

116TH CONGRESS
2D SESSION

S. 5016

To combat forced organ harvesting and trafficking in persons for purposes of the removal of organs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 15, 2020

Mr. COTTON introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To combat forced organ harvesting and trafficking in persons for purposes of the removal of organs, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stop Forced Organ
5 Harvesting Act of 2020”.

6 **SEC. 2. STATEMENT OF POLICY.**

7 It shall be the policy of the United States—

8 (1) to combat international trafficking in per-
9 sons for purposes of the removal of organs;

1 (2) to promote the establishment of voluntary
2 organ donation systems with effective enforcement
3 mechanisms in bilateral diplomatic meetings and in
4 international health forums; and

5 (3) to promote the dignity and security of
6 human life in accordance with the Universal Dec-
7 laration of Human Rights, adopted on December 10,
8 1948.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) APPROPRIATE COMMITTEES OF CON-
12 GRESS.—The term “appropriate committees of Con-
13 gress” means—

14 (A) the Committee on Foreign Relations of
15 the Senate; and

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

18 (2) FORCED ORGAN HARVESTING.—The term
19 “forced organ harvesting” means the removal of one
20 or more organs from a person by means of coercion,
21 abduction, deception, fraud, or abuse of power or a
22 position of vulnerability.

23 (3) ORGAN.—The term “organ” has the mean-
24 ing given the term “human organ” in section

1 301(c)(1) of the National Organ Transplant Act (42
2 U.S.C. 274e(c)(1)).

3 (4) **TRAFFICKING IN PERSONS FOR PURPOSES**
4 **OF THE REMOVAL OF ORGANS.**—The term “traf-
5 ficking in persons for purposes of the removal of or-
6 gans” means the recruitment, transportation, trans-
7 fer, harboring, or receipt of a person for the purpose
8 of removing one or more of such person’s organs, by
9 means of—

10 (A) coercion;

11 (B) abduction;

12 (C) deception;

13 (D) fraud;

14 (E) abuse of power or a position of vulner-
15 ability; or

16 (F) transfer of payments or benefits to
17 achieve the consent of a person having control
18 over a person described in the matter preceding
19 subparagraph (A).

20 **SEC. 4. AUTHORITY TO DENY OR REVOKE PASSPORTS.**

21 Section 4076 of the Revised Statutes (22 U.S.C. 212)
22 is amended—

23 (1) by inserting “(a)” before “No passport”;

24 and

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

1 “(b)(1) The Secretary of State may refuse to issue
 2 a passport to any individual who has been convicted of
 3 an offense under section 301 of the National Organ
 4 Transplant Act (42 U.S.C. 274e) if such individual, in the
 5 commission of such an offense, used a passport or crossed
 6 an international border.

7 “(2) The Secretary of State may revoke a passport
 8 previously issued to any individual described in paragraph
 9 (1).”.

10 **SEC. 5. REPORTS ON FORCED ORGAN HARVESTING AND**
 11 **TRAFFICKING IN PERSONS FOR PURPOSES**
 12 **OF THE REMOVAL OF ORGANS IN FOREIGN**
 13 **COUNTRIES.**

14 (a) INCLUSION OF INFORMATION IN ANNUAL COUN-
 15 TRY REPORTS ON HUMAN RIGHTS PRACTICES.—The For-
 16 eign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is
 17 amended—

18 (1) in section 116 (22 U.S.C. 2151n), by add-
 19 ing at the end the following:

20 “(h) **FORCED ORGAN HARVESTING AND TRAF-**
 21 **FICKING IN PERSONS FOR PURPOSES OF THE REMOVAL**
 22 **OF ORGANS.**—

23 “(1) **IN GENERAL.**—The report required by
 24 subsection (d) shall include an assessment of forced
 25 organ harvesting and trafficking in persons for pur-

poses of the removal of organs in each foreign country.

“(2) DEFINITIONS.—In this subsection:

“(A) FORCED ORGAN HARVESTING.—The term ‘forced organ harvesting’ means the removal of one or more organs from a person by means of coercion, abduction, deception, fraud, or abuse of power or a position of vulnerability.

“(B) ORGAN.—The term ‘organ’ has the meaning given the term ‘human organ’ in section 301(c)(1) of the National Organ Transplant Act (42 U.S.C. 274e(c)(1)).

