

THE WILLIAM WILBERFORCE TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT OF 2008

Summary of Important Provisions

Introduction:

The William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008 (P.L. 110-457) creates and enhances means to address both forced labor and sex trafficking. The Act focuses on trafficking within the United States and throughout the world. It improves the tools available to criminally prosecute traffickers in the United States and strengthens the role and authority of the State Department's Trafficking in Persons (TIP) Office. It also increases protections available to trafficking victims in the United States through newly authorized programs to assist U.S. victims of trafficking and vulnerable-to-trafficking unaccompanied foreign national children brought to the United States, as well as enhancements to immigration-related protections for foreign nationals. The Act also strengthens U.S. government efforts to end the use of child soldiers. These are highlights of this comprehensive new law, which builds on the foundational legacy of the Trafficking Victims Protection Act of 2000 and its two subsequent reauthorizing acts.

Note: This summary has been distributed by Polaris Project's U.S. Policy Program. It describes many highlights of the Act, but is not completely exhaustive.

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Title I – Combating International Trafficking in Persons

Minimum Standards for the Elimination of Trafficking

1. **Establishes Minimum Standard to Determine Country Tier Ratings:** The Act creates a stand-alone minimum standard to determine country Tier ratings, in the annual State Department Trafficking in Persons Report [TIP Report] based on whether they have made “serious and sustained efforts to reduce the demand for commercial sex ... and participation in international sex tourism.” This obligation to reduce demand is without regard to whether the commercial sex acts are legal or not under the laws of the country being rated, such as Germany and the Netherlands. The Act’s Explanatory Statement prepared by the House managers [“the Statement”] specifically indicates the “importance of making progress in this area” of Tier ratings. **Section 106(2)(D)**
2. **Specifies TIP Report Cover All Countries:** The Act eliminates prior statutory language that permitted the annual TIP Report to cover only those countries with a “significant number” of trafficking cases. This provision will no longer require the TIP Office to definitively prove the existence of 100 or more victims before being able to report on known failings of countries to eliminate trafficking, thereby ensuring coverage of virtually all countries. **Section 106**
3. **Establishes Minimum Standard to Protect Indigenous Minority Populations:** The Act adds a minimum standard regarding countries’ efforts to protect indigenous minority populations by requiring the countries to provide documentation of citizenship to such populations. This provision will place pressure on countries to help protect their most vulnerable citizens from trafficking, by ensuring that they are recognized as such and have access to their rights as citizens. **Section 106**
4. **Clarifies That Suspended or Significantly Reduced Sentences Do Not Count for Minimum Standard on Prosecution:** The Act provides that suspended or significantly reduced sentences should not be taken into account when evaluating a country’s compliance with the existing minimum standard requiring the prosecution of traffickers, but also permits a showing, on a case by case basis, that the suspended or reduced sentences were merited (*e.g.*, were given as inducements to gain testimony in criminal proceedings against higher ranking traffickers or were given to obtain guilty pleas in difficult cases). **Section 106**

Actions Against Governments Failing to Meet Minimum Standards

5. **Establishes Two-Year Time Limit for Countries on Tier 2 Special Watch List:** The Act limits the amount of time a country can remain on the Tier 2 Special Watch List to two years (with the President able to make exceptions – only up to two additional years – if positive findings are made regarding the country’s efforts). This provision will end the current practice of allowing countries to remain indefinitely in a Tier category involving no sanctions. Further, at the end of the maximum Special Watch list period, countries are

effectively required to be given Tier 3 ratings unless the President reports to Congress that the countries have formulated plans providing for significant anti-trafficking reforms and have dedicated sufficient resources to make the reforms possible. **Section 107**

