

110TH CONGRESS
2D SESSION

H. R. 7311

IN THE SENATE OF THE UNITED STATES

DECEMBER 10, 2008

Received

AN ACT

To authorize appropriations for fiscal years 2008 through 2011 for the Trafficking Victims Protection Act of 2000, to enhance measures to combat trafficking in persons, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “William Wilberforce Trafficking Victims Protection Re-
 4 authorization Act of 2008”.

5 (b) TABLE OF CONTENTS.—The table of contents for
 6 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—COMBATING INTERNATIONAL TRAFFICKING IN
 PERSONS**

- Sec. 101. Interagency Task Force to Monitor and Combat Trafficking.
- Sec. 102. Office to Monitor and Combat Trafficking.
- Sec. 103. Prevention and prosecution of trafficking in foreign countries.
- Sec. 104. Assistance for victims of trafficking in other countries.
- Sec. 105. Increasing effectiveness of anti-trafficking programs.
- Sec. 106. Minimum standards for the elimination of trafficking.
- Sec. 107. Actions against governments failing to meet minimum standards.
- Sec. 108. Research on domestic and international trafficking in persons.
- Sec. 109. Presidential Award for Extraordinary Efforts to Combat Trafficking
 in Persons.
- Sec. 110. Report on activities of the Department of Labor to monitor and com-
 bat forced labor and child labor.
- Sec. 111. Sense of Congress regarding multilateral framework between labor
 exporting and labor importing countries.

**TITLE II—COMBATING TRAFFICKING IN PERSONS IN THE
 UNITED STATES**

Subtitle A—Ensuring Availability of Possible Witnesses and Informants

- Sec. 201. Protecting trafficking victims against retaliation.
- Sec. 202. Protections for domestic workers and other nonimmigrants.
- Sec. 203. Protections, remedies, and limitations on issuance for A–3 and G–5
 visas.
- Sec. 204. Relief for certain victims pending actions on petitions and applica-
 tions for relief.
- Sec. 205. Expansion of authority to permit continued presence in the United
 States.

Subtitle B—Assistance for Trafficking Victims

- Sec. 211. Assistance for certain nonimmigrant status applicants.
- Sec. 212. Interim assistance for children.
- Sec. 213. Ensuring assistance for all victims of trafficking in persons.

Subtitle C—Penalties Against Traffickers and Other Crimes

- Sec. 221. Restitution of forfeited assets; enhancement of civil action.
- Sec. 222. Enhancing penalties for trafficking offenses.

- Sec. 223. Jurisdiction in certain trafficking offenses.
- Sec. 224. Bail conditions, subpoenas, and repeat offender penalties for sex trafficking.
- Sec. 225. Promoting effective State enforcement.

Subtitle D—Activities of the United States Government

- Sec. 231. Annual report by the Attorney General.
- Sec. 232. Investigation by the Inspectors General.
- Sec. 233. Senior Policy Operating Group.
- Sec. 234. Preventing United States travel by traffickers.
- Sec. 235. Enhancing efforts to combat the trafficking of children.
- Sec. 236. Restriction of passports for sex tourism.
- Sec. 237. Additional reporting on crime.
- Sec. 238. Processing of certain visas.
- Sec. 239. Temporary increase in fee for certain consular services.

TITLE III—AUTHORIZATIONS OF APPROPRIATIONS

- Sec. 301. Trafficking Victims Protection Act of 2000.
- Sec. 302. Trafficking Victims Protection Reauthorization Act of 2005.
- Sec. 303. Rule of construction.
- Sec. 304. Technical amendments.

TITLE IV—CHILD SOLDIERS PREVENTION

- Sec. 401. Short title.
- Sec. 402. Definitions.
- Sec. 403. Sense of Congress.
- Sec. 404. Prohibition.
- Sec. 405. Reports.
- Sec. 406. Training for foreign service officers.
- Sec. 407. Effective date; applicability.

1 **TITLE I—COMBATING INTER-** 2 **NATIONAL TRAFFICKING IN** 3 **PERSONS**

4 **SEC. 101. INTERAGENCY TASK FORCE TO MONITOR AND** 5 **COMBAT TRAFFICKING.**

6 Section 105(b) of the Trafficking Victims Protection
7 Act of 2000 (22 U.S.C. 7103(b)) is amended by inserting
8 “the Secretary of Education,” after “the Secretary of
9 Homeland Security,”.

1 **SEC. 102. OFFICE TO MONITOR AND COMBAT TRAFFICKING.**

2 Section 105(e) of the Trafficking Victims Protection
3 Act of 2000 (22 U.S.C. 7103(e)) is amended—

4 (1) in the subsection heading, by striking “SUP-
5 PORT FOR THE TASK FORCE” and inserting “OF-
6 FICE TO MONITOR AND COMBAT TRAFFICKING”;

7 (2) by striking “The Secretary of State is au-
8 thorized to” and inserting the following:

9 “(1) IN GENERAL.—The Secretary of State
10 shall”; and

11 (3) by adding at the end the following:

12 “(2) COORDINATION OF CERTAIN ACTIVITIES.—

13 “(A) PARTNERSHIPS.—The Director, in
14 coordination and cooperation with other officials
15 at the Department of State involved in cor-
16 porate responsibility, the Deputy Under Sec-
17 retary for International Affairs of the Depart-
18 ment of Labor, and other relevant officials of
19 the United States Government, shall promote,
20 build, and sustain partnerships between the
21 United States Government and private entities
22 (including foundations, universities, corpora-
23 tions, community-based organizations, and
24 other nongovernmental organizations) to ensure
25 that—

1 “(i) United States citizens do not use
2 any item, product, or material produced or
3 extracted with the use of labor from vic-
4 tims of severe forms of trafficking; and

5 “(ii) such entities do not contribute to
6 trafficking in persons involving sexual ex-
7 ploitation.

8 “(B) UNITED STATES ASSISTANCE.—The
9 Director shall be responsible for—

10 “(i) all policy, funding, and program-
11 ming decisions regarding funds made avail-
12 able for trafficking in persons programs
13 that are centrally controlled by the Office
14 to Monitor and Combat Trafficking; and

15 “(ii) coordinating any trafficking in
16 persons programs of the Department of
17 State or the United States Agency for
18 International Development that are not
19 centrally controlled by the Director.”.

20 **SEC. 103. PREVENTION AND PROSECUTION OF TRAF-**
21 **FICKING IN FOREIGN COUNTRIES.**

22 (a) PREVENTION.—Section 106 of the Trafficking
23 Victims Protection Act of 2000 (22 U.S.C. 7104) is
24 amended by adding at the end the following:

1 “(i) ADDITIONAL MEASURES TO PREVENT AND
2 DETER TRAFFICKING.—The President shall establish and
3 carry out programs to prevent and deter trafficking in per-
4 sons, including—

5 “(1) technical assistance and other support to
6 improve the capacity of foreign governments to in-
7 vestigate, identify, and carry out inspections of pri-
8 vate entities, including labor recruitment centers, at
9 which trafficking victims may be exploited, particu-
10 larly exploitation involving forced and child labor;

11 “(2) technical assistance and other support for
12 foreign governments and nongovernmental organiza-
13 tions to provide immigrant populations with infor-
14 mation, in the native languages of the major immi-
15 grant groups of such populations, regarding the
16 rights of such populations in the foreign country and
17 local in-country nongovernmental organization-oper-
18 ated hotlines;

19 “(3) technical assistance to provide legal frame-
20 works and other programs to foreign governments
21 and nongovernmental organizations to ensure that—

22 “(A) foreign migrant workers are provided
23 the same protection as nationals of the foreign
24 country;

1 “(B) labor recruitment firms are regulated;
2 and

3 “(C) workers providing domestic services
4 in households are provided protection under
5 labor rights laws; and

6 “(4) assistance to foreign governments to reg-
7 ister vulnerable populations as citizens or nationals
8 of the country to reduce the ability of traffickers to
9 exploit such populations.”.

10 (b) PROSECUTION.—Section 134(a)(2) of the Foreign
11 Assistance Act of 1961 (22 U.S.C. 2152d(a)(2)) is amend-
12 ed by adding at the end before the semicolon the following:
13 “, including investigation of individuals and entities that
14 may be involved in trafficking in persons involving sexual
15 exploitation”.

16 **SEC. 104. ASSISTANCE FOR VICTIMS OF TRAFFICKING IN**
17 **OTHER COUNTRIES.**

18 Section 107(a) of Trafficking Victims Protection Act
19 of 2000 (22 U.S.C. 7105(a)) is amended—

20 (1) in paragraph (1)—

21 (A) in the second sentence, by inserting be-
22 fore the period at the end the following: “, and
23 shall be carried out in a manner which takes
24 into account the cross-border, regional, and

transnational aspects of trafficking in persons”;
and

(B) by adding at the end the following:

“(F) In cooperation and coordination with relevant organizations, such as the United Nations High Commissioner for Refugees, the International Organization for Migration, and private nongovernmental organizations that contract with, or receive grants from, the United States Government to assist refugees and internally displaced persons, support for—

“(i) increased protections for refugees and internally displaced persons, including outreach and education efforts to prevent such refugees and internally displaced persons from being exploited by traffickers;
and

“(ii) performance of best interest determinations for unaccompanied and separated children who come to the attention of the United Nations High Commissioner for Refugees, its partner organizations, or any organization that contracts with the Department of State in order to identify child trafficking victims and to assist their safe

1 integration, reintegration, and resettlement.”; and

3 (2) in paragraph (2), by adding at the end the
4 following: “In carrying out this paragraph, the Secretary and the Administrator shall take all appropriate steps to ensure that cooperative efforts among
6 foreign countries are undertaken on a regional
8 basis.”.

9 **SEC. 105. INCREASING EFFECTIVENESS OF ANTI-TRAFFICKING PROGRAMS.**

11 The Trafficking Victims Protection Act of 2000 (22
12 U.S.C. 7101 et seq.) is amended by inserting after section
13 107 the following:

14 **“SEC. 107A. INCREASING EFFECTIVENESS OF ANTI-TRAFFICKING PROGRAMS.**

16 **“(a) AWARDING OF GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—**In administering funds made
17 available to carry out this Act within and outside the
18 United States—

20 **“(1)** solicitations of grants, cooperative agreements, and contracts for such programs shall be
21 made publicly available;

23 **“(2)** grants, cooperative agreements, and contracts shall be subject to full and open competition,
24 in accordance with applicable laws; and

1 “(3) the internal department or agency review
2 process for such grants, cooperative agreements, and
3 contracts shall not be subject to ad hoc or intermit-
4 tent review or influence by individuals or organiza-
5 tions outside the United States Government except
6 as provided under paragraphs (1) and (2).

7 “(b) ELIGIBILITY.—

8 “(1) IN GENERAL.—An applicant desiring a
9 grant, contract, or cooperative agreement under this
10 Act shall certify that, to the extent practicable, per-
11 sons or entities providing legal services, social serv-
12 ices, health services, or other assistance have com-
13 pleted, or will complete, training in connection with
14 trafficking in persons.

15 “(2) DISCLOSURE.—If appropriate, applicants
16 should indicate collaboration with nongovernmental
17 organizations, including organizations with expertise
18 in trafficking in persons.

19 “(c) EVALUATION OF ANTI-TRAFFICKING PRO-
20 GRAMS.—

21 “(1) IN GENERAL.—The President shall estab-
22 lish a system to evaluate the effectiveness and effi-
23 ciency of the assistance provided under anti-traf-
24 ficking programs established under this Act on a
25 program-by-program basis in order to maximize the

1 long-term sustainable development impact of such
2 assistance.

3 “(2) REQUIREMENTS.—In carrying out para-
4 graph (1), the President shall—

5 “(A) establish performance goals for the
6 assistance described in paragraph (1), ex-
7 pressed in an objective and quantifiable form,
8 to the extent practicable;

9 “(B) ensure that performance indicators
10 are used for programs authorized under this
11 Act to measure and assess the achievement of
12 the performance goals described in subpara-
13 graph (A);

14 “(C) provide a basis for recommendations
15 for adjustments to the assistance described in
16 paragraph (1) to enhance the impact of such
17 assistance; and

18 “(D) ensure that evaluations are conducted
19 by subject matter experts in and outside the
20 United States Government, to the extent prac-
21 ticable.

22 “(d) TARGETED USE OF ANTI-TRAFFICKING PRO-
23 GRAMS.—In providing assistance under this division, the
24 President should take into account the priorities and coun-
25 try assessments contained in the most recent report sub-

mitted by the Secretary of State to Congress pursuant to section 110(b).

“(e) CONSISTENCY WITH OTHER PROGRAMS.—The President shall ensure that the design, monitoring, and evaluation of United States assistance programs for emergency relief, development, and poverty alleviation under part I and chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq. and 2346 et seq.) and other similar United States assistance programs are consistent with United States policies and other United States programs relating to combating trafficking in persons.

“(f) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2008 through 2011, not more than 5 percent of the amounts made available to carry out this division may be used to carry out this section, including—

“(1) evaluations of promising anti-trafficking programs and projects funded by the disbursing agency pursuant to this Act; and

“(2) evaluations of emerging problems or global trends.”.

**SEC. 106. MINIMUM STANDARDS FOR THE ELIMINATION OF
TRAFFICKING.**

Section 108 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7106) is amended—

1 (1) in subsection (a), by striking “a significant
2 number of”; and

3 (2) in subsection (b)—

4 (A) in paragraph (1), by striking the pe-
5 riod at the end of the first sentence and insert-
6 ing the following: “, including, as appropriate,
7 requiring incarceration of individuals convicted
8 of such acts. For purposes of the preceding sen-
9 tence, suspended or significantly-reduced sen-
10 tences for convictions of principal actors in
11 cases of severe forms of trafficking in persons
12 shall be considered, on a case-by-case basis,
13 whether to be considered an indicator of serious
14 and sustained efforts to eliminate severe forms
15 of trafficking in persons.”;

16 (B) in paragraph (2), by inserting before
17 the period at the end the following: “, including
18 by providing training to law enforcement and
19 immigration officials regarding the identifica-
20 tion and treatment of trafficking victims using
21 approaches that focus on the needs of the vic-
22 tims”;

23 (C) in paragraph (3), by striking “meas-
24 ures to reduce the demand for commercial sex
25 acts and for participation in international sex

1 tourism by nationals of the country” and insert-
2 ing “measures to establish the identity of local
3 populations, including birth registration, citi-
4 zenship, and nationality”; and

5 (D) by adding at the end the following:

6 “(11) Whether the government of the country
7 has made serious and sustained efforts to reduce the
8 demand for—

9 “(A) commercial sex acts; and

10 “(B) participation in international sex
11 tourism by nationals of the country.”.

12 **SEC. 107. ACTIONS AGAINST GOVERNMENTS FAILING TO**
13 **MEET MINIMUM STANDARDS.**

14 (a) COUNTRIES ON SPECIAL WATCH LIST RELATING
15 TO TRAFFICKING IN PERSONS FOR 2 CONSECUTIVE
16 YEARS.—Section 110(b)(3) of the Trafficking Victims
17 Protection Act of 2000 (22 U.S.C. 7107(b)(3)) is amend-
18 ed by adding at the end the following:

19 “(D) COUNTRIES ON SPECIAL WATCH LIST
20 FOR 2 CONSECUTIVE YEARS.—

21 “(i) IN GENERAL.—Except as pro-
22 vided under clause (ii), a country that is
23 included on the special watch list described
24 in subparagraph (A) for 2 consecutive
25 years after the date of the enactment of

1 this subparagraph, shall be included on the
2 list of countries described in paragraph
3 (1)(C).

4 “(ii) EXERCISE OF WAIVER AUTHOR-
5 ITY.—The President may waive the appli-
6 cation of clause (i) for up to 2 years if the
7 President determines, and reports credible
8 evidence to the Committee on Foreign Re-
9 lations of the Senate and the Committee
10 on Foreign Affairs of the House of Rep-
11 resentatives, that such a waiver is justified
12 because—

13 “(I) the country has a written
14 plan to begin making significant ef-
15 forts to bring itself into compliance
16 with the minimum standards for the
17 elimination of trafficking;

18 “(II) the plan, if implemented,
19 would constitute making such signifi-
20 cant efforts; and

21 “(III) the country is devoting
22 sufficient resources to implement the
23 plan.”.

24 (b) CLARIFICATION OF MEASURES AGAINST CERTAIN
25 FOREIGN COUNTRIES.—Section 110(d)(1)(A)(ii) of the

1 Trafficking Victims Protection Act of 2000 (22 U.S.C.
 2 7107(d)(1)(A)) is amended by inserting “such assistance
 3 to the government of the country for the subsequent fiscal
 4 year and will not provide” after “will not provide”.

5 (c) TRANSLATION OF TRAFFICKING IN PERSONS RE-
 6 PORT.—The Secretary of State shall—

7 (1) timely translate the annual report submitted
 8 under section 110(b) of the Trafficking Victims Pro-
 9 tection Act of 2000 (22 U.S.C. 7107(b)) into the
 10 principal languages of as many countries as possible,
 11 with particular emphasis on the languages of the
 12 countries on the lists described in subparagraphs
 13 (B) and (C) of section 110(b)(1) of such Act; and

14 (2) ensure that the translations described in
 15 paragraph (1) are made available to the public
 16 through postings on the Internet website of the De-
 17 partment of State and other appropriate websites.

