



## The TVPA in 4 Colors

The applicable United States law to combat trafficking in persons is The Trafficking Victims Protection Act of 2000 (P.L. 106-386) which was enacted on October 28, 2000. In the following years, this Act was amended by the Trafficking Victims Protection Reauthorization Act of 2003 (H.R. 2620), the Trafficking Victims Protection Reauthorization Act of 2005 (H.R. 972), and the Trafficking Victims Protection Reauthorization Act of 2008 (H.R. 7311). All amendments made to the original Act until the year 2008 are summarized in this document, using the following color code:

- Black:** Trafficking Victims Protection Act of 2000 (“TVPA of 2000”)
- Red:** Trafficking Victims Protection Reauthorization Act of 2003 (“TVPRA of 2003”)
- Blue:** Trafficking Victims Protection Reauthorization Act of 2005 (“TVPRA of 2005”)
- Green:** William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (“TVPRA of 2008”)

## VICTIMS OF TRAFFICKING AND VIOLENCE PROTECTION ACT OF 2000

106th Congress

An Act

To combat trafficking in persons, especially into the sex trade, slavery, and involuntary servitude, to reauthorize certain Federal programs to prevent violence against women, and for other purposes.

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

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Victims of Trafficking and Violence Protection Act of 2000”.

### SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions, as follows:

(1) DIVISION A.—Trafficking Victims Protection Act of 2000.

(2) DIVISION B.—Violence Against Women Act of 2000.

(3) DIVISION C.—Miscellaneous Provisions.

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

Sec.1. Short title.

Sec.2. Organization of Act into divisions; table of contents.

### DIVISION A—TRAFFICKING VICTIMS PROTECTION ACT OF 2000

Sec.101. Short title.

Sec.102. Purposes and findings.

Sec.103. Definitions.

Sec.104. Annual Country Reports on Human Rights Practices.

Sec.105. Interagency Task Force To Monitor and Combat Trafficking.

Sec.106. Prevention of trafficking.

Sec.107. Protection and assistance for victims of trafficking.

**Sec. 107A. Increasing effectiveness of Anti-Trafficking Programs. (\*\*\*)Introduced by Sec. 105 of the TVPRA 2008)**

Sec.108. Minimum standards for the elimination of trafficking.

Sec.109. Assistance to foreign countries to meet minimum standards.

Sec.110. Actions against governments failing to meet minimum standards.

Sec.111. Actions against significant traffickers in persons.

Sec.112. Strengthening prosecution and punishment of traffickers.

Sec. 112A. Research on domestic and international trafficking in persons. (\*Introduced by Sec. 6(g)(1) of the TVPRA 2003)

Sec. 112B. Presidential Award for Extraordinary Efforts To Combat Trafficking in Persons. (\*\*\*)Introduced by Sec. 109 of the TVPRA 2008)

Sec.113. Authorizations of appropriations.

## **DIVISION A—TRAFFICKING VICTIMS PROTECTION ACT OF 2000**

### **SEC. 101. SHORT TITLE.**

This division may be cited as the “Trafficking Victims Protection Act of 2000”.

This Act may be cited as the “Trafficking Victims Protection Reauthorization Act of 2003.”  
(\*Introduced by Sec. 1 of the TVPRA 2003)

This Act may be cited as the “Trafficking Victims Protection Reauthorization Act of 2005.”  
(\*\*Introduced by Sec. 1(a) of the TVPRA 2005)

This Act may be cited as the “William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008.” (\*\*\*)Introduced by Sec. 1(a) of the TVPRA 2008)

### **SEC. 102. PURPOSES AND FINDINGS.**

(a) **PURPOSES.**— The purposes of this division are to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims.

(b) **FINDINGS.**— Congress finds that:

(1) As the 21st century begins, the degrading institution of slavery continues throughout the world. Trafficking in persons is a modern form of slavery, and it is the largest manifestation of slavery today. At least 700,000 persons annually, primarily women and children, are trafficked within or across international borders. Approximately 50,000 women and children are trafficked into the United States each year.

(2) Many of these persons are trafficked into the international sex trade, often by force, fraud, or coercion. The sex industry has rapidly expanded over the past several decades. It involves sexual exploitation of persons, predominantly women and girls, involving activities related to prostitution, pornography, sex tourism, and other commercial sexual services. The low status of women in many parts of the world has contributed to a burgeoning of the trafficking industry.

(3) Trafficking in persons is not limited to the sex industry. This growing transnational crime also includes forced labor and involves significant violations of labor, public health, and human rights standards worldwide.

(4) Traffickers primarily target women and girls, who are disproportionately affected by poverty, the lack of access to education, chronic unemployment, discrimination, and the lack of economic opportunities in countries of origin. Traffickers lure women and girls into their networks through false promises of decent working conditions at relatively good pay as nannies, maids, dancers, factory workers, restaurant workers, sales clerks, or models. Traffickers also buy children from poor families and sell them into prostitution or into various types of forced or bonded labor.

- (5) Traffickers often transport victims from their home communities to unfamiliar destinations, including foreign countries away from family and friends, religious institutions, and other sources of protection and support, leaving the victims defenseless and vulnerable.
- (6) Victims are often forced through physical violence to engage in sex acts or perform slavery-like labor. Such force includes rape and other forms of sexual abuse, torture, starvation, imprisonment, threats, psychological abuse, and coercion.
- (7) Traffickers often make representations to their victims that physical harm may occur to them or others should the victim escape or attempt to escape. Such representations can have the same coercive effects on victims as direct threats to inflict such harm.
- (8) Trafficking in persons is increasingly perpetrated by organized, sophisticated criminal enterprises. Such trafficking is the fastest growing source of profits for organized criminal enterprises worldwide. Profits from the trafficking industry contribute to the expansion of organized crime in the United States and worldwide. Trafficking in persons is often aided by official corruption in countries of origin, transit, and destination, thereby threatening the rule of law.
- (9) Trafficking includes all the elements of the crime of forcible rape when it involves the involuntary participation of another person in sex acts by means of fraud, force, or coercion.
- (10) Trafficking also involves violations of other laws, including labor and immigration codes and laws against kidnapping, slavery, false imprisonment, assault, battery, pandering, fraud, and extortion.
- (11) Trafficking exposes victims to serious health risks. Women and children trafficked in the sex industry are exposed to deadly diseases, including HIV and AIDS. Trafficking victims are sometimes worked or physically brutalized to death.
- (12) Trafficking in persons substantially affects interstate and foreign commerce. Trafficking for such purposes as involuntary servitude, peonage, and other forms of forced labor has an impact on the nationwide employment network and labor market. Within the context of slavery, servitude, and labor or services which are obtained or maintained through coercive conduct that amounts to a condition of servitude, victims are subjected to a range of violations.
- (13) Involuntary servitude statutes are intended to reach cases in which persons are held in a condition of servitude through nonviolent coercion. In *United States v. Kozminski*, 487 U.S. 931 (1988), the Supreme Court found that section 1584 of title 18, United States Code, should be narrowly interpreted, absent a definition of involuntary servitude by Congress. As a result, that section was interpreted to criminalize only servitude that is brought about through use or threatened use of physical or legal coercion, and to exclude other conduct that can have the same purpose and effect.
- (14) Existing legislation and law enforcement in the United States and other countries are inadequate to deter trafficking and bring traffickers to justice, failing to reflect the gravity of the offenses involved. No comprehensive law exists in the United States that penalizes the range of offenses involved in the trafficking scheme. Instead, even the most brutal instances of trafficking in the sex industry are often punished under laws that also apply to lesser offenses, so that traffickers typically escape deserved punishment.

(15) In the United States, the seriousness of this crime and its components is not reflected in current sentencing guidelines, resulting in weak penalties for convicted traffickers.

(16) In some countries, enforcement against traffickers is also hindered by official indifference, by corruption, and sometimes even by official participation in trafficking.

(17) Existing laws often fail to protect victims of trafficking, and because victims are often illegal immigrants in the destination country, they are repeatedly punished more harshly than the traffickers themselves.

(18) Additionally, adequate services and facilities do not exist to meet victims' needs regarding health care, housing, education, and legal assistance, which safely reintegrate trafficking victims into their home countries.

(19) Victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked, such as using false documents, entering the country without documentation, or working without documentation.

(20) Because victims of trafficking are frequently unfamiliar with the laws, cultures, and languages of the countries into which they have been trafficked, because they are often subjected to coercion and intimidation including physical detention and debt bondage, and because they often fear retribution and forcible removal to countries in which they will face retribution or other hardship, these victims often find it difficult or impossible to report the crimes committed against them or to assist in the investigation and prosecution of such crimes.

(21) Trafficking of persons is an evil requiring concerted and vigorous action by countries of origin, transit or destination, and by international organizations.

(22) One of the founding documents of the United States, the Declaration of Independence, recognizes the inherent dignity and worth of all people. It states that all men are created equal and that they are endowed by their Creator with certain unalienable rights. The right to be free from slavery and involuntary servitude is among those unalienable rights. Acknowledging this fact, the United States outlawed slavery and involuntary servitude in 1865, recognizing them as evil institutions that must be abolished. Current practices of sexual slavery and trafficking of women and children are similarly abhorrent to the principles upon which the United States was founded.

(23) The United States and the international community agree that trafficking in persons involves grave violations of human rights and is a matter of pressing international concern. The international community has repeatedly condemned slavery and involuntary servitude, violence against women, and other elements of trafficking, through declarations, treaties, and United Nations resolutions and reports, including the Universal Declaration of Human Rights; the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the 1948 American Declaration on the Rights and Duties of Man; the 1957 Abolition of Forced Labor Convention; the International Covenant on Civil and Political Rights; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; United Nations General Assembly Resolutions 50/167, 51/66, and 52/98; the Final Report of the World Congress against Sexual Exploitation of Children (Stockholm, 1996); the Fourth World Conference on Women (Beijing, 1995); and the 1991 Moscow Document of the Organization for Security and Cooperation in Europe.

(24) Trafficking in persons is a transnational crime with national implications. To deter international trafficking and bring its perpetrators to justice, nations including the United States must recognize that trafficking is a serious offense. This is done by prescribing appropriate punishment, giving priority to the prosecution of trafficking offenses, and protecting rather than punishing the victims of such offenses. The United States must work bilaterally and multilaterally to abolish the trafficking industry by taking steps to promote cooperation among countries linked together by international trafficking routes. The United States must also urge the international community to take strong action in multilateral fora to engage recalcitrant countries in serious and sustained efforts to eliminate trafficking and protect trafficking victims.

**Congress finds the following:**

- (1) Trafficking in persons continues to victimize countless men, women, and children in the United States and abroad.
- (2) Since the enactment of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386), the United States Government has made significant progress in investigating and prosecuting acts of trafficking and in responding to the needs of victims of trafficking in the United States and abroad.
- (3) On the other hand, victims of trafficking have faced unintended obstacles in the process of securing needed assistance, including admission to the United States under section 101(a)(15)(T)(i) of the Immigration and Nationality Act.
- (4) Additional research is needed to fully understand the phenomenon of trafficking in persons and to determine the most effective strategies for combating trafficking in persons.
- (5) Corruption among foreign law enforcement authorities continues to undermine the efforts by governments to investigate, prosecute, and convict traffickers.
- (6) International Law Enforcement Academies should be more fully utilized in the effort to train law enforcement authorities, prosecutors, and members of the judiciary to address trafficking in persons-related crimes. (\*Introduced by Sec. 2 of the TVPRA 2003)

**Congress finds the following:**

- (1) The United States has demonstrated international leadership in combating human trafficking and slavery through the enactment of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 22 U.S.C. 7101 et seq.) and the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193).
- (2) The United States Government currently estimates that 600,000 to 800,000 individuals are trafficked across international borders each year and exploited through forced labor and commercial sex exploitation. An estimated 80 percent of such individuals are women and girls.
- (3) Since the enactment of the Trafficking Victims Protection Act of 2000, United States efforts to combat trafficking in persons have focused primarily on the international trafficking in persons, including the trafficking of foreign citizens into the United States.

- (4) Trafficking in persons also occurs within the borders of a country, including the United States.
- (5) An estimated 100,000 to 300,000 children in the United States are at risk for commercial sexual exploitation in the United States, including trafficking, at any given time.
- (6) Runaway and homeless children in the United States are highly susceptible to being domestically trafficked for commercial sexual exploitation. Every day in the United States, between 1,300,000 and 2,800,000 runaway and homeless youth live on the streets. One out of every seven children will run away from home before the age of 18.
- (7) A comprehensive strategy is needed to prevent the victimization of United States citizens and nationals through domestic trafficking.
- (8) A project by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in Southeast Asia has documented a linkage between the spread of HIV/AIDS and trafficking in women and girls. Scant other research or statistical data exists regarding the interconnection between trafficking in persons and HIV/AIDS. Further research is needed to determine the extent to which trafficking in persons contributes to the spread of HIV/AIDS and to identify strategies to combat this linkage.
- (9) Following armed conflicts and during humanitarian emergencies, indigenous populations face increased security challenges and vulnerabilities which result in myriad forms of violence, including trafficking for sexual and labor exploitation. Foreign policy and foreign aid professionals increasingly recognize the increased activity of human traffickers in post-conflict settings and during humanitarian emergencies.
- (10) There is a need to protect populations in post-conflict settings and humanitarian emergencies from being trafficked for sexual or labor exploitation. The efforts of aid agencies to address the protection needs of, among others, internally displaced persons and refugees are useful in this regard. Nonetheless, there remains a lack of institutionalized programs and strategies at the United States Agency for International Development, the Department of State, and the Department of Defense to combat human trafficking, including through protection and prevention methodologies, in post-conflict environments and during humanitarian emergencies.
- (11) International and human rights organizations have documented a correlation between international deployments of military and civilian peacekeepers and aid workers and a resulting increase in the number of women and girls trafficked into prostitution in post-conflict regions.
- (12) The involvement of employees and contractors of the United States Government and members of the Armed Forces in trafficking in persons, facilitating the trafficking in persons, or exploiting the victims of trafficking in persons is inconsistent with United States laws and policies and undermines the credibility and mission of United States Government programs in post-conflict regions.
- (13) Further measures are needed to ensure that United States Government personnel and contractors are held accountable for involvement with acts of trafficking in persons, including by expanding United States criminal jurisdiction to all United States Government contractors abroad.
- (14) Communities in the United States are not fully informed about sex offenders who are residing or working within those communities because offenders who are convicted in a foreign

court of a sexually violent offense, or a criminal offense against a child victim, are not currently encompassed by the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program carried out under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14701), as amended by Megan’s Law (Public Law 104–145;110 Stat. 1345). (\*\*Introduced by Sec. 2 of the TVPRA 2005)

### **SEC. 103. DEFINITIONS.**

In this division:

- (1) APPROPRIATE CONGRESSIONAL COMMITTEES.— The term “appropriate congressional committees” means the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the ~~Committee on International Relations~~ **Committee on Foreign Affairs** (\*\*As amended by Sec. 304(a) of the TVPRA 2008) and the Committee on the Judiciary of the House of Representatives.
- (2) COERCION.—The term “coercion” means—
  - (A) threats of serious harm to or physical restraint against any person;
  - (B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
  - (C) the abuse or threatened abuse of the legal process.
- (3) COMMERCIAL SEX ACT.—The term “commercial sex act” means any sex act on account of which anything of value is given to or received by any person.
- (4) DEBT BONDAGE.—The term “debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined
- (5) INVOLUNTARY SERVITUDE.— The term “involuntary servitude” includes a condition of servitude induced by means of—
  - (A) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or
  - (B) the abuse or threatened abuse of the legal process.
- (6) MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.— The term “minimum standards for the elimination of trafficking” means the standards set forth in section 108.
- (7) NONHUMANITARIAN, NONTRADE-RELATED FOREIGN ASSISTANCE.— The term “nonhumanitarian, nontrade-related foreign assistance” means—
  - (A) any assistance under the Foreign Assistance Act of 1961, other than—

- (i) assistance under chapter 4 of part II of that Act **in support of programs of nongovernmental organizations (\*As amended by Sec. 8(b)(1) of the TVPRA 2003)** that is made available for any program, project, or activity eligible for assistance under chapter 1 of part I of that Act;
- (ii) assistance under chapter 8 of part I of that Act;
- (iii) any other narcotics-related assistance under part I of that Act or under chapter 4 or 5 part II of that Act, but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of that Act;
- (iv) disaster relief assistance, including any assistance under chapter 9 of part I of that Act;
- (v) antiterrorism assistance under chapter 8 of part II of that Act;
- (vi) assistance for refugees;
- (vii) humanitarian and other development assistance in support of programs of nongovernmental organizations under chapters 1 and 10 of that Act;
- (viii) programs under title IV of chapter 2 of part I of that Act, relating to the Overseas Private Investment Corporation; and
- (ix) other programs involving trade-related or humanitarian assistance; and

(B) sales, or financing on any terms, under the Arms Export Control Act, other than sales or financing provided for narcotics-related purposes following notification in accordance with the prior notification procedures applicable to reprogrammings pursuant to section 634A of the Foreign Assistance Act of 1961.

(8) **SEVERE FORMS OF TRAFFICKING IN PERSONS.**— The term “severe forms of trafficking in persons” means—

- (A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(9) **SEX TRAFFICKING.**—The term “sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

(10) **STATE.**—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and territories and possessions of the United States.

(11) **TASK FORCE.**—The term “Task Force” means the Interagency Task Force to Monitor and Combat Trafficking established under section 105.

(12) UNITED STATES.—The term “United States” means the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

(13) VICTIM OF A SEVERE FORM OF TRAFFICKING.— The term “victim of a severe form of trafficking” means a person subject to an act or practice described in paragraph (8).

(14) VICTIM OF TRAFFICKING.— The term “victim of trafficking” means a person subjected to an act or practice described in paragraph (8) or (9).

#### **SEC. 104. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.**

(a) COUNTRIES RECEIVING ECONOMIC ASSISTANCE.—Section 116(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151(f)) is amended to read as follows:

“(f) (1) The report required by subsection (d) shall include the following:

“(A) A description of the nature and extent of severe forms of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, in each foreign country.

“(B) With respect to each country that is a country of origin, transit, or destination for victims of severe forms of trafficking in persons, an assessment of the efforts by the government of that country to combat such trafficking. The assessment shall address the following:

“(i) Whether government authorities in that country participate in, facilitate, or condone such trafficking.

“(ii) Which government authorities in that country are involved in activities to combat such trafficking.

“(iii) What steps the government of that country has taken to prohibit government officials from participating in, facilitating, or condoning such trafficking, including the investigation, prosecution, and conviction of such officials.

“(iv) What steps the government of that country has taken to prohibit other individuals from participating in such trafficking, including the investigation, prosecution, and conviction of individuals involved in severe forms of trafficking in persons, the criminal and civil penalties for such trafficking, and the efficacy of those penalties in eliminating or reducing such trafficking.

“(v) What steps the government of that country has taken to assist victims of such trafficking, including efforts to prevent victims from being further victimized by traffickers, government officials, or others, grants of relief from deportation, and provision of humanitarian relief, including provision of mental and physical health care and shelter.

“(vi) Whether the government of that country is cooperating with governments of other countries to extradite traffickers when requested, or, to the extent that such

cooperation would be inconsistent with the laws of such country or with extradition treaties to which such country is a party, whether the government of that country is taking all appropriate measures to modify or replace such laws and treaties so as to permit such cooperation.

“(vii) Whether the government of that country is assisting in international investigations of transnational trafficking networks and in other cooperative efforts to combat severe forms of trafficking in persons.

“(viii) Whether the government of that country refrains from prosecuting victims of severe forms of trafficking in persons due to such victims having been trafficked, and refrains from other discriminatory treatment of such victims.

“(ix) Whether the government of that country recognizes the rights of victims of severe forms of trafficking in persons and ensures their access to justice.

“(C) Such other information relating to trafficking in persons as the Secretary of State considers appropriate.

“(2) In compiling data and making assessments for the purposes of paragraph (1), United States diplomatic mission personnel shall consult with human rights organizations and other appropriate nongovernmental organizations.”.

(b) COUNTRIES RECEIVING SECURITY ASSISTANCE.—Section 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2304) is amended by adding at the end the following new subsection:

“(h) (1) The report required by subsection (b) shall include the following:

“(A) A description of the nature and extent of severe forms of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, in each foreign country.

