

## EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-67, title VI, §645(b), Nov. 12, 2001, 115 Stat. 556, provided that: “The amendment made by this section [amending this section] shall take effect on January 3, 2001.”

## RESPONSIBILITIES OF THE COMMISSION

Pub. L. 108-7, div. P, §2(c)(2), Feb. 20, 2003, 117 Stat. 553, provided that: “The United States-China Commission shall focus, in lieu of any other areas of work or study, on the following:

“(A) PROLIFERATION PRACTICES.—The Commission shall analyze and assess the Chinese role in the proliferation of weapons of mass destruction and other weapons (including dual use technologies) to terrorist-sponsoring states, and suggest possible steps which the United States might take, including economic sanctions, to encourage the Chinese to stop such practices.

“(B) ECONOMIC REFORMS AND UNITED STATES ECONOMIC TRANSFERS.—The Commission shall analyze and assess the qualitative and quantitative nature of the shift of United States production activities to China, including the relocation of high-technology, manufacturing, and R&D facilities; the impact of these transfers on United States national security, including political influence by the Chinese Government over American firms, dependence of the United States national security industrial base on Chinese imports, the adequacy of United States export control laws, and the effect of these transfers on United States economic security, employment, and the standard of living of the American people; analyze China’s national budget and assess China’s fiscal strength to address internal instability problems and assess the likelihood of externalization of such problems.

“(C) ENERGY.—The Commission shall evaluate and assess how China’s large and growing economy will impact upon world energy supplies and the role the United States can play, including joint R&D efforts and technological assistance, in influencing China’s energy policy.

“(D) UNITED STATES CAPITAL MARKETS.—The Commission shall evaluate the extent of Chinese access to, and use of United States capital markets, and whether the existing disclosure and transparency rules are adequate to identify Chinese companies which are active in United States markets and are also engaged in proliferation activities or other activities harmful to United States security interests.

“(E) CORPORATE REPORTING.—The Commission shall assess United States trade and investment relationship with China, including the need for corporate reporting on United States investments in China and incentives that China may be offering to United States corporations to relocate production and R&D to China.

“(F) REGIONAL ECONOMIC AND SECURITY IMPACTS.—The Commission shall assess the extent of China’s ‘hollowing-out’ of Asian manufacturing economies, and the impact on United States economic and security interests in the region; review the triangular economic and security relationship among the United States, Taipei and Beijing, including Beijing’s military modernization and force deployments aimed at Taipei, and the adequacy of United States executive branch coordination and consultation with Congress on United States arms sales and defense relationship with Taipei.

“(G) UNITED STATES-CHINA BILATERAL PROGRAMS.—The Commission shall assess science and technology programs to evaluate if the United States is developing an adequate coordinating mechanism with appropriate review by the intelligence community with Congress; assess the degree of non-compliance by China and United States-China agreements on prison labor imports and intellectual property rights; evaluate United States enforcement policies; and rec-

ommend what new measures the United States Government might take to strengthen our laws and enforcement activities and to encourage compliance by the Chinese.

“(H) WORLD TRADE ORGANIZATION COMPLIANCE.—The Commission shall review China’s record of compliance to date with its accession agreement to the WTO, and explore what incentives and policy initiatives should be pursued to promote further compliance by China.

“(I) MEDIA CONTROL.—The Commission shall evaluate Chinese government efforts to influence and control perceptions of the United States and its policies through the internet, the Chinese print and electronic media, and Chinese internal propaganda.” Similar provisions were contained in the following appropriation act:

Pub. L. 109-108, title VI, §635(a), Nov. 22, 2005, 119 Stat. 2346.

## CHAPTER 78—TRAFFICKING VICTIMS PROTECTION

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## § 7101. Purposes and findings

## (a) Purposes

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

## (b) Findings

Congress finds that:

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

(2) Many of these persons are trafficked into the international sex trade, often by force, fraud, or coercion. The sex industry has rapidly expanded over the past several decades. It involves sexual exploitation of persons, pre-

dominantly women and girls, involving activities related to prostitution, pornography, sex tourism, and other commercial sexual services. The low status of women in many parts of the world has contributed to a burgeoning of the trafficking industry.

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

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

(5) Traffickers often transport victims from their home communities to unfamiliar destinations, including foreign countries away from family and friends, religious institutions, and other sources of protection and support, leaving the victims defenseless and vulnerable.

(6) Victims are often forced through physical violence to engage in sex acts or perform slavery-like labor. Such force includes rape and other forms of sexual abuse, torture, starvation, imprisonment, threats, psychological abuse, and coercion.

(7) Traffickers often make representations to their victims that physical harm may occur to them or others should the victim escape or attempt to escape. Such representations can have the same coercive effects on victims as direct threats to inflict such harm.

(8) Trafficking in persons is increasingly perpetrated by organized, sophisticated criminal enterprises. Such trafficking is the fastest growing source of profits for organized criminal enterprises worldwide. Profits from the trafficking industry contribute to the expansion of organized crime in the United States and worldwide. Trafficking in persons is often aided by official corruption in countries of origin, transit, and destination, thereby threatening the rule of law.

(9) Trafficking includes all the elements of the crime of forcible rape when it involves the involuntary participation of another person in sex acts by means of fraud, force, or coercion.

(10) Trafficking also involves violations of other laws, including labor and immigration codes and laws against kidnapping, slavery, false imprisonment, assault, battery, pandering, fraud, and extortion.

(11) Trafficking exposes victims to serious health risks. Women and children trafficked in the sex industry are exposed to deadly diseases, including HIV and AIDS. Trafficking victims are sometimes worked or physically brutalized to death.

(12) Trafficking in persons substantially affects interstate and foreign commerce. Trafficking for such purposes as involuntary ser-

vitute, peonage, and other forms of forced labor has an impact on the nationwide employment network and labor market. Within the context of slavery, servitude, and labor or services which are obtained or maintained through coercive conduct that amounts to a condition of servitude, victims are subjected to a range of violations.

(13) Involuntary servitude statutes are intended to reach cases in which persons are held in a condition of servitude through non-violent coercion. In *United States v. Kozminski*, 487 U.S. 931 (1988), the Supreme Court found that section 1584 of title 18, should be narrowly interpreted, absent a definition of involuntary servitude by Congress. As a result, that section was interpreted to criminalize only servitude that is brought about through use or threatened use of physical or legal coercion, and to exclude other conduct that can have the same purpose and effect.