18 **SEC. 108. RESEARCH ON DOMESTIC AND INTERNATIONAL**
 19 **TRAFFICKING IN PERSONS.**

20 (a) INTEGRATED DATABASE.—Section 112A of the
 21 Trafficking Victims Protection Act of 2000 (22 U.S.C.
 22 7109a) is amended—

23 (1) in subsection (a), by amending paragraph
 24 (5) to read as follows:

1 “(5) An effective mechanism for quantifying the
2 number of victims of trafficking on a national, re-
3 gional, and international basis, which shall include,
4 not later than 2 years after the date of the enact-
5 ment of the William Wilberforce Trafficking Victims
6 Protection Reauthorization Act of 2008, the estab-
7 lishment and maintenance of an integrated database
8 within the Human Smuggling and Trafficking Cen-
9 ter.”; and

10 (2) by amending subsection (b) to read as fol-
11 lows:

12 “(b) ROLE OF HUMAN SMUGGLING AND TRAF-
13 FICKING CENTER.—

14 “(1) IN GENERAL.—The research initiatives de-
15 scribed in paragraphs (4) and (5) of subsection (a)
16 shall be carried out by the Human Smuggling and
17 Trafficking Center, established under section 7202
18 of the 9/11 Commission Implementation Act of 2004
19 (8 U.S.C. 1777).

20 “(2) DATABASE.—The database described in
21 subsection (a)(5) shall be established by combining
22 all applicable data collected by each Federal depart-
23 ment and agency represented on the Interagency
24 Task Force to Monitor and Combat Trafficking,
25 consistent with the protection of sources and meth-

1 ods, and, to the maximum extent practicable, appli-
2 cable data from relevant international organizations,
3 to—

4 “(A) improve the coordination of the col-
5 lection of data related to trafficking in persons
6 by each agency of the United States Govern-
7 ment that collects such data;

8 “(B) promote uniformity of such data col-
9 lection and standards and systems related to
10 such collection;

11 “(C) undertake a meta-analysis of patterns
12 of trafficking in persons, slavery, and slave-like
13 conditions to develop and analyze global trends
14 in human trafficking;

15 “(D) identify emerging issues in human
16 trafficking and establishing integrated methods
17 to combat them; and

18 “(E) identify research priorities to respond
19 to global patterns and emerging issues.

20 “(3) CONSULTATION.—The database estab-
21 lished in accordance with paragraph (2) shall be
22 maintained in consultation with the Director of the
23 Office to Monitor and Combat Trafficking in Per-
24 sons of the Department of State.

1 “(4) AUTHORIZATION OF APPROPRIATIONS.—

2 There are authorized to be appropriated \$2,000,000
3 to the Human Smuggling and Trafficking Center for
4 each of the fiscal years 2008 through 2011 to carry
5 out the activities described in this subsection.”.

6 (b) REPORT.—Section 110(b)(1) of the Trafficking
7 Victims Protection Act of 2000 (22 U.S.C. 7107(b)(1))
8 is amended—

9 (1) in subparagraph (C), by striking “and” at
10 the end;

11 (2) in subparagraph (D), by striking the period
12 at the end and inserting a semicolon; and

13 (3) by adding at the end the following:

14 “(E) reporting and analysis on the emer-
15 gence or shifting of global patterns in human
16 trafficking, including data on the number of
17 victims trafficked to, through, or from major
18 source and destination countries, disaggregated
19 by nationality, gender, and age, to the extent
20 possible; and

21 “(F) emerging issues in human traf-
22 ficking.”.

1 **SEC. 109. PRESIDENTIAL AWARD FOR EXTRAORDINARY EF-**
2 **FORTS TO COMBAT TRAFFICKING IN PER-**
3 **SONS.**

4 The Trafficking Victims Protection Act of 2000 (22
5 U.S.C. 7101 et seq.) is amended by inserting after section
6 112A the following:

7 **“SEC. 112B. PRESIDENTIAL AWARD FOR EXTRAORDINARY**
8 **EFFORTS TO COMBAT TRAFFICKING IN PER-**
9 **SONS.**

10 “(a) ESTABLISHMENT OF AWARD.—The President is
11 authorized to establish an award, to be known as the
12 ‘Presidential Award for Extraordinary Efforts To Combat
13 Trafficking in Persons’, for extraordinary efforts to com-
14 bat trafficking in persons. To the maximum extent prac-
15 ticable, the Secretary of State shall present the award an-
16 nually to not more than 5 individuals or organizations, in-
17 cluding—

18 “(1) individuals who are United States citizens
19 or foreign nationals; and

20 “(2) United States or foreign nongovernmental
21 organizations.

22 “(b) SELECTION.—The President shall establish pro-
23 cedures for selecting recipients of the award authorized
24 under subsection (a).

25 “(c) CEREMONY.—The Secretary of State shall host
26 an annual ceremony for recipients of the award authorized

1 under subsection (a) as soon as practicable after the date
2 on which the Secretary submits to Congress the report re-
3 quired under section 110(b)(1). The Secretary of State
4 may pay the travel costs of each recipient and a guest
5 of each recipient who attends the ceremony.

6 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated, for each of the fiscal
8 years 2008 through 2011, such sums as may be necessary
9 to carry out this section.”.

10 **SEC. 110. REPORT ON ACTIVITIES OF THE DEPARTMENT OF**
11 **LABOR TO MONITOR AND COMBAT FORCED**
12 **LABOR AND CHILD LABOR.**

13 (a) FINAL REPORT; PUBLIC AVAILABILITY OF
14 LIST.—Not later than January 15, 2010, the Secretary
15 of Labor shall—

16 (1) submit to the appropriate congressional
17 committees a final report that—

18 (A) describes the implementation of section
19 105(b) of the Trafficking Victims Protection
20 Reauthorization Act of 2005 (22 U.S.C.
21 7103(b)); and

22 (B) includes an initial list of goods de-
23 scribed in paragraph (2)(C) of such section;
24 and

1 (2) make the list of goods described in para-
2 graph (1)(B) available to the public.

3 (b) APPROPRIATE CONGRESSIONAL COMMITTEES
4 DEFINED.—In this section, the term “appropriate con-
5 gressional committees” has the meaning given the term
6 in section 103 of the Trafficking Victims Protection Act
7 of 2000 (22 U.S.C. 7102).

8 **SEC. 111. SENSE OF CONGRESS REGARDING MULTILAT-**
9 **ERAL FRAMEWORK BETWEEN LABOR EX-**
10 **PORTING AND LABOR IMPORTING COUN-**
11 **TRIES.**

12 It is the sense of Congress that the Secretary of
13 State, in conjunction with the International Labour Orga-
14 nization, the United Nations Office of Drug and Crime
15 Prevention, and other relevant international and non-
16 governmental organizations, should seek to establish a
17 multilateral framework between labor exporting and labor
18 importing countries to ensure that workers migrating be-
19 tween such countries are protected from trafficking in per-
20 sons.

1 **TITLE II—COMBATING TRAF-**
2 **FICKING IN PERSONS IN THE**
3 **UNITED STATES**

4 **Subtitle A—Ensuring Availability**
5 **of Possible Witnesses and In-**
6 **formants**

7 **SEC. 201. PROTECTING TRAFFICKING VICTIMS AGAINST RE-**
8 **TALIATION.**

9 (a) T VISAS.—Section 101(a)(15)(T) of the Immigra-
10 tion and Nationality Act (8 U.S.C. 1101(a)(15)(T)) is
11 amended—

12 (1) in clause (i)—

13 (A) in the matter preceding subclause (I),
14 by striking “Security and the Attorney General
15 jointly;” and inserting “Security, in consulta-
16 tion with the Attorney General,”;

17 (B) in subclause (I), by striking the
18 comma at the end and inserting a semicolon;

19 (C) in subclause (II), by adding at the end
20 the following: “including physical presence on
21 account of the alien having been allowed entry
22 into the United States for participation in in-
23 vestigative or judicial processes associated with
24 an act or a perpetrator of trafficking;”;

25 (D) in subclause (III)—

1 (i) in item (aa), by striking “or” at
2 the end;

3 (ii) by redesignating item (bb) as item
4 (cc);

5 (iii) by inserting after item (aa) the
6 following:

7 “(bb) in consultation with the Attorney
8 General, as appropriate, is unable to cooperate
9 with a request described in item (aa) due to
10 physical or psychological trauma; or”; and

11 (iv) in item (cc), as redesignated, by
12 striking “, and” at the end and inserting
13 “; and”; and

14 (E) in subclause (IV), by adding “and” at
15 the end;

16 (2) in clause (ii)—

17 (A) in subclause (I), by striking “or” at
18 the end;

19 (B) in subclause (II), by striking “and” at
20 the end and inserting “or”; and

21 (C) by adding at the end the following:

22 “(III) any parent or unmarried sibling
23 under 18 years of age of an alien described in
24 subclause (I) or (II) who the Secretary of
25 Homeland Security, in consultation with the

1 law enforcement officer investigating a severe
2 form of trafficking, determines faces a present
3 danger of retaliation as a result of the alien's
4 escape from the severe form of trafficking or
5 cooperation with law enforcement.”; and
6 (3) by striking clause (iii).

7 (b) REQUIREMENTS FOR T VISA ISSUANCE.—Section
8 214(o)(7) of the Immigration and Nationality Act (8
9 U.S.C. 1184(o)(7)) is amended—

10 (1) in subparagraph (B)—

11 (A) by striking “subparagraph (A) if a
12 Federal” and inserting the following: “subpara-
13 graph (A) if—

14 “(i) a Federal”;

15 (B) by striking the period at the end and
16 inserting a semicolon; and

17 (C) by adding at the end the following:

18 “(ii) the alien is eligible for relief under section
19 245(l) and is unable to obtain such relief because
20 regulations have not been issued to implement such
21 section; or

22 “(iii) the Secretary of Homeland Security deter-
23 mines that an extension of the period of such non-
24 immigrant status is warranted due to exceptional
25 circumstances.”; and

1 (2) by adding at the end the following:

2 “(C) Nonimmigrant status under section
3 101(a)(15)(T) shall be extended during the pendency of
4 an application for adjustment of status under section
5 245(l).”.

6 (c) CONDITIONS ON NONIMMIGRANT STATUS FOR
7 CERTAIN CRIME VICTIMS.—Section 214(p)(6) of the Im-
8 migration and Nationality Act (8 U.S.C. 1184(p)(6)) is
9 amended by adding at the end the following: “The Sec-
10 retary of Homeland Security may extend, beyond the 4-
11 year period authorized under this section, the authorized
12 period of status of an alien as a nonimmigrant under sec-
13 tion 101(a)(15)(U) if the Secretary determines that an ex-
14 tension of such period is warranted due to exceptional cir-
15 cumstances. Such alien’s nonimmigrant status shall be ex-
16 tended beyond the 4-year period authorized under this sec-
17 tion if the alien is eligible for relief under section 245(m)
18 and is unable to obtain such relief because regulations
19 have not been issued to implement such section and shall
20 be extended during the pendency of an application for ad-
21 justment of status under section 245(m). The Secretary
22 may grant work authorization to any alien who has a
23 pending, bona fide application for nonimmigrant status
24 under section 101(a)(15)(U).”.

1 (d) ADJUSTMENT OF STATUS FOR TRAFFICKING VIC-
2 TIMS.—Section 245(l) of the Immigration and Nationality
3 Act (8 U.S.C. 1255(l)) is amended—

4 (1) in paragraph (1)—

5 (A) in the matter preceding subparagraph
6 (A), by striking “the Attorney General,” and
7 inserting “in the opinion of the Secretary of
8 Homeland Security, in consultation with the At-
9 torney General, as appropriate”;

10 (B) in subparagraph (B)—

11 (i) by inserting “subject to paragraph
12 (6),” after “(B)”;

13 (ii) by striking “, and” and inserting
14 “; and”;

15 (C) in subparagraph (C)—

16 (i) in clause (i), by striking “, or” and
17 inserting a semicolon;

18 (ii) in clause (ii), by striking “, or in
19 the case of subparagraph (C)(i), the Attor-
20 ney General, as appropriate”;

21 (iii) by striking the period at the end
22 and inserting the following: “; or

23 “(iii) was younger than 18 years of
24 age at the time of the victimization quali-

1 fying the alien for relief under section
2 101(a)(15)(T).”;

3 (2) in paragraph (3), by striking the period at
4 the end and inserting the following: “, unless—

5 “(A) the absence was necessary to assist in the
6 investigation or prosecution described in paragraph
7 (1)(A); or

8 “(B) an official involved in the investigation or
9 prosecution certifies that the absence was otherwise
10 justified.”; and

11 (3) by adding at the end the following:

12 “(6) For purposes of paragraph (1)(B), the Secretary
13 of Homeland Security may waive consideration of a dis-
14 qualification from good moral character with respect to
15 an alien if the disqualification was caused by, or incident
16 to, the trafficking described in section 101(a)(15)(T)(i)(I).

17 “(7) The Secretary of Homeland Security shall per-
18 mit aliens to apply for a waiver of any fees associated with
19 filing an application for relief through final adjudication
20 of the adjustment of status for a VAWA self-petitioner
21 and for relief under sections 101(a)(15)(T),
22 101(a)(15)(U), 106, 240A(b)(2), and 244(a)(3) (as in ef-
23 fect on March 31, 1997).”.

1 (e) ADJUSTMENT OF STATUS FOR CRIME VICTIMS.—
2 Section 245(m) of the Immigration and Nationality Act
3 (8 U.S.C. 1255(m)) is amended—

4 (1) in paragraph (1), in the matter preceding
5 subparagraph (A), by striking “unless the Attorney
6 General” and inserting “unless the Secretary”; and

7 (2) by adding at the end the following:

8 “(5)(A) The Secretary of Homeland Security shall
9 consult with the Attorney General, as appropriate, in mak-
10 ing a determination under paragraph (1) whether affirma-
11 tive evidence demonstrates that the alien unreasonably re-
12 fused to provide assistance to a Federal law enforcement
13 official, Federal prosecutor, Federal judge, or other Fed-
14 eral authority investigating or prosecuting criminal activ-
15 ity described in section 101(a)(15)(U)(iii).

16 “(B) Nothing in paragraph (1)(B) may be construed
17 to prevent the Secretary from consulting with the Attorney
18 General in making a determination whether affirmative
19 evidence demonstrates that the alien unreasonably refused
20 to provide assistance to a State or local law enforcement
21 official, State or local prosecutor, State or local judge, or
22 other State or local authority investigating or prosecuting
23 criminal activity described in section 101(a)(15)(U)(iii).”.

24 (f) EFFECTIVE DATE.—The amendments made by
25 this section shall—

1 (1) take effect on the date of enactment of the
2 Act; and

3 (2) apply to applications for immigration bene-
4 fits filed on or after such date.

5 **SEC. 202. PROTECTIONS FOR DOMESTIC WORKERS AND**
6 **OTHER NONIMMIGRANTS.**

7 (a) INFORMATION PAMPHLET.—

8 (1) DEVELOPMENT AND DISTRIBUTION.—The
9 Secretary of State, in consultation with the Sec-
10 retary of Homeland Security, the Attorney General,
11 and the Secretary of Labor, shall develop an infor-
12 mation pamphlet on legal rights and resources for
13 aliens applying for employment- or education-based
14 nonimmigrant visas.

15 (2) CONSULTATION.—In developing the infor-
16 mation pamphlet under paragraph (1), the Secretary
17 of State shall consult with nongovernmental organi-
18 zations with expertise on the legal rights of workers
19 and victims of severe forms of trafficking in persons.

20 (b) CONTENTS.—The information pamphlet devel-
21 oped under subsection (a) shall include information con-
22 cerning items such as—

23 (1) the nonimmigrant visa application proc-
24 esses, including information about the portability of
25 employment;

1 (2) the legal rights of employment or education-
2 based nonimmigrant visa holders under Federal im-
3 migration, labor, and employment law;

4 (3) the illegality of slavery, peonage, trafficking
5 in persons, sexual assault, extortion, blackmail, and
6 worker exploitation in the United States;

7 (4) the legal rights of immigrant victims of
8 trafficking in persons and worker exploitation, in-
9 cluding—

10 (A) the right of access to immigrant and
11 labor rights groups;

12 (B) the right to seek redress in United
13 States courts;

14 (C) the right to report abuse without retal-
15 iation;

16 (D) the right of the nonimmigrant to relin-
17 quish possession of his or her passport to his or
18 her employer;

19 (E) the requirement of an employment
20 contract between the employer and the non-
21 immigrant; and

22 (F) an explanation of the rights and pro-
23 tections included in the contract described in
24 subparagraph (E); and

1 (5) information about nongovernmental organi-
2 zations that provide services for victims of traf-
3 ficking in persons and worker exploitation, includ-
4 ing—

5 (A) anti-trafficking in persons telephone
6 hotlines operated by the Federal Government;

7 (B) the Operation Rescue and Restore hot-
8 line; and

9 (C) a general description of the types of
10 victims services available for individuals subject
11 to trafficking in persons or worker exploitation.

12 (c) TRANSLATION.—

13 (1) IN GENERAL.—To best serve the language
14 groups having the greatest concentration of employ-
15 ment-based nonimmigrant visas, the Secretary of
16 State shall translate the information pamphlet devel-
17 oped under subsection (a) into all relevant foreign
18 languages, to be determined by the Secretary based
19 on the languages spoken by the greatest concentra-
20 tions of employment- or education-based non-
21 immigrant visa applicants.

22 (2) REVISION.—Every 2 years, the Secretary of
23 State, in consultation with the Attorney General and
24 the Secretary of Homeland Security, shall determine
25 the specific languages into which the information

1 pamphlet will be translated based on the languages
2 spoken by the greatest concentrations of
3 employment- or education-based nonimmigrant visa
4 applicants.

5 (d) AVAILABILITY AND DISTRIBUTION.—

6 (1) POSTING ON FEDERAL WEBSITES.—The in-
7 formation pamphlet developed under subsection (a)
8 shall be posted on the websites of the Department
9 of State, the Department of Homeland Security, the
10 Department of Justice, the Department of Labor,
11 and all United States consular posts processing ap-
12 plications for employment- or education-based non-
13 immigrant visas.

