

ceiving a grant to provide victim services to youth under subsection (b) or (f) of section 7105 of this title.

(Pub. L. 106-386, div. A, §107B, as added Pub. L. 115-393, title III, §303(a), Dec. 21, 2018, 132 Stat. 5273.)

Editorial Notes

REFERENCES IN TEXT

Subsection (f) of section 7105 of this title, referred to in text, was in the original a reference to subsec. (f) of section 107 of Pub. L. 106-386 and was translated as referring to section 7105(f) of this title, which relates to assistance for trafficking victims who are United States citizens and lawful permanent residents. Another subsec. (f) of section 107 of Pub. L. 106-386 amended section 1255 of Title 8, Aliens and Nationality.

§ 7106. Minimum standards for the elimination of trafficking

(a) Minimum standards

For purposes of this chapter, the minimum standards for the elimination of trafficking applicable to the government of a country of origin, transit, or destination for victims of severe forms of trafficking are the following:

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

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

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

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

(b) Criteria

In determinations under subsection (a)(4), the following factors should be considered as indicia of serious and sustained efforts to eliminate severe forms of trafficking in persons:

(1) Whether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons, and convicts and sentences persons responsible for such acts, that take place wholly or partly within the territory of the country, including, as appropriate, requiring incarceration of individuals convicted of such acts. For purposes of the preceding sentence, suspended or significantly-reduced sentences for convictions of principal actors in cases of severe forms of trafficking in persons shall be considered, on a case-by-case basis, whether to be considered an indicator of serious and sustained efforts to eliminate severe forms of trafficking in persons. After reasonable requests from the Department of State for data regarding inves-

tigations, prosecutions, convictions, and sentences, a government which does not provide such data, consistent with a demonstrably increasing capacity of such government to obtain such data, shall be presumed not to have vigorously investigated, prosecuted, convicted or sentenced such acts.

(2) Whether the government of the country protects victims of severe forms of trafficking in persons and encourages their assistance in the investigation and prosecution of such trafficking, including provisions for legal alternatives to their removal to countries in which they would face retribution or hardship, and ensures that victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts as a direct result of being trafficked, including by providing training to law enforcement and immigration officials regarding the identification and treatment of trafficking victims using approaches that focus on the needs of the victims.

(3) Whether the government of the country has adopted measures to prevent severe forms of trafficking in persons, such as measures to inform and educate the public, including potential victims, about the causes and consequences of severe forms of trafficking in persons, measures to establish the identity of local populations, including birth registration, citizenship, and nationality, measures to ensure that its nationals who are deployed abroad as part of a diplomatic, peacekeeping, or other similar mission do not engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking, a transparent system for remediating or punishing such public officials as a deterrent, measures to prevent the use of forced labor or child labor in violation of international standards, effective bilateral, multilateral, or regional information sharing and cooperation arrangements with other countries, and effective policies or laws regulating foreign labor recruiters and holding them civilly and criminally liable for fraudulent recruiting.

(4) Whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons and has entered into bilateral, multilateral, or regional law enforcement cooperation and coordination arrangements with other countries.

(5) Whether the government of the country extradites persons charged with acts of severe forms of trafficking in persons on substantially the same terms and to substantially the same extent as persons charged with other serious crimes (or, to the extent such extradition would be inconsistent with the laws of such country or with international agreements to which the country is a party, whether the government is taking all appropriate measures to modify or replace such laws and treaties so as to permit such extradition).

(6) Whether the government of the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies of the country respond to any such evidence in a manner that is consistent

with the vigorous investigation and prosecution of acts of such trafficking, as well as with the protection of human rights of victims and the internationally recognized human right to leave any country, including one's own, and to return to one's own country.

(7) Whether the government of the country vigorously investigates, prosecutes, convicts, and sentences public officials, including diplomats and soldiers, who participate in or facilitate severe forms of trafficking in persons, including nationals of the country who are deployed abroad as part of a diplomatic, peacekeeping, or other similar mission who engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking, and takes all appropriate measures against officials who condone or enable such trafficking. A government's failure to appropriately address public allegations against such public officials, especially once such officials have returned to their home countries, shall be considered inaction under these criteria. After reasonable requests from the Department of State for data regarding such investigations, prosecutions, convictions, and sentences, a government which does not provide such data, consistent with a demonstrably increasing capacity of such government to obtain such data, shall be presumed not to have vigorously investigated, prosecuted, convicted, or sentenced such acts.

(8) Whether the percentage of victims of severe forms of trafficking in the country that are non-citizens of such countries is insignificant.

