

Public Law 110–457
110th Congress

An Act

Dec. 23, 2008
[H.R. 7311]

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

William
Wilberforce
Trafficking
Victims
Protection
Reauthorization
Act of 2008.
22 USC 7101
note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008”.

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

Sec. 1. Short title; table of contents.

TITLE I—COMBATING INTERNATIONAL TRAFFICKING IN PERSONS

- Sec. 101. Interagency Task Force to Monitor and Combat Trafficking.
- Sec. 102. Office to Monitor and Combat Trafficking.
- Sec. 103. Prevention and prosecution of trafficking in foreign countries.
- Sec. 104. Assistance for victims of trafficking in other countries.
- Sec. 105. Increasing effectiveness of anti-trafficking programs.
- Sec. 106. Minimum standards for the elimination of trafficking.
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- Sec. 108. Research on domestic and international trafficking in persons.
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- Sec. 111. Sense of Congress regarding multilateral framework between labor exporting and labor importing countries.

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- Sec. 201. Protecting trafficking victims against retaliation.
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- Sec. 203. Protections, remedies, and limitations on issuance for A–3 and G–5 visas.
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Subtitle B—Assistance for Trafficking Victims

- Sec. 211. Assistance for certain nonimmigrant status applicants.
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- Sec. 231. Annual report by the Attorney General.
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 Sec. 233. Senior Policy Operating Group.
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TITLE III—AUTHORIZATIONS OF APPROPRIATIONS

- Sec. 301. Trafficking Victims Protection Act of 2000.
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- Sec. 401. Short title.
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TITLE I—COMBATING INTERNATIONAL TRAFFICKING IN PERSONS

SEC. 101. INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING.

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

SEC. 102. OFFICE TO MONITOR AND COMBAT TRAFFICKING.

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

(1) in the subsection heading, by striking “SUPPORT FOR THE TASK FORCE” and inserting “OFFICE TO MONITOR AND COMBAT TRAFFICKING”;

(2) by striking “The Secretary of State is authorized to” and inserting the following:

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

(3) by adding at the end the following:

“(2) COORDINATION OF CERTAIN ACTIVITIES.—

“(A) PARTNERSHIPS.—The Director, in coordination and cooperation with other officials at the Department of State involved in corporate responsibility, the Deputy Under Secretary for International Affairs of the Department of Labor, and other relevant officials of the United States Government, shall promote, build, and sustain partnerships between the United States Government and private entities (including foundations, universities, corporations, community-based organizations, and other nongovernmental organizations) to ensure that—

“(i) United States citizens do not use any item, product, or material produced or extracted with the use of labor from victims of severe forms of trafficking; and

“(ii) such entities do not contribute to trafficking in persons involving sexual exploitation.

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

“(i) all policy, funding, and programming decisions regarding funds made available for trafficking in persons programs that are centrally controlled by the Office to Monitor and Combat Trafficking; and

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

SEC. 103. PREVENTION AND PROSECUTION OF TRAFFICKING IN FOREIGN COUNTRIES.

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

President.

“(i) ADDITIONAL MEASURES TO PREVENT AND DETER TRAFFICKING.—The President shall establish and carry out programs to prevent and deter trafficking in persons, including—

“(1) technical assistance and other support to improve the capacity of foreign governments to investigate, identify, and carry out inspections of private entities, including labor recruitment centers, at which trafficking victims may be exploited, particularly exploitation involving forced and child labor;

“(2) technical assistance and other support for foreign governments and nongovernmental organizations to provide immigrant populations with information, in the native languages of the major immigrant groups of such populations, regarding the rights of such populations in the foreign country and local in-country nongovernmental organization-operated hotlines;

“(3) technical assistance to provide legal frameworks and other programs to foreign governments and nongovernmental organizations to ensure that—

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

“(B) labor recruitment firms are regulated; and

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

“(4) assistance to foreign governments to register vulnerable populations as citizens or nationals of the country to reduce the ability of traffickers to exploit such populations.”.

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

SEC. 104. ASSISTANCE FOR VICTIMS OF TRAFFICKING IN OTHER COUNTRIES.

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

(1) in paragraph (1)—

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

regional, and transnational aspects of trafficking in persons”; and

(B) by adding at the end the following:

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

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

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

(2) in paragraph (2), by adding at the end the following:

“In carrying out this paragraph, the Secretary and the Administrator shall take all appropriate steps to ensure that cooperative efforts among foreign countries are undertaken on a regional basis.”.

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

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

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

22 USC 7105a.

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

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

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

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

“(b) ELIGIBILITY.—

“(1) **IN GENERAL.—**An applicant desiring a grant, contract, or cooperative agreement under this Act shall certify that, to the extent practicable, persons or entities providing legal services, social services, health services, or other assistance have completed, or will complete, training in connection with trafficking in persons.

Certification.

President. “(2) DISCLOSURE.—If appropriate, applicants should indicate collaboration with nongovernmental organizations, including organizations with expertise in trafficking in persons.”

“(c) EVALUATION OF ANTI-TRAFFICKING PROGRAMS.—

“(1) IN GENERAL.—The President shall establish a system to evaluate the effectiveness and efficiency of the assistance provided under anti-trafficking programs established under this Act on a program-by-program basis in order to maximize the long-term sustainable development impact of such assistance.

“(2) REQUIREMENTS.—In carrying out paragraph (1), the President shall—

“(A) establish performance goals for the assistance described in paragraph (1), expressed in an objective and quantifiable form, to the extent practicable;

“(B) ensure that performance indicators are used for programs authorized under this Act to measure and assess the achievement of the performance goals described in subparagraph (A);

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

“(D) ensure that evaluations are conducted by subject matter experts in and outside the United States Government, to the extent practicable.

“(d) TARGETED USE OF ANTI-TRAFFICKING PROGRAMS.—In providing assistance under this division, the President should take into account the priorities and country assessments contained in the most recent report submitted by the Secretary of State to Congress pursuant to section 110(b).

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

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

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

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

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

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

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

(2) in subsection (b)—

(A) in paragraph (1), by striking the period at the end of the first sentence and inserting the following: “, including, as appropriate, requiring incarceration of individuals convicted of such acts. For purposes of the

preceding sentence, suspended or significantly-reduced sentences for convictions of principal actors in cases of severe forms of trafficking in persons shall be considered, on a case-by-case basis, whether to be considered an indicator of serious and sustained efforts to eliminate severe forms of trafficking in persons.”;

(B) in paragraph (2), by inserting before the period at the end the following: “, including by providing training to law enforcement and immigration officials regarding the identification and treatment of trafficking victims using approaches that focus on the needs of the victims”;

(C) in paragraph (3), by striking “measures to reduce the demand for commercial sex acts and for participation in international sex tourism by nationals of the country” and inserting “measures to establish the identity of local populations, including birth registration, citizenship, and nationality”; and

(D) by adding at the end the following:

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

“(A) commercial sex acts; and

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

SEC. 107. ACTIONS AGAINST GOVERNMENTS FAILING TO MEET MINIMUM STANDARDS.

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

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

“(i) IN GENERAL.—Except as provided under clause (ii), a country that is included on the special watch list described in subparagraph (A) for 2 consecutive years after the date of the enactment of this subparagraph, shall be included on the list of countries described in paragraph (1)(C).

“(ii) EXERCISE OF WAIVER AUTHORITY.—The President may waive the application of clause (i) for up to 2 years if the President determines, and reports credible evidence to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, that such a waiver is justified because—

“(I) the country has a written plan to begin making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking;

“(II) the plan, if implemented, would constitute making such significant efforts; and

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

(b) CLARIFICATION OF MEASURES AGAINST CERTAIN FOREIGN COUNTRIES.—Section 110(d)(1)(A)(ii) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(d)(1)(A)) is amended by inserting “such assistance to the government of the country for

the subsequent fiscal year and will not provide” after “will not provide”.

22 USC 7107
note.

(c) TRANSLATION OF TRAFFICKING IN PERSONS REPORT.—The Secretary of State shall—

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

Public
information.
Web site.

(2) ensure that the translations described in paragraph (1) are made available to the public through postings on the Internet website of the Department of State and other appropriate websites.

SEC. 108. RESEARCH ON DOMESTIC AND INTERNATIONAL TRAFFICKING IN PERSONS.

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

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

Deadline.

“(5) An effective mechanism for quantifying the number of victims of trafficking on a national, regional, and international basis, which shall include, not later than 2 years after the date of the enactment of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, the establishment and maintenance of an integrated database within the Human Smuggling and Trafficking Center.”; and

(2) by amending subsection (b) to read as follows:

“(b) ROLE OF HUMAN SMUGGLING AND TRAFFICKING CENTER.—

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

“(2) DATABASE.—The database described in subsection (a)(5) shall be established by combining all applicable data collected by each Federal department and agency represented on the Interagency Task Force to Monitor and Combat Trafficking, consistent with the protection of sources and methods, and, to the maximum extent practicable, applicable data from relevant international organizations, to—

“(A) improve the coordination of the collection of data related to trafficking in persons by each agency of the United States Government that collects such data;

“(B) promote uniformity of such data collection and standards and systems related to such collection;

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

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

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

“(3) CONSULTATION.—The database established in accordance with paragraph (2) shall be maintained in consultation

with the Director of the Office to Monitor and Combat Trafficking in Persons of the Department of State.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$2,000,000 to the Human Smuggling and Trafficking Center for each of the fiscal years 2008 through 2011 to carry out the activities described in this subsection.”.