(14) Existing legislation and law enforcement in the United States and other countries are inadequate to deter trafficking and bring traffickers to justice, failing to reflect the gravity of the offenses involved. No comprehensive law exists in the United States that penalizes the range of offenses involved in the trafficking scheme. Instead, even the most brutal instances of trafficking in the sex industry are often punished under laws that also apply to lesser offenses, so that traffickers typically escape deserved punishment.

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

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

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

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

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

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

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

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

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

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

(Pub. L. 106-386, div. A, §102, Oct. 28, 2000, 114 Stat. 1466.)

## REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this division” meaning division A of Pub. L. 106-386, Oct. 28, 2000, 114 Stat. 1466, which is classified principally to this chapter. For complete classification of division A to the Code, see Short Title note set out below and Tables.

## SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110-457, §1(a), Dec. 23, 2008, 122 Stat. 5044, provided that: “This Act [see Tables for classification] may be cited as the ‘William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008’.”

## SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109-164, §1(a), Jan. 10, 2006, 119 Stat. 3558, provided that: “This Act [enacting sections 7111 and 7112 of this title, sections 2428, 3271, and 3272 of Title 18, Crimes and Criminal Procedure, and sections 14044 to 14044e of Title 42, The Public Health and Welfare, amending sections 4028, 7103 to 7107, 7109a, and 7110 of this title and sections 1956 and 1961 of Title 18, and enacting provisions set out as notes under this section and sections 7105 and 7106 of this title] may be cited as the ‘Trafficking Victims Protection Reauthorization Act of 2005’.”

## SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108-193, §1, Dec. 19, 2003, 117 Stat. 2875, provided that: “This Act [enacting section 7109a of this title and section 1595 of Title 18, Crimes and Criminal Procedure, amending sections 2152d, 7102 to 7107, and 7110 of this title, sections 1101, 1182, 1184, and 1255 of Title 8, Aliens and Nationality, and sections 1591 and 1961 of Title 18, enacting provisions set out as notes under this section and section 7103 of this title, and repealing provisions set out as a note under section 7103 of this title] may be cited as the ‘Trafficking Victims Protection Reauthorization Act of 2003’.”

## SHORT TITLE

Pub. L. 106-386, §1, Oct. 28, 2000, 114 Stat. 1464, provided that: “This Act [see Tables for classification] may be cited as the ‘Victims of Trafficking and Violence Protection Act of 2000’.”

Pub. L. 106-386, div. A, §101, Oct. 28, 2000, 114 Stat. 1466, provided that: “This division [enacting this chapter, section 2152d of this title, and sections 1589 to 1594 of Title 18, Crimes and Criminal Procedure, and amending sections 2151n and 2304 of this title, sections 1101, 1182, 1184, and 1255 of Title 8, Aliens and Nationality, and sections 1581, 1583, and 1584 of Title 18] may be cited as the ‘Trafficking Victims Protection Act of 2000’.”

## PROMOTING EFFECTIVE STATE ENFORCEMENT

Pub. L. 110-457, title II, §225, Dec. 23, 2008, 122 Stat. 5072, provided that:

“(a) RELATIONSHIP AMONG FEDERAL AND STATE LAW.—Nothing in this Act [see Short Title of 2008 Amendment note above], the Trafficking Victims Protection Act of 2000 [see Short Title note above], the Trafficking Victims Protection Reauthorization Act of 2003 [see Short Title of 2003 Amendment note above], the Trafficking Victims Protection Reauthorization Act of 2005 [see Short Title of 2006 Amendment note above], chapters 77 and 117 of title 18, United States Code, or any model law issued by the Department of Justice to carry out the purposes of any of the aforementioned statutes—

“(1) may be construed to treat prostitution as a valid form of employment under Federal law; or

“(2) shall preempt, supplant, or limit the effect of any State or Federal criminal law.

“(b) MODEL STATE CRIMINAL PROVISIONS.—In addition to any model State antitrafficking statutes in effect on the date of the enactment of this Act [Dec. 23, 2008], the Attorney General shall facilitate the promulgation of a model State statute that—

“(1) furthers a comprehensive approach to investigation and prosecution through modernization of

State and local prostitution and pandering statutes; and

“(2) is based in part on the provisions of the Act of August 15, 1935 (49 Stat. 651; D.C. Code 22-2701 et seq.) (relating to prostitution and pandering).

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

“(1) posted on the website of the Department of Justice; and

“(2) distributed to the Attorney General of each State.”

#### CONGRESSIONAL FINDINGS

Pub. L. 109-164, § 2, Jan. 10, 2006, 119 Stat. 3558, provided that: “Congress finds the following:

“(1) The United States has demonstrated international leadership in combating human trafficking and slavery through the enactment of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106-386; 22 U.S.C. 7101 et seq.) and the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193) [see Short Title of 2003 Amendment note above].

“(2) The United States Government currently estimates that 600,000 to 800,000 individuals are trafficked across international borders each year and exploited through forced labor and commercial sex exploitation. An estimated 80 percent of such individuals are women and girls.

“(3) Since the enactment of the Trafficking Victims Protection Act of 2000 [Oct. 28, 2000], United States efforts to combat trafficking in persons have focused primarily on the international trafficking in persons, including the trafficking of foreign citizens into the United States.

“(4) Trafficking in persons also occurs within the borders of a country, including the United States.

“(5) No known studies exist that quantify the problem of trafficking in children for the purpose of commercial sexual exploitation in the United States. According to a report issued by researchers at the University of Pennsylvania in 2001, as many as 300,000 children in the United States are at risk for commercial sexual exploitation, including trafficking, at any given time.

“(6) Runaway and homeless children in the United States are highly susceptible to being domestically trafficked for commercial sexual exploitation. According to the National Runaway Switchboard, every day in the United States, between 1,300,000 and 2,800,000 runaway and homeless youth live on the streets. One out of every seven children will run away from home before the age of 18.

“(7) Following armed conflicts and during humanitarian emergencies, indigenous populations face increased security challenges and vulnerabilities which result in myriad forms of violence, including trafficking for sexual and labor exploitation. Foreign policy and foreign aid professionals increasingly recognize the increased activity of human traffickers in post-conflict settings and during humanitarian emergencies.