Office to Monitor and Combat Trafficking & Senior Policy Operating Group

6. **Requires Training TIP Grantees in All Forms of Trafficking:** The Act requires TIP grantees to certify that they have been trained in and collaborated with those who have been trained in all forms of trafficking in persons. **Section 105**
7. **Requests Increase in TIP Director Pay Rate and New Office Space:** The Statement language recognizes the importance of the TIP Director position and calls on the State Department to explore increasing the pay rate for the position. The Statement also calls on the State Department to consider allocating space closer to the main State Department Office Building. The Statement language is intended to raise the status and effectiveness of the TIP Office and its Director.
8. **Allocates Responsibility to TIP Office on Direct Grantee Oversight and Timely Funds Delivery:** The Act makes the TIP Office responsible for all policy, funding, and programming decisions related to its direct grantees, a provision that will give the Office greater control over its own grant programs. The provision also aims to reduce previous lengthy delays of as long as nine months before TIP Office grantees receive their funds. **Section 102**
9. **Requires TIP Office to Coordinate State and USAID Anti-Trafficking Programs:** The Act requires that anti-trafficking programs conducted by other State or USAID entities must consult and coordinate their activities with the TIP Office. This is an important provision that, in connection with the interagency Senior Policy Operating Group [SPOG] process, will enhance the role of the TIP Office within the State Department and USAID in such areas as public health and other programs that deal directly with traffickers. This section will give meaning to the Senate floor statement made in connection with the passage of the 2005 TVPA Reauthorization, intending that the SPOG harmonize diverse agency objectives into a “single set of government-wide policies.” **Section 102**
10. **Requires SPOG to Coordinate All Domestic Anti-Trafficking Grant Programs:** The Act requires all domestic grant programs to be coordinated by the SPOG, which is chaired by the TIP Office Director. This provision gives the Director a significant role in domestic anti-trafficking policy. Previously, under the TVPA, federal agencies were expressly able to decide whether or not to subject their anti-trafficking grants and major anti-trafficking policies to SPOG coordination and review, doing so only “as [they] determine[d] appropriate.” The SPOG now has express statutory authority to review all grants activities of the agencies within its jurisdiction. **Section 233**
11. **Requires TIP Director to Prevent U.S. Citizens from Using Goods Produced by**

Slave Labor: The Act requires the TIP Director, in coordination with other federal officials, to prevent U.S. citizens from using goods produced or extracted with slave labor and to enter into partnerships with private “foundations, universities, corporations, community based organizations, and other non-governmental organizations” to ensure that this occurs. The partnerships must also ensure that these private entities do not contribute to “trafficking involving sexual exploitation.” **Section 102**

Prevention, Prosecution, and Protection in Foreign Countries

12. **Expands Technical Assistance to Foreign Countries:** The Act expands the types of technical assistance that can be provided to foreign countries, including assistance regarding the prosecution of traffickers, the prevention of trafficking, and the protection of its victims. **Section 103, 104**
13. **Requires Competitive, Transparent TVPA Grant Process:** The Act codifies past practice that all grants awarded under the TVPA be distributed on a competitive basis and in transparent fashion and requires the President to create a system for evaluating such grant programs based on measurable performance goals. **Section 105**
14. **Creates Integrated Human Trafficking Information Database:** The Act requires the creation of an integrated database by the Human Smuggling and Trafficking Center (located within the Department of Homeland Security), collecting data from all federal agencies to make better estimates of human trafficking statistics. The Act authorizes \$2 million per year for fiscal years 2008 through 2011 to carry out this section. **Section 108**
15. **Requires DOL Report on List of Goods Made with Forced or Child Labor:** The Act requires the Department of Labor (DOL) to report by January 2010 on its implementation of prior TVPA requirements, including providing a list of goods that it has reason to believe have been made with forced labor or child labor. This provision will increase the pressure on DOL to fulfill its responsibility to implement this section and more aggressively pursue child and forced labor violations. **Section 110**
16. **Recommends Establishing a Framework to Protect Migrating Persons from Trafficking:** The Act includes a “Sense of Congress” provision calling on the Secretary of State to seek the establishment of a multilateral framework to ensure that migrating persons are protected from trafficking. **Section 111**

Recognition of Efforts to Combat Trafficking

17. **Creates Presidential Award for Extraordinary Efforts to Combat Trafficking in Persons:** The Act creates a Presidential Award for Extraordinary Efforts to Combat Trafficking in Persons. The awards will be given annually to five individuals or organizations – domestic or foreign – for extraordinary efforts to combat forced labor or sex trafficking. The provision builds on the current TIP Report practice of designating anti-trafficking “heroes” by ensuring the presence of the recipients to receive their awards and by elevating the awards to the status of statutory Presidential awards. **Section 109**

