

Protection of Kids in Immigrant Detention (PROKID) Act
Senators Gillibrand (D-NY) and Durbin (D-IL)

The PROKID Act would create a permanent Office of the Ombudsperson within the Department of Health and Human Services (HHS) to act as an advocate and independent authority responsible for ensuring the rights, wellbeing, and safety of unaccompanied children.

Over the past several years, more than 250,000 migrant children fleeing violence, oppression, or persecution have arrived to the United States without a parent or legal guardian in pursuit of a safer future. Once apprehended at the border, U.S. Customs and Border Protection (CBP) transfers these children to the Office of Refugee Resettlement (ORR) in the Department of Health and Human Services. Children will then spend weeks to months or more in federal custody while they wait for ORR to identify a family member or sponsor to care for them. ORR's network of congregate care shelters includes large facilities with hundreds of beds, more restrictive facilities with higher staff to child ratios, residential treatment facilities, group homes, and foster care families. Currently, the only form of oversight of these shelters, as well as of CBP custody, is provided by lawyers upholding the Flores Settlement Agreement.

Children, particularly those who are unaccompanied, deserve the opportunity to live in a safe environment where they can be treated with dignity. Every administration since the Flores Settlement Agreement was signed in 1997 has been sued for its inability to keep children safe in congregate care. Under President Trump's zero-tolerance immigration policy, thousands of children were separated from their parents and forced to sleep on cement floors with constant light exposure, insufficient food and water, no bathing facilities, and lack of toiletries.

In 2024, the U.S. Department of Health and Human Services announced the publication of a proposed "Foundational" rule for the Office of Refugee Resettlement's (ORR) Unaccompanied Children (UC) Program. The proposed rule incorporated provisions applicable to ORR in the Flores Settlement Agreement and is more prescriptive in the role and responsibility of an ombudsperson. Now more than ever, there is a need for clear guidelines for the treatment and care of migrant children and their families. This bill will support the rulemaking by HHS to codify protections secured in the Flores Settlement Agreement.

The *Protection of Kids in Immigrant Detention (PROKID) Act* would provide a new, stronger layer of oversight to ensure and enforce transparency, protection, and accountability for all immigrant children in any kind of government custody. Specifically, the *PROKID Act* would create an Office of the Ombudsperson for Immigrant Children in Government Custody under the Department of Health and Human Services (HHS). The ombudsperson would be responsible for ensuring that immigrant children are detained in the least restrictive setting, advocate for quick and safe release, and encourage family reunification when possible. They would also be responsible for investigating any claims of abuse, neglect, or mistreatment of immigrant children while in either government custody or foster care. This will ensure that the Office of the Ombudsperson can act on behalf of both individual children and address systemic concerns, compelling federal agencies to share relevant information and requiring remedies for violation.

The creation of a permanent Office of the Ombudsperson within HHS would ensure that every immigrant child is treated with human dignity and has a voice in this country. Children in federal immigration custody are among the most vulnerable populations and legislation that ensures their well-being and safety is critical.