

116TH CONGRESS
1ST SESSION

H. R. 3777

To establish a National Commission to investigate the treatment of migrant families and children by the Trump Administration.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2019

Ms. CLARKE of New York (for herself and Mr. THOMPSON of Mississippi) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a National Commission to investigate the treatment of migrant families and children by the Trump Administration.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Commission
5 To Investigate the Treatment of Migrant Families and
6 Children Act of 2019.”

1 **SEC. 2. ESTABLISHMENT OF COMMISSION.**

2 There is established in the legislative branch the Na-
3 tional Commission to Investigate the Treatment of Mi-
4 grant Families and Children By the Trump Administra-
5 tion (in this Act referred to as the “Commission”).

6 **SEC. 3. PURPOSES.**

7 The purposes of the Commission are to—

8 (1) examine the handling of migrant families
9 and children apprehended along the United States-
10 Mexico border by U.S. Customs and Border Protec-
11 tion since January 2017;

12 (2) ascertain, evaluate, and report on the evi-
13 dence developed by all relevant governmental agen-
14 cies regarding the facts and circumstances sur-
15 rounding the handling by the Departments of Home-
16 land Security and Health and Human Services of
17 migrant families and children who were apprehended
18 at the southern border since January 2017;

19 (3) build upon the investigations of other enti-
20 ties, and avoid unnecessary duplication, by reviewing
21 the findings, conclusions, and recommendations of—

22 (A) Department of Homeland Security Of-
23 fice of Inspector General;

24 (B) Department of Health and Human
25 Services Office of Inspector General; and

1 (C) other executive branch, congressional,
2 or independent investigations into the treatment
3 of and detention conditions for migrant families
4 and children apprehended at the southern bor-
5 der by the Department of Homeland Security
6 since January 2017;

7 (4) make a full and complete accounting of the
8 handling of the migrant families and children appre-
9 hended at the southern border since January 2017;
10 and

11 (5) investigate and report to the President and
12 Congress on its findings, conclusions, and rec-
13 ommendations for corrective measures.

14 **SEC. 4. COMPOSITION OF THE COMMISSION; QUALIFICA-**
15 **TIONS.**

16 (a) MEMBERS.—The Commission shall be composed
17 of 10 members, of whom—

18 (1) one member shall be appointed by the lead-
19 er of the House of Representatives of the Demo-
20 cratic Party (majority or minority leader, as the case
21 may be), with the concurrence of the leader of the
22 Senate of the Democratic party (majority or minor-
23 ity leader as the case may be), who shall serve as
24 chairman of the Commission;

1 (2) two members shall be appointed by the sen-
2 ior member of the Senate leadership of the Demo-
3 cratic party;

4 (3) three members shall be appointed by the
5 senior member of the Senate leadership of the Re-
6 publican party;

7 (4) three members shall be appointed by the
8 senior member of the leadership of the House of
9 Representatives of the Democratic party; and

10 (5) one member shall be appointed by the sen-
11 ior member of the leadership of the House of Rep-
12 resentatives of the Republican party.

13 (b) QUALIFICATIONS.—Each individual appointed to
14 the Commission must have expertise and experience in at
15 least one of the following areas:

16 (1) immigration law, particularly experience
17 representing asylees;

18 (2) public health;

19 (3) child welfare;

20 (4) civil rights;

21 (5) as a representative of a humanitarian orga-
22 nization that gives assistance to individuals crossing
23 the southern border; or

24 (6) as a local official from a border community
25 on the southern border of the United States.

1 **SEC. 5. FUNCTIONS OF COMMISSION.**

2 The functions of the Commission are to—

3 (1) investigate the relevant facts and cir-
4 cumstances related to the handling by the Depart-
5 ments of Homeland Security and Health and
6 Human Services of the migrant families and chil-
7 dren apprehended at the southern border since Jan-
8 uary 2017, including any relevant legislation, Execu-
9 tive order, regulation, plan, policy, practice, or pro-
10 cedure;

11 (2) identify, review, and evaluate the lessons
12 learned from the handling by the Departments of
13 Homeland Security and Health and Human Services
14 of the migrant families and children apprehended at
15 the southern border since January 2017, regarding
16 the structure, coordination, management policies,
17 and procedures of the Federal Government, and, if
18 appropriate, State and local governments and non-
19 governmental entities, relative to providing timely,
20 effective, and humane treatment of migrant families
21 and unaccompanied alien children seeking asylum in
22 the United States; and

23 (3) submit to the President and Congress such
24 reports as are required by this title containing such
25 findings, conclusions, and recommendations as the
26 Commission shall determine, including proposing or-

1 ganization, coordination, planning, management ar-
2 rangements, procedures, rules, and regulations.

