

ENHANCING DETECTION OF HUMAN TRAFFICKING ACT

JANUARY 25, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Ms. FOXX, from the Committee on Education and the Workforce,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 443]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the bill (H.R. 443) to direct the Secretary of Labor to train certain employees of Department of Labor how to effectively detect and assist law enforcement in preventing human trafficking during the course of their official duties, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Enhancing Detection of Human Trafficking Act”.

SEC. 2. DEFINITION OF HUMAN TRAFFICKING.

In this Act, the term “human trafficking” means any act or practice described in paragraph (11) of section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102).

SEC. 3. TRAINING FOR DEPARTMENT PERSONNEL TO IDENTIFY HUMAN TRAFFICKING.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Labor shall implement a program to provide the training and periodic continuing education described in subsection (b) to employees of the Department of Labor whom the Secretary determines should receive such training or education based on their official duties. In making such determination with respect to employees of the Wage and Hour Division, the Secretary shall consider the training and education needs of such employees operating in a State with a significant in-

crease in oppressive child labor (as defined in section 3(l) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(l)).

(b) TRAINING AND CONTINUING EDUCATION DESCRIBED.—The training and continuing education provided under the program referred to in subsection (a)—

(1) may be conducted through in-class or virtual learning capabilities; and

(2) shall include—

(A) training or continuing education that—

(i) is most appropriate for the particular location or professional environment in which the employees receiving such training or continuing education perform their official duties;

(ii) covers topics determined by the Secretary of Labor to appropriately reflect current trends and best practices for such location or environment; and

(iii) includes—

(I) the provision of current information on matters related to the detection of human trafficking to the extent relevant to the official duties of such employees, and consistent with privacy laws;

(II) methods for identifying suspected victims of human trafficking and parties who may be suspected of the trafficking activity; and

(III) a clear course of action for referring potential cases of human trafficking to the Department of Justice and other appropriate authorities, in accordance with best practices for protecting the rights of victims of human trafficking, including appropriate collaboration with victim advocacy organizations, Federal agencies, and State and local officials; and

(B) an evaluation of the training or continuing education by such employees after the completion of such training or education.

SEC. 4. REPORTS TO CONGRESS.

Not later than 1 year after the Secretary of Labor first implements the program under section 3(a), and each year thereafter, the Secretary of Labor shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, a report on—

(1) the training and continuing education provided under the program for the preceding year, including—

(A) an evaluation (including the overall effectiveness) of such training and continuing education; and

(B) the number of individuals who have completed such training or continuing education; and

(2) the number of cases related to the detection of human trafficking, which were referred to the Department of Justice and other appropriate authorities during the preceding year by the Department of Labor, and the processes used by the Department of Labor to accurately measure and track the response of the Department of Justice and other appropriate authorities to such cases.

PURPOSE

H.R. 443, the *Enhancing Detection of Human Trafficking Act*, directs the Secretary of Labor to implement an education program for U.S. Department of Labor (DOL) personnel to detect and assist law enforcement effectively in preventing human trafficking during their official duties.

COMMITTEE ACTION

115TH CONGRESS

On May 25, 2017, Rep. Tim Walberg (R-MI) introduced H.R. 2664, the *Enhancing Detection of Human Trafficking Act*, with Rep. Gregorio Kilili Camacho Sablan (D-CNMI) as an original cosponsor. The bill was referred solely to the Committee on Education and the Workforce.

Legislative Action

On July 12, 2017, the House agreed by voice vote on a motion to suspend the rules and pass H.R. 2664, the *Enhancing Detection of Human Trafficking Act*.

118TH CONGRESS

On June 7, 2023, the Committee on Education and the Workforce held a hearing entitled “Examining the Policies and Priorities of the Department of Labor” to examine DOL’s Fiscal Year 2024 budget priorities and evaluate the effectiveness of its enforcement programs. The sole witness was the Honorable Julie A. Su, Acting Secretary of Labor, Washington, D.C. Rep. Walberg questioned Ms. Su about DOL’s efforts to eliminate instances of human trafficking.