“(8) There is a need to protect populations in post-conflict settings and humanitarian emergencies from being trafficked for sexual or labor exploitation. The efforts of aid agencies to address the protection needs of, among others, internally displaced persons and refugees are useful in this regard. Nonetheless, there is a need for further integrated programs and strategies at the United States Agency for International Development, the Department of State, and the Department of Defense to combat human trafficking, including through protection and prevention methodologies, in post-conflict environments and during humanitarian emergencies.

“(9) International and human rights organizations have documented a correlation between international deployments of military and civilian peacekeepers

and aid workers and a resulting increase in the number of women and girls trafficked into prostitution in post-conflict regions.

“(10) The involvement of employees and contractors of the United States Government and members of the Armed Forces in trafficking in persons, facilitating the trafficking in persons, or exploiting the victims of trafficking in persons is inconsistent with United States laws and policies and undermines the credibility and mission of United States Government programs in post-conflict regions.

“(11) Further measures are needed to ensure that United States Government personnel and contractors are held accountable for involvement with acts of trafficking in persons, including by expanding United States criminal jurisdiction to all United States Government contractors abroad.”

Pub. L. 108-193, § 2, Dec. 19, 2003, 117 Stat. 2875, provided that: “Congress finds the following:

“(1) Trafficking in persons continues to victimize countless men, women, and children in the United States and abroad.

“(2) Since the enactment of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106-386) [see Short Title note above], the United States Government has made significant progress in investigating and prosecuting acts of trafficking and in responding to the needs of victims of trafficking in the United States and abroad.

“(3) On the other hand, victims of trafficking have faced unintended obstacles in the process of securing needed assistance, including admission to the United States under section 101(a)(15)(T)(i) of the Immigration and Nationality Act [8 U.S.C. 1101(a)(15)(T)(i)].

“(4) Additional research is needed to fully understand the phenomenon of trafficking in persons and to determine the most effective strategies for combating trafficking in persons.

“(5) Corruption among foreign law enforcement authorities continues to undermine the efforts by governments to investigate, prosecute, and convict traffickers.

“(6) International Law Enforcement Academies should be more fully utilized in the effort to train law enforcement authorities, prosecutors, and members of the judiciary to address trafficking in persons-related crimes.”

#### § 7102. Definitions

In this chapter:

##### (1) Appropriate congressional committees

The term “appropriate congressional committees” means the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives.

##### (2) Coercion

The term “coercion” means—

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of the legal process.

##### (3) Commercial sex act

The term “commercial sex act” means any sex act on account of which anything of value is given to or received by any person.

##### (4) Debt bondage

The term “debt bondage” means the status or condition of a debtor arising from a pledge

by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

**(5) Involuntary servitude**

The term “involuntary servitude” includes a condition of servitude induced by means of—

(A) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or

(B) the abuse or threatened abuse of the legal process.

**(6) Minimum standards for the elimination of trafficking**

The term “minimum standards for the elimination of trafficking” means the standards set forth in section 7106 of this title.

**(7) Nonhumanitarian, nontrade-related foreign assistance**

The term “nonhumanitarian, nontrade-related foreign assistance” means—

(A) any assistance under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], other than—

(i) assistance under chapter 4 of part II of that Act [22 U.S.C. 2346 et seq.] in support of programs of nongovernmental organizations that is made available for any program, project, or activity eligible for assistance under chapter 1 of part I of that Act [22 U.S.C. 2151 et seq.];

(ii) assistance under chapter 8 of part I of that Act [22 U.S.C. 2291 et seq.];

(iii) any other narcotics-related assistance under part I of that Act [22 U.S.C. 2151 et seq.] or under chapter 4 or 5<sup>1</sup> part II of that Act [22 U.S.C. 2346 et seq., 2347 et seq.], but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of that Act [22 U.S.C. 2394-1];

(iv) disaster relief assistance, including any assistance under chapter 9 of part I of that Act [22 U.S.C. 2292 et seq.];

(v) antiterrorism assistance under chapter 8 of part II of that Act [22 U.S.C. 2349aa et seq.];

(vi) assistance for refugees;

(vii) humanitarian and other development assistance in support of programs of nongovernmental organizations under chapters 1 and 10<sup>2</sup> of that Act;

(viii) programs under title IV of chapter 2 of part I of that Act [22 U.S.C. 2191 et seq.], relating to the Overseas Private Investment Corporation; and

(ix) other programs involving trade-related or humanitarian assistance; and

(B) sales, or financing on any terms, under the Arms Export Control Act [22 U.S.C. 2751

et seq.], other than sales or financing provided for narcotics-related purposes following notification in accordance with the prior notification procedures applicable to reprogrammings pursuant to section 634A of the Foreign Assistance Act of 1961 [22 U.S.C. 2394-1].

**(8) Severe forms of trafficking in persons**

The term “severe forms of trafficking in persons” means—

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

**(9) Sex trafficking**

The term “sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

**(10) State**

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

**(11) Task Force**

The term “Task Force” means the Interagency Task Force to Monitor and Combat Trafficking established under section 7103 of this title.

**(12) United States**

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

**(13) Victim of a severe form of trafficking**

The term “victim of a severe form of trafficking” means a person subject to an act or practice described in paragraph (8).

**(14) Victim of trafficking**

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

(Pub. L. 106-386, div. A, §103, Oct. 28, 2000, 114 Stat. 1469; Pub. L. 108-193, §8(b)(1), Dec. 19, 2003, 117 Stat. 2887; Pub. L. 110-457, title III, §304(a), Dec. 23, 2008, 122 Stat. 5087.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in par. (7)(A), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. Part I of the Act is classified generally to subchapter I (§2151 et seq.) of chapter 32 of

<sup>1</sup> So in original. Probably should be followed by “of”.

<sup>2</sup> See References in Text note below.

this title. Chapter 1, title IV of chapter 2, chapter 8, and chapter 9 of part I of the Act are classified generally to part I (§2151 et seq.), subpart iv (§2191 et seq.) of part II, part VIII (§2291 et seq.), and part IX (§2292 et seq.), respectively, of subchapter I of chapter 32 of this title. Chapters 4, 5, and 8 of part II of the Act are classified generally to part IV (§2346 et seq.), part V (§2347 et seq.), and part VIII (§2349aa et seq.), respectively, of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Chapters 1 and 10 of that Act, referred to in par. (7)(A)(vii), probably means chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, which are classified generally to parts I (§2151 et seq.) and X (§2293 et seq.), respectively, of subchapter I of chapter 32 of this title. For complete classification of these chapters to the Code, see Tables.

