

TRAFFICKING VICTIMS PROTECTION ACT OF 1999

NOVEMBER 22, 1999.—Ordered to be printed

Mr. GILMAN, from the Committee on International Relations,
submitted the following

R E P O R T

[To accompany H.R. 3244]

The Committee on International Relations, to whom was referred the bill (H.R. 3244) to combat trafficking of persons, especially into the sex trade, slavery, and slavery-like conditions, in the United States and countries around the world through prevention, through prosecution and enforcement against traffickers, and through protection and assistance to victims of trafficking, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Trafficking Victims Protection Act of 1999”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes and findings.
- Sec. 3. Definitions.
- Sec. 4. Annual Country Reports on Human Rights Practices.
- Sec. 5. Interagency Task Force to Monitor and Combat Trafficking.
- Sec. 6. Prevention of trafficking.
- Sec. 7. Protection and assistance for victims of trafficking.
- Sec. 8. Minimum standards for the elimination of trafficking.
- Sec. 9. Assistance to foreign countries to meet minimum standards.
- Sec. 10. Actions against governments failing to meet minimum standards.
- Sec. 11. Actions against significant traffickers.
- Sec. 12. Strengthening prosecution and punishment of traffickers.
- Sec. 13. Authorization of appropriations.

SEC. 2. PURPOSES AND FINDINGS.

(a) PURPOSES.—The purposes of this Act are to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims.

(b) FINDINGS.—The Congress finds that:

(1) Millions of people every year, primarily women or children, are trafficked within or across international borders. Approximately 50,000 women and children are trafficked into the United States each year.

(2) Many of these persons, of whom the overwhelming majority are women and children, are trafficked into the international sex trade, often by means of force, fraud, or coercion. The sex industry has rapidly expanded over the past several decades. It involves sexual exploitation of persons, predominantly women and girls, within activities related to prostitution, pornography, sex tourism, and other commercial sexual services. The rapid expansion of the sex industry and the low status of women in many parts of the world have contributed to a burgeoning of the trafficking industry, of which sex trafficking by force, fraud, and coercion is a major component.

(3) Trafficking in persons is not limited to sex trafficking, but often involves forced labor and other violations of internationally recognized human rights. The worldwide trafficking of persons is a growing transnational crime, migration, economics, labor, public health, and human rights problem that is significant on nearly every continent.

(4) Traffickers primarily target women and girls, who are disproportionately affected by poverty, lack of access to education, chronic unemployment, discrimination, and lack of viable economic opportunities in countries of origin. Traffickers lure women and girls into their networks through false promises of good working conditions at relatively high pay as nannies, maids, dancers, factory workers, restaurant workers, sales clerks, or models. Traffickers also buy girls from poor families and sell them into prostitution or into various types of forced or bonded labor.

(5) Traffickers often facilitate victims' movement from their home communities to unfamiliar destinations, away from family and friends, religious institutions, and other sources of protection and support, making the victims more vulnerable.

(6) Victims are often forced to engage in sex acts or to perform labor or other services through physical violence, including rape and other forms of sexual abuse, torture, starvation, and imprisonment, through threats of violence, and through other forms of psychological abuse and coercion.

(7) Trafficking is perpetrated increasingly by organized and sophisticated criminal enterprises. Trafficking in persons is the fastest growing source of profits for organized criminal enterprises worldwide. Profits from the trafficking industry contribute to the expansion of organized criminal activity in the United States and around the world. Trafficking often is aided by official corruption in countries of origin, transit, and destination, thereby threatening the rule of law.

(8) Traffickers often make representations to their victims that physical harm may occur to them or to others should the victim escape or attempt to escape. Such representations can have the same coercive effects on victims as specific threats to inflict such harm.

(9) Sex trafficking, when it involves the involuntary participation of another person in sex acts by means of fraud, force, or coercion, includes all the elements of the crime of forcible rape, which is defined by all legal systems as among the most serious of all crimes.

(10) Sex trafficking also involves frequent and serious violations of other laws, including labor and immigration codes and laws against kidnapping, slavery, false imprisonment, assault, battery, pandering, fraud, and extortion.

(11) Women and children trafficked into the sex industry are exposed to deadly diseases, including HIV and AIDS. Trafficking victims are sometimes worked or physically brutalized to death.

(12) Trafficking in persons substantially affects interstate and foreign commerce. The United States must take action to eradicate the substantial burdens on commerce that result from trafficking in persons and to prevent the channels of commerce from being used for immoral and injurious purposes.

(13) Trafficking of persons in all its forms is an evil that calls for concerted and vigorous action by countries of origin, transit countries, receiving countries, and international organizations.

(14) Existing legislation and law enforcement in the United States and in other nations around the world have proved inadequate to deter trafficking and to bring traffickers to justice, principally because such legislation and enforcement do not reflect the gravity of the offenses involved. No comprehensive law exists in the United States that penalizes the range of offenses involved in the trafficking scheme. Instead, even the most brutal instances of forcible sex trafficking are often punished under laws that also apply to far less serious offenses such as consensual sexual activity and illegal immigration, so that traffickers typically escape severe punishment.

(15) In the United States, the seriousness of the crime of trafficking in persons is not reflected in current sentencing guidelines for component crimes of the trafficking scheme, which results in weak penalties for convicted traffickers. Adequate services and facilities do not exist to meet the health care, housing, education, and legal assistance needs for the safe reintegration of domestic trafficking victims.

(16) In some countries, enforcement against traffickers is also hindered by official indifference, by corruption, and sometimes even by active official participation in trafficking.

(17) Because existing laws and law enforcement procedures often fail to make clear distinctions between victims of trafficking and persons who have knowingly and willfully violated laws, and because victims often do not have legal immigration status in the countries into which they are trafficked, the victims are often punished more harshly than the traffickers themselves.

(18) Because victims of trafficking are frequently unfamiliar with the laws, cultures, and languages of the countries into which they have been trafficked, and because they are often subjected to coercion and intimidation including physical detention, debt bondage, fear of retribution, and fear of forcible removal to countries in which they will face retribution or other hardship, these victims often find it difficult or impossible to report the crimes committed against them or to assist in the investigation and prosecution of such crimes.

(19) The United States and the international community are in agreement that trafficking in persons often involves grave violations of human rights and is a matter of pressing international concern. The Universal Declaration of Human Rights; the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Discrimination Against Women; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and other relevant instruments condemn slavery and involuntary servitude, violence against women, and other components of the trafficking scheme.

(20) One of the founding documents of the United States, the Declaration of Independence, recognizes the inherent dignity and worth of all people. It states that all men are created equal and that they are endowed by their Creator with certain unalienable rights. The right to be free from slavery and involuntary servitude is among those unalienable rights. Acknowledging this fact, the United States outlawed slavery and involuntary servitude in 1865, recognizing them as evil institutions that must be abolished. Current practices of sexual slavery and trafficking of women and children are similarly abhorrent to the principles upon which our country was founded.

(21) The Universal Declaration of Human Rights recognizes the right to be free from slavery and involuntary servitude, arbitrary detention, degrading or inhuman treatment, and arbitrary interference with privacy or the family, as well as the right to protection by law against these abuses.

(22) The United Nations General Assembly has passed three resolutions during the last 3 years (50/167, 51/66, and 52/98) recognizing that the international traffic in women and girls, particularly for purposes of forced prostitution, is a matter of pressing international concern involving numerous violations of fundamental human rights. The resolutions call upon governments of receiving countries as well as countries of origin to strengthen their laws against such practices, to intensify their efforts to enforce such laws, and to ensure the full protection, treatment, and rehabilitation of women and children who are victims of trafficking.

(23) The Final Report of the World Congress against Sexual Exploitation of Children, held in Stockholm, Sweden, in August 1996, recognized that international sex trafficking is a principal cause of increased exploitation and degradation of children.

(24) The Fourth World Conference on Women (Beijing Conference) called on all governments to take measures, including legislative measures, to provide better protection of the rights of women and girls who are victims of trafficking, to address the root factors that put women and girls at risk to traffickers, and to take measures to dismantle the national, regional, and international networks on trafficking.

(25) In the 1991 Moscow Document of the Organization for Security and Cooperation in Europe, participating states, including the United States, agreed to seek to eliminate all forms of violence against women, and all forms of traffic in women and exploitation of prostitution of women including by ensuring adequate legal prohibitions against such acts and other appropriate measures.

(26) Numerous treaties to which the United States is a party address government obligations to combat trafficking, including such treaties as the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, which calls for the complete abolition of debt bondage and servile forms of marriage, and the 1957 Abolition of Forced Labor Convention, which undertakes to suppress and requires signatories not to make use of any forced or compulsory labor.

(27) Trafficking in persons is a transnational crime with national implications. In order to deter international trafficking and to bring its perpetrators to justice, nations including the United States must recognize that trafficking is a serious offense and must act on this recognition by prescribing appropriate punishment, by giving the highest priority to investigation and prosecution of trafficking offenses, and by protecting rather than punishing the victims of such offenses. The United States must work bilaterally and multilaterally to abolish the trafficking industry and take steps to promote and facilitate cooperation among countries linked together by international trafficking routes. The United States must also urge the international community to take strong action in multilateral fora to engage recalcitrant countries in serious and sustained efforts to eliminate trafficking and protect trafficking victims.

SEC. 3. DEFINITIONS.

For the purposes of this Act:

(1) “Sex trafficking” means the purchase, sale, recruitment, harboring, transportation, transfer, or receipt of a person for the purpose of a commercial sex act.

(2) “Severe forms of trafficking in persons” means—

(A) sex trafficking in which either a commercial sex act or any act or event contributing to such act is effected or induced by force, coercion, fraud, or deception, or in which the person induced to perform such act has not attained the age of 18 years; and

(B) the purchase, sale, recruitment, harboring, transportation, transfer, or receipt of a person for the purpose of subjection to involuntary servitude, peonage, or slavery or slavery-like practices which is effected by force, coercion, fraud, or deception.