Legislative Action

On January 20, 2023, Rep. Walberg introduced H.R. 443, the *Enhancing Detection of Human Trafficking Act*, with Reps. Sablan and Ann Wagner (R–MO) as original cosponsors. The bill was referred solely to the Committee on Education and the Workforce.

On January 10, 2024, the Committee considered H.R. 443 in legislative session and reported it favorably, as amended, to the House of Representatives by a recorded vote of 42–0. The Committee considered the following amendments to H.R. 443:

1. Rep. Walberg offered an Amendment in the Nature of a Substitute making technical changes. The amendment was adopted by voice vote.

2. Rep. Alma S. Adams (D–NC) offered an amendment adding the *Protecting Children Act*, which increases civil monetary penalties for child labor violations under the *Fair Labor Standards Act* and increases the capacity of workforce protection agencies to reduce child labor. Rep. Walberg insisted on a point of order that the subject matter of the amendment was not germane to the underlying bill, which was sustained by Chairwoman Virginia Foxx (R–NC). Ranking Member Robert C. “Bobby” Scott (D–VA) challenged the ruling of the chair, which Rep. Walberg moved to table, and the motion to table passed by voice vote.

3. Rep. Ilhan Omar (D–MN) offered an amendment to clarify that the Secretary of Labor shall consider the training and education needs of Wage and Hour Division (WHD) employees operating in a state with a significant increase in child labor. The amendment also clarified that training and education with respect to referrals to the Department of Justice (DOJ) shall be done in accordance with best practices for protecting the rights of human trafficking victims, including collaboration with victim advocacy organizations, federal agencies, and state and local officials. The amendment was adopted by voice vote.

4. Rep. Donald Norcross (D–NJ) offered and withdrew an amendment to ensure that DOL reports suspected trafficking cases to relevant state and local business and professional licensing bodies.

COMMITTEE VIEWS

INTRODUCTION

H.R. 443 establishes a requirement that DOL provide education to its personnel so that they can effectively detect and assist law enforcement in preventing human trafficking during their official duties.

INSTANCES OF HUMAN TRAFFICKING

The prevailing federal law on human trafficking, the *Trafficking Victims Protection Act of 2000* (TVPA),¹ recognizes two primary forms of human trafficking: sex trafficking and forced labor. Specifically, the TVPA defines human trafficking as “sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age” or “the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”²

According to the United Nations’ International Labour Organization, there were 27.6 million victims of forced labor across the globe on any given day in 2021.³ The United States is also experiencing a high rate of trafficking within its own borders. The National Human Trafficking Hotline’s most recent data show there were 10,360 trafficking cases in the United States during 2021.⁴ Further, the National Center for Missing and Exploited Children reports that roughly one in six endangered runaways—missing children under the age of 18—are likely victims of child sex trafficking.⁵

DOL’S PROCEDURES TO DETECT HUMAN TRAFFICKING IN THE UNITED STATES

While DOL agencies are statutorily unable to undertake prosecutions, they still play an important role in combatting trafficking. In the course of their duties to enforce employment laws, DOL personnel from agencies including WHD and the Occupational Safety and Health Administration may find potential instances of trafficking. When personnel uncover such instances, DOL refers them to DOJ, DOL’s Office of Inspector General, and other relevant law enforcement agencies that can prosecute traffickers.

WHD specifically provides education to its enforcement personnel to detect instances of trafficking. This education helps personnel to identify certain “red flags” that indicate the likelihood of trafficking. Such “red flags” include: (1) attempts to restrict individuals’ movement, (2) large groups of individuals gathered in workplaces or housing arrangements, (3) confiscation of personal identi-

¹ 22 U.S.C. §§ 7101–7115.

² *Id.* § 7102(11).

³ INT’L LAB. ORG., GLOBAL ESTIMATES OF MODERN SLAVERY—FORCED LABOUR AND FORCED MARRIAGE (Sept. 2022), https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_854733.pdf.

⁴ NAT’L HUM. TRAFFICKING HOTLINE, NATIONAL STATISTICS (2021), <https://humantraffickinghotline.org/en/statistics>.

