

Calendar No. 946110TH CONGRESS
2^D SESSION**S. 3061**

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.

IN THE SENATE OF THE UNITED STATES

MAY 22, 2008

Mr. BIDEN (for himself, Mr. BROWNBACK, Mr. HATCH, Mr. CARDIN, Mr. SPECTER, Mr. DURBIN, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

SEPTEMBER 8, 2008

Reported by Mr. LEAHY, with amendments

[Insert the parts printed in italic]

A BILL

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

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

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

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

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

Sec. 1. Short title; table of contents.

TITLE I—COMBATING INTERNATIONAL TRAFFICKING IN
PERSONS

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

TITLE II—COMBATING TRAFFICKING IN PERSONS IN THE
UNITED STATES

Subtitle A—Ensuring Availability of Possible Witnesses and Informants

- Sec. 201. Protecting trafficking victims against retaliation.
- Sec. 202. Information for work-based nonimmigrants on legal rights and re-
sources.
- Sec. 203. Domestic worker protections.
- Sec. 204. Relief for certain victims pending actions on petitions and applica-
tions for relief.
- Sec. 205. Expansion of authority to permit continued presence in the United
States.
- Sec. 206. Implementation of Trafficking Victims Protection Reauthorization
Act of 2005.

Subtitle B—Assistance for Trafficking Victims

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

Subtitle C—Penalties Against Traffickers and Other Crimes

- Sec. 221. Restitution of forfeited assets; enhancement of civil action.
- Sec. 222. Enhancing trafficking offenses.
- Sec. 223. Jurisdiction in certain trafficking offenses.

Sec. 224. Sex tourism and removal of sex offenders.

Subtitle D—Activities of the United States Government

- Sec. 231. Annual report by the Attorney General.
 Sec. 232. Defense contract audit agency audit.
 Sec. 233. Senior Policy Operating Group.
 Sec. 234. Preventing United States travel by traffickers.
 Sec. 235. Enhancing efforts to combat the trafficking of children.
 Sec. 236. Temporary increase in fee for certain consular services.

TITLE III—AUTHORIZATIONS OF APPROPRIATIONS

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

TITLE IV—CHILD SOLDIERS PREVENTION AND ACCOUNTABILITY

- Sec. 401. Short title.
 Sec. 402. Definitions.
 Sec. 403. Prohibition.
 Sec. 404. Reports.
 Sec. 405. Training for foreign service officers.
 Sec. 406. Accountability for the recruitment and use of child soldiers.
 Sec. 407. Effective date; applicability.

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

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

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

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

11 Section 105(e) of the Trafficking Victims Protection
 12 Act of 2000 (22 U.S.C. 7103(e)) is amended to read as
 13 follows:

1 “(e) OFFICE TO MONITOR AND COMBAT TRAF-
2 FICKING.—

3 “(1) ESTABLISHMENT.—The Secretary of State
4 shall establish within the Department of State an
5 Office to Monitor and Combat Trafficking. The Of-
6 fice shall be headed by a Director, with the rank of
7 Ambassador at Large, who shall be appointed by the
8 President, by and with the advice and consent of the
9 Senate.

10 “(2) RESPONSIBILITIES.—The Director shall
11 have the following responsibilities:

12 “(A) The Director shall have primary re-
13 sponsibility for assisting the Secretary of State
14 in carrying out the purposes of this division,
15 shall provide assistance to the Task Force, and
16 may have additional responsibilities as deter-
17 mined by the Secretary of State.

18 “(B) The Director shall consult with non-
19 governmental organizations and multilateral or-
20 ganizations, and with trafficking victims or
21 other affected persons. The Director may collect
22 evidence in public hearings or by other means
23 if such collection does not disrupt an ongoing
24 criminal investigation.

1 “(C) The Director, in coordination and co-
2 operation with other officials at the Department
3 of State involved in corporate responsibility, the
4 Deputy Under Secretary for International Af-
5 fairs of the Department of Labor, and other
6 relevant officials of the United States Govern-
7 ment, shall promote, build, and sustain partner-
8 ships between the United States Government
9 and private entities (including foundations, uni-
10 versities, corporations, community-based organi-
11 zations, and other nongovernmental organiza-
12 tions) to ensure that—

13 “(i) United States citizens do not use
14 any item, product, or material produced or
15 extracted with the use of labor from vic-
16 tims of severe forms of trafficking; and

17 “(ii) such entities do not contribute to
18 trafficking in persons involving sexual ex-
19 ploitation.

20 “(3) COORDINATION.—Any trafficking in per-
21 sons programs of the Department of State or the
22 United States Agency for International Development
23 that are not centrally controlled by the Director of
24 the Office to Monitor and Combat Trafficking shall
25 be carried out with concurrence of the Director.”.

1 **SEC. 103. ASSISTANCE FOR VICTIMS OF TRAFFICKING IN**
2 **OTHER COUNTRIES.**

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

5 (1) in paragraph (1)—

6 (A) in the second sentence, by inserting at
7 the end before the period the following: “, and
8 shall be carried out in a manner which takes
9 into account the cross-border, regional, and
10 transnational aspects of trafficking in persons”;
11 and

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

13 “(F) In cooperation and coordination with
14 relevant organizations, such as the United Na-
15 tions High Commissioner for Refugees, the
16 International Organization for Migration, and
17 private nongovernmental organizations that
18 contract with, and receive grants from, the
19 United States Government to assist refugees
20 and internally displaced persons, support for—

21 “(i) increased protections for refugees
22 and internally displaced persons, including
23 outreach and education efforts to prevent
24 such refugees and internally displaced per-
25 sons from being exploited by traffickers;
26 and

1 “(ii) performance of best interest de-
 2 terminations for unaccompanied and sepa-
 3 rated children who come to the attention of
 4 the United Nations High Commissioner for
 5 Refugees, its partner organizations, or any
 6 organization that contracts with the De-
 7 partment of State in order to identify child
 8 trafficking victims and to assist their safe
 9 integration, reintegration, and resettle-
 10 ment.”; and

11 (2) in paragraph (2), by adding at the end the
 12 following: “In carrying out this paragraph, the Sec-
 13 retary and the Administrator shall take all appro-
 14 priate steps to ensure that cooperative efforts among
 15 foreign countries are undertaken on a regional
 16 basis.”.

17 **SEC. 104. INCREASING EFFECTIVENESS OF ANTI-TRAF-**
 18 **FICKING PROGRAMS.**

19 The Trafficking Victims Protection Act of 2000 (22
 20 U.S.C. 7101 et seq.) is amended by inserting after section
 21 107 the following:

22 **“SEC. 107A. INCREASING EFFECTIVENESS OF ANTI-TRAF-**
 23 **FICKING PROGRAMS.**

24 “(a) **AWARDING OF GRANTS, COOPERATIVE AGREE-**
 25 **MENTS, AND CONTRACTS.**—In administering funds made

1 available to carry out this Act in the United States and
2 abroad—

3 “(1) solicitations of grants, cooperative agree-
4 ments, and contracts for such programs shall be
5 made publicly available;

6 “(2) grants, cooperative agreements, and con-
7 tracts shall be subject to full and open competition,
8 in accordance with applicable laws;

9 “(3) grants shall be evaluated by a review panel
10 that is composed of Federal experts and nongovern-
11 mental experts, as appropriate; and

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

18 “(b) ELIGIBILITY.—

19 “(1) IN GENERAL.—An applicant desiring a
20 grant, contract, or cooperative agreement under this
21 Act shall certify that persons or entities providing
22 legal services, social services, health services, or
23 other assistance have completed, or will complete,
24 training in connection with severe forms of traf-
25 ficking in persons.

1 “(2) DISCLOSURE.—If appropriate, applicants
2 should indicate collaboration with nongovernmental
3 organizations, including organizations with expertise
4 in severe forms of trafficking and forced labor.

5 “(c) EVALUATION OF ANTI-TRAFFICKING PRO-
6 GRAMS.—

7 “(1) IN GENERAL.—The President shall estab-
8 lish a system to evaluate the effectiveness and effi-
9 ciency of the assistance provided under anti-traf-
10 ficking programs established under this Act on a
11 program-by-program basis in order to maximize the
12 long-term sustainable development impact of such
13 assistance.

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

16 “(A) establish performance goals for the
17 assistance described in paragraph (1), ex-
18 pressed in an objective and quantifiable form,
19 to the extent practicable;

20 “(B) ensure that performance indicators
21 are used for programs authorized under this
22 Act to measure and assess the achievement of
23 the performance goals described in subpara-
24 graph (A);

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

5 “(D) ensure that evaluations, to the extent
6 practicable, are conducted by subject matter ex-
7 perts in and outside the United States Govern-
8 ment.

9 “(d) TARGETED USE OF ANTI-TRAFFICKING PRO-
10 GRAMS.—The Director of the Office to Monitor and Com-
11 bat Trafficking shall provide assistance to foreign coun-
12 tries and nongovernmental organizations receiving assist-
13 ance under this division based on the priorities and coun-
14 try assessments contained in the most recent report sub-
15 mitted by the Secretary of State to Congress pursuant to
16 section 110(b) of the William Wilberforce Trafficking Vic-
17 tims Protection Reauthorization Act of 2008.

18 “(e) CONSISTENCY WITH OTHER PROGRAMS.—The
19 President shall ensure that the design, monitoring, and
20 evaluation of United States assistance programs for emer-
21 gency relief, development, and poverty alleviation under
22 part I and chapter 4 of part II of the Foreign Assistance
23 Act of 1961 (22 U.S.C. 2151 et seq. and 2346 et seq.)
24 and other similar United States assistance programs are
25 consistent with United States policies and other United

1 States programs relating to combating trafficking in per-
 2 sons.

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

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

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

12 **SEC. 105. MINIMUM STANDARDS FOR THE ELIMINATION OF**
 13 **TRAFFICKING.**

14 (a) CRITERIA.—Section 108(b) of the Trafficking
 15 Victims Protection Act of 2000 (22 U.S.C. 7106(b)) is
 16 amended—

17 (1) in paragraph (1)—

18 (A) in the first sentence, by inserting at
 19 the end before the period the following: “, in-
 20 cluding in all appropriate cases requiring incar-
 21 ceration of individuals convicted of such acts”;
 22 and

23 (B) by inserting after the first sentence
 24 the following new sentence: “For purposes of
 25 the preceding sentence, suspended or signifi-

1 cantly-reduced sentences for convictions of prin-
2 cipal actors in cases of severe forms of traf-
3 ficking in persons shall be considered, on a
4 case-by-case basis, whether to be considered an
5 indicator of serious and sustained efforts to
6 eliminate severe forms of trafficking in per-
7 sons.”; and

8 (2) in paragraph (2), by inserting at the end
9 before the period the following: “, including by pro-
10 viding training to law enforcement and immigration
11 officials in the identification and treatment of traf-
12 ficking victims using approaches that focus on the
13 needs of the victims”.

14 **SEC. 106. ACTIONS AGAINST GOVERNMENTS FAILING TO**
15 **MEET MINIMUM STANDARDS.**

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

21 “(D) COUNTRIES ON SPECIAL WATCH LIST
22 FOR 3 CONSECUTIVE YEARS.—

23 “(i) IN GENERAL.—Except as pro-
24 vided under clause (ii), a country that is
25 included on the special watch list described

1 in subparagraph (A) for 3 consecutive
2 years after the date of the enactment of
3 this subparagraph, shall be included on the
4 list of countries described in paragraph
5 (1)(C).

6 “(ii) EXERCISE OF WAIVER AUTHOR-
7 ITY.—The President may waive the appli-
8 cation of clause (i) for up to 1 year if the
9 President determines and certifies to the
10 Committee on Foreign Relations of the
11 Senate and the Committee on Foreign Af-
12 fairs of the House of Representatives that
13 such a waiver would promote the purposes
14 of this Act or is otherwise in the national
15 interest of the United States.”.

16 (b) CLARIFICATION OF MEASURES AGAINST CERTAIN
17 FOREIGN COUNTRIES.—Section 110(d)(1)(A)(ii) of such
18 Act is amended by inserting “such assistance to the gov-
19 ernment of the country for the subsequent fiscal year and
20 will not provide” after “will not provide”.

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

23 (1) timely translate the annual report submitted
24 under section 110(b) of the Trafficking Victims Pro-
25 tection Act of 2000 (22 U.S.C. 7107(b)) into the

1 principal languages of as many countries as possible,
2 with particular emphasis on the languages of the
3 countries on the lists described in subparagraphs
4 (B) and (C) of section 110(b)(1) of such Act; and
5 (2) ensure that such translations are made
6 available to the public, including through postings on
7 the Internet website of the Department of State and
8 other appropriate websites.