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

(1) in subparagraph (C), by striking “and” at the end;
 (2) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(E) reporting and analysis on the emergence or shifting of global patterns in human trafficking, including data on the number of victims trafficked to, through, or from major source and destination countries, disaggregated by nationality, gender, and age, to the extent possible; and

“(F) emerging issues in human trafficking.”.

SEC. 109. PRESIDENTIAL AWARD FOR EXTRAORDINARY EFFORTS TO COMBAT TRAFFICKING IN PERSONS.

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

“SEC. 112B. PRESIDENTIAL AWARD FOR EXTRAORDINARY EFFORTS TO COMBAT TRAFFICKING IN PERSONS.

22 USC 7109b.

“(a) ESTABLISHMENT OF AWARD.—The President is authorized to establish an award, to be known as the ‘Presidential Award for Extraordinary Efforts To Combat Trafficking in Persons’, for extraordinary efforts to combat trafficking in persons. To the maximum extent practicable, the Secretary of State shall present the award annually to not more than 5 individuals or organizations, including—

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

“(2) United States or foreign nongovernmental organizations.

“(b) SELECTION.—The President shall establish procedures for selecting recipients of the award authorized under subsection (a).

Procedures.

“(c) CEREMONY.—The Secretary of State shall host an annual ceremony for recipients of the award authorized under subsection (a) as soon as practicable after the date on which the Secretary submits to Congress the report required under section 110(b)(1). The Secretary of State may pay the travel costs of each recipient and a guest of each recipient who attends the ceremony.

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

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

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

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

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

(B) includes an initial list of goods described in paragraph (2)(C) of such section; and

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

(b) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” has the meaning given the term in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102).

SEC. 111. SENSE OF CONGRESS REGARDING MULTILATERAL FRAMEWORK BETWEEN LABOR EXPORTING AND LABOR IMPORTING COUNTRIES.

It is the sense of Congress that the Secretary of State, in conjunction with the International Labour Organization, the United Nations Office of Drug and Crime Prevention, and other relevant international and nongovernmental organizations, should seek to establish a multilateral framework between labor exporting and labor importing countries to ensure that workers migrating between such countries are protected from trafficking in persons.

TITLE II—COMBATING TRAFFICKING IN PERSONS IN THE UNITED STATES

Subtitle A—Ensuring Availability of Possible Witnesses and Informants

SEC. 201. PROTECTING TRAFFICKING VICTIMS AGAINST RETALIATION.

(a) T VISAS.—Section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)) is amended—

(1) in clause (i)—

(A) in the matter preceding subclause (I), by striking “Security and the Attorney General jointly;” and inserting “Security, in consultation with the Attorney General;”;

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

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

(D) in subclause (III)—

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

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

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

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

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

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

(2) in clause (ii)—

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

(C) by adding at the end the following:

“(III) any parent or unmarried sibling under 18 years of age of an alien described in subclause (I) or (II) who the Secretary of Homeland Security, in consultation with the law enforcement officer investigating a severe form of trafficking, determines faces a present danger of retaliation as a result of the alien’s escape from the severe form of trafficking or cooperation with law enforcement.”; and
(3) by striking clause (iii).

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

(1) in subparagraph (B)—

(A) by striking “subparagraph (A) if a Federal” and inserting the following: “subparagraph (A) if—
“(i) a Federal”;

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

(C) by adding at the end the following:

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

“(iii) the Secretary of Homeland Security determines that an extension of the period of such nonimmigrant status is warranted due to exceptional circumstances.”; and

(2) by adding at the end the following:

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

(c) CONDITIONS ON NONIMMIGRANT STATUS FOR CERTAIN CRIME VICTIMS.—Section 214(p)(6) of the Immigration and Nationality Act (8 U.S.C. 1184(p)(6)) is amended by adding at the end the following: “The Secretary of Homeland Security may extend, beyond the 4-year period authorized under this section, the authorized period of status of an alien as a nonimmigrant under section 101(a)(15)(U) if the Secretary determines that an extension of such period is warranted due to exceptional circumstances. Such alien’s nonimmigrant status shall be extended beyond the 4-year period authorized under this section if the alien is eligible for relief under section 245(m) and is unable to obtain such relief because regulations have not been issued to implement such section and shall be extended during the pendency of an application for adjustment of status under section 245(m). The Secretary may grant work authorization to any alien who has a pending, bona fide application for nonimmigrant status under section 101(a)(15)(U).”.

(d) ADJUSTMENT OF STATUS FOR TRAFFICKING VICTIMS.—Section 245(l) of the Immigration and Nationality Act (8 U.S.C. 1255(l)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking “the Attorney General,” and inserting “in the opinion of the Secretary of Homeland Security, in consultation with the Attorney General, as appropriate”;

(B) in subparagraph (B)—

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

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

(C) in subparagraph (C)—

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

(ii) in clause (ii), by striking “, or in the case of subparagraph (C)(i), the Attorney General, as appropriate”;

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

“(iii) was younger than 18 years of age at the time of the victimization qualifying the alien for relief under section 101(a)(15)(T).”;

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

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

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

(3) by adding at the end the following:

Waiver authority.

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

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

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

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

(2) by adding at the end the following:

Consultation.

“(5)(A) The Secretary of Homeland Security shall consult with the Attorney General, as appropriate, in making a determination under paragraph (1) whether affirmative evidence demonstrates that the alien unreasonably refused to provide assistance to a Federal law enforcement official, Federal prosecutor, Federal judge, or other Federal authority investigating or prosecuting criminal activity described in section 101(a)(15)(U)(iii).

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

8 USC 1101 note.

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

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

(2) apply to applications for immigration benefits filed on or after such date. Applicability.

SEC. 202. PROTECTIONS FOR DOMESTIC WORKERS AND OTHER NON-IMMIGRANTS. 8 USC 1375b.

(a) INFORMATION PAMPHLET.—

(1) DEVELOPMENT AND DISTRIBUTION.—The Secretary of State, in consultation with the Secretary of Homeland Security, the Attorney General, and the Secretary of Labor, shall develop an information pamphlet on legal rights and resources for aliens applying for employment- or education-based nonimmigrant visas.

(2) CONSULTATION.—In developing the information pamphlet under paragraph (1), the Secretary of State shall consult with nongovernmental organizations with expertise on the legal rights of workers and victims of severe forms of trafficking in persons.

(b) CONTENTS.—The information pamphlet developed under subsection (a) shall include information concerning items such as—

(1) the nonimmigrant visa application processes, including information about the portability of employment;

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

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

(4) the legal rights of immigrant victims of trafficking in persons and worker exploitation, including—

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

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

(C) the right to report abuse without retaliation;

(D) the right of the nonimmigrant to relinquish possession of his or her passport to his or her employer;

(E) the requirement of an employment contract between the employer and the nonimmigrant; and

(F) an explanation of the rights and protections included in the contract described in subparagraph (E); and

(5) information about nongovernmental organizations that provide services for victims of trafficking in persons and worker exploitation, including—

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

(B) the Operation Rescue and Restore hotline; and

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

(c) TRANSLATION.—

(1) IN GENERAL.—To best serve the language groups having the greatest concentration of employment-based nonimmigrant visas, the Secretary of State shall translate the information pamphlet developed under subsection (a) into all relevant foreign languages, to be determined by the Secretary based on the languages spoken by the greatest concentrations of employment- or education-based nonimmigrant visa applicants.

Deadline.

(2) REVISION.—Every 2 years, the Secretary of State, in consultation with the Attorney General and the Secretary of Homeland Security, shall determine the specific languages into which the information pamphlet will be translated based on the languages spoken by the greatest concentrations of employment- or education-based nonimmigrant visa applicants.

(d) AVAILABILITY AND DISTRIBUTION.—

(1) POSTING ON FEDERAL WEBSITES.—The information pamphlet developed under subsection (a) shall be posted on the websites of the Department of State, the Department of Homeland Security, the Department of Justice, the Department of Labor, and all United States consular posts processing applications for employment- or education-based nonimmigrant visas.

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

(A) government agency;

(B) nongovernmental advocacy organization; or

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

(3) DEADLINE FOR PAMPHLET DEVELOPMENT AND DISTRIBUTION.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall distribute and make available the information pamphlet developed under subsection (a) in all the languages referred to in subsection (c).

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

(1) INTERVIEWS.—A consular officer conducting an interview of an alien for an employment-based nonimmigrant visa shall—

(A)(i) confirm that the alien has received, read, and understood the contents of the pamphlet described in subsections (a) and (b); and

(ii) if the alien has not received, read, or understood the contents of the pamphlet described in subsections (a) and (b), distribute and orally disclose to the alien the information described in paragraphs (2) and (3) in a language that the alien understands; and

(B) offer to answer any questions the alien may have regarding the contents of the pamphlet described in subsections (a) and (b).