⁵ NAT’L CTR. FOR MISSING & EXPLOITED CHILDREN, <https://www.missingkids.org/ourwork/impact>.

fication, (4) direct threats to individuals, (5) paying wages that are less than those that were agreed upon, and (6) a disproportionate amount of money withheld from wages. WHD provides this education as personnel are hired and through continuing education. However, WHD cannot attest to whether it provides its continuing education on an annual basis.

LACK OF DATA ON THE OUTCOMES OF DOL-REFERRED CASES

Currently, DOL does not provide information to Congress or the public about the potential trafficking cases it refers to DOJ and other law enforcement agencies, including even the raw number of cases it refers. Further, DOJ and other law enforcement agencies do not consistently provide DOL with information about the outcomes of these referrals. This lack of data may leave DOL agencies without a clear understanding of the effectiveness of their trafficking detection curricula.

CONCLUSION

More must be done to raise awareness of human trafficking and protect the most vulnerable in the United States. H.R. 443 takes an important step by ensuring federal employees within DOL who are more likely to come across cases of human trafficking have the knowledge to identify these crimes and the tools they need to respond. DOL employees are often on the front lines of human trafficking as they investigate workplace violations. This legislation will ensure DOL employees are educated to recognize patterns of human trafficking and refer cases to law enforcement.

SUMMARY

H.R. 443 SECTION-BY-SECTION SUMMARY

Section 1. Short title

Section 1 provides that the short title is “Enhancing Detection of Human Trafficking Act.”

Section 2. Definition of human trafficking

Section 2 provides that the term “human trafficking” means any act or practice described in section 103 of the TVPA (22 U.S.C. § 7102).

Section 3. Training for Department personnel to identify human trafficking

Section 3 directs that, not later than 180 days after the bill’s enactment, the Secretary of Labor shall implement an education program for departmental personnel to detect instances of trafficking more effectively during their investigative work. Such educational courses, whether provided through in-class or virtual learning, shall be provided to personnel as they learn about their duties and through continuing education. Curricula should cover the current trends and best practices that personnel may find during the course of their investigative duties. Additionally, this education should provide personnel with a clear course of action for referring potential cases of human trafficking to DOJ and other appropriate authorities. Finally, Section 3 creates an evaluation process for

those employees educated to provide an evaluation of the course work following its completion.

Section 4. Reports to Congress

Section 4 directs that not later than one year after the Secretary of Labor implements the education program and each year thereafter, he or she will report to the House Committee on Education and the Workforce and the Senate Committee on Health, Education, Labor, and Pensions on the education provided under the program during the preceding year and on the number of cases referred during the preceding year to DOJ and other appropriate law enforcement agencies by DOL in which human trafficking was suspected. When reporting on the education provided in the preceding year, the Secretary shall include information about the overall effectiveness of the education and the number of individuals who were educated.

EXPLANATION OF AMENDMENTS

The amendments, including the amendment in the nature of a substitute, are explained in the body of this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. H.R. 443 requires training for Department of Labor employees to identify human trafficking and requires reporting on human trafficking cases referred by the Department of Labor to the Department of Justice and therefore it does not apply to the Legislative Branch.

UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the Congressional Budget and Impoundment Control Act of 1974, Pub. L. No. 93–344 (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act of 1995, Pub. L. No. 104–4), the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office (CBO) pursuant to section 402 of the Congressional Budget and Impoundment Control Act of 1974.

EARMARK STATEMENT

H.R. 443 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of House rule XXI.

ROLL CALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amendments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against.