(9) Whether the government has entered into effective, transparent partnerships, cooperative arrangements, or agreements that have resulted in concrete and measurable outcomes with—

(A) domestic civil society organizations, private sector entities, or international non-governmental organizations, or into multilateral or regional arrangements or agreements, to assist the government's efforts to prevent trafficking, protect victims, and punish traffickers; or

(B) the United States toward agreed goals and objectives in the collective fight against trafficking.

(10) Whether the government of the country, consistent with the capacity of such government, systematically monitors its efforts to satisfy the criteria described in paragraphs (1) through (8) and makes available publicly a periodic assessment of such efforts.

(11) Whether the government of the country achieves appreciable progress in eliminating severe forms of trafficking when compared to the assessment in the previous year.

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

(A) commercial sex acts; and

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

(Pub. L. 106-386, div. A, § 108, Oct. 28, 2000, 114 Stat. 1480; Pub. L. 108-193, § 6(d), Dec. 19, 2003, 117 Stat. 2881; Pub. L. 109-164, title I, § 104(b)(1), Jan.

10, 2006, 119 Stat. 3564; Pub. L. 110-457, title I, § 106, Dec. 23, 2008, 122 Stat. 5048; Pub. L. 113-4, title XII, § 1204, Mar. 7, 2013, 127 Stat. 139; Pub. L. 115-425, title II, § 202, Jan. 8, 2019, 132 Stat. 5482; Pub. L. 115-427, § 5, Jan. 9, 2019, 132 Stat. 5505.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this division", meaning division A of Pub. L. 106-386, Oct. 28, 2000, 114 Stat. 1466, known as the Trafficking Victims Protection Act of 2000, which is classified principally to this chapter. For complete classification of division A to the Code, see Short Title note set out under section 7101 of this title and Tables.

AMENDMENTS

2019—Subsec. (b)(1). Pub. L. 115-425, § 202(1), substituted "a demonstrably increasing capacity" for "the capacity" and struck out at end "During the periods prior to the annual report submitted on June 1, 2004, and on June 1, 2005, and the periods afterwards until September 30 of each such year, the Secretary of State may disregard the presumption contained in the preceding sentence if the government has provided some data to the Department of State regarding such acts and the Secretary has determined that the government is making a good faith effort to collect such data."

Subsec. (b)(7). Pub. L. 115-427 inserted "or enable" after "condone".

Pub. L. 115-425, § 202(2), substituted " , consistent with a demonstrably increasing capacity of such government to obtain such data," for "consistent with its resources" and struck out at end "During the periods prior to the annual report submitted on June 1, 2004, and on June 1, 2005, and the periods afterwards until September 30 of each such year, the Secretary of State may disregard the presumption contained in the preceding sentence if the government has provided some data to the Department of State regarding such acts and the Secretary has determined that the government is making a good faith effort to collect such data."

2013—Subsec. (b)(3). Pub. L. 113-4, § 1204(1), substituted "diplomatic, peacekeeping," for "peacekeeping" and " , a transparent system for remediating or punishing such public officials as a deterrent, measures" for " , and measures", and inserted before period at end " , effective bilateral, multilateral, or regional information sharing and cooperation arrangements with other countries, and effective policies or laws regulating foreign labor recruiters and holding them civilly and criminally liable for fraudulent recruiting".

Subsec. (b)(4). Pub. L. 113-4, § 1204(2), inserted "and has entered into bilateral, multilateral, or regional law enforcement cooperation and coordination arrangements with other countries" before period at end.

Subsec. (b)(7). Pub. L. 113-4, § 1204(3), inserted " , including diplomats and soldiers," after "public officials" and "A government's failure to appropriately address public allegations against such public officials, especially once such officials have returned to their home countries, shall be considered inaction under these criteria." after "condone such trafficking.", and substituted "diplomatic, peacekeeping," for "peacekeeping".

Subsec. (b)(9) to (12). Pub. L. 113-4, § 1204(4), (5), added par. (9) and redesignated former pars. (9) to (11) as (10) to (12), respectively.

2008—Subsec. (a). Pub. L. 110-457, § 106(1), struck out "a significant number of" before "victims" in introductory provisions.

Subsec. (b)(1). Pub. L. 110-457, § 106(2)(A), substituted " , including, as appropriate, requiring incarceration of individuals convicted of such acts. For purposes of the preceding sentence, suspended or significantly-reduced sentences for convictions of principal actors in cases of severe forms of trafficking in persons shall be consid-

ered, on a case-by-case basis, whether to be considered an indicator of serious and sustained efforts to eliminate severe forms of trafficking in persons.” for period at end of first sentence.