3 **SEC. 6. POWERS OF COMMISSION.**

4 (a) IN GENERAL.—

5 (1) HEARINGS AND EVIDENCE.—The Commis-
6 sion or, on the authority of the Commission, any
7 subcommittee or member thereof, may, for the pur-
8 pose of carrying out this title—

9 (A) hold such hearings and sit and act at
10 such times and places, take such testimony, re-
11 ceive such evidence, administer such oaths; and

12 (B) subject to paragraph (2)(A), require,
13 by subpoena or otherwise, the attendance and
14 testimony of such witnesses and the production
15 of such books, records, correspondence, memo-
16 randa, papers, and documents, as the Commis-
17 sion or such designated subcommittee or des-
18 ignated member may determine advisable.

19 (2) SUBPOENAS.—

20 (A) ISSUANCE.—

21 (i) IN GENERAL.—A subpoena may be
22 issued under this subsection only—

23 (I) by the agreement of the
24 chairman and the vice chairman; or

1 (II) by the affirmative vote of 6
2 members of the Commission.

3 (ii) SIGNATURE.—Subject to clause
4 (i), subpoenas issued under this subsection
5 may be issued under the signature of the
6 chairman or any member designated by a
7 majority of the Commission, and may be
8 served by any person designated by the
9 chairman or by a member designated by a
10 majority of the Commission.

11 (B) ENFORCEMENT.—

12 (i) IN GENERAL.—In the case of con-
13 tumacy or failure to obey a subpoena
14 issued under subsection (a), the United
15 States district court for the judicial district
16 in which the subpoenaed person resides, is
17 served, or may be found, or where the sub-
18 poena is returnable, may issue an order re-
19 quiring such person to appear at any des-
20 ignated place to testify or to produce docu-
21 mentary or other evidence. Any failure to
22 obey the order of the court may be pun-
23 ished by the court as a contempt of that
24 court.

1 (ii) ADDITIONAL ENFORCEMENT.—In
2 the case of any failure of any witness to
3 comply with any subpoena or to testify
4 when summoned under authority of this
5 section, the Commission may, by majority
6 vote, certify a statement of fact consti-
7 tuting such failure to the appropriate
8 United States attorney, who may bring the
9 matter before the grand jury for its action,
10 under the same statutory authority and
11 procedures as if the United States attorney
12 had received a certification under sections
13 102 through 104 of the Revised Statutes
14 of the United States (2 U.S.C. 192
15 through 194).

16 (b) CONTRACTING.—The Commission may, to such
17 extent and in such amounts as are provided in appropria-
18 tion Acts, enter into contracts to enable the Commission
19 to discharge its duties under this title.

20 (c) INFORMATION FROM FEDERAL AGENCIES.—

21 (1) IN GENERAL.—The Commission is author-
22 ized to secure directly from any executive depart-
23 ment, bureau, agency, board, commission, office,
24 independent establishment, or instrumentality of the
25 Government, information, suggestions, estimates,

1 and statistics for the purposes of this title. Each de-
2 partment, bureau, agency, board, commission, office,
3 independent establishment, or instrumentality shall,
4 to the extent authorized by law, furnish such infor-
5 mation, suggestions, estimates, and statistics di-
6 rectly to the Commission, upon request made by the
7 chairman, the chairman of any subcommittee cre-
8 ated by a majority of the Commission, or any mem-
9 ber designated by a majority of the Commission.

10 (2) RECEIPT, HANDLING, STORAGE, AND DIS-
11 SEMINATION.—Information shall only be received,
12 handled, stored, and disseminated by members of
13 the Commission and its staff consistent with all ap-
14 plicable statutes, regulations, and Executive orders.

15 (d) ASSISTANCE FROM FEDERAL AGENCIES.—

16 (1) GENERAL SERVICES ADMINISTRATION.—
17 The Administrator of General Services shall provide
18 to the Commission on a reimbursable basis adminis-
19 trative support and other services for the perform-
20 ance of the Commission's functions.

21 (2) OTHER DEPARTMENTS AND AGENCIES.—In
22 addition to the assistance prescribed in paragraph
23 (1), departments and agencies of the United States
24 may provide to the Commission such services, funds,
25 facilities, staff, and other support services as they

1 may determine advisable and as may be authorized
2 by law.

3 **SEC. 7. PUBLIC MEETINGS AND RELEASE OF PUBLIC**
4 **VERSIONS OF REPORTS.**

5 (a) PUBLIC MEETINGS AND RELEASE OF PUBLIC
6 VERSIONS OF REPORTS.—The Commission shall—

7 (1) hold public hearings and meetings to the ex-
8 tent appropriate; and

9 (2) release public versions of the reports re-
10 quired under section 110(a) and (b).