Date: 1/10/24

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 7

Bill: H.R. 443

Amendment Number: n/a

Disposition: Adopted by a Full Committee Roll Call Vote (42 y – 0 n)

Sponsor/Amendment: Rep. Walberg / ANSHR443/ Motion to Report

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mrs. FOXX (NC) (Chairwoman)	X			Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)	X			Mr. GRIJALVA (AZ)	X		
Mr. THOMPSON (PA)	X			Mr. COURTNEY (CT)	X		
Mr. WALBERG (MI)	X			Mr. SABLON (MP)	X		
Mr. GROTHMAN (WI)	X			Ms. WILSON (FL)			X
Ms. STEFANIK (NY)	X			Ms. BONAMICI (OR)	X		
Mr. ALLEN (GA)	X			Mr. TAKANO (CA)	X		
Mr. BANKS (IN)	X			Ms. ADAMS (NC)	X		
Mr. COMER (KY)			X	Mr. DESAULNIER (CA)	X		
Mr. SMUCKER (PA)	X			Mr. NORCROSS (NJ)	X		
Mr. OWENS (UT)	X			Ms. JAYAPAL (WA)	X		
Mr. GOOD (VA)	X			Ms. WILD (PA)	X		
Mrs. MCCLAIN (MI)	X			Ms. MCBATH (GA)	X		
Mrs. MILLER (IL)	X			Mrs. HAYES (CT)	X		
Mrs. STEEL (CA)	X			Ms. OMAR (MN)	X		
Mr. ESTES (KS)	X			Ms. STEVENS (MI)	X		
Ms. LETLOW (LA)	X			Ms. LEGER FERNÁNDEZ (NM)	X		
Mr. KILEY (CA)	X			Ms. MANNING (NC)	X		
Mr. BEAN (FL)	X			Mr. MRVAN (IN)	X		
Mr. BURLISON (MO)	X			Mr. BOWMAN (NY)			X
Mr. MORAN (TX)	X						
Mr. JAMES (MI)	X						
Ms. CHAVEZ-DEREMER (OR)	X						
Mr. WILLIAMS (NY)	X						
Ms. HOUGHIN (IN)	X						

TOTALS: Ayes: 42

Nos: 0

Not Voting: 3

Total: 45 / Quorum: 42/ Report:

(25 R - 20 D)

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause (3)(c) of House rule XIII, the goal of H.R. 443, the *Enhancing Detection of Human Trafficking Act*, is for the Secretary of Labor to implement an education program for DOL personnel to detect instances of trafficking more effectively during their investigative work.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 443 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the committee’s oversight findings and recommendations are reflected in the body of this report.

REQUIRED COMMITTEE HEARING

In compliance with clause 3(c)(6) of rule XIII the following hearing held during the 118th Congress was used to develop or consider H.R. 443: On June 7, 2023, the Committee on Education and the Workforce held a hearing entitled “Examining the Policies and Priorities of the Department of Labor”.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for H.R. 443 from the Director of the Congressional Budget Office:

H.R. 443, Enhancing Detection of Human Trafficking Act			
As ordered reported by the House Committee on Education and the Workforce on January 10, 2024			
By Fiscal Year, Millions of Dollars	2024	2024-2028	2024-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 443 would require the Department of Labor (DOL) to train its employees on how to identify human trafficking and refer potential cases to law enforcement. The bill would allow the department to determine which employees should receive the training. Additionally, DOL would need to report to the Congress on training and referral activities.

Because DOL currently provides this type of training to many employees, CBO estimates that implementing H.R. 443 would cost less than \$500,000 over the 2024–2028 period. Any spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Meredith Decker. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 443. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when, as with the present report, the Committee adopts as its own the cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 443, as reported by the Committee, makes no changes in existing law.

MINORITY VIEWS

INTRODUCTION

Far too many people—including children—continue to be forced to work in abusive, unsafe, and unlawful working conditions at the hands of criminals and unscrupulous employers. Committee Democrats have consistently championed efforts to end human trafficking and unanimously supported H.R. 443 when it was marked up in the Committee. However, during the markup, Ranking Member Scott and other Democrats noted that the bill could be improved and emphasized that Committee Republicans should be doing more to address trafficking and combat child labor. As Ranking Member Scott stated in his opening statement during the markup, “Committee Republicans should not be taking a victory lap as if they are doing everything possible to address trafficking, which they are not.”