9 **SEC. 107. RESEARCH ON DOMESTIC AND INTERNATIONAL**
10 **TRAFFICKING IN PERSONS.**

11 (a) INTEGRATED DATABASE.—Section 112A of the
12 Trafficking Victims Protection Act of 2000 (22 U.S.C.
13 7109a) is amended—

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

16 “(5) An effective mechanism for quantifying the
17 number of victims of trafficking on a national, re-
18 gional, and international basis, which shall include,
19 not later than 2 years after the date of the enact-
20 ment of the William Wilberforce Trafficking Victims
21 Protection Reauthorization Act of 2008, the estab-
22 lishment and maintenance of an integrated database
23 within the Human Smuggling and Trafficking Cen-
24 ter.”; and

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

3 “(b) ROLE OF HUMAN SMUGGLING AND TRAF-
4 FICKING CENTER.—

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

11 “(2) DATABASE.—The database described in
12 subsection (a)(5) shall be established by combining
13 all applicable data collected by each Federal depart-
14 ment and agency represented on the Interagency
15 Task Force to Monitor and Combat Trafficking,
16 consistent with the protection of sources and meth-
17 ods, and, to the maximum extent practicable, appli-
18 cable data from relevant international organizations,
19 to—

20 “(A) improve the coordination of the col-
21 lection of data related to trafficking in persons
22 by each agency of the United States Govern-
23 ment that collects such data;

1 “(B) promote uniformity of such data col-
2 lection and standards and systems related to
3 such collection;

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

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

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

13 “(3) CONSULTATION.—The database estab-
14 lished in accordance with paragraph (2) shall be
15 maintained in consultation with the Director of the
16 Office to Monitor and Combat Trafficking in Per-
17 sons of the Department of State.

18 “(4) AUTHORIZATION OF APPROPRIATIONS.—
19 There are authorized to be appropriated \$3,000,000
20 to the Human Trafficking and Smuggling Center for
21 each of the fiscal years 2008 through 2011 to carry
22 out the activities described in this subsection.”.

23 (b) REPORT.—Section 110(b)(1) of such Act (22
24 U.S.C. 7107(b)(1)) is amended—

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

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

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

6 “(E) reporting and analysis on the emer-
7 gence or shifting of global patterns in human
8 trafficking, including data on the number of
9 victims trafficked to, through, or from major
10 source and destination countries, disaggregated
11 by nationality, gender, and age, as possible; and

12 “(F) emerging issues in human traf-
13 ficking.”.

14 **SEC. 108. PRESIDENTIAL AWARD FOR EXTRAORDINARY EF-**
15 **FORTS TO COMBAT TRAFFICKING IN PER-**
16 **SONS.**

17 The Trafficking Victims Protection Act of 2000 (22
18 U.S.C. 7101 et seq.) is amended by inserting after section
19 112A the following:

20 **“SEC. 112B. PRESIDENTIAL AWARD FOR EXTRAORDINARY**
21 **EFFORTS TO COMBAT TRAFFICKING IN PER-**
22 **SONS.**

23 “(a) ESTABLISHMENT OF AWARD.—The President is
24 authorized to establish an award, to be known as the ‘Paul
25 D. Wellstone Presidential Award for Extraordinary Ef-

1 forts To Combat Trafficking in Persons’, for extraor-
2 dinary efforts to combat trafficking in persons. To the
3 maximum extent practicable, the Secretary of State shall
4 present the award annually to not more than 5 individuals
5 or organizations, including—

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

8 “(2) United States or foreign nongovernmental
9 organizations.

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

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

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

1 **SEC. 109. REPORT ON ACTIVITIES OF THE DEPARTMENT OF**
2 **LABOR TO MONITOR AND COMBAT FORCED**
3 **LABOR AND CHILD LABOR.**

4 (a) FINAL REPORT; PUBLIC AVAILABILITY OF
5 LIST.—Not later than January 15, 2009, the Secretary
6 of Labor shall—

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

9 (A) describes the implementation of section
10 105(b) of the Trafficking Victims Protection
11 Reauthorization Act of 2005 (22 U.S.C.
12 7103(b)); and

13 (B) includes an initial list of goods de-
14 scribed in paragraph (2)(C) of such section;
15 and

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

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

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

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

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

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

12 (1) in clause (i)—

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

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

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

24 (D) in subclause (III)—

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

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

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

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

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

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

16 (2) in clause (ii)—

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

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

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

22 “(III) any parent or minor sibling of an
23 alien described in subclause (I) or (II) who a
24 law enforcement officer determines faces a
25 present danger of retaliation as a result of the

1 alien’s escape from the severe form of traf-
2 ficking or cooperation with law enforcement.”;
3 and
4 (3) by striking clause (iii).

5 (b) REQUIREMENTS FOR T VISA ISSUANCE.—Section
6 214(o) of the Immigration and Nationality Act (8 U.S.C.
7 1184(o)) is amended—

8 (1) in paragraph (7)(B)—

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

13 (B) by striking the period at the end and
14 inserting “; or”; and

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

16 “(ii) the Secretary of Homeland Security deter-
17 mines that an extension of the period of such non-
18 immigrant status is warranted due to exceptional
19 circumstances.”; and

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

21 “(8) In determining the existence of extreme hard-
22 ship under section 101(a)(15)(T)(i)(IV), the Secretary of
23 Homeland Security, in consultation with the Attorney
24 General and other relevant individuals responsible for
25 working with victims and witnesses, may consider—

1 “(A) whether the country to which the alien is
2 likely to be removed could adequately address secu-
3 rity concerns; and

4 “(B) the mental and physical health needs of
5 the alien and of the family members of the alien (as
6 described in section 101(a)(15)(T)(ii)).”.

7 (c) CONDITIONS ON NONIMMIGRANT STATUS FOR
8 CERTAIN CRIME VICTIMS.—Section 214(p)(6) of the Im-
9 migration and Nationality Act (8 U.S.C. 1184(p)(6)) is
10 amended by adding at the end the following: “The Sec-
11 retary of Homeland Security may extend the authorized
12 period of status of an alien as a nonimmigrant under sec-
13 tion 101(a)(15)(U) for a period in excess of 4 years if
14 the Secretary determines that an extension of such period
15 is warranted due to exceptional circumstances. Such
16 alien’s nonimmigrant status shall be extended if the alien
17 is eligible for relief under section 245(m) and is unable
18 to obtain such relief because regulations have not been
19 issued to implement such section.”.

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

23 (1) in paragraph (1)—

24 (A) in the matter preceding subparagraph

25 (A), by striking “the Attorney General,” and

1 inserting “in the opinion of the Secretary of
2 Homeland Security, in consultation with the At-
3 torney General,”;

4 (B) in subparagraph (B)—

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

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

9 (C) in subparagraph (C)—

10 (i) in clause (i), by striking “, or” and
11 inserting “; or”;

12 (ii) in clause (ii), by striking “, or in
13 the case of subparagraph (C)(i), the Attor-
14 ney General,”;

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

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

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

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

24 “(6) For purposes of paragraph (1)(B), the Secretary
25 of Homeland Security may waive consideration of a dis-

1 qualification from good moral character with respect to
 2 an alien if the disqualification was caused by, or incident
 3 to, the trafficking described in section 101(a)(15)(T)(i)(I).
 4 All costs or fees associated with filing an application for
 5 relief through final adjudication of the adjustment of sta-
 6 tus for a VAWA self-petitioner and for relief under sec-
 7 tions 101(a)(15)(T), 101(a)(15)(U), 106, 240A(b)(2), or
 8 244(a)(3) (as in effect on March 31, 1997) shall be eligible
 9 for fee waivers.”.

10 (e) ADJUSTMENT OF STATUS FOR CRIME VICTIMS.—
 11 Section 245(m)(1) of the Immigration and Nationality Act
 12 (8 U.S.C. 1255(m)(1)) is amended, in the matter pre-
 13 ceding subparagraph (A)—

14 (1) by inserting “The” before “Secretary of
 15 Homeland Security”; and

16 (2) by striking “unless the Attorney General”
 17 and inserting “unless the Secretary, in consultation
 18 with the Attorney General,”.

19 **SEC. 202. INFORMATION FOR WORK-BASED NON-**
 20 **IMMIGRANTS ON LEGAL RIGHTS AND RE-**
 21 **SOURCES.**

22 (a) INFORMATION PAMPHLET.—

23 (1) DEVELOPMENT AND DISTRIBUTION.—The
 24 Secretary of Homeland Security, in consultation
 25 with the Secretary of State, the Attorney General,

1 and the Secretary of Labor, shall develop an infor-
2 mation pamphlet on legal rights and resources for
3 aliens applying for employment-based nonimmigrant
4 visas.

5 (2) CONSULTATION.—In developing the infor-
6 mation pamphlet under paragraph (1), the Secretary
7 of Homeland Security shall consult with nongovern-
8 mental organizations with expertise on the legal
9 rights of workers and victims of severe forms of traf-
10 ficking in persons.

11 (b) CONTENTS.—The information pamphlet devel-
12 oped under subsection (a) shall include information con-
13 cerning—

14 (1) the nonimmigrant visa application proc-
15 esses, including information about the portability of
16 employment;

17 (2) the legal rights of employment-based non-
18 immigrant visa holders under Federal immigration,
19 labor, and employment law;

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

23 (4) the legal rights of immigrant victims of
24 worker exploitation, including—

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

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

5 (C) the right to report abuse without retal-
6 iation; and

7 (5) services for victims of severe forms of traf-
8 ficking in persons and worker exploitation in the
9 United States, including Federal law enforcement
10 and victim services complaint lines.

11 (c) TRANSLATION.—

12 (1) IN GENERAL.—To best serve the language
13 groups having the greatest concentration of employ-
14 ment-based nonimmigrant visas, the Secretary of
15 Homeland Security shall translate the information
16 pamphlet developed under subsection (a) into not
17 fewer than 14 foreign languages, to be determined
18 by the Secretary based on the languages spoken by
19 the greatest concentrations of employment-based
20 nonimmigrant visa applicants.

21 (2) REVISION.—Every 2 years, the Secretary of
22 Homeland Security, in consultation with the Attor-
23 ney General and the Secretary of State, shall deter-
24 mine the 14 specific languages into which the infor-
25 mation pamphlet will be translated based on the lan-

1 languages spoken by the greatest concentrations of em-
2 ployment-based nonimmigrant visa applicants.

3 (d) AVAILABILITY AND DISTRIBUTION.—

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

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

14 (A) government agency;

15 (B) nongovernmental advocacy organiza-
16 tion; or

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

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

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

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

6 (A) orally disclose to the alien the informa-
7 tion described in paragraphs (2) and (3) in a
8 language that the alien understands; and

9 (B) distribute the pamphlet required under
10 subsection (a).

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

13 (A) the legal rights of employment-based
14 nonimmigrant visa holders under Federal immi-
15 gration, labor, and employment laws;

16 (B) the illegality of slavery, peonage, traf-
17 ficking in persons, sexual assault, extortion,
18 blackmail, and worker exploitation in the
19 United States; and

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

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

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

3 (iii) the right to report abuse without
4 retaliation.

5 (3) VICTIM SERVICES.—In carrying out the dis-
6 closure requirement under this subsection, the con-
7 sular officer shall disclose to the alien the avail-
8 ability of services for victims of human trafficking
9 and worker exploitation in the United States, includ-
10 ing victim services complaint hotlines.

11 (f) DEFINITIONS.—In this section:

12 (1) EMPLOYMENT-BASED NONIMMIGRANT
13 VISA.—The term “employment-based nonimmigrant
14 visa” means a nonimmigrant visa issued for the pur-
15 pose of employment, education, or training in the
16 United States, including visas issued under subpara-
17 graph (A)(iii), (B)(i) (but only for domestic servants
18 described in clause (i) or (ii) of section
19 274a.12(c)(17) of title 8, Code of Federal Regula-
20 tions (as in effect on December 4, 2007)), (G)(v),
21 (H), (J), (L), (Q), or (R) of section 101(a)(15) of
22 the Immigration and Nationality Act (8 U.S.C.
23 1101(a)(15)).

24 (2) SEVERE FORMS OF TRAFFICKING IN PER-
25 SONS.—The term “severe forms of trafficking in

1 persons” has the meaning given the term in section
2 103 of the Trafficking Victims Protection Act of
3 2000 (22 U.S.C. 7102).

4 **SEC. 203. DOMESTIC WORKER PROTECTIONS.**

5 (a) DEFINITIONS.—In this section:

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

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

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

16 (b) DISTRIBUTION OF ANTI-TRAFFICKING INFORMA-
17 TION TO APPLICANTS FOR A-3 AND G-5 VISAS.—

18 (1) IN GENERAL.—The Secretary shall ensure
19 the content, consistency, and accuracy of informa-
20 tion disseminated to—

21 (A) recipients of A-3 and G-5 visas; and

22 (B) sponsors or employers of such visa ap-
23 plicants or visa holders.

24 (2) INFORMATION PAMPHLET.—

1 (A) DEVELOPMENT.—Pursuant to para-
2 graph (1), the Secretary, in consultation with
3 the Secretary of the Department of Homeland
4 Security, the Attorney General, the Secretary of
5 Labor, and nongovernmental organizations with
6 expertise in the legal rights of, and services for,
7 human trafficking victims and immigrant work-
8 ers, shall develop an information pamphlet for
9 applicants seeking A-3 and G-5 visas.