“(B) With respect to each country that is a country of origin, transit, or destination for victims of severe forms of trafficking in persons, an assessment of the efforts by the government of that country to combat such trafficking. The assessment shall address the following:

“(i) Whether government authorities in that country participate in, facilitate, or condone such trafficking.

“(ii) Which government authorities in that country are involved in activities to combat such trafficking.

“(iii) What steps the government of that country has taken to prohibit government officials from participating in, facilitating, or condoning such trafficking, including the investigation, prosecution, and conviction of such officials.

“(iv) What steps the government of that country has taken to prohibit other individuals from participating in such trafficking, including the investigation, prosecution, and conviction of individuals involved in severe forms of trafficking

in persons, the criminal and civil penalties for such trafficking, and the efficacy of those penalties in eliminating or reducing such trafficking.

“(v) What steps the government of that country has taken to assist victims of such trafficking, including efforts to prevent victims from being further victimized by traffickers, government officials, or others, grants of relief from deportation, and provision of humanitarian relief, including provision of mental and physical health care and shelter.

“(vi) Whether the government of that country is cooperating with governments of other countries to extradite traffickers when requested, or, to the extent that such cooperation would be inconsistent with the laws of such country or with extradition treaties to which such country is a party, whether the government of that country is taking all appropriate measures to modify or replace such laws and treaties so as to permit such cooperation.

“(vii) Whether the government of that country is assisting in international investigations of transnational trafficking networks and in other cooperative efforts to combat severe forms of trafficking in persons.

“(viii) Whether the government of that country refrains from prosecuting victims of severe forms of trafficking in persons due to such victims having been trafficked, and refrains from other discriminatory treatment of such victims.

“(ix) Whether the government of that country recognizes the rights of victims of severe forms of trafficking in persons and ensures their access to justice.

“(C) Such other information relating to trafficking in persons as the Secretary of State considers appropriate.

“(2) In compiling data and making assessments for the purposes of paragraph (1), United States diplomatic mission personnel shall consult with human rights organizations and other appropriate nongovernmental organizations.”.

## **SEC. 105. INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING.**

(a) ESTABLISHMENT.— The President shall establish an Interagency Task Force to Monitor and Combat Trafficking.

(b) APPOINTMENT.— The President shall appoint the members of the Task Force, which shall include the Secretary of State, the Administrator of the United States Agency for International Development, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, ~~the Director of Central Intelligence~~ [the Director of National Intelligence](#), [the Secretary of Defense](#), [the Secretary of Homeland Security](#) (\*\*As amended by Sec. 104(a) of the TVPRA 2005), [the Secretary of Education](#) (\*\*\*)As amended by Sec. 101 of the TVPRA 2008), and such other officials as may be designated by the President.

(c) CHAIRMAN.—The Task Force shall be chaired by the Secretary of State.

(d) ACTIVITIES OF THE TASK FORCE.—The Task Force shall carry out the following activities:

(1) Coordinate the implementation of this division.

(2) Measure and evaluate progress of the United States and other countries in the areas of trafficking prevention, protection, and assistance to victims of trafficking, and prosecution and enforcement against traffickers, including the role of public corruption in facilitating trafficking. The Task Force shall have primary responsibility for assisting the Secretary of State in the preparation of the reports described in section 110.

(3) Expand interagency procedures to collect and organize data, including significant research and resource information on domestic and international trafficking. Any data collection procedures established under this subsection shall respect the confidentiality of victims of trafficking.

(4) Engage in efforts to facilitate cooperation among countries of origin, transit, and destination. Such efforts shall aim to strengthen local and regional capacities to prevent trafficking, prosecute traffickers and assist trafficking victims, and shall include initiatives to enhance cooperative efforts between destination countries and countries of origin and assist in the appropriate reintegration of stateless victims of trafficking.

(5) Examine the role of the international “sex tourism” industry in the trafficking of persons and in the sexual exploitation of women and children around the world.

(6) Engage in consultation and advocacy with governmental and nongovernmental organizations, among other entities, to advance the purposes of this division.

(7) Not later than May 1, 2004, and annually thereafter, the Attorney General shall submit to the Committee on Ways and Means, the ~~Committee on International Relations~~ Committee on Foreign Affairs (\*\*\*)As amended by Sec. 304(a) of the TVPRA 2008), and the Committee on the Judiciary of the House of Representatives and the Committee on Finance, the Committee on Foreign Relations, and the Committee on the Judiciary of the Senate, a report on Federal agencies that are implementing any provision of this division, or any amendment made by this division, which shall include, at a minimum, information on—

(A) the number of persons who received benefits or other services under ~~section 107(b)~~ subsections (b) and (f) of section 107 (\*\*\*)As amended by Sec. 231(1)(A) of the TVPRA 2008) in connection with programs or activities funded or administered by the Secretary of Health and Human Services, the Secretary of Labor, the Attorney General (\*\*\*)As amended by Sec. 231(1)(B) of the TVPRA 2008), the Board of Directors of the Legal Services Corporation, and other appropriate Federal agencies during the preceding fiscal year;

(B) the number of persons who have been granted continued presence in the United States under section 107(c)(3) during the preceding fiscal year;

(C) the number of persons who have applied for, been granted, or been denied a visa or otherwise provided status under section 101(a)(15)(T)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)(i)) during the preceding fiscal year;

(D) the number of persons who have been charged or convicted under one or more of sections 1581, 1583, 1584, 1589, 1590, 1591, 1592, or 1594 of title 18, United States Code, during the preceding fiscal year and the sentences imposed against each such person (\*As amended by Sec. 6 of the TVPRA 2003), and with respect to each case prosecuted under one or more of these sections, the number of victims of trafficking identified in each case and, of those victims, the number that have been granted continued presence in the United States under section 107(c)(3) or have been granted a visa under section 101(a)(15)(T)(i) of the Immigration and Nationality Act (\*\*As amended by Sec.104(b) of the TVPRA 2005)

(E) the amount, recipient, and purpose of each grant issued by any Federal agency to carry out the purposes of sections 106 and 107 of this Act, or section 134 of the Foreign Assistance Act of 1961, during the preceding fiscal year;

(F) the nature of training conducted pursuant to section 107(c)(4) during the preceding fiscal year;

(G) the activities undertaken by the Senior Policy Operating Group to carry out its responsibilities under section 105(f) of this division.’ (\*As amended by Sec. 6(a)(1) of the TVPRA 2003)

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

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

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

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

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

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

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

(iii) prohibitions on the procurement by the United States Government of items or services produced by slave labor, consistent with Executive Order 13107 (December 10, 1998); and (\*\*\*)Section introduced by Sec. 231(4) of the TVPRA 2008)

~~(H)~~ (J) (\*\*\*)As amended by Sec. 231(3) of the TVPRA 2008) the activities undertaken by the Senior Policy Operating Group to carry out its responsibilities under section 105(f) of this division. (\*As amended by Sec. 6 of the TVPRA 2003)

(e) ~~SUPPORT FOR THE TASK FORCE. OFFICE TO MONITOR AND COMBAT TRAFFICKING~~ (\*\*\*)As amended by Sec. 102(1) of the TVPRA 2008) —~~The Secretary of State is authorized to~~

(1) ~~IN GENERAL~~ – The Secretary of State shall (\*\*\*)As amended by Sec. 102(2) of the TVPRA 2008) establish within the Department of State an Office to Monitor and Combat Trafficking, which shall provide assistance to the Task Force. Any such Office shall be headed by a Director. The Director shall have the primary responsibility for assisting the Secretary of State in carrying out the purposes of this division and may have additional responsibilities as determined by the Secretary. The Director shall consult with nongovernmental organizations and multilateral organizations, and with trafficking victims or other affected persons. The Director shall have the authority to take evidence in public hearings or by other means. The agencies represented on the Task Force are authorized to provide staff to the Office on a nonreimbursable basis, **who shall be appointed by the President and with the advice and consent of the Senate, with the rank of Ambassador-at-Large.** (\*As amended by Sec. 6(b)(1) of the TVPRA 2003)

**APPLICABILITY.**—The individual who holds the position of Director of the Office to Monitor and Combat Trafficking of the Department of State may continue to hold such position notwithstanding the amendment made by paragraph (1). (\*As amended by Sec. 6(b)(2) of the TVPRA 2003)

## (2) COORDINATION OF CERTAIN ACTIVITIES-

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

- (i) United States citizens do not use any item, product, or material produced or extracted with the use of labor from victims of severe forms of trafficking; and
- (ii) such entities do not contribute to trafficking in persons involving sexual exploitation.

(B) ~~UNITED STATES ASSISTANCE~~- The Director shall be responsible for—

- (i) all policy, funding, and programming decisions regarding funds made available for trafficking in persons programs that are centrally controlled by the Office to Monitor and Combat Trafficking; and
- (ii) coordinating any trafficking in persons programs of the Department of State or the United States Agency for International Development that are not centrally controlled by the Director. (\*\*\*)As amended by Sec. 102(3) of the TVPRA 2008)

**(f) SENIOR POLICY OPERATING GROUP.—**

(1) ESTABLISHMENT.—There shall be established within the executive branch a Senior Policy Operating Group.

**(2) MEMBERSHIP; RELATED MATTERS.—**

(A) IN GENERAL.—The Operating Group shall consist of the senior officials designated as representatives of the appointed members of the Task Force (pursuant to Executive Order No. 13257 of February 13, 2002).

(B) CHAIRPERSON.—The Operating Group shall be chaired by the Director of the Office to Monitor and Combat Trafficking of the Department of State.

(C) MEETINGS.—The Operating Group shall meet on a regular basis at the call of the Chairperson.

(3) DUTIES.—The Operating Group shall coordinate activities of Federal departments and agencies regarding policies (including grants and grant policies) involving the international trafficking in persons and the implementation of this division.

(4) AVAILABILITY OF INFORMATION.—Each Federal department or agency represented on the Operating Group shall fully share all information with such Group regarding the department or agency's plans, before and after final agency decisions are made, on all matters relating to grants, grant policies, and other significant actions regarding the international trafficking in persons and the implementation of this division.

(5) REGULATIONS.—Not later than 90 days after the date of the enactment of the Trafficking Victims Protection Reauthorization Act of 2003, the President shall promulgate regulations to implement this section, including regulations to carry out paragraph (4).'' (\*Introduced by Sec. 6(c)(1) of the TVPRA 2003)

**Introduced by Sec. 6(c)(2) of the TVPRA 2003:**

(2) CONFORMING AMENDMENT.—Section 406 of the Department of State and Related Agency Appropriations Act, 2003 (as contained in division B of Public Law 108–7) is hereby repealed. (\*Introduced by Sec. 6(c)(2) of the TVPRA 2003)

**Introduced by Sec. 232 of the TVPRA 2008:****SEC. 232. INVESTIGATION BY THE INSPECTORS GENERAL.**

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

(b) Contracts Described—

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

- (A) confiscation of an employee's passport;
- (B) restriction on an employee's mobility;
- (C) abrupt or evasive repatriation of an employee;
- (D) deception of an employee regarding the work destination; or
- (E) acts otherwise described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104).

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

- (A) consult with the Director of the Office to Combat Trafficking in Persons of the Department of State; and
- (B) take into account any credible information received regarding report of trafficking in persons.

(c) Congressional Notification—

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

- (A) summarizing the findings of the investigations conducted in the previous year, including any findings regarding trafficking in persons or any improvements needed to prevent trafficking in persons; and
- (B) in the case of any contractor or subcontractor with regard to which the Inspector General has found substantial evidence of trafficking in persons, report as to—
  - (i) whether or not the case has been referred for prosecution; and
  - (ii) whether or not the case has been treated in accordance with section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104) (relating to termination of certain grants, contracts and cooperative agreements).

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

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

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

(D) the Committee on Foreign Affairs of the House of Representatives. (\*\*\*)Introduced by Sec. 232 of the TVPRA 2008)

**Introduced by Sec. 234 of the TVPRA 2008:**

**SEC. 234. PREVENTING UNITED STATES TRAVEL BY TRAFFICKERS.**

Section 212(a)(2)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(H)(i)) is amended by striking ‘consular officer’ and inserting ‘consular officer, the Secretary of Homeland Security, the Secretary of State, (\*\*\*)Introduced by Sec. 234 of the TVPRA 2008)

**Introduced by Sec. 235 of the TVPRA 2008:**

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

(a) Combating Child Trafficking at the Border and Ports of Entry of the United States-

(1) POLICIES AND PROCEDURES- In order to enhance the efforts of the United States to prevent trafficking in persons, the Secretary of Homeland Security, in conjunction with the Secretary of State, the Attorney General, and the Secretary of Health and Human Services, shall develop policies and procedures to ensure that unaccompanied alien children in the United States are safely repatriated to their country of nationality or of last habitual residence.

(2) SPECIAL RULES FOR CHILDREN FROM CONTIGUOUS COUNTRIES-

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

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

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

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

(B) RETURN- An immigration officer who finds an unaccompanied alien child described in subparagraph (A) at a land border or port of entry of the United States and determines

that such child is inadmissible under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) may—

- (i) permit such child to withdraw the child’s application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)); and
- (ii) return such child to the child’s country of nationality or country of last habitual residence.

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

- (i) no child shall be returned to the child’s country of nationality or of last habitual residence unless returned to appropriate employees or officials, including child welfare officials where available, of the accepting country’s government;
- (ii) no child shall be returned to the child’s country of nationality or of last habitual residence outside of reasonable business hours; and
- (iii) border personnel of the countries that are parties to such agreements are trained in the terms of such agreements.

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

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

(5) ENSURING THE SAFE REPATRIATION OF CHILDREN-

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

(B) ASSESSMENT OF COUNTRY CONDITIONS- The Secretary of Homeland Security shall consult the Department of State’s Country Reports on Human Rights

Practices and the Trafficking in Persons Report in assessing whether to repatriate an unaccompanied alien child to a particular country.

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

- (i) the number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States;
- (ii) a statement of the nationalities, ages, and gender of such children;
- (iii) a description of the policies and procedures used to effect the removal of such children from the United States and the steps taken to ensure that such children were safely and humanely repatriated to their country of nationality or of last habitual residence, including a description of the repatriation pilot program created pursuant to subparagraph (A);
- (iv) a description of the type of immigration relief sought and denied to such children;
- (v) any information gathered in assessments of country and local conditions pursuant to paragraph (2); and
- (vi) statistical information and other data on unaccompanied alien children as provided for in section 462(b)(1)(J) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(1)(J)).

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

- (i) placed in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a);
- (ii) eligible for relief under section 240B of such Act (8 U.S.C. 1229c) at no cost to the child; and
- (iii) provided access to counsel in accordance with subsection (c)(5).

(b) **Combating Child Trafficking and Exploitation in the United States-**

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

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

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

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

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

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

(c) Providing Safe and Secure Placements for Children-

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

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

(3) SAFETY AND SUITABILITY ASSESSMENTS-

(A) IN GENERAL- Subject to the requirements of subparagraph (B), an unaccompanied alien child may not be placed with a person or entity unless the Secretary of Health and Human Services makes a determination that the proposed custodian is capable of providing for the child's physical and mental well-being. Such determination shall, at a minimum, include verification of the custodian's identity and relationship to the child, if

any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child.

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

(C) ACCESS TO INFORMATION- Not later than 2 weeks after receiving a request from the Secretary of Health and Human Services, the Secretary of Homeland Security shall provide information necessary to conduct suitability assessments from appropriate Federal, State, and local law enforcement and immigration databases.

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

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

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

## (d) Permanent Protection for Certain At-Risk Children-

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

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

(B) in clause (iii)—

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

(ii) in subclause (I), by striking ‘in the actual or constructive custody of the Attorney General unless the Attorney General specifically consents to such;’ and inserting ‘in the custody of the Secretary of Health and Human Services unless the Secretary of Health and Human Services specifically consents to such jurisdiction;’.

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

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

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

(4) ELIGIBILITY FOR ASSISTANCE-

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

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

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

(B) STATE REIMBURSEMENT- Subject to the availability of appropriations, if State foster care funds are expended on behalf of a child who is not described in subparagraph (A) and has been granted special immigrant status under section 101(a)(27)(J) of the

Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), the Federal Government shall reimburse the State in which the child resides for such expenditures by the State.

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

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

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

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

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

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

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

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

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

(f) Amendments to the Homeland Security Act of 2002-

(1) ADDITIONAL RESPONSIBILITIES- Section 462(b)(1)(L) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(1)(L)) is amended by striking the period at the end and inserting ‘,

including regular follow-up visits to such facilities, placements, and other entities, to assess the continued suitability of such placements.’.

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

(A) in paragraph (3), by striking ‘paragraph (1)(G),’ and inserting ‘paragraph (1),’; and

(B) by adding at the end the following:

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

(g) Definition of Unaccompanied Alien Child- For purposes of this section, the term ‘unaccompanied alien child’ has the meaning given such term in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)).

(h) Effective Date- This section—

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

(2) shall also apply to all aliens in the United States in pending proceedings before the Department of Homeland Security or the Executive Office for Immigration Review, or related administrative or Federal appeals, on the date of the enactment of this Act.

(i) Grants and Contracts- The Secretary of Health and Human Services may award grants to, and enter into contracts with, voluntary agencies to carry out this section and section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279). (\*\*\*)Introduced by Sec. 235 of the TVPRA 2008)

**Introduced by Sec. 236 of the TVPRA 2008:**

**SEC. 236. RESTRICTION OF PASSPORTS FOR SEX TOURISM.**

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

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

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

(b) Authority to Restrict Passport-

**(1) INELIGIBILITY FOR PASSPORT-**

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

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

**(2) EXCEPTIONS-**

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

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

**(3) DEFINITIONS-** In this subsection—

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

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

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

(B) the term ‘imprisonment’ means being confined in or otherwise restricted to a jail, prison, half-way house, treatment facility, or another institution, on a full or part-time basis, pursuant to the sentence imposed as the result of a criminal conviction. (\*\*\*)Introduced by Sec. 236 of the TVPRA 2008)

**Introduced by Sec. 237 of the TVPRA 2008:****SEC. 237. ADDITIONAL REPORTING ON CRIME.**

(a) **Trafficking Offense Classification-** The Director of the Federal Bureau of Investigation shall—

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

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

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

- (B) the use of force, fraud or coercion; or
  - (C) neither of the elements described in subparagraphs (A) and (B); and
- (3) classify the offense of human trafficking as a Group A offense for purpose of the National Incident-Based Reporting System.

(b) Additional Information- The Director of the Federal Bureau of Investigation shall revise the Uniform Crime Reporting System and the National Incident-Based Reporting System to distinguish between reports of—

- (1) incidents of assisting or promoting prostitution, which shall include crimes committed by persons who—
  - (A) do not directly engage in commercial sex acts; and
  - (B) direct, manage, or profit from such acts, such as State pimping and pandering crimes;
- (2) incidents of purchasing prostitution, which shall include crimes committed by persons who purchase or attempt to purchase or trade anything of value for commercial sex acts; and
- (3) incidents of prostitution, which shall include crimes committed by persons providing or attempting to provide commercial sex acts.

(c) Reports and Studies-

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

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

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

(C) Activities or actions, in fiscal years 2001 through 2010, to enforce the offenses set forth in chapters 95 and 96 of title 18, United States Code, in cases involving human trafficking, sex trafficking, or prostitution offenses.

(D) Activities or actions, in fiscal years 2008 and 2009, by Federal departments and agencies to enforce the offenses set forth in the Act of August 15, 1935 (49 Stat. 651; D.C. Code 22-2701 et seq.) (relating to prostitution and pandering), including

information regarding the number of prosecutions, the number of convictions, and an identification of multiple-defendant cases and the results thereof.