H.R. 443 SHOULD BE STRENGTHENED

Many employees at the U.S. Department of Labor (DOL) already receive training on how to identify and report human trafficking. According to the most recent year for which the U.S. Department of Justice (DOJ) provides data, DOL’s Wage and Hour Division (WHD) alone made “nine referrals to federal, state, and local law enforcement agencies or task forces,” “referred two H visa cases to DOL’s Office of Inspector General (DOL–OIG) regarding allegations of human trafficking,” and “participates in over 100 task forces, work groups, and coalitions across the country with the main goal of combating human trafficking.”¹ Potential hallmarks of trafficking that WHD investigators are currently trained to identify include:

- “Restrictions on freedom of movement, close monitoring, surveillance cameras at the worksite or in employer-provided housing.
- “Restrictions on communication, refusal to allow workers to speak with investigators or be interviewed in private.
- “Statements or responses that appear coached.”²

WHD also currently certifies U Visa or T Visa applications for victims of certain qualifying crimes, including trafficking, and provides technical assistance to law enforcement agencies to calculate restitution owed to victims of trafficking.³ WHD also spearheads

¹ *Attorney General’s Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2021*, U.S. Department of Justice, <https://www.justice.gov/d9/2023-04/AG%20HT%20Report%20FY21FINALPDF.pdf> (last visited Jan. 5, 2023).

² Off. of Ass’t Sec’y for Pol., *Wage and Hour Division*, U.S. DEP’T OF LAB., <https://www.dol.gov/agencies/oaspl/resources/trafficking/whd> (last visited Jan. 12, 2024).

³ *Id.*

the new Interagency Taskforce to Combat Child Labor Exploitation.⁴

Unfortunately, H.R. 443 does not appropriately account for those DOL employees who already receive training on identifying and reporting human trafficking to avoid any inadvertent duplication. Additionally, H.R. 443 does not authorize additional funding to DOL to support on-going training, implement the training program, make referrals to appropriate authorities, or comply with the new annual reporting requirements.

COMMITTEE DEMOCRATS SUPPORT APPROPRIATE FUNDING TO COMBAT TRAFFICKING

As the principal U.S. agency funding trade-related labor technical assistance projects, the Bureau of International Labor Affairs (ILAB) within DOL—including the agency’s Office of Child Labor, Forced Labor, and Human Trafficking—is uniquely positioned to oversee supply chain security and resilience, including promoting human rights in global supply chains.⁵ It is regrettable that House Republicans’ Fiscal Year (FY) 2024 Labor, Health and Human Services, Education, and Related Agencies (Labor–H) appropriations bill would have eliminated ILAB, including the agency’s Office of Child Labor, Forced Labor, and Human Trafficking.⁶ By contrast, the Biden Administration’s FY 2024 budget request sought to increase funding for ILAB by \$14.4 million, from \$116.1 million in FY 2023 to \$130.5 million in FY 2024, to enforce “labor provisions in trade agreements and [allow] decisive action to combat forced labor, child labor, and exploitative labor conditions among trading partners.”⁷ Committee Democrats support the Biden Administration’s budget request for ILAB.

In addition to eliminating ILAB, including the agency’s Office of Child Labor, Forced Labor, and Human Trafficking, House Republicans’ FY 2024 Labor–H appropriations bill would reduce funding across labor enforcement agencies, including the Occupational Safety and Health Administration (OSHA), WHD, and the Office of Federal Contract Compliance Programs.⁸ Committee Democrats reject the House Republicans’ Labor–H appropriations bill.

⁴*Departments of Labor and Health and Human Services Announce New Efforts to Combat Exploitative Child Labor*, U.S. DEPT OF LAB. (Feb. 27, 2023), <https://www.hhs.gov/about/news/2023/02/27/departments-labor-and-health-and-human-services-announce-new-efforts-combat-exploitative-child-labor.html>.

⁵*FY24 Congressional Budget Justification Department Management*, U.S. DEPT OF LAB., <https://www.dol.gov/sites/dolgov/files/general/budget/2024/CBJ-2024-V3-02.pdf> (last visited Jan. 5, 2023).

⁶*Fiscal Year 2024 Labor, Health, and Human Services, Education, and Related Agencies Appropriations Bill*, U.S. House Committee on Appropriations Republicans, <https://appropriations.house.gov/sites/republicans.appropriations.house.gov/files/documents/FY24%20Labor%20Health%20and%20Human%20Services%20Education%20and%20Related%20Agencies%20-%20Bill%20Summary.pdf> (last visited Jan. 5, 2023).