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

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

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

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

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

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

(iii) the right to report abuse without retaliation.

(3) VICTIM SERVICES.—In carrying out the disclosure requirement under this subsection, the consular officer shall

disclose to the alien the availability of services for victims of human trafficking and worker exploitation in the United States, including victim services complaint hotlines.

(f) DEFINITIONS.—In this section:

(1) EMPLOYMENT- OR EDUCATION-BASED NONIMMIGRANT VISA.—The term “employment- or education-based non-immigrant visa” means—

(A) a nonimmigrant visa issued under subparagraph (A)(iii), (G)(v), (H), or (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

(B) any nonimmigrant visa issued to a personal or domestic servant who is accompanying or following to join an employer.

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

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

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

SEC. 203. PROTECTIONS, REMEDIES, AND LIMITATIONS ON ISSUANCE FOR A-3 AND G-5 VISAS. 8 USC 1375c.

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

(1) CONTRACT REQUIREMENT.—Notwithstanding any other provision of law, the Secretary of State may not issue—

(A) an A-3 visa unless the applicant is employed, or has signed a contract to be employed containing the requirements set forth in subsection (d)(2), by an officer of a diplomatic mission or consular post; or

(B) a G-5 visa unless the applicant is employed, or has signed a contract to be employed by an employee in an international organization.

(2) SUSPENSION REQUIREMENT.—Notwithstanding any other provision of law, the Secretary shall suspend, for such period as the Secretary determines necessary, the issuance of A-3 visas or G-5 visas to applicants seeking to work for officials of a diplomatic mission or an international organization, if the Secretary determines that there is credible evidence that 1 or more employees of such mission or international organization have abused or exploited 1 or more nonimmigrants holding an A-3 visa or a G-5 visa, and that the diplomatic mission or international organization tolerated such actions.

(3) ACTION BY DIPLOMATIC MISSIONS OR INTERNATIONAL ORGANIZATIONS.—The Secretary may suspend the application of the limitation under paragraph (2) if the Secretary determines and reports to the appropriate congressional committees that a mechanism is in place to ensure that such abuse or exploitation does not reoccur with respect to any alien employed by an employee of such mission or institution.

(b) PROTECTIONS AND REMEDIES FOR A-3 AND G-5 NON-IMMIGRANTS EMPLOYED BY DIPLOMATS AND STAFF OF INTERNATIONAL ORGANIZATIONS.—

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

(A) the visa applicant has executed a contract with the employer or prospective employer containing provisions described in paragraph (2); and

(B) a consular officer has conducted a personal interview with the applicant outside the presence of the employer or any recruitment agent in which the officer reviewed the terms of the contract and the provisions of the pamphlet required under section 202.

(2) MANDATORY CONTRACT.—The contract between the employer and domestic worker required under paragraph (1) shall include—

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

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

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

(3) TRAINING OF CONSULAR OFFICERS.—The Secretary shall provide appropriate training to consular officers on the fair labor standards described in the pamphlet required under section 202, trafficking in persons, and the provisions of this section.

(4) RECORD KEEPING.—

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

(i) information about when the nonimmigrant entered and permanently exited the country of residence;

(ii) the official title, contact information, and immunity level of the employer; and

(iii) information regarding any allegations of employer abuse received by the Department of State.

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

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

(A) EFFECT OF COMPLAINT FILING.—Except as provided in subparagraph (B), if a nonimmigrant holding an A-3 visa or a G-5 visa working in the United States files a civil action under section 1595 of title 18, United States Code, or a civil action regarding a violation of any of the terms contained in the contract or violation of any other Federal, State, or local law in the United States governing the terms and conditions of employment of the nonimmigrant that are associated with acts covered by such section, the Attorney General and the Secretary of Homeland Security shall permit the nonimmigrant to remain legally in the United States for time sufficient to fully and effectively participate in all legal proceedings related to such action.

(B) EXCEPTION.—An alien described in subparagraph (A) may be deported before the conclusion of the legal

proceedings related to a civil action described in such subparagraph if such alien is—

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

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

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

(2) AUTHORIZATION TO WORK.—The Attorney General and the Secretary of Homeland Security shall authorize any nonimmigrant described in paragraph (1) to engage in employment in the United States during the period the nonimmigrant is in the United States pursuant to paragraph (1).

(d) STUDY AND REPORT.—

(1) INVESTIGATION REPORT.—

(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and every 2 years thereafter for the following 10 years, the Secretary shall submit a report to the appropriate congressional committees on the implementation of this section.

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

(i) an assessment of the actions taken by the Department of State and the Department of Justice to investigate allegations of trafficking or abuse of nonimmigrants holding an A-3 visa or a G-5 visa; and

(ii) the results of such investigations.

(2) FEASIBILITY OF OVERSIGHT OF EMPLOYEES OF DIPLOMATS AND REPRESENTATIVES OF OTHER INSTITUTIONS REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees on the feasibility of—

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

(B) a range of compensation approaches, such as a bond program, compensation fund, or insurance scheme, to ensure that such nonimmigrants receive appropriate compensation if their employers violate the terms of their employment contracts; and

(C) with respect to each proposed compensation approach described in subparagraph (B), an evaluation and proposal describing the proposed processes for—

(i) adjudicating claims of rights violations;

(ii) determining the level of compensation; and

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

(e) ASSISTANCE TO LAW ENFORCEMENT INVESTIGATIONS.—The Secretary shall cooperate, to the fullest extent possible consistent

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

(f) DEFINITIONS.—In this section:

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

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

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

(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

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

(B) the Committee on Foreign Relations and the Committee on the Judiciary of the Senate.

SEC. 204. RELIEF FOR CERTAIN VICTIMS PENDING ACTIONS ON PETITIONS AND APPLICATIONS FOR RELIEF.

Section 237 of the Immigration and Nationality Act (8 U.S.C. 1227) is amended by adding at the end the following:

“(d)(1) If the Secretary of Homeland Security determines that an application for nonimmigrant status under subparagraph (T) or (U) of section 101(a)(15) filed for an alien in the United States sets forth a prima facie case for approval, the Secretary may grant the alien an administrative stay of a final order of removal under section 241(c)(2) until—

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

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

“(2) The denial of a request for an administrative stay of removal under this subsection shall not preclude the alien from applying for a stay of removal, deferred action, or a continuance or abeyance of removal proceedings under any other provision of the immigration laws of the United States.

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

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

SEC. 205. EXPANSION OF AUTHORITY TO PERMIT CONTINUED PRESENCE IN THE UNITED STATES.

(a) EXPANSION OF AUTHORITY.—

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

“(3) AUTHORITY TO PERMIT CONTINUED PRESENCE IN THE UNITED STATES.—

“(A) TRAFFICKING VICTIMS.—

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

“(ii) SAFETY.—While investigating and prosecuting suspected traffickers, Federal law enforcement officials described in clause (i) shall endeavor to make reasonable efforts to protect the safety of trafficking victims, including taking measures to protect trafficked persons and their family members from intimidation, threats of reprisals, and reprisals from traffickers and their associates.

“(iii) CONTINUATION OF PRESENCE.—The Secretary shall permit an alien described in clause (i) who has filed a civil action under section 1595 of title 18, United States Code, to remain in the United States until such action is concluded. If the Secretary, in consultation with the Attorney General, determines that the alien has failed to exercise due diligence in pursuing such action, the Secretary may revoke the order permitting the alien to remain in the United States.

“(iv) EXCEPTION.—Notwithstanding clause (iii), an alien described in such clause may be deported before the conclusion of the administrative and legal proceedings related to a complaint described in such clause if such alien is inadmissible under paragraph (2)(A)(i)(II), (2)(B), (2)(C), (2)(E), (2)(H), (2)(I), (3)(A)(i), (3)(A)(iii), (3)(B), or (3)(C) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)).

“(B) PAROLE FOR RELATIVES.—Law enforcement officials may submit written requests to the Secretary of Homeland Security, in accordance with section 240A(b)(6) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(6)), to permit the parole into the United States of certain relatives of an alien described in subparagraph (A)(i).

“(C) STATE AND LOCAL LAW ENFORCEMENT.—The Secretary of Homeland Security, in consultation with the Attorney General, shall—

“(i) develop materials to assist State and local law enforcement officials in working with Federal law enforcement to obtain continued presence for victims of a severe form of trafficking in cases investigated or prosecuted at the State or local level; and

“(ii) distribute the materials developed under clause (i) to State and local law enforcement officials.”.

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

(1)—

(A) shall take effect on the date of the enactment of this Act;

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

22 USC 7105
note.

Applicability.

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

(b) PAROLE FOR DERIVATIVES OF TRAFFICKING VICTIMS.—Section 240A(b) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)) is amended by adding at the end the following:

“(6) RELATIVES OF TRAFFICKING VICTIMS.—

“(A) IN GENERAL.—Upon written request by a law enforcement official, the Secretary of Homeland Security may parole under section 212(d)(5) any alien who is a relative of an alien granted continued presence under section 107(c)(3)(A) of the Trafficking Victims Protection Act (22 U.S.C. 7105(c)(3)(A)), if the relative—

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

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

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

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

“(B) DURATION OF PAROLE.—

“(i) IN GENERAL.—The Secretary may extend the parole granted under subparagraph (A) until the final adjudication of the application filed by the principal alien under section 101(a)(15)(T)(ii).