11 (b) PUBLIC HEARINGS.—Any public hearings of the
12 Commission shall be conducted in a manner consistent
13 with the protection of information provided to or developed
14 for or by the Commission as required by any applicable
15 statute, regulation, or Executive order.

16 **SEC. 8. STAFF OF COMMISSION.**

17 (a) IN GENERAL.—

18 (1) APPOINTMENT AND COMPENSATION.—The
19 chairman, in consultation with vice chairman, in ac-
20 cordance with rules agreed upon by the Commission,
21 may appoint and fix the compensation of a staff di-
22 rector and such other personnel as may be necessary
23 to enable the Commission to carry out its functions,
24 without regard to the provisions of title 5, United
25 States Code, governing appointments in the competi-

1 tive service, and without regard to the provisions of
2 chapter 51 and subchapter III of chapter 53 of such
3 title relating to classification and General Schedule
4 pay rates, except that no rate of pay fixed under this
5 subsection may exceed the equivalent of that payable
6 for a position at level V of the Executive Schedule
7 under section 5316 of title 5, United States Code.

8 (2) PERSONNEL AS FEDERAL EMPLOYEES.—

9 (A) IN GENERAL.—The executive director
10 and any personnel of the Commission who are
11 employees shall be employees under section
12 2105 of title 5, United States Code, for pur-
13 poses of chapters 63, 81, 83, 84, 85, 87, 89,
14 and 90 of that title.

15 (B) MEMBERS OF COMMISSION.—Subpara-
16 graph (A) shall not be construed to apply to
17 members of the Commission.

18 (b) DETAILEES.—Any Federal Government employee
19 may be detailed to the Commission without reimbursement
20 from the Commission, and such detailee shall retain the
21 rights, status, and privileges of his or her regular employ-
22 ment without interruption.

23 (c) CONSULTANT SERVICES.—The Commission is au-
24 thorized to procure the services of experts and consultants
25 in accordance with section 3109 of title 5, United States

1 Code, but at rates not to exceed the daily rate paid a per-
2 son occupying a position at level IV of the Executive
3 Schedule under section 5315 of title 5, United States
4 Code.

5 **SEC. 9. COMPENSATION AND TRAVEL EXPENSES.**

6 Each member of the Commission may be com-
7 pensated at not to exceed the daily equivalent of the an-
8 nual rate of basic pay in effect for a position at level IV
9 of the Executive Schedule under section 5315 of title 5,
10 United States Code, for each day during which that mem-
11 ber is engaged in the actual performance of the duties of
12 the Commission.

13 **SEC. 10. SECURITY CLEARANCES FOR COMMISSION MEM-**
14 **BERS AND STAFF.**

15 The appropriate Federal agencies or departments
16 shall cooperate with the Commission in expeditiously pro-
17 viding to the Commission members and staff appropriate
18 security clearances to the extent possible pursuant to ex-
19 isting procedures and requirements, except that no person
20 shall be provided with access to classified information
21 under this title without the appropriate security clear-
22 ances.

23 **SEC. 11. REPORTS OF COMMISSION; TERMINATION.**

24 (a) INTERIM REPORTS.—The Commission may sub-
25 mit to the President and Congress interim reports con-

1 taining such findings, conclusions, and recommendations
2 for corrective measures as have been agreed to by a major-
3 ity of Commission members.

4 (b) REPORT.—Not later than 18 months after the
5 date of the enactment of this Act, the Commission shall
6 submit to the President and Congress a final report con-
7 taining such findings, conclusions, and recommendations
8 for corrective measures as have been agreed to by a major-
9 ity of Commission members.

10 (c) TERMINATION.—

11 (1) IN GENERAL.—The Commission, and all the
12 authorities of this title, shall terminate 60 days after
13 the date on which the final report is submitted
14 under subsection (b).

15 (2) ADMINISTRATIVE ACTIVITIES BEFORE TER-
16 MINATION.—The Commission may use the 60-day
17 period referred to in paragraph (1) for the purpose
18 of concluding its activities, including providing testi-
19 mony to committees of Congress concerning its re-
20 ports and disseminating the final report.

21 **SEC. 12. FUNDING.**

22 (a) IN GENERAL.—There is authorized \$3,000,000
23 for purposes of carrying out the activities of the Commis-
24 sion under this title.

1 (b) DURATION OF AVAILABILITY.—Amounts made
2 available to the Commission under subsection (a) shall re-
3 main available until the termination of the Commission.

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