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Child Migrants to the United States

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In the summer of 2014, the U.S. experienced a dramatic increase in the number of unaccompanied children arriving on the southern border, gaining humanitarian and political attention and challenging federal and state resources and management. As of September 31, 2014, 68,541 [children](#) have been apprehended by Border Patrol agents, an increase of 77 percent compared to last year.

The migration of unaccompanied children has decreased significantly since the summer, and it seems for now the flow from Central America has returned to its pre-crisis level. The sudden decline in immigration can be attributed to factors such as changes in detention and immigration court practices, campaigns discouraging migration, increased prevention of illegal immigration in Mexico, and general seasonal trends.

Federal responsibility for unaccompanied children is divided between the U.S. Department of Homeland Security (DHS) and the U.S. Department of Health and Human Services (HHS). Children in DHS custody who are under age 18 without a parent or guardian must be screened to determine if they are victims of trafficking or persecution. Children from Mexico and Canada can either choose to leave voluntarily or be sent home within 48 hours under repatriation agreements. Children from all other countries must be transferred to HHS within 72 hours for court review of their immigration claims. The Office of Refugee Resettlement (ORR) in HHS reunites the child with family or a friend, or in approximately 10 percent of the cases, places them in foster care. After being placed, every child is put into deportation proceedings. The children may then be granted permission to stay (for example, through family visas, special immigrant juvenile visas or asylum) or be removed from the United States. (Court review is required, under a 2008 trafficking law, for children from countries other than Mexico and Canada.)

The surge in children crossing the border has placed an immense strain on federal agencies to process and care for them. The agencies have responded by identifying shelters and processing facilities, redirecting staff and funds, and activating an interagency group coordinated by the Federal Emergency Management Agency [FEMA](#). With the Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) within DHS, the Department of Health and Human Services, Department of State and Department of Defense. DHS and the Department of Justice (DOJ) have assigned more staff to apprehend and process children and families crossing the Texas border. ORR addressed the budget shortfall for unaccompanied children by temporarily shifting funding from state-administered refugee programs.

Potential state impacts include: budget shortfalls in state administered refugee programs and implications for state services; state licensing and oversight of care providers for unaccompanied children; and communication/coordination of federal enforcement and emergency response with state law enforcement.

The administration requested [\\$3.7 billion](#) in emergency funding on July 8, 2014: \$1.6 billion to DOJ and DHS; \$1.8 billion to HHS; and \$300 million to the Department of State. Congress did not approve the

emergency funding. The federal government is operating under a continuing resolution until December 11, 2014, leaving the program at the FY2014 funding level.

The Obama administration is planning to make \$9 million available over the next two years for legal representation to 2,600 unaccompanied children who were apprehended by authorities. At the state level, California enacted legislation providing \$3 million for legal representation through nonprofit organizations.

This brief highlights recent trends in arrivals of unaccompanied children, an overview of the federal unaccompanied minor program, federal budget proposals to respond to the increased arrivals, and benefit eligibility for unaccompanied migrant children.

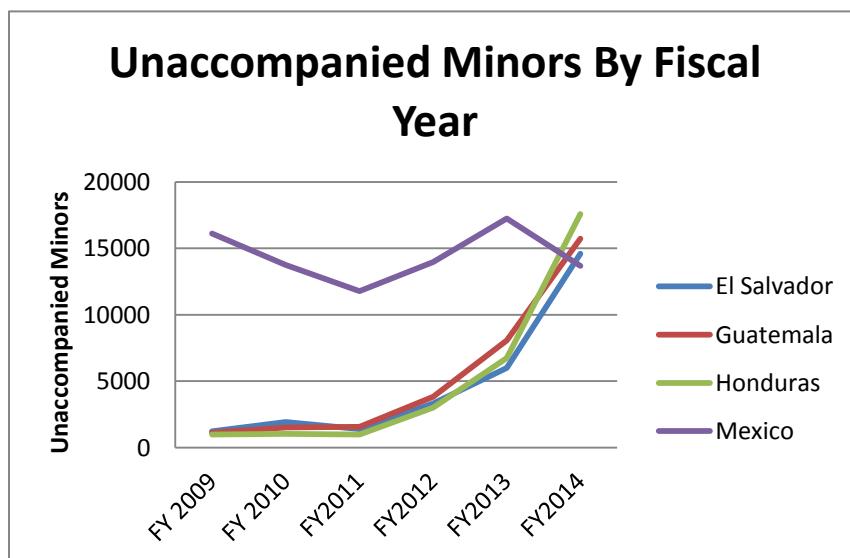
Trends in Arrivals

The number of “unaccompanied alien minors,” in federal terminology, apprehended by the Border Patrol at the U.S.-Mexico border began to gradually decline from its peak of 10,622 in June to 5,501 in July, and then a little over 3,100 in August, 2014. The arrival of “unaccompanied alien minors,” has steadily increased from approximately 20,000 since 2009, and almost doubled to [68,541 in 2014 compared to 38,759](#) in 2013 and 24,481 in 2012. Unlike earlier child migrations, which primarily were from Mexico, most arrivals in 2014 are from Honduras, El Salvador and Guatemala.

In the past, a majority of these unaccompanied minors have been older teenage boys. Recent data, however, shows that the average age of unaccompanied minors making the journey is 11 years old, and more than a third are girls.

Interviews with the children conducted by the United Nations High Commissioner for Refugees (UNHCR) identified “push factors” such as gang violence and lack of economic opportunity and “pull factors” including the possibility of reuniting with family in the U.S. and rumors that children who make it to the border will be given a reprieve.