The Arms Export Control Act, referred to in par. (7)(B), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

#### AMENDMENTS

2008—Par. (1). Pub. L. 110-457 substituted “Committee on Foreign Affairs” for “Committee on International Relations”.

2003—Par. (7)(A)(i). Pub. L. 108-193 inserted “in support of programs of nongovernmental organizations” before “that is made available”.

### § 7103. Interagency Task Force to Monitor and Combat Trafficking

#### (a) Establishment

The President shall establish an Interagency Task Force to Monitor and Combat Trafficking.

#### (b) Appointment

The President shall appoint the members of the Task Force, which shall include the Secretary of State, the Administrator of the United States Agency for International Development, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Director of National Intelligence, the Secretary of Defense, the Secretary of Homeland Security, the Secretary of Education, and such other officials as may be designated by the President.

#### (c) Chairman

The Task Force shall be chaired by the Secretary of State.

#### (d) Activities of the Task Force

The Task Force shall carry out the following activities:

(1) Coordinate the implementation of this chapter.

(2) Measure and evaluate progress of the United States and other countries in the areas of trafficking prevention, protection, and assistance to victims of trafficking, and prosecution and enforcement against traffickers, including the role of public corruption in facilitating trafficking. The Task Force shall have primary responsibility for assisting the Secretary of State in the preparation of the reports described in section 7107 of this title.

(3) Expand interagency procedures to collect and organize data, including significant research and resource information on domestic and international trafficking. Any data collec-

tion procedures established under this subsection shall respect the confidentiality of victims of trafficking.

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

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

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

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

(A) the number of persons who received benefits or other services under subsections (b) and (f)<sup>1</sup> of section 7105 of this title in connection with programs or activities funded or administered by the Secretary of Health and Human Services, the Secretary of Labor, the Attorney General, the Board of Directors of the Legal Services Corporation, and other appropriate Federal agencies during the preceding fiscal year;

(B) the number of persons who have been granted continued presence in the United States under section 7105(c)(3) of this title during the preceding fiscal year;

(C) the number of persons who have applied for, been granted, or been denied a visa or otherwise provided status under section 1101(a)(15)(T)(i) of title 8 during the preceding fiscal year;

(D) the number of persons who have been charged or convicted under one or more of sections 1581, 1583, 1584, 1589, 1590, 1591, 1592, or 1594 of title 18 during the preceding fiscal year and the sentences imposed against each such person;

(E) the amount, recipient, and purpose of each grant issued by any Federal agency to carry out the purposes of sections 7104 and 7105 of this title, or section 2152d of this title, during the preceding fiscal year;

(F) the nature of training conducted pursuant to section 7105(c)(4) of this title during the preceding fiscal year;

(G) the amount, recipient, and purpose of each grant under sections 14044a and 14044c of title 42;<sup>1</sup>

<sup>1</sup> See References in Text note below.

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

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

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

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

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

(i) section 7104(g) of this title and any similar law, regulation, or policy relating to United States Government contractors and their employees or United States Government subcontractors and their employees that engage in severe forms of trafficking in persons, the procurement of commercial sex acts, or the use of forced labor, including debt bondage;

(ii) section 1307 of title 19 (relating to prohibition on importation of convict-made goods), including any determinations by the Secretary of Homeland Security to waive the restrictions of such section; and

(iii) prohibitions on the procurement by the United States Government of items or services produced by slave labor, consistent with Executive Order 13107 (December 10, 1998); and

(J) the activities undertaken by the Senior Policy Operating Group to carry out its responsibilities under subsection (f) of this section.

**(e) Office To Monitor and Combat Trafficking**

**(1) In general**

The Secretary of State shall establish within the Department of State an Office to Monitor and Combat Trafficking, which shall provide assistance to the Task Force. Any such Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, with the rank of Ambassador-at-Large. The Director shall have the primary responsibility for assisting the Secretary of State in carrying out the purposes of this chapter and may have additional responsibilities as determined by the Secretary. The Director shall consult with nongovernmental organizations and multilateral organizations, and with trafficking victims or other affected persons. The Director shall have the authority to take evidence in public hearings or by other means. The agencies represented on the Task Force are authorized to provide staff to the Office on a non-reimbursable basis.

**(2) Coordination of certain activities**

**(A) Partnerships**

The Director, in coordination and cooperation with other officials at the Department of State involved in corporate responsibility, the Deputy Under Secretary for Inter-

national Affairs of the Department of Labor, and other relevant officials of the United States Government, shall promote, build, and sustain partnerships between the United States Government and private entities (including foundations, universities, corporations, community-based organizations, and other nongovernmental organizations) to ensure that—

(i) United States citizens do not use any item, product, or material produced or extracted with the use of labor from victims of severe forms of trafficking; and

(ii) such entities do not contribute to trafficking in persons involving sexual exploitation.

**(B) United States assistance**

The Director shall be responsible for—

(i) all policy, funding, and programming decisions regarding funds made available for trafficking in persons programs that are centrally controlled by the Office to Monitor and Combat Trafficking; and

(ii) coordinating any trafficking in persons programs of the Department of State or the United States Agency for International Development that are not centrally controlled by the Director.

**(f) Senior Policy Operating Group**

**(1) Establishment**

There shall be established within the executive branch a Senior Policy Operating Group.

**(2) Membership; related matters**

**(A) In general**

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

**(B) Chairperson**

The Operating Group shall be chaired by the Director of the Office to Monitor and Combat Trafficking of the Department of State.

**(C) Meetings**

The Operating Group shall meet on a regular basis at the call of the Chairperson.

**(3) Duties**

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

**(4) Availability of information**

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

**(5) Regulations**

Not later than 90 days after December 19, 2003, the President shall promulgate regula-

tions to implement this section, including regulations to carry out paragraph (4).