“(ii) OTHER LIMITS ON DURATION.—If an application described in clause (i) is not filed, the parole granted under subparagraph (A) may extend until the later of—

“(I) the date on which the principal alien’s authority to remain in the United States under section 107(c)(3)(A) of the Trafficking Victims Protection Act (22 U.S.C. 7105(c)(3)(A)) is terminated; or

“(II) the date on which a civil action filed by the principal alien under section 1595 of title 18, United States Code, is concluded.

“(iii) DUE DILIGENCE.—Failure by the principal alien to exercise due diligence in filing a visa petition on behalf of an alien described in clause (i) or (ii) of subparagraph (A), or in pursuing the civil action described in clause (ii)(II) (as determined by the Secretary of Homeland Security in consultation with the Attorney General), may result in revocation of parole.

“(C) OTHER LIMITATIONS.—A relative may not be granted parole under this paragraph if—

“(i) the Secretary of Homeland Security or the Attorney General has reason to believe that the relative was knowingly complicit in the trafficking of

an alien permitted to remain in the United States under section 107(c)(3)(A) of the Trafficking Victims Protection Act (22 U.S.C. 7105(c)(3)(A)); or

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

Subtitle B—Assistance for Trafficking Victims

SEC. 211. ASSISTANCE FOR CERTAIN NONIMMIGRANT STATUS APPLICANTS.

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

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

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

(3) by inserting after paragraph (3) the following:

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

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications for public benefits and public benefits provided on or after the date of the enactment of this Act without regard to whether regulations have been implemented to carry out such amendments.

Applicability.
8 USC 1641 note.

SEC. 212. INTERIM ASSISTANCE FOR CHILDREN.

(a) IN GENERAL.—Section 107(b)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(1)) is amended—

(1) in subparagraph (E)(i)(I), by inserting “or is unable to cooperate with such a request due to physical or psychological trauma” before the semicolon; and

(2) by adding at the end the following:

“(F) ELIGIBILITY FOR INTERIM ASSISTANCE OF CHILDREN.—

“(i) DETERMINATION.—Upon receiving credible information that a child described in subparagraph (C)(ii)(I) who is seeking assistance under this paragraph may have been subjected to a severe form of trafficking in persons, the Secretary of Health and Human Services shall promptly determine if the child is eligible for interim assistance under this paragraph. The Secretary shall have exclusive authority to make interim eligibility determinations under this clause. A determination of interim eligibility under this clause shall not affect the independent determination whether a child is a victim of a severe form of trafficking.

“(ii) NOTIFICATION.—The Secretary of Health and Human Services shall notify the Attorney General and the Secretary of Homeland Security not later than 24 hours after all interim eligibility determinations have been made under clause (i).

Deadline.

“(iii) DURATION.—Assistance under this paragraph may be provided to individuals determined to be eligible under clause (i) for a period of up to 90 days and may be extended for an additional 30 days.

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

“(I) ELIGIBILITY DETERMINATION.—Before the expiration of the period for interim assistance under clause (iii), the Secretary of Health and Human Services shall determine if the child referred to in clause (i) is eligible for assistance under this paragraph.

“(II) CONSULTATION.—In making a determination under subclause (I), the Secretary shall consult with the Attorney General, the Secretary of Homeland Security, and nongovernmental organizations with expertise on victims of severe form of trafficking.

“(III) LETTER OF ELIGIBILITY.—If the Secretary, after receiving information the Secretary believes, taken as a whole, indicates that the child is eligible for assistance under this paragraph, the Secretary shall issue a letter of eligibility. The Secretary may not require that the child cooperate with law enforcement as a condition for receiving such letter of eligibility.

Deadline.

“(G) NOTIFICATION OF CHILDREN FOR INTERIM ASSISTANCE.—Not later than 24 hours after a Federal, State, or local official discovers that a person who is under 18 years of age may be a victim of a severe form of trafficking in persons, the official shall notify the Secretary of Health and Human Services to facilitate the provision of interim assistance under subparagraph (F).”

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

(1) by inserting “, the Department of Homeland Security, the Department of Health and Human Services,” after “the Department of State”; and

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

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

(a) AMENDMENTS TO TRAFFICKING VICTIMS PROTECTION ACT OF 2000.—

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

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

“(1) IN GENERAL.—The Secretary of Health and Human Services and the Attorney General, in consultation with the Secretary of Labor, shall establish a program to assist United

States citizens and aliens lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))) who are victims of severe forms of trafficking. In determining the assistance that would be most beneficial for such victims, the Secretary and the Attorney General shall consult with nongovernmental organizations that provide services to victims of severe forms of trafficking in the United States.

Consultation.

“(2) USE OF EXISTING PROGRAMS.—In addition to specialized services required for victims described in paragraph (1), the program established pursuant to paragraph (1) shall—

“(A) facilitate communication and coordination between the providers of assistance to such victims;

“(B) provide a means to identify such providers; and

“(C) provide a means to make referrals to programs for which such victims are already eligible, including programs administered by the Department of Justice and the Department of Health and Human Services.

“(3) GRANTS.—

“(A) IN GENERAL.—The Secretary of Health and Human Services and the Attorney General may award grants to States, Indian tribes, units of local government, and non-profit, nongovernmental victim service organizations to develop, expand, and strengthen victim service programs authorized under this subsection.

“(B) MAXIMUM FEDERAL SHARE.—The Federal share of a grant awarded under this paragraph may not exceed 75 percent of the total costs of the projects described in the application submitted by the grantee.”

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

(A) in subsection (b)—

(i) by striking “To carry out” and inserting the following:

“(1) ELIGIBILITY FOR BENEFITS AND ASSISTANCE.—To carry out”; and

(ii) by adding at the end the following:

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

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

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

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

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

(B) in subsection (d)—

(i) by striking “To carry out the purposes of section 107(b)” and inserting the following:

“(A) ELIGIBILITY FOR BENEFITS AND ASSISTANCE.—To carry out the purposes of section 107(b)”;

(ii) by striking “To carry out the purposes of section 134” and inserting the following:

“(B) ASSISTANCE TO FOREIGN COUNTRIES.—To carry out the purposes of section 134”; and

(iii) by adding at the end the following:

“(C) ADDITIONAL BENEFITS FOR TRAFFICKING VICTIMS.—To carry out the purposes of section 107(f), there are authorized to be appropriated to the Attorney General—

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

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

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

“(iv) \$7,000,000 for fiscal year 2011.”.

(3) TECHNICAL ASSISTANCE.—Section 107(b)(2)(B)(ii) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(2)(B)(ii)) is amended to read as follows:

“(ii) 5 percent for training and technical assistance, including increasing capacity and expertise on security for and protection of service providers from intimidation or retaliation for their activities.”.

(b) STUDY.—

(1) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall submit a report to the appropriate congressional committees that identifies the existence and extent of any service gap between victims described in section 107(b)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105) and individuals described in section 107(f) of such Act, as amended by section 213(a) of this Act.

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

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

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

(C) investigate any impediments to the access of the victims described in paragraph (1) to government-funded services targeted to victims of severe forms of trafficking;

(D) investigate the effect of trafficking service-provider infrastructure development, continuity of care, and availability of caseworkers on the eventual restoration and rehabilitation of the victims described in paragraph (1); and

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

Deadline.
Reports.

Subtitle C—Penalties Against Traffickers and Other Crimes

SEC. 221. RESTITUTION OF FORFEITED ASSETS; ENHANCEMENT OF CIVIL ACTION.

Chapter 77 of title 18, United States Code, is amended—

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

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

(2) in section 1595—

(A) in subsection (a)—

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

(ii) by inserting “(or whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter)” after “perpetrator”; and

(B) by adding at the end the following:

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

Deadline.

SEC. 222. ENHANCING PENALTIES FOR TRAFFICKING OFFENSES.

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

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

(2) by inserting “(1)” before “If, after a hearing”;

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

(4) by inserting “(3)” before “Subject to rebuttal”;

(5) by striking “paragraph (1) of this subsection” each place it appears and inserting “subparagraph (A)”;

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

(A) by striking “committed an offense” and inserting the following: “committed—

“(A) an offense”;

(B) by striking “46, an offense” and inserting the following: “46;

“(B) an offense”;

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

“(C) an offense”; and

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

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

“(E) an offense”.

(b) PREVENTING OBSTRUCTION.—

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

“§ 1583. Enticement into slavery

“(a) Whoever—

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

“(2) entices, persuades, or induces any other person to go on board any vessel or to any other place with the intent that he or she may be made or held as a slave, or sent out of the country to be so made or held; or

“(3) obstructs, or attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be fined under this title, imprisoned not more than 20 years, or both.

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

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

“(2) the violation includes kidnaping, an attempt to kidnap, aggravated sexual abuse, an attempt to commit aggravated sexual abuse, or an attempt to kill.”.