14 (2) OTHER DISTRIBUTION.—The information
15 pamphlet developed under subsection (a) shall be
16 made available to any—

17 (A) government agency;

18 (B) nongovernmental advocacy organiza-
19 tion; or

20 (C) foreign labor broker doing business in
21 the United States.

22 (3) DEADLINE FOR PAMPHLET DEVELOPMENT
23 AND DISTRIBUTION.—Not later than 180 days after
24 the date of the enactment of this Act, the Secretary
25 of State shall distribute and make available the in-

1 formation pamphlet developed under subsection (a)
2 in all the languages referred to in subsection (c).

3 (e) RESPONSIBILITIES OF CONSULAR OFFICERS OF
4 THE DEPARTMENT OF STATE.—

5 (1) INTERVIEWS.—A consular officer con-
6 ducting an interview of an alien for an employment-
7 based nonimmigrant visa shall—

8 (A)(i) confirm that the alien has received,
9 read, and understood the contents of the pam-
10 phlet described in subsections (a) and (b); and

11 (ii) if the alien has not received, read, or
12 understood the contents of the pamphlet de-
13 scribed in subsections (a) and (b), distribute
14 and orally disclose to the alien the information
15 described in paragraphs (2) and (3) in a lan-
16 guage that the alien understands; and

17 (B) offer to answer any questions the alien
18 may have regarding the contents of the pam-
19 phlet described in subsections (a) and (b).

20 (2) LEGAL RIGHTS.—The consular officer shall
21 disclose to the alien—

22 (A) the legal rights of employment-based
23 nonimmigrants under Federal immigration,
24 labor, and employment laws;

1 (B) the illegality of slavery, peonage, traf-
2 ficking in persons, sexual assault, extortion,
3 blackmail, and worker exploitation in the
4 United States; and

5 (C) the legal rights of immigrant victims of
6 trafficking in persons, worker exploitation, and
7 other related crimes, including—

8 (i) the right of access to immigrant
9 and labor rights groups;

10 (ii) the right to seek redress in United
11 States courts; and

12 (iii) the right to report abuse without
13 retaliation.

14 (3) VICTIM SERVICES.—In carrying out the dis-
15 closure requirement under this subsection, the con-
16 sular officer shall disclose to the alien the avail-
17 ability of services for victims of human trafficking
18 and worker exploitation in the United States, includ-
19 ing victim services complaint hotlines.

20 (f) DEFINITIONS.—In this section:

21 (1) EMPLOYMENT- OR EDUCATION-BASED NON-
22 IMMIGRANT VISA.—The term “employment- or edu-
23 cation-based nonimmigrant visa” means—

24 (A) a nonimmigrant visa issued under sub-
25 paragraph (A)(iii), (G)(v), (H), or (J) of section

1 101(a)(15) of the Immigration and Nationality
2 Act (8 U.S.C. 1101(a)(15)); and

3 (B) any nonimmigrant visa issued to a per-
4 sonal or domestic servant who is accompanying
5 or following to join an employer.

6 (2) SEVERE FORMS OF TRAFFICKING IN PER-
7 SONS.—The term “severe forms of trafficking in
8 persons” has the meaning given the term in section
9 103 of the Trafficking Victims Protection Act of
10 2000 (22 U.S.C. 7102).

11 (3) SECRETARY.—The term “Secretary” means
12 the Secretary of State.

13 (4) ABUSING AND EXPLOITING.—The term
14 “abusing and exploiting” means any conduct which
15 would constitute a violation of section 1466A, 1589,
16 1591, 1592, 2251, or 2251A of title 18, United
17 States Code.

18 **SEC. 203. PROTECTIONS, REMEDIES, AND LIMITATIONS ON**
19 **ISSUANCE FOR A-3 AND G-5 VISAS.**

20 (a) LIMITATIONS ON ISSUANCE OF A-3 AND G-5
21 VISAS.—

22 (1) CONTRACT REQUIREMENT.—Notwith-
23 standing any other provision of law, the Secretary of
24 State may not issue—

1 (A) an A–3 visa unless the applicant is em-
2 ployed, or has signed a contract to be employed
3 containing the requirements set forth in sub-
4 section (d)(2), by an officer of a diplomatic mis-
5 sion or consular post; or

6 (B) a G–5 visa unless the applicant is em-
7 ployed, or has signed a contract to be employed
8 by an employee in an international organiza-
9 tion.

10 (2) SUSPENSION REQUIREMENT.—Notwith-
11 standing any other provision of law, the Secretary
12 shall suspend, for such period as the Secretary de-
13 termines necessary, the issuance of A–3 visas or G–
14 5 visas to applicants seeking to work for officials of
15 a diplomatic mission or an international organiza-
16 tion, if the Secretary determines that there is cred-
17 ible evidence that 1 or more employees of such mis-
18 sion or international organization have abused or ex-
19 ploited 1 or more nonimmigrants holding an A–3
20 visa or a G–5 visa, and that the diplomatic mission
21 or international organization tolerated such actions.

22 (3) ACTION BY DIPLOMATIC MISSIONS OR
23 INTERNATIONAL ORGANIZATIONS.—The Secretary
24 may suspend the application of the limitation under
25 paragraph (2) if the Secretary determines and re-

1 ports to the appropriate congressional committees
 2 that a mechanism is in place to ensure that such
 3 abuse or exploitation does not reoccur with respect
 4 to any alien employed by an employee of such mis-
 5 sion or institution.

6 (b) PROTECTIONS AND REMEDIES FOR A-3 AND G-
 7 5 NONIMMIGRANTS EMPLOYED BY DIPLOMATS AND
 8 STAFF OF INTERNATIONAL ORGANIZATIONS.—

9 (1) IN GENERAL.—The Secretary may not issue
 10 or renew an A-3 visa or a G-5 visa unless—

11 (A) the visa applicant has executed a con-
 12 tract with the employer or prospective employer
 13 containing provisions described in paragraph
 14 (2); and

15 (B) a consular officer has conducted a per-
 16 sonal interview with the applicant outside the
 17 presence of the employer or any recruitment
 18 agent in which the officer reviewed the terms of
 19 the contract and the provisions of the pamphlet
 20 required under section 202.

21 (2) MANDATORY CONTRACT.—The contract be-
 22 tween the employer and domestic worker required
 23 under paragraph (1) shall include—

1 (A) an agreement by the employer to abide
2 by all Federal, State, and local laws in the
3 United States;

4 (B) information on the frequency and form
5 of payment, work duties, weekly work hours,
6 holidays, sick days, and vacation days; and

7 (C) an agreement by the employer not to
8 withhold the passport, employment contract, or
9 other personal property of the employee.

10 (3) TRAINING OF CONSULAR OFFICERS.—The
11 Secretary shall provide appropriate training to con-
12 sular officers on the fair labor standards described
13 in the pamphlet required under section 202, traf-
14 ficking in persons, and the provisions of this section.

15 (4) RECORD KEEPING.—

16 (A) IN GENERAL.—The Secretary shall
17 maintain records on the presence of non-
18 immigrants holding an A-3 visa or a G-5 visa
19 in the United States, including—

20 (i) information about when the non-
21 immigrant entered and permanently exited
22 the country of residence;

23 (ii) the official title, contact informa-
24 tion, and immunity level of the employer;
25 and

1 (iii) information regarding any allega-
2 tions of employer abuse received by the
3 Department of State.

4 (c) PROTECTION FROM REMOVAL DURING LEGAL
5 ACTIONS AGAINST FORMER EMPLOYERS.—

6 (1) REMAINING IN THE UNITED STATES TO
7 SEEK LEGAL REDRESS.—

8 (A) EFFECT OF COMPLAINT FILING.—Ex-
9 cept as provided in subparagraph (B), if a non-
10 immigrant holding an A–3 visa or a G–5 visa
11 working in the United States files a civil action
12 under section 1595 of title 18, United States
13 Code, or a civil action regarding a violation of
14 any of the terms contained in the contract or
15 violation of any other Federal, State, or local
16 law in the United States governing the terms
17 and conditions of employment of the non-
18 immigrant that are associated with acts covered
19 by such section, the Attorney General and the
20 Secretary of Homeland Security shall permit
21 the nonimmigrant to remain legally in the
22 United States for time sufficient to fully and ef-
23 fectively participate in all legal proceedings re-
24 lated to such action.

(B) EXCEPTION.—An alien described in subparagraph (A) may be deported before the conclusion of the legal proceedings related to a civil action described in such subparagraph if such alien is—

(i) inadmissible under paragraph (2)(A)(i)(II), (2)(B), (2)(C), (2)(E), (2)(H), (2)(I), (3)(A)(i), (3)(A)(iii), (3)(B), (3)(C), or (3)(F) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)); or

(ii) deportable under paragraph (2)(A)(ii), (2)(A)(iii), (4)(A)(i), (4)(A)(iii), (4)(B), or (4)(C) of section 237(a) of such Act (8 U.S.C. 1227(a)).

(C) FAILURE TO EXERCISE DUE DILIGENCE.—If the Secretary of Homeland Security, after consultation with the Attorney General, determines that the nonimmigrant holding an A–3 visa or a G–5 visa has failed to exercise due diligence in pursuing an action described in subparagraph (A), the Secretary may terminate the status of the A–3 or G–5 nonimmigrant.

(2) AUTHORIZATION TO WORK.—The Attorney General and the Secretary of Homeland Security

1 shall authorize any nonimmigrant described in para-
2 graph (1) to engage in employment in the United
3 States during the period the nonimmigrant is in the
4 United States pursuant to paragraph (1).

5 (d) STUDY AND REPORT.—

6 (1) INVESTIGATION REPORT.—

7 (A) IN GENERAL.—Not later than 180
8 days after the date of the enactment of this
9 Act, and every 2 years thereafter for the fol-
10 lowing 10 years, the Secretary shall submit a
11 report to the appropriate congressional commit-
12 tees on the implementation of this section.

13 (B) CONTENTS.—The report submitted
14 under subparagraph (A) shall include—

15 (i) an assessment of the actions taken
16 by the Department of State and the De-
17 partment of Justice to investigate allega-
18 tions of trafficking or abuse of non-
19 immigrants holding an A–3 visa or a G–5
20 visa; and

21 (ii) the results of such investigations.

22 (2) FEASIBILITY OF OVERSIGHT OF EMPLOYEES
23 OF DIPLOMATS AND REPRESENTATIVES OF OTHER
24 INSTITUTIONS REPORT.—Not later than 180 days
25 after the date of the enactment of this Act, the Sec-

1 retary shall submit a report to the appropriate con-
2 gressional committees on the feasibility of—

3 (A) establishing a system to monitor the
4 treatment of nonimmigrants holding an A–3
5 visa or a G–5 visa who have been admitted to
6 the United States;

7 (B) a range of compensation approaches,
8 such as a bond program, compensation fund, or
9 insurance scheme, to ensure that such non-
10 immigrants receive appropriate compensation if
11 their employers violate the terms of their em-
12 ployment contracts; and

13 (C) with respect to each proposed com-
14 pensation approach described in subparagraph
15 (B), an evaluation and proposal describing the
16 proposed processes for—

17 (i) adjudicating claims of rights viola-
18 tions;

19 (ii) determining the level of compensa-
20 tion; and

21 (iii) administering the program, fund,
22 or scheme.

23 (e) ASSISTANCE TO LAW ENFORCEMENT INVESTIGA-
24 TIONS.—The Secretary shall cooperate, to the fullest ex-
25 tent possible consistent with the United States obligations

1 under the Vienna Convention on Diplomatic Relations,
2 done at Vienna, April 18, 1961, (23 U.S.T. 3229), with
3 any investigation by United States law enforcement au-
4 thorities of crimes related to abuse or exploitation of a
5 nonimmigrant holding an A-3 visa or a G-5 visa.

6 (f) DEFINITIONS.—In this section:

7 (1) A-3 VISA.—The term “A-3 visa” means a
8 nonimmigrant visa issued pursuant to section
9 101(a)(15)(A)(iii) of the Immigration and Nation-
10 ality Act (8 U.S.C. 1101(a)(15)(A)(iii)).

11 (2) G-5 VISA.—The term “G-5 visa” means a
12 nonimmigrant visa issued pursuant to section
13 101(a)(15)(G)(v) of the Immigration and Nation-
14 ality Act (8 U.S.C. 1101(a)(15)(G)(v)).

15 (3) SECRETARY.—The term “Secretary” means
16 the Secretary of State.

17 (4) APPROPRIATE CONGRESSIONAL COMMIT-
18 TEES.—The term “appropriate congressional com-
19 mittees” means—

20 (A) the Committee on Foreign Affairs and
21 the Committee on the Judiciary of the House of
22 Representatives; and

23 (B) the Committee on Foreign Relations
24 and the Committee on the Judiciary of the Sen-
25 ate.

1 **SEC. 204. RELIEF FOR CERTAIN VICTIMS PENDING AC-**
2 **TIONS ON PETITIONS AND APPLICATIONS**
3 **FOR RELIEF.**

4 Section 237 of the Immigration and Nationality Act
5 (8 U.S.C. 1227) is amended by adding at the end the fol-
6 lowing:

7 “(d)(1) If the Secretary of Homeland Security deter-
8 mines that an application for nonimmigrant status under
9 subparagraph (T) or (U) of section 101(a)(15) filed for
10 an alien in the United States sets forth a prima facie case
11 for approval, the Secretary may grant the alien an admin-
12 istrative stay of a final order of removal under section
13 241(c)(2) until—

14 “(A) the application for nonimmigrant status
15 under such subparagraph (T) or (U) is approved; or

16 “(B) there is a final administrative denial of
17 the application for such nonimmigrant status after
18 the exhaustion of administrative appeals.

19 “(2) The denial of a request for an administrative
20 stay of removal under this subsection shall not preclude
21 the alien from applying for a stay of removal, deferred
22 action, or a continuance or abeyance of removal pro-
23 ceedings under any other provision of the immigration
24 laws of the United States.

25 “(3) During any period in which the administrative
26 stay of removal is in effect, the alien shall not be removed.

1 “(4) Nothing in this subsection may be construed to
 2 limit the authority of the Secretary of Homeland Security
 3 or the Attorney General to grant a stay of removal or de-
 4 portation in any case not described in this subsection.”.

5 **SEC. 205. EXPANSION OF AUTHORITY TO PERMIT CONTIN-**
 6 **UED PRESENCE IN THE UNITED STATES.**

7 (a) EXPANSION OF AUTHORITY.—

8 (1) IN GENERAL.—Section 107(c)(3) of the
 9 Trafficking Victims Protection Act of 2000 (22
 10 U.S.C. 7105(c)(3)) is amended to read as follows:

11 “(3) AUTHORITY TO PERMIT CONTINUED PRES-
 12 ENCE IN THE UNITED STATES.—

13 “(A) TRAFFICKING VICTIMS.—

14 “(i) IN GENERAL.—If a Federal law
 15 enforcement official files an application
 16 stating that an alien is a victim of a severe
 17 form of trafficking and may be a potential
 18 witness to such trafficking, the Secretary
 19 of Homeland Security may permit the alien
 20 to remain in the United States to facilitate
 21 the investigation and prosecution of those
 22 responsible for such crime.

23 “(ii) SAFETY.—While investigating
 24 and prosecuting suspected traffickers, Fed-
 25 eral law enforcement officials described in

1 clause (i) shall endeavor to make reason-
2 able efforts to protect the safety of traf-
3 ficking victims, including taking measures
4 to protect trafficked persons and their
5 family members from intimidation, threats
6 of reprisals, and reprisals from traffickers
7 and their associates.

8 “(iii) CONTINUATION OF PRES-
9 ENCE.—The Secretary shall permit an
10 alien described in clause (i) who has filed
11 a civil action under section 1595 of title
12 18, United States Code, to remain in the
13 United States until such action is con-
14 cluded. If the Secretary, in consultation
15 with the Attorney General, determines that
16 the alien has failed to exercise due dili-
17 gence in pursuing such action, the Sec-
18 retary may revoke the order permitting the
19 alien to remain in the United States.

20 “(iv) EXCEPTION.—Notwithstanding
21 clause (iii), an alien described in such
22 clause may be deported before the conclu-
23 sion of the administrative and legal pro-
24 ceedings related to a complaint described
25 in such clause if such alien is inadmissible

1 under paragraph (2)(A)(i)(II), (2)(B),
2 (2)(C), (2)(E), (2)(H), (2)(I), (3)(A)(i),
3 (3)(A)(iii), (3)(B), or (3)(C) of section
4 212(a) of the Immigration and Nationality
5 Act (8 U.S.C. 1182(a)).

6 “(B) PAROLE FOR RELATIVES.—Law en-
7 forcement officials may submit written requests
8 to the Secretary of Homeland Security, in ac-
9 cordance with section 240A(b)(6) of the Immi-
10 gration and Nationality Act (8 U.S.C.
11 1229b(b)(6)), to permit the parole into the
12 United States of certain relatives of an alien de-
13 scribed in subparagraph (A)(i).

14 “(C) STATE AND LOCAL LAW ENFORCE-
15 MENT.—The Secretary of Homeland Security,
16 in consultation with the Attorney General,
17 shall—

18 “(i) develop materials to assist State
19 and local law enforcement officials in work-
20 ing with Federal law enforcement to obtain
21 continued presence for victims of a severe
22 form of trafficking in cases investigated or
23 prosecuted at the State or local level; and

1 “(ii) distribute the materials devel-
2 oped under clause (i) to State and local
3 law enforcement officials.”.