(Pub. L. 106-386, div. A, § 105, Oct. 28, 2000, 114 Stat. 1473; Pub. L. 108-193, § 6(a)(1), (b)(1), (c)(1), Dec. 19, 2003, 117 Stat. 2880, 2881; Pub. L. 109-164, title I, § 104(a), title II, § 205, Jan. 10, 2006, 119 Stat. 3564, 3571; Pub. L. 110-457, title I, §§ 101, 102, title II, § 231, title III, § 304(a), Dec. 23, 2008, 122 Stat. 5045, 5072, 5087.)

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (d) to (f), was in the original “this division” meaning division A of Pub. L. 106-386, Oct. 28, 2000, 114 Stat. 1466, which is classified principally to this chapter. For complete classification of division A to the Code, see Short Title note set out under section 7101 of this title and Tables.

Subsection (f) of section 7105 of this title, referred to in subsec. (d)(7)(A), probably means the first subsec. (f) of section 7105 of this title, relating to assistance for United States citizens and lawful permanent residents, as added by Pub. L. 110-457, title II, § 213(a)(1), Dec. 23, 2008, 122 Stat. 5064.

Sections 14044a and 14044c of title 42, referred to in subsec. (d)(7)(G), was in the original “sections 202 and 204 of the Trafficking Victims Protection Act of 2005”, and was translated as reading “sections 202 and 204 of the Trafficking Victims Protection Reauthorization Act of 2005”, which enacted sections 14044a and 14044c of Title 42, The Public Health and Welfare, to reflect the probable intent of Congress.

Executive Order 13107, referred to in subsec. (d)(7)(I)(iii), is set out as a note under section 601 of Title 5, Government Organization and Employees.

Executive Order No. 13257, referred to in subsec. (f)(2)(A), is set out as a note below.

#### AMENDMENTS

2008—Subsec. (b). Pub. L. 110-457, § 101, inserted “the Secretary of Education,” after “the Secretary of Homeland Security.”

Subsec. (d)(7). Pub. L. 110-457, § 304(a), substituted “Committee on Foreign Affairs” for “Committee on International Relations” in introductory provisions.

Subsec. (d)(7)(A). Pub. L. 110-457, § 231(1), substituted “subsections (b) and (f) of section 7105 of this title” for “section 7105(b) of this title” and inserted “the Attorney General,” after “the Secretary of Labor.”

Subsec. (d)(7)(H) to (J). Pub. L. 110-457, § 231(2)-(4), added subpars. (H) and (I) and redesignated former subpar. (H) as (J).

Subsec. (e). Pub. L. 110-457, § 102, substituted “Office To Monitor and Combat Trafficking” for “Support for the Task Force” in subsec. heading, designated existing provisions as par. (1) and inserted par. heading, substituted “The Secretary of State shall” for “The Secretary of State is authorized to”, and added par. (2).

2006—Subsec. (b). Pub. L. 109-164, § 104(a), substituted “the Director of National Intelligence, the Secretary of Defense, the Secretary of Homeland Security” for “the Director of Central Intelligence”.

Subsec. (d)(7)(G), (H). Pub. L. 109-164, § 205, added subpar. (G) and redesignated former subpar. (G) as (H).

2003—Subsec. (d)(7). Pub. L. 108-193, § 6(a)(1), added par. (7).

Subsec. (e). Pub. L. 108-193, § 6(b)(1), inserted before period at end of second sentence “, who shall be appointed by the President, by and with the advice and consent of the Senate, with the rank of Ambassador-at-Large”.

Subsec. (f). Pub. L. 108-193, § 6(c)(1), added subsec. (f).

#### SAVINGS PROVISION

Pub. L. 108-193, § 6(b)(2), Dec. 19, 2003, 117 Stat. 2881, provided that: “The individual who holds the position of Director of the Office to Monitor and Combat Trafficking of the Department of State may continue to

hold such position notwithstanding the amendment made by paragraph (1) [amending this section].”

#### SENIOR POLICY OPERATING GROUP

Pub. L. 108-7, div. B, title IV, § 406, Feb. 20, 2003, 117 Stat. 92, required the Interagency Task Force to Monitor and Combat Trafficking to establish a Senior Policy Operating Group, prior to repeal by Pub. L. 108-193, § 6(c)(2), Dec. 19, 2003, 117 Stat. 2881. See subsec. (f) of this section.

EX. ORD. NO. 13257. PRESIDENT’S INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS

Ex. Ord. No. 13257, Feb. 13, 2002, 67 F.R. 7259, as amended by Ex. Ord. No. 13286, § 5, Feb. 28, 2003, 68 F.R. 10619; Ex. Ord. No. 13333, Mar. 18, 2004, 69 F.R. 13455, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Trafficking Victims Protection Act of 2000, (22 U.S.C. 7101 *et seq.*) (the “Act”), and section 301 of title 3, United States Code, and in order to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims, it is hereby ordered as follows:

SECTION 1. (a) The President’s Interagency Task Force to Monitor and Combat Trafficking in Persons is hereby established.

(b) The Task Force shall consist of:

- (i) the Secretary of State;
- (ii) the Attorney General;
- (iii) the Secretary of Labor;
- (iv) the Secretary of Health and Human Services;
- (v) the Secretary of Homeland Security;
- (vi) the Director of Central Intelligence;
- (vii) the Director of the Office of Management and Budget;
- (viii) the Administrator of the United States Agency for International Development; and
- (ix) any additional officers or employees of the United States as may be designated by the President.

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

SEC. 2. *Activities.* The Task Force shall, consistent with applicable law and the constitutional authorities and duties of the President, carry out the following activities:

(a) coordinate the implementation of the Act;

(b) measure and evaluate progress of the United States and other countries in the areas of trafficking in persons prevention, protection, and assistance to victims of trafficking in persons, and prosecutions and other enforcement efforts against traffickers, including the role of public corruption in facilitating trafficking in persons;

(c) assist the Secretary of State in the preparation of the annual reports described in section 110 of the Act [22 U.S.C. 7107];

(d) expand interagency procedures to collect and organize data, including significant research and resource information on domestic and international trafficking in persons, while ensuring that any data collection procedures involved, respect the confidentiality of victims of trafficking in persons;

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

(f) examine the role of the international “sex tourism” industry in the trafficking of persons and in the sexual exploitation of women and children around the world;



(g) engage in consultation and advocacy with governmental and nongovernmental organizations, among other entities, to advance the purposes of the Act; and

(h) address such other matters related to the purposes of the Act as the President may determine.

