No. 25-6308

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JENNY LISETTE FLORES, et al.,

Plaintiffs-Appellees,

v.

PAMELA BONDI, ATTORNEY GENERAL OF THE UNITED STATES, et al.,

Defendants-Appellants.

On Appeal from the United States District Court
for the Central District of California
No. 2:85-cv-04544-DMG-AGR
The Hon. Judge Dolly M. Gee Presiding

BRIEF OF *AMICI CURIAE* THE AMERICAN ACADEMY OF PEDIATRICS, AMERICAN ACADEMY OF PEDIATRICS CALIFORNIA CHAPTER, AMERICAN ACADEMY OF PEDIATRICS TEXAS CHAPTER, AMERICAN COLLEGE OF PHYSICIANS, AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS, AMERICAN PEDIATRIC SOCIETY, AMERICAN PROFESSIONAL SOCIETY ON THE ABUSE OF CHILDREN, ASSOCIATION OF MEDICAL SCHOOL PEDIATRIC DEPARTMENT CHAIRS, CALIFORNIA MEDICAL ASSOCIATION, FIRST FOCUS ON CHILDREN, NATIONAL ASSOCIATION OF PEDIATRIC NURSE PRACTITIONERS, NATIONAL ASSOCIATION OF SOCIAL WORKERS, NATIONAL EDUCATION ASSOCIATION, PHYSICIANS FOR HUMAN RIGHTS, * IN SUPPORT OF PLAINTIFFS-APPELLEES AND URGING AFFIRMANCE.

ARENTFOX SCHIFF LLP

James H. Hulme (Counsel of Record)
1717 K Street, NW
Washington, DC 20006
Telephone: 202.857.6144

David L. Dubrow
1301 Avenue of the Americas,
42nd Floor
New York, New York 10019
Telephone: 212.484.3900

Justin A. Goldberg
555 S Flower Street
43rd Floor
Los Angeles, California 90071
Telephone: 213.443.7662

Cissy Jackson
1717 K Street, NW
Washington, DC 20006
Telephone: 202.857.6253

Elise L. Bonine
44 Montgomery Street
38th Floor
San Francisco, California 94104
Telephone: 415.757.5511

Nicholas Kianpoor
44 Montgomery Street
38th Floor
San Francisco, California 94104
Telephone: 415.757.5502

Sydni Green
44 Montgomery Street
38th Floor
San Francisco, California 94104
Telephone: 415.757.7955

*** SAFE & SOUND, SOCIETY FOR ADOLESCENT HEALTH AND MEDICINE, AND ZERO TO THREE**

DISCLOSURE STATEMENT

In accordance with Federal Rule of Appellate Procedure 26.1 and 29(a)(4)(A), *amici curiae* state that there are no parent corporations or publicly-held corporations that own 10% or more of the stock in any of the *amici*.

AMICUS BRIEF BY CONSENT

All parties to this appeal have consented to the filing of this amicus brief.

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CONCISE STATEMENT OF THE IDENTITY OF THE AMICI CURIAE, THEIR INTEREST IN THE CASE, AND THE SOURCE OF THEIR AUTHORITY TO FILE

The *amici curiae* listed in Exhibit 1 are organizations committed to the care, health, education, well-being, and welfare of children or that focus on advancing policy solutions for children and families or focus on the general welfare of children. Each of the *amici* have been authorized to join this brief under their governing documents. Full statements on each of the *amici* are included as Exhibit 1 to this brief.

RULE 29 STATEMENT REGARDING PREPARATION OF THE AMICUS BRIEF

Counsel for a party did not author this brief in whole or in part, nor did a party or a party's counsel contribute money that was intended to fund preparing or submitting this brief. No person — other than *amici*, their members, or their counsel — contributed money that was intended to fund preparing or submitting this brief.

ARGUMENT

I. INTRODUCTION

This appeal continues the Administration's effort to abandon the protections guaranteed to immigrant children under the Flores Settlement Agreement ("FSA"). *Flores v. Reno*, Case No. CV 85-4544-RJK(Px) (C.D. Cal. filed Jan. 17, 1997). Appellants reject the advice of their own experts, ignore decades of empirical

research, and disregard twenty years of precedent in their attempt to terminate the FSA. Instead, the Administration insists on implementing policies that will undoubtedly harm the thousands of children in its custody.

The purpose of the FSA is to protect immigrant children from harm. Indeed, the FSA explicitly states that Appellants are required to treat "all [children] in [their] custody with dignity, respect, and special concern for their particular vulnerability as [children]," FSA, ¶ 11, and that detained children should be placed "in the least restrictive setting appropriate to the [child's] age and special needs…." *Id.* The FSA sets forth licensing requirements and standards that must be met if immigrant children are placed in a "licensed program." FSA, Ex. 1. The FSA also provides that an immigrant child should be released without unreasonable delay. FSA, ¶¶ 14, 18. This requirement reflects empirical evidence that no amount of detention is safe for children and shortened detention periods reduce the harmful effects of immigration detention.[1]

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[1] Julie M. Linton, Marsha Griffin, Alan J. Shapiro, *Detention of Immigrant Children*, American Academy of Pediatrics at 6 (2017), reaffirmed in 2022, http://pediatrics.aappublications.org/content/early/2017/03/09/peds.2017-0483; Sidamon-Eristoff, AE, Cohodes, EM, Gee DG, Peña, CJ, *Trauma exposure and mental health outcomes among central American and Mexican children held in immigration detention at the United States–Mexico border*, Dev Psychobiology e22227 (2022); S. Sridhar et al., *Approaching Pediatric Mental Health Screening and Care in Immigration Detention*, Lancet Reg'l Health – Americas at 1 (2025), https://www.thelancet.com/journals/lanam/article/PIIS2667-193X(25)00009-2/fulltext.

Rather than implementing the humane approach mandated by the FSA, the Administration's policies would confine displaced and vulnerable children for indefinite periods of time in "secure facilities"—a euphemism for a prison-like structure.[2] The Administration contends that the FSA may be terminated because its discretionary policy guides implement the standards outlined in the FSA. This argument ignores nearly thirty years of agreement between the Parties that substantial compliance with the FSA may only be achieved through the Administrative Procedure Act ("APA")'s rulemaking procedures – a conclusion repeatedly reinforced by this Court and the District Court.

Indeed, the present situation under the FSA is barely tolerable for children, even with its protections in place. Terminating the FSA in its entirety will result in more children being detained for longer periods of time under materially worse conditions. The motion to terminate is not in the best interests of these children.

II. THE DISTRICT COURT CORRECTLY CONCLUDED THAT DHS'S 2019 REGULATIONS DO NOT SUBSTANTIALLY COMPLY WITH THE FSA.

The District Court accurately found that "DHS's 2019 Regulations were inconsistent with the FSA when the Court first considered them... [and] they remain inconsistent now." *Flores v. Bondi*, Case No. CV 85-4544-DMG, 2025 WL

[2] *See* Brennan Ctr. for Justice, *The Detention of Families Facing Deportation Proceedings* (July 16, 2025), https://www.brennancenter.org/our-work/research-reports/detention-families-facing-deportation-proceedings.

