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110TH CONGRESS
1ST SESSION

H. R. 3887

IN THE SENATE OF THE UNITED STATES

DECEMBER 5, 2007
Received; read twice and referred to the Committee on the Judiciary

AN ACT

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

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

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 "William Wilberforce Trafficking Victims Protection Re-
4 authorization Act of 2007".

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

Sec. 1. Short title and table of contents.

TITLE I—COMBATTING INTERNATIONAL TRAFFICKING IN PERSONS

Sec. 101. Interagency Task Force to Monitor and Combat Trafficking.
Sec. 102. Office to Monitor and Combat Trafficking.
Sec. 103. Prevention and prosecution of trafficking in foreign countries.
Sec. 104. Assistance for victims of trafficking in other countries.
Sec. 105. Increasing effectiveness of anti-trafficking programs.
Sec. 106. Minimum standards for the elimination of trafficking.
Sec. 107. Actions against governments failing to meet minimum standards.
Sec. 108. Research on domestic and international trafficking in persons.
Sec. 109. Presidential Award for Extraordinary Efforts to Combat Trafficking in Persons.
Sec. 110. Responsibilities of consular officers of the Department of State.
Sec. 111. Report on activities of the Department of Labor to monitor and combat forced labor and child labor.
Sec. 112. Sense of Congress regarding multilateral framework between labor exporting and labor importing countries.

TITLE II—COMBATTING TRAFFICKING IN PERSONS IN THE UNITED STATES

Subtitle A—Ensuring Availability of Possible Witnesses and Informants

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

Subtitle B—Assistance for Trafficking Victims

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Sec. 212. Assistance for certain nonimmigrant status applicants.
Sec. 213. Interim assistance for child victims of trafficking.
Sec. 214. Ensuring assistance for all victims of trafficking in persons.

Subtitle C—Penalties Against Traffickers and Other Crimes

Sec. 221. Enhancing trafficking and other related offenses.
Sec. 222. Jurisdiction in certain trafficking offenses.
Sec. 223. Amendment of other crimes related to trafficking.
Sec. 224. New model statute provided to States.

Subtitle D—Activities of the United States Government

Sec. 231. Annual report by the Attorney General.
Sec. 232. Anti-trafficking survey and conferences.
Sec. 233. Senior Policy Operating Group.
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Sec. 235. Preventing United States travel by traffickers.
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TITLE III—AUTHORIZATIONS OF APPROPRIATIONS

Sec. 301. Trafficking Victims Protection Act of 2000.
Sec. 302. Trafficking Victims Protection Reauthorization Act of 2005.
Sec. 303. Rule of construction.
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TITLE IV—PREVENTION OF THE USE OF CHILD SOLDIERS

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Sec. 402. Definitions.
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Sec. 405. Prohibition on provision of military assistance to foreign governments that recruit or use child soldiers.
Sec. 406. Reports.
Sec. 407. Training for Foreign Service officers.

TITLE I—COMBATTING INTERNATIONAL TRAFFICKING IN PERSONS

SEC. 101. INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING.

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

SEC. 102. OFFICE TO MONITOR AND COMBAT TRAFFICKING.

(a) IN GENERAL.—Section 105(e) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(e)) is amended to read as follows:

"(e) OFFICE TO MONITOR AND COMBAT TRAFFICKING.—

"(1) ESTABLISHMENT.—The Secretary of State shall establish within the Department of State an Office to Monitor and Combat Trafficking, which shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, with the rank of Ambassador-at-Large.

"(2) RESPONSIBILITIES.—The Director shall have the following responsibilities:

"(A) The Director shall have primary responsibility for assisting the Secretary of State in carrying out the purposes of this division, shall provide assistance to the Task Force, and may have additional responsibilities as determined by the Secretary of State.

"(B) 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.

"(C) The Director shall, in coordination and cooperation with the Assistant Secretary for International Labor Affairs and other officials at the Department of State involved in corporate responsibility and other relevant officials of the United States Government, be responsible for promoting, building, and sustaining partnerships between the United States Government and private entities (including foundations, universities, corporations, community-based organizations, and other nongovernmental organizations) to ensure that 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 to ensure that such entities do not contribute to trafficking in persons involving sexual exploitation, such as through work with the airlines and tourism industries.

"(D) The Director shall be solely responsible for all policy, funding, and programming decisions regarding funds made available for

trafficking in persons programs that are centrally controlled by the Department of State.

"(3) COORDINATION.—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 Department of State shall be carried out with concurrence of the Director.".

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Secretary of State should make every effort to locate the Office to Monitor and Combat Trafficking, established pursuant to section 105(e) of the Trafficking Victims Protection Act of 2000 (as amended by subsection (a) of this section), at the headquarters for the Department of State, known as the Harry S. Truman Federal Building, located in the District of Columbia; and

(2) the Office to Monitor and Combat Trafficking should be assigned office space in such building that reflects the importance of the implementation of such Act and the broad and historic mission of the Office to end modern-day slavery.

SEC. 103. PREVENTION AND PROSECUTION OF TRAFFICKING IN FOREIGN COUNTRIES.

(a) PREVENTION.—Section 106 of the Trafficking Victims Protection Act of 2000 (22 U.S. C. 7104) is amended by adding at the end the following new subsection:

"(i) ADDITIONAL MEASURES TO PREVENT AND DETER TRAFFICKING.—The President shall establish and carry out programs to prevent and deter trafficking in persons. Such programs may include—

"(1) technical assistance and other support for 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 regarding the rights of such populations in the foreign country and any information regarding in-country nongovernmental organization-operated hotlines of the type described in section 107(a)(1)(A) of this Act, with such information to be provided in the native languages of the major immigrant groups of such populations;

"(3) technical assistance to provide legal frameworks and other programs to foreign governments and nongovernmental organizations to ensure that foreign migrant workers are provided protection equal to nationals of the foreign country, that labor recruitment firms are regulated, and that 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.".

(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 semi-colon the following: ", including investigation of individuals and entities that may be involved in trafficking in persons involving sexual exploitation".

SEC. 104. ASSISTANCE FOR VICTIMS OF TRAFFICKING IN OTHER COUNTRIES.

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

(1) in paragraph (1)—

(A) in the second sentence, by inserting at the end before the period the following: ", and

shall be carried out in a manner which takes into account the cross-border, regional, and transnational aspects of trafficking in persons''; and

(B) by adding at the end the following new subparagraph:

''(F) In cooperation and coordination with the United Nations High Commissioner for Refugees, the International Organization of Migration, and other relevant organizations (including private nongovernmental organizations that contract with the United States Government to assist refugees and internally displaced persons), support for 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 ensuring performance of best interest determinations for unaccompanied and separated children to identify child trafficking victims and assist their safe integration, reintegration, and resettlement.''; and

(2) in paragraph (2), by adding at the end the following new sentence: ''In carrying out this para-

graph, the Secretary and the Administrator shall take all appropriate steps to ensure that cooperative efforts among foreign countries are undertaken on a regional basis.''.

SEC. 105. INCREASING EFFECTIVENESS OF ANTI-TRAFFICKING PROGRAMS.

(a) FINDINGS.—Congress makes the following findings:

(1) United States assistance programs require enhanced monitoring and evaluation to ensure that United States funds are appropriately spent.

(2) Such monitoring and evaluation should measure results—the actual effects of assistance—as well as outcomes—the numerical product of assistance, such as the number of individuals assisted, systems established, and funds provided through programs.

(3) While the results of programs related to trafficking in persons may be difficult to measure because of the criminal and underground nature of trafficking in persons, making efforts to measure such results are critical to learning the extent to which United States assistance programs affect the nature and severity of trafficking and change the fundamental conditions that facilitate trafficking.

(b) AMENDMENT.—The Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.) is amended by inserting after section 107 the following new section:

"SEC. 107A. INCREASING EFFECTIVENESS OF ANTI-TRAFFICKING PROGRAMS.

''(a) AWARDING OF GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The head of each department and agency of the United States Government that administers funds made available for programs described in this division and the amendments made by this division in the United States and foreign countries shall—

''(1) make solicitations of grants, cooperative agreements, and contracts for such programs publicly available;

''(2) award grants, cooperative agreements, and contracts on a full and open competitive basis, consistent with existing law; and

''(3) ensure that internal department or agency review process for such grants, cooperative agreements, and contracts is not subject to ad hoc or intermittent review by individuals or organizations outside the United States Government not otherwise provided for in the process described in paragraphs (1) and (2).

''(b) EVALUATION OF TRAFFICKING PROGRAMS.—

"(1) IN GENERAL.—The President shall establish and implement a system to monitor and evaluate the effectiveness and efficiency of assistance provided under anti-trafficking programs established and carried out under this division and the amendments made by this division 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 assistance described in paragraph (1) and express such goals in an objective and quantifiable form, to the extent practicable;

"(B) ensure that performance indicators are used for each United States program authorized by this division and the amendments made by this division to measure and assess the achievement of the performance goals described in subparagraph (A); and

"(C) provide a basis for recommendations for adjustments to assistance described in paragraph (1) to enhance the impact of such assistance.

"(c) TARGETED USE OF TRAFFICKING PROGRAMS.—The Director of the Office to Monitor and Combat Trafficking shall undertake efforts to provide assistance to foreign countries and nongovernmental organizations under this division and the amendments made by this division based on the priorities and country assessments contained in the most recent report submitted by the Secretary of State to Congress pursuant to section 110(b) of this Act.

"(d) CONSISTENCY WITH OTHER PROGRAMS.—The President shall take steps to 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 and other similar United States assistance programs are carried out in a manner that takes into account and are consistent with United States policies and other United States programs relating to combatting trafficking in persons.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2008 through 2011, up to 2 percent of the amounts made available to carry out this division and the amendments made by this division may be used to carry out this section.".

SEC. 106. MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.

(a) MINIMUM STANDARDS.—Subsection (a) of section 108 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7106) is amended in the matter preceding paragraph (1) by striking ''a significant number of''.

(b) CRITERIA.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) in the first sentence, by inserting at the end before the period the following: '', including in all appropriate cases requiring incarceration of individuals convicted of such acts''; and

(B) by inserting after the first sentence the following new sentence: ''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 not be considered to be an indicator of serious and sustained efforts to eliminate severe forms of trafficking in persons.'';

(2) in paragraph (2), by inserting at the end before the period the following: '', including by providing training to law enforcement and immigration

officials in the identification and treatment of trafficking victims using approaches that focus on the needs of the victims'';

(3) in paragraph (3), by striking '', measures to reduce the demand for commercial sex acts and for participation in international sex tourism by nationals of the country'' and inserting '', measures to establish the identity of local populations, including birth registration, citizenship, and nationality''; and

(4) by adding at the end the following new paragraph:

''(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.''.

SEC. 107. ACTIONS AGAINST GOVERNMENTS FAILING TO MEET MINIMUM STANDARDS.