(3) “Slavery-like practices” means inducement of a person to perform labor or other services by force, by coercion, or by any scheme, plan, or pattern to cause the person to believe that failure to perform the work will result in the infliction of serious harm, debt bondage in which labor or services are pledged for debt on terms calculated never to allow full payment of the debt or otherwise amounting to indentured servitude for life or for an indefinite period, or subjection of the person to conditions so harsh or degrading as to provide a clear indication that the person has been subjected to them by force, fraud, or coercion.

(4) “Coercion” means the use of force, violence, physical restraint, or acts or circumstances not necessarily including physical force but calculated to have the same effect, such as the credible threat of force or of the infliction of serious harm.

(5) “Act of a severe form of trafficking in persons” means any act at any point in the process of a severe form of trafficking in persons, including any act of recruitment, harboring, transport, transfer, purchase, sale, or receipt of a victim of such trafficking, or any act of operation, management, or ownership of an enterprise in which a victim of such trafficking engages in a commercial sex act, is subjected to slavery or a slavery-like practice, or is expected or induced to engage in such acts or be subjected to such condition or practice, or sharing in the profits of the process of a severe form of trafficking in persons or any part thereof.

(6) “Victim of sex trafficking” and “victim of a severe form of trafficking in persons” mean a person subjected to an act or practice described in paragraphs (1) and (2) respectively.

(7) “Commercial sex act” means a sex act on account of which anything of value is given to or received by any person.

(8) “Minimum standards for the elimination of trafficking” means the standards set forth in section 8.

(9) “Appropriate congressional committees” means the Committee on Foreign Relations of the United States Senate and the Committee on International Relations of the United States House of Representatives.

(10) “Nonhumanitarian foreign assistance” means—

(A) any assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of that Act, relating to the Overseas Private Investment Corporation), other than—

- (i) assistance under chapter 8 of part I of that Act;
- (ii) any other narcotics-related assistance under part I of that Act or under chapter 4 or 5 of part II of that Act, but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of that Act;
- (iii) disaster relief assistance, including any assistance under chapter 9 of part I of that Act;
- (iv) antiterrorism assistance under chapter 8 of part II of that Act;
- (v) assistance which involves the provision of food (including monetization of food) or medicine;
- (vi) assistance for refugees; and
- (vii) humanitarian and other development assistance in support of programs of nongovernmental organizations under chapters 1 and 10 of that Act;
- (B) sales, or financing on any terms, under the Arms Export Control Act, other than sales or financing provided for narcotics-related purposes following notification in accordance with the prior notification procedures applicable to reprogrammings pursuant to section 634A of the Foreign Assistance Act of 1961; and
- (C) financing under the Export-Import Bank Act of 1945.

SEC. 4. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.

The Secretary of State, with the assistance of the Assistant Secretary of Democracy, Human Rights and Labor, shall, as part of the annual Country Reports on Human Rights Practices, include information to address the status of trafficking in persons, including—

- (1) a list of foreign countries that are countries of origin, transit, or destination for a significant number of victims of severe forms of trafficking;
- (2) a description of the nature and extent of severe forms of trafficking in persons in each country;
- (3) an assessment of the efforts by the governments described in paragraph (1) to combat severe forms of trafficking. Such an assessment shall address—
 - (A) whether any governmental authorities tolerate or are involved in such trafficking;
 - (B) which governmental authorities are involved in activities to combat such trafficking;
 - (C) what steps the government has taken against its officials who participate in, facilitate, or condone such trafficking;
 - (D) what steps the government has taken to investigate and prosecute officials who participate in or facilitate such trafficking;
 - (E) what steps the government has taken to prohibit other individuals from participating in such trafficking, including the investigation, prosecution, and conviction of individuals involved in severe forms of trafficking in persons, the criminal and civil penalties for such trafficking, and the efficacy of those penalties in eliminating or reducing such trafficking;
 - (F) what steps the government has taken to assist victims of such trafficking, including efforts to prevent victims from being further victimized by traffickers, government officials, or others, grants of stays of deportation, and provision of humanitarian relief, including provision of mental and physical health care and shelter;
 - (G) whether the government—
 - (i) is cooperating with governments of other countries to extradite traffickers when requested;
 - (ii) is assisting in international investigations of transnational trafficking networks and in other cooperative efforts to combat trafficking;
 - (iii) refrains from prosecuting victims of severe forms of trafficking and from other discriminatory treatment of such victims due to such victims having been trafficked, or due to their having left or entered the country illegally; and
 - (iv) recognizes the rights of victims and ensures their access to justice.
- (4) Information described in paragraph (2) and, where appropriate, in paragraph (3) shall be included in the annual Country Reports on Human Rights Practices on a country-by-country basis.
- (5) In addition to the information described in this section, the Annual Country Reports on Human Rights Practices may contain such other information relating to trafficking in persons as the Secretary determines to be appropriate.

SEC. 5. INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING.

(a) **ESTABLISHMENT.**—The President shall establish an Interagency Task Force to Monitor and Combat Trafficking (in this section referred to as the “Task Force”).

(b) **APPOINTMENT.**—The President shall appoint the members of the Task Force, which shall include the Secretary of State, the Director of the Agency for International Development, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Director of the Central Intelligence Agency, and such other officials as may be designated by the President.

(c) **CHAIRMAN.**—The Task Force shall be chaired by the Secretary of State.

(d) **SUPPORT FOR THE TASK FORCE.**—The Secretary of State is authorized to establish within the Department of State an Office to Monitor and Combat Trafficking, which shall provide assistance to the Task Force. Any such office shall be administered by a Director. The Director shall have the primary responsibility for assisting the Secretary of State in carrying out the purposes of this Act and may have additional responsibilities as determined by the Secretary. The Director shall consult with domestic, international nongovernmental and intergovernmental organizations, and with trafficking victims or other affected persons. The Director shall have the authority to take evidence in public hearings or by other means. The Office is authorized to retain staff members from agencies represented on the Task Force.

(e) **ACTIVITIES OF THE TASK FORCE.**—In consultation with nongovernmental organizations, the Task Force shall carry out the following activities:

(1) Coordinate the implementation of this Act.

(2) Measure and evaluate progress of the United States and countries around the world in the areas of trafficking prevention, protection, and assistance to victims of trafficking, and prosecution and enforcement against traffickers, including the role of public corruption in facilitating trafficking.

(3) Expand interagency procedures to collect and organize data, including significant research and resource information on domestic and international trafficking. Any data collection procedures established under this subsection shall respect the confidentiality of victims of trafficking.

(4) Engage in efforts to facilitate cooperation among countries of origin, transit, and destination. Such efforts shall aim to strengthen local and regional capacities to prevent trafficking, prosecute traffickers and assist trafficking victims, and shall include initiatives to enhance cooperative efforts between destination countries and countries of origin and assist in the appropriate reintegration of stateless victims of trafficking.

(5) Examine the role of the international “sex tourism” industry in the trafficking of women and children and in the sexual exploitation of women and children around the world and make recommendations on appropriate measures to combat this industry.

SEC. 6. PREVENTION OF TRAFFICKING.

(a) **ECONOMIC ALTERNATIVES TO PREVENT AND DETER TRAFFICKING.**—The President, acting through the Administrator of the United States Agency for International Development and the heads of other appropriate agencies, shall establish and carry out initiatives to enhance economic opportunity for potential victims of trafficking as a method to deter trafficking. Such initiatives may include—

(1) microcredit lending programs, training in business development, skills training, and job counseling;

(2) programs to promote women’s participation in economic decision making;

(3) programs to keep children, especially girls, in elementary and secondary schools;

(4) development of educational curricula regarding the dangers of trafficking; and

(5) grants to nongovernmental organizations to accelerate and advance the political, economic, social, and educational roles and capacities of women in their countries.

(b) **PUBLIC AWARENESS AND INFORMATION.**—The President, acting through the Secretary of Labor, the Secretary of Health and Human Services, the Attorney General, and the Secretary of State, shall establish and carry out programs to increase public awareness, particularly among potential victims of trafficking, of the dangers of trafficking and the protections that are available for victims of trafficking.

(c) **CONSULTATION REQUIREMENT.**—The President shall consult with appropriate nongovernmental organizations with respect to the establishment and conduct of initiatives described in subsection (a).

SEC. 7. PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING.

(a) **ASSISTANCE FOR VICTIMS IN OTHER COUNTRIES.**—

(1) **IN GENERAL.**—The Secretary of State and the Administrator of the United States Agency for International Development, in consultation with appropriate

nongovernmental organizations, shall establish and carry out programs and initiatives in foreign countries to assist in the safe integration, reintegration, or resettlement, as appropriate, of victims of trafficking and their children. Such programs and initiatives shall be designed to meet the mental and physical health, housing, legal, and other assistance needs of such victims and their children, as identified by the Inter-Agency Task Force to Monitor and Combat Trafficking established under section 4.

(2) **ADDITIONAL REQUIREMENT.**—In establishing and conducting programs and initiatives described in paragraph (1), the Secretary of State and the Administrator of the United States Agency for International Development shall take all appropriate steps to enhance cooperative efforts among foreign countries, including countries of origin of victims of trafficking, to assist in the integration, reintegration, or resettlement, as appropriate, of victims of trafficking including stateless victims.

(b) **VICTIMS IN THE UNITED STATES.**—

(1) **ASSISTANCE.**—Subject to the availability of appropriations and notwithstanding title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the Attorney General, the Secretary of Health and Human Services, the Secretary of Labor, and the Board of Directors of the Legal Services Corporation shall expand existing services to provide assistance to victims of severe forms of trafficking in persons within the United States, without regard to the immigration status of such victims.

(2) **BENEFITS.**—Subject to the availability of appropriations and notwithstanding any other provision of law, victims of severe forms of trafficking in persons in the United States shall be eligible, without regard to their immigration status, for any benefits that are otherwise available under the Crime Victims Fund, established under the Victims of Crime Act of 1984, including victims' services, compensation, and assistance.