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

(A) by striking “Whoever” and inserting the following: “(a) Whoever”; and

(B) by adding at the end the following:

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

(3) PUNISHING FINANCIAL GAIN FROM TRAFFICKED LABOR.—Section 1589 of such title is amended to read as follows:

“SEC. 1589. FORCED LABOR.

“(a) Whoever knowingly provides or obtains the labor or services of a person by any one of, or by any combination of, the following means—

“(1) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person;

“(2) by means of serious harm or threats of serious harm to that person or another person;

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

“(4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint, shall be punished as provided under subsection (d).

“(b) Whoever knowingly benefits, financially or by receiving anything of value, from participation in a venture which has engaged in the providing or obtaining of labor or services by any of the means described in subsection (a), knowing or in reckless disregard of the fact that the venture has engaged in the providing or obtaining of labor or services by any of such means, shall be punished as provided in subsection (d).

“(c) In this section:

“(1) The term ‘abuse or threatened abuse of law or legal process’ means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed,

in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

“(2) The term ‘serious harm’ means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.

“(d) Whoever violates this section shall be fined under this title, imprisoned not more than 20 years, or both. If death results from a violation of this section, or if the violation includes kidnapping, an attempt to kidnap, aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title, imprisoned for any term of years or life, or both.”.

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

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

“(a) Whoever”; and

(B) by adding at the end the following:

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

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

(A) in subsection (a)—

(i) in paragraph (1), by striking “or obtains” and inserting “obtains, or maintains”; and

(ii) in the matter following paragraph (2), by striking “that force, fraud, or coercion described in subsection (c)(2)” and inserting “, or in reckless disregard of the fact, that means of force, threats of force, fraud, coercion described in subsection (e)(2), or any combination of such means”;

(B) by redesignating subsection (c) as subsection (e);

(C) in subsection (b)(1), by striking “force, fraud, or coercion” and inserting “means of force, threats of force, fraud, or coercion described in subsection (e)(2), or by any combination of such means”;

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

“(c) In a prosecution under subsection (a)(1) in which the defendant had a reasonable opportunity to observe the person so recruited, enticed, harbored, transported, provided, obtained or maintained, the Government need not prove that the defendant knew that the person had not attained the age of 18 years.

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

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

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

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

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

“(1) The term ‘abuse or threatened abuse of law or legal process’ means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any

manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.”; and

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

“(4) The term ‘serious harm’ means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm.”.

(6) UNLAWFUL CONDUCT.—Section 1592 of such title is amended by adding at the end the following:

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

(c) HOLDING CONSPIRATORS ACCOUNTABLE.—Section 1594 of title 18, United States Code, is amended—

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

(2) by inserting after subsection (a) the following:

“(b) Whoever conspires with another to violate section 1581, 1583, 1589, 1590, or 1592 shall be punished in the same manner as a completed violation of such section.

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

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

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

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

“Whoever knowingly benefits, financially or by receiving anything of value, from participation in a venture which has engaged in any act in violation of section 1581(a), 1592, or 1595(a), knowing or in reckless disregard of the fact that the venture has engaged in such violation, shall be fined under this title or imprisoned in the same manner as a completed violation of such section.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1593 the following:

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

(e) RETALIATION IN FOREIGN LABOR CONTRACTING.—Chapter 63 of title 18, United States Code, is amended—

(1) in the chapter heading, by adding at the end the following: **“AND OTHER FRAUD OFFENSES”**;

(2) by adding at the end the following:

“§ 1351. Fraud in foreign labor contracting

“Whoever knowingly and with intent to defraud recruits, solicits or hires a person outside the United States for purposes of employment in the United States by means of materially false or fraudulent pretenses, representations or promises regarding that employment shall be fined under this title or imprisoned for not more than 5 years, or both.”; and

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

“1351. Fraud in foreign labor contracting.”.

(f) TIGHTENING IMMIGRATION PROHIBITIONS.—

(1) GROUND OF INADMISSIBILITY FOR TRAFFICKING.—Section 212(a)(2)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(H)(i)) is amended by striking “who is listed in a report submitted pursuant to section 111(b) of the Trafficking Victims Protection Act of 2000” and inserting “who commits or conspires to commit human trafficking offenses in the United States or outside the United States”.

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

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

(g) AMENDMENT TO SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and, if appropriate, amend the sentencing guidelines and policy statements applicable to persons convicted of alien harboring to ensure conformity with the sentencing guidelines applicable to persons convicted of promoting a commercial sex act if—

28 USC 994 note.

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

(2) the defendant to be sentenced is an organizer, leader, manager, or supervisor of the criminal activity.

SEC. 223. JURISDICTION IN CERTAIN TRAFFICKING OFFENSES.

(a) IN GENERAL.—Chapter 77 of title 18, United States Code, is amended by adding at the end the following:

“§ 1596. Additional jurisdiction in certain trafficking offenses

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

“(1) an alleged offender is a national of the United States or an alien lawfully admitted for permanent residence (as those terms are defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)); or

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

“(b) LIMITATION ON PROSECUTIONS OF OFFENSES PROSECUTED IN OTHER COUNTRIES.—No prosecution may be commenced against a person under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting such

offense, except upon the approval of the Attorney General or the Deputy Attorney General (or a person acting in either such capacity), which function of approval may not be delegated.”

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

“1596. Additional jurisdiction in certain trafficking offenses.”

SEC. 224. BAIL CONDITIONS, SUBPOENAS, AND REPEAT OFFENDER PENALTIES FOR SEX TRAFFICKING.

(a) RELEASE AND DETENTION.—Subsections (f)(1)(A) and (g)(1) of section 3142 of title 18, United States Code, are amended by striking “violence,” each place such term appears and inserting “violence, a violation of section 1591,”

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

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

22 USC 7101
note.

SEC. 225. PROMOTING EFFECTIVE STATE ENFORCEMENT.

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

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

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

(b) MODEL STATE CRIMINAL PROVISIONS.—In addition to any model State antitrafficking statutes in effect on the date of the enactment of this Act, the Attorney General shall facilitate the promulgation of a model State statute that—

(1) furthers a comprehensive approach to investigation and prosecution through modernization of State and local prostitution and pandering statutes; and

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

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

Web site.

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

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

Subtitle D—Activities of the United States Government

SEC. 231. ANNUAL REPORT BY THE ATTORNEY GENERAL.

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

(1) in subparagraph (A)—

(A) by striking “section 107(b)” and inserting “subsections (b) and (f) of section 107”; and

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

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

(3) by redesignating subparagraph (H) as subparagraph (J); and

(4) by inserting after subparagraph (G) the following:

“(H) activities by the Department of Defense to combat trafficking in persons, including—

“(i) educational efforts for, and disciplinary actions taken against, members of the United States Armed Forces;

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

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

“(I) activities or actions by Federal departments and agencies to enforce—

“(i) section 106(g) and any similar law, regulation, or policy relating to United States Government contractors and their employees or United States Government subcontractors and their employees that engage in severe forms of trafficking in persons, the procurement of commercial sex acts, or the use of forced labor, including debt bondage;

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

“(iii) prohibitions on the procurement by the United States Government of items or services produced by slave labor, consistent with Executive Order 13107 (December 10, 1998); and”.

SEC. 232. INVESTIGATION BY THE INSPECTORS GENERAL.

(a) **IN GENERAL.**—For each of the fiscal years 2010 through 2012, the Inspectors General of the Department of Defense, the Department of State, and the United States Agency for International Development shall investigate a sample of the contracts described in subsection (b).

(b) **CONTRACTS DESCRIBED.**—

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

(A) confiscation of an employee’s passport;

(B) restriction on an employee’s mobility;

(C) abrupt or evasive repatriation of an employee;

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

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

(2) CONSULTATION AND INFORMATION RECEIVED.—In determining the type of contact that should be investigated pursuant to subsection (a), the Inspectors General shall—

(A) consult with the Director of the Office to Combat Trafficking in Persons of the Department of State; and

(B) take into account any credible information received regarding report of trafficking in persons.

(c) CONGRESSIONAL NOTIFICATION.—

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

(A) summarizing the findings of the investigations conducted in the previous year, including any findings regarding trafficking in persons or any improvements needed to prevent trafficking in persons; and

(B) in the case of any contractor or subcontractor with regard to which the Inspector General has found substantial evidence of trafficking in persons, report as to—

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

(ii) whether or not the case has been treated in accordance with section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104) (relating to termination of certain grants, contracts and cooperative agreements).

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

(3) CONGRESSIONAL COMMITTEES.—The committees list in this paragraph are—

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

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

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

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

SEC. 233. SENIOR POLICY OPERATING GROUP.

Section 206 of the Trafficking Victims Protection Reauthorization Act of 2005 (42 U.S.C. 14044d) is amended by striking “, as the department or agency determines appropriate,”.

SEC. 234. PREVENTING UNITED STATES TRAVEL BY TRAFFICKERS.

Section 212(a)(2)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(H)(i)) is amended by striking “consular officer” and inserting “consular officer, the Secretary of Homeland Security, the Secretary of State,”.

8 USC 1232.

SEC. 235. ENHANCING EFFORTS TO COMBAT THE TRAFFICKING OF CHILDREN.

