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November 15, 2018

The Honorable Alex M. Azar II
Secretary
U.S. Department of Health and Human Services
330 C Street, SW
Washington, DC 20201

The Honorable Kirstjen M. Nielsen
Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue, NW
Washington, DC 20528

Dear Secretary Azar and Secretary Nielsen,

We, the undersigned Attorneys General, write with great concern regarding new and onerous requirements that have delayed and, in many instances, prevented the placement of unaccompanied migrant children with family members and other appropriate sponsors in our states and across the country. Specifically, we are alarmed by the consequences of a policy requiring the collection of biometric and background information from *all* household members in prospective sponsors' homes and the automatic sharing of that information with Immigration and Customs Enforcement (ICE). This policy causes unnecessary delays and imposes unjustified burdens in the sponsorship process. Additionally, the policy leaves many prospective sponsors—including some who are parents of the children in question—with the untenable choice of either leaving children to languish in federal custody or coming forward and exposing themselves or loved ones to immigration enforcement. The result is that migrant children, many of them fleeing violence and persecution in their home countries, suffer prolonged detention instead of being reunited with family members or other appropriate adults who can provide them with loving homes. We strongly urge you to immediately reverse this policy.

Earlier this year, the Office of Refugee Resettlement (ORR), under a Memorandum of Agreement (MOA) with ICE and Customs and Border Protection (CBP), began to impose

onerous requirements on prospective sponsors of unaccompanied migrant children. Among the consequential changes were requirements that all adults in such homes submit to fingerprinting and a background check and that ORR share that information with ICE. We appreciate the need to vet sponsors to ensure the safety and wellbeing of children in federal custody, but these new requirements were put in place with little input or evidence that they would make children safer. The immigration-related arrests of dozens of people whose information was collected exposes the true motive for collecting and sharing this information—to detain and deport prospective sponsors rather than find loving homes for children. In the Notice of Modified System of Records which formally implements parts of the MOA, the Department of Homeland Security made this motive explicit by stating that a purpose of the new policy is to “identify and arrest” prospective sponsors “who may be subject to removal.” Privacy Act of 1974, System of Records, 83 Fed. Reg. 20844, 20846 (May 8, 2018).

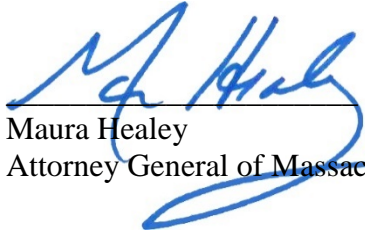
In practice, this policy has only caused traumatized children to suffer further harm through unnecessary and prolonged federal custody. In cases where prospective sponsors come forward, they must navigate costly bureaucratic hurdles that have delayed the process of releasing children from custody. In other cases, potential sponsors are unwilling to come forward at all, often fearing enforcement action and removal from the country for themselves or their household members. All the while, children wait in detention, without the loving care of their families and with nothing but uncertainty about their futures. In fact, compared with a year ago, children wait almost twice as long to be released from custody, and the number of migrant children in federal custody has ballooned fivefold to more than 13,000. Facing capacity issues of its own making, the federal government is now moving children from overburdened shelters, where care was already questionable, to a makeshift “tent city” near the Tornillo Port of Entry in Texas. Described as prison-camp like, the Tornillo facility isolates children in the middle of the desert in 20-person tents with military-style bunk beds. According to ORR’s own statistics, this unlicensed facility now houses 1,500 children and could grow to up to 3,800 children. Policies that unnecessarily burden sponsorship will only increase reliance on this facility or others that are similarly unsuitable for providing children with the care that they need or ensuring their expeditious release into the community.

Researchers and professionals in the fields of child and adolescent development, including the American Academy of Pediatrics, have sounded the alarm on the traumatic impact of prolonged detention and family separation on migrant children, with effects ranging from anxiety and depression to suicidal ideation and complex behavioral problems. In our states collectively, thousands of children have arrived bearing the scars of detention and separation from loved ones. Not only is prolonged federal custody harmful, it is in direct contradiction of the federal government’s legal obligations to release migrant children to their family members as quickly as possible under the terms of the 1997 settlement agreement in *Flores v. Reno*, No. 85-cv-4544 (C.D. Cal. Jan. 17, 1997), and the Trafficking Victims Protection Reauthorization Act. In sum, with this policy, the federal government is not living up to its legal obligation, and basic moral duty, to provide for the best interests of the vulnerable children in its custody.

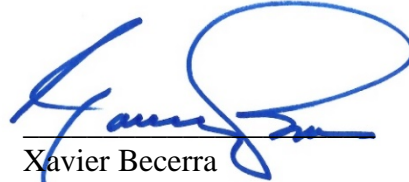
As Attorneys General in states where sponsors have welcomed—and when federal policies allow, will continue to welcome—migrant children, we are concerned for these children,

their loved ones, and the systems in our states needed to support them, and we urge you to rescind this harmful and unnecessary policy without delay.

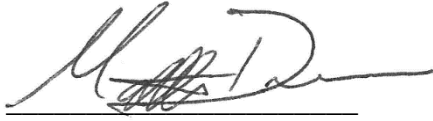
Sincerely,



Maura Healey
Attorney General of Massachusetts



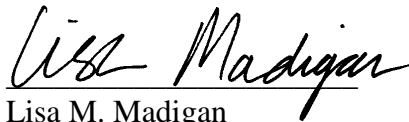
Xavier Becerra
Attorney General of California



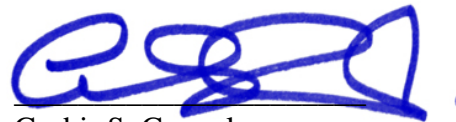
Matthew P. Denn
Attorney General of Delaware



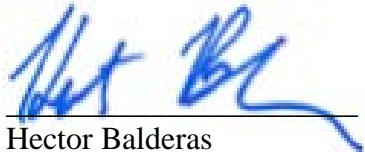
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Attorney General of the District of Columbia



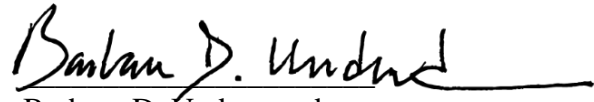
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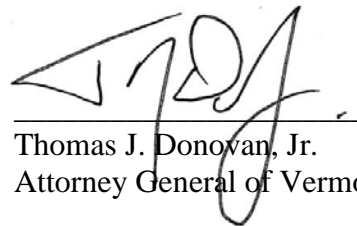
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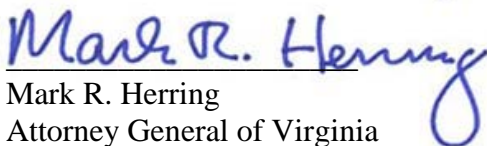
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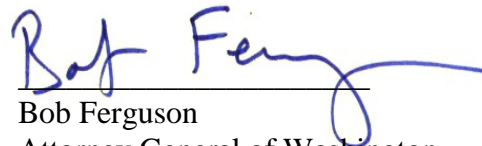
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