(3) **GRANTS.**—

(A) Subject to the availability of appropriations, the Attorney General may make grants to States, territories, and possessions of the United States (including the Commonwealths of Puerto Rico and the Northern Mariana Islands), Indian tribes, units of local government, and nonprofit, nongovernmental victims' service organizations to develop, expand, or strengthen victim service programs for victims of trafficking.

(B) To receive a grant under this paragraph, an eligible unit of government or organization shall certify that its laws, policies, and practices, as appropriate, do not punish or deny services to victims of severe forms of trafficking in persons on account of the nature of their employment or services performed in connection with such trafficking.

(C) Of amounts made available for grants under this paragraph, there shall be set aside 3 percent for research, evaluation, and statistics, 2 percent for training and technical assistance, and 1 percent for management and administration.

(D) The Federal share of a grant made under this paragraph may not exceed 75 percent of the total costs of the projects described in the application submitted.

(4) **CIVIL ACTION.**—An individual who is a victim of a violation of section 1589 or section 1589A of title 18, United States Code, regarding trafficking may bring a civil action in United States district court. The court may award actual damages, punitive damages, reasonable attorneys' fees, and other litigation costs reasonably incurred.

(c) **TRAFFICKING VICTIM REGULATIONS.**—Not later than 180 days after the date of enactment of this Act, the Attorney General and the Secretary of State shall promulgate regulations for law enforcement personnel, immigration officials, and Department of State officials to implement the following:

(1) Victims of severe forms of trafficking, while in the custody or control of the Federal Government and to the extent practicable, shall be housed in appropriate shelter as quickly as possible, receive prompt medical care, food, and other assistance, and be provided protection if a victim's safety is at risk or if there is danger of additional harm by recapture of the victim by a trafficker.

(2) Victims of severe forms of trafficking shall not be jailed, fined, or otherwise penalized due to having been trafficked.

(3) Victims of severe forms of trafficking shall have access to legal assistance, information about their rights, and translation services.

(4) Federal law enforcement officials shall act to ensure an alien individual's continued presence in the United States, if after an assessment, it is determined that such individual is a victim of trafficking or a material witness, in order to effectuate prosecution of those responsible and to further the humani-

tarian interests of the United States, and such officials in investigating and prosecuting traffickers shall take into consideration the safety and integrity of trafficking victims.

(5) Appropriate personnel of the Department of State and the Department of Justice are trained in identifying victims of severe forms of trafficking and providing for the protection of such victims. Training under this paragraph should include methods for achieving antitrafficking objectives through the nondiscriminatory application of immigration and other related laws.

(d) CONSTRUCTION.—Nothing in subsection (c) shall be construed as creating any private cause of action against the United States or its offices or employees.

(e) FUNDING.—Funds from asset forfeiture under section 1592 of title 18, United States Code, are authorized to be available in equal amounts for the purposes of subsections (a) and (b) and shall remain available for obligation until expended.

(f) PROTECTION FROM REMOVAL FOR CERTAIN VICTIMS OF TRAFFICKING.—

(1) NONIMMIGRANT CLASSIFICATION FOR CERTAIN VICTIMS OF TRAFFICKING.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(A) by striking “or” at the end of subparagraph (R);

(B) by striking the period at the end of subparagraph (S) and inserting “; or”; and

(C) by adding at the end the following new subparagraph:

“(T) an alien who the Attorney General determines—

“(i) is physically present in the United States or at a port of entry there-to;

“(ii) is or has been a victim of a severe form of trafficking in persons as defined in section 3 of the Trafficking Victims Protection Act of 1999;

“(iii)(I) has not unreasonably refused to assist in the investigation or prosecution of acts of trafficking; or

“(II) has not attained the age of 14 years; and

“(iv) would face a significant possibility of retribution or other hardship if removed from the United States, and, if the Attorney General considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in this subparagraph if accompanying, or following to join, the alien, except that no person shall be eligible for admission to the United States under this subparagraph if there is substantial reason to believe that the person has committed an act of a severe form of trafficking in persons as defined in section 3 of the Trafficking Victims Protection Act of 1999.”.

(2) WAIVER OF GROUNDS FOR INELIGIBILITY FOR ADMISSION.—Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by adding at the end the following new paragraph:

“(13) The Attorney General shall determine whether a ground for inadmissibility exists with respect to a nonimmigrant described in section 101(a)(15)(T). The Attorney General, in the Attorney General’s discretion, may waive the application of subsection (a) (other than paragraph (3)(E)) in the case of a nonimmigrant described in section 101(a)(15)(T), if the Attorney General considers it to be in the national interest to do so. Nothing in this section shall be regarded as prohibiting the Immigration and Naturalization Service from instituting removal proceedings against an alien admitted as a nonimmigrant under section 101(a)(15)(T) for conduct committed after the alien’s admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien’s admission as a nonimmigrant under section 101(a)(15)(T).”.

(3) ADJUSTMENT TO PERMANENT RESIDENT STATUS.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

“(1)(1) If, in the opinion of the Attorney General, a nonimmigrant admitted into the United States under section 101(a)(15)(T)—

“(A) has been physically present in the United States for a continuous period of at least 3 years since the date of admission as a nonimmigrant under section 101(a)(15)(T);

“(B) has, throughout such period, been a person of good moral character;

“(C) has not, during such period, unreasonably refused to provide assistance in the investigation or prosecution of acts of trafficking; and

“(D) would face a significant possibility of retribution or other hardship if removed from the United States,

the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the alien if admitted under that

section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

“(2) An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (1)(A) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.”.

SEC. 8. MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.

(a) **MINIMUM STANDARDS.**—Minimum standards for the elimination of trafficking for a country that is a country of origin, of transit, or of destination for a significant number of victims are as follows:

(1) The country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.

(2) For the knowing commission of any act of sex trafficking involving fraud, force, or coercion or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the country should prescribe punishment commensurate with that for the most serious crimes, such as forcible sexual assault.

(3) For the knowing commission of any act of a severe form of trafficking in persons, the country should prescribe punishment which is sufficiently stringent to deter and which adequately reflects the heinous nature of the offense.

(4) The country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.

(b) **CRITERIA.**—In determinations under subsection (a)(3) the following factors should be considered:

(1) Whether the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons that take place wholly or partly within the territory of the country.

(2) Whether the country cooperates with other countries in the investigation and prosecution of severe forms of trafficking in persons.

(3) Whether the country extradites persons charged with acts of severe forms of trafficking in persons on the same terms and to the same extent as persons charged with other serious crimes.

(4) Whether the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies of the country respond to any such evidence in a manner which is consistent with the vigorous investigation and prosecution of acts of such trafficking, as well as with the protection of victims and the internationally recognized human right to travel.

(5) Whether the country protects victims of severe forms of trafficking in persons and encourages their assistance in the investigation and prosecution of such trafficking, including provision for legal alternatives to their removal to countries in which they would face retribution or other hardship.

(6) Whether the country vigorously investigates and prosecutes public officials who participate in or facilitate severe forms of trafficking in persons, and takes all appropriate measures against officials who condone such trafficking.

SEC. 9. ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS.

The Secretary of State and the Director of the Agency for International Development are authorized to provide assistance to foreign countries for programs and activities designed to meet the minimum international standards for the elimination of trafficking, including drafting of legislation to prohibit and punish acts of trafficking, investigation and prosecution of traffickers, and facilities, programs, and activities for the protection of victims.

SEC. 10. ACTIONS AGAINST GOVERNMENTS FAILING TO MEET MINIMUM STANDARDS.

(a) **STATEMENT OF POLICY.**—It is the policy of the United States not to provide nonhumanitarian foreign assistance to countries which do not meet minimum standards for the elimination of trafficking.

(b) **REPORTS TO CONGRESS.**—

(1) **ANNUAL REPORT.**—Not later than April 30 of each year, the Secretary of State shall submit to the appropriate congressional committees a report with respect to the status of severe forms of trafficking in persons which shall include a list of those countries, if any, to which the minimum standards for the elimination of trafficking under section 8 are applicable and which do not meet such standards, and which may include additional information, including information about efforts to combat trafficking and about countries which have taken appropriate actions to combat trafficking.

(2) INTERIM REPORTS.—The Secretary of State may submit to the appropriate congressional committees in addition to the annual report under subsection (b) one or more interim reports with respect to the status of severe forms of trafficking in persons, including information about countries whose governments have come into or out of compliance with the minimum standards for the elimination of trafficking since the transmission of the last annual report.

(c) NOTIFICATION.—For fiscal year 2002 and each subsequent fiscal year, for each foreign country to which the minimum standards for the elimination of trafficking are applicable and which has failed to meet such standards, as described in an annual or interim report under subsection (b), not less than 45 days and not more than 90 days after the submission of such a report the President shall submit a notification to the appropriate congressional committees of one of the determinations described in subsection (d).

(d) DETERMINATIONS.—The determinations referred to in subsection (c) are as follows:

(1) WITHHOLDING OF NONHUMANITARIAN ASSISTANCE.—The President has determined that—

(A)(i) the United States will not provide nonhumanitarian foreign assistance to the government of the country for the subsequent fiscal year until such government complies with the minimum standards; or

(ii) in the case of a country whose government received no nonhumanitarian foreign assistance from the United States during the previous fiscal year, the United States will not provide funding for participation by officials or employees of such governments in educational and cultural exchange programs for the subsequent fiscal year until such government complies with the minimum standards; and

(B) the President will instruct the United States Executive Director of each multilateral development bank and of the International Monetary Fund to vote against, and to use his or her best efforts to deny, any loan or other utilization of the funds of his or her institution to that country (other than for humanitarian assistance, or for development assistance which directly addresses basic human needs, is not administered by the government of the sanctioned country, and confers no benefit to that country) for the subsequent fiscal year until such government complies with the minimum standards.