Title II – Combating Trafficking in Persons in the United States

Enhancing Penalties for Trafficking Offenses

18. **Removes/Lowers Knowledge Requirement of Minor Victims’ Age:** Under previous law, federal prosecutors bringing cases under the TVPA trafficking of minors provision (18 USC § 1591) were required to prove that the defendants had knowledge of their minor victims’ age. Under the Act, no such proof requirement will exist for any defendant who had “reasonable opportunity to observe” the trafficked person – a condition applicable to all but a few traffickers – and prosecutors will only need to prove that the trafficker knew or recklessly disregarded that the victim was caused to engage in a commercial sex act. For persons such as offsite brothel landlords who may have not had reasonable opportunity to observe the victims, the Act lowers the proof requirement standard to “reckless disregard” of the victims’ minor status, thus permitting ancillary supporters of trafficking to be convicted if they were willfully blind to the minor status of the victims engaged in commercial sex. The provision – which still carries a mandatory minimum sentence of 10 to 15 years and requires no proof of fraud, force, or coercion for convictions – will enhance the ability to prosecute sex traffickers of minors, including such ancillary supporters as brothel landlords. **Section 222**
19. **Enhances Sentencing Guidelines for “Alien Harboring”:** Under the Act, the sentencing guidelines for “alien harboring” are directed to be heightened if the harboring is in furtherance of prostitution – a conviction that can take place without proof of fraud, force, or coercion against the victim. Conviction under this section will occur if the trafficker knows or is recklessly blind to the victim’s illegal immigrant status. The provision will effectively make sex traffickers of illegal aliens criminally liable for alien harboring on a per se basis, i.e. without requiring proof of force, fraud or coercion. **Section 222**
20. **Clarifies Preying on Victims’ Addictions Violates the TVPA:** The Statement clarifies that preying on a victim’s drug use or addictions (whether pre-existing or created by the traffickers) can, in and of itself, form the basis for convicting traffickers under the TVPA. The Statement makes clear that it is criminal for traffickers to utilize “nonviolent and psychological coercion”; the provision will thus enhance the ability to prosecute traffickers who exploit their victims’ addictions or use drugs to facilitate coercion.
21. **Lowers Knowledge Standard of Proof to Reckless Disregard in Sex Trafficking:** With respect to sex trafficking through force, fraud, or coercion, the Act lowers the standard of proof from “knowing” to “reckless disregard” on all matters requiring knowledge of force, fraud, or coercion being used to cause a person to engage in commercial sex. This provision will permit the prosecution of persons who willfully refuse to examine whether victims are subject to coercion and abuse. Thus, participants in the commercial sex industry will no longer escape convictions by willfully ignoring indicia of abuse of the persons they traffic. **Section 222**
22. **Criminalizes Recruiting Foreign Workers Under False Pretenses:** A new crime with

- a maximum sentence of five years is created to prosecute persons who recruit foreign workers overseas for employment in the United States by using false pretenses, representations, or promises. This crime is intended to deal with recruiters whose activity is highly exploitive, permitting them to be prosecuted without having to wait until their conduct rises to the level of acts of trafficking. **Section 222(e)**
23. **Criminalizes Obstruction in Trafficking Investigations:** The Act creates a new obstruction crime for persons interfering with any trafficking investigation. **Section 222**
 24. **Criminalizes Conspiring to Engage in Trafficking:** The Act creates criminal liability for persons conspiring to engage in trafficking – an enforcement tool that will potentially foster the bringing of multi-defendant cases. **Section 222**
 25. **Replaces Reasonable Person Standard with Person in Victim’s Particular Circumstances Standard:** In defining “serious harm,” the Act specifies that proof of fraud, force, or coercion is now to be gauged through the eyes of a person in the victim’s particular circumstances, rather than being viewed through a “reasonable person” standard. As trafficking victims are more subject to intimidation or manipulation by acts that might not generate fear in some other persons, this provision will make it easier to prove coercion in cases brought against forced labor traffickers or sex traffickers of adults. **Section 222**
 26. **Strengthens Financial Disgorgement Provisions:** The Act strengthens the financial provisions of prior law to ensure that traffickers disgorge the financial gains of their criminal activities. The government regularly seizes assets derived from or used in carrying out federal criminal offenses. Assets forfeited in trafficking cases will, under the provision, no longer go to the U.S. Treasury; instead, they will be paid to trafficking victims through a “restoration and remission” process. The Act also opens up the possibility that victims will be able to obtain civil damages from anyone who knowingly benefits – financially or by receiving anything of value – from participating in an act in violation of federal Title 77 peonage, slavery, or trafficking in persons crimes. If these provisions are robustly implemented, they will ultimately result in transfers of trafficker wealth to their victims and will increase the financial risks of engaging in trafficking. **Section 221**
 27. **Expands Criminal Liability to Benefactors of Trafficking Crimes:** The Act expands criminal liability to anyone financially benefiting or receiving anything of value from any federal trafficking crime, so long as the defendants have the required level of knowledge that their victims were subject to force, fraud, or coercion. This liability previously extended only to those benefiting from sex trafficking crimes, but is now applied to all of the slavery and forced labor crimes. This provision expands the reach of prosecutions beyond slave-holders and those who directly recruit, harbor, transport, provide, or obtain victims to all those up the chain of command or ancillary to it who may profit from the venture. **Section 222**
 28. **Establishes Passport Restrictions:** The Act establishes passport restrictions for persons