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

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

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

(3) STUDIES PREVIOUSLY REQUIRED BY LAW- Not later than 90 days after the date of the enactment of this Act, the Attorney General shall report to the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate on the status of the studies required by paragraph (B)(i) and (ii) of section 201(a)(1) of the Trafficking Victims Protection Reauthorization Act of 2005 (42 U.S.C. 14044(a)(1)) and indicate the projected date when such studies will be completed. (\*\*\*)Introduced by Sec. 237 of the TVPRA 2008)

**Introduced by Sec. 238 of the TVPRA 2008:**

**SEC. 238. PROCESSING OF CERTAIN VISAS.**

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

(b) Elements- The report required by subsection (a) shall include the following elements:

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

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

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

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

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

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

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

(7) Information on the time in which it takes to adjudicate victim-based immigration applications, including the issuance of visas, work authorization and deferred action in a timely manner consistent with the safe and competent processing of such applications, and steps taken to improve in this area. (\*\*\*)Introduced by Sec. 238 of the TVPRA 2008)

#### **Introduced by Sec. 239 of the TVPRA 2008:**

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

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

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

(c) Duration of Increase- The fee increase authorized under subsection (a) shall terminate on the date that is 3 years after the first date on which such increased fee is collected. (\*\*\*)Introduced by Sec. 239 of the TVPRA 2008)

#### **SEC. 106. PREVENTION OF TRAFFICKING.**

(a) **ECONOMIC ALTERNATIVES TO PREVENT AND DETER TRAFFICKING.** — The President shall establish and carry out international initiatives to enhance economic opportunity for potential victims of trafficking as a method to deter trafficking. Such initiatives may include—

- (1) microcredit lending programs, training in business development, skills training, and job counseling;
- (2) programs to promote women’s participation in economic decision-making;
- (3) programs to keep children, especially girls, in elementary and secondary schools, and to educate persons who have been victims of trafficking;
- (4) development of educational curricula regarding the dangers of trafficking; and
- (5) grants to nongovernmental organizations to accelerate and advance the political, economic, social, and educational roles and capacities of women in their countries.

(b) **PUBLIC AWARENESS AND INFORMATION.**—The President, acting through the Secretary of Labor, the Secretary of Health and Human Services, the Attorney General, and the Secretary of State, shall establish and carry out programs to increase public awareness, particularly among potential victims of trafficking, of the dangers of trafficking and the protections that are available for victims of trafficking.

(c) **BORDER INTERDICTION.**—The President shall establish and carry out programs of border interdiction outside the United States.

Such programs shall include providing grants to foreign nongovernmental organizations that provide for transit shelters operating at key border crossings and that help train survivors of trafficking in persons to educate and train border guards and officials, and other local law enforcement officials, to identify traffickers and victims of severe forms of trafficking, and the appropriate manner in which to treat such victims. Such programs shall also include, to the extent appropriate, monitoring by such survivors of trafficking in persons of the implementation of border interdiction programs, including helping in the identification of such victims to stop the cross-border transit of victims. The President shall ensure that any program established under this subsection provides the opportunity for any trafficking victim who is freed to return to his or her previous residence if the victim so chooses.

(d) **INTERNATIONAL MEDIA.**—The President shall establish and carry out programs that support the production of television and radio programs, including documentaries, to inform vulnerable populations overseas of the dangers of trafficking, and to increase awareness of the public in countries of destination regarding the slave-like practices and other human rights abuses involved in trafficking, including fostering linkages between individuals working in the media in different countries to determine the best methods for informing such populations through such media.

(e) COMBATING INTERNATIONAL SEX TOURISM.—

(1) DEVELOPMENT AND DISSEMINATION OF MATERIALS.— The President, pursuant to such regulations as may be prescribed, shall ensure that materials are developed and disseminated to alert travelers that sex tourism (as described in subsections (b) through (f) of section 2423 of title 18, United States Code) is illegal, will be prosecuted, and presents dangers to those involved. Such materials shall be disseminated to individuals traveling to foreign destinations where the President determines that sex tourism is significant.

(2) MONITORING OF COMPLIANCE.—The President shall monitor compliance with the requirements of paragraph (1).

(3) FEASIBILITY REPORT.—Not later than 180 days after the date of the enactment of the Trafficking Victims Protection Reauthorization Act of 2003, the President shall transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Affairs of the Senate a report that describes the feasibility of such United States Government materials being disseminated through public-private partnerships to individuals traveling to foreign destinations. (\*Introduced by Sec. 3(a)(2) of the TVPRA 2003)

~~(e)~~ (f) (\*As amended by Sec. 3(a)(1) of the TVPRA 2003) CONSULTATION REQUIREMENT.—The President shall consult with appropriate nongovernmental organizations with respect to the establishment and conduct of ~~initiatives described in subsections (a) and (b).~~ initiatives and programs described in subsections (a) through (e). (\*As amended by Sec. 3(a)(1) of the TVPRA 2003)

(g) TERMINATION OF CERTAIN GRANTS, CONTRACTS AND COOPERATIVE AGREEMENTS.—

(1) TERMINATION.—The President shall ensure that any grant, contract, or cooperative agreement provided or entered into by a Federal department or agency under which funds ~~described in paragraph (2)~~ (\*\*As amended by Sec. 201(b)(1) of the TVPRA 2005) are to be provided to a private entity, in whole or in part, shall include a condition that authorizes the department or agency to terminate the grant, contract, or cooperative agreement, without penalty, if the grantee or any subgrantee, or the contractor or any subcontractor (i) engages in severe forms of trafficking in persons or has procured a commercial sex act during the period of time that the grant, contract, or cooperative agreement is in effect, or (ii) uses forced labor in the performance of the grant, contract, or cooperative agreement. (\*As amended by Sec. 3 of the TVPRA 2003)

~~(2) ASSISTANCE DESCRIBED.—Funds referred to in paragraph (1) are funds made available to carry out any program, project, or activity abroad funded under major functional budget category 150 (relating to international affairs).~~ (\*Introduced by Sec. 3(b) of the TVPRA 2003) (\*\*As amended by Sec. 201(b)(2) of the TVPRA 2005)

(h) PREVENTION OF TRAFFICKING IN CONJUNCTION WITH POST-CONFLICT AND HUMANITARIAN EMERGENCY ASSISTANCE.—The United States Agency for International Development, the Department of State, and the Department of Defense shall

incorporate anti-trafficking and protection measures for vulnerable populations, particularly women and children, into their post conflict and humanitarian emergency assistance and program activities. (\*\*Introduced by Sec. 101(a)(1) of the TVPRA 2005)

(i) **Additional Measures To Prevent and Deter Trafficking-** The President shall establish and carry out programs to prevent and deter trafficking in persons, including—

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

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

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

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

(B) labor recruitment firms are regulated; and

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

(4) assistance to foreign governments to register vulnerable populations as citizens or nationals of the country to reduce the ability of traffickers to exploit such populations. (\*\*\*)Introduced by Sec. 103(a) of the TVPRA 2008)

**Introduced by Sec. 101(a)(2) of the TVPRA 2005:**

(2) **STUDY AND REPORT.**—

(A) **STUDY.**—

(i) **IN GENERAL.**—The Secretary of State and the Administrator of the United States Agency for International Development, in consultation with the Secretary of Defense, shall conduct a study regarding the threat and practice of trafficking in persons generated by post-conflict and humanitarian emergencies in foreign countries.

(ii) **FACTORS.**—In carrying out the study, the Secretary of State and the Administrator of the United States Agency for International Development shall examine—

- (I) the vulnerabilities to human trafficking of commonly affected populations, particularly women and children, generated by post-conflict and humanitarian emergencies;
- (II) the various forms of trafficking in persons, both internal and trans-border, including both sexual and labor exploitation;
- (III) a collection of best practices implemented to date to combat human trafficking in such areas; and
- (IV) proposed recommendations to better combat trafficking in persons in conjunction with post-conflict reconstruction and humanitarian emergencies assistance.

(B) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Administrator of the United States Agency for International Development shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report that contains—

- (i) the results of the study conducted pursuant to subparagraph (A); and
- (ii) specific recommendations to combat trafficking in persons by departments and agencies of the United States Government that are responsible for post-conflict and humanitarian emergency strategy and assistance programs, including the Office of Transition Initiatives and the Office of Foreign Disaster Assistance of the United States Agency for International Development, the Office of the Coordinator for Reconstruction and Stabilization and the Bureau of Population, Refugees, and Migration of the Department of State, and relevant Department of Defense entities that are carrying out or assisting in the conduct of such programs.

(3) IMPLEMENTATION OF RECOMMENDATIONS.—To the maximum extent practicable and in consultation with the congressional committees specified in paragraph (2)(B), the Administrator of the United States Agency for International Development, the Secretary of State, the Secretary of Defense, and the heads of other relevant departments and agencies of the United States Government shall take such actions as are necessary to implement the recommendations contained in the report under paragraph (2)(B)(ii) as soon as practicable after the date of the submission of the report. (\*\*Introduced by Sec. 101(a)(2) of the TVPRA 2005)

**Introduced by Sec. 101(b) of the TVPRA 2005:**

(b) EXTENSION OF SEXUALLY VIOLENT OFFENDER REGISTRATION PROGRAM TO FOREIGN OFFENSES.—

(1) IN GENERAL.—Subsection (b)(7) of section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended—

- (A) in the matter preceding subparagraph (A) by striking “‘convicted in another State’” and inserting “‘convicted outside that State’”; and

(B) in subparagraph (A) by inserting after “convicted in another State,” the following: “convicted of a foreign offense,”.

(2) GUIDELINES; IMPLEMENTATION BY STATES.—Not later than one year after the date of the enactment of this Act, the Attorney General shall issue revised guidelines to implement the amendments made by paragraph (1). For purposes of subsection (g) of such section 170101, a State shall have until two years from the date on which the Attorney General issues revised guidelines pursuant to the preceding sentence to implement the amendments made by paragraph (1). (\*\*Introduced by Sec. 101(b) of the TVPRA 2005)

**Introduced by Sec. 103(b) of the TVPRA 2008:**

(b) Prosecution- Section 134(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152d(a)(2)) is amended by adding at the end before the semicolon the following: ‘, including investigation of individuals and entities that may be involved in trafficking in persons involving sexual exploitation’. (\*\*\*)Introduced by Sec. 103(b) of the TVPRA 2008)

**SEC. 107. PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING.**

(a) ASSISTANCE FOR VICTIMS IN OTHER COUNTRIES.—

(1) IN GENERAL.—The Secretary of State and the Administrator of the United States Agency for International Development, in consultation with appropriate nongovernmental organizations, shall establish and carry out programs and initiatives in foreign countries to assist in the safe integration, reintegration, or resettlement, as appropriate, of victims of trafficking. Such programs and initiatives shall be designed to meet the appropriate assistance needs of such persons and their children, as identified by the Task Force, **and by facilitating contact between relevant foreign government agencies and such non-governmental organizations to facilitate cooperation between the foreign governments and such organizations (\*As amended by Sec. 4(a)(1) of the TVPRA 2003)**, and shall be carried out in a manner which takes into account the cross-border, regional, and transnational aspects of trafficking in persons. (\*\*\*)As amended by Sec. 104(1)(A) of the TVPRA 2008)

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

- (i) increased protections for refugees and internally displaced persons, including outreach and education efforts to prevent such refugees and internally displaced persons from being exploited by traffickers; and
- (ii) performance of best interest determinations for unaccompanied and separated children who come to the attention of the United Nations High Commissioner for Refugees, its partner organizations, or any organization that contracts with the Department of State in order to identify child trafficking victims and to assist their safe

integration, reintegration, and resettlement. (\*\*\*)Introduced by Sec. 104(1)(B) of the TVPRA 2008)

(2) ADDITIONAL REQUIREMENT.—In establishing and conducting programs and initiatives described in paragraph (1), the Secretary of State and the Administrator of the United States Agency for International Development shall take all appropriate steps to enhance cooperative efforts among foreign countries, including countries of origin of victims of trafficking, to assist in the integration, reintegration, or resettlement, as appropriate, of victims of trafficking, including stateless victims. In carrying out this paragraph, the Secretary and the Administrator shall take all appropriate steps to ensure that cooperative efforts among foreign countries are undertaken on a regional basis. (\*\*\*)As amended by Sec. 104(2) of the TVPRA 2008)

(b) VICTIMS IN THE UNITED STATES.—

(1) ASSISTANCE.—

(A) ELIGIBILITY FOR BENEFITS AND SERVICES.—Notwithstanding title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, an alien who is a victim of a severe form of trafficking in persons, or an alien classified as a non-immigrant under section 101(a)(15)(T)(ii) (\*As amended by Sec. 4(a)(2)(A) of the TVPRA 2003) shall be eligible for benefits and services under any Federal or State program or activity funded or administered by any official or agency described in subparagraph (B) to the same extent as an alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.

(B) REQUIREMENT TO EXPAND BENEFITS AND SERVICES.— Subject to subparagraph (C) and, in the case of non-entitlement programs, to the availability of appropriations, the Secretary of Health and Human Services, the Secretary of Labor, the Board of Directors of the Legal Services Corporation, and the heads of other Federal agencies shall expand benefits and services to victims of severe forms of trafficking in persons in the United States, and aliens classified as a non-immigrant under section 101(a)(15)(T)(ii) (\*As amended by Sec. 4(a)(2)(B)(ii) of the TVPRA 2003) without regard to the immigration status of such victims. In the case of non-entitlement programs funded by the Secretary of Health and Human Services, such benefits and services may include services to assist potential victims of trafficking in achieving certification and to assist minor dependent children of victims of severe forms of trafficking in persons or potential victims of trafficking. (\*As amended by Sec. 4(a)(2)(B)(ii) of the TVPRA 2003)

(C) DEFINITION OF VICTIM OF A SEVERE FORM OF TRAFFICKING IN PERSONS.—For the purposes of this paragraph, the term “victim of a severe form of trafficking in persons” means only a person—

- (i) who has been subjected to an act or practice described in section 103(8) as in effect on the date of the enactment of this Act; and
- (ii)
  - (I) who has not attained 18 years of age; or
  - (II) who is the subject of a certification under subparagraph (E).

~~(D) ANNUAL REPORT.—Not later than December 31 of each year, the Secretary of Health and Human Services, in consultation with the Secretary of Labor, the Board of Directors of the Legal Services Corporation, and the heads of other appropriate Federal agencies shall submit a report, which includes information on the number of persons who received benefits or other services under this paragraph in connection with programs or activities funded or administered by such agencies or officials during the preceding fiscal year, to the Committee on Ways and Means, the Committee on International Relations, and the Committee on the Judiciary of the House of Representatives and the Committee on Finance, the Committee on Foreign Relations, and the Committee on the Judiciary of the Senate. (\*As amended by Sec. 6(a)(2) of the TVPRA 2003)~~

(E) CERTIFICATION.—

(i) IN GENERAL.—Subject to clause (ii), the certification referred to in subparagraph (C) is a certification by the Secretary of Health and Human Services, after consultation with the Attorney General, that the person referred to in subparagraph (C)(ii)(II)—

(I) is willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking in persons or is unable to cooperate with such a request due to physical or psychological trauma (\*\*As amended by Sec. 212(a)(1) of the TVPRA 2008); and

(II)

(aa) has made a bona fide application for a visa under section 101(a)(15)(T) of the Immigration and Nationality Act, as added by subsection (e), that has not been denied; or

(bb) is a person whose continued presence in the United States the Attorney General is ensuring in order to effectuate prosecution of traffickers in persons.

(ii) PERIOD OF EFFECTIVENESS.—A certification referred to in subparagraph (C), with respect to a person described in clause (i)(II)(bb), shall be effective only for so long as the Attorney General determines that the continued presence of such person is necessary to effectuate prosecution of traffickers in persons.

(iii) INVESTIGATION AND PROSECUTION DEFINED.— For the purpose of a certification under this subparagraph, the term “investigation and prosecution” includes—

(I) identification of a person or persons who have committed severe forms of trafficking in persons;

(II) location and apprehension of such persons; and

(III) testimony at proceedings against such Persons

(iv) ASSISTANCE TO INVESTIGATIONS.—In making the certification described in this subparagraph with respect to the assistance to investigation or prosecution described in clause (i)(I), the Secretary of Health and Human Services shall consider statements from State and local law enforcement officials that the

person referred to in subparagraph (C)(ii)(II) has been willing to assist in every reasonable way with respect to the investigation and prosecution of State and local crimes such as kidnapping, rape, slavery, or other forced labor offenses, where severe forms of trafficking appear to have been involved. (\*Introduced by Sec. 4(a)(3) of the TVPRA 2003)

(F) ELIGIBILITY FOR INTERIM ASSISTANCE OF CHILDREN-

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

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

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

(iv) LONG-TERM ASSISTANCE FOR CHILDREN-

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

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

(III) LETTER OF ELIGIBILITY- If the Secretary, after receiving information the Secretary believes, taken as a whole, indicates that the child is eligible for assistance under this paragraph, the Secretary shall issue a letter of eligibility. The Secretary may not require that the child cooperate with law enforcement as a condition for receiving such letter of eligibility. (\*\*\*)Introduced by Sec. 212(a)(2) of the TVPRA 2008)

(G) NOTIFICATION OF CHILDREN FOR INTERIM ASSISTANCE- Not later than 24 hours after a Federal, State, or local official discovers that a person who is under 18 years of age may be a victim of a severe form of trafficking in persons, the official shall notify the Secretary of Health and Human Services to facilitate the provision of interim assistance under subparagraph (F). (\*\*\*)Introduced by Sec. 212(a)(2) of the TVPRA 2008)

## (2) GRANTS.—

(A) IN GENERAL.—Subject to the availability of appropriations, the Attorney General may make grants to States, Indian tribes, units of local government, and nonprofit, nongovernmental victims' service organizations to develop, expand, or strengthen victim service programs for victims of trafficking

(B) ALLOCATION OF GRANT FUNDS.—Of amounts made available for grants under this paragraph, there shall be set aside—

(i) three percent for research, evaluation, and statistics;

~~(ii) two percent for training and technical assistance; and~~

(ii) 5 percent for training and technical assistance, including increasing capacity and expertise on security for and protection of service providers from intimidation or retaliation for their activities; (\*\*As amended by Sec. 213(a)(3) of the TVPRA 2008)

(iii) one percent for management and administration.

(C) LIMITATION ON FEDERAL SHARE.—The Federal share of a grant made under this paragraph may not exceed 75 percent of the total costs of the projects described in the application submitted.

(c) TRAFFICKING VICTIM REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General and the Secretary of State shall promulgate regulations for law enforcement personnel, immigration officials, and Department of State officials to implement the following:

(1) PROTECTIONS WHILE IN CUSTODY.—Victims of severe forms of trafficking, while in the custody of the Federal Government and to the extent practicable, shall—

(A) not be detained in facilities inappropriate to their status as crime victims;

(B) receive necessary medical care and other assistance; and

(C) be provided protection if a victim's safety is at risk or if there is danger of additional harm by recapture of the victim by a trafficker, including—

(i) taking measures to protect trafficked persons and their family members from intimidation and threats of reprisals and reprisals from traffickers and their associates; and

(ii) ensuring that the names and identifying information of trafficked persons and their family members are not disclosed to the public.

(2) ACCESS TO INFORMATION.—Victims of severe forms of trafficking shall have access to information about their rights and translation services. ~~To the extent practicable, victims of severe forms of trafficking shall have access to information about federally funded or administered anti-trafficking programs that provide services to victims of severe forms of trafficking. (\*\*As amended by Sec. 102 of the TVPRA 2005)~~

~~(3) AUTHORITY TO PERMIT CONTINUED PRESENCE IN THE UNITED STATES.— Federal law enforcement officials may permit an alien individual’s continued presence in the United States, if after an assessment, it is determined that such individual is a victim of a severe form of trafficking and a potential witness to such trafficking, in order to effectuate prosecution of those responsible, and such officials in investigating and prosecuting traffickers shall protect the safety of trafficking victims, including taking measures to protect trafficked persons and their family members from intimidation, threats of reprisals, and reprisals from traffickers and their associates. (\*\*As amended Sec. 205(a)(1) of the TVPRA 2008)~~

### (3) AUTHORITY TO PERMIT CONTINUED PRESENCE IN THE UNITED STATES-

#### (A) TRAFFICKING VICTIMS—

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

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

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

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

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

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

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

(ii) distribute the materials developed under clause (i) to State and local law enforcement officials. (\*\*Introduced by Sec. 205(a)(1) of the TVPRA 2008)

(4) TRAINING OF GOVERNMENT PERSONNEL.—Appropriate personnel of the Department of State, the Department of Homeland Security, the Department of the Health and Human Services, (\*\*As amended by Sec. 212(b)(1) of the TVPRA 2008) and the Department of Justice shall be trained in identifying victims of severe forms of trafficking and providing for the protection of such victims, including juvenile victims. The Attorney General and the Secretary of Health and Human Services shall provide training to State and local officials to improve the identification and protection of such victims (\*\*As amended by Sec. 212(b)(2) of the TVPRA 2008).