(a) COUNTRIES ON SPECIAL WATCH LIST RELATING TO TRAFFICKING IN PERSONS FOR TWO CONSECUTIVE YEARS.—Subsection (b)(3) of section 110 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107) is amended by adding the following at the end the following new subparagraph:

"(D) COUNTRIES ON SPECIAL WATCH LIST FOR TWO CONSECUTIVE YEARS.—If a country is included on the special watch list described in subparagraph (A) for two consecutive years, such country shall be included on the list of countries described in paragraph (1)(C), unless the Secretary of State determines that (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, and, as part of the report required by paragraph (1) and the interim assessment required by subparagraph (B), the Secretary provides to the appropriate congressional committees credible evidence that the country meets the requirements of clauses (i) through (iii). The Secretary may make a determination under the preceding sentence with respect to a country for not more than two consecutive years.".

(b) CLARIFICATION OF MEASURES AGAINST CERTAIN FOREIGN COUNTRIES.—Subsection (d)(1)(A)(ii) of such

section is amended by striking ''the United States will not provide'' and inserting ''the United States will not provide such assistance to the government of the country for the subsequent fiscal year and will not provide''.

(c) TRANSLATION OF TRAFFICKING IN PERSONS REPORT.—

(1) TRANSLATION REQUIRED.—The Secretary of State shall expand the timely translation of the annual report required 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 those countries on the lists described in subparagraphs (B) and (C) of paragraph (1) of such section and shall ensure that such translations are made available to the public, including through postings on appropriate Internet websites.

(2) MATTERS TO BE INCLUDED.—The translation required by paragraph (1) shall include the introduction, other sections of general interest, and the relevant country narratives of the annual report. The Secretary of State shall ensure that such translations are available on the Internet website of the Department of State.

SEC. 108. RESEARCH ON DOMESTIC AND INTERNATIONAL TRAFFICKING IN PERSONS.

(a) IN GENERAL.—Subsection (a)(5) of section 112A of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7109a) is amended by adding at the end the following new sentence: ''Such mechanism shall include, not later than two years after the date of the enactment of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007, the establishment of an integrated data base by combining all applicable data collected by each Federal department and agency represented on the Interagency Task Force to Monitor and Combat Trafficking (established under section 105 of this Act) and, to the maximum extent practicable, applicable data from relevant international organizations, for the purposes of improving coordination of the collection of data related to trafficking in persons by each agency of the United States Government that collects such data, promoting uniformity of such data collection and standards and systems related to such collection, and undertaking a meta-analysis of patterns of trafficking in persons, slavery, and slave-like conditions.''.

(b) ROLE OF GOVERNMENT.—Subsection (b) of such section is amended by inserting after ''subsection (a)(4)'' the following: ''and the second sentence of subsection (a)(5)''.

SEC. 109. PRESIDENTIAL AWARD FOR EXTRAORDINARY EFFORTS TO COMBAT TRAFFICKING IN PERSONS.

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

"SEC. 112B. PRESIDENTIAL AWARD FOR EXTRAORDINARY EFFORTS TO COMBAT TRAFFICKING IN PERSONS.

"(a) ESTABLISHMENT OF AWARD.—The President is authorized to establish an award for extraordinary efforts to combat trafficking in persons, to be known as the 'Presidential Award for Extraordinary Efforts to Combat Trafficking in Persons'. To the maximum extent practicable, the Secretary should make the award annually to up to 5 individuals or organizations, including individuals who are United States citizens or foreign nationals and 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 President shall host an annual ceremony for recipients of the award authorized under subsection (a) at the time the report required by section 110(b) of this Act is submitted by the Secretary of State to Congress pursuant to such section. The Sec-

retary of State is authorized to pay the costs associated with travel by each recipient and a guest of the recipient to the ceremony.

"(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2008 through 2011.".

SEC. 110. RESPONSIBILITIES OF CONSULAR OFFICERS OF THE DEPARTMENT OF STATE.

(a) INTERVIEWS.—

(1) IN GENERAL.—In the case of a consular interview of an alien for an employment- or education-based nonimmigrant visa, the consular officer conducting the interview shall ensure that the alien has received, both orally in a language that the applicant understands and though the pamphlet required under section 202, information relating to the following:

(A) The illegality of slavery, peonage, trafficking in persons, sexual assault, extortion, blackmail and worker exploitation in the United States, and the right of the alien to retain the alien's passport in the alien's possession at all times.

(B) The availability of services for victims of human trafficking and worker exploitation in the United States, including the contact information for relevant community organizations that provide services to trafficking victims (to the extent practicable), Federal law enforcement and victim services complaint lines, and a general description of the types of victims services available if an individual is subject to trafficking in persons.

(C) The legal rights of immigrant victims of trafficking in persons, worker exploitation, and other related crimes under immigration, labor, and employment law, including the right to report abuse without retaliation, the availability of immigration and public benefits to such victims, and the right to seek redress in United States courts.

(D) If applicable, the requirements that section 202(g)(2) places upon persons engaging in foreign labor contracting activity.

(2) REVIEW.—Before conducting an interview described in paragraph (1), the consular officer shall review the summary of the pamphlet required under section 202.

(3) DEFINITION.—In this subsection, the term "employment- or education-based nonimmigrant visa" has the meaning given such term in section 202(h).

(b) SPECIAL PROVISIONS RELATING TO ALIENS ISSUED A–3 AND G–5 VISAS.—

(1) ELEMENTS OF MANDATORY INTERVIEW.—The interview required under subsection (a) shall be required for the issuance to an alien of a nonimmigrant visa under subparagraph (A)(iii) or (G)(v) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)). The consular officer conducting the interview shall ensure that the employment contract of the alien is in a language that the alien can understand.

(2) FEASIBILITY OF OVERSIGHT OF EMPLOYEES OF DIPLOMATS AND REPRESENTATIVES OF OTHER INSTITUTIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the feasibility of—

(A) establishing a system to monitor the treatment of aliens who have been admitted to

the United States as nonimmigrants described in subparagraph (A)(iii) or (G)(v) of section 101(a)(15) of the Immigration and Nationality Act; and

(B) a range of compensation approaches, such as a bond program, compensation fund, or insurance scheme, to ensure that nonimmigrants described in subparagraph (A)(iii) or (G)(v) of section 101(a)(15) of the Immigration and Nationality Act receive appropriate compensation if their employer violates the terms of their employment contract and, with respect to each proposed compensation approach, an evaluation and proposal of how claims of rights violations will be adjudicated, compensation determinations will be made, and the program, fund, or scheme will be administered.

(3) ASSISTANCE TO LAW ENFORCEMENT INVESTIGATIONS.—The Secretary of State 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 trafficking in persons, worker exploitation, or other related violations of United States law with respect to an alien described in paragraph (1).

(4) ZERO TOLERANCE FOR ABUSE.—

(A) LIMITATION.—The Secretary of State shall direct consular officers not to issue a visa to an alien who applies for a visa under subparagraph (A)(iii) or (G)(v) of section 101(a)(15) of the Immigration and Nationality Act if the person who would employ such an alien serves at a diplomatic mission or an international institution described in subparagraph (B) of this paragraph.

(B) MISSION OR INSTITUTION.—A diplomatic mission or international institution is referred to in subparagraph (A) if—

(i) the Secretary of State determines that an alien described in paragraph (1) has been subjected to trafficking of persons, worker exploitation, or other related violations of United States law, by an individual serving at such a mission or institution during the two year period before the

date of the application for a visa referred to in subparagraph (A); or

(ii) an individual serving at such a mission or institution has departed the United States and there is credible evidence that such individual trafficked, exploited, or otherwise abused an alien described in paragraph (1).

(C) EXCEPTION.—The Secretary of State may suspend the application of the limitation under subparagraph (A) if the Secretary determines and reports to the committees specified in paragraph (2) that a mechanism is in place to ensure that such trafficking, exploitation, or abuse does not occur again with respect to any alien employed by such mission or institution.

(5) REPORT.—Not later than June 1, 2008, and annually thereafter, the Secretary of State shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report describing the diplomatic missions or international institutions that are subject to the visa restriction referred to in subparagraph (A) of paragraph (4), any exceptions that have been made pursuant to subparagraph (C)

of such paragraph (4), and any requests for waivers of diplomatic immunity that have been made that are related to actions involving trafficking of persons, worker exploitation, or other related violations of United States law. Such report may be combined with the annual report required by section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)).

SEC. 111. REPORT ON ACTIVITIES OF THE DEPARTMENT OF LABOR TO MONITOR AND COMBAT FORCED LABOR AND CHILD LABOR.

(a) INTERIM REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Labor shall submit to the appropriate congressional committees an interim report on the implementation of section 105(b) of the Trafficking Victims Protection Reauthorization Act of 2005 (22 U.S.C. 7112(b)), which shall include a description of the progress made toward developing the list of goods described in paragraph (2)(C) of such section.

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

(1) submit to the appropriate congressional committees a final report on the implementation of

section 105(b) of the Trafficking Victims Protection Reauthorization Act of 2005, which shall include an initial list of goods described in paragraph (2)(C) of such section; and

(2) make available to the public such list of goods in accordance with paragraph (2)(C) of such section.

(c) 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).

SEC. 112. 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 Labor 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 and worker exploitation of any kind.

TITLE II—COMBATTING TRAFFICKING IN PERSONS IN THE UNITED STATES

Subtitle A—Ensuring Availability of Possible Witnesses and Informants

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;'';

(D) in subclause (III)—

(i) in item (aa), by striking ''or'' at the end;

(ii) in item (bb), by striking '', and'' at the end and inserting ''; and'';

(iii) by redesignating item (bb) as item (cc); and

(iv) by inserting after item (aa) the following:

''(bb) in the Secretary's sole and unreviewable discretion, in consultation with the Attorney General, that the alien is unlikely or unable to cooperate with such a request due to physical or psychological trauma; or''; 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 the following at the end:

''(III) any parents or siblings of an alien described in subclause (I) or (II) who face a present danger of retaliation, as attested to by a representative of a law enforcement agency,

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) of the Immigration and Nationality Act (8 U.S.C. 1184(o)) is amended—

(1) in paragraph (7)(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 ''; or''; and

(C) by adding at the end the following:

''(ii) the Secretary of Homeland Security determines, as a matter of the Secretary's sole discretion, 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:

''(8) In determining whether extreme hardship described in section 101(a)(15)(T)(i)(IV) exists, the Secretary of Homeland Security, in consultation with the Attorney General and relevant investigators, prosecutors,

and individuals responsible for working with victims and witnesses, may consider whether the country to which the alien is likely to be removed can adequately address security concerns and the mental and physical health needs of the alien and of persons described in section 101(a)(15)(T)(ii).''.

(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 the authorized period of status of an alien as a nonimmigrant under section 101(a)(15)(U) of this title for a period exceeding 4 years if the Secretary determines, as a matter of the Secretary's sole discretion, that an extension of such period is warranted due to exceptional circumstances.''.