10 (B) CONTENT.—The pamphlet required
11 under this paragraph shall include information
12 on—

13 (i) the visa application process;

14 (ii) the terms and conditions of the
15 immigration status granted such visa hold-
16 ers in the United States, if admitted;

17 (iii) the rights of A-3 and G-5 visa
18 holders under Federal immigration, labor,
19 and employment laws, including—

20 (I) the right to report abuse
21 without retaliation;

22 (II) the right of access to immi-
23 grant and labor rights groups; and

24 (III) the right to seek redress in
25 United States courts;

1 (iv) the laws of the United States pro-
2 hibiting slavery, peonage, trafficking in
3 persons, sexual assault, extortion, black-
4 mail, and worker exploitation;

5 (v) the right of the visa holder to re-
6 tain possession of their passport;

7 (vi) the requirement of an employ-
8 ment contract between the employer and
9 the visa holder and an explanation of the
10 rights and protections included in the con-
11 tract; and

12 (vii) information about nongovern-
13 mental organizations that provide services
14 to trafficking victims, including—

15 (I) the National Trafficking in
16 Persons and Worker Exploitation
17 Task Force complaint line;

18 (II) the Operation Rescue and
19 Restore hotline; and

20 (III) a general description of the
21 types of victims services available if
22 an individual is subject to trafficking
23 in persons.

24 (C) TRANSLATION.—The Secretary, in
25 consultation with the Secretary of Homeland

1 Security, shall translate the information pam-
2 phlet required under this paragraph into at
3 least 10 languages based upon the languages
4 spoken by the greatest concentration of A-3
5 and G-5 visa holders.

6 (D) AVAILABILITY.—

7 (i) BY MAIL.—The Secretary shall
8 mail the information pamphlet developed
9 under this paragraph to each applicant for
10 an A-3 or G-5 visa. The pamphlet shall be
11 in the primary language of the applicant,
12 or in English if no translation into the ap-
13 plicant's primary language is available.

14 (ii) CONSULAR INTERVIEWS.—The
15 consular officer conducting the personal
16 interview with the visa applicant shall pro-
17 vide the information pamphlet developed
18 under this paragraph to the applicant. If a
19 version of the pamphlet is not available in
20 the primary language of the applicant, the
21 officer shall—

22 (I) provide the applicant with a
23 copy of the pamphlet in English; and

24 (II) if the officer determines that
25 the applicant is illiterate, review the

1 pamphlet with the applicant orally in
2 the primary language of the applicant.

3 (iii) WEBSITE.—The Secretary shall
4 ensure that the information pamphlet de-
5 veloped under this paragraph is posted
6 on—

7 (I) the Internet website of the
8 Department of State; and

9 (II) on the Internet websites of
10 all consular posts processing A-3 and
11 G-5 visa applications.

12 (c) LIMITATIONS ON ISSUANCE OF A-3 AND G-5
13 VISAS.—

14 (1) CONTRACT REQUIREMENT.—Notwith-
15 standing any other provision of law, the Secretary
16 may not issue a visa—

17 (A) under section 101(a)(15)(A)(iii) of the
18 Immigration and Nationality Act (8 U.S.C.
19 1101(a)(15)(A)(iii)) unless the applicant is em-
20 ployed, or has signed a contract to be employed,
21 by the Ambassador, Deputy Chief of Mission,
22 or principal officer or deputy principal officer of
23 a diplomatic mission or consular post; or

24 (B) under section 101(a)(15)(G)(v) of such
25 Act unless the applicant is employed, or has

1 signed a contract to be employed by an em-
2 ployee in a senior management position in an
3 international organization.

4 (2) SUSPENSION REQUIREMENT.—Notwith-
5 standing any other provision of law, the Secretary
6 shall suspend, for such period as the Secretary de-
7 termines necessary, the issuance of visas under sub-
8 paragraphs (A)(iii) and (G)(v) of section 101(a)(15)
9 of the Immigration and Nationality Act to applicants
10 seeking to work for officials of a diplomatic mission,
11 if the Secretary finds that such mission, or the em-
12 ployees of such mission, have a record of abusing or
13 exploiting A-3 or G-5 visa holders, or of tolerating
14 such actions.

15 (d) PROTECTIONS AND REMEDIES FOR A-3 AND G-
16 5 VISA HOLDERS EMPLOYED BY DIPLOMATS AND STAFF
17 OF INTERNATIONAL ORGANIZATIONS.—

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

20 (A) the visa applicant has executed a con-
21 tract with the employer or prospective employer
22 containing provisions described in paragraph
23 (2); and

24 (B) a consular officer has conducted a per-
25 sonal interview with the applicant outside the

1 presence of the employer or any recruitment
2 agent in which the officer reviewed the terms of
3 the contract and the provisions of the pamphlet
4 required under subsection (b)(2).

5 (2) MANDATORY CONTRACT.—The contract be-
6 tween the employer and domestic worker required
7 under paragraph (1) shall include—

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

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

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

17 (3) TRAINING OF CONSULAR OFFICERS.—The
18 Secretary shall provide appropriate training to con-
19 sular officers on fair labor standards in the United
20 States, trafficking in persons, and the provisions of
21 this section.

22 (4) RECORDKEEPING.—

23 (A) IN GENERAL.—The Secretary shall
24 maintain records on the presence of A-3 and

1 G-5 visa holders in the United States, includ-
2 ing—

3 (i) a copy of the employment contract
4 of applicants for such visas;

5 (ii) information about when the visa
6 holder entered and permanently exited the
7 country place of residence;

8 (iii) the official title, contact informa-
9 tion, and immunity level of the employer;
10 and

11 (iv) information regarding any allega-
12 tions of abuse received by the Department
13 of State.

14 (e) PROTECTION FROM REMOVAL DURING LEGAL
15 ACTIONS AGAINST FORMER EMPLOYERS.—

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

18 (A) IN GENERAL.—

19 (i) EFFECT OF COMPLAINT FILING.—

20 If an A-3 or G-5 visa holder working in
21 the United States files a complaint regard-
22 ing a violation of any of the terms con-
23 tained in the contract or violation of any
24 other Federal, State, or local law in the
25 United States governing the terms and

1 conditions of employment of the visa hold-
2 er, the Attorney General and the Secretary
3 of Homeland Security shall permit the visa
4 holder to remain legally in the United
5 States for time sufficient to participate
6 fully and effectively in all administrative
7 and legal proceedings related to the com-
8 plaint.

9 (ii) FAILURE TO EXERCISE DUE DILI-
10 GENCE.—If the Secretary of Homeland Se-
11 curity, after consultation with the Attorney
12 General, determines that the A-3 or G-5
13 visa holder has failed to exercise due dili-
14 gence in pursuing such action, the Sec-
15 retary may revoke the order permitting the
16 A-3 or G-5 visa holder to remain in the
17 United States.

18 (B) AUTHORIZATION TO WORK.—The At-
19 torney General and the Secretary of Homeland
20 Security shall authorize visa holders described
21 in subparagraph (A) to engage in employment
22 in the United States during the period the visa
23 holder is in the United States pursuant to sub-
24 paragraph (A).

25 (f) STUDY AND REPORT.—

1 (1) INVESTIGATION REPORT.—

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

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

10 (i) an assessment of the actions taken
11 by the Department of State and the De-
12 partment of Justice to investigate allega-
13 tions of trafficking or abuse of A-3 and
14 G-5 visa holders; and

15 (ii) the results of such investigations.

16 (2) FEASIBILITY OF OVERSIGHT OF EMPLOYEES
17 OF DIPLOMATS AND REPRESENTATIVES OF OTHER
18 INSTITUTIONS REPORT.—Not later than 180 days
19 after the date of the enactment of this Act, the Sec-
20 retary shall submit a report to the appropriate con-
21 gressional committees on the feasibility of—

22 (A) establishing a system to monitor the
23 treatment of A-3 and G-5 visa holders who
24 have been admitted to the United States;

1 (B) a range of compensation approaches,
2 such as a bond program, compensation fund, or
3 insurance scheme, to ensure that such visa
4 holders receive appropriate compensation if
5 their employers violate the terms of their em-
6 ployment contracts; and

7 (C) with respect to each proposed com-
8 pensation approach described in subparagraph
9 (B), an evaluation and proposal describing the
10 proposed processes for—

11 (i) adjudicating claims of rights viola-
12 tions;

13 (ii) determining the level of compensa-
14 tion; and

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

17 **SEC. 204. RELIEF FOR CERTAIN VICTIMS PENDING AC-**
18 **TIONS ON PETITIONS AND APPLICATIONS**
19 **FOR RELIEF.**

20 Section 237 of the Immigration and Nationality Act
21 (8 U.S.C. 1227) is amended by adding at the end the fol-
22 lowing:

23 “(d)(1) If an application for nonimmigrant status
24 under section 101(a)(15)(T) filed for an alien in the
25 United States sets forth a prima facie case for approval,

1 the Secretary of Homeland Security may grant the alien
2 a stay of removal or deportation until—

3 “(A) the application is approved; or

4 “(B) the application is denied, after the exhaus-
5 tion of administrative appeals.

6 “(2) Any appeal of the denial of a stay of removal
7 or deportation under this subsection shall accompany any
8 appeal of the underlying substantive petition or applica-
9 tion for benefits.

10 “(3) During any period in which an alien is provided
11 a stay of removal under this subsection, the alien may not
12 be removed or deported.

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

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

19 (a) EXPANSION OF AUTHORITY.—

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

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

25 “(A) TRAFFICKING VICTIMS.—

1 “(i) IN GENERAL.—If a Federal law
2 enforcement official files an application
3 that makes a prima facie showing that an
4 alien may be a victim of a severe form of
5 trafficking and may be a potential witness
6 to such trafficking, the Secretary of Home-
7 land Security may permit the alien to re-
8 main in the United States to facilitate the
9 investigation and prosecution of those re-
10 sponsible for such crime.

11 “(ii) SAFETY.—While investigating
12 and prosecuting suspected traffickers, Fed-
13 eral law enforcement officials described in
14 clause (i) shall make reasonable efforts to
15 protect the safety of trafficking victims, in-
16 cluding taking measures to protect traf-
17 ficked persons and their family members
18 from intimidation, threats of reprisals, and
19 reprisals from traffickers and their associ-
20 ates.

21 “(iii) CONTINUATION OF PRES-
22 ENCE.—The Secretary shall permit an
23 alien described in clause (i) who has filed
24 a civil action under section 1595 of title
25 18, United States Code, to remain in the

1 United States until such action is con-
2 cluded. If the Secretary, in consultation
3 with the Attorney General, determines that
4 the alien has failed to exercise due dili-
5 gence in pursuing such action, the Sec-
6 retary may revoke the order permitting the
7 alien to remain in the United States.

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

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

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

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

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

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

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

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

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

19 “(6) RELATIVES OF TRAFFICKING VICTIMS.—

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

1 tion Act (22 U.S.C. 7105(c)(3)(A)), if the rel-
2 ative—

3 “(i) was, on the date on which law en-
4 forcement applied for such continued pres-
5 ence—

6 “(I) in the case of an alien grant-
7 ed continued presence who is under
8 21 years of age, the spouse, child,
9 parent, or unmarried sibling under 18
10 years of age, of the alien; or

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

15 “(ii) is a parent or sibling of the alien
16 who the requesting law enforcement official
17 determines to be in present danger of re-
18 taliation as a result of the alien’s escape
19 from the severe form of trafficking or co-
20 operation with law enforcement, irrespec-
21 tive of age.

22 “(B) DURATION OF PAROLE.—

23 “(i) IN GENERAL.—The Secretary
24 shall extend the parole granted under sub-
25 paragraph (A) until the final adjudication

1 of the application filed by the principal
2 alien under section 101(a)(15)(T)(ii).

3 “(ii) OTHER LIMITS ON DURATION.—

4 If an application described in clause (i) is
5 not filed, the parole granted under sub-
6 paragraph (A) shall extend until the later
7 of—

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

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

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

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

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

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

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

18 **SEC. 206. IMPLEMENTATION OF TRAFFICKING VICTIMS**
19 **PROTECTION REAUTHORIZATION ACT OF**
20 **2005.**

21 (a) RULEMAKING.—Not later than 120 days after the
22 date of the enactment of this Act, the Secretary of Home-
23 land Security shall issue interim regulations regarding the
24 adjustment of status to permanent residence for non-
25 immigrants admitted into the United States under section

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

3 (b) REPORT.—If the interim regulations required
4 under subsection (a) are not issued by the deadline set
5 forth in subsection (a), the Secretary shall submit a report
6 providing a detailed explanation of the reasons such regu-
7 lations have not been issued to—

8 (1) the Committee on Foreign Relations of the
9 Senate;

10 (2) the Committee on the Judiciary of the Sen-
11 ate;

12 (3) the Committee on Foreign Affairs of the
13 House of Representatives; and

14 (4) the Committee on the Judiciary of the
15 House of Representatives.