(5) ACCESS TO COUNSEL.—

(A) ACCESS TO COUNSEL.—Victims of severe forms of trafficking, while in the custody of the Federal Government, shall not be denied access to counsel in any proceeding or matter relating to the investigation and prosecution of the act of trafficking involved.

(B) INFORMATION.—Victims of severe forms of trafficking shall receive information about their right to access to counsel under subparagraph (A). To the maximum extent practicable, victims of severe forms of trafficking shall receive contact information for nongovernmental organizations that receive funding from the Federal Government to provide counsel or other assistance to victims of trafficking.’ (\*\*As amended by Sec. 102 of the TVPRA 2005)

(d) CONSTRUCTION.—Nothing in subsection (c) shall be construed as creating any private cause of action against the United States or its officers or employees.

(e) PROTECTION FROM REMOVAL FOR CERTAIN CRIME VICTIMS.—

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

(A) by striking “or” at the end of subparagraph (R);

(B) by striking the period at the end of subparagraph (S) and inserting “; or”; and

(C) by adding at the end the following new subparagraph: “(T)(i) subject to section 214(n), an alien who the Attorney General determines—

“(I) is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, Deadline.

“(II) is physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry thereto, on account of such trafficking,

“(III)(aa) has complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking, or

“(bb) has not attained 15 years of age, and

“(IV) the alien would suffer extreme hardship involving unusual and severe harm upon removal; and

“(ii) if the Attorney General considers it necessary to avoid extreme hardship—

“(I) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, and parents of such alien; and “(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien, if accompanying, or following to join, the alien described in clause (i).”.

(2) **CONDITIONS OF NONIMMIGRANT STATUS.**—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended—

(A) by redesignating the subsection (l) added by section 625(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–1820) as subsection (m); and

(B) by adding at the end the following:

“(n)(1) No alien shall be eligible for admission to the United States under section 101(a)(15)(T) if there is substantial reason to believe that the alien has committed an act of a severe form of trafficking in persons (as defined in section 103 of the Trafficking Victims Protection Act of 2000).

“(2) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year under section 101(a)(15)(T) may not exceed 5,000.

“(3) The numerical limitation of paragraph (2) shall only apply to principal aliens and not to the spouses, sons, daughters, or parents of such aliens.”.

(3) **WAIVER OF GROUNDS FOR INELIGIBILITY FOR ADMISSION.**— Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by adding at the end the following:

“(13)(A) The Attorney General shall determine whether a ground for inadmissibility exists with respect to a nonimmigrant described in section 101(a)(15)(T).

“(B) In addition to any other waiver that may be available under this section, in the case of a nonimmigrant described in section 101(a)(15)(T), if the Attorney General considers it to be in the national interest to do so, the Attorney General, in the Attorney General’s discretion, may waive the application of—

“(i) paragraphs (1) and (4) of subsection (a); and

“(ii) any other provision of such subsection (excluding paragraphs (3), (10)(C), and (10)(E)) if the activities rendering the alien inadmissible under the provision were caused by, or were incident to, the victimization described in section 101(a)(15)(T)(i)(I).”.

(4) **DUTIES OF THE ATTORNEY GENERAL WITH RESPECT TO “T” VISA NONIMMIGRANTS.**—Section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) is

amended by adding at the end the following new subsection: “(i) With respect to each nonimmigrant alien described in subsection (a)(15)(T)(i)—

“(1) the Attorney General and other Government officials, where appropriate, shall provide the alien with a referral to a nongovernmental organization that would advise the alien regarding the alien’s options while in the United States and the resources available to the alien; and

“(2) the Attorney General shall, during the period the alien is in lawful temporary resident status under that subsection, grant the alien authorization to engage in employment in the United States and provide the alien with an ‘employment authorized’ endorsement or other appropriate work permit.”.

(5) STATUTORY CONSTRUCTION.—Nothing in this section, or in the amendments made by this section, shall be construed as prohibiting the Attorney General from instituting removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) against an alien admitted as a nonimmigrant under section 101(a)(15)(T)(i) of that Act, as added by subsection (e), for conduct committed after the alien’s admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien’s admission as a nonimmigrant under such section 101(a)(15)(T)(i).

(f) ADJUSTMENT TO PERMANENT RESIDENT STATUS.—Section 245 of such Act (8 U.S.C 1255) is amended by adding at the end the following new subsection:

“(1) (1) If, in the opinion of the Attorney General, a nonimmigrant admitted into the United States under section 101(a)(15)(T)(i)—

“(A) has been physically present in the United States for a continuous period of at least 3 years since the date of admission as a nonimmigrant under section 101(a)(15)(T)(i),

“(B) has, throughout such period, been a person of good moral character, and

“(C)

“(i) has, during such period, complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking, or

“(ii) the alien would suffer extreme hardship involving unusual and severe harm upon removal from the United States, the Attorney General may adjust the status of the alien (and any person admitted under that section as the spouse, parent, or child of the alien) to that of an alien lawfully admitted for permanent residence.

“(2) Paragraph (1) shall not apply to an alien admitted under section 101(a)(15)(T) who is inadmissible to the United States by reason of a ground that has not been waived under section 212, except that, if the Attorney General considers it to be in the national interest to do so, the Attorney General, in the Attorney General’s discretion, may waive the application of—

“(A) paragraphs (1) and (4) of section 212(a); and

“(B) any other provision of such section (excluding paragraphs (3), (10)(C), and (10(E)), if the activities rendering the alien inadmissible under the provision were caused by, or were incident to, the victimization described in section 101(a)(15)(T)(i)(I).

“(2) An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (1)(A) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

“(3)

“(A) The total number of aliens whose status may be adjusted under paragraph (1) during any fiscal year may not exceed 5,000.

“(B) The numerical limitation of subparagraph (A) shall only apply to principal aliens and not to the spouses, sons, daughters, or parents of such aliens.

“(4) Upon the approval of adjustment of status under paragraph (1), the Attorney General shall record the alien’s lawful admission for permanent residence as of the date of such approval.”

#### (f) Assistance for United States Citizens and Lawful Permanent Residents-

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

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

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

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

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

#### (3) **GRANTS-**

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

(B) **MAXIMUM FEDERAL SHARE-** The Federal share of a grant awarded under this paragraph may not exceed 75 percent of the total costs of the projects described in the

application submitted by the grantee.’ (\*\*\*)As amended by Sec. 213(a)(1) of the TVPRA 2008)

(g) ANNUAL REPORTS.—On or before October 31 of each year, the Attorney General shall submit a report to the appropriate congressional committees setting forth, with respect to the preceding fiscal year, the number, if any, of otherwise eligible applicants who did not receive visas under section 101(a)(15)(T) of the Immigration and Nationality Act, as added by subsection (e), or who were unable to adjust their status under section 245(l) of such Act, solely on account of the unavailability of visas due to a limitation imposed by section ~~214(n)(1)~~ 214(o)(2) (\*As amended by Sec. 8(b)(2) of the TVPRA 2003) or 245(l)(4)(A) of such Act.

### Introduced by Sec. 105 of the TVPRA 2008:

#### **SEC. 107A. INCREASING EFFECTIVENESS OF ANTI-TRAFFICKING PROGRAMS.**

(a) Awarding of Grants, Cooperative Agreements, and Contracts- In administering funds made available to carry out this Act within and outside the United States—

- (1) solicitations of grants, cooperative agreements, and contracts for such programs shall be made publicly available;
- (2) grants, cooperative agreements, and contracts shall be subject to full and open competition, in accordance with applicable laws; and
- (3) the internal department or agency review process for such grants, cooperative agreements, and contracts shall not be subject to ad hoc or intermittent review or influence by individuals or organizations outside the United States Government except as provided under paragraphs (1) and (2).

(b) Eligibility-

- (1) IN GENERAL- An applicant desiring a grant, contract, or cooperative agreement under this Act shall certify that, to the extent practicable, persons or entities providing legal services, social services, health services, or other assistance have completed, or will complete, training in connection with trafficking in persons.
- (2) DISCLOSURE- If appropriate, applicants should indicate collaboration with nongovernmental organizations, including organizations with expertise in trafficking in persons.

(c) Evaluation of Anti-Trafficking Programs-

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

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

- (A) establish performance goals for the assistance described in paragraph (1), expressed in an objective and quantifiable form, to the extent practicable;
- (B) ensure that performance indicators are used for programs authorized under this Act to measure and assess the achievement of the performance goals described in subparagraph (A);
- (C) provide a basis for recommendations for adjustments to the assistance described in paragraph (1) to enhance the impact of such assistance; and
- (D) ensure that evaluations are conducted by subject matter experts in and outside the United States Government, to the extent practicable.

(d) Targeted Use of Anti-Trafficking Programs- In providing assistance under this division, the President should take into account the priorities and country assessments contained in the most recent report submitted by the Secretary of State to Congress pursuant to section 110(b).

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

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

- (1) evaluations of promising anti-trafficking programs and projects funded by the disbursing agency pursuant to this Act; and
- (2) evaluations of emerging problems or global trends.’ (\*\*\*)Introduced by Sec. 105 of the TVPRA 2008)

**Introduced by Sec. 4(a)(4) of the TVPRA 2003:**

**(4) PRIVATE RIGHT OF ACTION.**

**(A) IN GENERAL.—**Chapter 77 of part I of title 18, United States Code, is amended by adding at the end the following new section:

**“§ 1595. Civil remedy**

“(a) An individual who is a victim of a violation of section 1589, 1590, or 1591 of this chapter may bring a civil action against the perpetrator in an appropriate district court of the United States and may recover damages and reasonable attorneys fees.

“(b)(1) Any civil action filed under this section shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim.

“(2) In this subsection, a ‘criminal action’ includes investigation and prosecution and is pending until final adjudication in the trial court.”.

(B) CONFORMING AMENDMENT.—The table of contents of chapter 77 of part I of title 18, United States Code, is amended by adding at the end the following new item: “1595. Civil remedy.”. (\*Introduced by Sec. 4(a)(4) of the TVPRA 2003.)

### **Introduced by Sec. 4(b) of the TVPRA 2003:**

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—

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

(A) in clause (i)(III)(bb), by striking “15 years of age,” and inserting “18 years of age,”; and

(B) in clause (ii)(I), by inserting “unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause,” before “and parents”.

(2) ADMISSION OF NONIMMIGRANTS.—Section 214(n) of the Immigration and Nationality Act (8 U.S.C. 1184(n)) is amended—

(A) in paragraph (3), by inserting “siblings,” before “or parents”; and

(B) by adding at the end the following:

“(4) An unmarried alien who seeks to accompany, or follow to join, a parent granted status under section 101(a)(15)(T)(i), and who was under 21 years of age on the date on which such parent applied for such status, shall continue to be classified as a child for purposes of section 101(a)(15)(T)(ii), if the alien attains 21 years of age after such parent’s application was filed but while it was pending.

“(5) An alien described in clause (i) of section 101(a)(15)(T) shall continue to be treated as an alien described in clause (ii)(I) of such section if the alien attains 21 years of age after the alien’s application for status under such clause (i) is filed but while it is pending.

“(6) In making a determination under section 101(a)(15)(T)(i)(III)(aa) with respect to an alien, statements from State and local law enforcement officials that the alien has complied with any reasonable request for assistance in the investigation or prosecution of crimes such as kidnapping, rape, slavery, or other forced labor offenses, where severe forms of trafficking in persons (as defined in

section 103 of the Trafficking Victims Protection Act of 2000) appear to have been involved, shall be considered.”.

(3) ADJUSTMENT OF STATUS.—Section 245(l) of the Immigration and Nationality Act (8 U.S.C. 1255(l)) (as added by section 107(f) of Public Law 106–386) is amended—

(A) in paragraph (1)—

(i) by striking “admitted under that section” and inserting “admitted under section 101(a)(15)(T)(ii)”;

(ii) by inserting “sibling,” after “parent,”; and

(B) in paragraph (3)(B), by inserting “siblings,” after “daughters,”.

(4) EXEMPTION FROM PUBLIC CHARGE GROUND FOR INADMISSIBILITY.— Section 212(d)(13) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(13)), as added by section 107(e)(3) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(e)(3)), is amended—

(A) in subparagraph (A), by striking the period at the end and adding the following:

“, except that the ground for inadmissibility described in subsection (a)(4) shall not apply with respect to such a nonimmigrant.”; and

(B) in subparagraph (B)—

(i) by amending clause (i) to read as follows:

“(i) subsection (a)(1); and”;

(ii) in clause (ii)—

(I) by striking “such subsection” and inserting “subsection (a)”;

(II) by inserting “(4),” after “(3),”.

(5) AGGRAVATED FELONY DEFINED.—Section 101(a)(43)(K)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)(K)(iii)) is amended to read as follows:

“(iii) is described in any of sections 1581–1585 or 1588–1591 of title 18, United States Code (relating to peonage, slavery, involuntary servitude, and trafficking in persons);”  
 (\*Introduced by Sec. 4(b) of the TVPRA 2003 )

### **Introduced by Sec. 5 of the TVPRA 2003:**

## **SEC. 5. ENHANCING PROSECUTIONS OF TRAFFICKERS.**

(a) SEX TRAFFICKING OF CHILDREN OR BY FORCE, FRAUD, OR COERCION.— Section 1591 of title 18, United States Code, is amended—

(1) in the heading, by inserting a comma after “**FRAUD**”;

(2) in subsection (a)(1), by striking “in or affecting interstate commerce” and inserting “in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States”; and

(3) in subsection (b), by striking “the person transported” each place it appears and inserting “the person recruited, enticed, harbored, transported, provided, or obtained”.

(b) DEFINITION OF RACKETEERING ACTIVITY.—Section 1961(1)(A) of title 18, United States Code, is amended by striking “sections 1581–1588 (relating to peonage and slavery)” and inserting “sections 1581–1591 (relating to peonage, slavery, and trafficking in persons).”.

(c) CONFORMING AMENDMENTS.—(1) The heading for chapter 77 of part I of title 18, United States Code, is amended to read as follows:

**“CHAPTER 77—PEONAGE, SLAVERY, AND TRAFFICKING IN PERSONS”.**

(2) The table of contents for part I of title 18, United States Code, is amended in the item relating to chapter 77 to read as follows:

**“77. Peonage, slavery, and trafficking in persons”.** (\*Introduced by Sec. 5 of the TVPRA 2003)

### **Introduced by Section 102(b) of the TVPRA 2005:**

(b) ESTABLISHMENT OF GUARDIAN AD LITEM PROGRAM.—

Section 462(b) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)) is amended by adding at the end the following new paragraph:

**“(4) APPOINTMENT OF GUARDIAN AD LITEM FOR CHILD VICTIM OF TRAFFICKING.—**

**“(A) IN GENERAL.—**If the Director of the Office of Refugee Resettlement has reason to believe that an unaccompanied alien child is a victim of a severe form of trafficking in persons (as defined in section 107(b)(1)(C)(ii)(I) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(1)(C)(ii)(I))), the Director may appoint a guardian ad litem who meets the qualifications described in subparagraph (B) for the child. The Director is encouraged, wherever practicable, to arrange with a nongovernmental organization for the selection of an individual to be appointed as a guardian ad litem under this paragraph.

**“(B) QUALIFICATIONS OF GUARDIAN AD LITEM.—**No person shall serve as a guardian ad litem under this paragraph unless the person—

**“(i) is a child welfare professional or other individual who has received training in child welfare matters; and**

**“(ii) has received training on the nature of problems encountered by victims of trafficking.**

“(C) DUTIES.—The guardian ad litem shall take such steps as may be necessary to investigate and report to the Director of the Office of Refugee Resettlement as to whether an unaccompanied alien child is a victim of trafficking. The guardian ad litem shall—

“(i) conduct interviews with the child in a manner that is appropriate, taking into account the child’s age;

“(ii) investigate the facts and circumstances relevant to such child’s presence in the United States, including facts and circumstances arising in the country of the child’s nationality or last habitual residence and facts and circumstances arising subsequent to the child’s departure from such country;

“(iii) work with counsel, if the child is represented by counsel, to identify the child’s eligibility for relief from removal or voluntary departure by sharing with counsel information collected under clause (ii);

“(iv) develop recommendations on issues relative to the child’s custody, detention, release, and repatriation;

“(v) take reasonable steps to ensure that the best interests of the child are promoted while the child participates in, or is subject to, proceedings or matters under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

“(vi) take reasonable steps to ensure that the child understands the nature of the legal proceedings or matters and determinations made by the court, and ensure that all information is conveyed in an age appropriate manner.

“(D) DETERMINATION OF ELIGIBILITY FOR BENEFITS AND SERVICES.—The Director of the Office of Refugee Resettlement shall consider the report provided by the guardian ad litem in determining whether an alien child is a victim of a severe form of trafficking in persons eligible for services pursuant to section 107(b)(1)(A) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(1)(A)).

“(E) TERMINATION OF APPOINTMENT.— The guardian ad litem shall carry out the duties described in subparagraph (C) until one of the following occurs:

“(i) Such duties are completed.

“(ii) The child departs the United States.

“(iii) The child is granted permanent resident status in the United States;

“(iv) The child attains the age of 18.

“(v) The child is placed in the custody of a parent, legal guardian, or licensed child welfare agency.

“(F) POWERS.—The guardian ad litem—

“(i) shall have reasonable access to the child, including access while such child is being held in detention, in the care of a foster family, or in any other temporary living arrangement;

“(ii) shall be permitted to review all records and information relating to such proceedings that are not deemed privileged or classified;

“(iii) may seek independent evaluations of the child;

“(iv) shall be notified in advance of all hearings or interviews involving the child that are held in connection with proceedings or matters under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) or in connection with the investigation or prosecution of a severe form of trafficking in persons (as defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103)), and shall be given a reasonable opportunity to be present at such hearings or interviews;

“(v) shall be permitted to consult with the child during any hearing or interview involving such child; and

“(vi) shall be provided at least 24 hours advance notice of a transfer of that child to a different placement, absent compelling and unusual circumstances warranting the transfer of such child prior to notification.

“(G) TRAINING.—The Director of the Office for Refugee Resettlement is authorized to provide training for all persons serving as guardians ad litem under this section in the circumstances and conditions that child victims of trafficking face and immigration benefits or other rights under the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.) for which such child might be eligible.

“(H) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services such sums as may be necessary to carry out this paragraph. (\*\*Introduced by Sec. 102(b) of the TVPRA 2005)

**Introduced by Sec. 102(d) of the TVPRA 2005:**

**(d) ESTABLISHMENT OF PILOT PROGRAM FOR RESIDENTIAL REHABILITATIVE FACILITIES FOR VICTIMS OF TRAFFICKING.**

**(1) STUDY.—**

(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the United States Agency for International Development shall carry out a study to identify best practices for the rehabilitation of victims of trafficking in group residential facilities in foreign countries.

(B) FACTORS.—In carrying out the study under subparagraph (A), the Administrator shall—

(i) investigate factors relating to the rehabilitation of victims of trafficking in group residential facilities, such as the appropriate size of such facilities, services to be provided, length of stay, and cost; and

(ii) give consideration to ensure the safety and security of victims of trafficking, provide alternative sources of income for such victims, assess and provide for the educational needs of such victims, including literacy, and assess the psychological needs of such victims and provide professional counseling, as appropriate.

(2) **PILOT PROGRAM.**—Upon completion of the study carried out pursuant to paragraph (1), the Administrator of the United States Agency for International Development shall establish and carry out a pilot program to establish residential treatment facilities in foreign countries for victims of trafficking based upon the best practices identified in the study.

(3) **PURPOSES.**—The purposes of the pilot program established pursuant to paragraph (2) are to—

(A) provide benefits and services to victims of trafficking, including shelter, psychological counseling, and assistance in developing independent living skills;

(B) assess the benefits of providing residential treatment facilities for victims of trafficking, as well as the most efficient and cost-effective means of providing such facilities; and

(C) assess the need for and feasibility of establishing additional residential treatment facilities for victims of trafficking.