(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), in the matter preceding subparagraph (A), by striking ''the Attorney General,,'' and inserting ''the Secretary of Homeland Security in consultation with the Attorney General,'';

(2) in paragraph (1)(B), by inserting ''subject to paragraph (6),'' after ''(B)'';

(3) in paragraph (1)(C)(ii), by striking ", or in the case of subparagraph (C)(i), the Attorney General,";

(4) in paragraph (3), by striking the period at the end and inserting the following: ", unless the absence is in order to assist in the investigation or prosecution or unless an official involved in the investigation or prosecution certifies that the absence was otherwise justified."; and

(5) by adding at the end the following:

"(6) For purposes of paragraph (1)(B), the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, may waive consideration of a disqualification from good moral character (described in section 101(f)) with respect to an alien if the disqualification was caused by, or was incident to, the trafficking described in section 101(a)(15)(T)(i)(I).".

(e) ADJUSTMENT OF STATUS FOR CRIME VICTIMS.—Section 245(m)(1) of the Immigration and Nationality Act (8 U.S.C. 1255(m)(1)) is amended, in the matter preceding subparagraph (A), by striking "unless the Attorney General" and inserting "unless the Secretary, in consultation with the Attorney General,".

SEC. 202. INFORMATION FOR WORK-BASED NONIMMIGRANTS ON LEGAL RIGHTS AND RESOURCES.

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Secretary of State, the Attorney General, and the Secretary of Labor, shall develop an information pamphlet, as described in subsection (b), on legal rights and resources for aliens applying for employment- or education-based nonimmigrant visas, and shall distribute and make such pamphlet available as described in subsection (e). In preparing the information pamphlet, the Secretary of Homeland Security shall consult with nongovernmental organizations with expertise on the legal rights of workers and victims of severe forms of trafficking in persons.

(b) INFORMATION PAMPHLET.—The information pamphlet developed under subsection (a) shall include information on employment- or education-based nonimmigrant visas or on student or cultural exchanges, as follows:

(1) The nonimmigrant visa application processes, including information about whether the particular employment- or education-based nonimmigrant visa program includes portability of employment or educational institution.

(2) The illegality of slavery, peonage, trafficking in persons, sexual assault, extortion, blackmail, and worker exploitation in the United States.

(3) Services for victims of severe forms of trafficking in persons and worker exploitation in the United States, including Federal law enforcement and victim services complaint lines.

(4) The legal rights of immigrant victims of worker exploitation and other crimes in immigration, criminal justice, family law, and other matters, including the right of access to immigrant and labor rights groups, the right to seek redress in United States courts, and the right to report abuse without retaliation.

(5) The requirements that subsection (g) places upon a person engaging in foreign labor contracting activity, including the disclosure of any debts.

(c) SUMMARIES.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, shall develop summaries of the information pamphlet developed under subsection (a) that shall be used by Federal officials when reviewing the pamphlet in interviews required by section 110.

(d) TRANSLATION.—

(1) IN GENERAL.—In order to best serve the language groups having the greatest concentration of employment- or education-based nonimmigrant visas, the information pamphlet developed under subsection (a) shall, subject to paragraph (2), be translated by the Secretary of State into foreign languages, including Russian, Spanish, Tagalog, Vietnamese, Chinese, Ukrainian, Thai, Korean, Polish, Japanese, French, Creole, Arabic, Portuguese, Hindi, and such other languages as the Secretary of State, in the Secretary's discretion, may specify.

(2) REVISION.—Every two years, the Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, shall determine at least 14 specific languages into which the information pamphlet shall be translated based on the languages spoken by the greatest concentrations of employment- or education-based nonimmigrant visas.

(e) 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 and the Department of Homeland Security, as well as on the websites of all United States con-

sular posts processing applications for nonimmigrant visas.

(2) OTHER DISTRIBUTION.—The information pamphlet developed under subsection (a) shall also be made available to any foreign labor broker, government agency, or nongovernmental advocacy organization.

(f) DEADLINE FOR PAMPHLET DEVELOPMENT AND DISTRIBUTION.—The information pamphlet developed under subsection (a) shall be distributed and made available (including in the languages specified under subsection (d)) not later than 180 days after the date of the enactment of this Act.

(g) PROTECTIONS FOR WORKERS RECRUITED ABROAD.—

(1) DEFINITIONS.—In this section—

(A) the term ''foreign labor contractor'' means any person who for any money or other consideration paid or promised to be paid, performs any foreign labor contracting activity;

(B) the term ''foreign labor contracting activity'' means recruiting, soliciting, hiring, employing, or furnishing, an individual who resides outside of the United States to be employed in the United States; and

(C) the term ''worker'' means an individual who is the subject of foreign labor contracting activity.

(2) DISCLOSURE.—Any person who engages in foreign labor contracting activity shall ascertain and disclose in writing, in English and in a language understood by the worker being recruited, to each worker who is recruited for employment, at the time of the worker's recruitment, the following information:

(A) The location and period of employment, and any travel or transportation expenses to be assessed.

(B) The compensation for the employment and any other employee benefit to be provided and any costs to be charged for each benefit.

(C) A description of employment requirements and activities.

(D) The existence of any labor organizing effort, strike, lockout, or other labor dispute at the place of employment.

(E) The existence of any arrangement with any person involving the receipt of a commission or any other benefit for the provision of items or services to workers.

(F) The extent to which workers will be compensated through workers' compensation, private insurance, or other means for injuries or death.

(G) Any education or training to be provided or required, including the nature and cost of such training and the person who will pay such costs, and whether the training is a condition of employment, continued employment, or future employment.

(3) RESTRICTION.—No foreign labor contractor or employer who engages in foreign labor contracting activity shall knowingly provide materially false or misleading information to any worker concerning any matter required to be disclosed under paragraph (2). The disclosure required by this section is a document concerning the proper administration of a matter within the jurisdiction of a department or agency of the United States for the purposes of section 1519 of title 18, United States Code.

(4) REGISTRATION.—

(A) IN GENERAL.—Before engaging in any foreign labor contracting activity, any person who is a foreign labor contractor shall obtain a

1 certificate of registration from the Secretary of
2 Labor pursuant to regulations promulgated by
3 the Secretary under subparagraph (B).
4 (B) ISSUANCE.—Not later than 180 days
5 after the date of the enactment of this Act, the
6 Secretary shall promulgate regulations to estab-
7 lish an efficient electronic process for the timely
8 investigation and approval of an application for
9 a certificate of registration of foreign labor con-
10 tractors, including—
11 (i) requirements under paragraphs
12 (1), (4), and (5) of section 102 of the Mi-
13 grant and Seasonal Agricultural Worker
14 Protection Act (29 U.S.C. 1812);
15 (ii) an expeditious means to update
16 registrations and renew certificates; and
17 (iii) any other requirements that the
18 Secretary may prescribe.
19 (C) TERM OF REGISTRATION.—Unless sus-
20 pended or revoked, a certificate under this sub-
21 paragraph shall be valid for two years.
22 (D) REFUSAL TO ISSUE; REVOCATION.—In
23 accordance with regulations promulgated by the
24 Secretary of Labor, the Secretary shall refuse
25 to issue or renew, or shall revoke, after notice

and an opportunity for a hearing, a certificate of registration under this subparagraph if—

(i) the applicant for, or holder of, the certification has knowingly made a material misrepresentation in the application for such certificate;

(ii) the applicant for, or holder of, the certification is not the real party in interest in the application or certificate of registration and the real party in interest—

(I) is a person who has been refused issuance or renewal of a certificate;

(II) has had a certificate revoked; or

(III) does not qualify for a certificate under this paragraph;

(iii) the applicant for, or holder of, the certification has been convicted within the preceding five years of any crime described in subparagraph (A) or (B) of section 103(a)(5) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1813(a)(5)); or

(iv) the applicant for, or holder of, the certification has knowingly or recklessly failed to comply with this subsection.

(E) COMPLAINTS AND INVESTIGATIONS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints filed by any person, including complaints initiated by the Secretary, respecting a foreign labor contractor's compliance with this subsection. No investigation or hearing shall be conducted on a complaint concerning a violation of this subsection unless the complaint was filed not later than 12 months after the date of the violation. The Secretary may conduct an investigation under this paragraph if there is reasonable cause to believe that such a violation occurred.

(F) MAINTENANCE OF LISTS.—

(i) IN GENERAL.—The Secretary shall maintain a list of all foreign labor contractors registered under this subsection; and

(ii) PUBLIC AVAILABILITY.—The Secretary shall make the list described in clause (i) publicly available, including through publication on the Internet.

(G) RE-REGISTRATION OF VIOLATORS.—The Secretary shall provide a procedure by which a foreign labor contractor that has had its registration revoked may seek to re-register under this paragraph by demonstrating to the Secretary's satisfaction that the foreign labor contractor has not violated this subsection in the previous 5 years.

(5) AMENDMENT TO IMMIGRATION AND NATIONALITY ACT.—Section 214 of the Immigration and Nationality Act is amended by adding at the end the following:

''(s) A visa shall not be issued under the subparagraph (A)(iii), (B)(i) (but only for domestic servants described in clause (i) or (ii) of section 274a.12(c)(17) of title 8, Code of Federal Regulations (as in effect on December 4, 2007)), (G)(v), (H), (J), (L), (Q), or (R) of section 101(a)(15) until the consular officer—

''(1) has provided to and reviewed with the applicant, in the applicant's language (or a language the applicant understands), a copy of the information and resources pamphlet required by section 202 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007; and

"(2) has reviewed and made a part of the visa file the foreign labor recruiter disclosures required by such section 202.".

(6) ENFORCEMENT PROVISIONS.—

(A) ADMINISTRATIVE ENFORCEMENT.—The Secretary of Labor may impose against any foreign labor contractor, for knowingly or recklessly failing to comply with the requirements of this subsection—

(i) a fine in an amount not more than $4,000 per violation; and

(ii) upon the occasion of a third violation or a failure to comply with representations, a fine of not more than $10,000 per violation.

(B) CIVIL ACTION.—

(i) IN GENERAL.—The Secretary of Labor may bring a civil action against any foreign labor contractor in any court of competent jurisdiction—

(I) to seek remedial action, including injunctive relief;

(II) to recover damages on behalf of any worker harmed by a violation of this subsection; and

(III) to ensure compliance with requirements of this subsection.

(ii) SUMS RECOVERED.—Any sums recovered by the Secretary on behalf of a worker under clause (i) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee affected. Any such sums not paid to an employee because of inability to do so within a period of three years shall be credited as an offsetting collection to the appropriations account of the Secretary of Labor for expenses for the administration of this subsection and shall remain available to the Secretary until expended.

(iii) REPRESENTATION.—Except as provided in section 518(a) of title 28, United States Code, the Solicitor of Labor may appear for and represent the Secretary of Labor in any civil litigation brought under this paragraph. All such litigation shall be subject to the direction and control of the Attorney General.