16 (c) EXTENSION OF ELIGIBILITY UNTIL ISSUANCE OF
17 REGULATIONS.—Section 214(o)(7)(B) of the Immigration
18 and Nationality Act (8 U.S.C. 1184(o)(7)(B)) is amend-
19 ed—

20 (1) by striking “if a Federal” and inserting
21 “if—

22 “(i) a Federal”; and

23 (2) by striking the period at the end and insert-
24 ing “; or”

1 “(ii) the alien is eligible for relief under section
2 245(l) and is unable to obtain such relief because
3 regulations have not been issued to implement such
4 section.”.

5 **Subtitle B—Assistance for**
6 **Trafficking Victims**

7 **SEC. 211. ASSISTANCE FOR CERTAIN NONIMMIGRANT STA-**
8 **TUS APPLICANTS.**

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

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

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

16 (3) by inserting after paragraph (3) the fol-
17 lowing:

18 “(4) an alien for which a petition has been ap-
19 proved, or is pending, that sets forth a prima facie
20 case for status as a nonimmigrant under section
21 101(a)(15)(T) of the Immigration and Nationality
22 Act (8 U.S.C. 1101(a)(15)(T)).”.

23 (b) **EFFECTIVE DATE.**—The amendments made by
24 subsection (a) shall apply to applications for public bene-
25 fits and public benefits provided on or after the date of

1 the enactment of this Act without regard to whether regu-
 2 lations have been implemented to carry out such amend-
 3 ments.

4 **SEC. 212. INTERIM ASSISTANCE FOR CHILD VICTIMS OF**
 5 **TRAFFICKING.**

6 (a) IN GENERAL.—Section 107(b)(1) of the Traf-
 7 ficking Victims Protection Act of 2000 (22 U.S.C.
 8 7105(b)(1)) is amended—

9 (1) in subparagraph (E)—

10 (A) in clause (i)—

11 (i) in subclause (I), by inserting “or is
 12 unlikely or unable to cooperate with such a
 13 request due to physical or psychological
 14 trauma” before the semicolon; and

15 (ii) in subclause (II)(bb), by striking
 16 “the Attorney General and”; and

17 (B) in clause (ii), by striking “Attorney
 18 General”; and

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

20 “(F) ELIGIBILITY OF INTERIM ASSISTANCE
 21 FOR CHILD VICTIMS.—

22 “(i) DETERMINATION.—Upon receiv-
 23 ing credible information that a person de-
 24 scribed in subparagraph (C)(ii)(I) who is
 25 seeking assistance under this paragraph

1 has been subjected to a severe form of
2 trafficking in persons, the Secretary of
3 Health and Human Services shall promptly
4 determine if the person is eligible for in-
5 terim assistance under this paragraph. The
6 Secretary shall have exclusive authority to
7 make interim eligibility determinations
8 under this clause.

9 “(ii) NOTIFICATION.—The Secretary
10 of Health and Human Services shall notify
11 the Attorney General and the Secretary of
12 Homeland Security not later than 48 hours
13 after all interim eligibility determinations
14 have been made under clause (i) if there is
15 evidence of an ongoing violation.

16 “(iii) DURATION.—Assistance under
17 this paragraph may be provided to individ-
18 uals determined to be eligible under clause
19 (i) for a period of up to 90 days and may
20 be extended for an additional 30 days.

21 “(iv) LONG-TERM ASSISTANCE FOR
22 CHILD VICTIMS.—

23 “(I) ELIGIBILITY DETERMINA-
24 TION.—Before the expiration of the
25 period for interim assistance under

1 clause (iii), the Secretary of Health
2 and Human Services shall determine
3 if the person referred to in clause (i)
4 is eligible for assistance under this
5 paragraph.

6 “(II) CONSULTATION.—In mak-
7 ing a determination, the Secretary
8 must consult with the Attorney Gen-
9 eral, the Secretary of Homeland Secu-
10 rity, and nongovernmental organiza-
11 tions with expertise on victims of se-
12 vere form of trafficking.

13 “(III) LETTER OF ELIGI-
14 BILITY.—If the Secretary, after re-
15 ceiving information the Secretary be-
16 lieves, taken as a whole, indicates that
17 the person referred to in clause (i)
18 was a victim of a severe form of
19 human trafficking, the Secretary shall
20 issue a letter confirming that the per-
21 son is eligible for assistance under
22 this paragraph. The Secretary may
23 not require that the person meet with
24 law enforcement as a condition for re-
25 ceiving such letter of eligibility.

1 “(G) NOTIFICATION OF CHILD VICTIMS
2 FOR INTERIM ASSISTANCE.—

3 “(i) FEDERAL OFFICIALS.—Not later
4 than 24 hours after a Federal official dis-
5 covers that a person who is under 18 years
6 of age may be a victim of a severe form of
7 trafficking in persons, the official shall no-
8 tify the Secretary of Health and Human
9 Services to facilitate the provision of in-
10 terim assistance under subparagraph (F).

11 “(ii) STATE AND LOCAL OFFICIALS.—
12 Not later than 48 hours after a State or
13 local official discovers that a person who is
14 under 18 years of age may be a victim of
15 trafficking in persons, the official shall no-
16 tify the Secretary of Health and Human
17 Services to facilitate the provision of in-
18 terim assistance under subparagraph
19 (F).”.

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

24 “(4) TRAINING OF GOVERNMENT PER-
25 SONNEL.—

1 “(A) FEDERAL PERSONNEL.—Appropriate
 2 personnel of the Department of State, the De-
 3 partment of Justice, the Department of Home-
 4 land Security, and the Department of Health
 5 and Human Services shall be trained to—

6 “(i) identify victims of severe forms of
 7 trafficking, including juvenile victims; and

8 “(ii) provide for the protection of such
 9 victims.

10 “(B) STATE AND LOCAL OFFICIALS.—The
 11 Attorney General and the Secretary of Health
 12 and Human Services shall provide education
 13 and guidance to State and local officials regard-
 14 ing—

15 “(i) the identification of aliens who
 16 are the victims of severe forms of traf-
 17 ficking, particularly child victims of traf-
 18 ficking; and

19 “(ii) the requirements of subsection
 20 (b)(1)(G)(ii).”.

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

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

1 (1) ASSISTANCE FOR UNITED STATES CITIZENS
2 AND LAWFUL PERMANENT RESIDENTS.—Section
3 107 of the Trafficking Victims Protection Act of
4 2000 (22 U.S.C. 7105) is amended by inserting
5 after subsection (e) the following:

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

8 “(1) IN GENERAL.—The Secretary of Health
9 and Human Services and the Attorney General, in
10 consultation with the Secretary of Labor, shall es-
11 tablish a program to assist United States citizens
12 and aliens lawfully admitted for permanent residence
13 (as defined in section 101(a)(20) of the Immigration
14 and Nationality Act (8 U.S.C. 1101(a)(20))) who
15 are victims of severe forms of trafficking. In deter-
16 mining the assistance that would be most beneficial
17 for such victims, the Secretary and the Attorney
18 General shall consult with nongovernmental organi-
19 zations that provide services to victims of severe
20 forms of trafficking in the United States.

21 “(2) USE OF EXISTING PROGRAMS.—In addi-
22 tion to specialized services required for victims de-
23 scribed in paragraph (1), the program established
24 pursuant to paragraph (1) shall—

1 “(A) facilitate communication and coordi-
2 nation between the providers of assistance to
3 such victims;

4 “(B) provide a means to identify such pro-
5 viders; and

6 “(C) provide a means to make referrals to
7 programs for which such victims are already eli-
8 gible, including programs administered by the
9 Department of Justice and the Department of
10 Health and Human Services.

11 “(3) GRANTS.—

12 “(A) IN GENERAL.—The Secretary of
13 Health and Human Services and the Attorney
14 General may award grants to States, Indian
15 tribes, units of local government, and nonprofit,
16 nongovernmental victim service organizations to
17 develop, expand, and strengthen victim service
18 programs authorized under this subsection.

19 “(B) MAXIMUM FEDERAL SHARE.—The
20 Federal share of a grant awarded under this
21 paragraph may not exceed 75 percent of the
22 total costs of the projects described in the appli-
23 cation submitted by the grantee.”.

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

4 (A) in subsection (b)—

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

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

9 (ii) by adding at the end the fol-
10 lowing:

11 “(2) ADDITIONAL BENEFITS FOR TRAFFICKING
12 VICTIMS.—To carry out the purposes of section
13 107(f), there are authorized to be appropriated to
14 the Secretary of Health and Human Services—

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

16 “(B) \$5,000,0000 for fiscal year 2009;

17 “(C) \$10,000,000 for fiscal year 2010; and

18 “(D) \$15,000,000 for fiscal year 2011.”;

19 and

20 (B) in subsection (d)—

21 (i) by striking “To carry out the pur-
22 poses of section 107(b)” and inserting the
23 following:

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

4 (ii) by striking “To carry out the pur-
5 poses of section 134” and inserting the fol-
6 lowing:

7 “(B) ASSISTANCE TO FOREIGN COUN-
8 TRIES.—To carry out the purposes of section
9 134”; and

10 (iii) by adding at the end the fol-
11 lowing:

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

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

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

18 “(iii) \$10,000,000 for fiscal year
19 2010; and

20 “(iv) \$15,000,000 for fiscal year
21 2011.”.

22 (3) TECHNICAL ASSISTANCE.—Section
23 107(b)(2)(B)(ii) of the Trafficking Victims Protec-
24 tion Act of 2000 (22 U.S.C. 7105(b)(2)(B)(ii)) is
25 amended to read as follows:

1 “(ii) 5 percent for training and tech-
2 nical assistance, including increasing ca-
3 pacity and expertise on security for and
4 protection of service providers from intimi-
5 dation or retaliation for their activities.”.

6 (b) STUDY.—

7 (1) REQUIREMENT.—Not later than 1 year
8 after the date of the enactment of this Act, the At-
9 torney General and the Secretary of Health and
10 Human Services shall submit a report to the appro-
11 priate congressional committees that identifies the
12 existence or extent of any service gap between for-
13 eign and United States citizen victims of severe
14 forms of trafficking and victims of sex trafficking
15 (as defined in section 103 of the Trafficking Victims
16 Protection Act of 2000 (22 U.S.C. 7102)).

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

20 (A) investigate factors relating to the legal
21 ability of foreign and United States citizen vic-
22 tims of trafficking to access government-funded
23 social services in general, including the applica-
24 tion of the Personal Responsibility and Work
25 Opportunity Reconciliation Act of 1996 (8

1 U.S.C. 1641(e)(5)) and the Illegal Immigration
2 and Immigrant Responsibility Act of 1996 (di-
3 vision C of Public Law 104–208; 110 Stat.
4 3009 et seq.);

5 (B) investigate any other impediments to
6 the access of foreign and United States citizen
7 victims of trafficking to government-funded so-
8 cial services;

9 (C) investigate any impediments to the ac-
10 cess of foreign and United States citizen victims
11 of trafficking to government-funded services
12 targeted to victims of severe forms of traf-
13 ficking and victims of sex trafficking;

14 (D) investigate the effect of trafficking
15 service-provider infrastructure development,
16 continuity of care, and availability of case-
17 workers on the eventual restoration and reha-
18 bilitation of foreign and United States citizen
19 victims of trafficking; and

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

1 **Subtitle C—Penalties Against**
2 **Traffickers and Other Crimes**

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

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

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

9 “(4) The distribution of proceeds among multiple vic-
10 tims in an order of restitution under this section shall gov-
11 ern the distribution of forfeited funds through the proc-
12 esses of remission or restoration under this section or any
13 other statute that explicitly authorizes restoration or re-
14 mission of forfeited property.”;

15 (2) in section 1594—

16 (A) in subsection (b), by striking “The
17 court,” and inserting “Subject to remission or
18 restoration, the court,”; and

19 (B) in subsection (c), by adding at the end
20 the following:

21 “(3) The Attorney General shall grant restoration or
22 remission of property to victims of—

23 “(A) an offense under this chapter that results
24 in forfeiture under this section; or

1 “(B) an offense under any other statute that
2 explicitly authorizes restoration or remission of for-
3 feited property.

4 “(4) In a prosecution brought under Federal law, the
5 Attorney General may grant restoration or remission of
6 property to victims of severe forms of trafficking (as de-
7 fined in section 103 of the Trafficking Victims Protection
8 Act of 2000 (22 U.S.C. 7102)), in accordance with section
9 1593(b)(4).”; and

10 (3) in section 1595—

11 (A) in subsection (a)—

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

14 (ii) by inserting “(or any person who
15 knowingly benefits, financially or by receiv-
16 ing anything of value from participation in
17 a venture which has engaged in an act in
18 violation of this chapter)” after “perpe-
19 trator”; and

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

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

1 **SEC. 222. ENHANCING TRAFFICKING OFFENSES.**

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

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

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

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

9 (4) by inserting “(3)” before “Subject to rebut-
10 tal”;

11 (5) by striking “paragraph (1) of this sub-
12 section” each place it appears and inserting “sub-
13 paragraph (A)”;

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

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

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

20 “(B) an offense”;

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

23 “(C) an offense”; and

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

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

4 “(E) an offense”.