(4) **SELECTION OF SITES.**—The Administrator of the United States Agency for International Development shall select 2 sites at which to operate the pilot program established pursuant to paragraph (2).

(5) **FORM OF ASSISTANCE.**—In order to carry out the responsibilities of this subsection, the Administrator of the United States Agency for International Development shall enter into contracts with, or make grants to, nonprofit organizations with relevant expertise in the delivery of services to victims of trafficking.

(6) **REPORT.**—Not later than one year after the date on which the first pilot program is established pursuant to paragraph (2), the Administrator of the United States Agency for International Development shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the implementation of this subsection.

(7) **AUTHORIZATION OF APPROPRIATIONS.**— There are authorized to be appropriated to the Administrator of the United States Agency for International Development to carry out this subsection \$2,500,000 for each of the fiscal years 2006 and 2007. (\*\*Introduced by Sec. 102(d) of the TVPRA 2005)

**Introduced by Sec. 201(a) of the TVPRA 2005:**

(a) **PROGRAM TO REDUCE DEMAND FOR COMMERCIAL SEX ACTS.**—

(1) **PROGRAM.**—The Secretary of Health and Human Services shall identify best practices to reduce the demand for commercial sex acts in the United States and shall carry out a program to implement such best practices.

(2) **REPORT.**—The Secretary shall prepare and post on the Internet Web site of the Department of Health and Human Services a report on the best practices identified under paragraph (1).

(3) DEFINITIONS.—In this subsection, the term “commercial sex act” has the meaning given the term in section 103(3) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(3)). (\*\*Introduced by Sec. 201(a) of the TVPRA 2005)

**Introduced by Sec. 202 of the TVPRA 2005:**

**SEC. 202. ESTABLISHMENT OF GRANT PROGRAM TO DEVELOP, EXPAND, AND STRENGTHEN VICTIM SERVICE PROGRAMS FOR VICTIMS OF DOMESTIC TRAFFICKING.**

(a) GRANT PROGRAM.—Subject to the availability of appropriations, the Secretary of Health and Human Services may make grants to States, Indian tribes, units of local government, and nonprofit, nongovernmental victims’ service organizations to develop, expand, and strengthen victim service programs for victims of domestic trafficking.

(b) SELECTION FACTOR.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to applicants with experience in the delivery of services to runaway or homeless youth, including youth who have been subjected to sexual abuse or commercial sexual exploitation, and to applicants who would employ survivors of commercial sexual exploitation as part of their proposed project.

(c) LIMITATION ON FEDERAL SHARE.—The Federal share of a grant made under this section may not exceed 75 percent of the total costs of the projects described in the application submitted. (\*\*Introduced by Sec. 202 of the TVPRA 2005)

**Introduced by Sec. 203 of the TVPRA 2005:**

**SEC. 203. PROTECTION OF VICTIMS OF DOMESTIC TRAFFICKING IN PERSONS.**

(a) ESTABLISHMENT OF PILOT PROGRAM.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and carry out a pilot program to establish residential treatment facilities in the United States for minor victims of domestic trafficking.

(b) PURPOSES.—The purposes of the pilot program established pursuant to subsection (a) are to—

(1) provide benefits and services to minor victims of domestic trafficking, including shelter, psychological counseling, and assistance in developing independent living skills;

(2) assess the benefits of providing residential treatment facilities for minor victims of domestic trafficking, as well as the most efficient and cost-effective means of providing such facilities; and

(3) assess the need for and feasibility of establishing additional residential treatment facilities for minor victims of domestic trafficking.

(c) **SELECTION OF SITES.**—The Secretary of Health and Human Services shall select 3 sites at which to operate the pilot program established pursuant to subsection (a).

(d) **FORM OF ASSISTANCE.**—In order to carry out the responsibilities of this section, the Secretary of Health and Human Services shall enter into contracts with, or make grants to, nonprofit organizations with relevant expertise in the delivery of services to runaway or homeless youth, including youth who have been subjected to sexual abuse or commercial sexual exploitation.

(e) **REPORT.**—Not later than one year after the date on which the first pilot program is established pursuant to subsection (a), the Secretary of Health and Human Services shall submit to Congress a report on the implementation of this section.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Health and Human Services to carry out this section \$5,000,000 for each of the fiscal years 2006 and 2007. (\*\*Introduced by Sec. 203 of the TVPRA 2005)

**Introduced by Sec. 204 of the TVPRA 2005:**

**SEC. 204. INVESTIGATION BY FEDERAL BUREAU OF INVESTIGATION OF ACTS OF DOMESTIC TRAFFICKING IN PERSONS.**

From amounts made available to carry out this section (including amounts made available pursuant to the authorization of appropriations in section 302), the Director of the Federal Bureau of Investigation shall investigate acts of domestic trafficking in persons. (\*\*Introduced by Sec. 204 of the TVPRA 2005)

**Introduced by Sec. 205 of the TVPRA 2005:**

**SEC. 205. ENHANCING STATE AND LOCAL EFFORTS TO COMBAT TRAFFICKING IN PERSONS.**

(a) **ESTABLISHMENT OF GRANT PROGRAM FOR LAW ENFORCEMENT.**—

(1) **IN GENERAL.**—Subject to the availability of appropriations, the Attorney General may make grants to States and local law enforcement agencies to develop, expand, or strengthen programs to investigate and prosecute acts of domestic trafficking in persons.

(2) **MULTI-DISCIPLINARY APPROACH REQUIRED.**—Grants under paragraph (1) may be made only for programs in which the State or local law enforcement agency works collaboratively with victim service providers and other relevant nongovernmental organizations,

including faith-based organizations and organizations with experience in the delivery of services to youth who have been subjected to sexual abuse or commercial sexual exploitation.

(3) **LIMITATION ON FEDERAL SHARE.**—The Federal share of a grant made under this subsection may not exceed 75 percent of the total costs of the projects described in the application submitted.

(b) **IMPROVED INTERAGENCY COORDINATION TO COMBAT DOMESTIC TRAFFICKING.**—Section 206(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a)(1)) is amended by inserting “, the Director of the Office to Monitor and Combat Trafficking of the Department of State” after “the Commissioner of Immigration and Naturalization”. (\*\*Introduced by Sec. 205 of the TVPRA 2005)

### **Introduced by Sec. 206 of the TVPRA 2005:**

#### **SEC. 206. DEFINITIONS.**

In this title:

(1) **DOMESTIC TRAFFICKING IN PERSONS.**—The term “domestic trafficking in persons” means a severe form of trafficking in persons as defined by section 103(8) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(8)), which occurs wholly within the territorial jurisdiction of the United States.

(2) **VICTIM OF DOMESTIC TRAFFICKING.**—The term “victim of domestic trafficking” means a person subjected to an act or practice described in paragraph (1).

(3) **MINOR VICTIM OF DOMESTIC TRAFFICKING.**—The term “minor victim of domestic trafficking” means a person subjected to an act or practice described in paragraph (1) who has not attained 18 years of age at the time the person is identified as a victim of domestic trafficking. (\*\*Introduced by Sec. 206 of the TVPRA 2005)

### **Introduced by Sec. 221 of the TVPRA 2008:**

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

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

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

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

(2) in section 1595—

(A) in subsection (a)—

(i) by striking ‘of section 1589, 1590, or 1591’; and

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

(B) by adding at the end the following:

‘(c) No action may be maintained under this section unless it is commenced not later than 10 years after the cause of action arose.’. (\*\*\*)Introduced by Sec. 221 of the TVPRA 2008)

**Introduced by Sec. 222 of the TVPRA 2008:**

**SEC. 222. ENHANCING PENALTIES FOR TRAFFICKING OFFENSES.**

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

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

(2) by inserting ‘(1)’ before ‘If, after a hearing’;

(3) by inserting ‘(2)’ before ‘In a case’;

(4) by inserting ‘(3)’ before ‘Subject to rebuttal’;

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

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

(A) by striking ‘committed an offense’ and inserting the following: ‘committed—

‘(A) an offense’;

(B) by striking ‘46, an offense’ and inserting the following: ‘46;

‘(B) an offense’;

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

‘(C) an offense’; and

(D) by striking ‘prescribed or an offense’ and inserting the following: ‘prescribed;

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

‘(E) an offense’.

(b) Preventing Obstruction-

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

-‘Sec. 1583. Enticement into slavery

‘(a) Whoever—

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

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

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

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

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

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

‘(2) the violation includes kidnapping, an attempt to kidnap, aggravated sexual abuse, an attempt to commit aggravated sexual abuse, or an attempt to kill.’.

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

(A) by striking ‘Whoever’ and inserting the following:

‘(a) Whoever’; and

(B) by adding at the end the following:

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

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

‘SEC. 1589. FORCED LABOR.

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

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

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

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

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

shall be punished as provided under subsection (d).

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

‘(c) In this section:

‘(1) The term ‘abuse or threatened abuse of law or legal process’ means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

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

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

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

(A) by striking ‘Whoever’ and inserting the following:

‘(a) Whoever’; and

(B) by adding at the end the following:

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

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

(A) in subsection (a)—

(i) in paragraph (1), by striking ‘or obtains’ and inserting ‘obtains, or maintains’; and

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

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

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

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

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

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

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

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

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

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

‘(1) The term ‘abuse or threatened abuse of law or legal process’ means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.’; and

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

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

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

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

(c) Holding Conspirators Accountable- Section 1594 of title 18, United States Code, is amended—

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

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

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

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

## (d) Benefitting Financially From Peonage, Slavery, and Trafficking in Persons-

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

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

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

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

‘Sec. 1593A. Benefitting financially from peonage, slavery, and trafficking in persons.’.

(e) Retaliation in Foreign Labor Contracting- Chapter 63 of title 18, United States Code, is amended—

(1) in the chapter heading, by adding at the end the following: ‘AND OTHER FRAUD OFFENSES’;

(2) by adding at the end the following:

-‘Sec. 1351. Fraud in foreign labor contracting

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

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

‘1351. Fraud in foreign labor contracting.’.

## (f) Tightening Immigration Prohibitions-

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

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

‘(F) TRAFFICKING- Any alien described in section 212(a)(2)(H) is deportable.’.

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

- (1) the harboring was committed in furtherance of prostitution; and
- (2) the defendant to be sentenced is an organizer, leader, manager, or supervisor of the criminal activity. (\*\*\*)Introduced by Sec. 222 of the TVPRA 2008)

**Introduced by Sec. 223 of the TVPRA 2008:**

**SEC. 223. JURISDICTION IN CERTAIN TRAFFICKING OFFENSES.**

(a) In General- Chapter 77 of title 18, United States Code, is amended by adding at the end the following:

-‘Sec. 1596. Additional jurisdiction in certain trafficking offenses

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

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

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

‘(b) Limitation on Prosecutions of Offenses Prosecuted in Other Countries- No prosecution may be commenced against a person under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting such offense, except upon the approval of the Attorney General or the Deputy Attorney General (or a person acting in either such capacity), which function of approval may not be delegated.’.

(b) Clerical Amendment- The table of sections at the beginning of chapter 77 of title 18, United States Code, is amended by adding at the end the following:

‘1596. Additional jurisdiction in certain trafficking offenses.’. (\*\*\*)Introduced by Sec. 223 of the TVPRA 2008)

**Introduced by Sec. 224 of the TVPRA 2008:**

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

(a) Release and Detention- Subsections (f)(1)(A) and (g)(1) of section 3142 of title 18, United States Code, are amended by striking ‘violence,’ each place such term appears and inserting ‘violence, a violation of section 1591,’.

(b) Subpoenas- Section 3486(a)(1)(D) of title 18, United States Code, is amended by inserting ‘1591,’ after ‘1201,’.

(c) Repeat Offenders- Section 2426(b)(1)(A) of title 18, United States Code, is amended, by striking ‘or chapter 110’ and inserting ‘chapter 110, or section 1591’. (\*\*\*)Introduced by Sec. 224 of the TVPRA 2008)

### **Introduced by Sec. 225 of the TVPRA 2008:**

## **SEC. 225. PROMOTING EFFECTIVE STATE ENFORCEMENT.**

(a) Relationship Among Federal and State Law- Nothing in this Act, the Trafficking Victims Protection Act of 2000, the Trafficking Victims Protection Reauthorization Act of 2003, the Trafficking Victims Protection Reauthorization Act of 2005, chapters 77 and 117 of title 18, United States Code, or any model law issued by the Department of Justice to carry out the purposes of any of the aforementioned statutes—

- (1) may be construed to treat prostitution as a valid form of employment under Federal law; or
- (2) shall preempt, supplant, or limit the effect of any State or Federal criminal law.

(b) Model State Criminal Provisions- In addition to any model State antitrafficking statutes in effect on the date of the enactment of this Act, the Attorney General shall facilitate the promulgation of a model State statute that—

- (1) furthers a comprehensive approach to investigation and prosecution through modernization of State and local prostitution and pandering statutes; and
- (2) is based in part on the provisions of the Act of August 15, 1935 (49 Stat. 651; D.C. Code 22-2701 et seq.) (relating to prostitution and pandering).

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

- (1) posted on the website of the Department of Justice; and
- (2) distributed to the Attorney General of each State. (\*\*\*)Introduced by Sec. 225 of the TVPRA 2008)

### **Introduced by Sec. 213(b) of the TVPRA 2008:**

**(b) Study-**

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

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

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

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

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

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

(E) include findings, best practices, and recommendations, if any, based on the study of the elements described in subparagraphs (A) through (D) and any other related information. (\*\*\*)Introduced by Sec. 213(b) of the TVPRA 2008)

**Introduced by Sec. 205(a)(2) of the TVPRA 2008:****(2) EFFECTIVE DATE-**

The amendment made by paragraph (1)—

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

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

(C) may not be applied to an alien who is not present in the United States. (\*\*\*)Introduced by Sec. 205(a)(2) of the TVPRA 2008)

**Introduced by Sec. 205(b) of the TVPRA 2008:**

## (b) Parole for Derivatives of Trafficking Victims.

Section 240A(b) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)) is amended by adding at the end the following:

## ‘(6) RELATIVES OF TRAFFICKING VICTIMS—

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

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

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

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

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

## ‘(B) DURATION OF PAROLE-

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

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

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

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

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

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

‘(i) the Secretary of Homeland Security or the Attorney General has reason to believe that the relative was knowingly complicit in the trafficking of an alien permitted to remain in the United States under section 107(c)(3)(A) of the Trafficking Victims Protection Act (22 U.S.C. 7105(c)(3)(A)); or

‘(ii) the relative is an alien described in paragraph (2) or (3) of section 212(a) or paragraph (2) or (4) of section 237(a).’ (\*\*\*)Introduced by Sec. 205(b) of the TVPRA 2008)

### **Introduced by Sec. 211 of the TVPRA 2008:**

### **SEC. 211. ASSISTANCE FOR CERTAIN NONIMMIGRANT STATUS APPLICANTS.**

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

(1) in paragraph (2)(B), by striking ‘or’ at the end;

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

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

‘(4) an alien who has been granted nonimmigrant status under section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)) or who has a pending application that sets forth a prima facie case for eligibility for such nonimmigrant status.’.

(b) Effective Date- The amendments made by subsection (a) shall apply to applications for public benefits and public benefits provided on or after the date of the enactment of this Act without regard to whether regulations have been implemented to carry out such amendments (\*\*\*)Introduced by Sec. 211 of the TVPRA 2008)

### **SEC. 108. MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.**

(a) MINIMUM STANDARDS.—For purposes of this division, the minimum standards for the elimination of trafficking applicable to the government of a country of origin, transit, or destination for ~~a significant number of~~ (\*\*\*)As amended by Sec. 106(1) of the TVPRA 2008) 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 ~~that take place wholly or partly within the territory of the country, and convicts and sentences persons responsible for such acts, that take place wholly or partly within the territory of the country~~(\*As amended by Sec. 6(d)(1)(A) of the TVPRA 2003), 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. (\*\*As amended by Sec. 106(2)(A) of the TVPRA 2008) After reasonable requests from the Department of State for data regarding investigations, prosecutions, convictions, and sentences, a government which does not provide such data, consistent with the capacity of such government to obtain such data, shall be presumed not to have vigorously investigated, prosecuted, convicted or sentenced such acts. 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. (\*As amended by Sec. 6(d)(1)(B) of the TVPRA 2003)

(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. (\*\*As amended by Sec. 106(2)(B) of the TVPRA 2008)

(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 reduce the demand for commercial sex acts and for participation in international sex tourism by nationals of the country~~ (\*\*As amended by Sec. 104(c)(1) of the TVPRA 2005) measures to establish the identity of local populations, including birth registration, citizenship, and nationality (\*\*As amended by Sec. 106(2)(C) of the TVPRA 2008), 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 (\*\*As amended by Sec. 104(c)(1) of the TVPRA 2005).

(4) Whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons.

(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 ~~and prosecutes~~, prosecutes, convicts, and sentences (\*As amended by Sec. 6(d)(2) of the TVPRA 2003) public officials who participate in or facilitate severe forms of trafficking in ~~persons~~ 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 (\*\*As amended by Sec. 104(c)(2) of the TVPRA 2005), and takes all appropriate measures against officials who condone such trafficking. 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 its resources shall be presumed not to have vigorously investigated, prosecuted, convicted, or sentenced such acts. 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. (\*As amended by Sec. 6(d)(2) of the TVPRA 2003)

(8) Whether the percentage of victims of severe forms of trafficking in the country that are non-citizens of such countries is insignificant. (\*Introduced by Sec. 6(d)(3) of the TVPRA 2003)

(9) 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. (\*Introduced by Sec. 6(d)(3) of the TVPRA 2003)

(10) Whether the government of the country achieves appreciable progress in eliminating severe forms of trafficking when compared to the assessment in the previous year. (\*Introduced by Sec. 6(d)(3) of the TVPRA 2003)

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

(A) commercial sex acts; and

(B) participation in international sex tourism by nationals of the country. (\*\*\*)Introduced by Sec. 106(2)(D) of the TVPRA 2008)

**SEC. 109. ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS.**

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

“SEC. 134. ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.

“(a) AUTHORIZATION.—The President is authorized to provide assistance to foreign countries directly, or through nongovernmental and multilateral organizations, for programs, projects, and activities designed to meet the minimum standards for the elimination of trafficking (as defined in section 103 of the Trafficking Victims Protection Act of 2000), including—

“(1) the drafting of laws to prohibit and punish acts of trafficking;

“(2) the investigation and prosecution of traffickers;

“(3) the creation and maintenance of facilities, programs, projects, and activities for the protection of victims; and

“(4) the expansion of exchange programs and international visitor programs for governmental and nongovernmental personnel to combat trafficking.

“(b) FUNDING.—Amounts made available to carry out the other provisions of this part (including chapter 4 of part II of this Act) and the Support for East European Democracy (SEED) Act of 1989 shall be made available to carry out this section.”.

**SEC. 110. 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 1 of each year, the Secretary of State shall submit to the appropriate congressional committees a report with respect to the status of severe forms of trafficking in persons that shall 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;

(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; ~~and~~ (\*\*As amended by Sec. 104(f)(1)(A) of the TVPRA 2005)

(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; ~~and~~ (\*\*As amended by Sec. 104(f)(1)(B) of the TVPRA 2005) (\*\*\*)As amended by Sec. 108(b)(1) of the TVPRA 2008)

(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 (\*\*As amended by Sec. 104(f)(1)(C) of the TVPRA 2005);

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

(F) emerging issues in human trafficking. (\*\*\*)As amended by Sec. 108(b)(3) of the TVPRA 2008)

(2) INTERIM REPORTS.—In addition to the annual report under paragraph (1), the Secretary of State may submit to the appropriate congressional committees at any time one or more interim reports with respect to the status of severe forms of trafficking in persons, including information about countries whose governments—

(A) have come into or out of compliance with the minimum standards for the elimination of trafficking; or

(B) have begun or ceased to make significant efforts to bring themselves into compliance, since the transmission of the last annual report.

(3) SPECIAL WATCH LIST.—

(A) SUBMISSION OF LIST.—Not later than the date on which the determinations described in subsections (c) and (d) are submitted to the appropriate congressional committees in accordance with such subsections, the Secretary of State shall submit to the appropriate congressional committees a list of countries that the Secretary determines requires special scrutiny during the following year. The list shall be composed of the following countries:

(i) Countries that have been listed pursuant to paragraph (1)(A) in the current annual report and were listed pursuant to paragraph (1)(B) in the previous annual report.

