from serving as a foster parent.[244] Such crimes include felony convictions for child abuse or neglect, for spousal abuse, for a crime against children (including child pornography), or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery.[245] Under the Model Standards, a prospective foster parent cannot serve if he has been convicted within the past five years of a felony for physical assault, battery, or a drug-related offense.[246]

The Subcommittee requested basic data concerning sponsors with criminal records. But HHS was unable to tell the Subcommittee how many UACs were released to sponsors having a criminal record; the Office explained that "[w]hile information bearing on a sponsor's criminal history is contained in a child's case file, ORR's computer systems currently do not have the capability to generate reports that aggregate this data."[247]

On January 25, 2016, HHS implemented new policies that automatically disqualify potential Category 2 or Category 3 sponsors if the sponsor or a member of his or her household have been convicted of a serious crime, including any felony involving child abuse or neglect, any felony against children, and any violent felony.[248] In addition, HHS will now deny sponsorship applications if the sponsor, or a member of his household, has had a substantiated adverse child welfare finding based on severe chronic abuse or neglect and other serious problems.[249]

7. HHS Does Not Ensure a Sponsor Has Adequate Income to Support a UAC

Before placing a child with a sponsor, HHS must "make[] a determination that the proposed custodian is capable of providing for the child's physical and mental well-being."[250] Part of that obligation is to ensure that a sponsor has adequate financial means to provide for the basic needs of a new dependent.

HHS, however, does not require that a sponsor's income meet any set threshold. A senior ORR official told the Subcommittee that HHS considers the totality of the circumstances when determining whether a sponsor is capable of caring for a child, rather than disqualifying a sponsor based on their income

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244 *Model Family Foster Home Licensing Standards*, NARA 3, http://www.grandfamilies.org/Portals/0/Model%20Licensing%20Standards%20FINAL.pdf.
245 *Id.* at 32.
246 *Id.*
247 App. 224.
248 *ORR Policy Guide* at §2.7.4. Other disqualifying convictions include any misdemeanor sex crime, drug offenses that compromise the sponsor's ability to ensure the safety and well-being of the child, and human smuggling or trafficking.
249 *Id.*
250 8 U.S.C. § 1232(c)(3)(A).

level.[251] HHS's sponsor application includes a "Financial Information" section that asks the sponsor to explain how they plan to provide for the child financially. The sponsor typically will provide the name of their employer or a description of their job and the amount they earn each week. In addition to the sponsor's income, HHS will also consider the income of a sponsor's spouse, significant other, or family member.[252]

On April 3, 2014, HHS revised its policies to no longer require proof of a sponsor's income.[253] This policy is reasonable in the case of Category 1 sponsors, but raises concerns when the sponsors are non-relatives. When the Subcommittee asked a senior policy official at HHS about the reasons behind the policy change, the official stated that HHS found that requiring proof of income was burdensome to the sponsors.[254] The official also stated that the relevant statute does not require HHS to seek proof of income from sponsors.[255] ORR does, however, have more onerous requirements such as obtaining a copy of a child's birth certificate from a Central American country.[256]

In addition, in several cases reviewed by the Subcommittee, HHS has authorized placement of children with non-relative sponsors that have minimal financial means. A sponsor's low income could potentially raise trafficking concerns. According to an HHS care provider interviewed by the Subcommittee, if a sponsor does not have sufficient income to support herself, it could indicate that the sponsor will expect the minor to work instead of, or in addition to, going to school.[257] The risk of trafficking increases further if the UAC or her family owes a debt for her journey to the U.S.—and further increases if the debt is owed to the UAC's sponsor.

In an interview with the Subcommittee, an ORR Field Specialist Supervisor explained that low sponsor income is not necessarily a trafficking indicator.[258] He noted that if a sponsor has a low income then it may be necessary for the care provider to ask the sponsor if they have an alternative means of financial support, such as assistance from a family member or relative.[259] The supervisor agreed,

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[251] Interview with Toby Biswas, Supervisory Program Specialist, Division of Policy, Office of Refugee Resettlement (Dec. 8, 2015).
[252] Interview with David Fink, Federal Field Specialist Supervisor (Oct. 8, 2015).
[253] Interview with Toby Biswas, Supervisory Program Specialist, Division of Policy, Office of Refugee Resettlement (Dec. 8, 2015).
[254] *Id.*
[255] *Id.*
[256] *ORR Policy Guide* § 2.2.4.
[257] Interview with Care Provider B (Oct. 16, 2015).
[258] Interview with David Fink, Federal Field Specialist Supervisor (Oct. 8, 2015).
[259] *Id.*

however, that a case involving a Category 3 sponsor with low income where the UAC has debt from his journey would be "a huge red flag for [HHS]."[260]

In the Marion case, one sponsor stated that she earned $200 each week working from home,[261] which amounts to $10,400 a year—well below the federal poverty line. Neither HHS nor the care provider record any attempt to determine whether this reported income was supplemented by any other sources, such as government assistance.[262]

8. HHS Approves Placements with Sponsors Who May Not Remain in the Country

HHS does not disqualify sponsors based on immigration status; it is willing to place UACs with individuals who are in the country illegally or on temporary visas that will soon expire.[263] That policy is understandable when the sponsor is the child's parent or close relative, and granting the application results in family reunification. But for non-relatives, it may create additional risks for the child. For example, sponsor may leave the United States while the UAC's immigration proceedings are still pending—either because the sponsor's temporary visa expires or because an undocumented sponsor is removed or voluntarily departs, which would cause further disruption for the child. For example, HHS approved the straight release of a UAC to a Category 3 sponsor who was in the U.S. on a B-1/B-2 tourist/business visa, which has an initial duration of stay for only six months. A B-1/B-2 visa holder can be granted an extension for another six months for a total duration of no more than one year in the U.S. on any trip.[264]

9. Sponsors Often Inflict Legal Harm on UACs by Not Ensuring Their Appearance At Immigration Proceedings

Sponsors often fail to ensure the UAC's appearance at immigration proceedings—one of a sponsor's principal tasks. Prior to release of the UAC from HHS custody, the sponsor is required to sign a form agreeing to attend a legal orientation program and to "ensure the minor's presence at all future proceedings before DHS/Immigration and Customs Enforcement (ICE) and DOJ/EOIR."[265] The importance of that obligation is reflected in the TVPRA, which provides that HHS and the Department of Justice "shall cooperate . . . to ensure that custodians receive

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[260] *Id.*
[261] UAC14.
[262] *Id.*
[263] Interview with Bobbie Gregg, Deputy Director of Children's Servs., Office of Refugee Resettlement (Oct. 1, 2015).
[264] U.S. Citizenship and Immigration Services, B-1 Temporary Business Visitor, https://www.uscis.gov/working-united-states/temporary-visitors-business/b-1-temporary-business-visitor.
[265] App. 147.