



Senators Feinstein and Brownback Call for Vote on Bill to Improve  
Conditions for Children in Immigration Custody  
November 17, 2005

**Washington, DC** – U.S. Senators Dianne Feinstein (D-Calif.) and Sam Brownback (R-Kan.) today urged Majority Leader Bill Frist (R-Tenn.) to call a vote on legislation to reform the treatment of unaccompanied alien minors who are in federal immigration custody before the Senate adjourns for the year. The bill was approved by the Senate Judiciary Committee in April, and previously had passed the Senate by unanimous consent in the 108<sup>th</sup> Congress.

**“The number of unaccompanied children detained in the United States has more than doubled over the past seven years. While it would not expand immigration relief or benefits for the nearly 6,000 unaccompanied children apprehended each year by federal immigration officials, this bill addresses how these children will be treated while awaiting a final decision on their immigration status,”** Senator Feinstein said. **“It is important that we give the Senate the opportunity to vote on this bill before the close of session, and ensure that these children are treated compassionately as children, and not as adults or criminals.”**

**“Quickly moving this bill forward is the least we can do to ensure these children are not treated poorly because of bureaucratic obstacles,”** Senator Brownback added. **“This bill enjoys bipartisan support because it addresses problems with the federal government’s handling of unattended foreign children who arrive in the United States.”**

### Background

In 2002, as a result of Senator Feinstein’s efforts, Congress transferred the authority over the care and custody of unaccompanied alien children from the Immigration and Naturalization Service (INS) to the Department of Health and Human Services’ Office of Refugee Resettlement (ORR). This transfer took effect on March 1, 2003, but, the transfer of authority to ORR, by itself, is not enough to ensure that these children are properly treated and protected.

The “Unaccompanied Alien Child Protection Act” would:

- Provide guidance to the Department of Homeland Security, the Office of Refugee Resettlement, the Justice Department, and the State Department on how to care for and treat unaccompanied alien children when they encounter them.

- Establish procedures to ensure that children who pose a national security risk or who have committed serious crimes remain under the jurisdiction of Department of Homeland Security. This will facilitate their deportation if necessary and also ensure they are detained in an appropriate setting.
- Set procedures to ensure that unaccompanied alien children from Mexico or Canada, who do not have asylum claims, are safely returned to their countries without delay.
- Establish minimum standards for the custody (and, when appropriate, detention) of unaccompanied alien children.
- Require, where appropriate, family reunification or other appropriate placement for unaccompanied alien children.
- Provide the Director of the Office of Refugee Resettlement with discretion to engage the services of child welfare professionals to act as guardians ad litem and make recommendations regarding custody, detention, release and removal, based upon the best interests of each child.
- Establish a mechanism and infrastructure for providing pro bono legal representation for unaccompanied alien children in their immigration matters.
- Ensure that a child's age is more accurately determined through the use of the child's attestation as to his or her age and also through the use of radiographs.

However, the legislation would not provide any new immigration benefit beyond the current scope of U.S. immigration law to these children.

Following is a text of the letter sent by Senators Feinstein and Brownback to Majority Leader Frist:

November 15, 2005

The Honorable Bill Frist  
United States Senate, S-230  
Washington, DC 20510

Dear Majority Leader Frist:

We ask that you call up for consideration and a vote prior to adjournment this year the "Unaccompanied Alien Child Protection Act." S. 119 was favorably recommended by the Judiciary Committee to the full Senate on April 14, 2005.

Debate and a vote on this bill could be achieved in no more than 30 minutes, with 15 minutes equally divided between both sides. We believe this to be the case because this is the

same bill which during the 108<sup>th</sup> Congress passed the Senate by unanimous consent.

The "Unaccompanied Alien Child Protection Act" is a bill which would clarify and streamline current procedures for handling unaccompanied alien children in our system. Something which wasn't done after responsibility for the care of these children was transferred from the now defunct Immigration and Naturalization Services to the Department of Health and Human Services pursuant to section 462 of the Homeland Security Act of 2002.

Specifically:

- This bill would not expand any rights to asylum or any other immigration benefits beyond the current scope of U.S. immigration law.
- This bill would ensure the quick deportation of unaccompanied alien children from Mexico and Canada, or children who are a national security threat to this country.

For the sake of these vulnerable children we need to act quickly. I appreciate your consideration of this legislation and ask that you call up S. 119 for a vote prior to adjournment this year.

Best regards.

Sincerely,

Dianne Feinstein  
United States Senator

Sam Brownback  
United States Senator

cc: Senator Harry Reid