(2) SUBSEQUENT COMPLIANCE.—The Secretary of State has determined that the country has come into compliance with the minimum standards.

(3) CONTINUATION OF ASSISTANCE IN THE NATIONAL INTEREST.—Notwithstanding the failure of the country to comply with minimum standards for the elimination of trafficking, the President has determined that the provision of nonhumanitarian foreign assistance to the country is in the national interest of the United States.

(e) CERTIFICATION.—Together with any notification under subsection (c), the President shall provide a certification by the Secretary of State that with respect to assistance described in clause (i), (ii), or (iv) of subparagraph 3(10)(A) or in subparagraph 3(10)(B), no assistance is intended to be received or used by any agency or official who has participated in, facilitated, or condoned a severe form of trafficking in persons.

SEC. 11. ACTIONS AGAINST SIGNIFICANT TRAFFICKERS IN PERSONS.

(a) AUTHORITY TO SANCTION SIGNIFICANT TRAFFICKERS IN PERSONS.—

(1) IN GENERAL.—The President may exercise IEEPA authorities (other than authorities relating to importation) without regard to section 202 of the International Emergency Economic Powers Act (50 U.S.C. 1705) in the case of any foreign person who is on the list described in subsection (b).

(2) PENALTIES.—The penalties set forth in section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) apply to violations of any license, order, or regulation issued under this clause (i).

(3) IEEPA AUTHORITIES.—For purposes of clause (i), the term “IEEPA authorities” means the authorities set forth in section 203(a) of the International Emergency Economic Powers Act (50 U.S.C. 1702(a)).

(b) LIST OF TRAFFICKERS OF PERSONS.—

(1) COMPILING LIST OF TRAFFICKERS IN PERSONS.—The Secretary of State is authorized to compile a list of the following persons:

(A) any foreign person that plays a significant role in a severe form of trafficking in persons, directly or indirectly in the United States or any of its territories or possessions;

(B) foreign persons who materially assist in, or provide financial or technological support for or to, or providing goods or services in support of, ac-

tivities of a significant foreign trafficker in persons identified pursuant to subparagraph (A); and

(C) foreign persons that are owned, controlled, or directed by, or acting for or on behalf of, a significant foreign trafficker so identified pursuant to subparagraph (A).

(2) REVISIONS TO LIST.—The Secretary of State shall make additions or deletions to any list published under paragraph (1) on an ongoing basis based on the latest information available.

(3) CONSULTATION.—The Secretary of State shall consult with the following officers in carrying out paragraphs (1) and (2).

- (A) the Attorney General;
- (B) the Director of Central Intelligence;
- (C) the Director of the Federal Bureau of Investigation;
- (D) the Secretary of Labor; and
- (E) the Secretary of Health and Human Services.

(4) PUBLICATION OF LIST.—Upon compiling the list referred to in paragraph (1) and within 30 days of any revisions to such list, the Secretary of State shall submit the list or revisions to such list to the Committees on the International Relations and Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives; and to the Committees on Foreign Relations and the Select Committee on Intelligence of the Senate; and publish the list or revisions to such list in the Federal Register:

(c) REPORT TO CONGRESS ON IDENTIFICATION AND SANCTIONING OF SIGNIFICANT TRAFFICKERS IN PERSONS.—Upon exercising the authority of subsection (a), the President shall report to the Committees on the International Relations and Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives; and to the Committees on Foreign Relations and the Select Committee on Intelligence of the Senate—

(1) identifying publicly the foreign persons that the President determines are appropriate for sanctions pursuant to this section; and

(2) detailing publicly the sanctions imposed pursuant to this section.

(d) EXCLUSION OF CERTAIN INFORMATION.—

(1) INTELLIGENCE.—Notwithstanding any other provision of this section, the list and report described in subsections (b) and (c) shall not disclose the identity of any person, if the Director of Central Intelligence determines that such disclosure could compromise an intelligence operation, activity, source, or method of the United States.

(2) LAW ENFORCEMENT.—Notwithstanding any other provision of this section, the list and report described in subsections (b) and (c) shall not disclose the name of any person if the Attorney General, in coordination as appropriate with the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, and the Secretary of the Treasury, determines that such disclosure could reasonably be expected to—

- (A) compromise the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution that furnished information on a confidential basis;
- (B) jeopardize the integrity or success of an ongoing criminal investigation or prosecution;
- (C) endanger the life or physical safety of any person; or
- (D) cause substantial harm to physical property.

(3) NOTIFICATION REQUIRED.—

(A) Whenever either the Director of Central Intelligence or the Attorney General makes a determination under this subsection, the Director of Central Intelligence or the Attorney General shall notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, and explain the reasons for such determination.

(B) The notification required under this paragraph shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate not later than July 1, 2000, and on an annual basis thereafter.

(d) LAW ENFORCEMENT AND INTELLIGENCE ACTIVITIES NOT AFFECTED.—Nothing in this section prohibits or otherwise limits the authorized law enforcement or intelligence activities of the United States, or the law enforcement activities of any State or subdivision thereof.

(e) EXCLUSION OF PERSONS WHO HAVE BENEFITED FROM ILLICIT ACTIVITIES OF TRAFFICKERS IN PERSONS.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by inserting the following new subparagraph at the end:

“(H) SIGNIFICANT TRAFFICKERS IN PERSONS.—Any alien who—

“(i) is on the most recent list of significant traffickers provided in section 10 of the Trafficking Victims Protection Act of 1999, or who the consular officer or the Attorney General knows or has reason to believe is or has been a knowing aider, abettor, assister, conspirator, or colluder with such a trafficker in severe forms of trafficking in persons as defined in section 3 of such Act; or

“(ii) who the consular officer or the Attorney General knows or has reason to believe is the spouse, son, or daughter of an alien inadmissible under clause (i), has, within the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien, and knew or reasonably should have known that the financial or other benefit was the product of such illicit activity, is inadmissible.”.

(f) IMPLEMENTATION.—The Secretary of State, the Attorney General, and the Secretary of Treasury are authorized to take such actions as may be necessary to carry out this section, including promulgating rules and regulations permitted under this Act.

(g) DEFINITION OF FOREIGN PERSON.—As used in this section, the term “foreign person” means any citizen or national of a foreign state or any entity not organized under the laws of the United States, including a foreign government official, but does not include a foreign state.

SEC. 12. STRENGTHENING PROSECUTION AND PUNISHMENT OF TRAFFICKERS.

(a) TITLE 18 AMENDMENTS.—Chapter 77 of title 18, United States Code, is amended—

(1) in each of sections 1581(a), 1583, and 1584—

(A) by striking “10 years” and inserting “20 years”;

(B) by adding at the end the following: “If, in addition to the foregoing elements, death results from a violation of this section, or if such violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.”;

(2) by inserting at the end the following:

“§ 1589. Trafficking into involuntary servitude, peonage, or slavery-like conditions

“(a) Whoever recruits, harbors, provides, transports, employs, purchases, sells, or secures, by any means, any person, knowing or having reason to know that the person is or will be subjected to involuntary servitude or peonage or to slavery-like conditions as described in subsection (b) of this section, or in any way, financially or otherwise, knowingly benefits from, or makes use of, the labor or services of a person subjected to a condition of involuntary servitude or peonage, shall be fined under this title or imprisoned not more than 20 years, or both; and if, in addition to the foregoing elements, death results from an act committed in violation of this section, or if such act includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title or imprisoned for any term of years or life, or both.

“(b) As used in this section, the term ‘slavery-like conditions’ means that the labor or services of a person are obtained or maintained through any scheme or artifice to defraud, or by means of any plan or pattern, including but not limited to false and fraudulent pretenses and misrepresentations, such that the person reasonably believes that if he did not perform the labor or services serious harm would be inflicted on himself or on another person.

“(c) This section does not apply to labor performed as a punishment for a crime whereof the party shall have been duly convicted.

“§ 1589A. Sex trafficking of children or by force, fraud, or coercion

“(a) IN GENERAL.—Whoever—

“(1) recruits, entices, harbors, purchases, sells, transports, or transfers a person, or

“(2) owns, manages, operates, or shares in the proceeds of an enterprise in which a person has been recruited, enticed, harbored, purchased, sold, transported, or transferred, knowing or having reason to know that the person will be caused by force, fraud, or coercion to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused or expected to engage in a commercial sexual act, shall be punished as provided in subsection (b).

“(b) PUNISHMENT.—The punishment for an offense under subsection (a) is—

“(1) if the offense was effected by fraud, force, or coercion, or if the person transported had not attained the age of 14 years at the time of such offense, by a fine under this title or imprisonment for any term of years or for life, or both; or

“(2) if the offense was not effected by fraud, force, or coercion, and the person transported had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title or imprisonment for not more than 20 years, or both.

“(c) DEFINITION OF COMMERCIAL SEXUAL ACT.—In this section, the term ‘commercial sexual act’ means any sexual act, on account of which anything of value is given to or received by any person, and—

“(1) which takes place in the United States;

“(2) which affects United States foreign commerce; or

“(3) in which either the person caused or expected to participate in the act or the person committing the violation is a United States citizen or an alien admitted for permanent residence in the United States.

“§ 1590. Unlawful possession of documents in furtherance of trafficking, involuntary servitude, or peonage

“(a) Whoever destroys, conceals, removes, confiscates, or possesses any identification, passport, or other immigration documents, or any other documentation of another person—

“(1) in the course of, or under circumstances which facilitate a violation of section 1581, 1583, 1584, 1589, or 1589A or a conspiracy or attempt to commit such a violation; or

“(2) to conceal or impair the investigation or prosecution of a violation of any section described in paragraph (1); or

“(3) to prevent or restrict, without lawful authority, the person’s liberty to move or travel in interstate or foreign commerce, shall be fined under this title or imprisoned for not more than 5 years, or both.

“§ 1591. Mandatory restitution

“(a) Notwithstanding sections 3663 or 3663A, and in addition to any other civil or criminal penalties authorized by law, the court shall order restitution for any offense under this chapter.