(ii) Countries that have been listed pursuant to paragraph (1)(B) pursuant to the current annual report and were listed pursuant to paragraph (1)(C) in the previous annual report.

(iii) Countries that have been listed pursuant to paragraph (1)(B) pursuant to the current annual report, where—

(I) the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;

(II) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecutions and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complicity in severe forms of trafficking by government officials; or

(III) the determination that a country is making significant efforts to bring themselves into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year.

(B) INTERIM ASSESSMENT.—Not later than February 1st of each year, the Secretary of State shall provide to the appropriate congressional committees an assessment of the progress that each country on the special watch list described in subparagraph (A) has made since the last annual report.

(C) RELATION OF SPECIAL WATCH LIST TO ANNUAL TRAFFICKING IN PERSONS REPORT.—A determination that a country shall not be placed on the special watch list described in subparagraph (A) shall not affect in any way the determination to be made in the following year as to whether a country is complying with the minimum standards for the elimination of trafficking or whether a country is making significant efforts to bring itself into compliance with such standards. (\*Introduced by Sec. 6(e)(2) of the TVPRA 2003)

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

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

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

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

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

(III) the country is devoting sufficient resources to implement the plan. (\*\*\*)Introduced by Sec. 107(a) of the TVPRA 2008)

(3) (4) (\*As amended by Sec. 6(e)(1) of the TVPRA 2003) SIGNIFICANT EFFORTS.—In determinations under paragraph (1) or (2) as to whether the government of a country is making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking, the Secretary of State shall consider—

(A) the extent to which the country is a country of origin, transit, or destination for severe forms of trafficking;

(B) the extent of noncompliance with the minimum standards by the government and, particularly, the extent to which officials or employees of the government have participated in, facilitated, condoned, or are otherwise complicit in severe forms of trafficking; and

(C) what measures are reasonable to bring the government into compliance with the minimum standards in light of the resources and capabilities of the government.

(c) NOTIFICATION.—Not less than 45 days or more than 90 days after the submission, on or after January 1, 2003, of an annual report under subsection (b)(1), or an interim report under subsection (b)(2), the President shall submit to the appropriate congressional committees a notification of one of the determinations listed in subsection (d) with respect to each foreign country whose government, according to such report—

(A) does not comply with the minimum standards for the elimination of trafficking; and

(B) is not making significant efforts to bring itself into compliance, as described in subsection (b)(1)(C).

(d) PRESIDENTIAL DETERMINATIONS.—The determinations referred to in subsection (c) are the following:

(1) WITHHOLDING OF NONHUMANITARIAN, NONTRADERELATED ASSISTANCE.—The President has determined that—

(A)

(i) the United States will not provide nonhumanitarian, nontrade-related foreign assistance to the government of the country for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; or

(ii) in the case of a country whose government received no nonhumanitarian, nontrade-related foreign assistance from the United States during the previous fiscal year, the United States will not provide such assistance to the government of the country for the subsequent fiscal year and will not provide (\*\*\*)As amended by Sec. 107(b) of the TVPRA 2008) funding for participation by officials or

employees of such governments in educational and cultural exchange programs for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; and

(B) the President will instruct the United States Executive Director of each multilateral development bank and of the International Monetary Fund to vote against, and to use the Executive Director's best efforts to deny, any loan or other utilization of the funds of the respective institution to that country (other than for humanitarian assistance, for trade-related assistance, or for development assistance which directly addresses basic human needs, is not administered by the government of the sanctioned country, and confers no benefit to that government) for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance.

(2) ONGOING, MULTIPLE, BROAD-BASED RESTRICTIONS ON ASSISTANCE IN RESPONSE TO HUMAN RIGHTS VIOLATIONS.—The President has determined that such country is already subject to multiple, broad-based restrictions on assistance imposed in significant part in response to human rights abuses and such restrictions are ongoing and are comparable to the restrictions provided in paragraph (1). Such determination shall be accompanied by a description of the specific restriction or restrictions that were the basis for making such determination.

(3) SUBSEQUENT COMPLIANCE.—The Secretary of State has determined that the government of the country has come into compliance with the minimum standards or is making significant efforts to bring itself into compliance.

(4) CONTINUATION OF ASSISTANCE IN THE NATIONAL INTEREST.—Notwithstanding the failure of the government of the country to comply with minimum standards for the elimination of trafficking and to make significant efforts to bring itself into compliance, the President has determined that the provision to the country of nonhumanitarian, nontrade-related foreign assistance, **or funding for participation in educational and cultural exchange programs (\*As amended by Sec. 6(h)(1) of the TVPRA 2003)** or the multilateral assistance described in paragraph (1)(B), or both, would promote the purposes of this division or is otherwise in the national interest of the United States.

(5) EXERCISE OF WAIVER AUTHORITY.—

(A) IN GENERAL.—The President may exercise the authority under paragraph (4) with respect to—

(i) all nonhumanitarian, nontrade-related foreign assistance **or funding for participation in educational and cultural exchange programs (\*As amended by Sec. 6(h)(2) of the TVPRA 2003)** to a country;

(ii) all multilateral assistance described in paragraph (1)(B) to a country; or

(iii) one or more programs, projects, or activities of such assistance.

(B) AVOIDANCE OF SIGNIFICANT ADVERSE EFFECTS.— The President shall exercise the authority under paragraph (4) when necessary to avoid significant adverse effects on vulnerable populations, including women and children.

(6) DEFINITION OF MULTILATERAL DEVELOPMENT BANK.— In this subsection, the term “multilateral development bank” refers to any of the following institutions: the

International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.

(e) CERTIFICATION.—Together with any notification under subsection (c), the President shall provide a certification by the Secretary of State that, with respect to any assistance described in clause (ii), (iii), or (v) of section 103(7)(A), or with respect to any assistance described in section 103(7)(B), no assistance is intended to be received or used by any agency or official who has participated in, facilitated, or condoned a severe form of trafficking in persons.

(f) After the President has made a determination described in subsection (d)(1) with respect to the government of a country, the President may at any time make a determination described in paragraphs (4) and (5) of subsection (d) to waive, in whole or in part, the measures imposed against the country by the previous determination under subsection (d)(1). (\*Introduced by Sec. 6(i) of the TVPRA 2003)

**Introduced by Sec. 6(f) of the TVPRA 2003:**

(f) ENHANCING UNITED STATES ASSISTANCE.—Section 134(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152d(b)) is amended by adding at the end the following new sentence: “Assistance may be provided under this section notwithstanding section 660 of this Act. (\*Section introduced by Sec. 6(f) of the TVPRA 2003)

**Introduced by Sec. 104(f)(2) of the TVPRA 2005:**

**(2) PREVENTION OF TRAFFICKING IN CONNECTION WITH PEACEKEEPING OPERATIONS.**

(A) CERTIFICATION BY SECRETARY OF STATE.—At least 15 days prior to voting for or otherwise officially endorsing a new, reauthorized, or expanded peacekeeping mission under the auspices of the United Nations, the North Atlantic Treaty Organization, or any other multilateral organization in which the United States participates (or in the case of a peacekeeping mission to respond to an emergency, as far in advance as is practicable), the Secretary of State shall submit to the Committee on International Relations of the House of Representatives, the Committee on Foreign Relations of the Senate, and any other appropriate congressional committee a certification that contains—

(i) a determination that the organization has taken appropriate measures to prevent the organization’s employees, contractor personnel, and peacekeeping forces serving in the peacekeeping mission from trafficking in persons, exploiting

victims of trafficking, or committing acts of illegal sexual exploitation and to hold accountable any such individuals who engage in any such acts while participating in the peacekeeping mission; and

(ii) a detailed description of each of the measures referred to in clause (i).

**(B) PROVISION OF UNITED STATES LOGISTICAL SUPPORT.—**

(i) **REQUIREMENT.**—The United States may provide logistical support for or deploy personnel, including civilian police, observers, or members of the United States Armed Forces in support of a peacekeeping mission under the auspices of the United Nations, the North Atlantic Treaty Organization, or any other multilateral organization in which the United States participates only on or after the date on which the Secretary of State submits to a Congress a certification described in subparagraph (A).

(ii) **EXCEPTION.**—Notwithstanding the failure of the Secretary of State to submit a certification pursuant to subparagraph (A) with respect to a peacekeeping mission described in such subparagraph, support described in clause (i) may be made available for the peacekeeping mission on or after the date on which the Secretary of State submits to Congress a letter that contains—

(I) an explanation as to why the certification required by subparagraph (A) has not been provided;

(II) a description of the steps taken by the United States to encourage the organization to take the appropriate measures described in subparagraph (A); and

(III) a certification that, notwithstanding the failure of the organization to take the appropriate measures described in subparagraph (A), the Secretary of State has determined that voting for or otherwise officially endorsing the peacekeeping mission is in the national interests of United States.

**(3) DEPARTMENT OF DEFENSE DIRECTOR OF ANTI-TRAFFICKING POLICIES.—**

(A) **ESTABLISHMENT.**—The Secretary of Defense shall designate within the Office of the Secretary of Defense a director of anti-trafficking policies. The director shall be responsible for overseeing the implementation within the Department of Defense of policies relating to trafficking in persons, including policies of the Department and policies of the Federal Government (including policies contained in National Security Presidential Directive 22) as they relate to the Department. The Secretary may not assign to the director any responsibilities not related to trafficking in persons.

(B) **DUTIES.**—The director designated under subparagraph (A) shall, in consultation with other relevant elements of the Department—

(i) ensure that training materials and instructional programs relating to trafficking in persons are developed and used by the military departments;

(ii) consult regularly with academicians, faith-based organizations, multilateral organizations, nongovernmental organizations, and others with expertise in combating trafficking in persons, regarding the Department's implementation of policies relating to trafficking in persons;

- (iii) conduct surveys of members of the Armed Forces and of employees of the Department to assess attitudes and knowledge regarding trafficking in persons and use the results of those surveys to develop training materials and instructional programs relating to trafficking in persons;
- (iv) ensure that trafficking in persons is included as an intelligence requirement in peacekeeping missions that track organized crime;
- (v) ensure the proper handling of cases in which a member of the Armed Forces or an employee or contractor of the Department is alleged to have engaged in or facilitated an act of trafficking in persons and in such cases encourage, as appropriate, implementation of chapter 212 of title 18, United States Code (commonly referred to as the Military Extraterritorial Jurisdiction Act of 2000) and the Trafficking Victims Protection Act of 2000;
- (vi) ensure that the Department implements the commitments relating to trafficking in persons agreed to by the United States in the context of the North Atlantic Treaty Organization, the United Nations, and other multilateral organizations, as those commitments relate to the Department;
- (vii) establish a mechanism to ensure that neither the Department nor any contractor (or subcontractor at any tier) of the Department rehires an employee of such a contractor (or subcontractor) who engaged in a severe form of trafficking in persons while the contract is in effect;
- (viii) include the subject of trafficking in persons in military-to-military contact programs;
- (ix) in consultation with the Office of the Inspector General of the Department, investigate links between trafficking in persons and deployments of members of the Armed Forces and contractors of the Department;
- (x) consult with contractors of the Department on programs to prevent trafficking in persons and on accountability structures relating to trafficking in persons; and
- (xi) perform such other related duties as the Secretary may require.

(C) RESOURCES.—The director designated under subparagraph (A) shall have sufficient staff and resources to carry out the responsibilities and duties described in this paragraph.

(D) RANK.—The director designated under subparagraph (A) shall have the rank of assistant secretary. (\*\*Introduced by Sec. 104(f)(2) of the TVPRA 2005)

**Introduced by Sec. 104(g) of the TVPRA 2005:**

(g) FBI INVESTIGATIONS.—From amounts made available to carry out this subsection (including amounts made available pursuant to the authorization of appropriations in section 302), the Director of the Federal Bureau of Investigation shall investigate acts of severe forms of

trafficking in persons other than domestic trafficking in persons (as defined in section 206). (\*\*Introduced by Sec. 104(g) of the TVPRA 2005)

**Introduced by Sec. 107(c) of the TVPRA 2008:**

(c) Translation of Trafficking in Persons Report- The Secretary of State shall—

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

(2) ensure that the translations described in paragraph (1) are made available to the public through postings on the Internet website of the Department of State and other appropriate websites. (\*\*\*)Introduced by Sec. 107(c) of the TVPRA 2008)

**SEC. 111. ACTIONS AGAINST SIGNIFICANT TRAFFICKERS IN PERSONS.**

(a) AUTHORITY TO SANCTION SIGNIFICANT TRAFFICKERS IN PERSONS.—

(1) IN GENERAL.—The President may exercise the authorities set forth in section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701) without regard to section 202 of that Act (50 U.S.C. 1701) in the case of any of the following persons:

(A) Any foreign person that plays a significant role in a severe form of trafficking in persons, directly or indirectly in the United States.

(B) Foreign persons that materially assist in, or provide financial or technological support for or to, or provide goods or services in support of, activities of a significant foreign trafficker in persons identified pursuant to subparagraph (A).

(C) Foreign persons that are owned, controlled, or directed by, or acting for or on behalf of, a significant foreign trafficker identified pursuant to subparagraph (A).

(2) PENALTIES.—The penalties set forth in section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) apply to violations of any license, order, or regulation issued under this section.

(b) REPORT TO CONGRESS ON IDENTIFICATION AND SANCTIONING OF SIGNIFICANT TRAFFICKERS IN PERSONS.—

(1) IN GENERAL.—Upon exercising the authority of subsection (a), the President shall report to the appropriate congressional committees—

(A) identifying publicly the foreign persons that the President determines are appropriate for sanctions pursuant to this section and the basis for such determination; and

(B) detailing publicly the sanctions imposed pursuant to this section.

(2) REMOVAL OF SANCTIONS.—Upon suspending or terminating any action imposed under the authority of subsection (a), the President shall report to the committees described in paragraph (1) on such suspension or termination.

(3) SUBMISSION OF CLASSIFIED INFORMATION.—Reports submitted under this subsection may include an annex with classified information regarding the basis for the determination made by the President under paragraph (1)(A).

(c) LAW ENFORCEMENT AND INTELLIGENCE ACTIVITIES NOT AFFECTED.—Nothing in this section prohibits or otherwise limits the authorized law enforcement or intelligence activities of the United States, or the law enforcement activities of any State or subdivision thereof.

(d) EXCLUSION OF PERSONS WHO HAVE BENEFITED FROM ILLICIT ACTIVITIES OF TRAFFICKERS IN PERSONS.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by inserting at the end the following new subparagraph:

“(H) SIGNIFICANT TRAFFICKERS IN PERSONS.—

“(i) IN GENERAL.—Any alien who is listed in a report submitted pursuant to section 111(b) of the Trafficking Victims Protection Act of 2000, or who the consular officer or the Attorney General knows or has reason to believe is or has been a knowing aider, abettor, assister, conspirator, or colluder with such a trafficker in severe forms of trafficking in persons, as defined in the section 103 of such Act, is inadmissible.

“(ii) BENEFICIARIES OF TRAFFICKING.—Except as provided in clause (iii), any alien who the consular officer or the Attorney General knows or has reason to believe is the spouse, son, or daughter of an alien inadmissible under clause (i), has, within the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien, and knew or reasonably should have known that the financial or other benefit was the product of such illicit activity, is inadmissible.

“(iii) EXCEPTION FOR CERTAIN SONS AND DAUGHTERS.— Clause (ii) shall not apply to a son or daughter who was a child at the time he or she received the benefit described in such clause.”.

(e) IMPLEMENTATION.—

(1) DELEGATION OF AUTHORITY.—The President may delegate any authority granted by this section, including the authority to designate foreign persons under paragraphs (1)(B) and (1)(C) of subsection (a).

(2) PROMULGATION OF RULES AND REGULATIONS.—The head of any agency, including the Secretary of Treasury, is authorized to take such actions as may be necessary to carry out any authority delegated by the President pursuant to paragraph (1), including promulgating rules and regulations.

(3) OPPORTUNITY FOR REVIEW.—Such rules and regulations shall include procedures affording an opportunity for a person to be heard in an expeditious manner, either in person or through a representative, for the purpose of seeking changes to or termination of any determination, order, designation or other action associated with the exercise of the authority in subsection (a).

(f ) DEFINITION OF FOREIGN PERSONS.—In this section, the term “foreign person” means any citizen or national of a foreign state or any entity not organized under the laws of the United States, including a foreign government official, but does not include a foreign state.

(g) CONSTRUCTION.—Nothing in this section shall be construed as precluding judicial review of the exercise of the authority described in subsection (a).

**SEC. 112. STRENGTHENING PROSECUTION AND PUNISHMENT OF TRAFFICKERS.**

(a) TITLE 18 AMENDMENTS.—Chapter 77 of title 18, United States Code, is amended—

(1) in each of sections 1581(a), 1583, and 1584—

(A) by striking “10 years” and inserting “20 years”; and

(B) by adding at the end the following: “If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.”;

(2) by inserting at the end the following:

“§ 1589. Forced labor

“Whoever knowingly provides or obtains the labor or services of a person—

“(1) by threats of serious harm to, or physical restraint against, that person or another person;

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

“(3) by means of the abuse or threatened abuse of law or the legal process, shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

“§ 1590. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor “Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

“§ 1591. Sex trafficking of children or by force, fraud or coercion

“(a) Whoever knowingly—

“(1) in or affecting interstate commerce, recruits, entices, harbors, transports, provides, or obtains by any means a person; or

“(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1), knowing that force, fraud, or coercion described in subsection (c)(2) will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

“(b) The punishment for an offense under subsection (a) is—

“(1) if the offense was effected by force, fraud, or coercion or if the person transported had not attained the age of 14 years at the time of such offense, by a fine under this title or imprisonment for any term of years or for life, or both; or

“(2) if the offense was not so effected, and the person transported had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title or imprisonment for not more than 20 years, or both.

“(c) In this section:

“(1) The term ‘commercial sex act’ means any sex act, on account of which anything of value is given to or received by any person.

“(2) The term ‘coercion’ means—

“(A) threats of serious harm to or physical restraint against any person;

“(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

“(C) the abuse or threatened abuse of law or the legal process.

“(3) The term ‘venture’ means any group of two or more individuals associated in fact, whether or not a legal entity.

“§ 1592. Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor

“(a) Whoever knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person—

“(1) in the course of a violation of section 1581, 1583, 1584, 1589, 1590, 1591, or 1594(a);

“(2) with intent to violate section 1581, 1583, 1584, 1589, 1590, or 1591; or

“(3) to prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person’s liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, shall be fined under this title or imprisoned for not more than 5 years, or both.

“(b) Subsection (a) does not apply to the conduct of a person who is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, if that conduct is caused by, or incident to, that trafficking.

“§ 1593. Mandatory restitution

“(a) Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalties authorized by law, the court shall order restitution for any offense under this chapter.

“(b)

(1) The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim’s losses, as determined by the court under paragraph (3) of this subsection.

“(2) An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

“(3) As used in this subsection, the term ‘full amount of the victim’s losses’ has the same meaning as provided in section 2259(b)(3) and shall in addition include the greater of the gross income or value to the defendant of the victim’s services or labor or the value of the victim’s labor as guaranteed under the minimum wage and overtime guarantees of the Fair Labor Standards Act (29 U.S.C. 201 et seq.).

“(c) As used in this section, the term ‘victim’ means the individual harmed as a result of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or a representative of the victim’s estate, or another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named such representative or guardian.

“§ 1594. General provisions

“(a) Whoever attempts to violate section 1581, 1583, 1584, 1589, 1590, or 1591 shall be punishable in the same manner as a completed violation of that section.

“(b) The court, in imposing sentence on any person convicted of a violation of this chapter, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person shall forfeit to the United States—

“(1) such person’s interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of such violation; and

“(2) any property, real or personal, constituting or derived from, any proceeds that such person obtained, directly or indirectly, as a result of such violation.

“(c)

(1) The following shall be subject to forfeiture to the United States and no property right shall exist in them:

“(A) Any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter.

“(B) Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this chapter.

“(2) The provisions of chapter 46 of this title relating to civil forfeitures shall extend to any seizure or civil forfeiture under this subsection.