The Office of Refugee Resettlement says 45,000 children have been released to sponsors from January-September 2014. A state by state chart is available [here](#).



An Overview of the Federal Unaccompanied Alien Minor (“UAC”) Program

The Homeland Security Act of 2002 (P.L. 107-296) divided responsibility for unaccompanied children between DHS and HHS.

Once apprehended and detained by Customs and Border Patrol (CBP), agents interview the child and conduct a screening. A child, who at the time of apprehension has no lawful immigration status in the U.S., is under 18 years of age, and has no parent or legal guardian in the country present or available to provide care and physical custody, meets the statutory definition of “unaccompanied minor.” They must

be transferred into the custody of the HHS within 72 hours. A new policy for fast-track hearings is being implemented by the Executive Office for Immigration Review (EOIR), mandating courts to schedule initial hearings for individuals within 21 days of U.S. Immigration and Customs Enforcement (ICE) initiating removal proceedings.

Once in HHS custody, ORR is responsible for caring for the minors and releasing them to family members or sponsors regardless of the sponsor's immigration status. ORR estimates that it places 90 percent of children with a family member or friend, reuniting close to 30 percent with a parent. In the other 10 percent of cases, the child will be placed in foster care. After being placed either with a sponsor or in foster care, every child is put into deportation proceedings pursuant to the Immigration and Nationality Act.

The Trafficking Victims Protection Reauthorization Act of 2008 (P.L. 110-457) requires DHS to screen unaccompanied minors as potential victims of human trafficking and offers additional legal protections. The act stipulates that unaccompanied alien children from noncontiguous countries must be transferred to the care and custody of HHS and placed in formal removal proceedings. Children from Mexico and Canada are screened and returned to their home countries within 48 hours.

Federal Funding

The FY13 [HHS appropriation](#) for the Unaccompanied Minor Program was \$376 million, increased to \$868 million in FY14. The FY15 Administration proposal remains at \$868 million due to the unpredictable number of arrivals.

In May, 2014, the Office of Management and Budget revised cost projections for FY2015 to \$2.28 billion for the Unaccompanied Alien Children program in ORR, an increase of \$1.412 billion from FY14. Funding covers costs for shelter, medical care, support services, and grants to state-licensed facilities for shelter and foster care.

The FY15 [DHS appropriations](#) seeks \$77 million above the request for CBP to provide initial processing, medical care, food, shelter and clothing for the estimated 145,000 unaccompanied immigrant children in fiscal year 2015 and \$87.6 million above the request for the transportation of unaccompanied immigrant children from DHS custody to shelters operated by ORR.

Funding for state-supervised refugee programs is being affected by shifting refugee program funds, such as social services, targeted assistance and preventive health, to fill a \$94 million budget shortfall in the unaccompanied alien minor program. The refugee program helps refugees attain self-sufficiency, serves children to seniors, and leverages public-private partnerships throughout the states. Funding cuts last year were restored at the end of the fiscal year.

The proposed supplemental funding would have supported domestic enforcement; repatriation and reintegration of migrants; immigration judges, prosecutors, and immigration litigation attorneys; funding to address the root causes of migration; public diplomacy and international information programs; the operational costs of responding; and expenses to care for those apprehended.

Members of Congress also considered amendments to the Trafficking Victims Protection Reauthorization Act that would allow for faster repatriation of the unaccompanied children. ([See NCSL's Summary of HUMANE Act.](#))

Benefit Eligibility for Unaccompanied Migrant Children

Unaccompanied minors are not given a green card or any kind of legal status. The children are not legally entitled to representation and, if represented, are done so through private pro bono lawyers. The most common forms of legal relief available to unaccompanied children are asylum, special immigrant

juvenile status, U visas for crime victims, T visas for trafficking victims, and family based petitions for legal permanent residence.

Unaccompanied minors entering the U.S. are not eligible for Deferred Action for Childhood Arrivals (DACA), which applies to unauthorized immigrants who have been in the country since 2007. ([See NCSL's summary of DACA.](#))

Children who are not placed with a sponsor are cared for through a network of private and public ORR-funded care provider facilities. Each unaccompanied minor in the care of ORR is eligible for the same range of child welfare benefits as non-refugee children in the state, with the potential for additional services for the preservation of the minor's ethnic and religious heritage (see HHS program regulations at 45 CFR 400.118(b)(6)). ORR reimburses costs incurred on behalf of each child until the month after his or her 18th birthday or such higher age as is permitted under the state's plan under title IV-B of the Social Security Act. Standards for the state-administered unaccompanied minor refugee and entrant program require the state to provide organizational leadership and administrative support; monitor services; establishes legal responsibility under state child welfare laws; and, encourages the reunion in the U.S. of unaccompanied minor refugees with their parents or other appropriate relative.

Children placed with family sponsors would be classified as "unqualified immigrants" as they await their immigration hearings. These children would not have access to federal public benefits such as subsidies under the Affordable Care Act, CHIP, TANF or SSI with the exception of emergency services. However, the children would be eligible for [public education](#). (See NCSL's [summary](#) of federal benefits available to unauthorized immigrants.)

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Resources

[DHS website](#)

[HHS website](#)

[Department of Education website](#)

[Unaccompanied Children: An Overview](#), Congressional Research Service, June 23, 2014

[Child Migration by the Numbers](#), Bipartisan Policy Center, June 2014

[Unaccompanied Children Released to Sponsors by State](#)

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