“(b)(1) The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim’s losses, as determined by the court under paragraph (3) of this subsection.

“(2) An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

“(3) As used in this subsection, the term ‘full amount of the victim’s losses’ has the same meaning as provided in section 2259(b)(3) and shall in addition include the greater of the gross income or value to the defendant of the victim’s services or labor or the value of the victim’s labor as guaranteed under the minimum wage and overtime guarantees of the Fair Labor Standards Act (29 U.S.C. 201, et seq.).

“(c) As used in this section, the term ‘victim’ means the individual harmed as a result of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or a representative of the victim’s estate, or another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named such representative or guardian.

“§ 1592. General provisions

“(a) In a prosecution under sections 1581, 1583, 1584, or 1589, a condition of involuntary servitude or peonage may be established by proof that the defendant obtained or maintained the labor or service of any person—

“(1) by the use, or threatened use, of force, violence, physical restraint, or physical injury, or by extortion or the abuse or threatened abuse of law or the legal process;

“(2) through representations made to any person that physical harm may occur to that person, or to another, in an effort to wrongfully obtain or maintain the labor or services of that person; or

“(3) by the use of fraud, deceit, or misrepresentation toward any person in an effort to wrongfully obtain or maintain the labor or services of that person, where the person is a minor, one who is mentally disabled, or one who is otherwise particularly susceptible to coercion.

“(b) An attempt or conspiracy to violate sections 1581, 1583, 1584, 1589, or 1589A shall be punishable in the same manner as a completed violation of each of these sections, respectively.

“(c)(1) The court, in imposing sentence on any person convicted of a violation of this chapter, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person forfeit to the United States—

“(A) such person’s interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of such violation; and

“(B) any property, real or personal, constituting or derived from, any proceeds that such person obtained, directly or indirectly, as a result of such violation.

“(2) The criminal forfeiture of property under this subsection, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except subsection (d) of that section.

“(d)(1) The following shall be subject to forfeiture to the United States and no property right shall exist in them—

“(A) any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter; and

“(B) any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this chapter.

“(2) The provisions of chapter 46 of this title relating to civil forfeitures shall extend to any seizure or civil forfeiture under this subsection.

“(f) WITNESS PROTECTION.—Any violation of this chapter shall be considered an organized criminal activity or other serious offense for the purposes of application of chapter 224 (relating to witness protection).”; and

(3) by amending the table of sections at the beginning of chapter 77 by adding at the end the following new items:

“1589. Trafficking into involuntary servitude, peonage, or slavery-like conditions.

“1589A. Sex trafficking of children or by force, fraud, or coercion.

“1590. Unlawful possession of documents in furtherance of trafficking involuntary servitude, or peonage.

“1591. Mandatory restitution.

“1592. General provisions.”.

(b) AMENDMENT TO THE SENTENCING GUIDELINES.—

(1) Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the sentencing guidelines and policy statements applicable to persons convicted of offenses involving the trafficking of persons including component or related crimes of peonage, involuntary servitude, slave trade offenses, and possession, transfer or sale of false immigration documents in furtherance of trafficking, and the Fair Labor Standards Act and the Migrant and Seasonal Agricultural Worker Protection Act.

(2) In carrying out this subsection, the Sentencing Commission shall—

(A) take all appropriate measures to ensure that these sentencing guidelines and policy statements applicable to the offenses described in paragraph (1) of this subsection are sufficiently stringent to deter and adequately reflect the heinous nature of such offenses;

(B) consider conforming the sentencing guidelines applicable to offenses involving trafficking in persons to the guidelines applicable to peonage, involuntary servitude, and slave trade offenses; and

(C) consider providing sentencing enhancements for those convicted of the offenses described in paragraph (1) of this subsection that—

(i) involve a large number of victims;

(ii) involve a pattern of continued and flagrant violations;

(iii) involve the use or threatened use of a dangerous weapon; or

(iv) result in the death or bodily injury of any person.

(3) The Commission may promulgate the guidelines or amendments under this subsection in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(c) RACKETEERING.—Section 1961(1) of title 18, United States Code, is amended by inserting “section 1589 (relating to trafficking into involuntary servitude, peonage, or slavery-like conditions), section 1589A (relating to sex trafficking of children or by force, fraud, or coercion),” after “murder-for-hire).”.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS FOR THE INTERAGENCY TASK FORCE.—To carry out the purposes of section 5, there are authorized to be appropriated to the Secretary of State \$1,500,000 for fiscal year 2000 and \$3,000,000 for fiscal year 2001.

(b) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.—To carry out the purposes of section 7(b) there are authorized

to be appropriated to the Secretary of Health and Human Services \$5,000,000 for fiscal year 2000 and \$10,000,000 for fiscal year 2001.

(c) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF STATE.—To carry out the purposes of section 7(a) there are authorized to be appropriated to the Secretary of State \$5,000,000 for fiscal year 2000 and \$10,000,000 for fiscal year 2001.

(d) AUTHORIZATION OF APPROPRIATIONS TO ATTORNEY GENERAL.—To carry out the purposes of section 7(b) there are authorized to be appropriated to the Attorney General \$5,000,000 for fiscal year 2000 and \$10,000,000 for fiscal year 2001.

(e) AUTHORIZATION OF APPROPRIATIONS TO PRESIDENT.—

(1) FOREIGN VICTIM ASSISTANCE.—To carry out the purposes of Section 6 there are authorized to be appropriated to the President \$5,000,000 for fiscal year 2000 and \$10,000,000 for fiscal year 2001.

(2) ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS.—To carry out the purposes of Section 9 there are authorized to be appropriated to the President \$5,000,000 for fiscal year 2000 and \$10,000,000 for fiscal year 2001.

(f) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF LABOR.—To carry out the purposes of section 7(b) there are authorized to be appropriated to the Secretary of Labor \$5,000,000 for fiscal year 2000 and \$10,000,000 for fiscal year 2001.

BACKGROUND AND PURPOSE

H.R. 3244, the Trafficking Victims Protection Act of 1999, is a bipartisan effort to combat the growing problem of trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children.

Trafficking in human beings is a global issue. Millions of people, predominantly women and children, are trafficked around the world each year. The U.S. intelligence community estimates that 45,000 to 50,000 women and children are trafficked annually into major cities in the United States, primarily from the Former Soviet Union and Southeast Asia.

Trafficking networks, dominated by organized criminal groups, lure or force victims into the industry using various schemes. Traffickers buy young girls from relatives, kidnap children from their homes, or lure women with false promises of earning money overseas as maids, factory workers, sales clerks, dancers, or models. Traffickers then use tactics including rape, starvation, torture, extreme physical brutality, and psychological abuse to hold victims under slavery-like conditions in prostitution or in forced labor as, among other things, sweatshop laborers and domestic servants.

In New York, hearing impaired men and women were recruited from Mexico and brutalized into selling trinkets on the street. In the Carolinas, teenage girls were held in slavery and forced to work as prostitutes. In Chicago, traffickers met Russian and Latvian women at the airport, seized their passports and return tickets, beat them, and threatened to kill their families if the women refused to dance nude in a nightclub. In Florida, traffickers used alcohol and drugs to lure field workers to isolated locations and hold them under cruel conditions of debt bondage.

Worldwide, the trafficking industry is the fastest growing and third largest source of profits for organized criminal enterprises, behind only drugs and firearms. Profits from the trafficking industry contribute to the expansion of organized criminal activity in the United States and around the world.

No comprehensive law exists in the United States that penalizes the range of offenses involved in the trafficking scheme. Existing U.S. laws and infrastructure are not sufficient to deter trafficking to and from the United States and protect domestic trafficking vic-

tims. At present, traffickers are prosecuted in the United States for violating laws related only to components of the trafficking scheme, such as involuntary servitude, slave trade offenses, peonage, transportation for coerced or illegal sexual activities, and immigration violations. Adequate services and facilities do not exist in the U.S. to meet the healthcare, housing, education, and legal assistance needs for the safe reintegration of domestic trafficking victims into the larger society.

Because existing laws and enforcement procedures often fail to make clear distinctions between victims of severe forms of trafficking and persons who have willfully violated such laws such as those against prostitution, and because victims often do not have legal immigration status in the countries into which they are trafficked, the victims are often punished more harshly than the traffickers themselves.

On March 25, 1999, Representatives Christopher Smith and Marcy Kaptur introduced H.R. 1356, the Freedom from Sexual Trafficking Act of 1999. The bill targeted the trafficking of women and children into sex industries—a growing and particularly brutal form of the international traffic in persons—using a balanced regime of increased criminal penalties, new governmental incentives, and additional victim assistance and protections. Among other things, H.R. 1356 proposed: new and increased criminal penalties for sex trafficking; the establishment of an Office of the Protection of Victims of Trafficking in the State Department; the prohibition of nonhumanitarian U.S. assistance to foreign countries that tolerate or condone sex trafficking; grants to help foreign governments investigate and prosecute sex trafficking and draft antitrafficking laws; grants for victim protection and rehabilitation; and relief from deportation for victims who would face retribution or other hardship if they were removed from the United States.

On August 4, 1999, the Subcommittee on International Operations and Human Rights conducted a markup of H.R. 1356. After agreeing to a brief amendment suggested by Representative McKinney and offered by Chairman Smith, which moved the new State Department office from the Office of the Secretary to the Bureau of Democracy, Human Rights, and Labor, the Subcommittee favorably reported the bill to the full Committee on International Relations.

On September 14, 1999, the Subcommittee on International Operations and Human Rights held a hearing on “Trafficking of Women and Children in the International Sex Trade.” and received testimony from the following witnesses: The Honorable Harold Koh, Assistant Secretary of State for the Bureau of democracy, Human Rights and Labor; Ms. Theresa Loar, the Director of the President’s Interagency Council on Women; Dr. Laura J. Lederer, the Project Manager of the Protection Project at Harvard University’s Kennedy School of Government; Mr. Gary A. Haugen, President of the International Justice Mission; and Ms. Anita Sharma Bhattarai (a pseudonym used to protect the safety of the witness), a trafficking survivor from Nepal.