SEC. 3. *Administration.* (a) The Department of State shall provide funding and administrative support for the Task Force, except as otherwise provided by the Act.

(b) At the call of the Chair, the Task Force shall meet as necessary to accomplish its mission.

(c) Task Force members may designate representatives from their respective agencies to represent them at Task Force meetings.

(d) Whenever the work of the Task Force involves a matter committed by law or Presidential directive to the consideration of the National Security Council, or by Executive Order 13228 of October 8, 2001 [50 U.S.C. 402 note], to the consideration of the Homeland Security Council, that work shall be undertaken, and any communication by the Secretary of State to the President shall be undertaken, in a manner consistent with such law, Presidential directive, or Executive Order.

(e) The Task Force shall have no directive authority or other substantial independent authority.

(f) As necessary and appropriate, the Task Force shall report to the President, through the Secretary of State, the following:

- (i) progress on the implementation of the Act; and
- (ii) recommendations for United States policy to monitor and eliminate trafficking in persons and to protect the victims of trafficking in persons.

SEC. 4. *Guidelines, Policies, and Regulations.* (a) The Senior Policy Operating Group (SPOG), described in subsection 105(f) of the Act [22 U.S.C. 7103(f)], shall (i) establish guidelines and policies to coordinate the activities of executive branch departments and agencies regarding policies (including grants and grant policies) involving the international trafficking in persons and (ii) advise the Secretary of State what regulations may be necessary to implement section 105 of the Act, including such regulations as may be necessary to carry out the sharing of information on all matters relating to grants, grant policies, or other significant actions regarding the international trafficking in persons as set forth in subsection 105(f)(4) of the Act, to the extent permitted by law.

(b) The Secretary of State, in consultation with the members of the Task Force or their representatives, shall promulgate regulations to implement section 105 of the Act [22 U.S.C. 7103].

SEC. 5. *Enhanced Prevention of Trafficking in Persons.* (a) The Secretary of State, in consultation with the members of the Task Force or their representatives, shall carry out the functions under subsection 106(c) and subsection 106(d) of the Act [22 U.S.C. 7104(c), (d)].

(b) The Secretary of State shall have the authority to determine, under section 106(e)(1) of the Act, foreign destinations where sex tourism is significant. The Secretary of Homeland Security, in consultation with the members of the Task Force or their representatives and appropriate officials of the Departments of Commerce and Transportation, shall carry out all other functions under subsection 106(e) of the Act, including promulgation of any appropriate regulations relating to the distribution of the materials described in subsection 106(e).

(c) The head of each executive branch agency responsible for the establishment and conduct of initiatives and programs described in subsections 106(a) through (e) of the Act shall consult with appropriate nongovernmental organizations consistent with section 106(f) of the Act.

(d) The Secretary of State shall have responsibility to initiate appropriate regulatory implementation of the requirements set out in section 106(g) of the Act with respect to contracts, including proposing appropriate amendments to the Federal Acquisition Regulation. Each affected executive branch department or agency shall implement, within that department or

agency, the requirements set out in section 106(g) of the Act with respect to grants and cooperative agreements.

SEC. 6. *Research on Trafficking in Persons.* The entities named in section 112A of the Act [22 U.S.C. 7109a] shall carry out the research initiatives required by section 112A of the Act, and shall award grants according to such policies and guidelines as may be established by the SPOG described in section 105(f) of the Act [22 U.S.C. 7103(f)], as well as any applicable agency rules and regulations.

SEC. 7. *Guidance for Exercising Authority and Performing Duties.* In exercising authority delegated by, or performing functions assigned in, this order, officers of the United States shall ensure that all actions taken by them are consistent with the President's constitutional authority to:

- (a) conduct the foreign affairs of the United States;
- (b) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties;
- (c) recommend for congressional consideration such measures as the President may judge necessary or expedient; and
- (d) supervise the unitary Executive Branch.

SEC. 8. *Judicial Review.* This order does not create any rights or benefits, enforceable at law or equity, against the United States, its departments, its agencies, or other entities, its officers or employees, or any other person.

GEORGE W. BUSH.

## § 7104. Prevention of trafficking

### (a) Economic alternatives to prevent and deter trafficking

The President shall establish and carry out international initiatives to enhance economic opportunity for potential victims of trafficking as a method to deter trafficking. Such initiatives may include—

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

### (b) Public awareness and information

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

### (c) Border interdiction

The President shall establish and carry out programs of border interdiction outside the United States. Such programs shall include providing grants to foreign nongovernmental organizations that provide for transit shelters operating at key border crossings and that help train

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

**(d) International media**

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

**(e) Combating international sex tourism**

**(1) Development and dissemination of materials**

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

**(2) Monitoring of compliance**

The President shall monitor compliance with the requirements of paragraph (1).

**(3) Feasibility report**

Not later than 180 days after December 19, 2003, the President shall transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Affairs of the Senate a report that describes the feasibility of such United States Government materials being disseminated through public-private partnerships to individuals traveling to foreign destinations.

**(f) Consultation requirement**

The President shall consult with appropriate nongovernmental organizations with respect to the establishment and conduct of initiatives and programs described in subsections (a) through (e) of this section.

**(g) Termination of certain grants, contracts and cooperative agreements**

The President shall ensure that any grant, contract, or cooperative agreement provided or entered into by a Federal department or agency

under which funds are to be provided to a private entity, in whole or in part, shall include a condition that authorizes the department or agency to terminate the grant, contract, or cooperative agreement, without penalty, if the grantee or any subgrantee, or the contractor or any subcontractor (i) engages in severe forms of trafficking in persons or has procured a commercial sex act during the period of time that the grant, contract, or cooperative agreement is in effect, or (ii) uses forced labor in the performance of the grant, contract, or cooperative agreement.

**(h) Prevention of trafficking in conjunction with post-conflict and humanitarian emergency assistance**

The United States Agency for International Development, the Department of State, and the Department of Defense shall incorporate anti-trafficking and protection measures for vulnerable populations, particularly women and children, into their post-conflict and humanitarian emergency assistance and program activities.