“(C) TRAFFICKING IN PERSONS FOR PURPOSES OF THE REMOVAL OF ORGANS.—The term ‘trafficking in persons for purposes of the removal of organs’ means the recruitment, transportation, transfer, harboring, or receipt of a person for the purpose of removing one or more of such person’s organs, by means of—

“(i) coercion;

“(ii) abduction;

“(iii) deception;

“(iv) fraud;

“(v) abuse of power or a position of vulnerability; or

1 “(vi) transfer of payments or benefits
 2 to achieve the consent of a person having
 3 control over a person described in the mat-
 4 ter preceding clause (i).”; and

5 (2) in section 502B (22 U.S.C. 2304)—

6 (A) by redesignating the second subsection
 7 (i) (relating to child marriage status) as sub-
 8 section (j); and

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

10 “(k) FORCED ORGAN HARVESTING AND TRAF-
 11 FICKING IN PERSONS FOR PURPOSES OF THE REMOVAL
 12 OF ORGANS.—

13 “(1) IN GENERAL.—The report required by
 14 subsection (b) shall include an assessment of forced
 15 organ harvesting and trafficking in persons for pur-
 16 poses of the removal of organs in each foreign coun-
 17 try.

18 “(2) DEFINITIONS.—In this subsection, the
 19 terms ‘forced organ harvesting’, ‘organ’, and ‘traf-
 20 ficking in persons for purposes of the removal of or-
 21 gans’ have the meanings given those terms in section
 22 116(h)(2).”.

23 (b) ADDITIONAL REPORTS.—

24 (1) IN GENERAL.—Not later than 30 days after
 25 the date on which each annual report required by

1 sections 116 and 502B of the Foreign Assistance
2 Act of 1961 (22 U.S.C. 2151n, 2304), as amended
3 by subsection (a), is submitted, the Assistant Sec-
4 retary of State for Democracy, Human Rights, and
5 Labor (in this subsection referred to as the “Assist-
6 ant Secretary”), shall submit to the appropriate
7 committees of Congress a report that includes the
8 following:

9 (A) With respect to each foreign country,
10 an identification of any agencies, instrumental-
11 ities, or officials of the country that are respon-
12 sible for forced organ harvesting or trafficking
13 in persons for purposes of the removal of or-
14 gans.

15 (B) A tiered ranking described in para-
16 graph (2).

17 (2) TIERED RANKING.—The tiered ranking de-
18 scribed in this paragraph is a tiered ranking of all
19 foreign countries as follows:

20 (A) TIER 1 COUNTRIES.—The Assistant
21 Secretary shall designate a country as tier 1 if
22 the country has low levels of forced organ har-
23 vesting or trafficking in persons for purposes of
24 the removal of organs and the government of

1 such country is making significant efforts to
2 combat those practices.

3 (B) TIER 2 COUNTRIES.—The Assistant
4 Secretary shall designate a country as tier 2 if
5 the country has—

6 (i) low or intermediate levels of forced
7 organ harvesting or trafficking in persons
8 for purposes of the removal of organs and
9 the government of such country is not
10 making significant efforts to combat those
11 practices; or

12 (ii) intermediate levels of forced organ
13 harvesting or trafficking in persons for
14 purposes of the removal of organs and the
15 government of such country is making sig-
16 nificant efforts to combat those practices.

17 (C) TIER 3 COUNTRIES.—The Assistant
18 Secretary shall designate a country as tier 3
19 if—

20 (i) the country has high levels of
21 forced organ harvesting or trafficking in
22 persons for purposes of the removal of or-
23 gans; or

24 (ii) the government of such country is
25 directly or indirectly supporting forced

1 organ harvesting or trafficking in persons
2 for purposes of the removal of organs.

3 (3) FORM.—The report required by this sub-
4 section shall be submitted in unclassified form.

5 (c) INTERIM REPORTS.—In addition to the annual re-
6 ports required by sections 116 and 502B of the Foreign
7 Assistance Act of 1961 (22 U.S.C. 2151n, 2304), as
8 amended by subsection (a), the Secretary of State may
9 submit to the appropriate committees of Congress at any
10 time one or more interim reports with respect to the status
11 of forced organ harvesting and trafficking in persons for
12 purposes of the removal of organs in foreign countries, in-
13 cluding information about countries whose governments
14 have begun or ceased to make significant efforts to combat
15 those practices since the date on which the most recent
16 annual report was submitted under such sections.