2633183, at *7 (C.D. Cal. Aug. 15, 2025). In 2019, the District Court held that "DHS's New Regulations on the parole of class members, the definition of licensed facilities, and the definition of non-secure are irreconcilable with Paragraphs 6, 14, 18, and 19 of the *Flores* Agreement, and cannot be reasonably characterized as regulations 'implementing this Agreement.'" *Flores v. Bondi*, No. CV 85-4544-DMG, 2025 WL 2633183, at *11 (C.D. Cal. Aug. 15, 2025) (quoting *Flores v. Barr*, 407 F. Supp. 3d 909 (C.D. Cal. 2019)). This Court has also considered and rejected Appellants' contention that the 2019 Regulations substantially comply with the FSA, *Flores v. Rosen*, 984 F.3d 720, 744 (9th Cir. 2020), and when considering Appellants' recent motion to terminate the FSA in its entirety, the District Court correctly found that Appellants have not promulgated any amendments or supplemental regulations to address the "significant inconsistencies" between the 2019 Regulations and the FSA. *Flores v. Bondi*, No. CV 85-4544-DMG, 2025 WL 2633183, at *7 (C.D. Cal. Aug. 15, 2025).

Finally, the District Court correctly pointed out that the FSA terminates only after Appellants implement its requirements through binding regulations pursuant to APA rulemaking procedures. As the District Court has repeatedly explained, "regardless of the number of policies in place at USBP, CBP, and ICE facilities, 'the mere existence of those policies tells the Court nothing about whether those policies are actually implemented.'" *Flores v. Bondi*, No. CV 85-4544-DMG, 2025 WL

2633183, at *6 (C.D. Cal. Aug. 15, 2025) (quoting *Flores v. Sessions*, 394 F. Supp. 3d 1041, 1054 (C.D. Cal. 2017)). Accordingly, the District Court was eminently correct in rejecting Appellants' renewed efforts to bypass the clear terms of the FSA, and its decision should be upheld by this Court.

III. THE DISTRICT COURT CORRECTLY HELD THAT HHS IS NOT IN SUBSTANTIAL COMPLIANCE WITH THE FSA.

The District Court properly found that "neither DHS nor HHS is yet in sufficiently substantial compliance to warrant termination of the FSA under Rule 60(b)(5)." *Flores v. Bondi*, No. CV 85-4544-DMG, 2025 WL 2633183, at *8 (C.D. Cal. Aug. 15, 2025).

The District Court correctly rejected Appellants' contention that the Office of Refugee Resettlement ("ORR")'s discretionary policy guides have brought HHS into substantial compliance with the FSA, explaining that "throughout the entire history of this case, the Parties have understood that 'it is necessary for the New Regulations to follow [APA] rulemaking procedures.'" *Id.* at *8. This rulemaking requirement is not an arbitrary intervention by the District Court but reflects a settlement that the Appellants "willingly negotiated and bound themselves to." *Flores v. Bondi*, No. CV 85-4544-DMG, 2025 WL 2633183, at *10 (C.D. Cal. Aug. 15, 2025). The FSA explicitly requires that Appellants "initiate action to publish the relevant and substantive terms of this Agreement as a service regulation." FSA ¶ 9.

Appellants' conduct has been consistent with this understanding. As the District Court pointed out, "every time Appellants have attempted to promulgate a rule incorporating the FSA—in 1998, 2019, and 2024—they have always gone through the traditional APA rulemaking process." *Flores v. Bondi*, No. CV 85-4544-DMG, 2025 WL 2633183, at *8 (C.D. Cal. Aug. 15, 2025). Thus, ORR's UAC Policy Guide is "insufficient to warrant termination of the FSA" because "[t]ermination of the FSA cannot occur until Appellants have published final, federal regulations implementing the FSA." *Id.* at *7.

IV. THE FSA REMAINS ESSENTIAL FOR THE PROTECTION OF CHILDREN'S HEALTH AND WELL-BEING.

Given the present asylum case backlog, the processing time is generally years and not months.[3] Therefore, under the policy guides that the Administration intends to substitute for the FSA, children are likely to be in federal detention for years.[4] The scientific consensus in the child welfare, medical, pediatric, psychiatric, and educational professional communities, including all of the *amici*, is that such long-term detention would have an extremely significant negative impact on the physical, mental, and emotional health of detained children.

[3] American Immigration Council, *Asylum in the United States* (May 9, 2025), https://www.americanimmigrationcouncil.org/fact-sheet/asylum-united-states/.
[4] Brennan Ctr. for Justice, *supra* note 2.

A. ***Detention is Inherently Harmful to Children's Mental and Physical Health.***

Detention of children is condemned by respected human rights and professional organizations both within and beyond the United States.[5]

Medical research overwhelmingly shows that even a short amount of time in detention is seriously harmful to children, particularly those who have already experienced trauma in their home countries or during their journey to the United States.[6] Studies of detained immigrants found negative physical and emotional

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[5] Linton et al., *supra* note 1, at 6; CARA Family Detention Pro Bono Project, *Letter of complaint from CARA to Office of Civil Rights and Civil Liberties and Office of Inspector General, Department of Homeland Security, Washington DC*, (March 28, 2016), https://www.immigrationadvocates.org/nonprofit/securecommunities/596792.Complaint_Filed_at_DHS_Regarding_Detained_Families; Society for Community Research and Action Division 27 of the American Psychological Association, *Policy statement on the incarceration of undocumented migrant families*, 57(1–2) Am. J. Community Psychol. 255– 263 (2016); UN Human Rights, UN Experts to US: *Release Migrant Children from Detention and Stop Using them to Deter Irregular Migration* (June 22, 2018), https://www.ohchr.org/en/press-releases/2018/06/un-experts-us-release-migrant-children-detention-and-stop-using-them-deter; UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), *Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return*, November 16, 2017, CMW/C/GC/4-CRC/C/GC/23, at 2-4, https://www.ohchr.org/en/documents/general-comments-and-recommendations/joint-general-comment-no-4-cmw-and-no-23-crc-2017.

[6] *See* Zero to Three, *Comments on the Notice of Proposed Rulemaking to Apprehension Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children*, DHS Dkt. ICEB 2018-002, at 3 & n.iv (Nov. 6, 2018) (citing

symptoms among detained children, including anxiety, depression, and post-traumatic stress disorder.[7] Children in detention also show regression in development, high levels of anxiety and depression, and suicide attempts.[8] Widely accepted studies demonstrate that stress, anxiety, and behavioral issues increase the longer the child is detained.[9] Parents in detention centers have described regressive behavioral changes in their children, including decreased eating, sleep disturbances, clinginess, withdrawal, self-injurious behavior, and aggression.[10] Dr. Luis Zayas, a child mental health expert, evaluated nearly fifty (50) children and mothers in multiple U.S. detention centers and found extremely high levels of anxiety, depression, suicide attempts, and developmental regressions, including declines in

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Gillian Triggs, *The Forgotten Children: National Inquiry into Children in Immigration Detention*, The Medical Journal of Australia 553 (2014), https://www.mja.com.au/system/files/issues/202_11/tri00551.pdf).

[7] Linton et al., *supra* note 1, at 6; Martha Von Werthern et al., *The impact of immigration detention on mental health: a systematic review*, 18 BMC Psychiatry 382 (2018).