(a) COMBATING CHILD TRAFFICKING AT THE BORDER AND PORTS OF ENTRY OF THE UNITED STATES.—

(1) POLICIES AND PROCEDURES.—In order to enhance the efforts of the United States to prevent trafficking in persons, the Secretary of Homeland Security, in conjunction with the Secretary of State, the Attorney General, and the Secretary of Health and Human Services, shall develop policies and procedures to ensure that unaccompanied alien children in the

Deadlines.
Reports.

United States are safely repatriated to their country of nationality or of last habitual residence.

(2) SPECIAL RULES FOR CHILDREN FROM CONTIGUOUS COUNTRIES.—

(A) DETERMINATIONS.—Any unaccompanied alien child who is a national or habitual resident of a country that is contiguous with the United States shall be treated in accordance with subparagraph (B), if the Secretary of Homeland Security determines, on a case-by-case basis, that—

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

(ii) such child does not have a fear of returning to the child's country of nationality or of last habitual residence owing to a credible fear of persecution; and

(iii) the child is able to make an independent decision to withdraw the child's application for admission to the United States.

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

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

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

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

(i) no child shall be returned to the child's country of nationality or of last habitual residence unless returned to appropriate employees or officials, including child welfare officials where available, of the accepting country's government;

(ii) no child shall be returned to the child's country of nationality or of last habitual residence outside of reasonable business hours; and

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

(3) RULE FOR OTHER CHILDREN.—The custody of unaccompanied alien children not described in paragraph (2)(A) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with subsection (b).

Deadline.

(4) **SCREENING.**—Within 48 hours of the apprehension of a child who is believed to be described in paragraph (2)(A), but in any event prior to returning such child to the child's country of nationality or of last habitual residence, the child shall be screened to determine whether the child meets the criteria listed in paragraph (2)(A). If the child does not meet such criteria, or if no determination can be made within 48 hours of apprehension, the child shall immediately be transferred to the Secretary of Health and Human Services and treated in accordance with subsection (b). Nothing in this paragraph may be construed to preclude an earlier transfer of the child.

(5) **ENSURING THE SAFE REPATRIATION OF CHILDREN.**—

(A) **REPATRIATION PILOT PROGRAM.**—To protect children from trafficking and exploitation, the Secretary of State shall create a pilot program, in conjunction with the Secretary of Health and Human Services and the Secretary of Homeland Security, nongovernmental organizations, and other national and international agencies and experts, to develop and implement best practices to ensure the safe and sustainable repatriation and reintegration of unaccompanied alien children into their country of nationality or of last habitual residence, including placement with their families, legal guardians, or other sponsoring agencies.

Consultation.

(B) **ASSESSMENT OF COUNTRY CONDITIONS.**—The Secretary of Homeland Security shall consult the Department of State's Country Reports on Human Rights Practices and the Trafficking in Persons Report in assessing whether to repatriate an unaccompanied alien child to a particular country.

(C) **REPORT ON REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.**—Not later than 18 months after the date of the enactment of this Act, and annually thereafter, the Secretary of State and the Secretary of Health and Human Services, with assistance from the Secretary of Homeland Security, shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on efforts to improve repatriation programs for unaccompanied alien children. Such report shall include—

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

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

(iii) a description of the policies and procedures used to effect the removal of such children from the United States and the steps taken to ensure that such children were safely and humanely repatriated to their country of nationality or of last habitual residence, including a description of the repatriation pilot program created pursuant to subparagraph (A);

(iv) a description of the type of immigration relief sought and denied to such children;

(v) any information gathered in assessments of country and local conditions pursuant to paragraph (2); and

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

(D) PLACEMENT IN REMOVAL PROCEEDINGS.—Any unaccompanied alien child sought to be removed by the Department of Homeland Security, except for an unaccompanied alien child from a contiguous country subject to exceptions under subsection (a)(2), shall be—

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

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

(iii) provided access to counsel in accordance with subsection (c)(5).

(b) COMBATING CHILD TRAFFICKING AND EXPLOITATION IN THE UNITED STATES.—

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

(2) NOTIFICATION.—Each department or agency of the Federal Government shall notify the Department of Health and Human Services within 48 hours upon—

Deadline.

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

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

(3) TRANSFERS OF UNACCOMPANIED ALIEN CHILDREN.—Except in the case of exceptional circumstances, any department or agency of the Federal Government that has an unaccompanied alien child in custody shall transfer the custody of such child to the Secretary of Health and Human Services not later than 72 hours after determining that such child is an unaccompanied alien child.

Deadline.

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

Procedures.

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

(1) POLICIES AND PROGRAMS.—The Secretary of Health and Human Services, Secretary of Homeland Security, Attorney General, and Secretary of State shall establish policies and programs to ensure that unaccompanied alien children in the United States are protected from traffickers and other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity, including policies

and programs reflecting best practices in witness security programs.

(2) **SAFE AND SECURE PLACEMENTS.**—Subject to section 462(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(2)), an unaccompanied alien child in the custody of the Secretary of Health and Human Services shall be promptly placed in the least restrictive setting that is in the best interest of the child. In making such placements, the Secretary may consider danger to self, danger to the community, and risk of flight. Placement of child trafficking victims may include placement in an Unaccompanied Refugee Minor program, pursuant to section 412(d) of the Immigration and Nationality Act (8 U.S.C. 1522(d)), if a suitable family member is not available to provide care. A child shall not be placed in a secure facility absent a determination that the child poses a danger to self or others or has been charged with having committed a criminal offense. The placement of a child in a secure facility shall be reviewed, at a minimum, on a monthly basis, in accordance with procedures prescribed by the Secretary, to determine if such placement remains warranted.

Review.

(3) **SAFETY AND SUITABILITY ASSESSMENTS.**—

(A) **IN GENERAL.**—Subject to the requirements of subparagraph (B), an unaccompanied alien child may not be placed with a person or entity unless the Secretary of Health and Human Services makes a determination that the proposed custodian is capable of providing for the child's physical and mental well-being. Such determination shall, at a minimum, include verification of the custodian's identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child.

(B) **HOME STUDIES.**—Before placing the child with an individual, the Secretary of Health and Human Services shall determine whether a home study is first necessary. A home study shall be conducted for a child who is a victim of a severe form of trafficking in persons, a special needs child with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2))), a child who has been a victim of physical or sexual abuse under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened, or a child whose proposed sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking to the child based on all available objective evidence. The Secretary of Health and Human Services shall conduct follow-up services, during the pendency of removal proceedings, on children for whom a home study was conducted and is authorized to conduct follow-up services in cases involving children with mental health or other needs who could benefit from ongoing assistance from a social welfare agency.

Deadline.

(C) **ACCESS TO INFORMATION.**—Not later than 2 weeks after receiving a request from the Secretary of Health and Human Services, the Secretary of Homeland Security shall provide information necessary to conduct suitability

assessments from appropriate Federal, State, and local law enforcement and immigration databases.

(4) **LEGAL ORIENTATION PRESENTATIONS.**—The Secretary of Health and Human Services shall cooperate with the Executive Office for Immigration Review to ensure that custodians receive legal orientation presentations provided through the Legal Orientation Program administered by the Executive Office for Immigration Review. At a minimum, such presentations shall address the custodian’s responsibility to attempt to ensure the child’s appearance at all immigration proceedings and to protect the child from mistreatment, exploitation, and trafficking.

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

(6) **CHILD ADVOCATES.**—The Secretary of Health and Human Services is authorized to appoint independent child advocates for child trafficking victims and other vulnerable unaccompanied alien children. A child advocate shall be provided access to materials necessary to effectively advocate for the best interest of the child. The child advocate shall not be compelled to testify or provide evidence in any proceeding concerning any information or opinion received from the child in the course of serving as a child advocate. The child advocate shall be presumed to be acting in good faith and be immune from civil and criminal liability for lawful conduct of duties as described in this provision.

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

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

(A) in clause (i), by striking “State and who has been deemed eligible by that court for long-term foster care due to abuse, neglect, or abandonment;” and inserting “State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with 1 or both of the immigrant’s parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law;” and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking “the Attorney General expressly consents to the dependency order serving as a precondition to the grant of special immigrant juvenile status;” and inserting “the Secretary of Homeland Security consents to the grant of special immigrant juvenile status;” and

(ii) in subclause (I), by striking “in the actual or constructive custody of the Attorney General unless

the Attorney General specifically consents to such jurisdiction;” and inserting “in the custody of the Secretary of Health and Human Services unless the Secretary of Health and Human Services specifically consents to such jurisdiction;”.

Deadline.

(2) EXPEDITIOUS ADJUDICATION.—All applications for special immigrant status under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) shall be adjudicated by the Secretary of Homeland Security not later than 180 days after the date on which the application is filed.

