Care of Refugee Minors transferred to Office of Refugee Resettlement Under 
Homeland Security Act of 2002

November 21, 2002

Section 462 of H.R. 5710, the Homeland Security Act of 2002 which was passed by the House of Representatives on 
November 13 and by the Senate on November 19 transfers responsibility for the care of unaccompanied foreign- 
born children from the Immigration and Naturalization Service (INS), within the Department of Justice, to the Office 
of Refugee Resettlement (ORR), within the Department of Health and Human Services’ Administration for Children and 
Families. Other provisions of Section 462:

- Encourage ORR to use the refugee children foster care system for the placement of unaccompanied minors;
- Require ORR to compile and update a state-by-state list of professionals qualified to provide guardian and 
  legal representation services to unaccompanied minors; and
- Require ORR to develop a plan, to be submitted to Congress, on how to ensure timely legal representation 
  for each child.

MRS has long supported this move on the grounds that ORR, which has extensive experience working with refugee 
children, is much better suited to the care of unaccompanied minors than the INS (or any law-enforcement agency), 
which faces a fundamental conflict of interest in serving as both jailer and caretaker of unaccompanied minors.

The transfer of responsibility for unaccompanied minors out of INS was a key component of S. 121, the 
Unaccompanied Alien Child Protection Act, introduced on January 22, 2001, by Senator Dianne Feinstein (D-CA) and 
supported by MRS. However, other provisions of S. 121, such as ensuring that detained foreign-born children have 
the same access to legal representation and court-appointed guardians as U.S.-born children, did not make it into 
H.R. 5710. MRS will continue to advocate for these provisions in the 108th Congress.

H.R. 5710 will combine 22 federal agencies, including the INS, into a new Department of Homeland Security devoted 
to protecting the United States against terrorist attack. MRS opposes putting immigration services within this new 
department. The new department will place immigration enforcement functions in a Bureau of Border Security and 
immigration services in a Bureau of Citizenship and Immigration Services, the director of which will report to the 
Deputy Secretary for Homeland Security. President Bush is expected to sign the bill next week and the creation of the 
department, as well as the transfer of functions to ORR, will take anywhere from 5 to 14 months to go into effect.