5 (b) PREVENTING OBSTRUCTION.—

6 (1) ENTICEMENT INTO SLAVERY.—Section
7 1583 of title 18, United States Code, is amended to
8 read as follows:

9 **“§ 1583. Enticement into slavery**

10 “(a) Any person who—

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

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

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

22 shall be fined under this title, imprisoned not more than
23 20 years, or both.

1 “(b) Any person who violates this section shall be
2 fined under this title, imprisoned for any term of years
3 or for life, or both if—

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

6 “(2) the violation includes kidnapping, an at-
7 tempt to kidnap, aggravated sexual abuse, an at-
8 tempt to commit aggravated sexual abuse, or an at-
9 tempt to kill.”.

10 (2) SALE INTO INVOLUNTARY SERVITUDE.—

11 Section 1584 of such title is amended—

12 (A) by inserting “(a)” before “Whoever”;

13 and

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

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

19 (3) TRAFFICKING.—Section 1590 of such title
20 is amended—

21 (A) by inserting “(a)” before “Whoever”;

22 and

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

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

1 this section, shall be subject to the penalties under sub-
2 section (a).”.

3 (4) SEX TRAFFICKING OF CHILDREN.—Section
4 1591 of such title is amended—

5 (A) in subsection (a), by striking “that
6 force, fraud, or coercion described in subsection
7 (c)(2)” and inserting “, or in reckless disregard
8 of the fact, that means of force, threats of
9 force, fraud, coercion described in subsection
10 (c)(2), or any combination of such means”;

11 (B) in subsection (b)(1), by striking
12 “force, fraud, or coercion” and inserting
13 “means of force, threats of force, fraud, coer-
14 cion, or any combination of such means,”;

15 (C) by redesignating subsection (c) as sub-
16 section (d);

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

19 “(c) Whoever obstructs, attempts to obstruct, or in
20 any way interferes with or prevents the enforcement of
21 this section, shall be subject to the penalties under sub-
22 section (b).”; and

23 (E) in subsection (d), as redesignated—

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

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

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

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

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

15 “(4) The term ‘serious harm’ means any harm,
16 whether physical or nonphysical, that is sufficiently
17 serious, under all the surrounding circumstances, to
18 compel a reasonable person of the same background
19 and in the same circumstances to perform or to con-
20 tinue performing labor or services in order to avoid
21 incurring that harm.”.

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

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

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

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

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

11 “(b) Whoever conspires with another to violate sec-
12 tion 1581, 1583, 1589, 1590, 1591, or 1592 shall be pun-
13 ished in the same manner as a completed violation of that
14 section.”.

15 (d) PUNISHING FINANCIAL GAIN FROM TRAFFICKED
16 LABOR.—Section 1589 of title 18, United States Code, is
17 amended to read as follows:

18 **“SEC. 1589. FORCED LABOR.**

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

22 “(1) by means of force, threats of force, phys-
23 ical restraint, or threats of physical restraint to that
24 person or another person;

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

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

5 “(4) by means of any scheme, plan, or pattern
6 intended to cause the person to believe that, if that
7 person did not perform such labor or services, that
8 person or another person would suffer serious harm
9 or physical restraint,

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

11 “(b) Whoever knowingly benefits, financially or by re-
12 ceiving anything of value, from participation in a venture,
13 which has engaged in the providing or obtaining of labor
14 or services by any of the means described in subsection
15 (a), knowing or in reckless disregard of the fact that the
16 venture has engaged in the providing or obtaining of labor
17 or services by any of such means, shall be punished as
18 provided in subsection (d).

19 “(c) In this section:

20 “(1) The term ‘abuse or threatened abuse of
21 law or legal process’ means the use or threatened
22 use of a law or legal process, whether civil or crimi-
23 nal, against another person primarily to accomplish
24 a purpose for which the law was not designed, in
25 order to exert pressure on another person to cause

1 that person to take some action or refrain from tak-
2 ing some action.

3 “(2) The term ‘serious harm’ means any harm,
4 whether physical or nonphysical, that is sufficiently
5 serious, under all the surrounding circumstances, to
6 compel a reasonable person of the same background
7 and in the same circumstances to perform or to con-
8 tinue performing labor or services in order to avoid
9 incurring that harm.

10 “(d) Any person who violates this section shall be
11 fined under this title, imprisoned not more than 20 years,
12 or both. If death results from a violation of this section,
13 or if the violation includes kidnapping, an attempt to kid-
14 nap, aggravated sexual abuse, or an attempt to kill, the
15 defendant shall be fined under this title, imprisoned for
16 any term of years, or both.”

17 (e) BENEFITTING FROM FINANCIAL GAIN IN PEON-
18 AGE, SLAVERY, AND TRAFFICKING IN PERSONS.—

19 (1) IN GENERAL.—Chapter 77 of title 18,
20 United States Code, is amended—

21 (A) by redesignating sections 1593, 1594,
22 and 1595 as sections 1594, 1595, and 1596, re-
23 spectively; and

24 (B) by inserting after section 1592 the fol-
25 lowing:

1 **“§ 1593. Benefitting from financial gain in peonage,**
 2 **slavery, and trafficking in persons**

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

10 (2) CONFORMING AMENDMENT.—The table of
 11 sections at the beginning of such chapter is amended
 12 by striking the items relating to sections 1593,
 13 1594, and 1595, and inserting the following:

“Sec. 1593. Benefitting from financial gain in peonage, slavery, and trafficking
 in persons.

“Sec. 1594. Mandatory restitution.

“Sec. 1595. General provisions.

“Sec. 1596. Civil remedy.”.

14 (f) TIGHTENING IMMIGRATION PROHIBITIONS.—

15 (1) GROUND OF INADMISSIBILITY FOR TRAF-
 16 FICKING.—Section 212(a)(2)(H)(i) of the Immigra-
 17 tion and Nationality Act (8 U.S.C.
 18 1182(a)(2)(H)(i)) is amended by striking “who is
 19 listed in a report submitted pursuant to section
 20 111(b) of the Trafficking Victims Protection Act of
 21 2000” and inserting “who commits or conspires to
 22 commit human trafficking offenses in the United
 23 States or outside the United States”.

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

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

6 (g) SEX TOURISM.—Chapter 117 of title 18, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 “§ 2429. Sex tourism

10 “Whoever, for the purpose of commercial advantage
11 or private financial gain, arranges, induces, or procures
12 the travel of a person in foreign commerce for the purpose
13 of engaging in any commercial sex act for which any per-
14 son can be charged with an offense in the jurisdiction in
15 which the commercial sex act occurs, or attempts such
16 conduct, shall be fined under this title, imprisoned not
17 more than 10 years, or both.”.

18 **SEC. 223. JURISDICTION IN CERTAIN TRAFFICKING OF-**
19 **FENSES.**

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

1 **“§ 1596. Additional jurisdiction in certain trafficking**
2 **offenses**

3 “(a) IN GENERAL.—In addition to any domestic or
4 extra-territorial jurisdiction otherwise provided by law, the
5 courts of the United States have extra-territorial jurisdic-
6 tion over any offense (or any attempt or conspiracy to
7 commit an offense) under section 1581, 1583, 1584, 1589,
8 1590, or 2429 if—

9 “(1) an alleged offender is a national of the
10 United States or an alien lawfully admitted for per-
11 manent residence (as those terms are defined in sec-
12 tion 101 of the Immigration and Nationality Act (8
13 U.S.C. 1101)); or

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

17 “(b) LIMITATION ON PROSECUTIONS OF OFFENSES
18 PROSECUTED IN OTHER COUNTRIES.—No prosecution
19 may be commenced against a person under this section
20 if a foreign government, in accordance with jurisdiction
21 recognized by the United States, has prosecuted or is pros-
22 ecuting such person for the conduct constituting such of-
23 fense, except upon the approval of the Attorney General
24 or the Deputy Attorney General (or a person acting in
25 either such capacity), which function of approval may not
26 be delegated.”.

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

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

5 **SEC. 224. SEX TOURISM AND REMOVAL OF SEX OFFENDERS.**

6 (a) *IN GENERAL.*—*The Attorney General shall no-*
 7 *tify—*

8 (1) *the Secretary of State in a timely manner re-*
 9 *garding any conviction of an individual of a viola-*
 10 *tion of section 2423 of title 18, United States Code,*
 11 *for appropriate action under subsection (b); and*

12 (2) *the Secretary of Homeland Security in a*
 13 *timely manner regarding any conviction of an alien*
 14 *of a sex offense for appropriate action under sub-*
 15 *section (c).*

16 (b) *AUTHORITY TO RESTRICT PASSPORT.*—

17 (1) *INELIGIBILITY FOR PASSPORT.*—

18 (A) *IN GENERAL.*—*The Secretary of State*
 19 *shall not issue a passport to an individual who*
 20 *is convicted of a Federal sex offense during the*
 21 *covered period if the individual used a passport*
 22 *or otherwise crossed an international border in*
 23 *committing the Federal sex offense.*

24 (B) *PASSPORT REVOCATION.*—*The Secretary*
 25 *of State shall revoke a passport issued to an in-*

1 *dividual described in subparagraph (A) before*
2 *the date on which the individual was convicted*
3 *of the applicable Federal sex offense.*

4 (2) *EMERGENCY AND HUMANITARIAN EXCEP-*
5 *TIONS.—Notwithstanding paragraph (1), the Sec-*
6 *retary of State may issue a passport, in emergency*
7 *circumstances or for humanitarian reasons, to an in-*
8 *dividual described in paragraph (1)(A).*

9 (3) *DEFINITIONS.—In this subsection—*

10 (A) *the term “covered period” means the pe-*
11 *riod beginning on the date on which an indi-*
12 *vidual is convicted of a Federal sex offense and*
13 *ending on the latter of—*

14 (i) *the date on which the individual is*
15 *released from a sentence of imprisonment*
16 *relating to the Federal sex offense; and*

17 (ii) *the end of a period of parole or*
18 *other supervised release of the covered indi-*
19 *vidual relating to the Federal sex offense;*

20 (B) *the term “Federal sex offense” means a*
21 *felony violation of section 2423 of title 18,*
22 *United States Code; and*

23 (C) *the term “imprisoned” means being*
24 *confined in or otherwise restricted to a jail, pris-*
25 *on, half-way house, treatment facility, or another*

1 *institution, on a full or part-time basis, pursu-*
2 *ant to the sentence imposed as the result of a*
3 *criminal conviction.*

4 *(c) REMOVAL OF ALIENS.—The Secretary of Homeland*
5 *Security shall place an alien convicted of a sex offense in*
6 *removal proceedings under section 240 of the Immigration*
7 *and Nationality Act (8 U.S.C. 1229a).*

8 *(d) GROUNDS OF INADMISSIBILITY AND REMOV-*
9 *ABILITY.—*

10 *(1) IN GENERAL.—Section 212(a)(2) of the Im-*
11 *migration and Nationality Act (8 U.S.C. 1182(a)(2))*
12 *is amended by adding at the end the following:*

13 *“(J) SEXUAL ABUSE OF A MINOR.—*

14 *“(i) IN GENERAL.—An alien who is*
15 *convicted of sexual abuse of a minor is in-*
16 *admissible.*

17 *“(ii) SEX OFFENSES.—For purposes of*
18 *this subparagraph, an alien who has been*
19 *convicted of a sex offense (as that term is*
20 *defined in section 111 of the Adam Walsh*
21 *Child Protection and Safety Act of 2006 (42*
22 *U.S.C. 16911)) shall be considered to have*
23 *been convicted of sexual abuse of a minor.*
24 *An alien convicted of a sex offense shall be*

1 *ineligible for any discretionary relief under*
 2 *this Act.”.*

3 (2) *DEPORTABLE ALIENS.—Section*
 4 *237(a)(2)(A)(iii) of the Immigration and Nationality*
 5 *Act (8 U.S.C. 1227(a)(2)(A)(iii)) is amended by add-*
 6 *ing at the end the following “For purposes of this*
 7 *clause, an alien who has been convicted of a sex of-*
 8 *fense (as that term is defined in section 111 of the*
 9 *Adam Walsh Child Protection and Safety Act of 2006*
 10 *(42 U.S.C. 16911)) shall be considered to have been*
 11 *convicted of sexual abuse of a minor.”.*

12 (e) *DEFINITION OF SEX OFFENSE.—In this section, the*
 13 *term “sex offense” has the meaning given that term in sec-*
 14 *tion 111 of the Adam Walsh Child Protection and Safety*
 15 *Act of 2006 (42 U.S.C. 16911).*

16 **Subtitle D—Activities of the United**
 17 **States Government**

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

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

21 (1) in subparagraph (A)—

22 (A) by striking “section 107(b)” and in-
 23 serting “subsections (b) and (f) of section 107”;

24 and

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

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

5 (3) by redesignating subparagraph (H) as sub-
6 paragraph (J); and

7 (4) by inserting after subparagraph (G) the fol-
8 lowing:

9 “(H) activities by the Department of De-
10 fense to combat trafficking in persons, includ-
11 ing—

12 “(i) educational efforts for, and dis-
13 ciplinary actions taken against, members
14 of the United States Armed Forces;

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

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

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

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

10 “(ii) section 307 of the Tariff Act of
11 1930 (19 U.S.C. 1307; relating to prohibi-
12 tion on importation of convict-made
13 goods), including any determinations by
14 the Secretary of Homeland Security to
15 waive the restrictions of such section; and

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

21 **SEC. 232. DEFENSE CONTRACT AUDIT AGENCY AUDIT.**

22 (a) **AUDIT.**—The Defense Contract Audit Agency
23 shall conduct an audit of all contractors and subcontrac-
24 tors of the Department of Defense implementing contracts

1 abroad where there is substantial evidence to suggest traf-
2 ficking in persons, including—

- 3 (1) confiscation of passports;
- 4 (2) restriction on mobility;
- 5 (3) abrupt or evasive repatriation,
- 6 (4) deception of work destination; or
- 7 (5) forced labor.