convicted of crimes related to child sexual exploitation (18 USC § 2423) if they crossed international borders to carry out their crimes. **Section 237**

Expanding Federal Jurisdiction for Trafficking Offenses

29. **Expands Federal Criminal Jurisdiction to Trafficking Crimes Committed Abroad:** The Act expands federal criminal jurisdiction to U.S. citizens and permanent residents (or anyone later found in the United States) who, while abroad, commit, attempt to commit, or conspire to commit federal slavery, forced labor, or sex trafficking crimes. Under the Act, these persons will now be subject to prosecution in the United States even if their crimes were committed abroad. **Section 223**

Promoting Effective State Enforcement of Trafficking Offenses

30. **Requires DOJ to Create New Model State Law:** The Act requires DOJ to create a new model state law to further a “comprehensive approach” to investigating and prosecuting human trafficking and by drafting model state provisions on pimping and pandering that do not require proof of force, fraud, or coercion, whether or not the victim is a minor. The new model law and D.C. Criminal Code §22-2701 et seq., which criminalizes acts of pandering and pimping, will be required to be posted on the DOJ website and distributed to the Attorney General of each state. The current DOJ state model law only promotes sex trafficker prosecutions if fraud, force, coercion, or the sex trafficking of minors is proven. Proper implementation of this provision and promotion of the new model law by DOJ should ensure better state prosecutions of sex traffickers using the sex trafficking and pimping and pandering statutes as seamless tools. **Section 225**
31. **Confirms U.S. Law Does Not Treat Prostitution as a Valid Form of Employment:** The Act provides that no provision in the original TVPA, its subsequent reauthorizations, or in the Chapter 117 Mann Act crimes can be construed as treating prostitution as a valid form of employment. The Act also makes clear, however, that the above provision does not limit the applicability of existing federal or state criminal laws in such areas as income tax reporting or engaging in commercial relations with undocumented persons. **Section 225**

Establishing DOJ Reporting and Coordination Requirements

32. **Revises State Reporting Requirements on Prostitution and Vice Crimes:** This important reform was added to the Act to mandate that states can no longer report a single number for “prostitution and commercialized vice crimes” when submitting their annual crime statistics to the FBI. Under the new provision, states will be required to separate their reports into three categories of violations under their criminal laws: those directing, managing, or profiting from commercial sex acts (*i.e.*, potential traffickers); those unlawfully purchasing commercial sex (*i.e.*, johns); and those unlawfully providing the commercial sex acts directly (*i.e.*, the potential victims). This reform should reveal the extent to which state enforcement is disproportionately focused on arresting victims rather than their traffickers and johns. Under the reform, human trafficking crimes will

also now be placed in the most serious crime category under the two principal state reporting mechanisms (UCR and NIBRS). **Section 237(a-b)**