⁷*Fiscal Year 2024 Labor, Health, and Human Services, Education, and Related Agencies Appropriations Bill*, U.S. House Committee on Appropriations Republicans, <https://appropriations.house.gov/sites/republicans.appropriations.house.gov/files/documents/FY24%20Labor%20Health%20and%20Human%20Services%20Education%20and%20Related%20Agencies%20-%20Bill%20Summary.pdf> (last visited Jan. 5, 2023).

⁸*Fiscal Year 2024 Labor, Health, and Human Services, Education, and Related Agencies Appropriations Bill*, U.S. House Committee on Appropriations Republicans, <https://appropriations.house.gov/sites/republicans.appropriations.house.gov/files/documents/FY24%20Labor%20Health%20and%20Human%20Services%20Education%20and%20Related%20Agencies%20-%20Bill%20Summary.pdf> (last visited Jan. 5, 2023).

COMMITTEE DEMOCRATS SUPPORT ADDITIONAL LEGISLATIVE ACTION
TO FIGHT HUMAN TRAFFICKING AND COMBAT CHILD LABOR

Committee Democrats believe that more must be done to empower DOL to take steps to stop labor trafficking and encourage Committee Republicans to take additional action beyond H.R. 443. High-profile exposés of companies illegally employing and overworking children in dangerous jobs⁹ put a face on the numbers available in the enforcement data from DOL’s WHD, which show a near quintupling of the number of children involved in child labor violations since 2015—and these are just the cases that have been detected.¹⁰

The increase in child labor is linked to a wave of unaccompanied migrant minors. More than half of the migrant children who have arrived in the U.S. since 2012 have arrived since 2021.¹¹ Of those detained by the U.S. Department of Homeland Security and processed by the U.S. Department of Health and Human Services’ refugee resettlement program, a larger than usual number have been placed in recent years with unrelated or distantly related adults.¹² Many of the children arrive heavily indebted and under enormous pressure to send money back to their country of origin to relieve the debt and support their families.¹³

This surge in child labor violations is happening while WHD, the agency with primary responsibility for enforcing the child labor provisions of the *Fair Labor Standards Act of 1938*¹⁴ (FLSA), has been allotted steadily decreasing resources to invest in enforcement. According to WHD data, the number of personnel hours spent on enforcement decreased every year from FY17 through FY22.¹⁵ Over the course of the past decade, the number of WHD staff has fallen from 1,446 in FY14 to 1,267 in FY23,¹⁶ a 12.4% de-

⁹A *New Child Labor Crisis in America*, N.Y. TIMES (Mar. 9, 2023), <https://www.nytimes.com/2023/03/09/podcasts/the-daily/migrant-child-labor-america.html>; David J. Neal, *A Restaurant’s Florida Franchisees Illegally Used Child Labor and Owed Workers \$24,000*, MIAMI HERALD (Mar. 8, 2023), <https://www.miamiherald.com/news/business/article272835475.html>; *How Child Labor Violations Have Quadrupled Since 2015*, 1A: NPR (Mar. 6, 2023), <https://www.npr.org/2023/03/06/1161486299/how-child-labor-violations-have-quadrupled-since-2015>; Nandita Bose & Mica Rosenberg, *U.S. to Crack Down on Child Labor Amid Massive Uptick*, REUTERS (Feb. 27, 2023), <https://www.reuters.com/business/us-crack-down-child-labor-amid-massive-uptick-2023-02-27/>; Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, N.Y. TIMES (Feb. 25, 2023), <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>; Terri Gerstein, *Child Labor Has Made a Comeback*, SLATE (Nov. 16, 2022), <https://slate.com/business/2022/11/packers-sanitation-child-labor-department-hyundai-chipotle.html>; *Child Labor Allegations at Alabama Hyundai Factory Lead to Class Action Lawsuit*, FOX 23 NEWS (Aug. 2, 2022), https://www.fox23.com/news/trending/child-labor-allegations-at-alabama-hyundai-factory-lead-to-class-action-lawsuit/article_96833571-664a-57ce-9413-f32a7018ec0b.html.