(C) AGENCY LIABILITY.—Beginning 180 days after the Secretary of Labor has promul-

gated regulations pursuant to paragraph (4)(B), an employer who retains the services of a foreign labor contractor shall only use those foreign labor contractors who are registered under paragraph (4). An employer who uses a foreign labor contractor who is not registered under paragraph (4) after such time period, or who uses a foreign labor contractor knowing or in reckless disregard that such contractor has violated any provision of this subsection, shall be subject to the provisions of this paragraph for violations committed by such foreign labor contractor to the same extent as if the employer were the foreign labor contractor who had committed the violation.

(D) RETALIATION.—An individual who is a victim of a violation of section 1512(A)(2)(D), 1512(b)(4), or 1513(B)(3) of title 18, United States Code, may, in a civil action, recover appropriate relief (including reasonable attorneys' fees) with respect to that violation. Any civil action under this subparagraph shall be stayed during the pendency of any criminal action arising out of the violation.

(E) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preempt or alter any other rights or remedies, including any causes of action, available under any other Federal or State law.

(h) DEFINITIONS.—In this section:

(1) EMPLOYMENT- OR EDUCATION-BASED NONIMMIGRANT VISA.—The term ''employment- or education-based nonimmigrant visa'' means a nonimmigrant visa issued for the purpose of employment, education, or training in the United States, including a visas issued under subparagraph (A)(iii), (B)(i) (but only for domestic servants described in clause (i) or (ii) of section 274a.12(c)(17) of title 8, Code of Federal Regulations (as in effect on December 4, 2007)), (G)(v), (H), (J), (L), (Q), or (R) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

(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).

SEC. 203. 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) In the case of an alien in the United States for whom an application for nonimmigrant status (whether as a principal alien or a derivative relative) under section 101(a)(15)(T) has been filed, if the application sets forth a prima facie case for approval, the Secretary of Homeland Security may grant the alien a stay of removal or deportation until the application is approved or the application is denied after exhaustion of administrative appeals. Any appeal of the denial of a stay of removal or deportation under this paragraph must accompany any appeal of the underlying substantive petition or application for benefits.

''(2) During a period in which an alien is provided a stay of removal under this subsection, the alien shall not be removed or deported.

''(3) Nothing in this subsection shall be construed as limiting the authority of the Secretary of Homeland Security to grant a stay of removal or deportation in any case not described in this subsection.''.

SEC. 204. EXPANSION OF AUTHORITY TO PERMIT CONTINUED PRESENCE IN THE UNITED STATES.

(a) EXPANSION OF AUTHORITY.—

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

"(3) AUTHORITY TO PERMIT CONTINUED PRESENCE IN THE UNITED STATES.—

"(A) TRAFFICKING VICTIMS.—

"(i) IN GENERAL.—Upon application from a Federal law enforcement official that makes a prima facie showing that an alien is a victim of a severe form of trafficking and a potential witness to such trafficking, in order to effectuate investigation and prosecution of those responsible, the Secretary of Homeland Security may permit an alien's continued presence in the United States.

"(ii) SAFETY.—Federal law enforcement officials described in clause (i), in investigating and prosecuting traffickers, shall endeavor 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 continue to permit the continued presence of an alien described in clause (i) if such alien has filed a civil action under section 1595 of title 18, United States Code, until such action is concluded. Failure to exercise due diligence in pursuing such a civil action, as determined by the Secretary in consultation with the Attorney General, may result in revocation of continued presence.

"(B) PAROLE FOR RELATIVES.—Pursuant to section 240A(b)(6) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(b)), as added by section 204(b) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007, law enforcement officials may submit a written request to the Secretary of Homeland Security 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 develop materials for State and local law enforcement on 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, for distribution to State and local law enforcement by each Immigration and Customs Enforcement Special Agent in Charge.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to requests for continued presence filed pursuant to section 107(c)(3) of the Trafficking Victims Protection Act (22 U.S.C. 7105(c)(3)) before, on, or after such date, except that this paragraph does not permit the application of section 107(c)(3)(A) of such Act, as added by paragraph (1), to an alien who is not present in the United States.

(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 grant parole under section 212(d)(5) to any alien who is a relative of an alien granted continued presence pursuant to 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, in the judgment of the requesting law enforcement official, is 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 grant of parole under subparagraph (A) shall extend until the date an application filed by the principal alien under section 101(a)(15)(T)(ii) has been finally adjudicated.

"(ii) OTHER LIMITS ON DURATION.—If no such application is filed, the grant of parole shall extend until the later of—

"(I) the date on which the principal alien's continued presence 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.''.

SEC. 205. IMPLEMENTATION OF TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT OF 2005.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall issue interim regulations regarding the adjustment of status to permanent residence for nonimmigrants admitted into the United States under section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)). If the regulations are not issued before such deadline, the Secretary shall submit a 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 explaining in detail the reasons such regulations have not been issued.

Subtitle B—Assistance for Trafficking Victims

SEC. 211. VICTIM OF TRAFFICKING CERTIFICATION PROCESS.

Section 107(b)(1)(E) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(1)(E)), is amended—

(1) in clause (i)—

(A) in the matter preceding subclause (I), by striking ''consultation'' and all that follows through ''person'' and inserting ''consultation with the Attorney General and the Secretary of Homeland Security, that the person'';

(B) in subclause (I), by adding at the end before the semicolon the following: ''or is unlikely or unable to cooperate with such a request due to physical or psychological trauma;''; and

(C) in subclause (II)(bb), by striking ''United States'' and all that follows through ''ensuring'' and inserting ''United States the Secretary of Homeland Security is ensuring''; and

(2) in clause (ii), by striking ''so long as'' and all that follows through ''determines'' and inserting

"so long as the Secretary of Homeland Security determines".

SEC. 212. 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) by striking "or" at the end of paragraph (2)(B);

(2) by striking the period at the end of paragraph (3)(B) and inserting "; or"; and

(3) by adding at the end the following:

"(4) an alien who has had approved, or has pending, a petition that sets forth a prima facie case for status as a nonimmigrant under section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)).".

(b) CONSTRUCTION.—The provisions of section 431(c)(4) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)(4)), as added by subsection (a), are in addition to the access to public benefits provided in the Trafficking Victims Protection Act of 2000 and the Trafficking Victims Reauthorization Act of 2003.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) 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 to carry out such amendments are implemented.

SEC. 213. INTERIM ASSISTANCE FOR CHILD VICTIMS OF TRAFFICKING.

(a) IN GENERAL.—Subsection (b)(1) of section 107 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105) is amended by adding at the end the following new subparagraphs:

"(F) ELIGIBILITY OF INTERIM ASSISTANCE FOR CHILD VICTIMS.—

"(i) DETERMINATION.—With respect to a person referred to in subparagraph (C)(ii)(I) who is seeking assistance under this paragraph, if credible information is presented on behalf of the person that the person has been subjected to a severe form of trafficking in persons, the Secretary of Health and Human Services shall promptly make a determination of the person's eligibility under this paragraph.

"(ii) EXCLUSIVE AUTHORITY.—The Secretary of Health and Human Services

shall have exclusive authority in making determinations of eligibility under clause (i).

"(iii) DURATION.—Assistance provided under this paragraph for an individual determined to be eligible under clause (i) may be provided for up to 90 days and may be extended for an additional 30 days.

"(iv) SENSE OF CONGRESS.—It is the sense of Congress that—

"(I) to ensure the best interests of the child and to create an increased chance of cooperation by child victims of severe forms of trafficking in persons, the United States Government should provide assistance to protect and care for such child victims during the pendency of proceedings to determine whether a child is a victim of severe forms of trafficking; and

"(II) in order to further the objective of subclause (I), the Secretary of Health and Human Services should make the determination of eligibility

for assistance under clause (i) on the basis of the information provided and the Secretary's own assessment of such information without regard to the assessments by other departments and agencies of the United States Government regarding whether such child victim's application for relief or benefits under this Act or the Immigration and Nationality Act will be approved.

"(G) NOTIFICATION OF CHILD VICTIMS FOR INTERIM ASSISTANCE.—

"(i) FEDERAL OFFICIALS.—Any Federal official who has reason to believe that a person may be a juvenile victim of trafficking referred to in subparagraph (C)(ii)(I) shall notify the Secretary of Health and Human Services not later than 48 hours after the official first learns that the person may be a juvenile victim of trafficking for the purpose of facilitating the provision of interim assistance under subparagraph (F).

"(ii) STATE AND LOCAL OFFICIALS.—Any State or local official who has reason to believe that a person may be a juvenile victim of trafficking referred to in subparagraph (C)(ii)(I) shall notify the Secretary of Health and Human Services not later than 72 hours after the official first learns that the person may be a juvenile victim of trafficking for the purpose of facilitating the provision of interim assistance under subparagraph (F).".

(b) TRAINING OF GOVERNMENT PERSONNEL.—Subsection (c)(4) of such section is amended—

(1) by striking "and the Department of Justice" and inserting ", the Department of Homeland Security, and the Department of Health and Human Services";

(2) by inserting before the period at the end the following: ", including the identification of juvenile victims of trafficking"; and

(3) by adding at the end the following new sentence: "The Attorney General and the Secretary of Heath and Human Services shall provide education and guidance to State and local officials on the identification of aliens who are the victims of severe

forms of trafficking, and in particular child victims of trafficking, including education and guidance on the requirements of subsection (b)(1)(G)(ii).''.

SEC. 214. ENSURING ASSISTANCE FOR ALL VICTIMS OF TRAFFICKING IN PERSONS.

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

(1) ASSISTANCE FOR UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS.—Section 107 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105) is amended by adding at the end the following:

''(h) 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, are authorized to establish a program to provide assistance to citizens of the United States, and aliens who are 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 types of assistance that would be most beneficial for such victims, the Secretary of Health and

Human Services 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 such other specialized services as may be required for victims described in paragraph (1), the program established pursuant to paragraph (1) shall facilitate communication and coordination between the providers of assistance to such victims, and provide a means of identifying such providers and making 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.—The Secretary of Health and Human Services and the Attorney General may make grants to States, Indian tribes, units of local government, and non-profit, nongovernmental victims' service organizations to develop, expand, and strengthen victim service programs authorized under this subsection. 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.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 113 of such Act (22 U.S.C. 7110) is amended—

(A) in subsection (b), by adding at the end the following new sentence: ''To carry out the purposes of section 107(h), there are authorized to be appropriated to the Secretary of Health and Human Services $2,500,000 for fiscal year 2008, $5,000,0000 for fiscal year 2009, $10,000,000 for fiscal year 2010, and $15,000,000 for fiscal year 2011.''; and

(B) in subsection (d), by adding at the end the following new sentence: ''To carry out the purposes of section 107(h), there are authorized to be appropriated to the Attorney General $2,500,000 for fiscal year 2008, $5,000,0000 for fiscal year 2009, $10,000,000 for fiscal year 2010, and $15,000,000 for fiscal year 2011.''.

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

''(ii) five 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.''.