4 (2) EFFECTIVE DATE.—The amendment made
5 by paragraph (1)—

6 (A) shall take effect on the date of the en-
7 actment of this Act;

8 (B) shall apply to pending requests for
9 continued presence filed pursuant to section
10 107(c)(3) of the Trafficking Victims Protection
11 Act (22 U.S.C. 7105(c)(3)) and requests filed
12 on or after such date; and

13 (C) may not be applied to an alien who is
14 not present in the United States.

15 (b) PAROLE FOR DERIVATIVES OF TRAFFICKING VIC-
16 TIMS.—Section 240A(b) of the Immigration and Nation-
17 ality Act (8 U.S.C. 1229b(b)) is amended by adding at
18 the end the following:

19 “(6) RELATIVES OF TRAFFICKING VICTIMS.—

20 “(A) IN GENERAL.—Upon written request
21 by a law enforcement official, the Secretary of
22 Homeland Security may parole under section
23 212(d)(5) any alien who is a relative of an alien
24 granted continued presence under section
25 107(c)(3)(A) of the Trafficking Victims Protec-

tion Act (22 U.S.C. 7105(c)(3)(A)), if the relative—

“(i) was, on the date on which law enforcement applied for such continued presence—

“(I) in the case of an alien granted continued presence who is under 21 years of age, the spouse, child, parent, or unmarried sibling under 18 years of age, of the alien; or

“(II) in the case of an alien granted continued presence who is 21 years of age or older, the spouse or child of the alien; or

“(ii) is a parent or sibling of the alien who the requesting law enforcement official, in consultation with the Secretary of Homeland Security, as appropriate, determines to be in present danger of retaliation as a result of the alien’s escape from the severe form of trafficking or cooperation with law enforcement, irrespective of age.

“(B) DURATION OF PAROLE.—

“(i) IN GENERAL.—The Secretary may extend the parole granted under sub-

1 paragraph (A) until the final adjudication
2 of the application filed by the principal
3 alien under section 101(a)(15)(T)(ii).

4 “(ii) OTHER LIMITS ON DURATION.—
5 If an application described in clause (i) is
6 not filed, the parole granted under sub-
7 paragraph (A) may extend until the later
8 of—

9 “(I) the date on which the prin-
10 cipal alien’s authority to remain in the
11 United States under section
12 107(c)(3)(A) of the Trafficking Vic-
13 tims Protection Act (22 U.S.C.
14 7105(c)(3)(A)) is terminated; or

15 “(II) the date on which a civil ac-
16 tion filed by the principal alien under
17 section 1595 of title 18, United States
18 Code, is concluded.

19 “(iii) DUE DILIGENCE.—Failure by
20 the principal alien to exercise due diligence
21 in filing a visa petition on behalf of an
22 alien described in clause (i) or (ii) of sub-
23 paragraph (A), or in pursuing the civil ac-
24 tion described in clause (ii)(II) (as deter-
25 mined by the Secretary of Homeland Secu-

1 rity in consultation with the Attorney Gen-
2 eral), may result in revocation of parole.

3 “(C) OTHER LIMITATIONS.—A relative
4 may not be granted parole under this para-
5 graph if—

6 “(i) the Secretary of Homeland Secu-
7 rity or the Attorney General has reason to
8 believe that the relative was knowingly
9 complicit in the trafficking of an alien per-
10 mitted to remain in the United States
11 under section 107(c)(3)(A) of the Traf-
12 ficking Victims Protection Act (22 U.S.C.
13 7105(c)(3)(A)); or

14 “(ii) the relative is an alien described
15 in paragraph (2) or (3) of section 212(a)
16 or paragraph (2) or (4) of section
17 237(a).”.

18 **Subtitle B—Assistance for** 19 **Trafficking Victims**

20 **SEC. 211. ASSISTANCE FOR CERTAIN NONIMMIGRANT STA-** 21 **TUS APPLICANTS.**

22 (a) IN GENERAL.—Section 431(c) of the Personal
23 Responsibility and Work Opportunity Reconciliation Act
24 of 1996 (8 U.S.C. 1641(c)) is amended—

1 (1) in paragraph (2)(B), by striking “or” at the
2 end;

3 (2) in paragraph (3)(B), by striking the period
4 at the end and inserting “; or”; and

5 (3) by inserting after paragraph (3) the fol-
6 lowing:

7 “(4) an alien who has been granted non-
8 immigrant status under section 101(a)(15)(T) of the
9 Immigration and Nationality Act (8 U.S.C.
10 1101(a)(15)(T)) or who has a pending application
11 that sets forth a prima facie case for eligibility for
12 such nonimmigrant status.”.

13 (b) **EFFECTIVE DATE.**—The amendments made by
14 subsection (a) shall apply to applications for public bene-
15 fits and public benefits provided on or after the date of
16 the enactment of this Act without regard to whether regu-
17 lations have been implemented to carry out such amend-
18 ments.

19 **SEC. 212. INTERIM ASSISTANCE FOR CHILDREN.**

20 (a) **IN GENERAL.**—Section 107(b)(1) of the Traf-
21 ficking Victims Protection Act of 2000 (22 U.S.C.
22 7105(b)(1)) is amended—

23 (1) in subparagraph (E)(i)(I), by inserting “or
24 is unable to cooperate with such a request due to

1 physical or psychological trauma” before the semi-
2 colon; and

3 (2) by adding at the end the following:

4 “(F) ELIGIBILITY FOR INTERIM ASSIST-
5 ANCE OF CHILDREN.—

6 “(i) DETERMINATION.—Upon receiv-
7 ing credible information that a child de-
8 scribed in subparagraph (C)(ii)(I) who is
9 seeking assistance under this paragraph
10 may have been subjected to a severe form
11 of trafficking in persons, the Secretary of
12 Health and Human Services shall promptly
13 determine if the child is eligible for interim
14 assistance under this paragraph. The Sec-
15 retary shall have exclusive authority to
16 make interim eligibility determinations
17 under this clause. A determination of in-
18 terim eligibility under this clause shall not
19 affect the independent determination
20 whether a child is a victim of a severe form
21 of trafficking.

22 “(ii) NOTIFICATION.—The Secretary
23 of Health and Human Services shall notify
24 the Attorney General and the Secretary of
25 Homeland Security not later than 24 hours

1 after all interim eligibility determinations
2 have been made under clause (i).

3 “(iii) DURATION.—Assistance under
4 this paragraph may be provided to individ-
5 uals determined to be eligible under clause
6 (i) for a period of up to 90 days and may
7 be extended for an additional 30 days.

8 “(iv) LONG-TERM ASSISTANCE FOR
9 CHILDREN.—

10 “(I) ELIGIBILITY DETERMINA-
11 TION.—Before the expiration of the
12 period for interim assistance under
13 clause (iii), the Secretary of Health
14 and Human Services shall determine
15 if the child referred to in clause (i) is
16 eligible for assistance under this para-
17 graph.

18 “(II) CONSULTATION.—In mak-
19 ing a determination under subclause
20 (I), the Secretary shall consult with
21 the Attorney General, the Secretary of
22 Homeland Security, and nongovern-
23 mental organizations with expertise on
24 victims of severe form of trafficking.

1 “(III) LETTER OF ELIGI-
2 BILITY.—If the Secretary, after re-
3 ceiving information the Secretary be-
4 lieves, taken as a whole, indicates that
5 the child is eligible for assistance
6 under this paragraph, the Secretary
7 shall issue a letter of eligibility. The
8 Secretary may not require that the
9 child cooperate with law enforcement
10 as a condition for receiving such letter
11 of eligibility.

12 “(G) NOTIFICATION OF CHILDREN FOR IN-
13 TERIM ASSISTANCE.—Not later than 24 hours
14 after a Federal, State, or local official discovers
15 that a person who is under 18 years of age may
16 be a victim of a severe form of trafficking in
17 persons, the official shall notify the Secretary of
18 Health and Human Services to facilitate the
19 provision of interim assistance under subpara-
20 graph (F).”.

21 (b) TRAINING OF GOVERNMENT PERSONNEL.—Sec-
22 tion 107(c)(4) of the Trafficking Victims Protection Act
23 of 2000 (22 U.S.C. 7105(c)(4)) is amended—

24 (1) by inserting “, the Department of Home-
25 land Security, the Department of Health and

1 Human Services,” after “the Department of State”;
2 and

3 (2) by inserting “, including juvenile victims.
4 The Attorney General and the Secretary of Health
5 and Human Services shall provide training to State
6 and local officials to improve the identification and
7 protection of such victims” before the period at the
8 end.

9 **SEC. 213. ENSURING ASSISTANCE FOR ALL VICTIMS OF**
10 **TRAFFICKING IN PERSONS.**

11 (a) AMENDMENTS TO TRAFFICKING VICTIMS PRO-
12 TECTION ACT OF 2000.—

13 (1) ASSISTANCE FOR UNITED STATES CITIZENS
14 AND LAWFUL PERMANENT RESIDENTS.—Section
15 107 of the Trafficking Victims Protection Act of
16 2000 (22 U.S.C. 7105) is amended by inserting
17 after subsection (e) the following:

18 “(f) ASSISTANCE FOR UNITED STATES CITIZENS
19 AND LAWFUL PERMANENT RESIDENTS.—

20 “(1) IN GENERAL.—The Secretary of Health
21 and Human Services and the Attorney General, in
22 consultation with the Secretary of Labor, shall es-
23 tablish a program to assist United States citizens
24 and aliens lawfully admitted for permanent residence
25 (as defined in section 101(a)(20) of the Immigration

1 and Nationality Act (8 U.S.C. 1101(a)(20))) who
2 are victims of severe forms of trafficking. In deter-
3 mining the assistance that would be most beneficial
4 for such victims, the Secretary and the Attorney
5 General shall consult with nongovernmental organi-
6 zations that provide services to victims of severe
7 forms of trafficking in the United States.

8 “(2) USE OF EXISTING PROGRAMS.—In addi-
9 tion to specialized services required for victims de-
10 scribed in paragraph (1), the program established
11 pursuant to paragraph (1) shall—

12 “(A) facilitate communication and coordi-
13 nation between the providers of assistance to
14 such victims;

15 “(B) provide a means to identify such pro-
16 viders; and

17 “(C) provide a means to make referrals to
18 programs for which such victims are already eli-
19 gible, including programs administered by the
20 Department of Justice and the Department of
21 Health and Human Services.

22 “(3) GRANTS.—

23 “(A) IN GENERAL.—The Secretary of
24 Health and Human Services and the Attorney
25 General may award grants to States, Indian

1 tribes, units of local government, and nonprofit,
 2 nongovernmental victim service organizations to
 3 develop, expand, and strengthen victim service
 4 programs authorized under this subsection.

5 “(B) MAXIMUM FEDERAL SHARE.—The
 6 Federal share of a grant awarded under this
 7 paragraph may not exceed 75 percent of the
 8 total costs of the projects described in the appli-
 9 cation submitted by the grantee.”.

10 (2) AUTHORIZATION OF APPROPRIATIONS.—
 11 Section 113 of the Trafficking Victims Protection
 12 Act of 2000 (22 U.S.C. 7110) is amended—

13 (A) in subsection (b)—

14 (i) by striking “To carry out” and in-
 15 serting the following:

16 “(1) ELIGIBILITY FOR BENEFITS AND ASSIST-
 17 ANCE.—To carry out”; and

18 (ii) by adding at the end the fol-
 19 lowing:

20 “(2) ADDITIONAL BENEFITS FOR TRAFFICKING
 21 VICTIMS.—To carry out the purposes of section
 22 107(f), there are authorized to be appropriated to
 23 the Secretary of Health and Human Services—

24 “(A) \$2,500,000 for fiscal year 2008;

25 “(B) \$5,000,000 for fiscal year 2009;

1 “(C) \$7,000,000 for fiscal year 2010; and

2 “(D) \$7,000,000 for fiscal year 2011.”;

3 and

4 (B) in subsection (d)—

5 (i) by striking “To carry out the pur-
6 poses of section 107(b)” and inserting the
7 following:

8 “(A) ELIGIBILITY FOR BENEFITS AND AS-
9 SISTANCE.—To carry out the purposes of sec-
10 tion 107(b)”;

11 (ii) by striking “To carry out the pur-
12 poses of section 134” and inserting the fol-
13 lowing:

14 “(B) ASSISTANCE TO FOREIGN COUN-
15 TRIES.—To carry out the purposes of section
16 134”; and

17 (iii) by adding at the end the fol-
18 lowing:

19 “(C) ADDITIONAL BENEFITS FOR TRAF-
20 FICKING VICTIMS.—To carry out the purposes
21 of section 107(f), there are authorized to be ap-
22 propriated to the Attorney General—

23 “(i) \$2,500,000 for fiscal year 2008;

24 “(ii) \$5,000,0000 for fiscal year 2009;

1 “(iii) \$7,000,000 for fiscal year 2010;
2 and
3 “(iv) \$7,000,000 for fiscal year
4 2011.”.

5 (3) TECHNICAL ASSISTANCE.—Section
6 107(b)(2)(B)(ii) of the Trafficking Victims Protec-
7 tion Act of 2000 (22 U.S.C. 7105(b)(2)(B)(ii)) is
8 amended to read as follows:

9 “(ii) 5 percent for training and tech-
10 nical assistance, including increasing ca-
11 pacity and expertise on security for and
12 protection of service providers from intimi-
13 dation or retaliation for their activities.”.

14 (b) STUDY.—

15 (1) REQUIREMENT.—Not later than 1 year
16 after the date of the enactment of this Act, the At-
17 torney General and the Secretary of Health and
18 Human Services shall submit a report to the appro-
19 priate congressional committees that identifies the
20 existence and extent of any service gap between vic-
21 tims described in section 107(b)(1) of the Traf-
22 ficking Victims Protection Act of 2000 (22 U.S.C.
23 7105) and individuals described in section 107(f) of
24 such Act, as amended by section 213(a) of this Act.

1 (2) ELEMENTS.—In carrying out the study
2 under subparagraph (1), the Attorney General and
3 the Secretary of Health and Human Services shall—

4 (A) investigate factors relating to the legal
5 ability of the victims described in paragraph (1)
6 to access government-funded social services in
7 general, including the application of the Per-
8 sonal Responsibility and Work Opportunity
9 Reconciliation Act of 1996 (8 U.S.C.
10 1641(c)(5)) and the Illegal Immigration and
11 Immigrant Responsibility Act of 1996 (division
12 C of Public Law 104–208; 110 Stat. 3009 et
13 seq.);

14 (B) investigate any other impediments to
15 the access of the victims described in paragraph
16 (1) to government-funded social services;

17 (C) investigate any impediments to the ac-
18 cess of the victims described in paragraph (1)
19 to government-funded services targeted to vic-
20 tims of severe forms of trafficking;

21 (D) investigate the effect of trafficking
22 service-provider infrastructure development,
23 continuity of care, and availability of case-
24 workers on the eventual restoration and reha-

bilitation of the victims described in paragraph
(1); and

(E) include findings, best practices, and
recommendations, if any, based on the study of
the elements described in subparagraphs (A)
through (D) and any other related information.

Subtitle C—Penalties Against Traffickers and Other Crimes

SEC. 221. RESTITUTION OF FORFEITED ASSETS; ENHANCE- MENT OF CIVIL ACTION.

Chapter 77 of title 18, United States Code, is amend-
ed—

(1) in section 1593(b), by adding at the end the
following:

“(4) The forfeiture of property under this subsection
shall be governed by the provisions of section 413 (other
than subsection (d) of such section) of the Controlled Sub-
stances Act (21 U.S.C. 853).”; and

(2) in section 1595—

(A) in subsection (a)—

(i) by striking “of section 1589, 1590,
or 1591”; and

(ii) by inserting “(or whoever know-
ingly benefits, financially or by receiving
anything of value from participation in a

1 venture which that person knew or should
 2 have known has engaged in an act in viola-
 3 tion of this chapter)” after “perpetrator”;
 4 and

5 (B) by adding at the end the following:

6 “(c) No action may be maintained under this section
 7 unless it is commenced not later than 10 years after the
 8 cause of action arose.”.

9 **SEC. 222. ENHANCING PENALTIES FOR TRAFFICKING OF-**
 10 **FENSES.**

11 (a) DETENTION.—Section 3142(e) of title 18, United
 12 States Code, is amended—

13 (1) by redesignating paragraphs (1), (2), and
 14 (3) as subparagraphs (A), (B), and (C), respectively;

15 (2) by inserting “(1)” before “If, after a hear-
 16 ing”;

17 (3) by inserting “(2)” before “In a case”;

18 (4) by inserting “(3)” before “Subject to rebut-
 19 tal”;

20 (5) by striking “paragraph (1) of this sub-
 21 section” each place it appears and inserting “sub-
 22 paragraph (A)”;

23 (6) in paragraph (3), as redesignated—

24 (A) by striking “committed an offense”

25 and inserting the following: “committed—

1 “(A) an offense”;

2 (B) by striking “46, an offense” and in-
3 serting the following: “46;

4 “(B) an offense”;

5 (C) by striking “title, or an offense” and
6 inserting the following: “title;

7 “(C) an offense”; and

8 (D) by striking “prescribed or an offense”
9 and inserting the following: “prescribed;

10 “(D) an offense under chapter 77 of this title
11 for which a maximum term of imprisonment of 20
12 years or more is prescribed; or

13 “(E) an offense”.