17 (d) CONSIDERATION OF SIGNIFICANT EFFORTS.—In
18 determining whether the government of a country is mak-
19 ing significant efforts to combat forced organ harvesting
20 and trafficking in persons for purposes of the removal of
21 organs under subsections (b) and (c), the Secretary of
22 State shall consider—

23 (1) the extent to which the country is a country
24 of origin, transit, or destination for forced organ

1 harvesting and trafficking in persons for purposes of
2 the removal of organs;

3 (2) the extent of efforts by the government to
4 combat forced organ harvesting and trafficking in
5 persons for purposes of the removal of organs, and,
6 particularly, the extent to which officials or employ-
7 ees of the government have participated in, facili-
8 tated, or condoned, or are otherwise complicit in,
9 those practices; and

10 (3) the measures that would be reasonable for
11 the government to combat forced organ harvesting
12 and trafficking in persons for purposes of the re-
13 moval of organs, considering the resources and capa-
14 bilities of the government.

15 **SEC. 6. REPORT ON UNITED STATES MEDICAL AND EDU-**
16 **CATIONAL INSTITUTIONS AT WHICH ORGAN**
17 **TRANSPLANT SURGEONS FROM TIER 3 COUN-**
18 **TRIES ARE TRAINED.**

19 (a) IN GENERAL.—Not later than 180 days after the
20 date on which each annual report required by sections 116
21 and 502B of the Foreign Assistance Act of 1961 (22
22 U.S.C. 2151n, 2304), as amended by section 5(a), is sub-
23 mitted, the Secretary of State, in consultation with the
24 Secretary of Health and Human Services, shall submit to
25 Congress a report on medical and educational institutions

1 and other entities in the United States at which organ
2 transplant surgeons are trained.

3 (b) ELEMENTS.—

4 (1) IN GENERAL.—Each report required by
5 subsection (a) shall include an identification of each
6 medical or educational institution or other entity in
7 the United States at which one or more organ trans-
8 plant surgeons described in paragraph (2) are
9 trained as of the date on which the report is sub-
10 mitted.

11 (2) ORGAN TRANSPLANT SURGEON DE-
12 SCRIBED.—An organ transplant surgeon described
13 in this paragraph is an organ transplant surgeon
14 who—

15 (A) as of the date on which the report re-
16 quired by subsection (a) is submitted, is em-
17 ployed by or affiliated with an agency or instru-
18 mentality identified in the most recent addi-
19 tional report required by section 5(b) as being
20 responsible for forced organ harvesting or traf-
21 ficking in persons for purposes of the removal
22 of organs; and

23 (B) is a citizen or national of a country
24 designated as a tier 3 country in the most re-
25 cent additional report required by section 5(b).

1 **SEC. 7. PROHIBITION ON THE EXPORT OF ORGAN TRANS-**
2 **PLANT SURGERY DEVICES TO CERTAIN ENTI-**
3 **TIES.**

4 Section 801 of the Federal Food, Drug, and Cosmetic
5 Act (21 U.S.C. 381) is amended by adding at the end the
6 following:

7 “(v) PROHIBITION ON EXPORT OF ORGAN TRANS-
8 PLANT SURGERY DEVICES TO CERTAIN ENTITIES.—

9 “(1) IN GENERAL.—Notwithstanding any other
10 provision of this Act, a device that is intended for
11 use in organ transplant surgery may not be exported
12 to any entity that is identified in the most recent ad-
13 ditional report required by section 5(b) of the Stop
14 Forced Organ Harvesting Act of 2020 as being re-
15 sponsible for forced organ harvesting or trafficking
16 in persons for purposes of the removal of organs.

17 “(2) COORDINATION WITH THE SECRETARY OF
18 COMMERCE.—The Secretary shall coordinate with
19 the Secretary of Commerce to ensure compliance
20 with paragraph (1).”.

1 **SEC. 8. IMPOSITION OF SANCTIONS WITH RESPECT TO**
 2 **FORCED ORGAN HARVESTING OR TRAF-**
 3 **FICKING IN PERSONS FOR PURPOSES OF THE**
 4 **REMOVAL OF ORGANS FACILITATED BY TIER**
 5 **3 COUNTRIES.**

6 (a) LIST REQUIRED.—Not later than 180 days after
 7 the date on which each annual report required by sections
 8 116 and 502B of the Foreign Assistance Act of 1961 (22
 9 U.S.C. 2151n, 2304), as amended by section 5(a), is sub-
 10 mitted, the President shall submit to Congress a list of
 11 each person that the President determines—

12 (1) funds, supports, sponsors, or otherwise fa-
 13 cilitates forced organ harvesting or trafficking in
 14 persons for purposes of the removal of organs; and

15 (2) is—

16 (A) an individual who is a citizen or na-
 17 tional of a country designated as a tier 3 coun-
 18 try in the most recent additional report re-
 19 quired by section 5(b); or

20 (B) an entity organized under the laws of
 21 such a country or otherwise subject to the juris-
 22 diction of the government of such a country.