[8] *See* Zero to Three, *supra* note 6, at 3 & n.iv (citing Acer, E., Byrne, O., *Family Detention: Still Happening, Still Damaging*, Human Rights First, (2014) http://www.humanrightsfirst.org/sites/default/files/HRF-family- detention-still-happening.pdf); *see also* Dadras, Omid et al., *The Silent Trauma: U.S. Immigration Policies and Mental Health*, V. 44, The Lancet Regional Health – Americas (2025)

[9] *See also* Marius Lahti et al., *Temporary Separation from Parents in Early Childhood and Serious Personality Disorders in Adult Life,* J. Personality Disorders 751 (2012); *see also* Bafreen Sherif et al., *Immigration detention of children: a systematic review and meta-analysis of physical and mental health impacts*, Eur Child Adolesc Psychiatry (July 2025), https://doi.org/10.1007/s00787-025-02832-4.

[10] Linton et al., *supra* note 1, at 6; *see also* Sherif et al., *supra* note 9.

language development, impaired cognitive development, bedwetting, decreased eating, sleep disturbances, social withdrawal, and aggression.[11]

Prolonged detention exacerbates trauma and its negative impacts: children in detention are ten times more likely to develop post-traumatic stress disorder than adults, and those symptoms increase the longer a child is in detention.[12] Instances of psychological distress are even more severe when children are forcibly separated from their mothers.[13]

Detention is particularly damaging to young children due to their inherent need for safe and stimulating environments and the fact that the first years of a child's life are of paramount importance to their later success and well-being.[14]

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[11] Megan J. Wolff, *Fact Sheet: The Impact of Family Detention on Children* (July 29, 2018), http://psych-history.weill.cornell.edu/pdf/Family_Detention_Sheet.pdf; Linton et al., *supra* note 1, at 6; Claire Hutkins Seda, *Dr. Luis Zayas Provides Testimony on Family Detention*, Migrant Clinicians Network Blog (July 29, 2015), http://www.migrantclinician.org/blog/2015/jul/dr.-luis-zayas-provides-testimony-family-detention.html.

[12] Gillian Triggs, *The Forgotten Children: National Inquiry into Children in Immigration Detention*, The Medical Journal of Australia 553 (2014), https://www.mja.com.au/system/files/issues/202_11/tri00551.pdf; *see also* Martha von Werthern et al., *The Impact of Immigration Detention on Mental Health: A Systematic Review*, BMC Psych. No. 382 (2018).

[13] Sarah A. MacLean et al., *Mental Health of Children Held at a United States Immigration Detention Center*, 230 Soc. Sci. Med. 303 (2019); American College of Obstetricians & Gynecologists, *Committee Statement No. 4: Health Care for Immigrants* (Jan. 19, 2023), https://www.acog.org/clinical/clinical-guidance/committee-statement/articles/2023/01/health-care-for-immigrants.

[14] Center on the Developing Child, *In Brief: Early Childhood Mental Health,* Harvard Univ. (2013), https://developingchild.harvard.edu/resources/inbrief-early-childhood-mental-health/.

Sending infants and toddlers to institutional detention is profoundly destructive to their health and well-being.[15] A baby's brain makes more than one million neural connections every second, growing faster than at any point later in their life. These connections are shaped by their experiences—both positive and negative—and the consequent level of harmful stress in their lives.

In addition to their effects on the developing brain, adverse childhood experiences ("ACEs") have been shown for decades to have lasting harmful effects on a child's immune system, endocrine system, and metabolism.[16] Early childhood trauma has severe lifelong implications, increasing children's risks for learning difficulties, problems forming relationships, and adult health problems.[17] Studies of ACEs have also demonstrated that children experiencing multiple traumas before

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[15] *See* Zero to Three *supra* note 6, at 3-4 & n.xii (citing Felitti, V. J., *et. al*. *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults*, Am. J. of Preventative Medicine at 245-258 (1998), doi:10.1016/s0749-3797(98)00017-8).

[16] Deighton S., Neville A., Pusch D., Dobson K., *Biomarkers of adverse childhood experiences: A scoping review*, Psychiatry Research (2018), doi:10.1016/j.psychres.2018.08.097; Berens A.E., Jensen S.K.G., Nelson C.A., *Biological embedding of childhood adversity: from physiological mechanisms to clinical implications*, BMC Med. 135 (2017), doi:10.1186/s12916-017-0895-4; Heather Forkey, Moira Szilagyi, Erin T. Kelly & James Duffee, *Trauma-Informed Care*, 148 Pediatrics e2021052580 (2021).

[17] Zero to Three *supra* note 6at 4 & n. xiii (citing Fillmore, E., *The Effects of Immigration Detention on the Health of Children and Families in the UK*, Fostering, 88-91 (2010), doi:10.1177/030857591003400112).

reaching eighteen are at higher risk for depression, substance use disorders, cardiovascular disease, chronic obstructive pulmonary disease, and cancer.[18]

Given that families seeking asylum often have already experienced profound traumas in their home countries, re-traumatizing children at the border through detention makes significant disability or chronic disease later in life even more likely. Immigration detention also has a detrimental effect on the mental health of parents and adult family members, which can adversely affect the ability of adult caregivers in detention to provide the support that detained children need to process their trauma.[19]

In light of this overwhelming body of research regarding the detention of children, it is unsurprising that the American Medical Association, the American Academy of Pediatrics, the American Academy of Child and Adolescent Psychiatry, the American College of Physicians, the American Psychological Association, the American Academy of Family Physicians, and the National Association of Social Workers have strongly advocated to end family and child detention.

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[18] Roth B.J., Grace B.L., Seay K.D., M*echanisms of Deterrence: Federal Immigration Policies and the Erosion of Immigrant Children's Rights*, 110(1) Am. J. Public Health. 84-86 (2020), doi:10.2105/AJPH.2019.305388.

[19] Wood L.C.N., *Impact of punitive immigration policies, parent-child separation and child detention on the mental health and development of children*, BMJ Paediatrics e000338 (2018), doi:10.1136/ bmjpo-2018-000338.

In 2018, the American College of Physicians stated that forced family detention can be expected to result in lasting physical and mental harm to the detained children and other family members and accordingly should not be implemented by the U.S. government.[20] Research highlights the negative impacts of such trauma on the shared emotional healing of parents and children.[21]

The American Psychiatric Association recommends that "the maximum period of detention for children and their parents not go beyond the [FSA's] current limit of 20 days and that every effort be made to minimize the number of days spent by families in detention to decrease the negative consequences of detention for this vulnerable population."[22]

The American Academy of Pediatrics also strongly opposes detaining children, noting that, "DHS detention facilities are not appropriate places for

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[20] American College of Physicians, *The Health Impact of Family Detentions in Immigration Cases* (July 3, 2018), https://www.acponline.org/sites/default/files/acp-policy-library/policies/family_detention_position_statement_2018.pdf.

[21] Newman L.K., Steel Z., *The child asylum seeker: Psychological and developmental impact of immigration detention*. Child and Adolescent Psychiatric Clinics of North America 665-683 (2008).