“(d) WITNESS PROTECTION.—Any violation of this chapter shall be considered an organized criminal activity or other serious offense for the purposes of application of chapter 224 (relating to witness protection).”; and

(3) by amending the table of sections at the beginning of chapter 77 by adding at the end the following new items:

“1589. Forced labor.

“1590. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor.

“1591. Sex trafficking of children or by force, fraud, or coercion.

“1592. Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor.

“1593. Mandatory restitution.

“1594. General provisions.”.

(b) AMENDMENT TO THE SENTENCING GUIDELINES.—

(1) Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the sentencing guidelines and policy statements applicable to persons convicted of offenses involving the trafficking of persons including component or related crimes of peonage, involuntary servitude, slave trade offenses, and possession, transfer or sale of false immigration documents in furtherance of trafficking, and the Fair Labor Standards Act and the Migrant and Seasonal Agricultural Worker Protection Act.

(2) In carrying out this subsection, the Sentencing Commission shall—

(A) take all appropriate measures to ensure that these sentencing guidelines and policy statements applicable to the offenses described in paragraph (1) of this subsection are sufficiently stringent to deter and adequately reflect the heinous nature of such offenses;

(B) consider conforming the sentencing guidelines applicable to offenses involving trafficking in persons to the guidelines applicable to peonage, involuntary servitude, and slave trade offenses; and

(C) consider providing sentencing enhancements for those convicted of the offenses described in paragraph (1) of this subsection that—

(i) involve a large number of victims;

(ii) involve a pattern of continued and flagrant violations;

(iii) involve the use or threatened use of a dangerous weapon; or

(iv) result in the death or bodily injury of any person.

(3) The Commission may promulgate the guidelines or amendments under this subsection in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

**Introduced by Sec. 6(g)(1) of the TVPRA 2003:**

**SEC. 112A. RESEARCH ON DOMESTIC AND INTERNATIONAL TRAFFICKING IN PERSONS.**

(a) **IN GENERAL** – The President (\*\*As amended by Sec. 104(d)(1)(A) of the TVPRA 2005), ~~The President~~, acting through the Council of Economic Advisors, the National Research Council of the National Academies, the Secretary of Labor, the Secretary of Health and Human Services, the Attorney General, the Secretary of State, the Administrator of the United States Agency for International Development, and ~~the Director of Central Intelligence~~ the Director of National Intelligence (\*\*As amended by Sec. 104(d)(1)(B) of the TVPRA 2005), shall carry out research, including by providing grants to nongovernmental organizations, as well as relevant United States Government agencies and international organizations, which furthers the purposes of this division and provides data to address the problems identified in the findings of this division. Such research initiatives shall, to the maximum extent practicable, include, but not be limited to, the following: (\*Introduced by Sec. 6 of the TVPRA 2003)

(1) The economic causes and consequences of trafficking in persons.

(2) The effectiveness of programs and initiatives funded or administered by Federal agencies to prevent trafficking in persons and to protect and assist victims of trafficking.

(3) The interrelationship between trafficking in persons and global health risks (\*Introduced by Sec. 6(g)(1) of the TVPRA 2003), particularly HIV/AIDS (\*\*As amended by Sec. 104(d)(2) of the TVPRA 2005).

(4) Subject to subsection (b), the interrelationship between trafficking in persons and terrorism, including the use of profits from trafficking in persons to finance terrorism. (\*\*As amended by Sec. 104(d)(3) of the TVPRA 2005)

~~(5) An effective mechanism for quantifying the number of victims of trafficking on a national, regional, and international basis. (\*\*As amended by Sec. 104(d)(3) of the TVPRA 2005) (\*\*\*)As amended by Sec. 108(a)(1) of the TVPRA 2008)~~

(5) An effective mechanism for quantifying the number of victims of trafficking on a national, regional, and international basis, which shall include, not later than 2 years after the date of the enactment of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, the establishment and maintenance of an integrated database within the Human Smuggling and Trafficking Center. (\*\*\*)As amended by Sec. 108(a)(1) of the TVPRA 2008)

(6) The abduction and enslavement of children for use as soldiers, including steps taken to eliminate the abduction and enslavement of children for use as soldiers and recommendations for such further steps as may be necessary to rapidly end the abduction and enslavement of children for use as soldiers. (\*\*As amended by Sec. 104(d)(3) of the TVPRA 2005)

~~(b) ROLE OF HUMAN SMUGGLING AND TRAFFICKING CENTER. The research initiatives described in subsection (a)(4) shall be carried out by the Human Smuggling and Trafficking Center (established pursuant to section 7202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458)) (\*\*As amended by Sec. 104(d)(4) of the TVPRA 2005). (\*\*\*)As amended by Sec. 108(a)(2) of the TVPRA 2008)~~

(b) Role of Human Smuggling and Trafficking Center-

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

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

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

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

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

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

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

(3) CONSULTATION- The database established in accordance with paragraph (2) shall be maintained in consultation with the Director of the Office to Monitor and Combat Trafficking in Persons of the Department of State.

(4) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated \$2,000,000 to the Human Smuggling and Trafficking Center for each of the fiscal years 2008 through 2011 to carry out the activities described in this subsection. (\*\*As amended by Sec. 108(a)(2) of the TVPRA 2008)

(c) DEFINITIONS.—In this section:

(1) AIDS.—The term ‘AIDS’ means the acquired immune deficiency syndrome.

(2) HIV.—The term ‘HIV’ means the human immunodeficiency virus, the pathogen that causes AIDS.

(3) HIV/AIDS.—The term ‘HIV/AIDS’ means, with respect to an individual, an individual who is infected with HIV or living with AIDS. (\*\*Introduced by Sec. 104(d)(4) of the TVPRA 2005)

**Introduced by Sec. 109 of the TVPRA 2008:**

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

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

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

(2) United States or foreign nongovernmental organizations.

(b) Selection- The President shall establish procedures for selecting recipients of the award authorized under subsection (a).

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

(d) Authorization of Appropriations- There are authorized to be appropriated, for each of the fiscal years 2008 through 2011, such sums as may be necessary to carry out this section. (\*\*Introduced by Sec. 109 of the TVPRA 2008)

**Introduced by Sec. 101(b) of the TVPRA 2005:**

(b) **EXTENSION OF SEXUALLY VIOLENT OFFENDER REGISTRATION PROGRAM TO FOREIGN OFFENSES.**—

(1) **IN GENERAL.**—Subsection (b)(7) of section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended—

(A) in the matter preceding subparagraph (A) by striking “convicted in another State” and inserting “convicted outside that State”; and

(B) in subparagraph (A) by inserting after “convicted in another State,” the following: “convicted of a foreign offense,”.

(2) **GUIDELINES; IMPLEMENTATION BY STATES.**—Not later than one year after the date of the enactment of this Act, the Attorney General shall issue revised guidelines to implement the amendments made by paragraph (1). For purposes of subsection (g) of such section 170101, a State shall have until two years from the date on which the Attorney General issues revised guidelines pursuant to the preceding sentence to implement the amendments made by paragraph (1). (\*\*Introduced by Sec. 101(b) of the TVPRA 2005)

**Introduced by Sec. 103 of the TVPRA 2005:**

**SEC. 103. ENHANCING PROSECUTIONS OF TRAFFICKING OFFENSES.**

(a) **EXTRATERRITORIAL JURISDICTION OVER FEDERAL CONTRACTORS.**—

(1) **IN GENERAL.**—Part II of title 18, United States Code, is amended by inserting after chapter 212 the following new chapter:

**“CHAPTER 212A—EXTRATERRITORIAL JURISDICTION OVER FEDERAL CONTRACTORS**

“Sec.

“3271. Criminal offenses committed by Federal contractors outside the United States.

“3272. Definition.

**“§ 3271. Criminal offenses committed by Federal contractors outside the United States**

“(a) Whoever, while an extraterritorial Federal contractor, engages in conduct outside the United States that would constitute an offense punishable by imprisonment for more than 1 year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States shall be punished as provided for that offense.

“(b) No prosecution may be commenced against a person under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting such offense, except

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

**“§ 3272. Definition**

“As used in this chapter, the term ‘extraterritorial Federal contractor’ means a person—

“(1) employed as a contractor (including a subcontractor at any tier), or as an employee of a contractor (or subcontractor at any tier), of any Federal agency;

“(2) present or residing outside the United States in connection with such employment; and

“(3) not a national of or ordinarily resident in the host nation.”.

(2) CLERICAL AMENDMENT.—The table of chapters at the beginning of such part is amended by inserting after the item relating to chapter 212 the following new item:

“212A. Extraterritorial jurisdiction over Federal contractors ..... 3271”.

(b) NEW UCMJ OFFENSES.—

(1) IN GENERAL.—Subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 920 (article 120) the following new sections:

**“§ 920a. Art. 120a. Sex trafficking**

“Any person subject to this chapter who knowingly recruits, entices, harbors, transports, provides, or obtains by any means a person, knowing that—

“(1) force, fraud, or coercion will be used to cause that person to engage in a commercial sex act; or

“(2) the person has not attained the age of eighteen years and will be caused to engage in a commercial sex act, is guilty of sex trafficking and shall be punished as a court-martial may direct.

**“§ 920b. Art. 120b. Trafficking for labor or services**

“Any person subject to this chapter who knowingly recruits, harbors, transports, provides, or obtains by any means a person for labor or services—

“(1) by threats of serious harm to, or physical restraint against, that person or another person;

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

“(3) by means of the abuse or threatened abuse of law or the legal process, is guilty of trafficking for labor or services and shall be punished as a court-martial may direct.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 920 (article 120) the following new items:

“920a. 120a. Sex trafficking.

“920b. 120b. Trafficking for labor or services.”.

(c) LAUNDERING OF MONETARY INSTRUMENTS.— Section 1956(c)(7)(B) of title 18, United States Code, is amended—

- (1) in clause (v), by striking “or” at the end;
- (2) in clause (vi), by adding “or” at the end; and
- (3) by adding at the end the following new clause:

“(vii) trafficking in persons, selling or buying of children, sexual exploitation of children, or transporting, recruiting or harboring a person, including a child, for commercial sex acts;”.

(d) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended by adding at the end the following new subsection:

“(h) ENFORCEMENT AGAINST UNITED STATES CITIZENS IN FOREIGN PLACES.—If a United States Government official attached to a United States Embassy in a foreign place becomes aware of a United States citizen or an alien admitted for permanent residence in the United States who is located in such foreign place and who has traveled in foreign commerce in violation of subsection (a), (b), (c), (d), or (e), the United States Embassy shall notify local law enforcement authorities and shall encourage the prosecution of the individual under applicable local laws or the extradition of the individual to the United States for the purpose of prosecution under this section.”.

(\*\*Introduced by Sec. 103 of the TVPRA 2005)

**Introduced by Sec. 104(e) of the TVPRA 2005:**

(e). FOREIGN SERVICE OFFICER TRAINING.— Section 708(a) of the Foreign Service Act of 1980 (22 U.S.C. 4028(a)) is amended—

- (1) in the matter preceding paragraph (1), by inserting “, the Director of the Office to Monitor and Combat Trafficking,” after “the International Religious Freedom Act of 1998”;
- (2) in paragraph (1), by striking “and” at the end;
- (3) in paragraph (2), by striking the period at the end and inserting “; and”; and
- (4) by adding at the end the following:

“(3) instruction on international documents and United States policy on trafficking in persons, including provisions of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 22 U.S.C. 7101 et seq.) which may affect the United States bilateral relationships. (\*\*Introduced by Sec. 104(e) of the TVPRA 2005)

**Introduced by Sec. 105 of the TVPRA 2005:**

**SEC. 105. ADDITIONAL ACTIVITIES TO MONITOR AND COMBAT FORCED LABOR AND CHILD LABOR.**

(a) **IN GENERAL.**—The Secretary of Labor, acting through the head of the Bureau of International Labor Affairs of the Department of Labor, shall carry out additional activities to monitor and combat forced labor and child labor in foreign countries as described in subsection (b).

(b) **ADDITIONAL ACTIVITIES DESCRIBED.**—The additional activities referred to in subsection (a) are—

- (1) to monitor the use of forced labor and child labor in violation of international standards;
- (2) to provide information regarding trafficking in persons for the purpose of forced labor to the Office to Monitor and Combat Trafficking of the Department of State for inclusion in trafficking in persons report required by section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b));
- (3) to develop and make available to the public a list of goods from countries that the Bureau of International Labor Affairs has reason to believe are produced by forced labor or child labor in violation of international standards;
- (4) to work with persons who are involved in the production of goods on the list described in paragraph (3) to create a standard set of practices that will reduce the likelihood that such persons will produce goods using the labor described in such paragraph; and
- (5) to consult with other departments and agencies of the United States Government to reduce forced and child labor internationally and ensure that products made by forced labor and child labor in violation of international standards are not imported into the United States. (\*\*Introduced by Sec. 105 of the TVPRA 2005)

**Introduced by Sec. 110 of the TVPRA 2008:**

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

(a) **Final Report; Public Availability of List-** Not later than January 15, 2010, the Secretary of Labor shall—

- (1) submit to the appropriate congressional committees a final report that—
  - (A) describes the implementation of section 105(b) of the Trafficking Victims Protection Reauthorization Act of 2005 (22 U.S.C. 7103(b)); and
  - (B) includes an initial list of goods described in paragraph (2)(C) of such section; and
- (2) make the list of goods described in paragraph (1)(B) available to the public.

(b) Appropriate Congressional Committees Defined- In this section, the term ‘appropriate congressional committees’ has the meaning given the term in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102). (\*\*\*)Introduced by Sec. 110 of the TVPRA 2008)

**Introduced by Sec. 111 of the TVPRA 2008:**

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

It is the sense of Congress that the Secretary of State, in conjunction with the International Labour Organization, the United Nations Office of Drug and Crime Prevention, and other relevant international and nongovernmental organizations, should seek to establish a multilateral framework between labor exporting and labor importing countries to ensure that workers migrating between such countries are protected from trafficking in persons. (\*\*\*)Introduced by Sec. 111 of the TVPRA 2008)

**Introduced by Sec. 201 of the TVPRA 2008:**

**SEC. 201. PROTECTING TRAFFICKING VICTIMS AGAINST RETALIATION.**

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

(1) in clause (i)—

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

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

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

(D) in subclause (III)—

(i) in item (aa), by striking ‘or’ at the end;

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

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

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

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

(E) in subclause (IV), by adding ‘and’ at the end;

(2) in clause (ii)—

(A) in subclause (I), by striking ‘or’ at the end;

(B) in subclause (II), by striking ‘and’ at the end and inserting ‘or’; and

(C) by adding at the end the following:

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

(3) by striking clause (iii).

(b) Requirements for T Visa Issuance- Section 214(o)(7) of the Immigration and Nationality Act (8 U.S.C. 1184(o)(7)) is amended—

(1) in subparagraph (B)—

(A) by striking ‘subparagraph (A) if a Federal’ and inserting the following: ‘subparagraph (A) if—

‘(i) a Federal’;

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

(C) by adding at the end the following:

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

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

(2) by adding at the end the following:

‘(C) Nonimmigrant status under section 101(a)(15)(T) shall be extended during the pendency of an application for adjustment of status under section 245(l).’.

(c) Conditions on Nonimmigrant Status for Certain Crime Victims- Section 214(p)(6) of the Immigration and Nationality Act (8 U.S.C. 1184(p)(6)) is amended by adding at the end the following: ‘The Secretary of Homeland Security may extend, beyond the 4-year period authorized under this section, the authorized period of status of an alien as a nonimmigrant under section 101(a)(15)(U) if the Secretary determines that an extension of such period is warranted due to exceptional circumstances. Such alien’s nonimmigrant status shall be extended beyond the 4-year period authorized under this section if the alien is eligible for relief under section 245(m)

and is unable to obtain such relief because regulations have not been issued to implement such section and shall be extended during the pendency of an application for adjustment of status under section 245(m). The Secretary may grant work authorization to any alien who has a pending, bona fide application for nonimmigrant status under section 101(a)(15)(U).’.

(d) Adjustment of Status for Trafficking Victims- Section 245(l) of the Immigration and Nationality Act (8 U.S.C. 1255(l)) is amended—

(1) in paragraph (1)—

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

(B) in subparagraph (B)—

(i) by inserting ‘subject to paragraph (6),’ after ‘(B)’; and

(ii) by striking ‘, and’ and inserting ‘; and’; and

(C) in subparagraph (C)—

(i) in clause (i), by striking ‘, or’ and inserting a semicolon;

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

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

‘(iii) was younger than 18 years of age at the time of the victimization qualifying the alien for relief under section 101(a)(15)(T).’;

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

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

‘(B) an official involved in the investigation or prosecution certifies that the absence was otherwise justified.’; and

(3) by adding at the end the following:

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

‘(7) The Secretary of Homeland Security shall permit aliens to apply for a waiver of any fees associated with filing an application for relief through final adjudication of the adjustment of status for a VAWA self-petitioner and for relief under sections 101(a)(15)(T), 101(a)(15)(U), 106, 240A(b)(2), and 244(a)(3) (as in effect on March 31, 1997).’.

(e) Adjustment of Status for Crime Victims- Section 245(m) of the Immigration and Nationality Act (8 U.S.C. 1255(m)) is amended—

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

(2) by adding at the end the following:

‘(5)

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

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

(f) Effective Date- The amendments made by this section shall—

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

(2) apply to applications for immigration benefits filed on or after such date. (\*\*\*)Introduced by Sec. 201 of the TVPRA 2008)

**Introduced by Sec. 202 of the TVPRA 2008:**

**SEC. 202. PROTECTIONS FOR DOMESTIC WORKERS AND OTHER NONIMMIGRANTS.**

(a) Information Pamphlet-

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

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

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

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

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

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

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

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

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

(C) the right to report abuse without retaliation;

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

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

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

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

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

(B) the Operation Rescue and Restore hotline; and

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

(c) Translation-

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

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

(d) Availability and Distribution-

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

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

- (A) government agency;
- (B) nongovernmental advocacy organization; or
- (C) foreign labor broker doing business in the United States.

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

(e) **Responsibilities of Consular Officers of the Department of State-**

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

- (A)
  - (i) confirm that the alien has received, read, and understood the contents of the pamphlet described in subsections (a) and (b); and
  - (ii) if the alien has not received, read, or understood the contents of the pamphlet described in subsections (a) and (b), distribute and orally disclose to the alien the information described in paragraphs (2) and (3) in a language that the alien understands; and
- (B) offer to answer any questions the alien may have regarding the contents of the pamphlet described in subsections (a) and (b).

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

- (A) the legal rights of employment-based nonimmigrants under Federal immigration, labor, and employment laws;
- (B) the illegality of slavery, peonage, trafficking in persons, sexual assault, extortion, blackmail, and worker exploitation in the United States; and
- (C) the legal rights of immigrant victims of trafficking in persons, worker exploitation, and other related crimes, including—
  - (i) the right of access to immigrant and labor rights groups;
  - (ii) the right to seek redress in United States courts; and
  - (iii) the right to report abuse without retaliation.

(3) **VICTIM SERVICES-** In carrying out the disclosure requirement under this subsection, the consular officer shall disclose to the alien the availability of services for victims of human

trafficking and worker exploitation in the United States, including victim services complaint hotlines.

(f) Definitions- In this section:

(1) EMPLOYMENT- OR EDUCATION-BASED NONIMMIGRANT VISA- The term ‘employment- or education-based nonimmigrant visa’ means—

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

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

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

(3) SECRETARY- The term ‘Secretary’ means the Secretary of State.

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

(\*\*\*Introduced by Sec. 202 of the TVPRA 2008)

### **Introduced by Sec. 203 of the TVPRA 2008:**

## **SEC. 203. PROTECTIONS, REMEDIES, AND LIMITATIONS ON ISSUANCE FOR A-3 AND G-5 VISAS.**

(a) Limitations on Issuance of A-3 and G-5 Visas-

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

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

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

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

holding an A-3 visa or a G-5 visa, and that the diplomatic mission or international organization tolerated such actions.