**(i) Additional measures to prevent and deter trafficking**

The President shall establish and carry out programs to prevent and deter trafficking in persons, including—

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

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

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

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

(B) labor recruitment firms are regulated; and

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

(4) assistance to foreign governments to register vulnerable populations as citizens or nationals of the country to reduce the ability of traffickers to exploit such populations.

(Pub. L. 106-386, div. A, §106, Oct. 28, 2000, 114 Stat. 1474; Pub. L. 108-193, §3, Dec. 19, 2003, 117 Stat. 2875; Pub. L. 109-164, title I, §101(a), title II, §201(b), Jan. 10, 2006, 119 Stat. 3560, 3569; Pub. L. 110-457, title I, §103(a), Dec. 23, 2008, 122 Stat. 5046.)

AMENDMENTS

2008—Subsec. (i). Pub. L. 110-457 added subsec. (i).

2006—Subsec. (g). Pub. L. 109-164, §201(b), struck out designation and heading of par. (1) before “The President shall”, “described in paragraph (2)” after “under which funds”, and heading and text of par. (2). Text of par. (2) read as follows: “Funds referred to in paragraph (1) are funds made available to carry out any program, project, or activity abroad funded under major functional budget category 150 (relating to international affairs).”

Subsec. (h). Pub. L. 109-164, §101(a), added subsec. (h). 2003—Subsecs. (c) to (f). Pub. L. 108-193, §3(a), added subsecs. (c) to (e), redesignated former subsec. (c) as (f), and in subsec. (f) substituted “initiatives and programs described in subsections (a) through (e)” for “initiatives described in subsections (a) and (b)”.

Subsec. (g). Pub. L. 108-193, §3(b), added subsec. (g).

#### CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

#### DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see section 5 of Ex. Ord. No. 13257, Feb. 13, 2002, 67 F.R. 7259, as amended, set out as a note under section 7103 of this title.

### § 7105. Protection and assistance for victims of trafficking

#### (a) Assistance for victims in other countries

##### (1) In general

The Secretary of State and the Administrator of the United States Agency for International Development, in consultation with appropriate nongovernmental organizations, shall establish and carry out programs and initiatives in foreign countries to assist in the safe integration, reintegration, or resettlement, as appropriate, of victims of trafficking. Such programs and initiatives shall be designed to meet the appropriate assistance needs of such persons and their children, as identified by the Task Force, and shall be carried out in a manner which takes into account the cross-border, regional, and transnational aspects of trafficking in persons. In addition, such programs and initiatives shall, to the maximum extent practicable, include the following:

(A) Support for local in-country nongovernmental organization-operated hotlines, culturally and linguistically appropriate protective shelters, and regional and international nongovernmental organization networks and databases on trafficking, including support to assist nongovernmental organizations in establishing service centers and systems that are mobile and extend beyond large cities.

(B) Support for nongovernmental organizations and advocates to provide legal, social, and other services and assistance to trafficked individuals, particularly those individuals in detention, and by facilitating contact between relevant foreign government agencies and such nongovernmental organizations to facilitate cooperation between the foreign governments and such organizations.

(C) Education and training for trafficked women and girls.

(D) The safe integration or reintegration of trafficked individuals into an appropriate

community or family, with full respect for the wishes, dignity, and safety of the trafficked individual.

(E) Support for developing or increasing programs to assist families of victims in locating, repatriating, and treating their trafficked family members, in assisting the voluntary repatriation of these family members or their integration or resettlement into appropriate communities, and in providing them with treatment.

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

(i) increased protections for refugees and internally displaced persons, including outreach and education efforts to prevent such refugees and internally displaced persons from being exploited by traffickers; and

(ii) performance of best interest determinations for unaccompanied and separated children who come to the attention of the United Nations High Commissioner for Refugees, its partner organizations, or any organization that contracts with the Department of State in order to identify child trafficking victims and to assist their safe integration, reintegration, and resettlement.

#### (2) Additional requirement

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

#### (b) Victims in the United States

##### (1) Assistance

##### (A) Eligibility for benefits and services

Notwithstanding title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [8 U.S.C. 1601 et seq.], an alien who is a victim of a severe form of trafficking in persons, or an alien classified as a nonimmigrant under section 1101(a)(15)(T)(ii) of title 8, shall be eligible for benefits and services under any Federal or State program or activity funded or administered by any official or agency described in subparagraph (B) to the same extent as an alien who is admitted to the United States as a refugee under section 1157 of title 8.

**(B) Requirement to expand benefits and services**

Subject to subparagraph (C) and, in the case of nonentitlement programs, to the availability of appropriations, the Secretary of Health and Human Services, the Secretary of Labor, the Board of Directors of the Legal Services Corporation, and the heads of other Federal agencies shall expand benefits and services to victims of severe forms of trafficking in persons in the United States, and aliens classified as a non-immigrant under section 1101(a)(15)(T)(ii) of title 8, without regard to the immigration status of such victims. In the case of non-entitlement programs funded by the Secretary of Health and Human Services, such benefits and services may include services to assist potential victims of trafficking in achieving certification and to assist minor dependent children of victims of severe forms of trafficking in persons or potential victims of trafficking.

**(C) Definition of victim of a severe form of trafficking in persons**

For the purposes of this paragraph, the term “victim of a severe form of trafficking in persons” means only a person—

- (i) who has been subjected to an act or practice described in section 7102(8) of this title as in effect on October 28, 2000; and
- (ii)(I) who has not attained 18 years of age; or
- (II) who is the subject of a certification under subparagraph (E).

**(D) Repealed. Pub. L. 108–193, § 6(a)(2), Dec. 19, 2003, 117 Stat. 2880****(E) Certification****(i) In general**

Subject to clause (ii), the certification referred to in subparagraph (C) is a certification by the Secretary of Health and Human Services, after consultation with the Secretary of Homeland Security, that the person referred to in subparagraph (C)(ii)(II)—

(I) is willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking in persons or is unable to cooperate with such a request due to physical or psychological trauma; and

(II)(aa) has made a bona fide application for a visa under section 1101(a)(15)(T) of title 8, as added by subsection (e) of this section, that has not been denied; or

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

**(ii) Period of effectiveness**

A certification referred to in subparagraph (C), with respect to a person described in clause (i)(II)(bb), shall be effective only for so long as the Secretary of Homeland Security determines that the

continued presence of such person is necessary to effectuate prosecution of traffickers in persons.