33. **Requires DOJ to Report on Mann Act Crimes:** DOJ is required to report on its activities to enforce Chapter 117 (Mann Act) crimes from 2001 to 2009, including number of prosecutions, convictions, and multiple-defendant cases. **Section 237(c)(1)(A)**
34. **Requires DOJ to Report on “Look-Back” Cases:** DOJ is further required to report regarding the number of prosecutions, convictions, and multiple-defendant cases, for crimes against minors, when the victims have already reached the age of 18 when their traffickers are arrested or otherwise identified (*i.e.*, “look-back” cases). This reporting requirement will put prosecutors under pressure not to disregard cases they could be prosecuting without force, fraud, or coercion proof requirements and to bring trafficking of minor cases even when the victims are above the age of 18 when the prosecutions of their traffickers take place. **Section 237(c)(1)(A)**
35. **Requires DOJ to Report on Restitution and Forfeiture Provisions in Trafficking Cases:** DOJ is further required to report regarding the use of restitution and forfeiture provisions in human trafficking cases. Restitution and asset forfeiture are required under the TVPA, but have been relatively rarely used. (See item 26 above.) This reporting requirement will put pressure on DOJ and U.S. Attorneys to use restitution remedies more frequently and should deter trafficking crimes by increasing the financial risks of the traffickers. **Section 237(c)(1)(B)**
36. **Requires DOJ to Report on RICO Offenses in Trafficking Cases:** DOJ is further required to report regarding its activities to enforce Chapter 95 and 96 (racketeering RICO offenses) in sex and forced labor trafficking cases. Federal prosecutors able to prove that sex traffickers violated state anti-pimping statutes can (and have) obtained RICO convictions by merely offering additional proof that the traffickers furthered their unlawful state conduct by using such instrumentalities of interstate commerce as cell phones or condoms manufactured outside the state where the offenses occurred. The Act’s provision calling on DOJ to report on its intended use of the RICO Act to convict traffickers could lead the way to further, vigorous federal prosecutions of traffickers. **Section 237(c)(1)(C)**
37. **Requires DOJ to Report on D.C. Code’s Pimping and Pandering Laws:** DOJ is further required to report regarding its activities to enforce the D.C. Code’s pimping and pandering laws, which federal prosecutors are responsible for enforcing. The report must identify multiple-defendant cases brought under the D.C. Criminal Code provisions, which do not require proof of force, fraud, or coercion for the conviction of sex traffickers of adults. This provision is intended to create pressure on DOJ and the U.S. Attorney’s Office for D.C. to bring multiple-defendant cases in the District, where the only proof required is that sex traffickers caused their adult victims to engage in commercial sex acts. Such efforts can serve as federal leadership models for state prosecutors throughout the country, encouraging them to prosecute traffickers under similar criminal statutes in effect in their jurisdictions and, when proposed and enacted,

under the new model law that DOJ is required to prepare and submit to the states.
Section 237(c)(1)(D)

38. **Mandates DOJ Study of Internet-Based Crime in the Sex Industry:** Subject to the availability of appropriations, DOJ’s National Institute of Justice (NIJ) is mandated to conduct a comprehensive study of Internet-based crime in the sex industry, as well as best practices in investigation and prosecution of these crimes. **Section 237(c)(2)**
39. **Mandates DOJ Study of the Application of State Human Trafficking Statutes:** Also subject to the availability of appropriations, NIJ is mandated to conduct a comprehensive study of the application of state human trafficking statutes, including statutes based on the current DOJ model state law. This is intended to reveal the impact of the current DOJ model state law, which defines forced labor and sex trafficking and which requires proof of force, fraud, or coercion for sex trafficking of adults. **Section 237(c)(2)**
40. **Mandates DOJ Complete Study on Commercial Sex Industry:** DOJ is required to report to Congress within 90 days on the status of its study on the commercial sex industry, as mandated in the TVPRA of 2005, and on its projected completion date. When completed, this study should reveal, for the first time, such facts as the extent of the unlawful commercial sex industry, the incomes generally derived by traffickers and others in the industry, the median ages and medical/psychological conditions of victims, studies of the nature of johns, and identification of the different modes of trafficking (*e.g.*, massage parlors, pimp-controlled street prostitution, internet-based, brothels, etc.). **Section 237(c)(3)**
41. **Requires DOJ and HHS Report on “Service Gap” Between Domestic and Foreign National Trafficking Survivors:** Within one year of the Act being signed into law, the Department of Health and Human Services (HHS) and DOJ will be required to submit a report to Congress on the extent of any “service gap” between domestic and foreign national survivors of trafficking. Under current law, domestic victims are not provided specialized services that are offered to foreign national victims, even if subject to the same acts. The study should help end this disparity and could provide justification for appropriations to fund all the TVPRA-authorized programs for domestic and foreign national victims. **Section 213(b)**
42. **Requires DOJ to Promote Coordinated Approach to Trafficking Prosecutions:** The Statement calls on DOJ to review the relationship between its Criminal Division’s Child Exploitation and Obscenities Section (CEOS) and the Civil Rights Division’s Human Trafficking Prosecution Unit (HTPU) and to promote a coordinated approach to trafficking prosecutions. Currently, CEOS is responsible for prosecuting sex trafficking of minor and other child exploitation cases; other units of the Criminal Division prosecute Mann Act cases (transportation for illegal sexual activity and related crimes); while HTPU is theoretically responsible for all other slavery, forced labor, and sex trafficking of adults with force, fraud, or coercion crimes.