Subsec. (b)(2). Pub. L. 110-457, §106(2)(B), inserted “, including by providing training to law enforcement and immigration officials regarding the identification and treatment of trafficking victims using approaches that focus on the needs of the victims” before period at end.

Subsec. (b)(3). Pub. L. 110-457, §106(2)(C), substituted “measures to establish the identity of local populations, including birth registration, citizenship, and nationality” for “measures to reduce the demand for commercial sex acts and for participation in international sex tourism by nationals of the country”.

Subsec. (b)(11). Pub. L. 110-457, §106(2)(D), added par. (11).

2006—Subsec. (b)(3). Pub. L. 109-164, §104(b)(1), inserted before period at end “, measures to reduce the demand for commercial sex acts and for participation in international sex tourism by nationals of the country, measures to ensure that its nationals who are deployed abroad as part of a peacekeeping or other similar mission do not engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking, and measures to prevent the use of forced labor or child labor in violation of international standards”.

Subsec. (b)(7). Pub. L. 109-164, §104(b)(2), substituted “persons, including nationals of the country who are deployed abroad as part of a peacekeeping or other similar mission who engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking,” for “persons,” in first sentence.

2003—Subsec. (b)(1). Pub. L. 108-193, §6(d)(1), substituted “, and convicts and sentences persons responsible for such acts, that take place wholly or partly within the territory of the country” for “that take place wholly or partly within the territory of the country” and inserted two sentences at end relating to presumption that foreign government has not vigorously investigated, prosecuted, convicted or sentenced acts of severe forms of trafficking in persons and disregard of presumption by Secretary of State under certain circumstances.

Subsec. (b)(7). Pub. L. 108-193, §6(d)(2), substituted “, prosecutes, convicts, and sentences” for “and prosecutes” and inserted two sentences at end relating to presumption that foreign government has not vigorously investigated, prosecuted, convicted or sentenced acts of severe forms of trafficking in persons and disregard of presumption by Secretary of State under certain circumstances.

Subsec. (b)(8) to (10). Pub. L. 108-193, §6(d)(3), added pars. (8) to (10).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-164, title I, §104(b)(2), Jan. 10, 2006, 119 Stat. 3564, provided that: “The amendments made by subparagraphs (A) and (B) of paragraph (1) [amending this section] take effect beginning two years after the date of the enactment of this Act [Jan. 10, 2006].”

§ 7107. Actions against governments failing to meet minimum standards

(a) Statement of policy

It is the policy of the United States not to provide nonhumanitarian, nontrade-related foreign assistance to any government that—

- (1) does not comply with minimum standards for the elimination of trafficking; and
- (2) is not making significant efforts to bring itself into compliance with such standards.

(b) Reports to Congress

(1) Annual report

Not later than June 30 of each year, the Secretary of State shall submit to the appropriate

congressional committees a report describing the anti-trafficking efforts of the United States and foreign governments according to the minimum standards and criteria enumerated in section 7106 of this title, and the nature and scope of trafficking in persons in each country and analysis of the trend lines for individual governmental efforts. The report shall, to the extent concurrent reporting data is available, cover efforts and activities taking place during the period between April 1 of the year preceding the report and March 31 of the year in which the report is made, and should include—

(A) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments fully comply with such standards based only on concrete actions taken by the country that are recorded during the reporting period;

(B) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not yet fully comply with such standards but are making significant efforts to bring themselves into compliance based only on concrete actions taken by the country (excluding any commitments by the country to take additional future steps during the next year) that are recorded during the reporting period;

(C) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not fully comply with such standards and are not making significant efforts to bring themselves into compliance;

(D) information on the measures taken by the United Nations, the Organization for Security and Cooperation in Europe, the North Atlantic Treaty Organization and, as appropriate, other multilateral organizations in which the United States participates, to prevent the involvement of the organization’s employees, contractor personnel, and peacekeeping forces in trafficking in persons or the exploitation of victims of trafficking;

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

(F) emerging issues in human trafficking;

(G) a section entitled “Promising Practices in the Eradication of Trafficking in Persons” to highlight effective practices and use of innovation and technology in prevention, protection, prosecution, and partnerships, including by foreign governments, the private sector, and domestic civil society actors; and

(H) for each country included in a different list than the country had been placed in the previous annual report, a detailed explanation of how the concrete actions (or lack of such actions) undertaken (or not undertaken) by the country during the previous