[22] American Psychiatric Association, *Comments in Response to Proposed Rulemaking: Apprehension, Processing, Care and Custody of Alien Minors and Unaccompanied Alien Children*, at 2 (Nov. 6, 2018).

children … [because] even short periods of detention can cause psychological trauma and long-term mental health risks for children."[23]

The Administration disregarded this broad consensus, including the DHS Advisory Committee on Family Residential Centers ("FRCs"), which found in 2016 that appropriate standards of care for children and families are simply impossible within the context of family detention and that the detention or the separation of families for purposes of immigration enforcement or management are never in the best interests of children.[24]

B. ***The Lack of Access to Consistent Medical Care Inside Detention Is Detrimental to Children's Health.***

Families in detention face inadequate access to critical services, including medical and mental health care. Children and families, babies, and expectant mothers need specialized medical and mental health services. Family residential facilities have consistently failed to recruit adequate health staff, including pediatricians, child and adolescent psychiatrists, and pediatric nurses. Physicians for Human Rights ("PHR") clinicians documented that only one of nine children

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[23] American Academy of Pediatrics, *Comments on the Notice of Proposed Rulemaking to Apprehension Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children*, DHS Dkt. ICEB 2018-002, at 7 (Nov. 5, 2018) (citing Linton et al., *supra* note 1, at 6).

[24] DHS Advisory Comm. on Family Residential Ctrs., *Report of the DHS Advisory Committee on Family Residential Centers*, (2016), https://www.ice.gov/sites/default/files/documents/Report/2016/ACFRC-sc-16093.pdf

evaluated had access to medical services while in detention, and recommended specialized trauma-focused psychotherapy and psychiatric care that was unavailable in the detention setting.[25] While families released to non-custodial programs have access to providers based in the community, in detention their access to qualified medical and mental health care professionals has been demonstrated to be severely limited.[26]

The lack of adequate access to critical medical and mental health services is well documented. Visits by pediatric and mental health experts to family detention centers have revealed significant discrepancies between U.S. Immigration and Customs Enforcement ("ICE")'s stated standards and the actual services provided, including inadequate or inappropriate immunizations, delayed medical care, and limited education and mental health services.[27] Basic healthcare is limited within these facilities, and existing health issues are often under-reported due to poor screening and minimal documentation.[28] PHR documented how unresponsive staff and delayed or denied medical care in immigration detention facilities have caused

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[25] Habbach, et al., *"You Will Never See Your Child Again": The Persistent Psychological Effects of Family Separation*, Physicians for Human Rights 19, 24, 32, (2020), https://phr.org/our-work/resources/you-will-never-see-your-child-again-the-persistent-psychological-effects-of-family-separation/.
[26] *See* Zero to Three, *supra* note 6, at 3.
[27] Linton et al., *supra* note 1, at 6.
[28] Sridhar et al., *supra* note 1, at 6.

preventable healthcare emergencies and even death.[29] Investigations into U.S. immigration detention facilities have uncovered severe human rights abuses, including life-threatening medical neglect, untreated heart attacks and diabetes, and the denial of adequate food and water.[30] Some reports describe detainees being forced to consume vermin-infested food and infants being denied clean water for formula.[31]

It is well documented that there is a lack of access to adequate reproductive healthcare inside detention facilities.[32] In August and October of 2025, Senator Jon Ossoff issued investigative reports on human rights abuses in U.S. immigration detention. The reports cited credible evidence of the mistreatment of pregnant women in DHS custody, who were denied adequate medical and reproductive care, timely checkups, urgent care, and sufficient meals, and were forced to sleep on the

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[29] Eunice Hyunhye Cho, Tessa Wilson, et al., *Deadly Failures: Preventable Deaths in U.S. Immigration Detention*, ACLU, American Oversight, and Physicians for Human Rights 6-8, 34-50 (2024), https://phr.org/wp-content/uploads/2024/06/REPORT-ICE-Deadly-Failures-ACLU-PHR-AO-2024.pdf.

[30] Karen Felscher, *Children's Mental Health Care Lacking in Migrant Detention Centers, Study Finds*, Harv. T.H. Chan Sch. of Pub. Health (Mar. 10, 2025); *see* Office of Sen. Jon Ossoff, *Medical Neglect & Denial of Adequate Food or Water in U.S. Immigration Detention* (Oct. 2025), https://www.ossoff.senate.gov/wp-content/uploads/2025/10/25.10.24_Sen.-Ossoff-Medical-Neglect-Denial-of-Adequate-Food-or-Water-in-U.S.-Immigration-Detention.pdf.

[31] Office of Senator John Ossoff, *supra* note 30.

[32] American College of Obstetricians & Gynecologists, *supra* note 13.

floor due to overcrowding. [33] In January 2026, Senator Ossoff published his third report related to the same investigation, which identified an additional 527 credible reports of human rights abuses, bringing the total number of credible reports by the investigation to 1037 over a 12-month period (between January 20, 2025, and January 12, 2026).[34]

Pregnant mothers have experienced miscarriages and unsafe birth procedures while detained in ICE facilities.[35] Complications during pregnancy can be detrimental to the long-term health of infants and children, increasing the risks of premature birth, low birth weight, developmental delays, and long-term health

[33] Office of Sen. Jon Ossoff, *The Abuse of Pregnant Women & Children in U.S. Immigration Detention* at 4 (July 30, 2025), https://www.ossoff.senate.gov/wp-content/uploads/2025/08/250721_Pregnancy_Report_v7.pdf

[34] Office of Sen. Jon Ossoff, *Over 1,000 Credible Reports of Human Rights Abuses in U.S. Immigration Detention* (Jan. 27, 2026), https://www.ossoff.senate.gov/wp-content/uploads/2026/01/260114_Report_Patterns_v5.pdf.

[35] American College of Obstetricians & Gynecologists, *supra* note 13; American College of Obstetricians and Gynecologists, *Opposition to Immigration Practices that Are Detrimental to the Well Being of All Individuals* (Statement of Policy, revised & reaffirmed July 2024), https://www.acog.org/clinical-information/policy-and-position-statements/statements-of-policy/2018/opposition-to-immigration-practices-that-are-detrimental-to-the-well-being-of-all-individuals.

problems.[36] Maternal prenatal stress can also cause lasting harm to children's health.[37]

Detention centers also fail to accommodate the needs of immigrant children with disabilities. These children are disproportionately harmed by immigration enforcement that separates them from family, caregivers, and community support. ICE detention centers fail to provide adequate screening and treatment, such as disability accommodations, leaving children's mental and physical disabilities undiagnosed and unaddressed.[38] One study found inadequate screening and follow-up for children who are found to have mental health concerns in detention centers run by ICE.[39] The report concluded that there is limited access to "timely, age-

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[36] Teta Puji Rahayu et al., *Impact of Maternal Health on Child Development: Why Early Intervention Is Crucial? (A Commentary)*, 15(19) PAMJ-One Health (2024), doi: 10.11604/pamj-oh.2024.15.19.45308; Mary E. Coussons-Read, *Effects of Prenatal Stress on Pregnancy and Human Development: Mechanisms and Pathways*, Obstetrics Med. 52 (2013), https://pmc.ncbi.nlm.nih.gov/articles/PMC5052760/.

[37] Suhana I. Ahmad et al., *Maternal Childhood Trauma and Prenatal Stressors Are Associated with Child Behavioral Health*, 13 J. Dev. Origins Health & Disease 1 (2021), https://www.cambridge.org/core/journals/journal-of-developmental-origins-of-health-and-disease/article/abs/maternal-childhood-trauma-and-prenatal-stressors-are-associated-with-child-behavioral-health/C597C0CCD3F83D4FDB1B217892F78F8F

[38] *See* Sridhar et al., *supra* note 1, at 13; *see Inside an ICE Detention Center: Detained People Describe Severe Medical Neglect, Harrowing Conditions*, Am. C.L. Union (December 17, 2025), https://www.aclu.org/news/immigrants-rights/inside-an-ice-detention-center-detained-people-describe-severe-medical-neglect-harrowing-conditions.

