



# Brief: Immigration & Detention

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## Key Points:

1. Catholics accompany children & families who flee violence & seek safety.
2. Migrants are subject to conflicting court rulings & laws on detention.
3. We seek laws which provide care for children and unify families.

**A Catholic perspective:** We support laws which provide care for unaccompanied children (UAC) & alternatives to family detention.

The Gospel confirms God's blessing upon families.<sup>[1]</sup> In imitation of Christ, Texas Catholics help immigrants who are forced by violence or poverty to leave their homes, tending to both their corporal and spiritual needs.<sup>[2]</sup> We see many children and families who seek safety. They need mercy, compassion, counseling, and care to heal their emotional and spiritual wounds, which will otherwise remain open.<sup>[3]</sup>

For these reasons, the U.S. bishops have consistently opposed family detention, noting that detainees are most frequently young mothers with children who should not be incarcerated as criminals.<sup>[4]</sup> Moreover, UAC should receive special care and protections to prevent their exploitation through human trafficking.

**Law and policy:** UACs and families who present claims of asylum are subject to conflicting federal court rulings and laws.

**Court ruling:** The 1999 *Flores Settlement Agreement* (FSA) between immigrant minors and the federal government requires federal agencies to release *all* detained minors promptly unless detention is necessary to secure a minor's court appearance or safety.<sup>[5]</sup>

**Law & agency policy:** Federal law generally

prohibits the detention of UACs and requires detention of accompanied minors in expedited removal.<sup>[6]</sup> Referring to this, agencies maintain that the FSA should only apply to UACs and not accompanied minors.<sup>[7]</sup> Such a position would effectively prolong family detention.

To resolve this difference, the Department of Homeland Security (DHS) proposed new rules in September 2018.<sup>[8]</sup> If they are implemented, the FSA will terminate, thereby ending the difference between federal court rulings and law.<sup>[9]</sup> The proposed rules have negative effects for both family detention and UAC.

**Family detention:** Whereas the FSA requires family residential centers (FRCs) to be state-licensed, DHS's proposed rules seek to establish third-party licensing.<sup>[10]</sup> DHS was seeking such licensing because no state licensing exists in Texas for an FRC to detain families; indeed, the Texas Family Code *prohibits* the secure detention of nonoffenders, including those held solely for deportation.<sup>[11]</sup> Nonetheless, Texas has sought to provide detention facilities a waiver, effectively allowing them to operate under the FSA's licensing requirements.<sup>[12]</sup>

**UAC:** The FSA and federal law provide UAC special protections from assault and human trafficking. For example, detention with unrelated adults is prohibited and UAC may only be released to parents or guardians.<sup>[13]</sup>



While DHS’s proposed rules maintain the release-to-parent requirement, they also allow for detention with unrelated adults.<sup>[14]</sup>

In sum, DHS’s actions would have negative effects upon both family detention and UAC. Texas’ licensing power provides the state with a means to ensure the health, safety, and welfare of children housed in FRCs. Such power should be used to its full extent. Yet the state has taken the remarkable position that a facility’s status as “secure” is immaterial; in the state’s eyes, detaining a child in a secure facility (i.e. a prison) has no bearing upon his or her health, safety, or welfare.<sup>[15]</sup> We seek laws which support children and families.

**Key bill summaries:** **HB 67** requires the state to collect data about unaccompanied migrant children who reside in a facility licensed by the state. We support this bill to provide an increased understanding of minors in the state’s care.

**HB 855** requires a committee to review, analyze, and help improve licensing standards at facilities which house unaccompanied immigrant minors. The TCCB supports this bill because it would ensure adequate care for unaccompanied minors.

**HB 941** requires the state to develop a searchable database of child care facilities (including

those housing UAC) so that Texans can learn about their state inspections, caregiver-to-child ratios, safety, and staff criminal background checks. We support this bill to increase transparency.

**HB 1765** requires the state to establish regulations that allow UACs regular contact and visits with their adult family members. We support this bill to provide care for unaccompanied minors and unify immigrant families.

**HB 3664:** The average length of time that a UAC is in custody—from the time of admission to the time of discharge—is about 50 days; for UACs in Office of Refugee & Resettlement (ORR) custody, it’s 58 days. Under this bill, a facility located in Texas cannot detain a child for more than 20 days. We support this bill to ensure UACs are efficiently released to their families.

**Call to action:** Please visit [txcatholic.org/migration](http://txcatholic.org/migration) to find and contact your lawmaker. Please also pray for Texas and our legislators, that they may welcome foreigners who seek security and the opportunity for their family.

*The TCCB is a federation of Roman Catholic dioceses and ordinariates in Texas. There are 8 million Catholics living in our state. Find TXCatholic on [Facebook](#) and [Twitter](#).*

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## Endnotes

1. Jn. 2:1-11; Lk. 15:11-32; Mk. 5:21-43, Mt. 8:14-17.
2. USCCB, [\*Strangers No Longer: Together on the Journey of Hope\*](#). § 41; Bishop Mark Seitz, [\*Sorrow and Mourning Flee Away\*](#), 4, 12; CMS, [\*Catholic Charities of the Rio Grande Valley\*](#). Catholic non-profits also provide immigration legal services in every major Texas city, from Houston to El Paso and Amarillo to Brownsville. Cf. Pope Pius XII, *Exul Familia*. 15, 20.
3. Archbishop Gustavo Garcia-Siller, [\*Official statement concerning immigration detention center in Dilley, TX\*](#). December 18, 2014.
4. USCCB, [\*Chairman decries opening of family detention center in Dilley, Texas\*](#). (December 16, 2014).
5. [\*Flores Settlement Agreement \(FSA\)\*](#), paragraph 14. However, the FSA does not require the release of parents. See: [\*Flores v. Lynch\*](#) 828 F.3d. 20-21 (9th Cir. 2016).
6. 8 U.S.C. [1225\(b\)\(1\)\(B\)\(iii\)\(IV\)](#); [83 Fed. Reg. at 45502](#); 8 U.S.C. [1232\(b\)\(3\)](#); [83 Fed. Reg. at 45490](#).
7. [83 Fed. Reg. at 45491](#), esp. note 4.
8. [83 Fed. Reg. at 45486](#) ff.
9. *FSA*, paragraphs 9, 40; [83 Fed. Reg. at 45494](#). cf. 45490, 45491, 45495.
10. *FSA*, paragraph 6; [83 Fed. Reg. at 45525](#).
11. [83 Fed. Reg. at 45502-3](#); Texas Family Code, § [54.011\(f\)](#).
12. A state waiver would render DHS's proposed third-party licensing unnecessary. This waiver was subject to a recently-resolved lawsuit. See: [\*Texas Department of Family and Protective Services v. Grassroots Leadership\*](#) 03-18-00261-CV. (December 2018)
13. *FSA*, paragraph 11; [83 Fed. Reg. at 45502](#).
14. [83 Fed. Reg. at 45525](#), 45529. DHS would allow for such detention in an "emergency." The *FSA* defines "emergency," but the *FSA* definition is vastly broadened by DHS's proposed rules. See USCCB, [\*Comments in Response to Proposed Rulemaking\*](#). (October 23, 2018) 9-10.
15. [41 TexReg 1500](#) (February 26, 2016) Response 5; cf. 41 TexReg 1494, 1498; [26 TAC §748.7\(b\)](#).