

The [Flores](#) Settlement Agreement **sets a nationwide standard** for the detention, release, and treatment of all minors in the custody of federal immigration authorities in the U.S. In 1997, the agreement settled a class action lawsuit which was filed against the federal government on behalf of unaccompanied minors being held in custody. Under the agreement, the federal government agreed to be bound by certain minimum standards designed to **ensure that all children in the custody of federal immigration authorities** would be treated “with dignity, respect and special concern for their particular vulnerability as minors.”

The terms of Flores apply to all migrant children – those who arrive by themselves or with a parent. Under Flores, children are required to be **released from immigration detention within 20 days**, and if no suitable placement is available to them, must be housed in the least restrictive setting appropriate for their age and needs. Flores does not require the release of parents. With the Flores agreement in place, if a parent comes to the United States with a child, the government has one of two choices: to separate the parents from their children; or to release the child along with the parent to ensure the child is not detained beyond the 20-day period.

**The Flores settlement is not a legal loophole.** Families released from immigration detention are still placed in removal proceedings and are expected to appear before an immigration judge to make their asylum or other types of claims. In fact, many individuals who are released report to ICE on a regular basis and are monitored 24/7 with an ankle bracelet. **Flores was implemented to protect children** by giving families who have a credible fear of return the opportunity to live in the community instead of in detention and to send their children to school while proceeding with their asylum or other claims.

Over the years, the ways in which the Flores Settlement Agreement has been implemented evolved.

For example, with the elimination of the Immigration and Naturalization Service, the Department of Homeland Security (DHS) became charged with implementing and following the regulations set out in Flores for accompanied minors, while the Department of Health and Human Services (HHS) was given custodial responsibility for all unaccompanied children.

In 2003, **Congress passed a law** requiring that unaccompanied migrant children be placed in the care of the federal Office of Refugee Resettlement (ORR), an agency meant to prioritize child welfare, as a way of distancing children from the adult detention

model. The law marked a big step in protecting this population, because ORR was equipped to place children in less-restrictive settings, provide case management, and send kids to school.

In 2015, **the settlement was strengthened and expanded**. New requirements were placed on the government to:

- promptly and expeditiously make efforts to reunify families and release children from detention;
- release children to parents or release families together, when possible;
- require that if a child must be detained, that they are detained in a non-secure facility;
- end the state licensing process that allowed family detention facilities to exist;
- improve conditions where children and families are held; and monitor compliance with Flores.

The Flores settlement is not law, but rather an agreement from the government to ensure that migrant children are adequately protected. Due to the nature of the settlement, by issuing new proposed regulations by DHS and HHS, the Trump Administration is able to override the Flores settlement, significantly cutting back protections provided under Flores.

Unless Congress acts to pass a law protecting children from immigration detention, DHS and HHS will have the power to change these long-standing rules on their own. While DHS and HHS will have the final say in any regulatory route to terminate the Flores Agreement protections, these proposed regulations are posted in the Federal Register, and will be open for public comment for 60 days. **The public can add comment [here](#).**