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

(b) **Protections and Remedies for A-3 and G-5 Nonimmigrants Employed by Diplomats and Staff of International Organizations-**

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

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

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

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

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

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

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

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

(4) **RECORD KEEPING-**

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

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

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

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

(c) **Protection From Removal During Legal Actions Against Former Employers—**

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

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

(B) EXCEPTION- An alien described in subparagraph (A) may be deported before the conclusion of the legal proceedings related to a civil action described in such subparagraph if such alien is—

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

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

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

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

(d) Study and Report-

(1) INVESTIGATION REPORT-

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

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

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

(ii) the results of such investigations.

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

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

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

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

- (i) adjudicating claims of rights violations;
- (ii) determining the level of compensation; and
- (iii) administering the program, fund, or scheme.

(e) Assistance to Law Enforcement Investigations- The Secretary shall cooperate, to the fullest extent possible consistent with the United States obligations under the Vienna Convention on Diplomatic Relations, done at Vienna, April 18, 1961, (23 U.S.T. 3229), with any investigation by United States law enforcement authorities of crimes related to abuse or exploitation of a nonimmigrant holding an A-3 visa or a G-5 visa.

(f) Definitions- In this section:

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

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

(3) SECRETARY- The term ‘Secretary’ means the Secretary of State.

(4) APPROPRIATE CONGRESSIONAL COMMITTEES- The term ‘appropriate congressional committees’ means—

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

(B) the Committee on Foreign Relations and the Committee on the Judiciary of the Senate. (\*\*\*)Introduced by Sec. 203 of the TVPRA 2008)

**Introduced by Sec. 204 of the TVPRA 2008:**

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

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

‘(d)

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

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

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

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

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

‘(4) Nothing in this subsection may be construed to limit the authority of the Secretary of Homeland Security or the Attorney General to grant a stay of removal or deportation in any case not described in this subsection.’ (\*\*\*)Introduced by Sec. 204 of the TVPRA 2008)

### **SEC. 113. AUTHORIZATIONS OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS IN SUPPORT OF THE TASK FORCE.—To carry out the purposes of sections 404 (\*\*\*)As amended by Sec. 301(1) of the TVPRA 2008), 405 105(e), 105(f) (\*As amended by Sec. 7(1)(A) of the TVPRA 2003), and 110, there are authorized to be appropriated to the Secretary of State ~~\$1,500,000 for fiscal year 2001 and \$3,000,000 for each of the fiscal years 2002 and 2003, \$3,000,000 for each of the fiscal years 2002 and 2003, and \$5,500,000 for each of the fiscal years 2004 and 2005~~ (\*As amended by Sec. 7(1)(B) of the TVPRA 2003) (\*\*As amended by Sec. 301(1) of the TVPRA 2005) ~~and \$5,500,000 for each of the fiscal years 2006 and 2007~~ \$5,500,000 for each of the fiscal years 2008 through 2011. (\*\*\*)As amended by Sec. 301(1) of the TVPRA 2008) In addition, there are authorized to be appropriated to the Office to Monitor and Combat Trafficking ~~for official reception and representation expenses \$3,000~~ \$1,500,000 for additional personnel for each of the fiscal years 2008 through 2011, and \$3,000 for official reception and representation expenses (\*\*\*)As amended by Sec. 301(1) of the TVPRA 2008) for each of the fiscal years ~~2006 and 2007~~ (\*\*As amended by Sec. 301(1) of the TVPRA 2005) 2008 through 2011. (\*\*\*)As amended by Sec. 301(1) of the TVPRA 2008)

(b) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF HEALTH AND HUMAN SERVICES. — ~~To carry out~~

(1) ELIGIBILITY FOR BENEFITS AND ASSISTANCE- To carry out (\*\*\*)As amended by Sec. 213 of the TVPRA 2008) the purposes of section 107(b), there are authorized to be appropriated

to the Secretary of Health and Human Services ~~\$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002 and \$15,000,000 for each of the fiscal years 2004 and 2005~~ (\*As amended by Sec. 7(2) of the TVPRA 2003) \$12,500,000 for each of the fiscal years 2008 through 2011. (\*\*As amended by Sec. 301(2) of the TVPRA 2008)

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

- (A) \$2,500,000 for fiscal year 2008;
- (B) \$5,000,000 for fiscal year 2009;
- (C) \$7,000,000 for fiscal year 2010; and
- (D) \$7,000,000 for fiscal year 2011. (\*\*As amended by Sec. 213 of the TVPRA 2008)

(c) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF STATE.—

~~(1) ASSISTANCE FOR VICTIMS IN OTHER COUNTRIES.— To carry out the purposes of section 107(a), there are authorized to be appropriated to the Secretary of State \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002.~~

(1) BILATERAL ASSISTANCE TO COMBAT TRAFFICKING.—

(A) PREVENTION.—To carry out the purposes of section 106, there are authorized to be appropriated to the Secretary of State \$10,000,000 for each of the fiscal years ~~2004 and 2005 2004, 2005, 2006, and 2007~~ (\*\*As amended by Sec. 301(3) of the TVPRA 2005) 2008 through 2011. (\*\*As amended by Sec. 301 of the TVPRA 2008)

(B) PROTECTION.—To carry out the purposes of section 107(a), there are authorized to be appropriated to the Secretary of State \$15,000,000 for fiscal year 2003 and \$10,000,000 for each of the fiscal years ~~2004 and 2005 2004, 2005, 2006, and 2007~~ (\*\*As amended by Sec. 301(3) of the TVPRA 2005) 2008 through 2011. To carry out the purposes of section 107(a)(1)(F), there are authorized to be appropriated to the Secretary of State \$1,000,000 for each of the fiscal years 2008 through 2011. (\*\*As amended by Sec. 301 of the TVPRA 2008)

(C) PROSECUTION AND MEETING MINIMUM STANDARDS.— To carry out the purposes of section 134 of the Foreign Assistance Act of 1961, there are authorized to be appropriated \$10,000,000 for each of the fiscal years ~~2004 and 2005 2004, 2005, 2006, and 2007~~ (\*\*As amended by Sec. 301(3) of the TVPRA 2005) 2008 through 2011. (\*\*As amended by Sec. 301 of the TVPRA 2008) to assist in promoting prosecution of traffickers and otherwise to assist countries in meeting the minimum standards described in section 108 of this Act, including \$250,000 for each such fiscal year to carry out training activities for law enforcement officers, prosecutors, and members of the judiciary with respect to trafficking in persons at the International Law Enforcement Academies. (\*As amended by Sec. 7(3)(A) of the TVPRA 2003)

~~(2) VOLUNTARY CONTRIBUTIONS TO OSCE.— To carry out the purposes of section 109, there are authorized to be appropriated to the Secretary of State \$300,000 for voluntary contributions to advance projects aimed at preventing trafficking, promoting respect for human~~

rights of trafficking victims, and assisting the Organization for Security and Cooperation in Europe participating states in related legal reform for fiscal year 2001 ~~for each of the fiscal years 2001 through 2005.~~ (\*As amended by Sec. 7(3) of the TVPRA 2003) ~~(\*\*\*As amended by Sec. 301 of the TVPRA 2008)~~

~~(3)~~ (2) (\*\*As amended by Sec. 301 of the TVPRA 2008) PREPARATION OF ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS.—To carry out the purposes of ~~section 104~~ sections 116(f) and 502B(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(f) and 2304(h)) (\*\*As amended by Sec. 301 of the TVPRA 2008), there are authorized to be appropriated to the Secretary of State such sums as may be necessary to include the additional information required by that section in the annual Country Reports on Human Rights Practices, ~~including the preparation and publication of the list described in subsection (a)(1) of that section.~~ (\*\*As amended by Sec. 301 of the TVPRA 2008)

(d) AUTHORIZATION OF APPROPRIATIONS TO ATTORNEY GENERAL.— ~~To carry out the purposes of section 107(b)~~

(A) ELIGIBILITY FOR BENEFITS AND ASSISTANCE- To carry out the purposes of section 107(b) (\*\*As amended by Sec. 213(a) of the TVPRA 2008), there are authorized to be appropriated to the Attorney General \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002 ~~and \$15,000,000 for each of the fiscal years 2004 and 2005.~~ (\*As amended by Sec. 7(4)(A) of the TVPRA 2003) 2004, 2005, 2006, and 2007 (\*\*As amended by Sec. 301(4) of the TVPRA 2005).

(B) ASSISTANCE TO FOREIGN COUNTRIES- To carry out the purposes of section ~~134~~ (\*\*As amended by Sec. 213(a) of the TVPRA 2008) ~~To carry out the purposes of section 134~~ of the Foreign Assistance Act of 1961 (as added by section 109), there are authorized to be appropriated to the President, acting through the Attorney General and the Secretary of State, \$250,000 for each of fiscal years ~~2004 and 2005~~ 2004, 2005, 2006, and 2007 (\*\*As amended by Sec. 301(4) of the TVPRA 2005) to carry out training activities for law enforcement officers, prosecutors, and members of the judiciary with respect to trafficking in persons at the International Law Enforcement Academies. (\*Introduced by Sec. 7(4) of the TVPRA 2003)

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

- (i) \$2,500,000 for fiscal year 2008;
- (ii) \$5,000,000 for fiscal year 2009;
- (iii) \$7,000,000 for fiscal year 2010; and
- (iv) \$7,000,000 for fiscal year 2011. (\*\*As amended by Sec. 213(a) of the TVPRA 2008)

(e) AUTHORIZATION OF APPROPRIATIONS TO PRESIDENT.—

(1) FOREIGN VICTIM ASSISTANCE.—To carry out the purposes of section 106, there are authorized to be appropriated to the President ~~\$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002 for each of the fiscal years 2003 through 2005~~ (\*As amended by Sec. 7(5) of the TVPRA 2003) ~~2003 through 2007~~ (\*\*As amended by Sec. 301(5) of the TVPRA 2005) \$15,000,000 for each of the fiscal years 2008 through 2011 (\*\*\*)As amended by Sec. 301(5) of the TVPRA 2008).

(2) ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS.—To carry out the purposes of ~~section 109~~ section 134 of the Foreign Assistance Act of 1961 (22 U.S.C. 2152d) (\*\*\*)As amended by Sec. 301(5) of the TVPRA 2008), there are authorized to be appropriated to the President ~~\$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002 for each of the fiscal years 2003 through 2005~~ (\*As amended by Sec. 7(5) of the TVPRA 2003) ~~2003 through 2007~~ (\*\*As amended by Sec. 301(5) of the TVPRA 2005) \$15,000,000 for each of the fiscal years 2008 through 2011 (\*\*\*)As amended by Sec. 301(5) of the TVPRA 2008).

(3) RESEARCH.—To carry out the purposes of section 112A, there are authorized to be appropriated to the President ~~\$300,000 for fiscal year 2004 and \$300,000 for fiscal year 2005~~ (\*As amended by Sec. 7(5) of the TVPRA 2003) ~~\$300,000 for each of the fiscal years 2004 through 2007~~ (\*\*As amended by Sec. 301(5) of the TVPRA 2005) \$2,000,000 for each of the fiscal years 2008 through 2011 (\*\*\*)As amended by Sec. 301(5) of the TVPRA 2008).

(f) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF LABOR.—To carry out the purposes of section 107(b), there are authorized to be appropriated to the Secretary of Labor ~~\$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002 and \$10,000,000 for each of the fiscal years 2004 and 2005~~ (\*As amended by Sec. 7(6) of the TVPRA 2003) ~~2004, 2005, 2006, and 2007~~ (\*\*As amended by Sec. 301(6) of the TVPRA 2005) \$10,000,000 for each of the fiscal years 2008 through 2011. (\*\*\*)As amended by Sec. 301(6) of the TVPRA 2008)

(g) LIMITATION ON USE OF FUNDS.—

(1) RESTRICTION ON PROGRAMS.—No funds made available to carry out this division, or any amendment made by this division, may be used to promote, support, or advocate the legalization or practice of prostitution. Nothing in the preceding sentence shall be construed to preclude assistance designed to promote the purposes of this Act by ameliorating the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked.

(2) RESTRICTION ON ORGANIZATIONS.—No funds made available to carry out this division, or any amendment made by this division, may be used to implement any program that targets victims of severe forms of trafficking in persons described in section 103(8)(A) of this Act through any organization that has not stated in either a grant application, a grant agreement, or both, that it does not promote, support, or advocate the legalization or practice of prostitution. The preceding sentence shall not apply to organizations that provide services to individuals solely after they are no longer engaged in activities that resulted from such victims being trafficked. (\*Introduced by Sec. 7(7) of the TVPRA 2003)

**Introduced by Sec. 8(a) of the TVPRA 2003:****(a) IMMIGRATION AND NATIONALITY ACT.—**

**(1) CLASSES OF NONIMMIGRANT ALIENS.—**Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

- (A) by moving the margins of subparagraphs (T) and (U) 2 ems to the left;
- (B) in subparagraph (T), by striking “214(n),” and inserting “214(o),”;
- (C) in subparagraph (U), by striking “214(o),” and inserting “214(p),”;
- (D) in subparagraph (V), by striking “214(o),” and inserting “214(q),”.

**(2) CLASSES OF ALIENS INELIGIBLE FOR VISAS AND ADMISSION.—**Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by redesignating the paragraph (13) added by section 1513(e) of the Battered Immigrant Women Protection Act of 2000 (title V of division B of Public Law 106–386; 114 Stat. 1536) as paragraph (14).

**(3) ADMISSION OF NONIMMIGRANTS.—**Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by redesignating subsections (m) (as added by section 105 of Public Law 106–313), (n) (as added by section 107(e) of Public Law 106–386), (o) (as added by section 1513(c) of Public Law 106–386), (o) (as added by section 1102(b) of the Legal Immigration Family Equity Act), and (p) (as added by section 1503(b) of the Legal Immigration Family Equity Act) as subsections (n), (o), (p), (q), and (r), respectively.

**(4) ADJUSTMENT OF STATUS OF NONIMMIGRANTS.—**Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended—

- (A) in the subsection (l) added by section 107(f) of Public Law 106–386, by redesignating the second paragraph (2), and paragraphs (3) and (4), as paragraphs (3), (4), and (5), respectively; and
- (B) by redesignating the subsection (l) added by section 1513(f) of Public Law 106–386 as subsection (m). (\*Introduced by Sec. 8(b) of the TVPRA 2003)

**Introduced by Sec. 302 of the TVPRA 2005:****SEC. 302. INVESTIGATIONS BY FEDERAL BUREAU OF INVESTIGATIONS.**

There are authorized to be appropriated to the Director of the Federal Bureau of Investigation to carry out sections 204 and 104(g) \$15,000,000 for fiscal year 2006 to remain available until expended. (\*\*Introduced by Sec. 302 of the TVPRA 2005)

**Introduced by Sec. 302 of the TVPRA 2008:**

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

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

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

(2) in section 201(c)—

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

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

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

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

(5) in section 204(d), by striking ‘\$25,000,000 for each of the fiscal years 2006 and 2007’ and inserting ‘\$20,000,000 for each of the fiscal years 2008 through 2011’. (\*\*\*)Introduced by Sec. 302 of the TVPRA 2008)

### **Introduced by Sec. 303 of the TVPRA 2008:**

## **SEC. 303. RULE OF CONSTRUCTION.**

The amendments made by sections 301 and 302 may not be construed to affect the availability of funds appropriated pursuant to the authorizations of appropriations under the Trafficking Victims Protection Act of 2000 (division A of Public Law 106-386; 22 U.S.C. 7101 et seq.) and the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109-164) before the date of the enactment of this Act. (\*\*\*)Introduced by Sec. 303 of the TVPRA 2008)

### **Introduced by Sec. 304(b) of the TVPRA 2008:**

(b) Trafficking Victims Protection Reauthorization Act of 2005- Section 102(b)(6) and subsections (c)(2)(B)(i) and (e)(2) of section 104 of the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109-164) are amended by striking ‘Committee on International Relations’ each place it appears and inserting ‘Committee on Foreign Affairs’. (\*\*\*)Introduced by Sec. 304(b) of the TVPRA 2008)

**Child Soldiers Prevention Act Introduced by Sec. 401-407 the TVPRA 2008:**

**SEC. 401. SHORT TITLE.**

This title may be cited as the ‘Child Soldiers Prevention Act of 2008’.

**SEC. 402. DEFINITIONS.**

In this title:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES-** The term ‘appropriate congressional committees’ means—

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

(2) **CHILD SOLDIER-** Consistent with the provisions of the Optional Protocol to the Convention of the Rights of the Child, the term ‘child soldier’—

(A) means—

- (i) any person under 18 years of age who takes a direct part in hostilities as a member of governmental armed forces;
- (ii) any person under 18 years of age who has been compulsorily recruited into governmental armed forces;
- (iii) any person under 15 years of age who has been voluntarily recruited into governmental armed forces; or
- (iv) any person under 18 years of age who has been recruited or used in hostilities by armed forces distinct from the armed forces of a state; and

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

**SEC. 403. SENSE OF CONGRESS.**

It is the sense of Congress that—

- (1) the United States Government should condemn the conscription, forced recruitment, or use of children by governments, paramilitaries, or other organizations;
- (2) the United States Government should support and, to the extent practicable, lead efforts to establish and uphold international standards designed to end the abuse of human rights described in paragraph (1);
- (3) the United States Government should expand ongoing services to rehabilitate recovered child soldiers and to reintegrate such children back into their respective communities by—
  - (A) offering ongoing psychological services to help such children—
    - (i) to recover from the trauma suffered during their forced military involvement;
    - (ii) to relearn how to interact with others in nonviolent ways so that such children are no longer a danger to their respective communities; and
    - (iii) by taking into consideration the needs of girl soldiers, who may be at risk of exclusion from disarmament, demobilization, and reintegration programs;
  - (B) facilitating reconciliation with such communities through negotiations with traditional leaders and elders to enable recovered abductees to resume normal lives in such communities; and
  - (C) providing educational and vocational assistance;
- (4) the United States should work with the international community, including, as appropriate, third country governments, nongovernmental organizations, faith-based organizations, United Nations agencies, local governments, labor unions, and private enterprises—
  - (A) to bring to justice rebel and paramilitary forces that kidnap children for use as child soldiers;
  - (B) to recover those children who have been abducted; and
  - (C) to assist such children to be rehabilitated and reintegrated into their respective communities;
- (5) the Secretary of State, the Secretary of Labor, and the Secretary of Defense should coordinate programs to achieve the goals described in paragraph (3);
- (6) United States diplomatic missions in countries in which the use of child soldiers is an issue, whether or not such use is supported or sanctioned by the governments of such countries, should include in their mission program plans a strategy to achieve the goals described in paragraph (3);
- (7) United States diplomatic missions in countries in which governments use or tolerate child soldiers should develop strategies, as part of annual program planning—
  - (A) to promote efforts to end such abuse of human rights; and
  - (B) to identify and integrate global best practices, as available, into such strategies to avoid duplication of effort; and
- (8) in allocating or recommending the allocation of funds or recommending candidates for programs and grants funded by the United States Government, United States diplomatic missions should give serious consideration to those programs and candidates that are expected to promote the end to the abuse of human rights described in this section.

## SEC. 404. PROHIBITION.

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

(b) Identification and Notification to Countries in Violation of Standards-

(1) PUBLICATION OF LIST OF FOREIGN GOVERNMENTS- The Secretary of State shall include a list of the foreign governments that have violated the standards under this title and are subject to the prohibition in subsection (a) in the report required under section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)).

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

(c) National Interest Waiver-

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

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

(d) Reinstatement of Assistance- The President may provide to a country assistance otherwise prohibited under subsection (a) upon certifying to the appropriate congressional committees that the government of such country—

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

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

(e) Exception for Programs Directly Related To Addressing the Problem of Child Soldiers or Professionalization of the Military-

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

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

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

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

## **SEC. 405. REPORTS.**

(a) Investigation of Allegations Regarding Child Soldiers- United States missions abroad shall thoroughly investigate reports of the use of child soldiers.

(b) Information for Annual Human Rights Reports- In preparing those portions of the annual Human Rights Report that relate to child soldiers under sections 116 and 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(f) and 2304(h)), the Secretary of State shall ensure that such reports include a description of the use of child soldiers in each foreign country, including—

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

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

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

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

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

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

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

#### **SEC. 406. TRAINING FOR FOREIGN SERVICE OFFICERS.**

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

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

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

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

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate. (\*\*\*)Introduced by Sec. 401-407 of the TVPRA 2008)