(b) ASSISTANCE FOR POTENTIAL VICTIMS OF TRAFFICKING AND RELATED CRIMES.—

(1) VICTIMS OF CRIME ACT.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.)) is amended by inserting after section 1404E the following new section:

''SEC. 1404F. VICTIMS OF COMMERCIAL SEXUAL EXPLOITATION AND OTHER CRIMES.

''Notwithstanding any statutory or regulatory limitation on providing assistance for offender rehabilitation or for any individual who may have violated Federal or State law, and except as provided in sections 1404B and 1404C, in this chapter the terms 'victim', 'crime victim', and 'victim of crime' include an individual who is exploited or otherwise victimized by any person who is in violation of an offense described by chapter 117 of title 18, United States Code, or section 1328 of title 8, United States Code, or any similar offense under State law, regardless of whether such offense involves participation by such individual in any commercial sex act (as defined in section 2429 of title 18, United States Code).''.

(2) USE OF EXISTING PROGRAMS.—The President is authorized to facilitate communication and

coordination between the providers of assistance to persons victimized in cases brought under chapter 117 of title 18, United States Code, and to provide a means of identifying such providers and making 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) EFFECT ON OTHER PROGRAMS.—Nothing in this section or the amendments made by this section shall derogate from the programs for victims of sexual abuse or commercial sexual exploitation or survivors of sexual abuse or commercial sexual exploitation authorized by section 202 of the Trafficking Victims Protection Reauthorization of 2005.

(c) PARTNERSHIPS AMONG ORGANIZATIONS.—Beginning not later than 120 days after the date of the enactment of this Act, all applications for grants made by the Attorney General or the Secretary of Health and Human Services to States, Indian tribes, units of local government, and nonprofit, nongovernmental victims' service organizations to establish or maintain assistance programs for victims of severe forms of trafficking in persons or sex trafficking that occurs, in whole or in part, within the territorial jurisdiction of the United States shall include a

statement by the applicant of whether the services will be available to both United States citizens and foreign trafficking victims, or if the applicant intends to specialize in serving a particular victim population, what referral mechanisms or collaborative relationships they will undertake to ensure that all victims are assisted regardless of alienage. The statement required by this section will not be used to make a determination regarding the award of the grant.

(d) STUDY.—

(1) REQUIREMENT.—Not later than one year after the date of the enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall submit to the appropriate congressional committees a report identifying the existence or extent of any service gap between foreign and United States citizen victims of severe forms of trafficking and victims of sex trafficking, as defined in section 103 of the Trafficking Victims Protection Act of 2000.

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

(A) investigate factors relating to the legal ability of foreign and United States citizen vic-

tims of trafficking 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 foreign and United States citizen victims of trafficking to government-funded social services in general;

(C) investigate any impediments to the access of foreign and United States citizen victims of trafficking to government-funded services targeted to victims of severe forms of trafficking and victims of sex 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 foreign and United States citizen victims of trafficking; and

(E) include findings, best practices, and recommendations based on the study of the ele-

ments in subparagraphs (A) through (D) and any other related information.

Subtitle C—Penalties Against Traffickers and Other Crimes

SEC. 221. ENHANCING TRAFFICKING AND OTHER RELATED OFFENSES.

(a) TRANSFER AND MODIFICATION OF SECTION 1591.—

(1) NEW SECTION.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§ 2429. Aggravated sex trafficking

''(a) Whoever knowingly—

''(1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, 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 will be used to cause the person to engage in a commercial sex act, or, in the case of a person who has not attained the age of 18 years,

that the person will be caused to engage in a commercial sex act, or attempts to do so, shall be punished as provided in subsection (b).

"(b) In a prosecution under this subsection, the Government need not prove that the defendant knew that the person had not attained the age of 18 years.

"(c) The punishment for an offense under this section is—

"(1) if the offense was effected by force, fraud, or coercion or if the person recruited, enticed, harbored, transported, provided, or obtained had not attained the age of 14 years at the time of such offense, by a fine under this title and imprisonment for any term of years not less than 15 or for life; or

"(2) if the offense was not so effected, and the person recruited, enticed, harbored, transported, provided, or obtained 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 and imprisonment for not less than 10 years or for life.

"(d)(1) Section 1593 (relating to mandatory restitution) applies to an offense under this section to the same

extent and in the same manner as it applies to an offense under chapter 77.

"(2) Section 1595 (relating to civil remedy) applies with respect to a violation of this section to the same extent and in the same manner it applies to a violation of a section to which section 1595 is made applicable by section 1595.

"(e) 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; and

"(3) the term 'venture' means any group of two or more individuals associated in fact, whether or not a legal entity.".

(2) REPEAL OF TRANSFERRED SECTION.—Section 1591 of title 18, United States Code, is repealed.

(3) ELIMINATION OF CROSS REFERENCES TO REPEALED SECTION.—

(A) Section 1594 of title 18, United States Code, is amended by striking ''1590, or 1591'' and inserting ''or 1591''.

(B) Section 1595 of title 18, United States Code, is amended by striking '', 1590, or 1591'' and inserting ''or 1591''.

(4) CLERICAL AMENDMENTS TO TABLES OF SECTIONS.—

(A) The table of sections for chapter 77 of title 18, United States Code, is amended by striking the item relating to section 1591.

(B) The table of sections for chapter 117 of title 18, United States Code, is amended by adding at the end the following new item:

''2429. Aggravated sex trafficking.''.

(5) CHANGE IN CHAPTER HEADINGS.—

(A) The heading for chapter 77 of title 18, United States Code, is amended to read as follows:

"CHAPTER 77—PEONAGE, SLAVERY, AND TRAFFICKING INTO SERVITUDE".

(B) The heading for chapter 117 of title 18, United States Code, is amended to read as follows:

"CHAPTER 117—SEX TRAFFICKING, SEX TOURISM, AND OTHER TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY".

(C) The table of chapters at the beginning of part I of title 18, United States Code, is amended—

(i) so that the item relating to chapter 77 reads as follows:

"77. Peonage, Slavery, and Trafficking into Servitude .....1581"; and

(ii) so that the item relating to chapter 117 reads as follows:

"117. Sex Trafficking, Sex Tourism, and Other Transportation for Illegal Sexual Activity ..... 2421".

(b) COMPELLED SERVICE.—

(1) IN GENERAL.—Section 1592 of title 18, United States Code, is amended to read as follows:

"§ 1592. Unlawful compelled service

"(a) GENERALLY.—Whoever knowingly, with intent to obtain or maintain the labor or services of a person

or to obtain or maintain a person for use in a commercial sex act (as defined in section 2429)—

"(1) 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 to prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person's ability to move or travel;

"(2) acts or fails to act, or threatens to do so, under color of official right;

"(3) blackmails another person; or

"(4) causes or exploits financial harm or a fear of financial harm on the part of that person;

shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) DEFINITION.—For purposes of this paragraph, 'financial harm' includes the factors set forth in section 892(b) of this title, and fees charged for foreign labor contracting activity, as defined in section 202(g) of the William Wilberforce Trafficking Reauthorization Act of 2007, that are not reasonably related to services provided to the foreign worker.".

(2) CLERICAL AMENDMENT.—The item relating to section 1592 in the table of sections at the begin-

ning of chapter 77 of title 18, United States Code, is amended to read as follows:

"1592.Unlawful compelled service.".

(c) RESTITUTION OF FORFEITED ASSETS.—(1) Section 1593(b) of title 18, United States Code, is amended by inserting at the end the following:

"(4) The distribution of proceeds among multiple victims in an order of restitution under this section shall govern the distribution of forfeited funds through the processes of remission or restoration under this section or any other statute that explicitly authorizes restoration or remission of forfeited property."

(2) Section 1594 of title 18, United States Code, is amended—

(A) in subsection (b), by striking "The court," and inserting "Subject to remission or restoration, the court,"; and

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

"(3) The Attorney General shall grant restoration or remission of property to victims of an offense under this chapter that result in forfeiture under this section or under any other statute that explicitly authorizes restoration or remission of forfeited property.

"(4) In a prosecution brought under any other provision of Federal law, the Attorney General may grant res-

toration or remission of property to victims of severe forms of trafficking as defined in section 103 of the Trafficking Victims Protection Act of 2000, in accordance with section 1594(b)(4).''.

(d) ENHANCEMENT OF CIVIL ACTION.—Section 1595 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) by striking ''of section 1589, 1590, or 1591''; and

(B) by inserting ''(or any person who knowingly benefits, financially or by receiving anything of value from participation in a venture which has engaged in an act in violation of this chapter)'' after ''perpetrator''.

(2) by adding at the end the following:

''(c) No action shall be maintained under this section unless it is commenced within 10 years after the cause of action arose.''.

(e) RETALIATION IN FOREIGN LABOR CONTRACTING.—Title 18, United States Code, is amended—

(1) in section 1512(a)(2)—

(A) by striking ''or'' at the end of subparagraph (B);

(B) by striking ''proceedings;'' at the end of subparagraph (C) and inserting ''proceedings; or''; and

(C) by inserting immediately after subparagraph (C) the following:

''(D) hinder, delay or prevent the disclosure of information concerning a violation with respect to aliens of the requirements of an employment-based visa or any Federal labor or employment law;'';

(2) in section 1512(b)—

(A) by striking ''or'' at the end of paragraph (2);

(B) by striking ''proceedings;'' at the end of paragraph (3) and inserting ''proceedings; or''; and

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

''(4) hinder, delay, or prevent the cooperation of any person in an investigation or other proceeding concerning compliance with respect to aliens with the requirements of employment-based visas or any Federal labor or employment law;'';

(3) in section 1513(b)—

(A) by striking ''or'' at the end of paragraph (1);

(B) by inserting ''or'' at the end of paragraph (2); and

(C) by inserting immediately after paragraph (2) the following:

''(3) hinder, delay, or prevent the cooperation of any person in an investigation or other proceeding concerning compliance with respect to aliens with the requirements of employment-based visas or any other Federal labor or employment law;''; and

(4) in section 1515(a)—

(A) by striking ''and'' at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting ''; and''; and

(C) by adding at the end the following:

''(7) the term 'employment-based visa' means a nonimmigrant visa issued for the purpose of employment, student exchange employment, or job training in the United States, including those issued under subparagraph (A)(iii), (B)(i) (but only for domestic servants described in clause (i) or (ii) of section 274a.12(c)(17) of title 8, Code of Federal Regulations (as in effect on December 4, 2007)), (G)(v), (H), (J), (L), (Q), or (R) of section 101(a)(15) of the Immigration and Nationality Act.''.

(f) SEX TRAFFICKING.—

(1) NEW OFFENSE.—Chapter 117 of title 18, United States Code, is amended by inserting at the end the following:

"§ 2430. Sex trafficking

''Whoever knowingly, in or affecting interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or in any territory or possession of the United States, persuades, induces, or entices any individual to engage in prostitution for which any person can be charged with an offense, or attempts to do so, shall be fined under this title or imprisoned not more than 10 years, or both''.