8 (b) CONGRESSIONAL NOTIFICATION.—

9 (1) IN GENERAL.—Not later than 90 days after
10 the completion of each audit under subsection (a),
11 the Secretary of Defense shall—

12 (A) notify the congressional committees
13 listed in paragraph (2) of the findings of the
14 audit; and

15 (B) certify that the contractor or subcon-
16 tractor has not engaged in, or is no longer en-
17 gaged in, the activities described in subsection
18 (a).

19 (2) CONGRESSIONAL COMMITTEES.—The com-
20 mittees list in this paragraph are—

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

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

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

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

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

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

10 **SEC. 234. PREVENTING UNITED STATES TRAVEL BY TRAF-**
11 **FICKERS.**

12 Section 212(a)(2)(H)(i) of the Immigration and Na-
13 tionality Act (8 U.S.C. 1182(a)(2)(H)(i)) is amended by
14 striking “consular officer” and inserting “consular officer,
15 the Secretary of Homeland Security, the Secretary of
16 State,”.

17 **SEC. 235. ENHANCING EFFORTS TO COMBAT THE TRAF-**
18 **FICKING OF CHILDREN.**

19 (a) **COMBATING CHILD TRAFFICKING AT THE BOR-**
20 **DER AND PORTS OF ENTRY OF THE UNITED STATES.—**

21 (1) **POLICIES AND PROCEDURES.—**In order to
22 enhance the efforts of the United States to prevent
23 trafficking in persons, the Secretary of Homeland
24 Security, in conjunction with the Secretary of State,
25 the Attorney General, and the Secretary of Health

1 and Human Services, shall develop policies and pro-
2 cedures to ensure that unaccompanied alien children
3 in the United States are safely repatriated to their
4 country of nationality or of last habitual residence.

5 (2) SPECIAL RULES FOR CHILDREN FROM CON-
6 TIGUOUS COUNTRIES.—

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

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

20 (ii) such child does not have a fear of
21 returning to the child's country of nation-
22 ality or of last habitual residence owing to
23 a credible fear of persecution;

24 (iii) there is no credible evidence that
25 the return of such child to the child's

1 country of nationality or of last habitual
2 residence would endanger the life or safety
3 of such child; and

4 (iv) the child is able to make an inde-
5 pendent decision to withdraw the child's
6 application for admission to the United
7 States.

8 (B) RETURN.—An immigration officer who
9 finds an unaccompanied alien child described in
10 subparagraph (A) at a land border or port of
11 entry of the United States and determines that
12 such child is inadmissible under the Immigra-
13 tion and Nationality Act (8 U.S.C. 1101 et
14 seq.) shall—

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

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

23 (C) CONTIGUOUS COUNTRY AGREE-
24 MENTS.—The Secretary of State shall negotiate
25 agreements between the United States and

1 countries contiguous to the United States with
2 respect to the repatriation of children. Such
3 agreements shall be designed to protect children
4 from severe forms of trafficking in persons, and
5 shall, at a minimum, provide that—

6 (i) no child shall be returned to the
7 child's country of nationality or of last ha-
8 bitual residence unless returned to appro-
9 priate officials or employees of the accept-
10 ing country's government;

11 (ii) no child shall be returned to the
12 child's country of nationality or of last ha-
13 bitual residence outside of reasonable busi-
14 ness hours; and

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

18 (3) RULE FOR OTHER CHILDREN.—The custody
19 of unaccompanied alien children not described in
20 paragraph (2)(A) who are apprehended at the bor-
21 der of the United States or at a United States port
22 of entry shall be treated in accordance with sub-
23 section (c).

24 (4) SCREENING.—Within 48 hours of the ap-
25 prehension of a child who is believed to be described

1 in paragraph (2)(A), but in any event prior to re-
2 turning such child to the child's country of nation-
3 ality or of last habitual residence, the child shall be
4 screened to determine whether the child meets the
5 criteria listed in paragraph (2)(A). If the child does
6 not meet such criteria, or if no determination can be
7 made within 48 hours of apprehension, the child
8 shall immediately be transferred to the Secretary of
9 Health and Human Services and treated in accord-
10 ance with subsection (c).

11 (5) ENSURING THE SAFE REPATRIATION OF
12 CHILDREN.—

13 (A) REPATRIATION PILOT PROGRAM.—To
14 protect children from trafficking and exploi-
15 tation, the Secretary of State shall create a
16 pilot program, in conjunction with non-govern-
17 mental organizations and other national and
18 international agencies and experts, to develop
19 and implement best practices to ensure the safe
20 and secure repatriation and reintegration of un-
21 accompanied alien children into their country of
22 nationality or of last habitual residence, includ-
23 ing placement with their families or other spon-
24 soring agencies.

1 (B) ASSESSMENT OF COUNTRY CONDI-
2 TIONS.—The Secretary of Homeland Security
3 shall consult the State Department’s Country
4 Reports on Human Rights Practices and the
5 Trafficking in Persons Report in assessing
6 whether to repatriate an unaccompanied alien
7 child to a particular country. Such assessment
8 shall consider whether there is reasonable risk
9 that repatriation of an unaccompanied alien
10 child would threaten the life or safety of the
11 child.

12 (C) REPORT ON REPATRIATION OF UNAC-
13 COMPANIED ALIEN CHILDREN.—Not later than
14 18 months after the date of the enactment of
15 this Act, and annually thereafter, the Secretary
16 of Homeland Security, in conjunction with the
17 Secretary of State and Secretary of Health and
18 Human Services, shall submit a report to the
19 Committee on the Judiciary of the Senate and
20 the Committee on the Judiciary of the House of
21 Representatives on efforts to repatriate unac-
22 companied alien children. Such report shall in-
23 clude—

24 (i) the number of unaccompanied
25 alien children ordered removed and the

- 1 number of such children actually removed
2 from the United States;
- 3 (ii) a statement of the nationalities,
4 ages, and gender of such children;
- 5 (iii) a description of the policies and
6 procedures used to effect the removal of
7 such children from the United States and
8 the steps taken to ensure that such chil-
9 dren were safely and humanely repatriated
10 to their country of nationality or of last
11 habitual residence, including a description
12 of the repatriation pilot program created
13 pursuant to subparagraph (A);
- 14 (iv) a description of the type of immi-
15 gration relief sought and denied to such
16 children;
- 17 (v) any information gathered in as-
18 sessments of country and local conditions
19 pursuant to paragraph (2); and
- 20 (vi) statistical information and other
21 data on unaccompanied alien children as
22 provided for in section 462(b)(1)(J) of the
23 Homeland Security Act of 2002 (6 U.S.C.
24 279(b)(1)(J)).

1 (D) PLACEMENT IN REMOVAL PRO-
2 CEEDINGS.—Any unaccompanied alien child
3 sought to be removed by the Department of
4 Homeland Security, except for an unaccom-
5 panied alien child from a contiguous country
6 subject to exceptions under subsection (a)(2),
7 shall be placed in removal proceedings under
8 section 240 of the Immigration and Nationality
9 Act (8 U.S.C. 1229a) and shall be safely repa-
10 triated pursuant to 240B of such Act (8 U.S.C.
11 1229c).

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

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

22 (2) NOTIFICATION.—Each department or agen-
23 cy of the Federal Government shall notify the De-
24 partment of Health and Human services within 48
25 hours upon—

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

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

6 (3) TRANSFERS OF UNACCOMPANIED ALIEN
7 CHILDREN.—Except in the case of exceptional cir-
8 cumstances, any department or agency of the Fed-
9 eral Government that has an unaccompanied alien
10 child in custody shall transfer the custody of such
11 child to the Secretary of Health and Human Serv-
12 ices not later than 72 hours after determining that
13 such child is an unaccompanied alien child.

14 (4) AGE DETERMINATIONS.—

15 (A) IN GENERAL.—The Secretary of
16 Health and Human Services shall make an age
17 determination for an alien described in para-
18 graph (2)(B) and take whatever other steps are
19 necessary to determine whether such alien is el-
20 igible for treatment under this section or sec-
21 tion 462 of the Homeland Security Act of 2002
22 (6 U.S.C. 279).

23 (B) PROCEDURES.—The Secretary of
24 Health and Human Services, in consultation
25 with the Secretary of Homeland Security, shall

1 develop procedures to make a prompt deter-
2 mination of the age of an alien, which shall be
3 used by the Secretary of Homeland Security
4 and the Secretary of Health and Human Serv-
5 ices for children in their respective custody. At
6 a minimum, these procedures shall permit the
7 presentation of multiple forms of evidence, in-
8 cluding the non-exclusive use of radiographs, to
9 determine the age of the unaccompanied alien.

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

12 (1) POLICIES AND PROGRAMS.—The Secretary
13 of Health and Human Services, Secretary of Home-
14 land Security, Attorney General, and Secretary of
15 State shall establish policies and programs to ensure
16 that unaccompanied alien children in the United
17 States are protected from traffickers and other per-
18 sons seeking to victimize or otherwise engage such
19 children in criminal, harmful, or exploitative activity,
20 including policies and programs reflecting best prac-
21 tices in witness security programs.

22 (2) SAFE AND SECURE PLACEMENTS.—Subject
23 to section 462(b)(2) of the Homeland Security Act
24 of 2002 (6 U.S.C. 279(b)(2)), an unaccompanied
25 alien child in the custody of the Secretary of Health

1 and Human Services shall be promptly placed in the
2 least restrictive setting that is in the best interest of
3 the child. Placement of child trafficking victims may
4 include placement in an Unaccompanied Refugee
5 Minor program, pursuant to section 501(a) of the
6 Refugee Education Assistance Act of 1980 (8 U.S.C.
7 1522 note), if a suitable family member is not avail-
8 able to provide care. A child shall not be placed in
9 a secure facility absent an independent finding that
10 the child poses a danger to self or others.

11 (3) SAFETY AND SUITABILITY ASSESSMENTS.—

12 (A) IN GENERAL.—Subject to the require-
13 ments of subparagraph (B), an unaccompanied
14 alien child may not be placed with a person or
15 entity unless the Secretary of Health and
16 Human Services makes a determination that
17 the proposed custodian is capable of providing
18 for the child’s physical and mental well-being.
19 Such determination shall, at a minimum, in-
20 clude verification of the custodian’s identity and
21 relationship to the child, if any, as well as an
22 independent finding that the individual has not
23 engaged in any activity that would indicate a
24 potential risk to the child.

1 (B) HOME STUDIES.—Before placing the
2 child with an individual, the Secretary of
3 Health and Human Services shall determine
4 whether a home study is first necessary. A
5 home study shall be conducted for a child who
6 is a victim of a severe form of trafficking in
7 persons, a special needs child with a disability
8 (as defined in section 3 of the Americans with
9 Disabilities Act of 1990 (42 U.S.C. 12102(2))),
10 or a child who has been a victim of physical or
11 sexual abuse under circumstances that indicate
12 that the child’s health or welfare has been sig-
13 nificantly harmed or threatened or a child
14 whose proposed sponsor clearly presents a risk
15 of abuse, maltreatment, exploitation, or traf-
16 ficking to the child based on all available objec-
17 tive evidence. The Secretary of Health and
18 Human Services shall conduct follow-up serv-
19 ices, during the pendency of removal pro-
20 ceedings, on children and custodians for whom
21 a home study was conducted and is authorized
22 to conduct follow-up services in cases involving
23 children with mental health or other needs who
24 could benefit from ongoing assistance from a
25 social welfare agency.