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

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

(4) ELIGIBILITY FOR ASSISTANCE.—

(A) IN GENERAL.—A child who has been granted special immigrant status under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) and who was either in the custody of the Secretary of Health and Human Services at the time a dependency order was granted for such child or who was receiving services pursuant to section 501(a) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) at the time such dependency order was granted, shall be eligible for placement and services under section 412(d) of the Immigration and Nationality Act (8 U.S.C. 1522(d)) until the earlier of—

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

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

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

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

(6) TRANSITION RULE.—Notwithstanding any other provision of law, an alien described in section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), as amended by paragraph (1), may not be denied special immigrant status under such section after the date of the enactment of this Act based on age if the alien was a child on the date on which the alien applied for such status.

(7) ACCESS TO ASYLUM PROTECTIONS.—Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended—

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

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

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

“(C) INITIAL JURISDICTION.—An asylum officer (as defined in section 235(b)(1)(E)) shall have initial jurisdiction over any asylum application filed by an unaccompanied alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g))), regardless of whether filed in accordance with this section or section 235(b).”.

(8) SPECIALIZED NEEDS OF UNACCOMPANIED ALIEN CHILDREN.—Applications for asylum and other forms of relief from removal in which an unaccompanied alien child is the principal applicant shall be governed by regulations which take into account the specialized needs of unaccompanied alien children and which address both procedural and substantive aspects of handling unaccompanied alien children’s cases.

(e) TRAINING.—The Secretary of State, the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Attorney General shall provide specialized training to all Federal personnel, and upon request, state and local personnel, who have substantive contact with unaccompanied alien children. Such personnel shall be trained to work with unaccompanied alien children, including identifying children who are victims of severe forms of trafficking in persons, and children for whom asylum or special immigrant relief may be appropriate, including children described in subsection (a)(2).

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

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

(2) TECHNICAL CORRECTIONS.—Section 462(b) of such Act (6 U.S.C. 279(b)) is further amended—

(A) in paragraph (3), by striking “paragraph (1)(G),” and inserting “paragraph (1),”; and

(B) by adding at the end the following:

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

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

(h) EFFECTIVE DATE.—This section—

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

(2) shall also apply to all aliens in the United States in pending proceedings before the Department of Homeland

Applicability.

Security or the Executive Office for Immigration Review, or related administrative or Federal appeals, on the date of the enactment of this Act.

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

22 USC 212a.

Notification.

SEC. 236. RESTRICTION OF PASSPORTS FOR SEX TOURISM.

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

(1) the Secretary of State for appropriate action under subsection (b); and

(2) the Secretary of Homeland Security for appropriate action under the Immigration and Nationality Act.

(b) AUTHORITY TO RESTRICT PASSPORT.—

(1) INELIGIBILITY FOR PASSPORT.—

(A) IN GENERAL.—The Secretary of State shall not issue a passport or passport card to an individual who is convicted of a violation of section 2423 of title 18, United States Code, during the covered period if the individual used a passport or passport card or otherwise crossed an international border in committing the offense.

(B) PASSPORT REVOCATION.—The Secretary of State shall revoke a passport or passport card previously issued to an individual described in subparagraph (A).

(2) EXCEPTIONS.—

(A) EMERGENCY AND HUMANITARIAN SITUATIONS.—Notwithstanding paragraph (1), the Secretary of State may issue a passport or passport card, in emergency circumstances or for humanitarian reasons, to an individual described in paragraph (1)(A).

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

(3) DEFINITIONS.—In this subsection—

(A) the term “covered period” means the period beginning on the date on which an individual is convicted of a violation of section 2423 of title 18, United States Code, and ending on the later of—

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

(ii) the end of a period of parole or other supervised release of the covered individual relating to the offense; and

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

SEC. 237. ADDITIONAL REPORTING ON CRIME.

(a) **TRAFFICKING OFFENSE CLASSIFICATION.**—The Director of the Federal Bureau of Investigation shall— 28 USC 534 note.

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

(2) to the extent feasible, establish subcategories for State sex crimes that involve—

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

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

(C) neither of the elements described in subparagraphs

(A) and (B); and

(3) classify the offense of human trafficking as a Group A offense for purpose of the National Incident-Based Reporting System.

(b) **ADDITIONAL INFORMATION.**—The Director of the Federal Bureau of Investigation shall revise the Uniform Crime Reporting System and the National Incident-Based Reporting System to distinguish between reports of— Revision.
28 USC 534 note.

(1) incidents of assisting or promoting prostitution, which shall include crimes committed by persons who—

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

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

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

(3) incidents of prostitution, which shall include crimes committed by persons providing or attempting to provide commercial sex acts.

(c) **REPORTS AND STUDIES.**—

(1) **REPORTS.**—Not later than February 1, 2010, the Attorney General shall submit to the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate reports on the following:

(A) Activities or actions, in fiscal years 2001 through 2009, by Federal departments and agencies to enforce the offenses set forth in chapter 117 of title 18, United States Code, including information regarding the number of prosecutions, the number of convictions, an identification of multiple-defendant cases and the results thereof, and, for fiscal years 2008 and 2009, the number of prosecutions, the number of convictions, and an identification of multiple-defendant case and the results thereof, the use of expanded statutes of limitation and other tools to prosecute crimes against children who reached the age of eighteen years since the time the crime was committed.

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

(C) Activities or actions, in fiscal years 2001 through 2010, to enforce the offenses set forth in chapters 95 and

96 of title 18, United States Code, in cases involving human trafficking, sex trafficking, or prostitution offenses.

(D) Activities or actions, in fiscal years 2008 and 2009, by Federal departments and agencies to enforce the offenses set forth in the Act of August 15, 1935 (49 Stat. 651; D.C. Code 22-2701 et seq.) (relating to prostitution and pandering), including information regarding the number of prosecutions, the number of convictions, and an identification of multiple-defendant cases and the results thereof.

(2) STUDIES.—Subject to availability of appropriations, the head of the National Institute of Justice shall conduct—

(A) a comprehensive study to examine the use of Internet-based businesses and services by criminal actors in the sex industry, and to disseminate best practices for investigation and prosecution of trafficking and prostitution offenses involving the Internet; and

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

Deadline.
Reports.

(3) STUDIES PREVIOUSLY REQUIRED BY LAW.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall report to the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate on the status of the studies required by paragraph (B)(i) and (ii) of section 201(a)(1) of the Trafficking Victims Protection Reauthorization Act of 2005 (42 U.S.C. 14044(a)(1)) and indicate the projected date when such studies will be completed.

SEC. 238. PROCESSING OF CERTAIN VISAS.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate a report on the operations of the specially-trained Violence Against Women Act Unit at the Citizenship and Immigration Service's Vermont Service Center.

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

(1) Detailed information about the funds expended to support the work of the Violence Against Women Act Unit at the Vermont Service Center.

(2) A description of training for adjudicators, victim witness liaison officers, managers, and others working in the Violence Against Women Act Unit, including general training and training on confidentiality issues.

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

(4) Measures taken to ensure the creation and retention of a core of supervisory staff within the Violence Against Women Act Unit and the Vermont Service Center with responsibility over resource allocation, policy, program development,

training and other substantive or operational issues affecting the Unit, who have historical knowledge and experience with the Trafficking Victims Protection Act of 2000, the Violence Against Women Act of 1994, Violence Against Women Act of 1994 confidentiality, and the specialized policies and procedures of the Department of Homeland Security and its predecessor agencies in such cases.

(5) Measures taken to ensure routine consultation between the Violence Against Women Act Unit, U.S. Citizenship and Immigration Services Headquarters, and the Office of Policy and Strategy during the development of any Department of Homeland Security regulations or policies that impact Violence Against Women Act of 1994 confidentiality-protected victims and their derivative family members.

(6) Information on any circumstances in which victim-based immigration applications have been adjudicated by entities other than the Violence Against Women Act Unit at the Vermont Service Center, including reasons for such action and what steps, if any, were taken to ensure that such applications were handled by trained personnel and what steps were taken to comply with the confidentiality provisions of the Violence Against Women Act of 1994.

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

SEC. 239. TEMPORARY INCREASE IN FEE FOR CERTAIN CONSULAR SERVICES.

8 USC 1351 note.

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

Deadline.

(b) DEPOSIT OF AMOUNTS.—Notwithstanding section 140(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 8 U.S.C. 1351 note), the additional amount collected pursuant to the fee increase under subsection (a) shall be deposited in the Treasury.

(c) DURATION OF INCREASE.—The fee increase authorized under subsection (a) shall terminate on the date that is 3 years after the first date on which such increased fee is collected.

Termination date.

TITLE III—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 301. TRAFFICKING VICTIMS PROTECTION ACT OF 2000.