23 (b) IMPOSITION OF SANCTIONS.—The President shall
 24 impose the following sanctions with respect to a person
 25 on the list required by subsection (a):

1 (1) PROPERTY BLOCKING.—The President shall
2 exercise all of the powers granted by the Inter-
3 national Emergency Economic Powers Act (50
4 U.S.C. 1701 et seq.) (except that the requirements
5 of section 202 of such Act (50 U.S.C. 1701) shall
6 not apply) to the extent necessary to block and pro-
7 hibit all transactions in all property and interests in
8 property of the person if such property and interests
9 in property are in the United States, come within
10 the United States, or are or come within the posses-
11 sion or control of a United States person.

12 (2) ALIENS INADMISSIBLE FOR VISAS, ADMIS-
13 SION, OR PAROLE.—

14 (A) VISAS, ADMISSION, OR PAROLE.—In
15 the case of an individual, that individual is—

16 (i) inadmissible to the United States;

17 (ii) ineligible to receive a visa or other
18 documentation to enter the United States;

19 and

20 (iii) otherwise ineligible to be admitted
21 or paroled into the United States or to re-
22 ceive any other benefit under the Immigra-
23 tion and Nationality Act (8 U.S.C. 1101 et
24 seq.).

25 (B) CURRENT VISAS REVOKED.—

1 (i) IN GENERAL.—The visa or other
2 entry documentation of the individual shall
3 be revoked, regardless of when such visa or
4 other entry documentation is or was
5 issued.

6 (ii) IMMEDIATE EFFECT.—A revoca-
7 tion under clause (i) shall—

8 (I) take effect immediately; and

9 (II) automatically cancel any
10 other valid visa or entry documenta-
11 tion that is in the individual's posses-
12 sion.

13 (c) EXCEPTIONS.—

14 (1) EXCEPTION RELATING TO IMPORTATION OF
15 GOODS.—

16 (A) IN GENERAL.—The authorities and re-
17 quirements to impose sanctions under sub-
18 section (b)(1) shall not include the authority or
19 a requirement to impose sanctions on the im-
20 portation of goods.

21 (B) GOOD DEFINED.—In this paragraph,
22 the term “good” means any article, natural or
23 manmade substance, material, supply or manu-
24 factured product, including inspection and test
25 equipment, and excluding technical data.

1 (2) EXCEPTION TO COMPLY WITH INTER-
2 NATIONAL OBLIGATIONS.—Subsection (b)(2) shall
3 not apply to the admission of an individual if the ad-
4 mission of the individual is necessary to comply with
5 United States obligations under the Agreement be-
6 tween the United Nations and the United States of
7 America regarding the Headquarters of the United
8 Nations, signed at Lake Success June 26, 1947, and
9 entered into force November 21, 1947, under the
10 Convention on Consular Relations, done at Vienna
11 April 24, 1963, and entered into force March 19,
12 1967, or under other international agreements.

13 (d) IMPLEMENTATION; PENALTIES.—

14 (1) IMPLEMENTATION.—The President may ex-
15 ercise all authorities provided under sections 203
16 and 205 of the International Emergency Economic
17 Powers Act (50 U.S.C. 1702 and 1704) to carry out
18 this section.

19 (2) PENALTIES.—A person that violates, at-
20 tempts to violate, conspires to violate, or causes a
21 violation of this section or any regulation, license, or
22 order issued to carry out this section shall be subject
23 to the penalties set forth in subsections (b) and (c)
24 of section 206 of the International Emergency Eco-
25 nomic Powers Act (50 U.S.C. 1705) to the same ex-

1 tent as a person that commits an unlawful act de-
2 scribed in subsection (a) of that section.

3 (e) UNITED STATES PERSON DEFINED.—In this sec-
4 tion, the term “United States person” means—

5 (1) a United States citizen or an alien lawfully
6 admitted for permanent residence to the United
7 States; or

8 (2) an entity organized under the laws of the
9 United States or any jurisdiction within the United
10 States, including a foreign branch of such an entity.

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