14 (b) PREVENTING OBSTRUCTION.—

15 (1) ENTICEMENT INTO SLAVERY.—Section
16 1583 of title 18, United States Code, is amended to
17 read as follows:

18 **“§ 1583. Enticement into slavery**

19 “(a) Whoever—

20 “(1) kidnaps or carries away any other person,
21 with the intent that such other person be sold into
22 involuntary servitude, or held as a slave;

23 “(2) entices, persuades, or induces any other
24 person to go on board any vessel or to any other
25 place with the intent that he or she may be made

1 or held as a slave, or sent out of the country to be
2 so made or held; or

3 “(3) obstructs, or attempts to obstruct, or in
4 any way interferes with or prevents the enforcement
5 of this section,

6 shall be fined under this title, imprisoned not more than
7 20 years, or both.

8 “(b) Whoever violates this section shall be fined
9 under this title, imprisoned for any term of years or for
10 life, or both if—

11 “(1) the violation results in the death of the
12 victim; or

13 “(2) the violation includes kidnaping, an at-
14 tempt to kidnap, aggravated sexual abuse, an at-
15 tempt to commit aggravated sexual abuse, or an at-
16 tempt to kill.”.

17 (2) SALE INTO INVOLUNTARY SERVITUDE.—
18 Section 1584 of such title is amended—

19 (A) by striking “Whoever” and inserting
20 the following:

21 “(a) Whoever”; and

22 (B) by adding at the end the following:

23 “(b) Whoever obstructs, attempts to obstruct, or in
24 any way interferes with or prevents the enforcement of

1 this section, shall be subject to the penalties described in
2 subsection (a).”.

3 (3) PUNISHING FINANCIAL GAIN FROM TRAF-
4 FICKED LABOR.—Section 1589 of such title is
5 amended to read as follows:

6 **“SEC. 1589. FORCED LABOR.**

7 “(a) Whoever knowingly provides or obtains the labor
8 or services of a person by any one of, or by any combina-
9 tion of, the following means—

10 “(1) by means of force, threats of force, phys-
11 ical restraint, or threats of physical restraint to that
12 person or another person;

13 “(2) by means of serious harm or threats of se-
14 rious harm to that person or another person;

15 “(3) by means of the abuse or threatened abuse
16 of law or legal process; or

17 “(4) by means of any scheme, plan, or pattern
18 intended to cause the person to believe that, if that
19 person did not perform such labor or services, that
20 person or another person would suffer serious harm
21 or physical restraint,

22 shall be punished as provided under subsection (d).

23 “(b) Whoever knowingly benefits, financially or by re-
24 ceiving anything of value, from participation in a venture
25 which has engaged in the providing or obtaining of labor

1 or services by any of the means described in subsection
2 (a), knowing or in reckless disregard of the fact that the
3 venture has engaged in the providing or obtaining of labor
4 or services by any of such means, shall be punished as
5 provided in subsection (d).

6 “(c) In this section:

7 “(1) The term ‘abuse or threatened abuse of
8 law or legal process’ means the use or threatened
9 use of a law or legal process, whether administrative,
10 civil, or criminal, in any manner or for any purpose
11 for which the law was not designed, in order to exert
12 pressure on another person to cause that person to
13 take some action or refrain from taking some action.

14 “(2) The term ‘serious harm’ means any harm,
15 whether physical or nonphysical, including psycho-
16 logical, financial, or reputational harm, that is suffi-
17 ciently serious, under all the surrounding cir-
18 cumstances, to compel a reasonable person of the
19 same background and in the same circumstances to
20 perform or to continue performing labor or services
21 in order to avoid incurring that harm.

22 “(d) Whoever violates this section shall be fined
23 under this title, imprisoned not more than 20 years, or
24 both. If death results from a violation of this section, or
25 if the violation includes kidnaping, an attempt to kidnap,

1 aggravated sexual abuse, or an attempt to kill, the defend-
2 ant shall be fined under this title, imprisoned for any term
3 of years or life, or both.”.

4 (4) TRAFFICKING.—Section 1590 of such title
5 is amended—

6 (A) by striking “Whoever” and inserting
7 the following:

8 “(a) Whoever”; and

9 (B) by adding at the end the following:

10 “(b) Whoever obstructs, attempts to obstruct, or in
11 any way interferes with or prevents the enforcement of
12 this section, shall be subject to the penalties under sub-
13 section (a).”.

14 (5) SEX TRAFFICKING OF CHILDREN.—Section
15 1591 of such title is amended—

16 (A) in subsection (a)—

17 (i) in paragraph (1), by striking “or
18 obtains” and inserting “obtains, or main-
19 tains”; and

20 (ii) in the matter following paragraph
21 (2), by striking “that force, fraud, or coer-
22 cion described in subsection (c)(2)” and in-
23 serting “, or in reckless disregard of the
24 fact, that means of force, threats of force,

1 fraud, coercion described in subsection
2 (e)(2), or any combination of such means”;

3 (B) by redesignating subsection (c) as sub-
4 section (e);

5 (C) in subsection (b)(1), by striking “force,
6 fraud, or coercion” and inserting “means of
7 force, threats of force, fraud, or coercion de-
8 scribed in subsection (e)(2), or by any combina-
9 tion of such means,”;

10 (D) by inserting after subsection (b) the
11 following:

12 “(c) In a prosecution under subsection (a)(1) in
13 which the defendant had a reasonable opportunity to ob-
14 serve the person so recruited, enticed, harbored, trans-
15 ported, provided, obtained or maintained, the Government
16 need not prove that the defendant knew that the person
17 had not attained the age of 18 years.

18 “(d) Whoever obstructs, attempts to obstruct, or in
19 any way interferes with or prevents the enforcement of
20 this section, shall be fined under this title, imprisoned for
21 a term not to exceed 20 years, or both.”;

22 (E) in subsection (e), as redesignated—

23 (i) by redesignating paragraph (3) as
24 paragraph (5);

1 (ii) by redesignating paragraph (1) as
2 paragraph (3);

3 (iii) by inserting before paragraph (2)
4 the following:

5 “(1) The term ‘abuse or threatened abuse of
6 law or legal process’ means the use or threatened
7 use of a law or legal process, whether administrative,
8 civil, or criminal, in any manner or for any purpose
9 for which the law was not designed, in order to exert
10 pressure on another person to cause that person to
11 take some action or refrain from taking some ac-
12 tion.”; and

13 (iv) by inserting after paragraph (3),
14 as redesignated, the following:

15 “(4) The term ‘serious harm’ means any harm,
16 whether physical or nonphysical, including psycho-
17 logical, financial, or reputational harm, that is suffi-
18 ciently serious, under all the surrounding cir-
19 cumstances, to compel a reasonable person of the
20 same background and in the same circumstances to
21 perform or to continue performing commercial sex-
22 ual activity in order to avoid incurring that harm.”.

23 (6) UNLAWFUL CONDUCT.—Section 1592 of
24 such title is amended by adding at the end the fol-
25 lowing:

1 “(c) Whoever obstructs, attempts to obstruct, or in
2 any way interferes with or prevents the enforcement of
3 this section, shall be subject to the penalties described in
4 subsection (a).”.

5 (c) HOLDING CONSPIRATORS ACCOUNTABLE.—Sec-
6 tion 1594 of title 18, United States Code, is amended—

7 (1) by redesignating subsections (b), (c), and
8 (d) as subsections (d), (e), and (f), respectively; and

9 (2) by inserting after subsection (a) the fol-
10 lowing:

11 “(b) Whoever conspires with another to violate sec-
12 tion 1581, 1583, 1589, 1590, or 1592 shall be punished
13 in the same manner as a completed violation of such sec-
14 tion.

15 “(c) Whoever conspires with another to violate sec-
16 tion 1591 shall be fined under this title, imprisoned for
17 any term of years or for life, or both.”.

18 (d) BENEFITTING FINANCIALLY FROM PEONAGE,
19 SLAVERY, AND TRAFFICKING IN PERSONS.—

20 (1) IN GENERAL.—Chapter 77 of title 18,
21 United States Code, is amended by inserting after
22 section 1593 the following:

1 **“§ 1593A. Benefitting financially from peonage, slav-**
 2 **ery, and trafficking in persons**

3 “Whoever knowingly benefits, financially or by receiv-
 4 ing anything of value, from participation in a venture
 5 which has engaged in any act in violation of section
 6 1581(a), 1592, or 1595(a), knowing or in reckless dis-
 7 regard of the fact that the venture has engaged in such
 8 violation, shall be fined under this title or imprisoned in
 9 the same manner as a completed violation of such sec-
 10 tion.”.

11 (2) CLERICAL AMENDMENT.—The table of sec-
 12 tions at the beginning of such chapter is amended
 13 by inserting after the item relating to section 1593
 14 the following:

“Sec. 1593A. Benefitting financially from peonage, slavery, and trafficking in
 persons.”.

15 (e) RETALIATION IN FOREIGN LABOR CON-
 16 TRACTING.—Chapter 63 of title 18, United States Code,
 17 is amended—

18 (1) in the chapter heading, by adding at the
 19 end the following: “**AND OTHER FRAUD OF-**
 20 **FENSES**”;

21 (2) by adding at the end the following:

22 **“§ 1351. Fraud in foreign labor contracting**

23 “Whoever knowingly and with intent to defraud re-
 24 cruits, solicits or hires a person outside the United States

1 for purposes of employment in the United States by means
 2 of materially false or fraudulent pretenses, representations
 3 or promises regarding that employment shall be fined
 4 under this title or imprisoned for not more than 5 years,
 5 or both.”; and

6 (3) in the table of sections, by inserting after
 7 the item relating to section 1350 the following:

“1351. Fraud in foreign labor contracting.”.

8 (f) TIGHTENING IMMIGRATION PROHIBITIONS.—

9 (1) GROUND OF INADMISSIBILITY FOR TRAF-
 10 FICKING.—Section 212(a)(2)(H)(i) of the Immigra-
 11 tion and Nationality Act (8 U.S.C.
 12 1182(a)(2)(H)(i)) is amended by striking “who is
 13 listed in a report submitted pursuant to section
 14 111(b) of the Trafficking Victims Protection Act of
 15 2000” and inserting “who commits or conspires to
 16 commit human trafficking offenses in the United
 17 States or outside the United States”.

18 (2) GROUND OF REMOVABILITY.—Section
 19 237(a)(2) of such Act (8 U.S.C. 1227(a)(2)) is
 20 amended by adding at the end the following:

21 “(F) TRAFFICKING.—Any alien described
 22 in section 212(a)(2)(H) is deportable.”.

23 (g) AMENDMENT TO SENTENCING GUIDELINES.—
 24 Pursuant to its authority under section 994 of title 28,
 25 United States Code, the United States Sentencing Com-

1 mission shall review and, if appropriate, amend the sen-
2 tencing guidelines and policy statements applicable to per-
3 sons convicted of alien harboring to ensure conformity
4 with the sentencing guidelines applicable to persons con-
5 victed of promoting a commercial sex act if—

6 (1) the harboring was committed in furtherance
7 of prostitution; and

8 (2) the defendant to be sentenced is an orga-
9 nizer, leader, manager, or supervisor of the criminal
10 activity.

11 **SEC. 223. JURISDICTION IN CERTAIN TRAFFICKING OF-**
12 **FENSES.**

13 (a) IN GENERAL.—Chapter 77 of title 18, United
14 States Code, is amended by adding at the end the fol-
15 lowing:

16 **“§ 1596. Additional jurisdiction in certain trafficking**
17 **offenses**

18 “(a) IN GENERAL.—In addition to any domestic or
19 extra-territorial jurisdiction otherwise provided by law, the
20 courts of the United States have extra-territorial jurisdic-
21 tion over any offense (or any attempt or conspiracy to
22 commit an offense) under section 1581, 1583, 1584, 1589,
23 1590, or 1591 if—

24 “(1) an alleged offender is a national of the
25 United States or an alien lawfully admitted for per-

1 manent residence (as those terms are defined in sec-
 2 tion 101 of the Immigration and Nationality Act (8
 3 U.S.C. 1101)); or

4 “(2) an alleged offender is present in the
 5 United States, irrespective of the nationality of the
 6 alleged offender.

7 “(b) LIMITATION ON PROSECUTIONS OF OFFENSES
 8 PROSECUTED IN OTHER COUNTRIES.—No prosecution
 9 may be commenced against a person under this section
 10 if a foreign government, in accordance with jurisdiction
 11 recognized by the United States, has prosecuted or is pros-
 12 ecuting such person for the conduct constituting such of-
 13 fense, except upon the approval of the Attorney General
 14 or the Deputy Attorney General (or a person acting in
 15 either such capacity), which function of approval may not
 16 be delegated.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
 18 at the beginning of chapter 77 of title 18, United States
 19 Code, is amended by adding at the end the following:

“1596. Additional jurisdiction in certain trafficking offenses.”.

20 **SEC. 224. BAIL CONDITIONS, SUBPOENAS, AND REPEAT OF-**
 21 **FENDER PENALTIES FOR SEX TRAFFICKING.**

22 (a) RELEASE AND DETENTION.—Subsections
 23 (f)(1)(A) and (g)(1) of section 3142 of title 18, United
 24 States Code, are amended by striking “violence,” each

1 place such term appears and inserting “violence, a viola-
2 tion of section 1591,”.

3 (b) SUBPOENAS.—Section 3486(a)(1)(D) of title 18,
4 United States Code, is amended by inserting “1591,”
5 after “1201,”.

6 (c) REPEAT OFFENDERS.—Section 2426(b)(1)(A) of
7 title 18, United States Code, is amended, by striking “or
8 chapter 110” and inserting “chapter 110, or section
9 1591”.

10 **SEC. 225. PROMOTING EFFECTIVE STATE ENFORCEMENT.**

11 (a) RELATIONSHIP AMONG FEDERAL AND STATE
12 LAW.—Nothing in this Act, the Trafficking Victims Pro-
13 tection Act of 2000, the Trafficking Victims Protection
14 Reauthorization Act of 2003, the Trafficking Victims Pro-
15 tection Reauthorization Act of 2005, chapters 77 and 117
16 of title 18, United States Code, or any model law issued
17 by the Department of Justice to carry out the purposes
18 of any of the aforementioned statutes—

19 (1) may be construed to treat prostitution as a
20 valid form of employment under Federal law; or

21 (2) shall preempt, supplant, or limit the effect
22 of any State or Federal criminal law.

23 (b) MODEL STATE CRIMINAL PROVISIONS.—In addi-
24 tion to any model State antitrafficking statutes in effect
25 on the date of the enactment of this Act, the Attorney

1 General shall facilitate the promulgation of a model State
2 statute that—

3 (1) furthers a comprehensive approach to inves-
4 tigation and prosecution through modernization of
5 State and local prostitution and pandering statutes;
6 and

7 (2) is based in part on the provisions of the Act
8 of August 15, 1935 (49 Stat. 651; D.C. Code 22–
9 2701 et seq.) (relating to prostitution and pan-
10 dering).

11 (c) DISTRIBUTION.—The model statute described in
12 subsection (b) and the text of chapter 27 of the Criminal
13 Code of the District of Columbia (D.C. Code 22–2701 et
14 seq.) shall be—

15 (1) posted on the website of the Department of
16 Justice; and

17 (2) distributed to the Attorney General of each
18 State.

19 **Subtitle D—Activities of the United** 20 **States Government**

21 **SEC. 231. ANNUAL REPORT BY THE ATTORNEY GENERAL.**

22 Section 105(d)(7) of the Trafficking Victims Protec-
23 tion Act of 2000 (22 U.S.C. 7103(d)(7)) is amended—

24 (1) in subparagraph (A)—

1 (A) by striking “section 107(b)” and in-
2 serting “subsections (b) and (f) of section 107”;
3 and

4 (B) by inserting “the Attorney General,”
5 after “the Secretary of Labor,”;

6 (2) in subparagraph (G), by striking “and” at
7 the end;

8 (3) by redesignating subparagraph (H) as sub-
9 paragraph (J); and

10 (4) by inserting after subparagraph (G) the fol-
11 lowing:

12 “(H) activities by the Department of De-
13 fense to combat trafficking in persons, includ-
14 ing—

15 “(i) educational efforts for, and dis-
16 ciplinary actions taken against, members
17 of the United States Armed Forces;

18 “(ii) the development of materials
19 used to train the armed forces of foreign
20 countries; and

21 “(iii) efforts to ensure that United
22 States Government contractors and their
23 employees or United States Government
24 subcontractors and their employees do not
25 engage in trafficking in persons;

1 “(I) activities or actions by Federal depart-
2 ments and agencies to enforce—

3 “(i) section 106(g) and any similar
4 law, regulation, or policy relating to United
5 States Government contractors and their
6 employees or United States Government
7 subcontractors and their employees that
8 engage in severe forms of trafficking in
9 persons, the procurement of commercial
10 sex acts, or the use of forced labor, includ-
11 ing debt bondage;

12 “(ii) section 307 of the Tariff Act of
13 1930 (19 U.S.C. 1307; relating to prohibi-
14 tion on importation of convict-made
15 goods), including any determinations by
16 the Secretary of Homeland Security to
17 waive the restrictions of such section; and

18 “(iii) prohibitions on the procurement
19 by the United States Government of items
20 or services produced by slave labor, con-
21 sistent with Executive Order 13107 (De-
22 cember 10, 1998); and”.

23 **SEC. 232. INVESTIGATION BY THE INSPECTORS GENERAL.**

24 (a) IN GENERAL.—For each of the fiscal years 2010
25 through 2012, the Inspectors General of the Department

1 of Defense, the Department of State, and the United
2 States Agency for International Development shall inves-
3 tigate a sample of the contracts described in subsection
4 (b).

