

AMENDMENT TO H.R. 2431
OFFERED BY Mr. Ciilline

At the end of the bill, add the following (and amend
the table of contents accordingly):

1 **SEC. 617. SPECIAL RULES REGARDING DETENTION OF VUL-**
2 **NERABLE INDIVIDUALS.**

3 (a) IN GENERAL.—Absent extraordinary cir-
4 cumstances or reasons of national security, the Secretary
5 of Homeland Security shall not expend detention resources
6 on any individual with one or more of the following types
7 of vulnerabilities:

8 (1) An individual with a serious bodily injury or
9 physical illness, including the human immuno-
10 deficiency virus or acquired immune deficiency syn-
11 drome.

12 (2) An individual with a serious mental illness
13 (includes disorders that impact communication,
14 memory, or general mental or intellectual func-
15 tioning).

16 (3) An individual with a disability.

17 (4) An individual who is aged 65 years of age
18 or older.

19 (5) An individual who is pregnant.

1 (6) An individual who is nursing at the time of
2 apprehension.

3 (7) An individual who is the primary caretaker
4 (including a parent, a relative, or a legal guardian)
5 of a minor or an infirm person.

6 (8) An individual who identifies as lesbian, gay,
7 bisexual, or transgender and who would, as a result,
8 be susceptible to harm in detention.

9 (9) An individual who speaks an indigenous lan-
10 guage with which United States Immigration and
11 Customs Enforcement has had a sustained inability
12 meaningfully to communicate.

13 (10) An individual who is a victim of sexual as-
14 sault, sexual abuse, torture, or trafficking.

15 (11) An individual having any other condition,
16 characteristic, or circumstance that may render the
17 individual at high risk in detention.

18 (b) LIMITATION.—For purposes of subsection (a), the
19 term “extraordinary circumstances” does not include
20 being—

21 (1) a flight risk;

22 (2) unable to post a bond; or

23 (3) within a priority category for removal.

24 (c) REVIEW.—Not later than 90 days after the date
25 of the enactment of this Act, the Secretary of Homeland

1 Security shall complete a review of the detained population
2 under the jurisdiction of the Secretary—

3 (1) to identify all individuals having a vulner-
4 ability described in subsection (a) who are in deten-
5 tion; and

6 (2) to determine pursuant to this section each
7 detainee's eligibility for parole, bond, conditional re-
8 lease, or other means of moving the individual to a
9 non-custodial setting.

10 (d) PROCEDURES.—

11 (1) IN GENERAL.—The Secretary of Homeland
12 Security shall consult with an attorney employed by
13 the United States Immigration and Customs En-
14 forcement Office of the Principal Legal Advisor
15 when feasible prior to making a custody determina-
16 tion when an individual has a vulnerability described
17 in subsection (a). Such consultation is especially nec-
18 essary when the individual is not a threat to public
19 safety or does not pose a threat to national security.

20 (2) RECORDS REVIEW.—The Secretary shall re-
21 quest to review any and all available medical or
22 other records and other relevant sources of informa-
23 tion relevant to the possible presence of such a vul-
24 nerability prior to assuming custody of an individual

1 who otherwise would be subject to mandatory deten-
2 tion.

3 (3) PROCESSING.—During book-in processing,
4 the Secretary shall question the individual, and re-
5 view available records and all other information, in-
6 cluding information obtained from the individual's
7 attorney, family members, or other third parties, to
8 solicit information about a possible vulnerability.

9 (4) ONGOING DETERMINATIONS.—If informa-
10 tion about a vulnerability described in subsection (a)
11 cannot be confirmed under paragraph (3) during
12 book-in, the Secretary shall continue to seek addi-
13 tional information after the individual has been de-
14 tained. The Secretary shall review the appropriate-
15 ness of a detainee's continued detention to determine
16 the detainee's eligibility for parole, bond, conditional
17 release, or other means of moving the individual to
18 a non-custodial setting when new information con-
19 firms that a detainee has a vulnerability described in
20 subsection (a) or that the nature or extent of an al-
21 ready-identified vulnerability has changed signifi-
22 cantly or deteriorated. Such review shall be con-
23 ducted as soon as possible, but not later than 14
24 days after such information becomes available. A de-

1 tainee may petition the Secretary for review of their
2 custody based on such a vulnerability.

3 (5) TRANSFER.—Upon receipt of information
4 concerning an individual with a vulnerability de-
5 scribed in subsection (a) who is detained due to ex-
6 traordinary circumstances or national security, the
7 Secretary shall assess if transfer to another deten-
8 tion facility or off-site treatment facility would pro-
9 vide an environment better suited for the needs of
10 the individual. The Secretary shall take care that
11 such a transfer does not unnecessarily disrupt con-
12 tinuity of care. At all times, the Secretary shall en-
13 sure that a transfer is accompanied by a transfer
14 summary containing all relevant medical information
15 to the receiving facility, consistent with the Sec-
16 retary's detention standards and policies.

17 (6) DATABASE.—The Secretary shall develop,
18 maintain, and update appropriate databases to track
19 individuals with a vulnerability described in sub-
20 section (a) who are in detention.

21 (e) REPORTS.—The Secretary of Homeland Security
22 shall provide quarterly reports to the Committee on the
23 Judiciary of the House of Representatives and of the Sen-
24 ate on the implementation of this section and the number

1 of individuals having a vulnerability described in sub-
2 section (a) who are in detention.

