report on the rate of pay, job descriptions, and full time equivalents for employed detainees compared to full time staff in each detention facility.

Legal Orientation Programs - The Attorney General in consultation with the Secretary shall ensure all detained aliens in immigration receive legal orientation through the Legal Orientation Program administered by the Executive Office for Immigration Review.

Legal Access – All detainees shall have access to a properly equipped law library, legal materials, and equipment to facilitate the preparation of documents.

Requires the Secretary to prescribe regulations that meet the minimum requirements and establishes a negotiated rulemaking committee to include relevant agencies of the Department, the Office of Refugee Resettlement at the Department of Health and Human Services, representatives of State and local governments, the United States Commission on International Religious Freedom, nongovernmental organizations (NGO) with expertise working on behalf of aliens in detention facilities, NGOs with expertise advocating for asylum seekers, labor organizations that represent employees who work at detention facilities, accrediting bodies for medical care in settings comparable to detention facilities, one person each appointed by the House majority leader, House minority leader, Senate majority leader, and Senate minority leader.

A final rule must be promulgated no later than 1 year and 6 months after the date of enactment of this act.

Sec. 3 ALTERNATIVES TO DETENTION

Alternatives to Detention (ATD) are the community-based supervision strategies that make up a significant portion of less restrictive conditions of control.

The Secretary shall establish secure ATD that incorporate case management and may contract with community based NGOs to operate community-based supervision programs. Secure alternatives shall not be used when release on bond is determined to be a sufficient measure to ensure appearance at immigration proceedings and public safety. Vulnerable populations shall be considered for placement in alternatives to detention and shall not be held in detention facilities if their needs cannot be adequately met, except under exceptional circumstances.

Sec. 4 DETENTION CAPACITY

Notwithstanding any other provision of law, the number of detention beds maintained shall be determined by the Secretary of Homeland Security and shall be based on detention needs. It is the sense of Congress that Appropriations Acts shall not mandate maintenance of a minimum number of detention beds.

Sec. 5 OVERSIGHT OF DETENTION FACILITIES

All detention facilities shall be inspected by DHS not less than annually for compliance with the detention standards promulgated under section 2. In addition to annual inspections, DHS shall conduct unannounced inspections and all contracts, memoranda of agreement, financial records, etc. shall be considered records for purposes of the Freedom of Information Act.

Compliance Mechanisms

All new agreements shall comply with the rules promulgated by the DHS and financial penalties for failure to comply shall be a material term in any new contract.

Not later than 180 days after the promulgation of the rule, the Secretary shall secure a modification incorporating these rules and penalties for any existing contracts or agreements that will not be renegotiated, renewed or otherwise modified.

Unless the Secretary provides a reasonable extension to a specific detention facility that is negotiating in good faith, contracts or agreements with detention facilities that are not modified within 180 days of the promulgation of the rule, these contracts will be cancelled.

All contracts, memoranda of agreement, evaluations, and reviews regarding a detention facility shall be publicly available.

Financial Penalties

The Secretary shall impose meaningful financial penalties upon facilities that fail to comply with applicable detention standards issued by the Secretary and other applicable regulations.

The financial penalties shall be imposed 120 days after a facility fails to achieve an adequate or the equivalent median score in any performance evaluation.

The financial penalty may be waived if the facility corrects the deficiencies and receives an adequate score within 90 days.

In case of persistent and substantial noncompliance, including inadequate or less than the equivalent median score in two consecutive inspections, the Secretary shall terminate those contracts with 60 days. In the case where facilities are operated by DHS, such facilities shall close within 90 days.

Reporting Requirements

No later than June 30 of each year, the Secretary shall submit to the Committee on the Judiciary of both House and Senate a report on inspection and oversight activities of detention facilities.