5 (b) CONTRACTS DESCRIBED.—

6 (1) IN GENERAL.—The contracts described in
7 subsection (a) are contracts, or subcontracts at any
8 tier, under which there is a heightened risk that a
9 contractor may engage, knowingly or unknowingly,
10 in acts related to trafficking in persons, such as—

11 (A) confiscation of an employee’s passport;

12 (B) restriction on an employee’s mobility;

13 (C) abrupt or evasive repatriation of an
14 employee;

15 (D) deception of an employee regarding
16 the work destination; or

17 (E) acts otherwise described in section
18 106(g) of the Trafficking Victims Protection
19 Act of 2000 (22 U.S.C. 7104).

20 (2) CONSULTATION AND INFORMATION RE-
21 CEIVED.—In determining the type of contact that
22 should be investigated pursuant to subsection (a),
23 the Inspectors General shall—

1 (A) consult with the Director of the Office
2 to Combat Trafficking in Persons of the De-
3 partment of State; and

4 (B) take into account any credible infor-
5 mation received regarding report of trafficking
6 in persons.

7 (c) CONGRESSIONAL NOTIFICATION.—

8 (1) IN GENERAL.—Not later than January 15,
9 2009, and annually thereafter through January 15,
10 2011, each Inspector General shall submit a report
11 to the congressional committees listed in paragraph
12 (3)—

13 (A) summarizing the findings of the inves-
14 tigation conducted in the previous year, includ-
15 ing any findings regarding trafficking in per-
16 sons or any improvements needed to prevent
17 trafficking in persons; and

18 (B) in the case of any contractor or sub-
19 contractor with regard to which the Inspector
20 General has found substantial evidence of traf-
21 ficking in persons, report as to—

22 (i) whether or not the case has been
23 referred for prosecution; and

24 (ii) whether or not the case has been
25 treated in accordance with section 106(g)

1 of the Trafficking Victims Protection Act
2 of 2000 (22 U.S.C. 7104) (relating to ter-
3 mination of certain grants, contracts and
4 cooperative agreements).

5 (2) JOINT REPORT.—The Inspectors General
6 described in subsection (a) may submit their reports
7 jointly.

8 (3) CONGRESSIONAL COMMITTEES.—The com-
9 mittees list in this paragraph are—

10 (A) the Committee on Armed Services of
11 the Senate;

12 (B) the Committee on Foreign Relations of
13 the Senate;

14 (C) the Committee on Armed Services of
15 the House of Representatives; and

16 (D) the Committee on Foreign Affairs of
17 the House of Representatives.

18 **SEC. 233. SENIOR POLICY OPERATING GROUP.**

19 Section 206 of the Trafficking Victims Protection Re-
20 authorization Act of 2005 (42 U.S.C. 14044d) is amended
21 by striking “, as the department or agency determines ap-
22 propriate,”.

1 **SEC. 234. PREVENTING UNITED STATES TRAVEL BY TRAF-**
2 **FICKERS.**

3 Section 212(a)(2)(H)(i) of the Immigration and Na-
4 tionality Act (8 U.S.C. 1182(a)(2)(H)(i)) is amended by
5 striking “consular officer” and inserting “consular officer,
6 the Secretary of Homeland Security, the Secretary of
7 State,”.

8 **SEC. 235. ENHANCING EFFORTS TO COMBAT THE TRAF-**
9 **FICKING OF CHILDREN.**

10 (a) COMBATING CHILD TRAFFICKING AT THE BOR-
11 DER AND PORTS OF ENTRY OF THE UNITED STATES.—

12 (1) POLICIES AND PROCEDURES.—In order to
13 enhance the efforts of the United States to prevent
14 trafficking in persons, the Secretary of Homeland
15 Security, in conjunction with the Secretary of State,
16 the Attorney General, and the Secretary of Health
17 and Human Services, shall develop policies and pro-
18 cedures to ensure that unaccompanied alien children
19 in the United States are safely repatriated to their
20 country of nationality or of last habitual residence.

21 (2) SPECIAL RULES FOR CHILDREN FROM CON-
22 TIGUOUS COUNTRIES.—

23 (A) DETERMINATIONS.—Any unaccom-
24 panied alien child who is a national or habitual
25 resident of a country that is contiguous with
26 the United States shall be treated in accordance

1 with subparagraph (B), if the Secretary of
2 Homeland Security determines, on a case-by-
3 case basis, that—

4 (i) such child has not been a victim of
5 a severe form of trafficking in persons, and
6 there is no credible evidence that such
7 child is at risk of being trafficked upon re-
8 turn to the child's country of nationality or
9 of last habitual residence;

10 (ii) such child does not have a fear of
11 returning to the child's country of nation-
12 ality or of last habitual residence owing to
13 a credible fear of persecution; and

14 (iii) the child is able to make an inde-
15 pendent decision to withdraw the child's
16 application for admission to the United
17 States.

18 (B) RETURN.—An immigration officer who
19 finds an unaccompanied alien child described in
20 subparagraph (A) at a land border or port of
21 entry of the United States and determines that
22 such child is inadmissible under the Immigra-
23 tion and Nationality Act (8 U.S.C. 1101 et
24 seq.) may—

1 (i) permit such child to withdraw the
2 child's application for admission pursuant
3 to section 235(a)(4) of the Immigration
4 and Nationality Act (8 U.S.C. 1225(a)(4));
5 and

6 (ii) return such child to the child's
7 country of nationality or country of last
8 habitual residence.

9 (C) CONTIGUOUS COUNTRY AGREEMENTS.—The Secretary of State shall negotiate
10 agreements between the United States and
11 countries contiguous to the United States with
12 respect to the repatriation of children. Such
13 agreements shall be designed to protect children
14 from severe forms of trafficking in persons, and
15 shall, at a minimum, provide that—
16

17 (i) no child shall be returned to the
18 child's country of nationality or of last ha-
19 bitual residence unless returned to appro-
20 priate employees or officials, including
21 child welfare officials where available, of
22 the accepting country's government;

23 (ii) no child shall be returned to the
24 child's country of nationality or of last ha-

1 bitual residence outside of reasonable busi-
2 ness hours; and

3 (iii) border personnel of the countries
4 that are parties to such agreements are
5 trained in the terms of such agreements.

6 (3) RULE FOR OTHER CHILDREN.—The custody
7 of unaccompanied alien children not described in
8 paragraph (2)(A) who are apprehended at the bor-
9 der of the United States or at a United States port
10 of entry shall be treated in accordance with sub-
11 section (b).

12 (4) SCREENING.—Within 48 hours of the ap-
13 prehension of a child who is believed to be described
14 in paragraph (2)(A), but in any event prior to re-
15 turning such child to the child's country of nation-
16 ality or of last habitual residence, the child shall be
17 screened to determine whether the child meets the
18 criteria listed in paragraph (2)(A). If the child does
19 not meet such criteria, or if no determination can be
20 made within 48 hours of apprehension, the child
21 shall immediately be transferred to the Secretary of
22 Health and Human Services and treated in accord-
23 ance with subsection (b). Nothing in this paragraph
24 may be construed to preclude an earlier transfer of
25 the child.

1 (5) ENSURING THE SAFE REPATRIATION OF
2 CHILDREN.—

3 (A) REPATRIATION PILOT PROGRAM.—To
4 protect children from trafficking and exploi-
5 tation, the Secretary of State shall create a
6 pilot program, in conjunction with the Secretary
7 of Health and Human Services and the Sec-
8 retary of Homeland Security, nongovernmental
9 organizations, and other national and inter-
10 national agencies and experts, to develop and
11 implement best practices to ensure the safe and
12 sustainable repatriation and reintegration of
13 unaccompanied alien children into their country
14 of nationality or of last habitual residence, in-
15 cluding placement with their families, legal
16 guardians, or other sponsoring agencies.

17 (B) ASSESSMENT OF COUNTRY CONDI-
18 TIONS.—The Secretary of Homeland Security
19 shall consult the Department of State’s Country
20 Reports on Human Rights Practices and the
21 Trafficking in Persons Report in assessing
22 whether to repatriate an unaccompanied alien
23 child to a particular country.

24 (C) REPORT ON REPATRIATION OF UNAC-
25 COMPANIED ALIEN CHILDREN.—Not later than

1 18 months after the date of the enactment of
2 this Act, and annually thereafter, the Secretary
3 of State and the Secretary of Health and
4 Human Services, with assistance from the Sec-
5 retary of Homeland Security, shall submit a re-
6 port to the Committee on the Judiciary of the
7 Senate and the Committee on the Judiciary of
8 the House of Representatives on efforts to im-
9 prove repatriation programs for unaccompanied
10 alien children. Such report shall include—

11 (i) the number of unaccompanied
12 alien children ordered removed and the
13 number of such children actually removed
14 from the United States;

15 (ii) a statement of the nationalities,
16 ages, and gender of such children;

17 (iii) a description of the policies and
18 procedures used to effect the removal of
19 such children from the United States and
20 the steps taken to ensure that such chil-
21 dren were safely and humanely repatriated
22 to their country of nationality or of last
23 habitual residence, including a description
24 of the repatriation pilot program created
25 pursuant to subparagraph (A);

1 (iv) a description of the type of immi-
2 gration relief sought and denied to such
3 children;

4 (v) any information gathered in as-
5 sessments of country and local conditions
6 pursuant to paragraph (2); and

7 (vi) statistical information and other
8 data on unaccompanied alien children as
9 provided for in section 462(b)(1)(J) of the
10 Homeland Security Act of 2002 (6 U.S.C.
11 279(b)(1)(J)).

12 (D) PLACEMENT IN REMOVAL PRO-
13 CEEDINGS.—Any unaccompanied alien child
14 sought to be removed by the Department of
15 Homeland Security, except for an unaccom-
16 panied alien child from a contiguous country
17 subject to exceptions under subsection (a)(2),
18 shall be—

19 (i) placed in removal proceedings
20 under section 240 of the Immigration and
21 Nationality Act (8 U.S.C. 1229a);

22 (ii) eligible for relief under section
23 240B of such Act (8 U.S.C. 1229c) at no
24 cost to the child; and

1 (iii) provided access to counsel in ac-
2 cordance with subsection (c)(5).

3 (b) COMBATING CHILD TRAFFICKING AND EXPLOI-
4 TATION IN THE UNITED STATES.—

5 (1) CARE AND CUSTODY OF UNACCOMPANIED
6 ALIEN CHILDREN.—Consistent with section 462 of
7 the Homeland Security Act of 2002 (6 U.S.C. 279),
8 and except as otherwise provided under subsection
9 (a), the care and custody of all unaccompanied alien
10 children, including responsibility for their detention,
11 where appropriate, shall be the responsibility of the
12 Secretary of Health and Human Services.

13 (2) NOTIFICATION.—Each department or agen-
14 cy of the Federal Government shall notify the De-
15 partment of Health and Human services within 48
16 hours upon—

17 (A) the apprehension or discovery of an
18 unaccompanied alien child; or

19 (B) any claim or suspicion that an alien in
20 the custody of such department or agency is
21 under 18 years of age.

22 (3) TRANSFERS OF UNACCOMPANIED ALIEN
23 CHILDREN.—Except in the case of exceptional cir-
24 cumstances, any department or agency of the Fed-
25 eral Government that has an unaccompanied alien

1 child in custody shall transfer the custody of such
2 child to the Secretary of Health and Human Serv-
3 ices not later than 72 hours after determining that
4 such child is an unaccompanied alien child.

5 (4) AGE DETERMINATIONS.—The Secretary of
6 Health and Human Services, in consultation with
7 the Secretary of Homeland Security, shall develop
8 procedures to make a prompt determination of the
9 age of an alien, which shall be used by the Secretary
10 of Homeland Security and the Secretary of Health
11 and Human Services for children in their respective
12 custody. At a minimum, these procedures shall take
13 into account multiple forms of evidence, including
14 the non-exclusive use of radiographs, to determine
15 the age of the unaccompanied alien.

16 (c) PROVIDING SAFE AND SECURE PLACEMENTS FOR
17 CHILDREN.—

18 (1) POLICIES AND PROGRAMS.—The Secretary
19 of Health and Human Services, Secretary of Home-
20 land Security, Attorney General, and Secretary of
21 State shall establish policies and programs to ensure
22 that unaccompanied alien children in the United
23 States are protected from traffickers and other per-
24 sons seeking to victimize or otherwise engage such
25 children in criminal, harmful, or exploitative activity,

1 including policies and programs reflecting best prac-
2 tices in witness security programs.

3 (2) SAFE AND SECURE PLACEMENTS.—Subject
4 to section 462(b)(2) of the Homeland Security Act
5 of 2002 (6 U.S.C. 279(b)(2)), an unaccompanied
6 alien child in the custody of the Secretary of Health
7 and Human Services shall be promptly placed in the
8 least restrictive setting that is in the best interest of
9 the child. In making such placements, the Secretary
10 may consider danger to self, danger to the commu-
11 nity, and risk of flight. Placement of child traf-
12 ficking victims may include placement in an Unac-
13 companied Refugee Minor program, pursuant to sec-
14 tion 412(d) of the Immigration and Nationality Act
15 (8 U.S.C. 1522(d)), if a suitable family member is
16 not available to provide care. A child shall not be
17 placed in a secure facility absent a determination
18 that the child poses a danger to self or others or has
19 been charged with having committed a criminal of-
20 fense. The placement of a child in a secure facility
21 shall be reviewed, at a minimum, on a monthly
22 basis, in accordance with procedures prescribed by
23 the Secretary, to determine if such placement re-
24 mains warranted.

25 (3) SAFETY AND SUITABILITY ASSESSMENTS.—

1 (A) IN GENERAL.—Subject to the require-
2 ments of subparagraph (B), an unaccompanied
3 alien child may not be placed with a person or
4 entity unless the Secretary of Health and
5 Human Services makes a determination that
6 the proposed custodian is capable of providing
7 for the child’s physical and mental well-being.
8 Such determination shall, at a minimum, in-
9 clude verification of the custodian’s identity and
10 relationship to the child, if any, as well as an
11 independent finding that the individual has not
12 engaged in any activity that would indicate a
13 potential risk to the child.

14 (B) HOME STUDIES.—Before placing the
15 child with an individual, the Secretary of
16 Health and Human Services shall determine
17 whether a home study is first necessary. A
18 home study shall be conducted for a child who
19 is a victim of a severe form of trafficking in
20 persons, a special needs child with a disability
21 (as defined in section 3 of the Americans with
22 Disabilities Act of 1990 (42 U.S.C. 12102(2))),
23 a child who has been a victim of physical or
24 sexual abuse under circumstances that indicate
25 that the child’s health or welfare has been sig-

1 significantly harmed or threatened, or a child
2 whose proposed sponsor clearly presents a risk
3 of abuse, maltreatment, exploitation, or traf-
4 ficking to the child based on all available objec-
5 tive evidence. The Secretary of Health and
6 Human Services shall conduct follow-up serv-
7 ices, during the pendency of removal pro-
8 ceedings, on children for whom a home study
9 was conducted and is authorized to conduct fol-
10 low-up services in cases involving children with
11 mental health or other needs who could benefit
12 from ongoing assistance from a social welfare
13 agency.

14 (C) ACCESS TO INFORMATION.—Not later
15 than 2 weeks after receiving a request from the
16 Secretary of Health and Human Services, the
17 Secretary of Homeland Security shall provide
18 information necessary to conduct suitability as-
19 sessments from appropriate Federal, State, and
20 local law enforcement and immigration data-
21 bases.

22 (4) LEGAL ORIENTATION PRESENTATIONS.—
23 The Secretary of Health and Human Services shall
24 cooperate with the Executive Office for Immigration
25 Review to ensure that custodians receive legal ori-

1 entation presentations provided through the Legal
2 Orientation Program administered by the Executive
3 Office for Immigration Review. At a minimum, such
4 presentations shall address the custodian's responsi-
5 bility to attempt to ensure the child's appearance at
6 all immigration proceedings and to protect the child
7 from mistreatment, exploitation, and trafficking.

8 (5) ACCESS TO COUNSEL.—The Secretary of
9 Health and Human Services shall ensure, to the
10 greatest extent practicable and consistent with sec-
11 tion 292 of the Immigration and Nationality Act (8
12 U.S.C. 1362), that all unaccompanied alien children
13 who are or have been in the custody of the Secretary
14 or the Secretary of Homeland Security, and who are
15 not described in subsection (a)(2)(A), have counsel
16 to represent them in legal proceedings or matters
17 and protect them from mistreatment, exploitation,
18 and trafficking. To the greatest extent practicable,
19 the Secretary of Health and Human Services shall
20 make every effort to utilize the services of pro bono
21 counsel who agree to provide representation to such
22 children without charge.

23 (6) CHILD ADVOCATES.—The Secretary of
24 Health and Human Services is authorized to appoint
25 independent child advocates for child trafficking vic-

1 tims and other vulnerable unaccompanied alien chil-
2 dren. A child advocate shall be provided access to
3 materials necessary to effectively advocate for the
4 best interest of the child. The child advocate shall
5 not be compelled to testify or provide evidence in
6 any proceeding concerning any information or opin-
7 ion received from the child in the course of serving
8 as a child advocate. The child advocate shall be pre-
9 sumed to be acting in good faith and be immune
10 from civil and criminal liability for lawful conduct of
11 duties as described in this provision.