Ensuring Assistance for All Victims and Potential Victims of Trafficking

43. **Authorizes Programs to Serve Trafficking Victims:**
- The Act authorizes HHS and DOJ to set up new programs to provide services to U.S. citizen survivors of human trafficking. The new HHS and DOJ programs are each authorized to spend \$2.5 million for 2008, \$5 million for 2009, and \$7 million each year for 2010 and 2011. **Section 213(a)(1)**
 - The Act also reauthorizes the TVPRA 2005 programs, which had never been funded at the time of the Act’s passage. These includes \$8 million for HHS programs to serve U.S. citizen and lawful permanent resident survivors for each of the fiscal years 2008 through 2011; and \$5 million to support pilot residential programs for minor victims. **Section 301(2)**
 - The Act also reauthorizes existing TVPA programs through DOJ and HHS for services to trafficking survivors, which have been used to fund services for foreign nationals and related programs including the DOJ task forces and HHS programs like the “rescue and restore” initiative, as well as the national human trafficking hotline. The HHS programs are authorized to spend \$12.5 million per year and the DOJ programs to spend \$10 million for each of fiscal years 2008 through 2011. **Section 302**
44. **Expands Immigration-Related Protections to Trafficking Victims and Families:** The Act expands immigration-related protections to trafficking victims and their families. These include: cancelling all fees associated with the filing of T-visas (non-immigrant visa for trafficking victims) and U-visas (non-immigrant visa for crime victims); broadening the family members eligible for immigration assistance when threatened; allowing victims to obtain T-visas when they come back to the United States to participate in investigations; extending the time period covered by T- and U-visa status in certain cases; allowing adjustment to permanent residency for T-visa holders in certain cases, even when they may have left the country prior to adjustment; and requiring the Department of Homeland Security (DHS) to permit the continued presence of persons with pending civil claims against their traffickers. DHS and DOJ must also develop materials to assist state law enforcement officers in obtaining federal “continued presence” status for victims. This status allows victims to remain in the country with work authorization and access to HHS benefits and thereby empowers victims to cooperate with state law enforcement investigations. The Act allows waivers of the “good moral character” requirement if the relevant acts were incident to the trafficking, such as participation in prostitution. The Act allows DHS to grant an administrative stay of a final order of removal, (*i.e.*, to prevent deportation for persons with pending T- or U-visa applications). **Sections 201, 204, 205**
45. **Streamlines Eligibility Process for Minor Foreign National Victims to Access Services:** The Act streamlines the eligibility process for minor foreign national victims to access services and gives greater authority to HHS to manage such cases – doing so in recognition of the fact that minors need immediate access to services without first being

required to collaborate with law enforcement officials. This provision provides for expedited assistance to foreign national juvenile victims of trafficking for up to 120 days, while eligibility determinations are made for longer-term assistance. Such determinations are required to be made under the exclusive authority of HHS, and other federal officials are obligated to notify HHS within 24 hours if they encounter minors believed to be victims of trafficking. The Secretary of HHS is obligated to consult with the Attorney General, Secretary of DHS, and expert private organizations in making eligibility determinations for assistance, but may not require that the minors cooperate with law enforcement as a condition for receiving it. The provision requires the Secretary of HHS to notify the Attorney General and Secretary of DHS within 24 hours after making an interim eligibility determination. **Section 212**