On October 27, 1999, Representative Gejdenson introduced H.R. 3154, the Comprehensive Anti-Trafficking in Persons Act of 1999. Recognizing that trafficking victims are forced into a range of slavery-like conditions, H.R. 3154 aimed to combat all forms of traf-

ficking in persons in the United States and abroad. The bill included measures to criminalize all forms of trafficking in the United States and increase penalties for violations under existing slavery and peonage statutes of the U.S. criminal code. To facilitate and oversee interagency cooperation in the implementation of the Act, the bill also required the President to establish an interagency task force comprised of cabinet-level members and chaired by the Secretary of State. The bill allowed for the creation of an Office within the Department of State to support the work of the task force. The legislation additionally sought to prevent trafficking by addressing economic deprivation disproportionately affecting women and girls as a root cause of the industry and included strong provisions to protect and assist domestic trafficking victims. The bill allowed the President to impose International Emergency Economic Powers Act sanctions against foreign individuals who play a significant role in the trafficking of persons.

On March 23, 1999, Representative Louise Slaughter introduced H.R. 1238, the International Trafficking of Women and Children Victim Protection Act of 1999, the companion bill to S. 600, introduced by Senator Paul Wellstone. This bill took steps to condemn and combat the international crime of trafficking in women and children, which included a broad range of offenses including sex trafficking as well as other forms of trafficking in persons. It proposed: creating an interagency task force within the Department of State to evaluate and report on foreign governments that tolerate or participate in trafficking and fail to cooperate with international efforts to prosecute perpetrators; assisting trafficking victims in the United States by providing humanitarian assistance and by providing them temporary nonimmigrant status in the United States; requiring that law enforcement officers, immigration officials, and Foreign Service Officers be trained in identifying and responding to trafficking victims; and denying United States police assistance to governments that tolerate or participate in trafficking, abuse victims, or fail to cooperate with international efforts to prosecute perpetrators.

H.R. 3244, which was introduced on November 8, 1999, merges the approaches of the three bills (H.R. 1238, H.R. 1356, and H.R. 3154), drawing from the strengths of each proposal. The Act strengthens United States anti-trafficking policy by increasing efforts to prevent trafficking, improving the laws used to prosecute traffickers, and providing additional assistance to trafficking victims.

H.R. 3244 establishes a two-tier definition of trafficking, involving “sex trafficking” under the first tier and “severe forms of trafficking in persons” under the second. “Severe forms of trafficking in persons” is the operative term for enforcement and sanctions against individuals and governments under the Act. This Act criminalizes severe forms of trafficking in the United States, provides penalties up to life imprisonment for traffickers, and strengthens protections for trafficking victims.

H.R. 3244 also works through U.S. international affairs agencies to encourage international cooperation and engage foreign governments in the fight against severe forms of trafficking. This Act provides a basic legislative framework to prevent trafficking, stop traffickers, and assist trafficking victims in the United States and

around the world, and should support ongoing international negotiations that seek consensus on ways to combat trafficking worldwide.

COMMITTEE ACTION

H.R. 3244 was introduced by Representative Smith of New Jersey on November 8, 1999. The bill was referred to the Committee on International Relations, and in addition to the Committees on the Judiciary, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

The Committee on International Relations marked up the bill in open session, pursuant to notice, on November 9, 1999. During its consideration, the Committee agreed to a single amendment, to add a paragraph to the “findings” section of the bill and the Committee adopted a substitute consisting of the text as amended. Subsequently, the Committee agreed to a motion to favorably report the bill to the House of Representatives, by voice vote, a quorum being present.

RECORD VOTES ON AMENDMENTS AND MOTION TO REPORT

Clause (3)(b) of rule XIII of the Rules of the House of Representatives requires that the results of each record vote on an amendment or motion to report, together with the names of those voting for or against, be printed in the committee report. No record votes were taken during the consideration of H.R. 3244.

OTHER MATTERS

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM FINDINGS

Clause 3(c)(4) of rule XIII of the Rules of the House of Representatives requires each committee report to contain a summary of the oversight findings and recommendations made by the Government Reform Committee pursuant to clause (4)(c)(2) of rule X of those Rules. The Committee on International Relations has received no such findings or recommendations from the Committee on Government Reform.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or

accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

CONSTITUTIONAL AUTHORITY STATEMENT

In compliance with clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee cites the following specific powers granted to the Congress in the Constitution as authority for enactment of H.R. 3244 as reported by the Committee: Article I, section 8, clause 1 (relating to providing for the common defense and general welfare of the United States); Article I, section 8, clause 3 (relating to the regulation of commerce with foreign nations); and Article I, section 8, clause 18 (relating to making all laws necessary and proper for carrying into execution powers vested by the Constitution in the Government of the United States or in any Department or Officer thereof).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any committee on a bill or joint resolution to include a committee statement on the extent to which the bill or joint resolution is intended to preempt state or local law. The Committee states that H.R. 3244 is not intended to preempt any state or local law.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title; table of contents

This section states that this Act may be cited as the “Trafficking Victims Protection Act of 1999” and lists its contents.

Sec. 2. Purposes and findings

This section states that the purposes of this Act are to combat trafficking in persons, to ensure just punishment of traffickers, and to protect their victims. The Congress finds that every year millions of people, predominantly women and children, are trafficked within or across international borders. Many victims are trafficked into the international sex industry, often through force, fraud, or coercion. Trafficking in persons is not limited to sex trafficking, but often involves forced labor and other violations of human rights. Trafficking is a growing transnational problem that is increasingly perpetrated by organized criminal enterprises. Existing legislation and law enforcement in the United States and abroad is inadequate to deter trafficking, bring traffickers to justice, and meet the safe reintegration needs of trafficking victims. In some countries, anti-trafficking efforts are hindered by official indifference, corruption, and sometimes even official participation in trafficking. Trafficking in persons is a matter of pressing international concern and the United States must work bilaterally and multilaterally to abolish trafficking and protect trafficking victims.

Sec. 3. Definitions

This section defines certain terms used in this Act. “Sex trafficking” is defined as the purchase, sale, recruitment, harboring, transportation, transfer, or receipt of a person for the purpose of a commercial sex act. “Severe forms of trafficking in persons” is de-

defined as sex trafficking induced by force, fraud, or coercion, or involving a person under the age of 18, as well as trafficking for the purpose of subjecting the trafficked person to involuntary servitude, slavery, or slavery-like practices by force, fraud, or coercion. "Slavery-like practices" means inducement of a person to perform labor or other services by force, coercion, or by any scheme, plan, or pattern to cause the person to believe that failure to perform the work will result in the infliction of serious harm, debt bondage amounting to involuntary servitude, or subjection to conditions so harsh or degrading as to provide a clear indication that the person has been subjected to them by force, fraud, or coercion. In the context of this bill, "serious harm" could include physical restraint that severely limits freedom of movement. "Coercion," as defined, includes the use of force, violence, and physical restraint, as well as acts calculated to have the same effect (such as the credible threat of serious harm). In various places, the act uses more general terms such as "trafficking" or "trafficking in persons." In such contexts, these terms are intended to be used in a more general sense, giving the President and other officials some degree of discretion to apply the relevant provision to a broader range of actions or victims beyond those associated with severe forms of trafficking in persons. Such discretion is particularly appropriate in assistance to and protection of victims, because trafficked women and children may have a compelling need for such assistance and protection even though they have not been subjected to severe forms of trafficking.

Sec. 4. Annual Country Reports on human rights practices

This section requires the Secretary of State to include in the annual Country Reports information regarding the status of trafficking in persons, including countries or origin, transit or destination for a significant number of victims of severe forms of trafficking in persons and the extent to which the government of those countries are involved in such trafficking, and an assessment on the steps governments are taking to combat trafficking, and to assist victims of trafficking and protect their rights.

Sec. 5. Interagency Task Force to monitor and combat trafficking

Trafficking in persons is a complex problem that involves multiple issues, including translational crime, human rights, economics, migration, labor, and public health. To effectively combat trafficking in the United States and abroad, the Departments of State, Justice, Labor, and Health and Human Services and the Agency for International Development must work together to address the many issues surrounding the trafficking industry.

To facilitate and oversee cooperation among the U.S. agencies engaged in the implementation of the Act, this section requires the President to establish an Inter-Agency Task Force to Monitor and Combat Trafficking and authorizes the establishment an Office in the State Department to provide assistance to the Task Force. It charges the Task Force with: coordinating the implementation of this Act; evaluating progress in trafficking prevention, victim assistance, and the prosecution of traffickers; expanding the collection of trafficking data by government agencies; facilitating cooperation among countries to prevent trafficking, prosecute traf-

fickers, and assist victims; and examining the international “sex tourism” industry and recommending appropriate measure to combat it.

Sec. 6. Prevention of trafficking

Economic deprivation drives the trafficking industry. Traffickers target women and girls, who are disproportionately affected by poverty, lack of access to education, chronic unemployment, discrimination, and lack of viable economic opportunities in countries of origin. Traffickers lure women with promises of high-paying jobs overseas or buy girls from poor families.

Section 6 addresses economic deprivation as a root cause of trafficking. This section charges the President—acting through the Agency for International Development and other agencies and in consultation with appropriate non-governmental organizations—with establishing initiatives to enhance economic opportunity for potential trafficking victims as a means of deterring trafficking, such as microcredit lending programs, training, and education. It directs the President to establish programs to increase public awareness of the dangers of trafficking and the protections available to victims.

Sec. 7. Protection and assistance for victims of trafficking

The United States and countries around the world lack sufficient infrastructure to meet the needs of trafficking victims. This section seeks to expend domestic services available to trafficking victims and to increase the capacity of foreign countries to assist trafficking victims.