1 (C) ACCESS TO INFORMATION.—Not later
2 than 2 weeks after receiving a request from the
3 Secretary of Health and Human Services, the
4 Secretary of Homeland Security shall provide
5 information necessary to conduct suitability as-
6 sessments from appropriate Federal, State, and
7 local law enforcement and immigration data-
8 bases.

9 (4) LEGAL ORIENTATION PRESENTATIONS.—
10 The Secretary of Health and Human Services shall
11 cooperate with the Executive Office for Immigration
12 Review to ensure that custodians receive legal ori-
13 entation presentations provided through the Legal
14 Orientation Program administered by the Executive
15 Office for Immigration Review. Such presentations
16 shall address the custodian’s responsibility to ensure
17 the child’s appearance at all immigration pro-
18 ceedings and to protect the child from mistreatment,
19 exploitation, and trafficking.

20 (5) ACCESS TO COUNSEL.—The Secretary of
21 Health and Human Services shall ensure, to the
22 greatest extent practicable, that all unaccompanied
23 alien children who are or have been in the custody
24 of the Secretary or the Secretary of Homeland Secu-
25 rity, and who are not described in subsection

1 (a)(2)(A), have competent counsel to represent them
2 in legal proceedings or matters and protect them
3 from mistreatment, exploitation, and trafficking. To
4 the greatest extent practicable, the Secretary of
5 Health and Human Services shall make every effort
6 to utilize the services of competent pro bono counsel
7 who agree to provide representation to such children
8 without charge. Consistent with section 292 of the
9 Immigration and Nationality Act (8 U.S.C. 1362),
10 nothing in this Act may be construed to require the
11 Government of the United States to pay for counsel
12 to any unaccompanied alien child.

13 (6) CHILD ADVOCATES.—The Secretary of
14 Health and Human Services is authorized to appoint
15 independent child advocates for child trafficking vic-
16 tims and other vulnerable unaccompanied alien chil-
17 dren. A child advocate shall be provided access to
18 materials necessary to effectively advocate for the
19 best interest of the child. The child advocate shall
20 not be compelled to testify or provide evidence in
21 any proceeding concerning any information or opin-
22 ion received from the child in the course of serving
23 as a child advocate. The child advocate shall be pre-
24 sumed to be acting in good faith and be immune

1 from civil and criminal liability for lawful conduct of
2 duties as described in this provision.

3 (7) CONFIDENTIALITY.—The Secretary of
4 Health and Human Services shall maintain the pri-
5 vacy and confidentiality of all information gathered
6 in the course of the care, custody, and placement of
7 unaccompanied alien children, consistent with its
8 role and responsibilities under the Homeland Secu-
9 rity Act of 2002 to act as guardian in loco parentis
10 in the best interest of the unaccompanied alien child,
11 by not disclosing such information to other govern-
12 ment agencies or nonparental third parties. The Sec-
13 retary shall provide information to a duly recognized
14 law enforcement entity in connection with a prosecu-
15 tion or investigation of an offense described in para-
16 graph (2) or (3) of section 212(a) of the Immigra-
17 tion and Nationality Act (8 U.S.C. 1182(a)), when
18 such information is requested in writing by such en-
19 tity.

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

22 (1) IN GENERAL.—Section 101(a)(27)(J) of the
23 Immigration and Nationality Act (8 U.S.C.
24 1101(a)(27)(J)) is amended—

1 (A) in clause (i), by striking “State and
2 who has been deemed eligible by that court for
3 long-term foster care due to abuse, neglect, or
4 abandonment;” and inserting “State, or an in-
5 dividual or entity appointed by a State or juve-
6 nile court located in the United States, and
7 whose reunification with 1 or both of the immi-
8 grant’s parents is not viable due to abuse, ne-
9 glect, abandonment, or a similar basis found
10 under State law;”; and

11 (B) in clause (iii)—

12 (i) in the matter preceding subclause
13 (I), by striking “the Attorney General ex-
14 pressly consents to the dependency order
15 serving as a precondition to the grant of
16 special immigrant juvenile status;” and in-
17 serting “the Secretary of Homeland Secu-
18 rity consents to the grant of special immi-
19 grant juvenile status;”; and

20 (ii) in subclause (I), by striking “in
21 the actual or constructive custody of the
22 Attorney General unless the Attorney Gen-
23 eral specifically consents to such jurisdic-
24 tion;” and inserting “in the custody of the
25 Secretary of Health and Human Services

1 unless the Secretary of Health and Human
2 Services specifically consents to such juris-
3 diction;”.

4 (2) EXPEDITIOUS ADJUDICATION.—All applica-
5 tions for special immigrant status under section
6 101(a)(27)(J) of the Immigration and Nationality
7 Act (8 U.S.C. 1101(a)(27)(J)) shall be adjudicated
8 by the Secretary of Homeland Security not later
9 than 180 days after the date on which the applica-
10 tion is filed.

11 (3) ADJUSTMENT OF STATUS.—Section
12 245(h)(2)(A) of the Immigration and Nationality
13 Act (8 U.S.C. 1255(h)(2)(A)) is amended to read as
14 follows:

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

18 (4) ELIGIBILITY FOR ASSISTANCE.—

19 (A) IN GENERAL.—A child who has been
20 granted special immigrant status under section
21 101(a)(27)(J) of the Immigration and Nation-
22 ality Act (8 U.S.C. 1101(a)(27)(J)) and who
23 was either in the custody of the Secretary of
24 Health and Human Services at the time a de-
25 pendency order was granted for such child or

1 who was receiving services pursuant to section
2 501(a) of the Refugee Education Assistance Act
3 of 1980 (8 U.S.C. 1522 note) at the time such
4 dependency order was granted, shall be eligible
5 for placement and services under section 412(d)
6 of the Immigration and Nationality Act (8
7 U.S.C. 1522(d)) until the earlier of—

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

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

14 (B) STATE REIMBURSEMENT.—If State
15 foster care funds are expended on behalf of a
16 child who is not described in subparagraph (A)
17 and has been granted special immigrant status
18 under section 101(a)(27)(J) of the Immigration
19 and Nationality Act (8 U.S.C. 1101(a)(27)(J)),
20 the Federal Government shall reimburse the
21 State in which the child resides for such ex-
22 penditures by the State.

23 (5) STATE COURTS ACTING IN LOCO
24 PARENTIS.—A department or agency of a State, or
25 an individual or entity appointed by a State court or

1 juvenile court located in the United States, acting in
2 loco parentis, shall not be considered a legal guard-
3 ian for purposes of this section or section 462 of the
4 Homeland Security Act of 2002 (6 U.S.C. 279).

5 (6) TRANSITION RULE.—Notwithstanding any
6 other provision of law, an alien described in section
7 101(a)(27)(J) of the Immigration and Nationality
8 Act (8 U.S.C. 1101(a)(27)(J)), as amended by para-
9 graph (1), may not be denied special immigrant sta-
10 tus under such section after the date of the enact-
11 ment of this Act based on age if the alien was a
12 child on the date on which the alien applied for such
13 status.

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

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

19 “(E) APPLICABILITY.—Subparagraphs (A)
20 and (B) shall not apply to an unaccompanied
21 alien child (as defined in section 462(g) of the
22 Homeland Security Act of 2002 (6 U.S.C.
23 279(g))).”; and

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

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

9 (8) SPECIALIZED NEEDS OF CHILDREN.—Appli-
10 cations for asylum and other forms of relief from re-
11 moval in which a child is the principal applicant
12 shall be governed by regulations which take into ac-
13 count the specialized needs of children and which ad-
14 dress both procedural and substantive aspects of
15 handling children’s cases.

16 (e) TRAINING.—The Secretary of State, the Sec-
17 retary of Homeland Security, the Secretary of Health and
18 Human Services, and the Attorney General shall provide
19 specialized training to all Federal personnel, and upon re-
20 quest, state and local personnel, who come into contact
21 with unaccompanied alien children. Such personnel shall
22 be trained to work with unaccompanied alien children, in-
23 cluding identifying children who are a victim of a severe
24 form of trafficking in persons, and children for whom asy-

1 lum or special immigrant relief may be appropriate, in-
2 cluding children described in subsection (a)(2).

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

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

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

14 (A) in paragraph (3), by striking “para-
15 graph (1)(G),” and inserting “paragraph (1),”;
16 and

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

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

22 (g) DEFINITION OF UNACCOMPANIED ALIEN
23 CHILD.—For purposes of this section, the term “unaccom-
24 panied alien child” has the meaning given such term in

1 section 462(g) of the Homeland Security Act of 2002 (6
2 U.S.C. 279(g)).

3 (h) EFFECTIVE DATE.—This section shall—

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

6 (2) apply to all aliens in the United States,
7 pending proceedings before the Executive Office for
8 Immigration Review or related administrative or
9 Federal appeals on or after the date of the enact-
10 ment of this Act.

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

16 **SEC. 236. TEMPORARY INCREASE IN FEE FOR CERTAIN**
17 **CONSULAR SERVICES.**

18 (a) INCREASE IN FEE.—Notwithstanding any other
19 provision of law, not later than October 1, 2008, the Sec-
20 retary of State shall increase by \$2 the fee or surcharge
21 assessed under section 140(a) of the Foreign Relations
22 Authorization Act, Fiscal Years 1994 and 1995 (Public
23 Law 103–236; 8 U.S.C. 1351 note) for processing ma-
24 chine-readable nonimmigrant visas and machine-readable

1 combined border crossing identification cards and non-
2 immigrant visas.

3 (b) DEPOSIT OF AMOUNTS.—Notwithstanding sec-
4 tion 140(a)(2) of the Foreign Relations Authorization Act,
5 Fiscal Years 1994 and 1995 (Public Law 103–236; 8
6 U.S.C. 1351 note), the additional amount collected pursu-
7 ant the fee increase under subsection (a) shall be deposited
8 in the Treasury.

9 (c) DURATION OF INCREASE.—The fee increase au-
10 thorized under subsection (a) shall terminate on the date
11 that is 2 years after the first date on which such increased
12 fee is collected.

13 **TITLE III—AUTHORIZATIONS OF** 14 **APPROPRIATIONS**

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

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

18 (1) in subsection (a)—

19 (A) in the first sentence—

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

21 and

22 (ii) by striking “\$1,500,000” and all
23 that follows through “\$5,500,000 for each
24 of the fiscal years 2006 and 2007” and in-

1 serting “\$5,500,000 for each of the fiscal
2 years 2008 through 2011”; and

3 (B) in the second sentence—

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

10 (ii) by striking “2006 and 2007” and
11 inserting “2008 through 2011”;

12 (2) in subsection (b)(1), by striking
13 “\$5,000,000” and all that follows and inserting
14 “\$15,000,000 for each of the fiscal years 2008
15 through 2011”;

16 (3) in subsection (c)—

17 (A) in paragraph (1)—

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

21 (ii) in subparagraph (B), by adding at
22 the end the following: “To carry out the
23 purposes of section 107(a)(1)(F), there are
24 authorized to be appropriated to the Sec-
25 retary of State \$500,000 for fiscal year

1 2008, \$750,000 for fiscal year 2009, and
2 \$1,000,000 for each of the fiscal years
3 2010 and 2011.”;

4 (B) by striking paragraph (2);

5 (C) by redesignating paragraph (3) as
6 paragraph (2); and

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

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

12 (ii) by striking “, including the prepa-
13 ration” and all that follows and inserting
14 a period;

15 (4) in subsection (d)—

16 (A) in the first sentence, by striking
17 “\$10,000,000” and all that follows through
18 “2007” and inserting “\$15,000,000 for each of
19 the fiscal years 2008 through 2011”; and

20 (B) in the second sentence, by striking
21 “\$250,000” and all that follows through
22 “2007” and inserting “\$500,000 for each of
23 the fiscal years 2008 through 2011”;

24 (5) in subsection (e)—

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

5 (B) in paragraph (2)—

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

9 (ii) by striking “\$5,000,000” and all
10 that follows and inserting “\$15,000,000
11 for each of the fiscal years 2008 through
12 2011.”; and

13 (C) in paragraph (3), by striking
14 “\$300,000” and all that follows and inserting
15 “\$3,000,000 for each of the fiscal years 2008
16 through 2011.”;

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

20 (7) in subsection (h), by striking “fiscal year
21 2006” and inserting “each of the fiscal years 2008
22 through 2011”; and

23 (8) in subsection (i), by striking “\$18,000,000
24 for each of the fiscal years 2006 and 2007” and in-

1 serting “\$18,000,000 for each of the fiscal years
2 2008 through 2011”.