12 (d) PERMANENT PROTECTION FOR CERTAIN AT-
13 RISK CHILDREN.—

14 (1) IN GENERAL.—Section 101(a)(27)(J) of the
15 Immigration and Nationality Act (8 U.S.C.
16 1101(a)(27)(J)) is amended—

17 (A) in clause (i), by striking “State and
18 who has been deemed eligible by that court for
19 long-term foster care due to abuse, neglect, or
20 abandonment;” and inserting “State, or an in-
21 dividual or entity appointed by a State or juve-
22 nile court located in the United States, and
23 whose reunification with 1 or both of the immi-
24 grant’s parents is not viable due to abuse, ne-

1 glect, abandonment, or a similar basis found
2 under State law;” and

3 (B) in clause (iii)—

4 (i) in the matter preceding subclause
5 (I), by striking “the Attorney General ex-
6 pressly consents to the dependency order
7 serving as a precondition to the grant of
8 special immigrant juvenile status;” and in-
9 serting “the Secretary of Homeland Secu-
10 rity consents to the grant of special immi-
11 grant juvenile status;” and

12 (ii) in subclause (I), by striking “in
13 the actual or constructive custody of the
14 Attorney General unless the Attorney Gen-
15 eral specifically consents to such jurisdic-
16 tion;” and inserting “in the custody of the
17 Secretary of Health and Human Services
18 unless the Secretary of Health and Human
19 Services specifically consents to such juris-
20 diction;”.

21 (2) EXPEDITIOUS ADJUDICATION.—All applica-
22 tions for special immigrant status under section
23 101(a)(27)(J) of the Immigration and Nationality
24 Act (8 U.S.C. 1101(a)(27)(J)) shall be adjudicated
25 by the Secretary of Homeland Security not later

1 than 180 days after the date on which the applica-
2 tion is filed.

3 (3) ADJUSTMENT OF STATUS.—Section
4 245(h)(2)(A) of the Immigration and Nationality
5 Act (8 U.S.C. 1255(h)(2)(A)) is amended to read as
6 follows:

7 “(A) paragraphs (4), (5)(A), (6)(A),
8 (6)(C), (6)(D), (7)(A), and (9)(B) of section
9 212(a) shall not apply; and”.

10 (4) ELIGIBILITY FOR ASSISTANCE.—

11 (A) IN GENERAL.—A child who has been
12 granted special immigrant status under section
13 101(a)(27)(J) of the Immigration and Nation-
14 ality Act (8 U.S.C. 1101(a)(27)(J)) and who
15 was either in the custody of the Secretary of
16 Health and Human Services at the time a de-
17 pendency order was granted for such child or
18 who was receiving services pursuant to section
19 501(a) of the Refugee Education Assistance Act
20 of 1980 (8 U.S.C. 1522 note) at the time such
21 dependency order was granted, shall be eligible
22 for placement and services under section 412(d)
23 of the Immigration and Nationality Act (8
24 U.S.C. 1522(d)) until the earlier of—

1 (i) the date on which the child reaches
2 the age designated in section 412(d)(2)(B)
3 of the Immigration and Nationality Act (8
4 U.S.C. 1522(d)(2)(B)); or

5 (ii) the date on which the child is
6 placed in a permanent adoptive home.

7 (B) STATE REIMBURSEMENT.—Subject to
8 the availability of appropriations, if State foster
9 care funds are expended on behalf of a child
10 who is not described in subparagraph (A) and
11 has been granted special immigrant status
12 under section 101(a)(27)(J) of the Immigration
13 and Nationality Act (8 U.S.C. 1101(a)(27)(J)),
14 the Federal Government shall reimburse the
15 State in which the child resides for such ex-
16 penditures by the State.

17 (5) STATE COURTS ACTING IN LOCO
18 PARENTIS.—A department or agency of a State, or
19 an individual or entity appointed by a State court or
20 juvenile court located in the United States, acting in
21 loco parentis, shall not be considered a legal guard-
22 ian for purposes of this section or section 462 of the
23 Homeland Security Act of 2002 (6 U.S.C. 279).

24 (6) TRANSITION RULE.—Notwithstanding any
25 other provision of law, an alien described in section

1 101(a)(27)(J) of the Immigration and Nationality
2 Act (8 U.S.C. 1101(a)(27)(J)), as amended by para-
3 graph (1), may not be denied special immigrant sta-
4 tus under such section after the date of the enact-
5 ment of this Act based on age if the alien was a
6 child on the date on which the alien applied for such
7 status.

8 (7) ACCESS TO ASYLUM PROTECTIONS.—Sec-
9 tion 208 of the Immigration and Nationality Act (8
10 U.S.C. 1158) is amended—

11 (A) in subsection (a)(2), by adding at the
12 end the following:

13 “(E) APPLICABILITY.—Subparagraphs (A)
14 and (B) shall not apply to an unaccompanied
15 alien child (as defined in section 462(g) of the
16 Homeland Security Act of 2002 (6 U.S.C.
17 279(g))).”; and

18 (B) in subsection (b)(3), by adding at the
19 end the following:

20 “(C) INITIAL JURISDICTION.—An asylum
21 officer (as defined in section 235(b)(1)(E))
22 shall have initial jurisdiction over any asylum
23 application filed by an unaccompanied alien
24 child (as defined in section 462(g) of the Home-
25 land Security Act of 2002 (6 U.S.C. 279(g))),

1 regardless of whether filed in accordance with
2 this section or section 235(b).”.

3 (8) SPECIALIZED NEEDS OF UNACCOMPANIED
4 ALIEN CHILDREN.—Applications for asylum and
5 other forms of relief from removal in which an unac-
6 companied alien child is the principal applicant shall
7 be governed by regulations which take into account
8 the specialized needs of unaccompanied alien chil-
9 dren and which address both procedural and sub-
10 stantive aspects of handling unaccompanied alien
11 children’s cases.

12 (e) TRAINING.—The Secretary of State, the Sec-
13 retary of Homeland Security, the Secretary of Health and
14 Human Services, and the Attorney General shall provide
15 specialized training to all Federal personnel, and upon re-
16 quest, state and local personnel, who have substantive con-
17 tact with unaccompanied alien children. Such personnel
18 shall be trained to work with unaccompanied alien chil-
19 dren, including identifying children who are victims of se-
20 vere forms of trafficking in persons, and children for
21 whom asylum or special immigrant relief may be appro-
22 priate, including children described in subsection (a)(2).

23 (f) AMENDMENTS TO THE HOMELAND SECURITY
24 ACT OF 2002.—

1 (1) ADDITIONAL RESPONSIBILITIES.—Section
2 462(b)(1)(L) of the Homeland Security Act of 2002
3 (6 U.S.C. 279(b)(1)(L)) is amended by striking the
4 period at the end and inserting “, including regular
5 follow-up visits to such facilities, placements, and
6 other entities, to assess the continued suitability of
7 such placements.”.

8 (2) TECHNICAL CORRECTIONS.—Section 462(b)
9 of such Act (6 U.S.C. 279(b)) is further amended—
10 (A) in paragraph (3), by striking “para-
11 graph (1)(G),” and inserting “paragraph (1),”;
12 and

13 (B) by adding at the end the following:

14 “(4) RULE OF CONSTRUCTION.—Nothing in
15 paragraph (2)(B) may be construed to require that
16 a bond be posted for an unaccompanied alien child
17 who is released to a qualified sponsor.”.

18 (g) DEFINITION OF UNACCOMPANIED ALIEN
19 CHILD.—For purposes of this section, the term “unaccom-
20 panied alien child” has the meaning given such term in
21 section 462(g) of the Homeland Security Act of 2002 (6
22 U.S.C. 279(g)).

23 (h) EFFECTIVE DATE.—This section—

24 (1) shall take effect on the date that is 90 days
25 after the date of the enactment of this Act; and

1 (2) shall also apply to all aliens in the United
 2 States in pending proceedings before the Depart-
 3 ment of Homeland Security or the Executive Office
 4 for Immigration Review, or related administrative or
 5 Federal appeals, on the date of the enactment of
 6 this Act.

7 (i) GRANTS AND CONTRACTS.—The Secretary of
 8 Health and Human Services may award grants to, and
 9 enter into contracts with, voluntary agencies to carry out
 10 this section and section 462 of the Homeland Security Act
 11 of 2002 (6 U.S.C. 279).

12 **SEC. 236. RESTRICTION OF PASSPORTS FOR SEX TOURISM.**

13 (a) IN GENERAL.—Following any conviction of an in-
 14 dividual for a violation of section 2423 of title 18, United
 15 States Code, the Attorney General shall notify in a timely
 16 manner—

17 (1) the Secretary of State for appropriate ac-
 18 tion under subsection (b); and

19 (2) the Secretary of Homeland Security for ap-
 20 propriate action under the Immigration and Nation-
 21 ality Act.

22 (b) AUTHORITY TO RESTRICT PASSPORT.—

23 (1) INELIGIBILITY FOR PASSPORT.—

24 (A) IN GENERAL.—The Secretary of State
 25 shall not issue a passport or passport card to

1 an individual who is convicted of a violation of
2 section 2423 of title 18, United States Code,
3 during the covered period if the individual used
4 a passport or passport card or otherwise
5 crossed an international border in committing
6 the offense.

7 (B) PASSPORT REVOCATION.—The Sec-
8 retary of State shall revoke a passport or pass-
9 port card previously issued to an individual de-
10 scribed in subparagraph (A).

11 (2) EXCEPTIONS.—

12 (A) EMERGENCY AND HUMANITARIAN SIT-
13 UATIONS.—Notwithstanding paragraph (1), the
14 Secretary of State may issue a passport or
15 passport card, in emergency circumstances or
16 for humanitarian reasons, to an individual de-
17 scribed in paragraph (1)(A).

18 (B) LIMITATION FOR RETURN TO UNITED
19 STATES.—Notwithstanding paragraph (1), the
20 Secretary of State may, prior to revocation,
21 limit a previously issued passport or passport
22 card only for return travel to the United States,
23 or may issue a limited passport or passport
24 card that only permits return travel to the
25 United States.

1 (3) DEFINITIONS.—In this subsection—

2 (A) the term “covered period” means the
3 period beginning on the date on which an indi-
4 vidual is convicted of a violation of section 2423
5 of title 18, United States Code, and ending on
6 the later of—

7 (i) the date on which the individual is
8 released from a sentence of imprisonment
9 relating to the offense; and

10 (ii) the end of a period of parole or
11 other supervised release of the covered in-
12 dividual relating to the offense; and

13 (B) the term “imprisonment” means being
14 confined in or otherwise restricted to a jail,
15 prison, half-way house, treatment facility, or
16 another institution, on a full or part-time basis,
17 pursuant to the sentence imposed as the result
18 of a criminal conviction.

19 **SEC. 237. ADDITIONAL REPORTING ON CRIME.**

20 (a) **TRAFFICKING OFFENSE CLASSIFICATION.**—The
21 Director of the Federal Bureau of Investigation shall—

22 (1) classify the offense of human trafficking as
23 a Part I crime in the Uniform Crime Reports;

24 (2) to the extent feasible, establish subcat-
25 egories for State sex crimes that involve—

1 (A) a person who is younger than 18 years
2 of age;

3 (B) the use of force, fraud or coercion; or

4 (C) neither of the elements described in
5 subparagraphs (A) and (B); and

6 (3) classify the offense of human trafficking as
7 a Group A offense for purpose of the National Inci-
8 dent-Based Reporting System.

9 (b) ADDITIONAL INFORMATION.—The Director of the
10 Federal Bureau of Investigation shall revise the Uniform
11 Crime Reporting System and the National Incident-Based
12 Reporting System to distinguish between reports of—

13 (1) incidents of assisting or promoting prostitu-
14 tion, which shall include crimes committed by per-
15 sons who—

16 (A) do not directly engage in commercial
17 sex acts; and

18 (B) direct, manage, or profit from such
19 acts, such as State pimping and pandering
20 crimes;

21 (2) incidents of purchasing prostitution, which
22 shall include crimes committed by persons who pur-
23 chase or attempt to purchase or trade anything of
24 value for commercial sex acts; and

1 (3) incidents of prostitution, which shall include
2 crimes committed by persons providing or attempt-
3 ing to provide commercial sex acts.

4 (c) REPORTS AND STUDIES.—

5 (1) REPORTS.—Not later than February 1,
6 2010, the Attorney General shall submit to the Com-
7 mittee on Foreign Affairs and the Committee on the
8 Judiciary of the House of Representatives and the
9 Committee on Foreign Relations and the Committee
10 on the Judiciary of the Senate reports on the fol-
11 lowing:

12 (A) Activities or actions, in fiscal years
13 2001 through 2009, by Federal departments
14 and agencies to enforce the offenses set forth in
15 chapter 117 of title 18, United States Code, in-
16 cluding information regarding the number of
17 prosecutions, the number of convictions, an
18 identification of multiple-defendant cases and
19 the results thereof, and, for fiscal years 2008
20 and 2009, the number of prosecutions, the
21 number of convictions, and an identification of
22 multiple-defendant case and the results thereof,
23 the use of expanded statutes of limitation and
24 other tools to prosecute crimes against children

1 who reached the age of eighteen years since the
2 time the crime was committed.

3 (B) The interaction, in Federal human
4 trafficking prosecutions in fiscal years 2001
5 through 2010, of Federal restitution provisions
6 with those provisions of law allowing restoration
7 and remission of criminally and civilly forfeited
8 property, including the distribution of proceeds
9 among multiple victims.

10 (C) Activities or actions, in fiscal years
11 2001 through 2010, to enforce the offenses set
12 forth in chapters 95 and 96 of title 18, United
13 States Code, in cases involving human traf-
14 ficking, sex trafficking, or prostitution offenses.

15 (D) Activities or actions, in fiscal years
16 2008 and 2009, by Federal departments and
17 agencies to enforce the offenses set forth in the
18 Act of August 15, 1935 (49 Stat. 651; D.C.
19 Code 22–2701 et seq.) (relating to prostitution
20 and pandering), including information regard-
21 ing the number of prosecutions, the number of
22 convictions, and an identification of multiple-de-
23 fendant cases and the results thereof.

1 (2) STUDIES.—Subject to availability of appro-
2 priations, the head of the National Institute of Jus-
3 tice shall conduct—

4 (A) a comprehensive study to examine the
5 use of Internet-based businesses and services by
6 criminal actors in the sex industry, and to dis-
7 seminate best practices for investigation and
8 prosecution of trafficking and prostitution of-
9 fenses involving the Internet; and

10 (B) a comprehensive study to examine the
11 application of State human trafficking statutes,
12 including such statutes based on the model law
13 developed by the Department of Justice, cases
14 prosecuted thereunder, and the impact, if any,
15 on enforcement of other State criminal statutes.

16 (3) STUDIES PREVIOUSLY REQUIRED BY
17 LAW.—Not later than 90 days after the date of the
18 enactment of this Act, the Attorney General shall re-
19 port to the Committee on Foreign Affairs and the
20 Committee on the Judiciary of the House of Rep-
21 resentatives and the Committee on Foreign Rela-
22 tions and the Committee on the Judiciary of the
23 Senate on the status of the studies required by para-
24 graph (B)(i) and (ii) of section 201(a)(1) of the
25 Trafficking Victims Protection Reauthorization Act

1 of 2005 (42 U.S.C. 14044(a)(1)) and indicate the
2 projected date when such studies will be completed.

3 **SEC. 238. PROCESSING OF CERTAIN VISAS.**

4 (a) REPORT.—Not later than 180 days after the date
5 of the enactment of this Act, the Secretary of Homeland
6 Security shall submit to the Committee on Foreign Affairs
7 and the Committee on the Judiciary of the House of Rep-
8 resentatives and the Committee on Foreign Relations and
9 the Committee on the Judiciary of the Senate a report
10 on the operations of the specially trained Violence Against
11 Women Act Unit at the Citizenship and Immigration Serv-
12 ice's Vermont Service Center.

13 (b) ELEMENTS.—The report required by subsection
14 (a) shall include the following elements:

15 (1) Detailed information about the funds ex-
16 pended to support the work of the Violence Against
17 Women Act Unit at the Vermont Service Center.

18 (2) A description of training for adjudicators,
19 victim witness liaison officers, managers, and others
20 working in the Violence Against Women Act Unit,
21 including general training and training on confiden-
22 tiality issues.

23 (3) Measures taken to ensure the retention of
24 specially trained staff within the Violence Against
25 Women Act Unit.

1 (4) Measures taken to ensure the creation and
2 retention of a core of supervisory staff within the Vi-
3 olence Against Women Act Unit and the Vermont
4 Service Center with responsibility over resource allo-
5 cation, policy, program development, training and
6 other substantive or operational issues affecting the
7 Unit, who have historical knowledge and experience
8 with the Trafficking Victims Protection Act of 2000,
9 the Violence Against Women Act of 1994, Violence
10 Against Women Act of 1994 confidentiality, and the
11 specialized policies and procedures of the Depart-
12 ment of Homeland Security and its predecessor
13 agencies in such cases.

14 (5) Measures taken to ensure routine consulta-
15 tion between the Violence Against Women Act Unit,
16 U.S. Citizenship and Immigration Services Head-
17 quarters, and the Office of Policy and Strategy dur-
18 ing the development of any Department of Home-
19 land Security regulations or policies that impact Vio-
20 lence Against Women Act of 1994 confidentiality-
21 protected victims and their derivative family mem-
22 bers.

23 (6) Information on any circumstances in which
24 victim-based immigration applications have been ad-
25 judicated by entities other than the Violence Against

1 Women Act Unit at the Vermont Service Center, in-
2 cluding reasons for such action and what steps, if
3 any, were taken to ensure that such applications
4 were handled by trained personnel and what steps
5 were taken to comply with the confidentiality provi-
6 sions of the Violence Against Women Act of 1994.

7 (7) Information on the time in which it takes
8 to adjudicate victim-based immigration applications,
9 including the issuance of visas, work authorization
10 and deferred action in a timely manner consistent
11 with the safe and competent processing of such ap-
12 plications, and steps taken to improve in this area.