(2) AMENDMENT TO THE TABLE OF SECTIONS.—The table of sections at the beginning of chapter 117 of title 18, United States Code, is amended by inserting at the end the following new item:

''2430. Sex trafficking.''.

(g) SEX TOURISM.—

(1) GENERALLY.—Chapter 117 of title 18, United States Code, is amended by inserting at the end the following:

"§ 2431. Sex tourism

''(a) ARRANGING TRAVEL AND RELATED CONDUCT.—Whoever, for the purpose of commercial advan-

tage or private financial gain, knowingly arranges, induces, or procures the travel of a person in foreign commerce for the purpose of engaging in any commercial sex act (as defined in section 2429), or attempts to do so, shall be fined under this title, imprisoned not more than 10 years, or both.

"(b) INCREASED PENALTY FOR OFFENSES INVOLVING CHILDREN.—If the commercial sex act is with a person under 18 years of age, the maximum term of imprisonment for an offense under this section is 30 years.";

(2) AMENDMENT TO TABLE OF SECTIONS.—The table of sections at the beginning of chapter 117 of title 18, United States Code, is amended by inserting at the end the following new item:

"2431. Sex tourism.".

(h) AMENDMENT TO THE SENTENCING GUIDELINES.—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—

(1) to persons convicted of offenses created by this section other than those created by subsections (f) and (g), to ensure conformity with the United States Sentencing Guidelines, sections 2H4.1 (peonage offenses) and 2H4.2 (labor offenses); and

(2) to persons convicted of offenses created by subsection (f) or (g) of this section, to ensure conformity with the United States Sentencing Guidelines, sections 2G1.1 (promoting commercial sex acts with persons other than minors) and 2G1.3 (promoting commercial sex acts or prohibited sexual conduct with a minor, and related offenses.

SEC. 222. 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:

"§ 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 2429 if—

''(1) an alleged offender or victim of the offense 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 new item:

"1596. Additional jurisdiction in certain trafficking offenses.".

SEC. 223. AMENDMENT OF OTHER CRIMES RELATED TO TRAFFICKING.

(a) ALIENS ENTERING THE UNITED STATES.—

(1) IN GENERAL.—Section 278 of the Immigration and Nationality Act (8 U.S.C. 1328) is amended to read as follows:

"ALIENS IN PROSTITUTION

"SEC. 278. (a) GENERALLY.—Whoever, for the purposes of prostitution or for any other sexual activity for which any person can be charged with a criminal offense—

"(1) knowingly imports or attempts to import any alien; or

"(2) knowing or in reckless disregard of the fact that an individual is an alien who lacks lawful authority to come to, enter, or reside in the United States, knowingly holds, keeps, maintains, supports, employs, or harbors the individual in any place in the United States, including any building or any means of transportation, or attempts to do so,

shall be fined under title 18, United States Code, or imprisoned not more than 10 years, or both.

"(b) SPECIAL EVIDENTIARY RULE.—In all prosecutions under this section, the testimony of a husband or wife shall be admissible and competent evidence against each other.".

(2) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by amending the item relating to section 278 to read as follows:

"Sec. 278. Aliens in prostitution.".

(b) AMENDMENT TO THE SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of

1 title 28, United States Code, and in accordance with this
2 section, the United States Sentencing Commission shall
3 review and, if appropriate, amend the sentencing guide-
4 lines and policy statements applicable to persons convicted
5 of offenses created by this section to ensure conformity
6 with the United States Sentencing Guidelines, section
7 2H4.1 (peonage offenses) in violations involving a holding
8 under section 278(a)(2) of the Immigration and Nation-
9 ality Act (8 U.S.C. 1328(a)(2)), and section.2G1.1 other-
10 wise.

11 (c) IMBRA VIOLATIONS.—Section 833(d)(5)(B) of
12 the Violence Against Women and Department of Justice
13 Reauthorization Act of 2005 (Public Law 109–162) is
14 amended by striking ''interstate or foreign commerce, an
15 international marriage broker that, within the special mar-
16 itime and territorial jurisdiction of the United States, vio-
17 lates'' and inserting ''interstate or foreign commerce or
18 within the special maritime and territorial jurisdiction of
19 the United States, an international marriage broker that
20 violates''.

21 **SEC. 224. NEW MODEL STATUTE PROVIDED TO STATES.**

22 (a) NEW MODEL STATUTE.—The Attorney General
23 shall provide a new model law for State anti-trafficking
24 offenses that shall reflect all concepts relating to traf-
25 ficking in persons included in Chapters 77 and 117 of title

18, United States Code, as amended by this title, including crimes related to forced labor, sex trafficking, and related offenses, with the elements of force, fraud or coercion or age in sex trafficking used as the bases for aggravated crimes or sentencing enhancements

(b) DISTRIBUTION.—The model law described in subsection (a) shall be posted on the website of the Department of Justice and shall be distributed to the States and at the anti-trafficking conference described in section 201(a)(2) of the Trafficking Victims Protection Reauthorization Act of 2005 (42 U.S.C. 14044(a)).

(c) ADOPTION OF MODEL STATUTE.—

(1) ASSISTANCE.—The Attorney General shall provide assistance to States and local governments to adopt and apply the model law described in subsection (a).

(2) REPORT.—Not later than six months after the enactment of this Act, and annually thereafter, the Attorney General shall submit to the Committees on Foreign Affairs and the Judiciary of the House and the Committees on Foreign Relations and the Judiciary of the Senate a report describing the assistance provided pursuant to paragraph (1) and the results achieved by such assistance, including a list

of State and local governments that have adopted the model law.

Subtitle D—Activities of the United States Government

SEC. 231. ANNUAL REPORT BY THE ATTORNEY GENERAL.

Section 105(d)(7) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(d)(7)) is amended—

(1) in subparagraph (A)—

(A) by striking ''section 107(b)'' and inserting ''subsections (b) and (h) of section 107''; and

(B) by inserting ''the Attorney General,'' after ''the Secretary of Labor,'';

(2) in subparagraph (G), by striking ''and'' at the end;

(3) by redesignating subparagraph (H) as subparagraph (J); and

(4) by inserting after subparagraph (G) the following new subparagraphs:

''(H) activities by the Department of Defense to combat trafficking in persons, including educational efforts for and disciplinary actions taken against members of the United States Armed Forces, materials included in training of the armed forces of foreign coun-

tries, and 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) of this Act and any similar provision of 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, procurement of commercial sex acts, or 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, con-

sistent with Executive Order 13107 (December 10, 1998); and''.

SEC. 232. ANTI-TRAFFICKING SURVEY AND CONFERENCES.

(a) SURVEY.—Paragraph (1) of section 201(a) of the Trafficking Victims Protection Reauthorization Act of 2005 (42 U.S.C. 14044(a)) is amended by adding at the end the following:

''(C) ADDITIONAL REQUIREMENTS.—With respect to the study described in subparagraph (B)(ii), the Attorney General shall solicit on a biennial basis, beginning as soon as practicable after the date of the enactment of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007, requests for proposals for such a study from nongovernmental entities with expertise in the field of illegal economic activities and shall complete such study not later than one year after the date of the enactment of such Act.''

(b) ANNUAL CONFERENCE.—Paragraph (2)(A) of such section is amended—

(1) in the first sentence, by striking ''in consultation'' and inserting ''in coordination with the Secretary of State and in consultation''; and

(2) in clause (ii), by inserting before the semicolon at the end the following: ''and the use of existing Federal and State criminal laws that do not require force, fraud, or coercion as an element of a felony crime to prosecute such person.''.

SEC. 233. SENIOR POLICY OPERATING GROUP.

Section 206 of the Trafficking Victims Protection Reauthorization Act of 2005 (42 U.S.C. 14044d) is amended by striking '', as the department or agency determines appropriate,''.

SEC. 234. EFFORTS BY DEPARTMENTS OF JUSTICE AND LABOR TO COMBAT HUMAN TRAFFICKING.

(a) ACTIVITIES AT THE DEPARTMENT OF JUSTICE.—

(1) ROLE OF CRIMINAL DIVISION IN TRAFFICKING CASES.—

(A) REDESIGNATION.—The Child Exploitation and Obscenity Section of the Criminal Division of the Department of Justice shall be redesignated as the Sexual Exploitation and Obscenity Section.

(B) EXPANSION.—The Attorney General shall expand the responsibilities of the Innocence Lost Task Forces to incorporate situations involving adults who are sexually exploited

by persons in violation of offenses such as section 2430.

(C) RESPONSIBILITIES.—The chief of the section described in subsection (a) should work with other parts of the Department of Justice and State and local law enforcement to ensure effective prosecutions through the task force described in subparagraph (B).

(D) REFERENCES.—Any reference to the Child Exploitation and Obscenity Section of the Criminal Division in any law, regulation, rule, directive, instruction or other official United States Government document in effect on the date of enactment of this Act shall be deemed to refer to the Sexual Exploitation and Obscenity Section.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the activities of the Criminal Section of the Civil Rights Division relating to the 13th Amendment's prohibition of slavery and involuntary servitude.

(b) DEPARTMENT OF LABOR.—

(1) ESTABLISHMENT.—The Secretary of Labor shall establish within the Department of Labor a Coordinator to Combat Human Trafficking.

(2) DUTIES.—In addition to any other responsibilities that the Secretary of Labor may assign, the Coordinator shall have the following responsibilities:

(A) Ensure coordination of policies relating to victims of trafficking, both in the United States and abroad, among the various offices and components of the Department of Labor, including the Office of the Solicitor, the Employment Standards Administration, the Wage and Hour Division, the Bureau of International Labor Affairs, and the Office of Child Labor, Forced Labor, and Human Trafficking.

(B) Ensure improved communication and coordination with State labor agencies relating to trafficking in persons.

(C) Represent the Department at interagency mechanisms relating to trafficking in persons, including assisting appropriate high-level officials of the Department of Labor who are members of the Senior Policy Operating Group.

(D) Serve, in conjunction with the Coordinator to Combat Human Trafficking of the Department of Justice (established pursuant to subsection (a)), as the executive secretariat of

the Trafficking in Persons and Worker Exploitation Task.

(3) STAFF.—The Secretary of Labor shall ensure that the Coordinator has sufficient staff to carry out the duties described in paragraph (2).

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this subsection.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as affecting or derogating from the responsibilities of the Senior Policy Operating Group established by section 206 of the Trafficking Victims Protection Reauthorization Act of 2005.

(d) DEFINITION.—In this section, the term ''victim of trafficking'' has the meaning given the term in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102).

SEC. 235. 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,''.

SEC. 236. ENHANCING EFFORTS TO COMBAT THE TRAFFICKING OF CHILDREN.

(a) FINDINGS AND SENSE OF CONGRESS.—

(1) FINDINGS.—The Congress finds as follows:

(A) The United States Government currently estimates that up to 17,500 individuals are trafficked into the United States each year. Of these, some 50 percent are believed to be under the age of 18. Many of these children are victims of sex trafficking and are forced into prostitution and other exploitative activities in the United States.

(B) Despite the large number of children trafficked into the United States every year, the Department of Health and Human Services has identified an average of 20 children per year as trafficking victims through fiscal year 2006. This disparity between estimated and identified victims demonstrates that much more needs to be done in educating individuals who may be coming into contact with trafficked children.

(2) SENSE OF CONGRESS.—It is the sense of the Congress that, to the extent consistent with the treaties and other international agreements to which the United States is a party, and to the extent practicable, the United States Government should under-

take efforts to protect children from severe forms of trafficking and ensure that it does not repatriate children in Federal custody into settings that would threaten their life or safety.

(b) COMBATTING 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 State, in conjunction with the Secretary of Homeland Security 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 officials or employees 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 (c).

(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 (c).

(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 non-governmental organizations and other national and

international agencies and experts, to develop and implement best practices to ensure the safe and secure repatriation and reintegration of unaccompanied alien children into their country of nationality or of last habitual residence, including placement with their families or other sponsoring agencies.

(B) 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 Homeland Security, in conjunction with the Secretary of State and Secretary of Health and Human Services, 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 repatriate 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; and

(v) 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)).

(C) 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 (b)(2), shall be placed in removal proceedings under

1 section 240 of the Immigration and Nationality
2 Act (8 U.S.C. 1229a).
3 (c) COMBATTING CHILD TRAFFICKING AND EXPLOI-
4 TATION IN THE UNITED STATES.—
5 (1) CARE AND CUSTODY OF UNACCOMPANIED
6 ALIEN CHILDREN.—Consistent with section 462 of
7 the Homeland Security Act of 2002 (6 U.S.C. 279),
8 and except as otherwise provided under subsection
9 (b), the care and custody of all unaccompanied alien
10 children, including responsibility for their detention,
11 where appropriate, shall be the responsibility of the
12 Secretary of Health and Human Services.
13 (2) NOTIFICATION.—Each department or agen-
14 cy of the Federal Government shall notify the De-
15 partment of Health and Human services within 48
16 hours upon—
17 (A) the apprehension or discovery of an
18 unaccompanied alien child; or
19 (B) any claim or suspicion that an alien in
20 the custody of such department or agency is
21 under 18 years of age and is unaccompanied.
22 (3) TRANSFERS OF UNACCOMPANIED ALIEN
23 CHILDREN.—Any department or agency of the Fed-
24 eral Government that has an unaccompanied alien
25 child in its custody shall transfer the custody of such

child to the Secretary of Health and Human Services within 72 hours, except in the case of exceptional circumstances, upon a determination that such child is an unaccompanied alien child.

(4) AGE DETERMINATIONS.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall make an age determination for an alien described in paragraph (2)(B) and take whatever other steps are necessary to determine whether such alien is eligible for treatment under this section or section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(B) PROCEDURES.—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 permit the presentation of multiple forms of evidence, including the non-exclusive use of radiographs, to determine the age of the unaccompanied alien.

(d) 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 of Health and Human Services may consider danger to self, danger to the community, and risk of flight. Placement of child trafficking victims may include placement with competent adult victims of the same trafficking scheme in order to ensure continuity of care and support. A child shall not be placed in a

1 juvenile delinquency or other secure detention facil-
2 ity (as defined in section 103(12) of the Juvenile
3 Justice and Delinquency Prevention Act of 1974 (42
4 U.S.C. 5603(12)) absent a determination that the
5 child poses a danger to others or has been accused
6 of having committed a criminal offense.

7 (3) SAFETY AND SUITABILITY ASSESSMENTS.—

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

21 (B) HOME STUDIES.—Before placing the
22 child with an individual, the Secretary of
23 Health and Human Services shall determine
24 whether a home study is first necessary. A
25 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))), or 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. The Secretary of Health and Human Services shall conduct follow-up services, during the pendency of removal proceedings, on children and custodians for whom a home study was conducted.

(C) ACCESS TO INFORMATION.—Upon 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 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 (b)(2)(A), have competent 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 competent 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 children. A child advocate shall be provided access to mate-

rials 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 paragraph.

(e) 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 one or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law;'';

(B) in clause (iii), 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

(C) in clause (iii)(I), by striking ''in the actual or constructive custody of the Attorney General unless the Attorney General specifically consents to such jurisdiction;'' 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) 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)(C)(i)(I) of section 212(a) shall not apply; and''.

(3) ELIGIBILITY FOR ASSISTANCE.—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—

(A) 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

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

(4) 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).

(5) 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.

(6) 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).''.

(7) SPECIALIZED NEEDS OF CHILDREN.—Applications for asylum and other forms of relief from removal in which a child is the principal applicant shall be governed by regulations which take into account the specialized needs of children and which address both procedural and substantive aspects of handling children's cases.

(f) 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 who come into contact with unaccompanied alien children. Such personnel shall be trained to work with unaccompanied alien children, including identifying children who are a victim of a severe form of trafficking in persons, and children for whom asylum or special immigrant relief may be appropriate, including children described in subsection (b)(2).

(g) 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 the Homeland Security Act of 2002 (6 U.S.C. 279(b)) is 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.".

(h) 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)).

(i) EFFECTIVE DATE.—This section shall take effect on the date that is 90 days after the date of the enactment of this Act.

(j) 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).

SEC. 237. TEMPORARY INCREASE IN FEE FOR CERTAIN CONSULAR SERVICES.

(a) INCREASE IN FEE.—Notwithstanding any other provision of law, not later than October 1, 2008, the Secretary of State shall increase by $2.00 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), fees collected under the authority of 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 2 years after the date on which such fee is first collected.

TITLE III—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 301. TRAFFICKING VICTIMS PROTECTION ACT OF 2000.

Section 113 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7110) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by striking ''104,''; and

(ii) by striking ''$1,500,000'' and all that follows through ''2007'' and inserting ''$5,000,000 for each of the fiscal years 2008 through 2011''; and

(B) in the second sentence—

(i) by inserting ''$1,500,000 for additional personnel for each of the fiscal years 2008 through 2011'' after ''Office to Monitor and Combat Trafficking''; and

(ii) by striking ''2006 and 2007'' and inserting ''2008 through 2011'';

(2) in the first sentence of subsection (b), by striking ''$5,000,000'' and all that follows through

"2007" and inserting "$15,000,000 for each of the fiscal years 2008 through 2011";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "2004, 2005, 2006, and 2007" each place it appears and inserting "2008 through 2011";

(ii) in subparagraph (B)—

(I) by striking "$15,000,000" and inserting "$10,000,000"; and

(II) by adding at the end the following new sentence: "To carry out the purposes of section 107(a)(1)(F), there are authorized to be appropriated to the Secretary of State $500,000 for fiscal year 2008, $750,000 for fiscal year 2009, and $1,000,000 for each of the fiscal years 2010 and 2011."; and

(iii) in subparagraph (C), by inserting "(as added by section 109)" after "section 134 of the Foreign Assistance Act of 1961";

(B) by striking paragraph (2);

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

(D) in paragraph (2) (as redesignated by subparagraph (C))—

(i) by striking ''section 104'' and inserting ''sections 116(f) and 502B(h) of the Foreign Assistance Act of 1961 (as added by section 104)''; and

(ii) by striking '', including the preparation'' and all that follows through ''section'';

(4) in subsection (d)—

(A) in the first sentence, by striking ''$10,000,000'' and all that follows through ''2007'' and inserting ''$15,000,000 for each of the fiscal years 2008 through 2011''; and

(B) in the second sentence, by striking ''$250,000'' and all that follows through ''2007'' and inserting ''$500,000 for each of the fiscal years 2008 through 2011'';

(5) in subsection (e)—

(A) in paragraph (1), by striking ''$5,000,000'' and all that follows through ''2007'' and inserting ''$15,000,000 for each of the fiscal years 2008 through 2011'';

(B) in paragraph (2)—

(i) by striking ''section 109'' and inserting ''section 134 of the Foreign Assistance Act of 1961 (as added by section 109)''; and

(ii) by striking ''$5,000,000'' and all that follows through ''2007'' and inserting ''$15,000,000 for each of the fiscal years 2008 through 2011''; and

(C) in paragraph (3), by striking ''$300,000'' and all that follows through ''2007'' and inserting ''$1,000,000 for each of the fiscal years 2008 through 2011'';

(6) in subsection (f)—

(A) by striking ''section 107(b)'' and inserting ''section 107(b) of this Act and section 202(g) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007''; and

(B) by striking ''$5,000,000'' and all that follows through ''2007'' and inserting ''$15,000,000 for each of the fiscal years 2008 through 2011'';

(7) in subsection (h), by striking ''fiscal year 2006'' and inserting ''each of the fiscal years 2008 through 2011''; and

(8) in subsection (i), by striking ''$18,000,000'' and all that follows through ''2007'' and inserting ''$18,000,000 for each of the fiscal years 2008 through 2011''.

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 paragraph (7) of section 102(b), by striking ''2006 and 2007'' and inserting ''2008 through 2011'';

(2) in subsection (b) of section 105, by adding at the end the following new paragraph:

''(3) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated to the Secretary of Labor $1,000,000 for each of the fiscal years 2008 through 2011.'';

(3) in subsection (c) of section 201—

(A) in paragraph (1), by striking ''$2,500,000 for each of the fiscal years 2006 and 2007'' each place it appears and inserting

"$3,000,000 for each of the fiscal years 2008 through 2011"; and

(B) in paragraph (2), by striking "$1,000,000" and all that follows through "2007" and inserting "$1,000,000 for each of the fiscal years 2008 through 2011";

(4) in subsection (d) of section 202, by striking "$10,000,000" and all that follows through "2007" and inserting "$15,000,000 for each of the fiscal years 2008 through 2011";

(5) in subsection (g) of section 203, by striking "$5,000,000" and all that follows through "2007" and inserting "$5,000,000 for each of the fiscal years 2008 through 2011"; and

(6) in subsection (d) of section 204, by striking "$25,000,000" and all that follows through "2007" and inserting "$25,000,000 for each of the fiscal years 2008 through 2011".

SEC. 303. RULE OF CONSTRUCTION.

The amendments made by sections 301 and 302 shall 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.

SEC. 304. TECHNICAL AMENDMENTS.

(a) TRAFFICKING VICTIMS PROTECTION ACT OF 2000.—Sections 103(1) and 105(d)(7) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(1) and 7103(d)(7)) are amended by striking ''Committee on International Relations'' each place it appears and inserting ''Committee on Foreign Affairs''.

(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''.

TITLE IV—PREVENTION OF THE USE OF CHILD SOLDIERS

SEC. 401. SHORT TITLE.

This title may be cited as the ''Child Soldier Prevention Act of 2007''.

SEC. 402. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Foreign Affairs of the House of Representatives; and

(B) the Committee on Foreign Relations of the Senate.

(2) CHILD SOLDIER.—Consistent with the provisions of the Optional Protocol, the term ''child soldier''—

(A) means—

(i) any person under age 18 who takes a direct part in hostilities as a member of governmental armed forces, where the government has failed to take all feasible measures to ensure that members of its armed forced under age 18 do not take a direct part in hostilities;

(ii) any person under age 18 who has been compulsorily recruited into governmental armed forces;

(iii) any person under age 16 voluntarily recruited into governmental armed forces; and

(iv) any person under age 18 recruited or used in hostilities by armed forces distinct from the armed forces of a state, where the government has failed to take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices; and

(B) includes any person described in clauses (ii), (iii), and (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.

(3) OPTIONAL PROTOCOL.—The term ''Optional Protocol'' means the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, which establishes 18 as the minimum age for conscription or forced recruitment and requires states party to take all feasible measures to ensure that members of their armed forces under the age of 18 do not take a direct part in hostilities

(4) UNITED STATES MUNITIONS LIST.—The term ''United States Munitions List'' means the list

referred to in section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1)).

SEC. 403. FINDINGS.

Congress makes the following findings:

(1) According to the September 7, 2005, report to the General Assembly of the United Nations by the Special Representative of the Secretary-General for Children and Armed Conflict, ''In the last decade, two million children have been killed in situations of armed conflict, while six million children have been permanently disabled or injured. Over 250,000 children continue to be exploited as child soldiers and tens of thousands of girls are being subjected to rape and other forms of sexual violence.''.

(2) According to the Center for Emerging Threats and Opportunities (CETO), Marine Corps Warfighting Laboratory, ''The Child Soldier Phenomenon has become a post-Cold War epidemic that has proliferated to every continent with the exception of Antarctica and Australia.''.

(3) Many of the children currently serving in armed forces or paramilitaries were forcibly conscripted through kidnapping or coercion, a form of human trafficking, while others joined military units

due to economic necessity, to avenge the loss of a family member, or for their own personal safety.

(4) Some military and militia commanders force child soldiers to commit gruesome acts of ritual killings or torture, including acts of violence against other children.

(5) Many female child soldiers face the additional psychological and physical horrors of rape and sexual abuse, enslavement for sexual purposes by militia commanders, and severe social stigma should they return home.

(6) Some military and militia commanders target children for recruitment because of their psychological immaturity and vulnerability to manipulation and indoctrination. Children are often separated from their families in order to foster dependence on military units and leaders. Consequently, many of these children suffer from deep trauma and are in need of psychological counseling and rehabilitation.

(7) Child soldiers are exposed to hazardous conditions and are at risk of physical injury and disability, psychological trauma, sexually transmitted diseases, respiratory and skin infections, and often death.

(8) On May 25, 2000, the United Nations adopted and opened for signature, ratification, and accession the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.

(9) On June 18, 2002, the Senate unanimously approved the resolution advising and consenting to the ratification of the Optional Protocol.

(10) On December 23, 2002, the United States presented the ratified Optional Protocol to the United Nations.

(11) More than 110 governments worldwide have ratified the Optional Protocol, establishing a clear international norm concerning the use of children in combat.

(12) On December 2, 1999, the United States ratified International Labour Convention 182, the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which includes the use of child soldiers among the worst forms of child labor.

(13) On October 7, 2005, the Senate gave its advice and consent to the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,

Supplementing the United Nations Convention Against Transnational Organized Crime.

(14) It is in the national security interest of the United States to reduce the chances that members of the United States Armed Forces will be forced to encounter children in combat situations.

(15) Section 502B(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(3)) provides that ''the President is directed to formulate and conduct international security assistance programs of the United States in a manner which will promote and advance human rights and avoid identification of the United States, through such programs, with governments which deny to their people internationally recognized human rights and fundamental freedoms, in violation of international law or in contravention of the policy of the United States as expressed in this section or otherwise''.

SEC. 404. 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 in hostilities;

(2) the United States Government should support and, where practicable, lead efforts to establish and uphold international standards designed to end this abuse of human rights;

(3) the United States Government should expand ongoing services to rehabilitate recovered child soldiers and to reintegrate them back into their communities by—

(A) offering ongoing psychological services to help victims recover from their trauma and relearn how to deal with others in nonviolent ways such that they are no longer a danger to their community, 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 their communities through negotiations with traditional leaders and elders to enable recovered abductees to resume normal lives in their communities; and

(C) providing educational and vocational assistance;

(4) the United States should work with the international community, including, where appro-

priate, third country governments, nongovernmental organizations, faith-based organizations, United Nations agencies, local governments, labor unions, and private enterprise—

(A) on efforts to bring to justice rebel organizations that kidnap children for use as child soldiers, including the Lord's Resistance Army (LRA) in Uganda, Fuerzas Armadas Revolucionarias de Colombia (FARC), and Liberation Tigers of Tamil Eelam (LTTE) in Sri Lanka, including, where feasible, by arresting the leaders of such groups; and

(B) on efforts to recover those children who have been abducted and to assist them in their rehabilitation and reintegration into communities;

(5) the Secretary of State, the Secretary of Labor, and the Secretary of Defense should coordinate programs to achieve the goals specified in paragraph (3), and in countries where the use of child soldiers is an issue, whether or not it is supported or sanctioned by the governments of such countries, United States diplomatic missions should include in their mission program plans a strategy to achieve the goals specified in such paragraph;

(6) United States diplomatic missions in countries in which governments use or tolerate child soldiers should develop, as part of annual program planning, strategies to promote efforts to end this abuse of human rights, identifying and integrating global best practices, as available, into such strategies to avoid duplication of effort; and

(7) 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 deemed to promote the end to this abuse of human rights.

SEC. 405. PROHIBITION ON PROVISION OF MILITARY ASSISTANCE TO FOREIGN GOVERNMENTS THAT RECRUIT OR USE CHILD SOLDIERS.

(a) IN GENERAL.—Subject to subsections (b), (c), and (d), none of the funds made available to carry out sections 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 be used to provide assistance to the government of a country that the Secretary of State determines has governmental armed forces or government supported armed groups, including

paramilitaries, militias, or civil defense forces, that recruit or use child soldiers.

(b) PUBLICATION OF LIST OF FOREIGN GOVERNMENTS AND NOTIFICATION TO FOREIGN GOVERNMENTS.—

(1) PUBLICATION OF LIST OF FOREIGN GOVERNMENTS.—The Secretary of State shall include a list of the foreign governments subject to the prohibition in subsection (a) in the report required by section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)).

(2) NOTIFICATION TO FOREIGN GOVERNMENTS.—The Secretary of State shall formally notify each foreign government subject to the prohibition in subsection (a).

(c) NATIONAL INTEREST WAIVER.—

(1) WAIVER.—The President may waive the application to a foreign government of the prohibition in subsection (a) if the President determines that such waiver is in the interest of the United States.

(2) PUBLICATION AND NOTIFICATION.—The President shall publish each waiver granted under paragraph (1) in the Federal Register and shall notify the appropriate congressional committees of each such waiver, including the justification for the

waiver, in accordance with the regular notification procedures of such committees.

(d) REINSTATEMENT OF ASSISTANCE.—The President may provide to a foreign government assistance otherwise prohibited under subsection (a) upon certifying to the appropriate congressional committees that the foreign government—

(1) has implemented effective measures to come into compliance with the standards of this title; and

(2) has implemented effective policies and mechanisms to prohibit and prevent future use of child soldiers and to ensure that no children are recruited, conscripted, or otherwise compelled to serve as child soldiers.

(e) EXCEPTIONS.—

(1) ASSISTANCE TO ADDRESS THE PROBLEM OF CHILD SOLDIERS AND PROFESSIONALIZATION OF THE MILITARY.—

(A) IN GENERAL.—The President may provide to a foreign government assistance under section 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347; relating to international military education and training) otherwise prohibited under subsection (a) upon certi-

fying to the appropriate congressional committees that—

(i) the government is implementing effective measures to demobilize child soldiers in its forces or in government supported paramilitaries and to provide demobilization, rehabilitation, and reintegration assistance to those former child soldiers; and

(ii) the assistance provided by the United States Government to the government will go to programs that will directly support professionalization of the military.

(B) LIMITATION.—The exception under subparagraph (A) may not remain in effect for more than 2 years following the date of notification specified in subsection (b)(2).

(2) ASSISTANCE FOR DEMINING ACTIVITIES, THE CLEARANCE OF UNEXPLODED ORDINANCE, THE DESTRUCTION OF SMALL ARMS, AND RELATED ACTIVITIES.—The President may use funds made available under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to credit sales) to provide to a foreign government assistance otherwise prohibited under subsection (a) if the purpose of the

assistance is to carry out demining activities, the clearance of unexploded ordinance, the destruction of small arms, or related activities.

(3) ASSISTANCE TO FURTHER COOPERATION WITH THE UNITED STATES TO COMBAT INTERNATIONAL TERRORISM.—The President may provide to a foreign government assistance under any provision of law specified in subsection (a) if the purpose of the assistance is specifically designed to further cooperation between the United States and the foreign government to combat international terrorism.

(f) EFFECTIVE DATE; APPLICABILITY.—This section takes effect 180 days after the date of the enactment of this Act and shall apply to funds made available for the first fiscal year beginning after such effective date and each subsequent fiscal year.

SEC. 406. REPORTS.

(a) PREPARATION OF REPORTS REGARDING CHILD SOLDIERS.—The Secretary of State shall ensure that United States missions abroad thoroughly investigate reports of the use of child soldiers in the countries in which such missions are located.

(b) INFORMATION FOR ANNUAL HUMAN RIGHTS REPORTS.—In preparing those portions of the Department of State's annual Country Reports on Human Rights

Practices that relate to child soldiers, the Secretary of State shall ensure that such portions 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) NOTIFICATION TO CONGRESS.—Not later than June 15 of each year for 10 years following the date of the enactment of this Act, the President shall submit to the appropriate congressional committees—

(1) a list of any waivers or exceptions exercised under section 405;

(2) a justification for those waivers and exceptions; and

(3) a description of any assistance provided pursuant to section 405.

(d) REPORT ON IMPLEMENTATION OF TITLE.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to appropriate congressional committees a report setting forth a strategy for achieving the policy objectives of this title, including a description of an effective mechanism for coordination of

United States Government efforts to implement this strategy.

(e) REPORT ON CHILD SOLDIERS IN BURMA.—Not later than 120 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report of the recruitment and use of child soldiers by the governmental armed forces or government-supported armed groups of the Government of Burma, including paramilitaries, militias, or civil defense forces.

SEC. 407. 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 new subsection:

''(c) The Secretary of State, with the assistance of other relevant officials, shall establish as part of the standard training provided after January 1, 2008, for members of the Service, including chiefs of mission, instruction on matters related to child soldiers and the terms of the Child Soldier Prevention Act of 2007.''.

Passed the House of Representatives December 4, 2007.

Attest: LORRAINE C. MILLER,

Clerk.