Subsection (a) charges the State Department and AID with establishing programs and initiatives in foreign countries to assist victims of trafficking.

Subsection (b) directs the Attorney General, the Secretaries of Labor and of Health and Human Services, and the Board of Directors of the Legal Services Corporation to expand assistance to victims of severe forms of trafficking in the United States. It also makes victims of severe forms of trafficking in the United States eligible for benefits under the Crime Victims Fund, and allows the Attorney General to make grants to local governments and non-profit organizations to expand services for victims of trafficking. Furthermore, it provides trafficking victims a civil right of action against traffickers for violations of 18 U.S.C. § 1589 (trafficking into slavery-like conditions) or § 1589A (sex trafficking of children or by force, fraud, or coercion).

Subsection (c) requires the Attorney General and the Secretary of State to promulgate regulations to ensure that: (1) victims of severe forms of trafficking are provided with adequate shelter and care while in Federal custody; (2) victims are not jailed or fined merely because they were trafficked; (3) victims have access to legal assistance and translation services; (4) victims are assured continuous presence in the United States to assist in the prosecution of traffickers; and (5) State and Justice Department personnel are trained in identifying and protecting victims of severe forms of trafficking.

Subsection (d) makes clear that nothing in subsection (c) creates a private cause of action against the United States or its employees.

Subsection (e) makes funds derived from the sale of assets seized from and forfeited by trafficking (pursuant to section 12(a) of this Act) available for the victims assistance programs outlined in subsections (a) and (b), above.

Subsection (f) authorizes the Attorney General to grant non-immigrant visas to certain victims of severe forms of trafficking who are in the United States and who would face a significant possibility of retribution or other harm if they were removed from the U.S. It also allows adjustment to lawful permanent resident status for victims who have been in the U.S. continuously for 3 years since admission; have remained of good moral character; have not unreasonably refused to assist in trafficking investigations or prosecutions; and would face a significant possibility of retribution or other harm if removed from the United States.

Sec. 8 Minimum standards for the elimination of trafficking

This section establishes minimum standards applicable to countries that have a significant trafficking problem, requiring them to prohibit and adequately punish severe forms of trafficking in persons, and to make serious and sustained efforts to eliminate such trafficking.

Sec. 9. Assistance to foreign countries to meeting minimum standards

This section authorizes the Agency for International Development to fund activities designed to help foreign countries meet the minimum standards outlined in section 8(a) of this Act. Such activities include, but are not limited to, assistance in drafting anti-trafficking legislation, training law enforcement and judicial system officials in the investigation and prosecution of trafficking cases, and efforts by foreign governments to assist victims.

Sec. 10. Actions against governments failing to meet minimum standards

This section requires the Secretary of State to submit to Congress an annual report on the status of severe forms of trafficking. The report will consist of a list of countries that do not meet the minimum standards set forth in section 8(a) of the Act, together with such other information as the Secretary may wish to provide. The Secretary may also file interim reports. Beginning in FY2002, for each government that fails to meet the minimum standards, the President must either (a) withhold nonhumanitarian U.S. foreign assistance to that government and vote against nonhumanitarian assistance to that government by multilateral lending institutions during the following fiscal year, or (b) waive that prohibition if the President finds that the provision of nonhumanitarian assistance to that country is in the national interest of the United States. The two year delay in implementation of this provision is intended to give foreign governments time to come into compliance with the minimum standards.

Sec. 11. Action against significant traffickers in persons

This section authorizes the Secretary of State to compile and publish a list of foreign persons who have a significant role in a severe form of trafficking in persons, directly or indirectly in the United States, who materially support such persons, or who are owned or controlled by such persons. It allows the President to impose International Emergency Economic Power Acts (IEEPA) sanctions, including the freezing of assets located in the United States, without regard to section 202 of such Act against any foreign person on that list, and requires that the President report to Congress on any such sanctions. It also allows for the non-disclosure of persons on the list for intelligence and law enforcement reasons, and requires that Congress be notified of such exclusions on an annual basis. Subsection (e) excludes significant traffickers, as well as people who knowingly assist them, from entry into the United States.

Sec. 12. Strengthening prosecution and punishment of traffickers

This section seeks to criminalize trafficking in persons in the United States and to strengthen penalties against trafficking and components of the trafficking scheme.

Subsection (a) includes amendments to Title 18 of the United States Code (Crimes and Criminal Procedure) that are intended to strengthen United States laws against trafficking.

Subsection (a)(1) doubles the current maximum penalties for peonage, enticement into slavery, and sale into involuntary servitude to 20 years, and adds the possibility of life imprisonment for such violations where they result in death or involve kidnapping, aggravated sexual abuse, or an attempt to kill.

The subsection also defines new criminal offenses aimed at traffickers and the criminal “kingpins” behind the growing problem of international trafficking. It criminalizes trafficking a person into involuntary servitude, peonage, or slavery-like conditions, which is punishable by 20 years in prison, or life in prison in cases that result in death or involve kidnapping, aggravated sexual abuse, or an attempt to kill. It also criminalizes sex trafficking of children, and provides penalties of up to life imprisonment in cases where the child was under 14, and up to 20 years in prison in cases where the trafficked child was 14 or older and no force, fraud, or coercion was involved. It also criminalizes sex trafficking by force, fraud, or coercion, which is punishable by life imprisonment. In addition to targeting those who recruit, transport, buy, or sell trafficking victims, each of these new offenses also applies to those who knowingly benefit from severe forms of trafficking, such as owners or managers of enterprises engaged in trafficking.

Subsection (a)(1) also provides for up to five years imprisonment for anyone who unlawfully possesses or destroys the identification or immigration documents of another in the course of a trafficking violation, or in an attempt to impair a trafficking investigation or to restrict a victim’s movement. In addition, it requires that convicted traffickers provide full restitution to their victims, and directs that courts order the forfeiture to the United States of any of the trafficker’s property that was used for or derived from violations of these laws. Victims of these crimes will be eligible for the Federal witness protection program.

Subsection (b) directs the U.S. Sentencing Commission to review and, if appropriate, amend the sentencing guidelines applicable to trafficking offenses to ensure that they are adequately stringent.

Subsection (c) adds the new trafficking offenses to the list of “racketeering activit[ies]” for purposes of the Federal RICO statute.

Sec. 13. Authorization of appropriations

This section authorizes a total of \$94.5 million (\$31.5 million for FY2000, \$63 million for FY01) in the following categories:

(a) Interagency Task Force: \$1.5 million for fiscal year 2000, \$3 million for fiscal year 2001;

(b) Health and Human Services for victim assistance in the United States: \$5 million for fiscal year 2000, \$10 million for fiscal year 2001;

(c) Department of State for foreign victim assistance: \$5 million for fiscal year 2000, \$10 million for fiscal year 2001;

(d) The Attorney General for victim assistance in the United States: \$5 million for fiscal year 2000, \$10 million for fiscal year 2001;

(e) The President for (1) foreign victim assistance: \$5 million for fiscal year 2000, \$10 million for fiscal year 2001, and (2) assistance to help countries meet minimum trafficking standards: \$5 million for fiscal year 2000, \$10 million for fiscal year 2001; and

(f) Department of Labor for victim assistance in the United States: \$5 million for fiscal year 2000, \$10 million for fiscal year 2001.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

IMMIGRATION AND NATIONALITY ACT

* * * * *

TITLE I—GENERAL

DEFINITIONS

SECTION 101. (a) As used in this Act—

(1) * * *

* * * * *

(15) The term “immigrant” means every alien except an alien who is within one of the following classes of nonimmigrant aliens—

(A) * * *

* * * * *

(R) an alien, and the spouse and children of the alien if accompanying or following to join the alien, who—

(i) * * *

(ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(C)(ii); **[or]**
 (S) subject to section 214(k), an alien—

(i) * * *

* * * *

(ii) who the Secretary of State and the Attorney General jointly determine—

(I) * * *

* * * *

(IV) is eligible to receive a reward under section 36(a) of the State Department Basic Authorities Act of 1956,

and, if the Attorney General (or with respect to clause (ii), the Secretary of State and the Attorney General jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i) or (ii) if accompanying, or following to join, the alien**[.]**; or

(T) *an alien who the Attorney General determines—*

(i) is physically present in the United States or at a port of entry thereto;

(ii) is or has been a victim of a severe form of trafficking in persons as defined in section 3 of the Trafficking Victims Protection Act of 1999;

(iii)(I) has not unreasonably refused to assist in the investigation or prosecution of acts of trafficking; or

(II) has not attained the age of 14 years; and

(iv) would face a significant possibility of retribution or other hardship if removed from the United States, and, if the Attorney General considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in this subparagraph if accompanying, or following to join, the alien, except that no person shall be eligible for admission to the United States under this subparagraph if there is substantial reason to believe that the person has committed an act of a severe form of trafficking in persons as defined in section 3 of the Trafficking Victims Protection Act of 1999.