[39] S. Sridhar et al., *supra* note 1, at 6.

appropriate, and quality mental health screening, case management, and care."[40] Failure to properly identify and address children's mental and physical health needs places them at risk for long-term developmental delays and lasting physiological and psychological harm.[41]

Immigration detention facilities consistently fail to provide the specialized care that children require. Terminating the FSA will only exacerbate the impacts of these systemic failures.

C. ***Federal Detention Facilities' Conditions Seriously Compound the Harm Inherent in Detention.***

Reports from physicians providing care at immigration facilities describe prison-like conditions and inconsistent access to quality medical, dental, or mental health care.[42] Independent reports have also surfaced attesting to a lack of clean water for baby formula and families receiving food contaminated by worms and mold.[43] PHR clinicians documented that children in detention facilities reported

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[40] *Id.*

[41] *Id.*; Felscher, *supra* note 30.

[42] *See* American Medical Association, *AMA Adopts New Policies to Improve Health of Immigrants and Refugees* (June 12, 2017), https://www.ama-assn.org/press-center/ama-press-releases/ama-adopts-new-policies-improve-health-immigrants-and-refugees; *see also* Linton et al., *supra* note 1, at 6.; Kaiser Fam. Found., *Health Risks and Limited Oversight in ICE Detention* (2025), https://www.kff.org/racial-equity-and-health-policy/health-issues-for-immigrants-in-detention-centers/; Office of Sen. Jon Ossoff, *supra* note 30.

[43] Anna Flagg, Shannon Heffernan, *ICE Threw Thousands of Kids in Detention, Many for Longer Than Court-Prescribed Limit*, The Marshall Project (Dec. 17,

sleeping on floors and being deprived of fresh air and sunlight.[44] Covid-19 posed a grave threat to detained individuals, leading to widespread outbreaks and increased health complications.[45] The presence of infectious disease combined with overcrowding, lack of appropriate sanitation, and inconsistent access to medical care, generates a dangerous combination of risk factors.[46] According to a recent report, families at one Texas family detention center experienced extreme temperatures and inadequate access to showers and toilets.[47]

Two contract physicians from within DHS's Office of Civil Rights and Civil Liberties found serious compliance issues in DHS-run facilities resulting in

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2025), https://www.themarshallproject.org/2025/12/17/children-immigration-detention-dilley-ice.

[44] Habbach et al., *supra* note 25, at 18-19.

[45] Brennan Ctr. for Just., *Immigration Detention and Covid-19* (updated Jan. 7, 2022), https://www.brennancenter.org/our-work/research-reports/immigration-detention-and-covid-19; Carlo Foppiano Palacios, Elizabeth W. Tucker & Mark A. Travassos, *Coronavirus Disease 2019 Burden Among Unaccompanied Minors in US Custody*, Clinical Infectious Diseases 101 (2023).

[46] Katherine Peeler et al., *Praying for Hand Soap and Masks: Health and Human Rights Violations in U.S. Immigration Detention during the COVID-19 Pandemic*, Physicians for Human Rights (Jan. 12, 2021), https://phr.org/wp-content/uploads/2021/01/PHR-Praying-for-Hand-Soap-and-Masks.pdf.

[47] Akash Pillai, Drishti Pillai & Samantha Artiga, *Health Issues for Immigrants in Detention Centers*, KFF (Sept. 30, 2025), https://www.kff.org/racial-equity-and-health-policy/health-issues-for-immigrants-in-detention-centers/

"imminent risk of significant mental health and medical harm."[48] The physicians sent a whistleblower letter to the Senate, stating that:

> [T]here is no amount of programming that can ameliorate the harms created by the very act of confining children to detention centers. Detention of innocent children should never occur in a civilized society, especially if there are less restrictive options, because the risk of harm to children simply cannot be justified.[49]

In a report on detention centers, the Office of Inspector General ("OIG") found that audits "do not ensure adequate oversight or systemic improvements in detention conditions,"[50] pointing to a lenient approach to inspections and on-site monitoring that has led to inadequate responses by ICE and inconsistencies in implementing corrective actions. It is therefore particularly disturbing for DHS to plan to subject children to indefinite confinement in facilities that will be seriously detrimental to their health.

D. ***HHS's Use of Unlicensed Detention Facilities Further Compounds the Harm That Immigration Detention Has on Children.***

Appellants' protracted confinement of children in unlicensed detention facilities exacerbates the harmful effects of immigration detention on their physical

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[48] Scott Allen, M.D. & Pamela McPherson, M.D., *Letter to Sens. Charles E. Grassley & Ron Wyden* at 3 (July 17, 2018), https://www.wyden.senate.gov/imo/media/doc/Doctors%20Congressional%20Disclosure%20SWC.pdf.
[49] *Id.* at 2.
[50] Dep't of Homeland Security Office of Inspector General, *ICE's Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements*, OIG-18-67 (June 26, 2018), https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf.

and mental health.[51] Because these facilities are unlicensed and HHS has not promulgated regulations consistent with the FSA, terminating the FSA would remove the only legal authority setting basic standards of care for children in these facilities.

The FSA places strict limits on the use of unlicensed facilities to ensure that children are placed in settings that meet accepted standards. FSA ¶¶ 12, 19. Appellants' use of unlicensed facilities should occur only in emergencies, and children should not be detained in an unlicensed facility for more than twenty (20) days. *Flores v. Johnson*, No. CV 85-4544-DMG (AGRx) (C.D. Cal. June 27, 2017). Despite these protections, Appellants have relied on unlicensed facilities that have struggled to provide children with basic necessities, including adequate food, showers, clean clothes, outdoor recreation, family phone calls, and adequate educational facilities.[52]

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[51] *See* Ctr. for Human Rights & Constitutional Law, *Flores Counsel Fight to Defend Immigrant Children* (June 23, 2025), https://www.centerforhumanrights.org/post/flores-counsel-fight-to-defend-immigrant-children-from-government-efforts-to-dismantle-court-ordered.

[52] Camilo Montoya-Gálvez, *Migrant Children Describe Poor Conditions at Makeshift U.S. Shelters in Interviews with Attorneys*, CBS News (May 19, 2021), https://www.cbsnews.com/news/immigration-border-migrant-children-poor-conditions-shelters/; Camilo Montoya-Gálvez, *Migrant Children in emergency facilities have limited access to family phone calls and case managers, lawyers say*, CBS News (April 2, 2021), https://www.cbsnews.com/news/immigration-migrant-children-emergency-facilities-limited-access-family-phone-calls-case-managers/.

The state licensing requirement for HHS facilities ensures that facilities confining unaccompanied children meet the minimum standards that states establish for other vulnerable populations in their care, including for basic needs, shelter, healthcare, and educational materials. Critically, state licensing requires oversight by child welfare and foster care agencies. HHS's use of unlicensed facilities skirts that oversight and increases the risk of harm to detained children.[53]

Terminating the FSA would allow for the expanded use of unlicensed facilities that operate with no independent state supervision. Because unlicensed facilities do not meet the emotional and developmental needs of children, the FSA restricts the amount of time that children can be detained in these facilities. Terminating the FSA would likely result in more children being detained for prolonged periods of time in conditions that do not satisfy the minimum standards set by local authorities. Without state licensing authorities or class counsel to monitor conditions in these facilities and ensure compliance with a binding standard of care, unaccompanied children will continue to face heightened risks and mental, physical, and emotional harm.[54]

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[53] Eileen Sullivan, *For Migrant Children in Federal Care, a 'Sense of Desperation*,' N.Y. Times (May 18, 2021), https://www.nytimes.com/2021/05/18/us/politics/biden-migrant-children.html.
[54] Ryan Matlow et al., *Guidance for Mental Health Professionals Serving Unaccompanied Children Released from Government Custody*, Stan. Early Life Stress & Resilience Program, Nat'l Ctr. for Youth L. & Ctr. for Trauma Recovery & Juv. Just. (2021), https://youthlaw.org/wp-content/uploads/2021_guidance-for-

E. ***Termination of the FSA Will Have a Devastating Impact on the Educational Development of the Detained Children.***

Terminating the FSA in its entirety will also have a devastating impact on the educational development of detained children. Studies show that detained children face heightened barriers to learning, including regression in language development and impaired cognitive development, due to persistent stress, labeled as "toxic stress."[55] Toxic stress interferes with children's physical brain development[56] and can lead to developmental delays, potentially affecting future performance in school.[57] Experts have determined that exposure to toxic stress can have lifelong consequences for educational development and economic productivity,[58] due, in part, to physiological and psychological effects associated with toxic stress, which can lead to post-traumatic stress disorder, major depression, and suicidal ideation.[59]

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mental-health-professionals-serving-unaccompanied-children-released-from-government-custody.pdf.

[55] M. Wolff, *supra* note 11; Linton et al., *supra* note 1, at 6.

[56] Shonkoff, J.P., Garner A.S., AAP Committee on Psychosocial Aspects of Child and Family Health, et al., *The Lifelong Effects of Early Childhood Adversity and Toxic Stress*, Pediatrics e232 (2012), https://pediatrics.aappublications.org/content/pediatrics/129/1/e232.full.pdf.

[57] Dudley M., Steels Z., Mares S., Newman L., *Children and young people in immigration detention*, Curr. Op. Psychiatry 285 (2012).

[58] American Academy of Pediatrics et al., *Letter to President Donald J. Trump*, (March 25, 2025), https://downloads.aap.org/DOFA/03-25-25FamilyDetentionLetter%20POTUS_DHS.pdf; Shonkoff et al., *supra* note 49 at e238.

[59] Dudley et al., *supra* note 57, at 285.

Studies show that detaining children during critical years of their development exposes them to additional risks related to their education. Children who lack access to preschool or school education suffer long-term impacts on their cognitive development and academic progress.[60] These findings are particularly concerning given that the Administration has no binding rules regarding the provision of "educational services appropriate to the [child's] level of development in a structured classroom setting," as required by the FSA. 84 Fed. Reg. at 44,440.

Furthermore, contrary to the FSA, DHS's and HHS's regulations would not require that children receive "instruction and educational and other reading materials in such languages as needed." FSA Ex. 1 § (a) ¶ 4; 8 C.F.R. § 236.3(i)(4)(vii), 84 Fed. Reg. at 44,528. DHS asserts that "[i]n practice, most educators who teach at [detention facilities] are bilingual, typically in English and Spanish, and provide individualized education in a manner designed to be most effective for the minor." 84 Fed. Reg. at 44,440. A teacher who is bilingual does not necessarily have *instructional materials* in both languages, may not be trained to teach in multiple languages, and children may need instruction in languages other than English and Spanish. Additionally, a common practice is a far cry from the legal guarantee the FSA requires.

[60] *Id.*

Terminating the FSA will deprive detained children of the opportunity to reach their full developmental and academic potential by increasing their exposure to toxic stress and restricting their access to appropriate educational programs.

F. ***Detention Erodes the Parent-Child Relationship and Exacerbates the Immense Distress That Children in Detention Already Experience.***

Terminating the FSA will result in increased detention of accompanied children and their parents. DHS's claims that its 2019 Rules would actually "strengthen the stability of the family[,]" 84 Fed. Reg. at 44,503, are unsupported by data or studies. In reality, detention undermines the authority of parents, prevents parents from being able to respond to their children's needs, and harms both children and their parents.

Detained parents, who themselves are subject to the authority of DHS and its agents, lose their fundamental autonomy to make independent decisions regarding their children's diet, schedule, sleeping arrangements, discipline, medical care providers, and education.[61] Reports indicate that detained parents have been unable to secure proper medical care when their children became ill from eating contaminated food.[62] When parents are unable to fulfill their usual caretaking role, studies show that children become confused by the existence of conflicting authority

[61] Linton et al., *supra* note 1, at 6.
[62] Flagg & Heffernan, *supra* note 43.

figures.[63] This interference in the parent-child relationship is particularly disruptive for infants and toddlers.[64]

Empirical studies show that children are impacted by the emotional well-being of their parents,[65] and a significant number of detained adults suffer from post-traumatic stress disorder and/or clinical depression.[66] This is especially problematic since children in detention are disproportionately exposed to trauma and thus in greater need of parental support, as reports show that children in family detention have been starved, taunted, and even sexually assaulted.[67]

The Administration's claim that its 2019 Rule would strengthen the stability of detained families has already been rejected by this Court. *Flores v. Rosen*, 984 F.3d 720, 744 (9th Cir. 2020). Widely accepted research shows that even when

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[63] Kronick R., Rousseau C., Cleveland J., *Asylum-Seeking Children's Experiences of Detention in Canada: A Qualitative Study*, Am. J. Orthopsychiatry 287 (2015)
[64] Jack P. Shonkoff and Deborah A. Phillips, *From Neurons to Neighborhoods: The Science of Early Childhood Development*, National Research Council and Institute of Medicine (2000).
[65] Harvard Univ., Center on the Developing Child, *Maternal Depression Can Undermine the Development of Young Children* (2009), https://developingchild.harvard.edu/resources/working-paper/maternal-depression-can-undermine-the-development-of-young-children/.
[66] Janet Cleveland, Cécile Rousseau, and Rachel Kronick, *Bill C-4: The impact of detention and temporary status on asylum seekers' mental health* (2012); Rhitu Chatterjee, *Lengthy Detention of Migrant Children May Create Lasting Trauma, Say Researchers*, NPR (2019), https://www.npr.org/sections/health-shots/2019/08/23/753757475/lengthy-detention-of-migrant-children-may-create-lasting-trauma-say-researchers.
[67] Office of Sen. Jon Ossoff, *supra* note 33, at 4.

families are detained together, the family structure is undermined, causing both short- and long-term negative effects on the mental and physical health of children and their parents.[68]

G. *Current Policy Guidelines Ignore Humane Alternatives to Long-Term Detention*

There is a humane alternative to long-term detention of children with their parents in prison-like conditions. Following an increase in the number of families arriving in the United States in 2014, DHS introduced a pilot program in 2016 known as the Family Case Management Program ("FCMP"). The FCMP operated from January 2016 to June 2017 with 952 families across five major cities. The FCMP only served families seeking asylum and used research-based individualized case management and partnerships with community-based organizations to give participants a deep understanding of the immigration process to encourage their compliance with U.S. immigration law.[69]

The FCMP was successful at ensuring compliance at a low cost. Of the program's participants, 99.3 percent attended their immigration court hearings and 99.4 percent attended their appointments with ICE.[70] The FCMP achieved extremely

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[68] American College of Obstetricians & Gynecologists, *supra* note 13.
[69] Women's Refugee Commission, *Backgrounder: Family Case Management Program* (2018), https://www.womensrefugeecommission.org/rights/resources/1653-family-case-management-program.
[70] *Id*.

high rates of compliance at much lower costs than family detention. Detaining families in DHS facilities costs nearly $320 per person per day;[71] conversely, the FCMP costs $38 per day per family unit.