13 **SEC. 239. TEMPORARY INCREASE IN FEE FOR CERTAIN**
14 **CONSULAR SERVICES.**

15 (a) INCREASE IN FEE.—Notwithstanding any other
16 provision of law, not later than October 1, 2009, the Sec-
17 retary of State shall increase by \$1 the fee or surcharge
18 assessed under section 140(a) of the Foreign Relations
19 Authorization Act, Fiscal Years 1994 and 1995 (Public
20 Law 103–236; 8 U.S.C. 1351 note) for processing ma-
21 chine-readable nonimmigrant visas and machine-readable
22 combined border crossing identification cards and non-
23 immigrant visas.

24 (b) DEPOSIT OF AMOUNTS.—Notwithstanding sec-
25 tion 140(a)(2) of the Foreign Relations Authorization Act,

1 Fiscal Years 1994 and 1995 (Public Law 103–236; 8
 2 U.S.C. 1351 note), the additional amount collected pursu-
 3 ant the fee increase under subsection (a) shall be deposited
 4 in the Treasury.

5 (c) DURATION OF INCREASE.—The fee increase au-
 6 thorized under subsection (a) shall terminate on the date
 7 that is 3 years after the first date on which such increased
 8 fee is collected.

9 **TITLE III—AUTHORIZATIONS OF** 10 **APPROPRIATIONS**

11 **SEC. 301. TRAFFICKING VICTIMS PROTECTION ACT OF 2000.**

12 Section 113 of the Trafficking Victims Protection Act
 13 of 2000, as amended by section 213(a)(2), is amended—

14 (1) in subsection (a)—

15 (A) in the first sentence—

16 (i) by striking “section 104, and”;

17 and

18 (ii) by striking “\$1,500,000” and all
 19 that follows through “\$5,500,000 for each
 20 of the fiscal years 2006 and 2007” and in-
 21 serting “\$5,500,000 for each of the fiscal
 22 years 2008 through 2011”; and

23 (B) in the second sentence—

24 (i) by striking “for official reception
 25 and representation expenses \$3,000” and

1 inserting “\$1,500,000 for additional per-
2 sonnel for each of the fiscal years 2008
3 through 2011, and \$3,000 for official re-
4 ception and representation expenses”; and
5 (ii) by striking “2006 and 2007” and
6 inserting “2008 through 2011”;

7 (2) in subsection (b)(1), by striking
8 “\$5,000,000” and all that follows and inserting
9 “\$12,500,000 for each of the fiscal years 2008
10 through 2011”;

11 (3) in subsection (c)—

12 (A) in paragraph (1)—

13 (i) by striking “2004, 2005, 2006,
14 and 2007” each place it appears and in-
15 serting “2008 through 2011”; and

16 (ii) in subparagraph (B), by adding at
17 the end the following: “To carry out the
18 purposes of section 107(a)(1)(F), there are
19 authorized to be appropriated to the Sec-
20 retary of State \$1,000,000 for each of the
21 fiscal years 2008 through 2011.”;

22 (B) by striking paragraph (2);

23 (C) by redesignating paragraph (3) as
24 paragraph (2); and

25 (D) in paragraph (2), as redesignated—

1 (i) by striking “section 104” and in-
2 serting “sections 116(f) and 502B(h) of
3 the Foreign Assistance Act of 1961 (22
4 U.S.C. 2151n(f) and 2304(h))”; and

5 (ii) by striking “, including the prepa-
6 ration” and all that follows and inserting
7 a period;

8 (4) in subsection (d)—

9 (A) in the first sentence, by striking
10 “\$5,000,000” and all that follows through
11 “2007” and inserting “\$10,000,000 for each of
12 the fiscal years 2008 through 2011”; and

13 (B) in the second sentence, by striking
14 “2004, 2005, 2006, and 2007” and inserting
15 “2008 through 2011”;

16 (5) in subsection (e)—

17 (A) in paragraph (1), by striking
18 “\$5,000,000” and all that follows and inserting
19 “\$15,000,000 for each of the fiscal years 2008
20 through 2011.”;

21 (B) in paragraph (2)—

22 (i) by striking “section 109” and in-
23 serting “section 134 of the Foreign Assist-
24 ance Act of 1961 (22 U.S.C. 2152d)”; and

1 (ii) by striking “\$5,000,000” and all
2 that follows and inserting “\$15,000,000
3 for each of the fiscal years 2008 through
4 2011.”; and

5 (C) in paragraph (3), by striking
6 “\$300,000” and all that follows and inserting
7 “\$2,000,000 for each of the fiscal years 2008
8 through 2011.”;

9 (6) in subsection (f), by striking “\$5,000,000”
10 and all that follows and inserting “\$10,000,000 for
11 each of the fiscal years 2008 through 2011.”;

12 (7) in subsection (h), by striking “fiscal year
13 2006” and inserting “each of the fiscal years 2008
14 through 2011”; and

15 (8) in subsection (i), by striking “2006 and
16 2007” and inserting “2008 through 2011”.

17 **SEC. 302. TRAFFICKING VICTIMS PROTECTION REAUTHOR-**
18 **IZATION ACT OF 2005.**

19 The Trafficking Victims Protection Reauthorization
20 Act of 2005 (Public Law 109–164) is amended—

21 (1) in section 102(b)(7), by striking “2006 and
22 2007” and inserting “2008 through 2011”;

23 (2) in section 201(c)—

24 (A) in paragraph (1), by striking
25 “\$2,500,000 for each of the fiscal years 2006

1 and 2007” each place it appears and inserting
2 “\$1,500,000 for each of the fiscal years 2008
3 through 2011”; and

4 (B) in paragraph (2), by striking “2006
5 and 2007” and inserting “2008 through 2011”;

6 (3) in section 202(d), by striking “\$10,000,000
7 for each of the fiscal years 2006 and 2007” and in-
8 serting “\$8,000,000 for each of the fiscal years
9 2008 through 2011”;

10 (4) in section 203(g), by striking “2006 and
11 2007” and inserting “2008 through 2011”; and

12 (5) in section 204(d), by striking “\$25,000,000
13 for each of the fiscal years 2006 and 2007” and in-
14 serting “\$20,000,000 for each of the fiscal years
15 2008 through 2011”.

16 **SEC. 303. RULE OF CONSTRUCTION.**

17 The amendments made by sections 301 and 302 may
18 not be construed to affect the availability of funds appro-
19 priated pursuant to the authorizations of appropriations
20 under the Trafficking Victims Protection Act of 2000 (di-
21 vision A of Public Law 106–386; 22 U.S.C. 7101 et seq.)
22 and the Trafficking Victims Protection Reauthorization
23 Act of 2005 (Public Law 109–164) before the date of the
24 enactment of this Act.

1 **SEC. 304. TECHNICAL AMENDMENTS.**

2 (a) **TRAFFICKING VICTIMS PROTECTION ACT OF**
 3 2000.—Sections 103(1) and 105(d)(7) of the Trafficking
 4 Victims Protection Act of 2000 (22 U.S.C. 7102(1) and
 5 7103(d)(7)) are each amended by striking “Committee on
 6 International Relations” each place it appears and insert-
 7 ing “Committee on Foreign Affairs”.

8 (b) **TRAFFICKING VICTIMS PROTECTION REAUTHOR-**
 9 **IZATION ACT OF 2005.**—Section 102(b)(6) and sub-
 10 sections (c)(2)(B)(i) and (e)(2) of section 104 of the Traf-
 11 ficking Victims Protection Reauthorization Act of 2005
 12 (Public Law 109–164) are amended by striking “Com-
 13 mittee on International Relations” each place it appears
 14 and inserting “Committee on Foreign Affairs”.

15 **TITLE IV—CHILD SOLDIERS**
 16 **PREVENTION**

17 **SEC. 401. SHORT TITLE.**

18 This title may be cited as the “Child Soldiers Preven-
 19 tion Act of 2008”.

20 **SEC. 402. DEFINITIONS.**

21 In this title:

22 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
 23 **TEES.**—The term “appropriate congressional com-
 24 mittees” means—

25 (A) the Committee on Foreign Relations of
 26 the Senate;

1 (B) the Committee on Appropriations of
2 the Senate;

3 (C) the Committee on Foreign Affairs of
4 the House of Representatives; and

5 (D) the Committee on Appropriations of
6 the House of Representatives.

7 (2) CHILD SOLDIER.—Consistent with the pro-
8 visions of the Optional Protocol to the Convention of
9 the Rights of the Child, the term “child soldier”—

10 (A) means—

11 (i) any person under 18 years of age
12 who takes a direct part in hostilities as a
13 member of governmental armed forces;

14 (ii) any person under 18 years of age
15 who has been compulsorily recruited into
16 governmental armed forces;

17 (iii) any person under 15 years of age
18 who has been voluntarily recruited into
19 governmental armed forces; or

20 (iv) any person under 18 years of age
21 who has been recruited or used in hos-
22 tilities by armed forces distinct from the
23 armed forces of a state; and

24 (B) includes any person described in
25 clauses (ii), (iii), or (iv) of subparagraph (A)

1 who is serving in any capacity, including in a
2 support role such as a cook, porter, messenger,
3 medic, guard, or sex slave.

4 **SEC. 403. SENSE OF CONGRESS.**

5 It is the sense of Congress that—

6 (1) the United States Government should con-
7 demn the conscription, forced recruitment, or use of
8 children by governments, paramilitaries, or other or-
9 ganizations;

10 (2) the United States Government should sup-
11 port and, to the extent practicable, lead efforts to es-
12 tablish and uphold international standards designed
13 to end the abuse of human rights described in para-
14 graph (1);

15 (3) the United States Government should ex-
16 pand ongoing services to rehabilitate recovered child
17 soldiers and to reintegrate such children back into
18 their respective communities by—

19 (A) offering ongoing psychological services
20 to help such children—

21 (i) to recover from the trauma suf-
22 fered during their forced military involve-
23 ment;

24 (ii) to relearn how to interact with
25 others in nonviolent ways so that such chil-

1 dren are no longer a danger to their re-
2 spective communities; and

3 (iii) by taking into consideration the
4 needs of girl soldiers, who may be at risk
5 of exclusion from disarmament, demobiliza-
6 tion, and reintegration programs;

7 (B) facilitating reconciliation with such
8 communities through negotiations with tradi-
9 tional leaders and elders to enable recovered
10 abductees to resume normal lives in such com-
11 munities; and

12 (C) providing educational and vocational
13 assistance;

14 (4) the United States should work with the
15 international community, including, as appropriate,
16 third country governments, nongovernmental organi-
17 zations, faith-based organizations, United Nations
18 agencies, local governments, labor unions, and pri-
19 vate enterprises—

20 (A) to bring to justice rebel and para-
21 military forces that kidnap children for use as
22 child soldiers;

23 (B) to recover those children who have
24 been abducted; and

1 (C) to assist such children to be rehabili-
2 tated and reintegrated into their respective
3 communities;

4 (5) the Secretary of State, the Secretary of
5 Labor, and the Secretary of Defense should coordi-
6 nate programs to achieve the goals described in
7 paragraph (3);

8 (6) United States diplomatic missions in coun-
9 tries in which the use of child soldiers is an issue,
10 whether or not such use is supported or sanctioned
11 by the governments of such countries, should include
12 in their mission program plans a strategy to achieve
13 the goals described in paragraph (3);

14 (7) United States diplomatic missions in coun-
15 tries in which governments use or tolerate child sol-
16 diers should develop strategies, as part of annual
17 program planning—

18 (A) to promote efforts to end such abuse
19 of human rights; and

20 (B) to identify and integrate global best
21 practices, as available, into such strategies to
22 avoid duplication of effort; and

23 (8) in allocating or recommending the allocation
24 of funds or recommending candidates for programs
25 and grants funded by the United States Govern-

1 ment, United States diplomatic missions should give
2 serious consideration to those programs and can-
3 didates that are expected to promote the end to the
4 abuse of human rights described in this section.

5 **SEC. 404. PROHIBITION.**

6 (a) IN GENERAL.—Subject to subsections (b), (c),
7 and (d), the authorities contained in section 516 or 541
8 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j
9 or 2347) or section 23 of the Arms Export Control Act
10 (22 U.S.C. 2763) may not be used to provide assistance
11 to, and no licenses for direct commercial sales of military
12 equipment may be issued to, the government of a country
13 that is clearly identified, pursuant to subsection (b), for
14 the most recent year preceding the fiscal year in which
15 the authorities or license would have been used or issued
16 in the absence of a violation of this title, as having govern-
17 mental armed forces or government-supported armed
18 groups, including paramilitaries, militias, or civil defense
19 forces, that recruit and use child soldiers.

20 (b) IDENTIFICATION AND NOTIFICATION TO COUN-
21 TRIES IN VIOLATION OF STANDARDS.—

22 (1) PUBLICATION OF LIST OF FOREIGN GOV-
23 ERNMENTS.—The Secretary of State shall include a
24 list of the foreign governments that have violated the
25 standards under this title and are subject to the pro-

1 hibition in subsection (a) in the report required
2 under section 110(b) of the Trafficking Victims Pro-
3 tection Act of 2000 (22 U.S.C. 7107(b)).

4 (2) NOTIFICATION OF FOREIGN COUNTRIES.—

5 The Secretary of State shall formally notify any gov-
6 ernment identified pursuant to subsection (a).

7 (c) NATIONAL INTEREST WAIVER.—

8 (1) WAIVER.—The President may waive the ap-
9 plication to a country of the prohibition in sub-
10 section (a) if the President determines that such
11 waiver is in the national interest of the United
12 States.

13 (2) PUBLICATION AND NOTIFICATION.—Not

14 later than 45 days after each waiver is granted
15 under paragraph (1), the President shall notify the
16 appropriate congressional committees of the waiver
17 and the justification for granting such waiver.

18 (d) REINSTATEMENT OF ASSISTANCE.—The Presi-

19 dent may provide to a country assistance otherwise prohib-
20 ited under subsection (a) upon certifying to the appro-
21 priate congressional committees that the government of
22 such country—

23 (1) has implemented measures that include an
24 action plan and actual steps to come into compliance
25 with the standards outlined in section 404(b); and

1 (2) has implemented policies and mechanisms
2 to prohibit and prevent future government or gov-
3 ernment-supported use of child soldiers and to en-
4 sure that no children are recruited, conscripted, or
5 otherwise compelled to serve as child soldiers.

6 (e) EXCEPTION FOR PROGRAMS DIRECTLY RELATED
7 TO ADDRESSING THE PROBLEM OF CHILD SOLDIERS OR
8 PROFESSIONALIZATION OF THE MILITARY.—

9 (1) IN GENERAL.—The President may provide
10 assistance to a country for international military
11 education, training, and nonlethal supplies (as de-
12 fined in section 2557(d)(1)(B) of title 10, United
13 States Code) otherwise prohibited under subsection
14 (a) upon certifying to the appropriate congressional
15 committees that—

16 (A) the government of such country is tak-
17 ing reasonable steps to implement effective
18 measures to demobilize child soldiers in its
19 forces or in government-supported
20 paramilitaries and is taking reasonable steps
21 within the context of its national resources to
22 provide demobilization, rehabilitation, and re-
23 integration assistance to those former child sol-
24 diers; and

1 (B) the assistance provided by the United
2 States Government to the government of such
3 country will go to programs that will directly
4 support professionalization of the military.

5 (2) LIMITATION.—The exception under para-
6 graph (1) may not remain in effect for a country for
7 more than 5 years.

8 **SEC. 405. REPORTS.**

9 (a) INVESTIGATION OF ALLEGATIONS REGARDING
10 CHILD SOLDIERS.—United States missions abroad shall
11 thoroughly investigate reports of the use of child soldiers.

12 (b) INFORMATION FOR ANNUAL HUMAN RIGHTS RE-
13 PORTS.—In preparing those portions of the annual
14 Human Rights Report that relate to child soldiers under
15 sections 116 and 502B of the Foreign Assistance Act of
16 1961 (22 U.S.C. 2151n(f) and 2304(h)), the Secretary of
17 State shall ensure that such reports include a description
18 of the use of child soldiers in each foreign country, includ-
19 ing—

20 (1) trends toward improvement in such country
21 of the status of child soldiers or the continued or in-
22 creased tolerance of such practices; and

23 (2) the role of the government of such country
24 in engaging in or tolerating the use of child soldiers.

1 (c) ANNUAL REPORT TO CONGRESS.—If, during any
2 of the 5 years following the date of the enactment of this
3 Act, a country is notified pursuant to section 404(b)(2),
4 or a wavier is granted pursuant to section 404(c)(1), the
5 President shall submit a report to the appropriate con-
6 gressional committees not later than June 15 of the fol-
7 lowing year. The report shall include—

8 (1) a list of the countries receiving notification
9 that they are in violation of the standards under this
10 title;

11 (2) a list of any waivers or exceptions exercised
12 under this title;

13 (3) justification for any such waivers and excep-
14 tions; and

15 (4) a description of any assistance provided
16 under this title pursuant to the issuance of such
17 waiver.

18 **SEC. 406. TRAINING FOR FOREIGN SERVICE OFFICERS.**

19 Section 708 of the Foreign Service Act of 1980 (22
20 U.S.C. 4028) is amended by adding at the end the fol-
21 lowing:

22 “(c) The Secretary of State, with the assistance of
23 other relevant officials, shall establish as part of the stand-
24 ard training provided for chiefs of mission, deputy chiefs
25 of mission, and other officers of the Service who are or

1 will be involved in the assessment of child soldier use or
2 the drafting of the annual Human Rights Report instruc-
3 tion on matters related to child soldiers, and the substance
4 of the Child Soldiers Prevention Act of 2008.”.

5 **SEC. 407. EFFECTIVE DATE; APPLICABILITY.**

6 This title, and the amendments made by this title,
7 shall take effect 180 days after the date of the enactment
8 of this Act.

Passed the House of Representatives December 10,
2008.

Attest: LORRAINE C. MILLER,
Clerk.