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

22 USC 7110.

(1) in subsection (a)—

(A) in the first sentence—

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

- (ii) by striking “\$1,500,000” and all that follows through “\$5,500,000 for each of the fiscal years 2006 and 2007” and inserting “\$5,500,000 for each of the fiscal years 2008 through 2011”; and
- (B) in the second sentence—
 - (i) by striking “for official reception and representation expenses \$3,000” and inserting “\$1,500,000 for additional personnel for each of the fiscal years 2008 through 2011, and \$3,000 for official reception and representation expenses”; and
 - (ii) by striking “2006 and 2007” and inserting “2008 through 2011”;
- (2) in subsection (b)(1), by striking “\$5,000,000” and all that follows and inserting “\$12,500,000 for each of the fiscal years 2008 through 2011”;
- (3) in subsection (c)—
 - (A) in paragraph (1)—
 - (i) by striking “2004, 2005, 2006, and 2007” each place it appears and inserting “2008 through 2011”; and
 - (ii) in subparagraph (B), by adding at the end the following: “To carry out the purposes of section 107(a)(1)(F), there are authorized to be appropriated to the Secretary of State \$1,000,000 for each of the fiscal years 2008 through 2011.”;
 - (B) by striking paragraph (2);
 - (C) by redesignating paragraph (3) as paragraph (2);
- and
- (D) in paragraph (2), as redesignated—
 - (i) by striking “section 104” and inserting “sections 116(f) and 502B(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(f) and 2304(h))”; and
 - (ii) by striking “, including the preparation” and all that follows and inserting a period;
- (4) in subsection (d)—
 - (A) in the first sentence, by striking “\$5,000,000” and all that follows through “2007” and inserting “\$10,000,000 for each of the fiscal years 2008 through 2011”; and
 - (B) in the second sentence, by striking “2004, 2005, 2006, and 2007” and inserting “2008 through 2011”;
- (5) in subsection (e)—
 - (A) in paragraph (1), by striking “\$5,000,000” and all that follows and inserting “\$15,000,000 for each of the fiscal years 2008 through 2011.”;
 - (B) in paragraph (2)—
 - (i) by striking “section 109” and inserting “section 134 of the Foreign Assistance Act of 1961 (22 U.S.C. 2152d)”; and
 - (ii) by striking “\$5,000,000” and all that follows and inserting “\$15,000,000 for each of the fiscal years 2008 through 2011.”; and
 - (C) in paragraph (3), by striking “\$300,000” and all that follows and inserting “\$2,000,000 for each of the fiscal years 2008 through 2011.”;
- (6) in subsection (f), by striking “\$5,000,000” and all that follows and inserting “\$10,000,000 for each of the fiscal years 2008 through 2011.”;

(7) in subsection (h), by striking “fiscal year 2006” and inserting “each of the fiscal years 2008 through 2011”; and
 (8) in subsection (i), by striking “2006 and 2007” and inserting “2008 through 2011”.

SEC. 302. TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT OF 2005.

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

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

22 USC 7105
note.

(2) in section 201(c)—

42 USC 14044.

(A) in paragraph (1), by striking “\$2,500,000 for each of the fiscal years 2006 and 2007” each place it appears and inserting “\$1,500,000 for each of the fiscal years 2008 through 2011”; and

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

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

42 USC 14044a.

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

42 USC 14044b.

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

42 USC 14044c.

SEC. 303. RULE OF CONSTRUCTION.

22 USC 7110
note.

The amendments made by sections 301 and 302 may not be construed to affect the availability of funds appropriated pursuant to the authorizations of appropriations under the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 22 U.S.C. 7101 et seq.) and the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109–164) before the date of the enactment of this Act.

SEC. 304. TECHNICAL AMENDMENTS.

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

(b) **TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT OF 2005.**—Section 102(b)(6) and subsections (c)(2)(B)(i) and (e)(2) of section 104 of the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109–164) are amended by striking “Committee on International Relations” each place it appears and inserting “Committee on Foreign Affairs”.

22 USC 7109a,
7111.

**TITLE IV—CHILD SOLDIERS
PREVENTION**

Child Soldiers
Prevention Act
of 2008.

SEC. 401. SHORT TITLE.

This title may be cited as the “Child Soldiers Prevention Act of 2008”.

22 USC 2151
note.

22 USC 2370c.

SEC. 402. DEFINITIONS.

In this title:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—

- (A) the Committee on Foreign Relations of the Senate;
- (B) the Committee on Appropriations of the Senate;
- (C) the Committee on Foreign Affairs of the House of Representatives; and

- (D) the Committee on Appropriations of the House of Representatives.

(2) **CHILD SOLDIER.**—Consistent with the provisions of the Optional Protocol to the Convention of the Rights of the Child, the term “child soldier”—

(A) means—

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

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

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

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

(B) includes any person described in clauses (ii), (iii), or (iv) of subparagraph (A) who is serving in any capacity, including in a support role such as a cook, porter, messenger, medic, guard, or sex slave.

SEC. 403. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the United States Government should condemn the conscription, forced recruitment, or use of children by governments, paramilitaries, or other organizations;

(2) the United States Government should support and, to the extent practicable, lead efforts to establish and uphold international standards designed to end the abuse of human rights described in paragraph (1);

(3) the United States Government should expand ongoing services to rehabilitate recovered child soldiers and to reintegrate such children back into their respective communities by—

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

- (i) to recover from the trauma suffered during their forced military involvement;

- (ii) to relearn how to interact with others in non-violent ways so that such children are no longer a danger to their respective communities; and

- (iii) by taking into consideration the needs of girl soldiers, who may be at risk of exclusion from disarmament, demobilization, and reintegration programs;

(B) facilitating reconciliation with such communities through negotiations with traditional leaders and elders

to enable recovered abductees to resume normal lives in such communities; and

(C) providing educational and vocational assistance;

(4) the United States should work with the international community, including, as appropriate, third country governments, nongovernmental organizations, faith-based organizations, United Nations agencies, local governments, labor unions, and private enterprises—

(A) to bring to justice rebel and paramilitary forces that kidnap children for use as child soldiers;

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

(C) to assist such children to be rehabilitated and reintegrated into their respective communities;

(5) the Secretary of State, the Secretary of Labor, and the Secretary of Defense should coordinate programs to achieve the goals described in paragraph (3);

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

(7) United States diplomatic missions in countries in which governments use or tolerate child soldiers should develop strategies, as part of annual program planning—

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

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

(8) in allocating or recommending the allocation of funds or recommending candidates for programs and grants funded by the United States Government, United States diplomatic missions should give serious consideration to those programs and candidates that are expected to promote the end to the abuse of human rights described in this section.

SEC. 404. PROHIBITION.

22 USC 2370c-1.

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

(b) **IDENTIFICATION AND NOTIFICATION TO COUNTRIES IN VIOLATION OF STANDARDS.**—

(1) **PUBLICATION OF LIST OF FOREIGN GOVERNMENTS.**—The Secretary of State shall include a list of the foreign governments that have violated the standards under this title and are subject to the prohibition in subsection (a) in the report required under

section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)).

(2) NOTIFICATION OF FOREIGN COUNTRIES.—The Secretary of State shall formally notify any government identified pursuant to subsection (a).

(c) NATIONAL INTEREST WAIVER.—

(1) WAIVER.—The President may waive the application to a country of the prohibition in subsection (a) if the President determines that such waiver is in the national interest of the United States.

Deadline.
President.

(2) PUBLICATION AND NOTIFICATION.—Not later than 45 days after each waiver is granted under paragraph (1), the President shall notify the appropriate congressional committees of the waiver and the justification for granting such waiver.

(d) REINSTATEMENT OF ASSISTANCE.—The President may provide to a country assistance otherwise prohibited under subsection (a) upon certifying to the appropriate congressional committees that the government of such country—

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

(2) has implemented policies and mechanisms to prohibit and prevent future government or government-supported use of child soldiers and to ensure that no children are recruited, conscripted, or otherwise compelled to serve as child soldiers.

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

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

(A) the government of such country is taking reasonable steps to implement effective measures to demobilize child soldiers in its forces or in government-supported paramilitaries and is taking reasonable steps within the context of its national resources to provide demobilization, rehabilitation, and reintegration assistance to those former child soldiers; and

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

(2) LIMITATION.—The exception under paragraph (1) may not remain in effect for a country for more than 5 years.

22 USC 2370c-2. **SEC. 405. REPORTS.**

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

(b) INFORMATION FOR ANNUAL HUMAN RIGHTS REPORTS.—In preparing those portions of the annual Human Rights Report that relate to child soldiers under sections 116 and 502B of the Foreign

Assistance Act of 1961 (22 U.S.C. 2151n(f) and 2304(h)), the Secretary of State shall ensure that such reports include a description of the use of child soldiers in each foreign country, including—

(1) trends toward improvement in such country of the status of child soldiers or the continued or increased tolerance of such practices; and

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

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

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

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

(3) justification for any such waivers and exceptions; and

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

SEC. 406. TRAINING FOR FOREIGN SERVICE OFFICERS.

Section 708 of the Foreign Service Act of 1980 (22 U.S.C. 4028) is amended by adding at the end the following:

“(c) The Secretary of State, with the assistance of other relevant officials, shall establish as part of the standard training provided for chiefs of mission, deputy chiefs of mission, and other officers of the Service who are or will be involved in the assessment of child soldier use or the drafting of the annual Human Rights Report instruction on matters related to child soldiers, and the substance of the Child Soldiers Prevention Act of 2008.”

SEC. 407. EFFECTIVE DATE; APPLICABILITY.

This title, and the amendments made by this title, shall take effect 180 days after the date of the enactment of this Act.

22 USC 2370c
note.

Approved December 23, 2008.

LEGISLATIVE HISTORY—H.R. 7311:

CONGRESSIONAL RECORD, Vol. 154 (2008):

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