Similar programs offered through non-profit organizations and *amici* provide similar results, substantially increasing program compliance without the extensive and expensive use of electronic monitoring.[72]

H. ***Detaining Children Indefinitely is in Direct Conflict With the Findings of DHS's Own Advisory Committee on Family Residential Centers.***

The Administration's standards allowing for indefinite detention are inconsistent with the FSA and in direct conflict with findings of DHS's own ICE Advisory Committee on Family Residential Centers.

The Advisory Committee, composed of independent subject-matter experts, was established on July 24, 2015, and tasked with providing advice and recommendations to the Secretary of DHS, through the Assistant Secretary for ICE, on "matters concerning ICE's family residential centers."[73] On October 7, 2016, the

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[71] Department of Homeland Security, Budget Overview FY 2019, U.S. Immigration and Customs Enforcement (2017), https://www.dhs.gov/sites/default/files/publications/U.S.%20Immigration%20and%20Customs%20Enforcement.pdf.

[72] *See* Zero to Three, *supra* note 6, at 4; *see also* American Immigration Council, *Alternatives to Immigration Detention: An Overview* (July 11, 2023), https://www.americanimmigrationcouncil.org/report/alternatives-immigration-detention-overview/.

[73] DHS Advisory Comm. on Family Residential Ctrs., *supra* note 24, at 1.

Advisory Committee released a report stating: "our overarching recommendation is for DHS simply [to] avoid detaining families."[74] The report recommended that "DHS's immigration enforcement practices should operationalize the presumption that detention is generally neither appropriate nor necessary for families – and that detention or the separation of families for purposes of immigration enforcement or management, or detention is never in the best interest of children."[75]

The Advisory Committee's conclusions were supported by findings that detention exposes children to harm and is not in their best interests. Ignoring these recommendations, the Government seeks not to use effective alternatives to detention or even to mitigate the risk of harm to children, but instead to increase the detention of children.

V. CONCLUSION

The FSA's protections for migrant children have never been more necessary, and Appellants have not fulfilled their obligations for terminating the FSA. Appellants' non-binding policy guides are fatally flawed from a child development perspective, and there are alternatives to detention that are cheaper, more humane, and more effective.[76] Moreover, DHS's and HHS's policy guides are fundamentally

[74] *Id*.
[75] *Id*.
[76] Ctr. of Excellence for Immigrant Child Health & Wellbeing, *Detention policies hurt kids* (Apr. 15, 2025), https://immigrantchild.ucsf.edu/news/detention-policies-hurt-kids.

inconsistent with the FSA and decades of judicial precedent. Children should not be subjected to harsh treatment, prolonged detention, unlicensed, or unsupervised confinement as would inevitably result from terminating the FSA. Families should not be "united" in prison-like facilities that fail to provide basic services, cost far more than viable and less restrictive alternatives, and are inimical to the physical and mental well-being of their children. It is in the best interests of children and families that the FSA remain enforceable against DHS and HHS. The District Court decision should be affirmed.

Dated: January 28, 2026

ARENTFOX SCHIFF LLP

By: /s/ James H. Hulme
James H. Hulme (Counsel of Record)
David L. Dubrow
Justin A. Goldberg
Cissy Jackson
Elise L. Bonine
Sydni Green
Nicholas Kianpoor

Attorneys for *Amici Curiae*

The American Academy Of Pediatrics, American Academy Of Pediatrics California Chapter, American Academy Of Pediatrics Texas Chapter, American College Of Physicians, American College Of Obstetricians And Gynecologists, American Pediatric Society, American Professional Society On The Abuse Of Children, Association Of Medical School Pediatric Department Chairs, California Medical Association, First Focus On Children, National Association Of Pediatric Nurse Practitioners, National Association Of Social Workers, National Education Association, Physicians For Human Rights, Safe & Sound, Society for Adolescent Health and Medicine, Zero to Three

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FOR THE NINTH CIRCUIT

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EXHIBIT 1

Amicus curiae the American Academy of Pediatrics (AAP) represents approximately 67,000 primary care pediatricians, pediatric medical subspecialists, and surgical specialists who are committed to the attainment of optimal physical, mental, and social health and well-being for all infants, children, adolescents, and young adults. AAP believes that the future prosperity and well-being of the United States depends on the health and vitality of all of its children, without exception. Pediatricians know that even short periods of detention can have long-lasting consequences for children, including psychological trauma and mental health risks. There is no evidence that any amount of time in detention is safe for a child. All children—no matter where they or their parents were born—should have the right to access health care, remain united with their families, and pursue a high-quality education.

Amicus curiae the American Academy of Pediatrics, California (AAP-CA), is comprised of all California AAP chapters statewide, totaling over 5,000 pediatricians. Together, AAP-CA represents primary care and subspecialty pediatricians across California. The mission of the AAP-CA is to attain optimal physical, mental, and social health and well-being for all infants, children, adolescents, and young adults in California, regardless of immigration status. When the pain and suffering of any child is within our power as a community and

as a nation to prevent and to mitigate, we must do so. Detention is a sanitized word for the circumstances in which we know many of these children are being held. We join with the AAP in asserting that there is no evidence that any amount of time in detention is safe for a child, and that all children—no matter where they or their parents were born—should have the right to access health care, remain united with their families, and pursue a high-quality education.

Amicus curiae the American College of Physicians (ACP) is the largest medical specialty organization and the second-largest physician membership society in the United States. ACP members include 162,000 internal medicine physicians, related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge, clinical expertise, and compassion to the preventive, diagnostic, and therapeutic care of adults across the spectrum from health to complex illness.

Amicus curiae the American College of Obstetricians and Gynecologists ("ACOG") is the nation's leading group of physicians providing evidence-based obstetric and gynecologic care. As a private, voluntary nonprofit membership organization of more than 60,000 members, ACOG strongly advocates for equitable, exceptional, and respectful care for all women and people in need of obstetric and gynecologic care; maintains the highest standards of clinical practice and continuing education of its members; promotes patient education; and

increases awareness among its members and the public of the changing issues facing patients and their families and communities. ACOG's briefs and practice guidelines have been cited by numerous courts as an authoritative voice of science and medicine relating to obstetric and gynecologic health care.

Amicus curiae, the American Pediatric Society, is comprised of distinguished pediatric leaders shaping the future of academic pediatrics. We assemble an engaged, inclusive, and impactful community committed to strengthening academic pediatrics. Guided by our strategic priorities to expand the workforce, nurture leaders, and develop innovative approaches to address child and adolescent health challenges, we focus on advocating for academic pediatrics and supporting the career development of those dedicated to improving the health and well-being of children and adolescents.