46. **Improves Treatment of All “Unaccompanied Alien Children”:** Incorporating legislation that has been proposed by Congressional sponsors for many years, the Act contains an extensive provision improving the treatment of all “unaccompanied alien children” found at U.S. borders and for improving their care and custody if they remain in the United States. A key provision of this section requires children to be screened and either returned home, or, if it is determined that they may be trafficking victims or have a credible fear of persecution in their home countries (or if this determination cannot or is not made within 48 hours), transferred to the custody of HHS within 48 hours. The State Department is required create a pilot program on safe repatriation, and State, HHS, and DHS must report to Congress on their repatriation activities. All unaccompanied alien children who remain in the United States under this provision must be under the exclusive custody of HHS and must be placed in the least restrictive setting that is in the best interest of the child. HHS is required to perform home studies for trafficking victims (and certain other victims of exploitation) before placing them with a custodian. The Act requires HHS to ensure that children detained by DHS have access to counsel, where feasible. In addition, the Act authorizes HHS to appoint “child advocates” for minor trafficking victims and other vulnerable unaccompanied alien children. Applications for more permanent “special immigrant juvenile status” must be processed within 180 days, and certain children with this status are made eligible for the federal foster care program. **Section 235**
47. **Requires Provision of Detailed Trafficking and Worker’s Rights Information to Work and Education Visa Applicants:** The U.S. government is required to provide detailed information about trafficking, worker’s rights, and access to available assistance to all applicants for work and education-based visas. The Act requires consular officers to provide information in oral and pamphlet form to persons applying for employment or education-based non-immigrant visas, on: portability of employment (*i.e.*, whether a particular visa allows the worker to change employers); the requirement that work contracts be issued; laws against trafficking and worker exploitation; the availability of services and hotlines; the legal rights of immigrant victims of trafficking, worker exploitation, and other crimes under immigration, labor, and employment law; and the disclosure requirement for foreign labor contractors. In-person interviews to share such information are made mandatory for A-3 or G-5 visa applicants (*i.e.*, domestic workers for diplomats). **Section 202**

48. **Creates Procedures to Protect Diplomatic Domestic Worker Visa Holders:** The Act creates special procedures to protect holders of diplomatic domestic worker visas (A-3 or G-5 visas). The Statement explains that although this provision is sensitive due to its potential effect on diplomatic relations and reciprocity to U.S. diplomats abroad, it is nonetheless necessary because of the failure of the State Department to take domestic worker abuse cases seriously. The provision requires the Secretary of State to suspend the issuance of such visas to all diplomatic personnel of specified countries “for such period as the Secretary determines necessary,” if the Secretary finds that the country’s missions or employees have abused or exploited A-3 or G-5 workers or tolerated such abuse. The Act explicitly requires that written employment contracts be given to A-3 or G-5 visa applicants and requires the State Department to maintain a file containing the employment contracts, contact information for the employees, the immunity levels of the employers, and information regarding allegations of abuse. It further provides that if an A-3 or G-5 visa holder files a civil claim based on violations of the TVPA or based on violations of their contracts or U.S. or state employment laws, the visa holder may remain and work legally in the United States for a period sufficient to participate in related proceedings. The Act requires the State Department to report on the feasibility of monitoring the treatment of such workers, as well as on compensation remedies for violations of employment contracts. The Act requires the Secretary of State to cooperate with investigations into trafficking and worker exploitation of A-3 and G-5 visa holders to the extent possible under the Vienna Convention on Diplomatic Relations. **Section 203**

Title IV – Child Soldiers Prevention

49. **Prevents Military Assistance to Countries Using Child Soldiers:** This title prevents the provision of various forms of military assistance to countries that use children in government military forces or government-supported armed groups. This will be an important tool to address the use of “child soldiers” around the world, who in addition to being placed in situations of extreme violence and danger, are regularly victimized by brutal physical and sexual abuse. The title includes an extensive “Sense of Congress” section calling on the U.S. government to engage in negotiations with foreign governments designed to end the use of children in armed groups.