3 **SEC. 302. TRAFFICKING VICTIMS PROTECTION REAUTHOR-**
4 **IZATION ACT OF 2005.**

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

7 (1) in section 102(b)(7), by striking “2006 and
8 2007” and inserting “2008 through 2011”;

9 (2) in section 201(c)—

10 (A) in paragraph (1), by striking
11 “\$2,500,000 for each of the fiscal years 2006
12 and 2007” each place it appears and inserting
13 “\$3,000,000 for each of the fiscal years 2008
14 through 2011”; and

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

17 (3) in section 202(d), by striking “\$10,000,000
18 for each of the fiscal years 2006 and 2007” and in-
19 serting “\$15,000,000 for each of the fiscal years
20 2008 through 2011”;

21 (4) in section 203(g), by striking “2006 and
22 2007” and inserting “2008 through 2011”; and

23 (5) in section 204(d), by striking “2006 and
24 2007” and inserting “2008 through 2011”.

1 **SEC. 303. RULE OF CONSTRUCTION.**

2 The amendments made by sections 301 and 302 may
3 not be construed to affect the availability of funds appro-
4 priated pursuant to the authorizations of appropriations
5 under the Trafficking Victims Protection Act of 2000 (di-
6 vision A of Public Law 106–386; 22 U.S.C. 7101 et seq.)
7 and the Trafficking Victims Protection Reauthorization
8 Act of 2005 (Public Law 109–164) before the date of the
9 enactment of this Act.

10 **SEC. 304. TECHNICAL AMENDMENTS.**

11 (a) **TRAFFICKING VICTIMS PROTECTION ACT OF**
12 **2000.**—Sections 103(1) and 105(d)(7) of the Trafficking
13 Victims Protection Act of 2000 (22 U.S.C. 7102(1) and
14 7103(d)(7)) are amended by striking “Committee on
15 International Relations” each place it appears and insert-
16 ing “Committee on Foreign Affairs”.

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

1 **TITLE IV—CHILD SOLDIERS PRE-**
2 **VENTION AND ACCOUNT-**
3 **ABILITY**

4 **SEC. 401. SHORT TITLE.**

5 This title may be cited as the “Child Soldiers Preven-
6 tion and Accountability Act of 2008”.

7 **SEC. 402. DEFINITIONS.**

8 In this title:

9 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
10 **TEES.**—The term “appropriate congressional com-
11 mittees” means—

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

14 (B) the Committee on Appropriations of
15 the Senate;

16 (C) the Committee on Foreign Affairs of
17 the House of Representatives; and

18 (D) the Committee on Appropriations of
19 the House of Representatives.

20 (2) **CHILD SOLDIER.**—Consistent with the pro-
21 visions of the Optional Protocol to the Convention of
22 the Rights of the Child, the term “child soldier”—

23 (A) means—

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

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

7 (iii) any person under 16 years of age
8 who has been voluntarily recruited into
9 governmental armed forces; or

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

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

19 **SEC. 403. PROHIBITION.**

20 (a) IN GENERAL.—Subject to subsections (c), (d),
21 and (e), none of the funds appropriated or otherwise made
22 available for international military education and training,
23 foreign military financing, or the transfer of excess de-
24 fense articles under section 116 or 502B of the Foreign
25 Assistance Act of 1961 (22 U.S.C. 2151n(f) and 2304(h)),

1 the Arms Export Control Act (22 U.S.C. 2751), the De-
2 partment of State, Foreign Operations, and Related Pro-
3 grams Appropriations Act, 2008 (division J of Public Law
4 110–161) or under any other Act making appropriations
5 for foreign operations, export financing, and related pro-
6 grams may be obligated or otherwise made available, and
7 no licenses for direct commercial sales of military equip-
8 ment may be issued to the government of a country that
9 is clearly identified, in the Department of State’s Country
10 Report on Human Rights Practices for the most recent
11 year preceding the fiscal year in which the appropriated
12 funds, transfer, or license, would have been used or issued
13 in the absence of a violation of this title, as having govern-
14 mental armed forces or government-supported armed
15 groups, including paramilitaries, militias, or civil defense
16 forces, that recruit and use child soldiers.

17 (b) NOTIFICATION TO COUNTRIES IN VIOLATION OF
18 STANDARDS.—The Secretary of State shall formally notify
19 any government identified pursuant to subsection (a).

20 (c) NATIONAL INTEREST WAIVER.—

21 (1) WAIVER.—The President may waive the ap-
22 plication to a country of the prohibition in sub-
23 section (a) if the President determines that such
24 waiver is in the national interest of the United
25 States.

1 (2) PUBLICATION AND NOTIFICATION.—Not
2 later than 45 days after each waiver is granted
3 under paragraph (1), the President shall publish
4 such waiver in the Federal Register with the jus-
5 tification for granting such waiver.

6 (d) REINSTATEMENT OF ASSISTANCE.—The Presi-
7 dent may provide to a country assistance otherwise prohib-
8 ited under subsection (a) upon certifying to the appro-
9 priate congressional committees that the government of
10 such country—

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

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

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

22 (1) IN GENERAL.—The President may provide
23 assistance to a country for international military
24 education, training, and nonlethal supplies (as de-
25 fined in section 2557(d)(1)(B) of title 10, United

1 States Code) otherwise prohibited under subsection
2 (a) upon certifying to the appropriate congressional
3 committees that—

4 (A) the government of such country is tak-
5 ing reasonable steps to implement effective
6 measures to demobilize child soldiers in its
7 forces or in government-supported paramilitar-
8 ies and is taking reasonable steps within the
9 context of its national resources to provide de-
10 mobilization, rehabilitation, and reintegration
11 assistance to those former child soldiers; and

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

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

19 **SEC. 404. REPORTS.**

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

23 (b) INFORMATION FOR ANNUAL HUMAN RIGHTS RE-
24 PORTS.—In preparing those portions of the annual
25 Human Rights Report that relate to child soldiers under

1 sections 116 and 502B of the Foreign Assistance Act of
2 1961 (22 U.S.C. 2151n(f) and 2304(h)), the Secretary of
3 State shall ensure that such reports include—

4 (1) any determination that a government has
5 violated the standards under this title; and

6 (2) a description of the use of child soldiers in
7 each foreign country, whether or not such use con-
8 stitutes a violation of such standards, including—

9 (A) trends toward improvement in such
10 country of the status of child soldiers or the
11 continued or increased tolerance of such prac-
12 tices; and

13 (B) the role of the government of such
14 country in engaging in or tolerating the use of
15 child soldiers.

16 (c) ANNUAL REPORT TO CONGRESS.—Not later than
17 June 15 of each of the 10 years following the date of the
18 enactment of this Act, the President shall submit a report
19 to the appropriate congressional committees that con-
20 tains—

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

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

1 (3) justification for any such waivers and excep-
2 tions; and

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

6 (d) IMPLEMENTATION REPORT.—Not later than 180
7 days after the date of the enactment of this Act, the Sec-
8 retary of State and the Secretary of Defense shall jointly
9 submit a report to the appropriate congressional commit-
10 tees that—

11 (1) sets forth a strategy and a program to as-
12 sist governments that have expressed the political
13 will to achieve the policy objectives described in this
14 title; and

15 (2) includes a description of an effective mecha-
16 nism for coordination of United States Government
17 efforts to implement this strategy.

18 **SEC. 405. TRAINING FOR FOREIGN SERVICE OFFICERS.**

19 Section 708 of the Foreign Service Act of 1980 (22
20 U.S.C. 4028) is amended by adding at the end the fol-
21 lowing:

22 “(c) The Secretary of State, with the assistance of
23 other relevant officials, shall establish as part of the stand-
24 ard training provided for chiefs of mission, deputy chiefs
25 of mission, and other officers of the Service who are or

1 will be involved in the assessment of child soldier use or
2 the drafting of the annual Human Rights Report, instruc-
3 tion on matters related to child soldiers, and the substance
4 of the Child Soldiers Prevention and Accountability Act
5 of 2008.”.

6 **SEC. 406. ACCOUNTABILITY FOR THE RECRUITMENT AND**
7 **USE OF CHILD SOLDIERS.**

8 (a) CRIME FOR RECRUITING OR USING CHILD SOL-
9 DIERS.—

10 (1) IN GENERAL.—Chapter 118 of title 18,
11 United States Code, is amended by adding at the
12 end the following:

13 **“§ 2442. Recruitment or use of child soldiers**

14 “(a) OFFENSE.—Any person who knowingly recruits,
15 enlists, or conscripts a person under 15 years of age into
16 an armed force or group, or knowingly uses a person
17 under 15 years of age to participate actively in hos-
18 tilities—

19 “(1) shall be fined under this title, imprisoned
20 not more than 20 years, or both; and

21 “(2) if the death of any person results, shall be
22 fined under this title and imprisoned for any term
23 of years or for life.

24 “(b) ATTEMPT AND CONSPIRACY.—Any person who
25 attempts or conspires to commit an offense under this sec-

1 tion shall be punished in the same manner as a person
2 who completes the offense.

3 “(c) JURISDICTION.—There is jurisdiction over an of-
4 fense described in subsection (a), and any attempt or con-
5 spiracy to commit such offense, if—

6 “(1) the alleged offender is a national of the
7 United States (as defined in section 101(a)(22) of
8 the Immigration and Nationality Act (8 U.S.C.
9 1101(a)(22))) or an alien lawfully admitted for per-
10 manent residence in the United States (as defined in
11 section 101(a)(20) of such Act (8 U.S.C.
12 1101(a)(20));

13 “(2) the alleged offender is a stateless person
14 whose habitual residence is in the United States;

15 “(3) the alleged offender is present in the
16 United States, irrespective of the nationality of the
17 alleged offender; or

18 “(4) the offense occurs in whole or in part with-
19 in the United States.

20 “(d) DEFINITIONS.—In this section:

21 “(1) PARTICIPATE ACTIVELY IN HOSTILITIES.—
22 The term ‘participate actively in hostilities’ means
23 taking part in—

24 “(A) combat or military activities related
25 to combat, including scouting, spying, sabotage,

1 and serving as a decoy, a courier, or at a mili-
 2 tary checkpoint; or

3 “(B) direct support functions related to
 4 combat, including taking supplies to the front
 5 line and other services at the front line.

6 “(2) ARMED FORCE OR GROUP.—The term
 7 ‘armed force or group’ means any army, militia, or
 8 other military organization, whether or not it is
 9 state-sponsored, excluding any group assembled sole-
 10 ly for nonviolent political association.”.

11 (2) STATUTE OF LIMITATIONS.—Chapter 213
 12 of title 18, United States Code, is amended by add-
 13 ing at the end the following:

14 **“§ 3300. Recruitment or use of child soldiers**

15 “No person may be prosecuted, tried, or punished for
 16 a violation of section 2442 unless the indictment or the
 17 information is filed not later than 10 years after the com-
 18 mission of the offense.”.

19 (3) CLERICAL AMENDMENTS.—Title 18, United
 20 States Code, is amended—

21 (A) in the table of sections for chapter
 22 118, by adding at the end the following:

“Sec. 2442. Recruitment or use of child soldiers.”;

23 and

1 (B) in the table of sections for chapter
2 213, by adding at the end the following:

“Sec. 3300. Recruitment or use of child soldiers.”.

3 (b) GROUND OF INADMISSIBILITY FOR RECRUITING
4 OR USING CHILD SOLDIERS.—Section 212(a)(3) of the
5 Immigration and Nationality Act (8 U.S.C. 1182(a)(3))
6 is amended by adding at the end the following:

7 “(G) RECRUITMENT OR USE OF CHILD
8 SOLDIERS.—Any alien who has engaged in the
9 recruitment or use of child soldiers in violation
10 of section 2442 of title 18, United States Code,
11 is inadmissible.”.

12 (c) GROUND OF REMOVABILITY FOR RECRUITING OR
13 USING CHILD SOLDIERS.—Section 237(a)(4) of the Immi-
14 gration and Nationality Act (8 U.S.C. 1227(a)(4)) is
15 amended by adding at the end the following:

16 “(F) RECRUITMENT OR USE OF CHILD
17 SOLDIERS.—Any alien who has engaged in the
18 recruitment or use of child soldiers in violation
19 of section 2442 of title 18, United States Code,
20 is deportable.”.

21 (d) ASYLUM AND WITHHOLDING OF REMOVAL.—Not
22 later than 60 days after the date of the enactment of this
23 Act, the Attorney General shall promulgate final regula-
24 tions establishing that, for purposes of sections
25 208(b)(2)(A)(iii) and 241(b)(3)(B)(iii) of the Immigration

1 and Nationality Act (8 U.S.C. 1158(b)(2)(A)(iii) and
2 1231(b)(3)(B)(iii)), an alien who is inadmissible under
3 section 212(a)(3)(G) of such Act or removable under sec-
4 tion 237(a)(4)(F) of such Act shall be considered an alien
5 with respect to whom there are serious reasons to believe
6 that the alien committed a serious nonpolitical crime.

7 **SEC. 407. EFFECTIVE DATE; APPLICABILITY.**

8 This title, and the amendments made by this title,
9 shall take effect 180 days after the date of the enactment
10 of this Act and shall apply to funds obligated after such
11 effective date.

Calendar No. 946

110TH CONGRESS
2^D SESSION

S. 3061

A BILL

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.

SEPTEMBER 8, 2008

Reported with amendments