¹⁰See Wage & Hr. Div., *Child Labor*, U.S. DEPT OF LAB., <https://www.dol.gov/agencies/whd/data/charts/child-labor> (last visited Mar. 13, 2023) (showing 1,012 children in child labor violations in FY15 compared to 3,876 in FY22).

¹¹Eli Murray, Hannah Dreier & K.K. Rebecca Lai, *Where Migrant Children Are Living, and Often Working, in the U.S.*, N.Y. TIMES (Dec. 28, 2023), <https://www.nytimes.com/interactive/2023/12/28/us/migrants-children-data.html>.

¹²Hannah Dreier, *As Migrant Children Were Put to Work, U.S. Ignored Warnings*, N.Y. TIMES (Apr. 17, 2023), <https://www.nytimes.com/2023/04/17/us/politics/migrant-child-labor-biden.html>.

¹³Dreier, *supra* note 9.

¹⁴29 U.S.C. § 201 *et seq.*

¹⁵See Wage & Hr. Div., *WHD: All Acts*, U.S. DEPT OF LAB., <https://www.dol.gov/agencies/whd/data/charts/all-acts> (last visited Mar. 13, 2023).

¹⁶FY24 Congressional Budget Justification Wage and Hour Division, U.S. DEPT OF LAB., <https://www.dol.gov/sites/dolgov/files/general/budget/2024/CBJ-2024-V2-09.pdf> (last visited Jan. 5, 2023).

cline.¹⁷ WHD is so resource-strapped that “inspectors in a dozen states [told the *New York Times*] their understaffed offices could barely respond to complaints, much less open original investigations.”¹⁸

The Democratic Caucus has mobilized to act. Bills introduced to date to tackle this problem include the following:

(1) H.R. 4440, *Protecting Children Act* (Reps. Robert C. “Bobby” Scott (VA–03) and Alma Adams (NC–12)): increasing civil monetary penalties (CMPs) and criminal penalties for child labor and workplace safety violations that harm children; expanding government capacity for enforcement and research; creating a private right of action for children harmed by child labor violations; facilitating rulemaking to identify occupations too hazardous for children; requiring annual reports on child labor and children’s occupational illnesses and injuries; and authorizing grants for training and victim support.

(2) H.R. 2388, *Justice for Exploited Children Act of 2023* (Reps. Hillary Scholten (MI–03) and Nancy Mace (SC–01)): increasing CMPs for child labor violations.

(3) H.R. 2822, *Child Labor Exploitation Accountability Act* (Rep. Greg Casar (TX–35)): leveraging USDA procurement to disincentivize labor standards violations, including child labor.

(4) H.R. 2956, *Combatting Child Labor Act* (Rep. Daniel Kildee (MI–08)): increasing CMPs and criminal penalties for child labor violations and requiring an annual report on child labor activities.

(5) H.R. 4020, *Children Don’t Belong on Tobacco Farms Act* (Rep. Rosa DeLauro (CT–03)): prohibiting employment of children under age 18 from working in direct contact with tobacco plants or dried tobacco leaves.

(6) H.R. 4046, *CARE Act* (Reps. Raul Ruiz (CA–25) and Raúl Grijalva (AZ–07)): adjusting age limits and exemptions for children’s agricultural employment; prohibiting children under age 18 from pesticide handling; increasing CMPs and criminal penalties for child labor violations that harm children; and requiring data analysis and employer reporting of children’s occupational injuries.

(7) H.R. 6079, *CHILD Labor Act* (Rep. DeLauro): expanding liability throughout supply chains for child labor violations; granting DOL authority to shut down operations of businesses employing children illegally; and increasing penalties for child labor violations.

(8) H.R. 6634, *Workers POWER Act* (Rep. Morgan McGarvey (KY–03)): increasing DOL capacity to investigate and enforce child labor and other labor standards violations.