* * * *

TITLE II—IMMIGRATION

* * * *

CHAPTER 2—QUALIFICATIONS FOR ADMISSION OF ALIENS; TRAVEL CONTROL OF CITIZENS AND ALIENS

* * * *

GENERAL CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS AND INELIGIBLE FOR ADMISSION; WAIVERS OF INADMISSIBILITY

SEC. 212. (a) CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION.—Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

(1) * * *

* * * * *

(2) CRIMINAL AND RELATED GROUNDS.—

(A) * * *

* * * * *

(H) *SIGNIFICANT TRAFFICKERS IN PERSONS.*—Any alien who—

(i) *is on the most recent list of significant traffickers provided in section 10 of the Trafficking Victims Protection Act of 1999, or who the consular officer or the Attorney General knows or has reason to believe is or has been a knowing aider, abettor, assister, conspirator, or colluder with such a trafficker in severe forms of trafficking in persons as defined in the section 3 of such Act; or*

(ii) *who the consular officer or the Attorney General knows or has reason to believe is the spouse, son, or daughter of an alien inadmissible under clause (i), has, within the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien, and knew or reasonably should have known that the financial or other benefit was the product of such illicit activity, is inadmissible.*

* * * * *

(d)(1) * * *

* * * * *

(13) *The Attorney General shall determine whether a ground for inadmissibility exists with respect to a nonimmigrant described in section 101(a)(15)(T). The Attorney General, in the Attorney General's discretion, may waive the application of subsection (a) (other than paragraph (3)(E)) in the case of a nonimmigrant described in section 101(a)(15)(T), if the Attorney General considers it to be in the national interest to do so. Nothing in this section shall be regarded as prohibiting the Immigration and Naturalization Service from instituting removal proceedings against an alien admitted as a nonimmigrant under section 101(a)(15)(T) for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien's admission as a nonimmigrant under section 101(a)(15)(T).*

* * * * *

CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS

ADJUSTMENT OF STATUS OF NONIMMIGRANT TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

SEC. 245. (a) * * *

* * * * *

(l)(1) *If, in the opinion of the Attorney General, a nonimmigrant admitted into the United States under section 101(a)(15)(T)—*

(A) has been physically present in the United States for a continuous period of at least 3 years since the date of admission as a nonimmigrant under section 101(a)(15)(T);

(B) has, throughout such period, been a person of good moral character;

(C) has not, during such period, unreasonably refused to provide assistance in the investigation or prosecution of acts of trafficking; and

(D) would face a significant possibility of retribution or other hardship if removed from the United States, the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the alien if admitted under that section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

(2) An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (1)(A) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

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TITLE 18, UNITED STATES CODE

* * * * *

CHAPTER 77—PEONAGE AND SLAVERY

Sec.

1581. Peonage; obstructing enforcement.

* * * * *

1589. *Trafficking into involuntary servitude, peonage, or slavery-like conditions.*

1589A. *Sex trafficking of children or by force, fraud, or coercion.*

1590. *Unlawful possession of documents in furtherance of trafficking involuntary servitude, or peonage.*

1591. *Mandatory restitution.*

1592. *General provisions.*

* * * * *

§ 1581. Peonage; obstructing enforcement

(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, shall be fined under this title or imprisoned not more than **[10]** 20 years, or both. *If, in addition to the foregoing elements, death results from a violation of this section, or if such violation includes kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.*

* * * * *

§ 1583. Enticement into slavery

Whoever kidnaps or carries away any other person, with the intent that such other person be sold into involuntary servitude, or held as a slave; or

Whoever entices, persuades, or induces any other person to go on board any vessel or to any other place with the intent that he may be made or held as a slave, or sent out of the country to be so made or held—

Shall be fined under this title or imprisoned not more than **[10]** 20 years, or both. *If, in addition to the foregoing elements, death results from a violation of this section, or if such violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.*

§ 1584. Sale into involuntary servitude

Whoever knowingly and willfully holds to involuntary servitude or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, shall be fined under this title or imprisoned not more than **[10]** 20 years, or both. *If, in addition to the foregoing elements, death results from a violation of this section, or if such violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.*

* * * * *

§ 1589. Trafficking into involuntary servitude, peonage, or slavery-like conditions

(a) *Whoever recruits, harbors, provides, transports, employs, purchases, sells, or secures, by any means, any person, knowing or having reason to know that the person is or will be subjected to involuntary servitude or peonage or to slavery-like conditions as described in subsection (b) of this section, or in any way, financially or otherwise, knowingly benefits from, or makes use of, the labor or services of a person subjected to a condition of involuntary servitude or peonage, shall be fined under this title or imprisoned not more than 20 years, or both; and if, in addition to the foregoing elements, death results from an act committed in violation of this section, or if such act includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title or imprisoned for any term of years or life, or both.*

(b) *As used in this section, the term “slavery-like conditions” means that the labor or services of a person are obtained or maintained through any scheme or artifice to defraud, or by means of any plan or pattern, including but not limited to false and fraudulent pretenses and misrepresentations, such that the person reasonably believes that if he did not perform the labor or services serious harm would be inflicted on himself or on another person.*

(c) *This section does not apply to labor performed as a punishment for a crime whereof the party shall have been duly convicted.*

§ 1589A. Sex trafficking of children or by force, fraud, or coercion

(a) *IN GENERAL.—Whoever—*

(1) *recruits, entices, harbors, purchases, sells, transports, or transfers a person, or*

(2) *owns, manages, operates, or shares in the proceeds of an enterprise in which a person has been recruited, enticed, harbored, purchased, sold, transported, or transferred, knowing or having reason to know that the person will be caused by force, fraud, or coercion to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused or expected to engage in a commercial sexual act, shall be punished as provided in subsection (b).*

(b) *PUNISHMENT.—The punishment for an offense under subsection (a) is—*

(1) *if the offense was effected by fraud, force, or coercion, or if the person transported had not attained the age of 14 years at the time of such offense, by a fine under this title or imprisonment for any term of years or for life, or both; or*

(2) *if the offense was not effected by fraud, force, or coercion, and the person transported had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title or imprisonment for not more than 20 years, or both.*

(c) *DEFINITION OF COMMERCIAL SEXUAL ACT.—In this section, the term “commercial sexual act” means any sexual act, on account of which anything of value is given to or received by any person, and—*

(1) *which takes place in the United States;*

(2) *which affects United States foreign commerce; or*

(3) *in which either the person caused or expected to participate in the act or the person committing the violation is a United States citizen or an alien admitted for permanent residence in the United States.*

§ 1590. Unlawful possession of documents in furtherance of trafficking, involuntary servitude, or peonage

(a) *Whoever destroys, conceals, removes, confiscates, or possesses any identification, passport, or other immigration documents, or any other documentation of another person—*

(1) *in the course of, or under circumstances which facilitate a violation of section 1581, 1583, 1584, 1589, or 1589A or a conspiracy or attempt to commit such a violation; or*

(2) *to conceal or impair the investigation or prosecution of a violation of any section described in paragraph (1); or*

(3) *to prevent or restrict, without lawful authority, the person’s liberty to move or travel in interstate or foreign commerce, shall be fined under this title or imprisoned for not more than 5 years, or both.*

§ 1591. Mandatory restitution

(a) *Notwithstanding sections 3663 or 3663A, and in addition to any other civil or criminal penalties authorized by law, the court shall order restitution for any offense under this chapter.*

(b)(1) *The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mecha-*

nism) the full amount of the victim's losses, as determined by the court under paragraph (3) of this subsection.

(2) An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

(3) As used in this subsection, the term "full amount of the victim's losses" has the same meaning as provided in section 2259(b)(3) and shall in addition include the greater of the gross income or value to the defendant of the victim's services or labor or the value of the victim's labor as guaranteed under the minimum wage and overtime guarantees of the Fair Labor Standards Act (29 U.S.C. 201, et seq.).

(c) As used in this section, the term "victim" means the individual harmed as a result of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or a representative of the victim's estate, or another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named such representative or guardian.

§ 1592. General provisions

(a) In a prosecution under sections 1581, 1583, 1584, or 1589, a condition of involuntary servitude or peonage may be established by proof that the defendant obtained or maintained the labor or service of any person—

(1) by the use, or threatened use, of force, violence, physical restraint, or physical injury, or by extortion or the abuse or threatened abuse of law or the legal process;

(2) through representations made to any person that physical harm may occur to that person, or to another, in an effort to wrongfully obtain or maintain the labor or services of that person; or

(3) by the use of fraud, deceit, or misrepresentation toward any person in an effort to wrongfully obtain or maintain the labor or services of that person, where the person is a minor, one who is mentally disabled, or one who is otherwise particularly susceptible to coercion.

(b) An attempt or conspiracy to violate sections 1581, 1583, 1584, 1589, or 1589A shall be punishable in the same manner as a completed violation of each of these sections, respectively.

(c)(1) The court, in imposing sentence on any person convicted of a violation of this chapter, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person forfeit to the United States—

(A) such person's interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of such violation; and

(B) any property, real or personal, constituting or derived from, any proceeds that such person obtained, directly or indirectly, as a result of such violation.

(2) The criminal forfeiture of property under this subsection, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and

Control Act of 1970 (21 U.S.C. 853), except subsection (d) of that section.

(d)(1) The following shall be subject to forfeiture to the United States and no property right shall exist in them—

(A) any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter; and

(B) any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this chapter.

(2) The provisions of chapter 46 of this title relating to civil forfeitures shall extend to any seizure or civil forfeiture under this subsection.

(f) WITNESS PROTECTION.—Any violation of this chapter shall be considered an organized criminal activity or other serious offense for the purposes of application of chapter 224 (relating to witness protection).

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CHAPTER 96—RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

* * * * *

§ 1961. Definitions

As used in this chapter—

(1) “racketeering activity” means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891–894 (relating to extortionate credit transactions), section 1028 (relating to fraud and related activity in connection with identification documents), section 1029 (relating to fraud and related activity in connection with access devices), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), sections 1461–1465 (relating to obscene matter), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an in-

formant), section 1542 (relating to false statement in application and use of passport), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud and misuse of visas, permits, and other documents), sections 1581–1588 (relating to peonage and slavery), section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), *section 1589 (relating to trafficking into involuntary servitude, peonage, or slavery-like conditions), section 1589A (relating to sex trafficking of children or by force, fraud, or coercion)*, sections 2251, 2251A, 2252, and 2260 (relating to sexual exploitation of children), sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles), sections 2314 and 2315 (relating to interstate transportation of stolen property), section 2318 (relating to trafficking in counterfeit labels for phonorecords, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of a copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks), section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts), sections 2341–2346 (relating to trafficking in contraband cigarettes), sections 2421–24 (relating to white slave traffic), (C) any act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds), (D) any offense involving fraud connected with a case under title 11 (except a case under section 157 of this title), fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), punishable under any law of the United States, (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act, or (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain.