

117TH CONGRESS
2D SESSION

S. 5261

To protect certain victims of human trafficking by expanding the authority of the Secretary of Homeland Security to grant such aliens continued presence in the United States.

IN THE SENATE OF THE UNITED STATES

DECEMBER 14, 2022

Mr. CARDIN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To protect certain victims of human trafficking by expanding the authority of the Secretary of Homeland Security to grant such aliens continued presence in the United States.

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 “Continued Presence
5 Improvement Act”.

6 **SEC. 2. TRAFFICKING VICTIMS.**

7 Section 107(c)(3) of the Trafficking Victims Protec-
8 tion Act of 2000 (22 U.S.C. 7105(c)(3)) is amended—

1 (1) in subparagraph (A)—

2 (A) in clause (i)—

3 (i) by striking “Federal”;

4 (ii) by striking “is” and inserting
5 “may be”;

6 (iii) by striking “and may be a poten-
7 tial witness to such trafficking”; and

8 (iv) by striking “may permit the alien
9 to remain in the United States to facilitate
10 the investigation and” and inserting “may
11 permit the continued presence of the alien
12 in the United States for the duration of an
13 investigation or”;

14 (B) in clause (ii), by striking “Federal law
15 enforcement officials described in clause (i)”
16 and inserting “law enforcement officials”;

17 (C) in clause (iii)—

18 (i) in the clause header, by striking
19 “CONTINUATION OF PRESENCE” and in-
20 serting “CIVIL ACTION”;

21 (ii) by striking “shall” and inserting
22 “may”;

23 (iii) by striking “described in clause
24 (i) who” and inserting “who is a victim of
25 a severe form of trafficking and”; and

1 (iv) by adding at the end the fol-
2 lowing: “Continued presence shall be ex-
3 tended beyond an investigation or prosecu-
4 tion described in clause (i) if the alien has
5 a pending immigration benefit application
6 until such application is approved, with-
7 drawn, or denied, unless the Secretary de-
8 termines that continued presence is no
9 longer warranted.”; and

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

11 “(v) EMPLOYMENT AUTHORIZATION
12 .—During the period the alien is author-
13 ized to remain in the United States under
14 this paragraph, the Secretary of Homeland
15 Security shall—

16 “(I) authorize the alien to engage
17 in employment in the United States;
18 and

19 “(II) provide the alien with an
20 ‘employment authorized’ endorsement
21 or other appropriate work permit.

22 “(vi) LAW ENFORCEMENT OFFI-
23 CIAL.—In this paragraph, the term ‘law
24 enforcement official’ means personnel from
25 a Federal, State, tribal, territorial, or local

1 law enforcement agency, labor agency, chil-
 2 dren’s protective services agency, or other
 3 civil, criminal, judicial or administrative
 4 authority that has the responsibility and
 5 authority for the detection, investigation,
 6 or prosecution of severe forms of traf-
 7 ficking in persons.

8 “(vii) PROTECTION FROM IMMIGRA-
 9 TION ENFORCEMENT.—While a grant of
 10 continued presence is in effect under this
 11 paragraph, Federal law enforcement offi-
 12 cials may only take civil immigration en-
 13 forcement actions against an alien de-
 14 scribed in clause (i) or (iii)—

15 “(I) based on conduct committed
 16 after continued presence is authorized;
 17 or

18 “(II) following consultation with
 19 the law enforcement official who filed
 20 the application for continued pres-
 21 ence.”;

22 (2) in subparagraph (B)—

23 (A) by striking “Law enforcement” and in-
 24 serting the following:

1 “(i) OUTSIDE THE UNITED STATES.—
2 Law enforcement”;

3 (B) in clause (i), as redesignated, by strik-
4 ing “subparagraph (A)(i)” and inserting
5 “clause (i) or (iii) of subparagraph (A)”; and

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

7 “(ii) INSIDE THE UNITED STATES.—
8 Law enforcement officials may submit
9 written requests to the Secretary of Home-
10 land Security for deferred action and em-
11 ployment authorization for certain relatives
12 of any alien whose continued presence is
13 permitted under clause (i) or (iii) of sub-
14 paragraph (A).”; and

15 (3) by amending subparagraph (C) to read as
16 follows:

17 “(C) LAW ENFORCEMENT OFFICE POLI-
18 CIES, TRAINING, AND MATERIAL.—The Sec-
19 retary of Homeland Security, the Secretary of
20 State, the Secretary of Labor, the Secretary of
21 Health and Human Services, the Attorney Gen-
22 eral, and the Commissioner of the Equal Em-
23 ployment Opportunity Commission shall—

24 “(i) develop policies and procedures
25 for their respective agencies that encourage

1 the use of and immediate application for
2 continued presence by the respective agen-
3 cy upon identification of a victim of a se-
4 vere form of trafficking in persons under
5 subparagraph (A)(i) in appropriate cases;

6 “(ii) develop materials, in consultation
7 with the Secretary of Homeland Security,
8 to encourage and assist their respective
9 Federal agency personnel and other law
10 enforcement officials to request continued
11 presence in appropriate cases; and

12 “(iii) distribute the materials devel-
13 oped pursuant to clause (ii) and provide
14 training on such materials to their respec-
15 tive Federal agency personnel and other
16 law enforcement officials.”.

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