Unfortunately, to date, Committee Republicans have not showed an openness to consider such bills. The markup for H.R. 443 was a missed opportunity to advance these bills.

Ranking Member Scott and Workforce Protections Subcommittee Ranking Member Adams have asked *twice* for the Committee on Education and the Workforce to hold a hearing on the crisis of

¹⁷ See Wage & Hr. Div., WHD: All Acts, U.S. DEPT OF LAB., <https://www.dol.gov/agencies/whd/data/charts/all-acts> (last visited Mar. 13, 2023).

¹⁸ Dreier, *supra* note 12.

child labor and consider the legislation offered to solve that crisis.¹⁹ Chair Foxx has dismissed these entreaties as “all for show.”²⁰ In the absence of an actual hearing on the issue, Committee Democrats arranged a roundtable with national experts in July 2023.²¹

DEMOCRATIC AMENDMENTS OFFERED DURING MARKUP OF H.R. 443

Committee Democrats put forward three amendments to improve the bill. The first of these amendments offered would have integrated elements of H.R. 4440, the *Protecting Children Act*, which would have meaningfully increased civil and criminal penalties for child labor violations and young workers’ injuries and deaths while providing additional capacity and authority to DOL to monitor, prevent, and address child labor violations.²² It was ruled non-germane. The second of these amendments required the Secretary to consider the training needs of employees in states with significant increases in oppressive child labor. It was accepted by voice vote. The third of these amendments sought to ensure that DOL employees report suspected human trafficking cases to relevant State and local business and professional licensing bodies, where applicable. It was withdrawn based on a commitment that the Majority would work toward incorporating the amendment into the legislation ahead of floor consideration.

Amendment	Offered By	Description	Action Taken
#2	Ms. Adams	Increasing civil monetary penalties and the capacity of workforce protection agencies to reduce child labor..	Ruled non-germane.
#3	Ms. Omar	Requiring the Secretary to consider significant increases in oppressive child labor when considering the training and education needs of Wage and Hour Division employees..	Adopted
#4	Mr. Norcross	Ensuring DOL reports suspected cases to relevant State and local business and professional licensing bodies, where applicable..	Withdrawn (with commitment to work to incorporate).

CONCLUSION

Committee Democrats unanimously supported H.R. 443 when the Committee on Education and the Workforce considered it on January 10, 2024. We urge the House of Representatives to do the same. We also encourage Committee Republicans to join Democratic efforts to appropriately fund anti-trafficking priorities and advance additional bills to address trafficking and combat child

¹⁹ See Letter from Reps. Robert C. “Bobby” Scott and Alma S. Adams to Rep. Virginia Foxx (Sept. 13, 2023), <https://democrats-edworkforce.house.gov/download/scott-adams-second-letter-to-foxx-re-request-for-child-labor-hearing>; Letter from Reps. Robert C. “Bobby” Scott & Alma S. Adams to Rep. Virginia Foxx (June 6, 2023), <https://democrats-edworkforce.house.gov/download/scott-adams-letter-to-foxx-re-request-for-child-labor-hearing>.

²⁰ Olivia Olander, *How BLS Is Thinking About AI*, POLITICO WKLY. SHIFT (June 12, 2023), <https://www.politico.com/newsletters/weekly-shift/2023/06/12/how-bls-is-thinking-about-ai-00101457>.

²¹ *Briefing on Oppressive Child Labor*, H. COMM. EDUC. & WRKF. DEMS. (July 13, 2023), <https://democrats-edworkforce.house.gov/media/videos/watch/briefing-on-oppressive-child-labor>.

²² *Protecting Children Act*, H. COMM. EDUC. & WRKF. DEMS., https://democrats-edworkforce.house.gov/imo/media/doc/protecting_children_act_fact_sheet1.pdf (last visited Jan. 12, 2024).

labor. Committee Democrats believe we should not stop with H.R. 443; there is much more work to do.

ROBERT C. "BOBBY" SCOTT,
Ranking Member.
MARK DESAULNIER,
PRAMILA JAYAPAL,
GREGORIO KILILI CAMACHO
SABLAN,
SUZANNE BONAMICI,
Members of Congress.