Amicus curiae the American Professional Society on the Abuse of Children (APSAC) is the leading multidisciplinary national organization for professionals serving children and families affected by child maltreatment, which includes both abuse and neglect. APSAC achieves its mission through sponsoring peer-reviewed publications, offering expert training and educational activities, policy leadership and collaboration, and consultation emphasizing theoretically sound, evidence-based principles. Since 1986, APSAC has played a central role in developing guidelines that address child maltreatment. APSAC is qualified to inform the DHS

and the Department of Health and Human Services (HHS) about the damage maltreatment can inflict on children's brain development and cognitive ability. APSAC submits this brief to assist the Court in understanding the impact of detention, especially indefinite detention, on children's physical, emotional, and mental development. These facts provide important background information useful to a complete understanding of the potential impact of the rule currently promulgated by DHS and HHS.

The Association of Medical School Pediatric Department Chairs (AMSPDC) seeks to improve the health and well-being of children through the development of the chairs of academic pediatric departments and support of their clinical, research, education, and advocacy missions. AMSPDC leads in care delivery, research, training, and advocacy in their communities and throughout the world.

Amicus curiae the California Medical Association (CMA) is a not-for-profit, incorporated professional physician association of over 46,000 members throughout California. For more than 160 years, CMA has promoted the science and art of medicine, the care and well-being of patients, the protection of the public health and the betterment of the medical profession. CMA's physician members practice medicine in all specialties and settings and provide care to immigrants, including unaccompanied children and support the FSA.

Amicus curiae First Focus on Children (First Focus) is a bipartisan advocacy organization dedicated to making children and families a priority in federal policy and budget decisions. One of First Focus's priority issues is to ensure that federal policies, including immigration policies, promote the health, safety, and well-being of children in immigrant families. First Focus is deeply opposed to any changes to the FSA that would undermine protections for children and allow for their prolonged detention in family detention facilities. Additionally, First Focus opposes any proposals that would allow immigrant children to be detained in facilities licensed by the DHS which have proven time and time again to be woefully inadequate, traumatic, and dangerous for children. Any changes to current standards should focus on the best interest of the child and build on the FSA's protections. Immigration enforcement and policy decisions must consider the best interests and well-being of children affected by these decisions.

With 7,500-plus members, the National Association of Pediatric Nurse Practitioners (NAPNAP) is the professional association for pediatric nurse practitioners (PNPs) and all pediatric-focused advanced practice registered nurses (APRNs). Established in 1973, we were the first national professional society for nurse practitioners and remain the only national organization dedicated to both advancing the APRN role and improving the quality of health care for infants, children and adolescents. Our mission is to optimize the health and well-being of

all infants, children, adolescents and young adults and empower our community of pediatric experts. NAPNAP members include national child health experts, respected researchers and authors, distinguished faculty and practicing clinicians who represent the many facets of pediatric health care delivery. NAPNAP is concerned that detaining children poses serious immediate and long-term risks to their mental and physical well-being.

Amicus curiae the National Association of Social Workers (NASW) is the largest association of professional social workers in the United States, with over 91,000 members in 55 chapters, who provide vitally-needed services in a broad range of settings. NASW also works to advance policies at all levels of government, including immigration and child welfare policies, that align with the profession's values and code of ethics. Among other things, NASW develops policy statements on issues of importance to society and the social work profession, including child welfare and immigration issues. NASW actively supports efforts to ensure that our most vulnerable children are served by systems designed to protect them from abuse and ensure their well-being. This includes efforts to ensure that children from immigrant families, regardless of citizenship status, are provided with the same societal protections as children from non-immigrant families. Advancing these rights is a vital priority for the social work profession in the twenty-first century.

Amicus curiae National Education Association (NEA) is the nation's oldest and largest union, representing over three million members, the vast majority of whom serve as educators and education support professionals in our nation's public schools, colleges, and universities. NEA has a strong and longstanding commitment to ensuring that every child has access to a high-quality public education, regardless of immigration status. NEA is equally committed to the overall well-being of children, psychologically and developmentally. NEA members work directly with children in our schools every day, including immigrant children and children subject to trauma. NEA opposes the detention of children under any circumstances because it causes severe psychological harm and impairs children's ability to learn and grow.

Amicus curiae Physicians for Human Rights (PHR) is a non-profit organization that uses science and the skills of health professionals to document and call attention to severe human rights violations nationally and internationally. In the United States, PHR mobilizes a network of more than 2,000 health professionals, including physicians, psychiatrists, and psychologists, to conduct rigorous forensic medical and psychological evaluations that document evidence of torture, trauma, and other human rights abuses. Since 2001, PHR has systematically documented conditions of immigration detention in the United States, including the detention of families and children, and PHR's network have

evaluated thousands of immigrants who experienced detention, including children separated from their families and families detained together.

Amicus curiae Safe & Sound is a long-standing child abuse prevention and response organization that has served San Francisco families for more than fifty years and is the local Child Advocacy Center. Safe & Sound works to prevent child abuse and neglect, reduce its impact, and build safe, stable, and nurturing relationships and communities for all children, with a particular focus on families most impacted by structural inequities, including immigrant and migrant families. Safe & Sound's Center for Youth Wellness (CYW) is a pediatric health and advocacy program dedicated to improving the health of children and adolescents exposed to early adversity and toxic stress by advancing public awareness, medical research, and practice related to Adverse Childhood Experiences (ACEs). Founded by Dr. Nadine Burke Harris in 2012 and now a program of Safe & Sound, CYW is a national leader in translating ACEs and toxic stress science into clinical and community practice. In light of this combined expertise in ACEs, trauma, and child abuse prevention, Safe & Sound, including CYW, supports the plaintiffs and the district court's decision and opposes efforts to terminate the Flores Settlement Agreement, because doing so would expose children to increased harm from immigration detention and undermine their health, safety, and long-term well-being.

The Society for Adolescent Health and Medicine (SAHM) is a multidisciplinary organization committed to the promotion of optimal health and well-being for all adolescents and young adults by supporting adolescent health and medicine professionals through the advancement of clinical practice, care delivery, research, advocacy, and professional development.

Amicus curiae the Texas Pediatric Society (TPS), the Texas Chapter of the American Academy of Pediatrics, is a statewide, non-profit organization which was founded in 1921. TPS represents more than 4,800 pediatricians, pediatric subspecialists, and pediatric trainees in Texas. The mission of the TPS is to empower pediatricians to advance the health and well-being of all children and families in Texas. TPS' physician members practice medicine in a variety of practice settings across Texas and provide care to immigrants, including unaccompanied children. TPS agrees with the AAP that the future prosperity and well-being of the United States depends on the health and vitality of all of its children, without exception. TPS has consistently and firmly stated that children should not be subjected to detention and every child should receive developmentally appropriate daily care, medical care, and mental health care which is compassionate and responsive to their needs.

ZERO TO THREE (ZTT) is a national nonprofit, nonpartisan organization founded more than 40 years ago to promote the well-being of infants and toddlers

by translating the science of early childhood development for policymakers, practitioners, and parents. ZTT is a national leader on infant and early childhood mental health and early childhood development, and works to ensure that babies and toddlers benefit from the family and community connections critical to their well-being and healthy development. Enforcement of the FSA remains necessary to safeguard the well-being of young children. The final rule would wipe away these essential protections, allowing children in the company of their parents to be incarcerated indefinitely in detention facilities known as FRCs. The final rule also ignores the central FSA principle, reiterated many times, favoring a "General Policy Toward Release" in the case of migrant children being held in detention—including those held with their parents—and therefore the need for ending that detention as soon as possible.

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on January 28, 2026. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ James H. Hulme
James H. Hulme