**(iii) Investigation and prosecution defined**

For the purpose of a certification under this subparagraph, the term “investigation and prosecution” includes—

- (I) identification of a person or persons who have committed severe forms of trafficking in persons;
- (II) location and apprehension of such persons;
- (III) testimony at proceedings against such persons; or
- (IV) responding to and cooperating with requests for evidence and information.

**(iv) Assistance to investigations**

In making the certification described in this subparagraph with respect to the assistance to investigation or prosecution described in clause (i)(I), the Secretary of Health and Human Services shall consider statements from State and local law enforcement officials that the person referred to in subparagraph (C)(ii)(II) has been willing to assist in every reasonable way with respect to the investigation and prosecution of State and local crimes such as kidnapping, rape, slavery, or other forced labor offenses, where severe forms of trafficking appear to have been involved.

**(F) Eligibility for interim assistance of children****(i) Determination**

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

**(ii) Notification**

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

**(iii) Duration**

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

**(iv) Long-term assistance for children****(I) Eligibility determination**

Before the expiration of the period for interim assistance under clause (iii), the

Secretary of Health and Human Services shall determine if the child referred to in clause (i) is eligible for assistance under this paragraph.

**(II) Consultation**

In making a determination under subclause (I), the Secretary shall consult with the Attorney General, the Secretary of Homeland Security, and nongovernmental organizations with expertise on victims of severe form<sup>1</sup> of trafficking.

**(III) Letter of eligibility**

If the Secretary, after receiving information the Secretary believes, taken as a whole, indicates that the child is eligible for assistance under this paragraph, the Secretary shall issue a letter of eligibility. The Secretary may not require that the child cooperate with law enforcement as a condition for receiving such letter of eligibility.

**(G) Notification of children for interim assistance**

Not later than 24 hours after a Federal, State, or local official discovers that a person who is under 18 years of age may be a victim of a severe form of trafficking in persons, the official shall notify the Secretary of Health and Human Services to facilitate the provision of interim assistance under subparagraph (F).

**(2) Grants**

**(A) In general**

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

**(B) Allocation of grant funds**

Of amounts made available for grants under this paragraph, there shall be set aside—

- (i) three percent for research, evaluation, and statistics;
- (ii) 5 percent for training and technical assistance, including increasing capacity and expertise on security for and protection of service providers from intimidation or retaliation for their activities;<sup>2</sup>
- (iii) one percent for management and administration.

**(C) Limitation on Federal share**

The Federal share of a grant made under this paragraph may not exceed 75 percent of the total costs of the projects described in the application submitted.

**(c) Trafficking victim regulations**

Not later than 180 days after October 28, 2000, the Attorney General, the Secretary of Homeland Security and the Secretary of State shall

promulgate regulations for law enforcement personnel, immigration officials, and Department of State officials to implement the following:

**(1) Protections while in custody**

Victims of severe forms of trafficking, while in the custody of the Federal Government and to the extent practicable, shall—

- (A) not be detained in facilities inappropriate to their status as crime victims;
- (B) receive necessary medical care and other assistance; and
- (C) be provided protection if a victim's safety is at risk or if there is danger of additional harm by recapture of the victim by a trafficker, including—

- (i) taking measures to protect trafficked persons and their family members from intimidation and threats of reprisals and reprisals from traffickers and their associates; and
- (ii) ensuring that the names and identifying information of trafficked persons and their family members are not disclosed to the public.

**(2) Access to information**

Victims of severe forms of trafficking shall have access to information about their rights and translation services. To the extent practicable, victims of severe forms of trafficking shall have access to information about federally funded or administered anti-trafficking programs that provide services to victims of severe forms of trafficking.

**(3) Authority to permit continued presence in the United States**

**(A) Trafficking victims**

**(i) In general**

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

**(ii) Safety**

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

**(iii) Continuation of presence**

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

<sup>1</sup> So in original. Probably should be "forms".

<sup>2</sup> So in original. The period probably should be "; and".

mitting the alien to remain in the United States.

**(iv) Exception**

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

**(B) Parole for relatives**

Law enforcement officials may submit written requests to the Secretary of Homeland Security, in accordance with section 1229b(b)(6) of title 8, to permit the parole into the United States of certain relatives of an alien described in subparagraph (A)(i).

**(C) State and local law enforcement**

The Secretary of Homeland Security, in consultation with the Attorney General, shall—

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

**(4) Training of Government personnel**

Appropriate personnel of the Department of State, the Department of Homeland Security, the Department of Health and Human Services, and the Department of Justice shall be trained in identifying victims of severe forms of trafficking and providing for the protection of such victims, including juvenile victims. The Attorney General and the Secretary of Health and Human Services shall provide training to State and local officials to improve the identification and protection of such victims.

**(d) Construction**

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

**(e) Protection from removal for certain crime victims**

**(1)–(4) Omitted**

**(5) Statutory construction**

Nothing in this section, or in the amendments made by this section, shall be construed as prohibiting the Secretary of Homeland Security from instituting removal proceedings under section 1229a of title 8 against an alien admitted as a nonimmigrant under section 1101(a)(15)(T)(i) of title 8, as added by subsection (e) of this section, for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Secretary of Homeland Security prior to the alien's admission as a

nonimmigrant under such section 1101(a)(15)(T)(i) of title 8.

**(f)<sup>3</sup> Assistance for United States citizens and lawful permanent residents**

**(1) In general**

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

**(2) Use of existing programs**

In addition to specialized services required for victims described in paragraph (1), the program established pursuant to paragraph (1) shall—

- (A) facilitate communication and coordination between the providers of assistance to such victims;
- (B) provide a means to identify such providers; and
- (C) provide a means to make referrals to programs for which such victims are already eligible, including programs administered by the Department of Justice and the Department of Health and Human Services.

**(3) Grants**

**(A) In general**

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

**(B) Maximum Federal share**

The Federal share of a grant awarded under this paragraph may not exceed 75 percent of the total costs of the projects described in the application submitted by the grantee.

**(f)<sup>3</sup> Omitted**

**(g) Annual reports**

On or before October 31 of each year, the Secretary of Homeland Security shall submit a report to the appropriate congressional committees setting forth, with respect to the preceding fiscal year, the number, if any, of otherwise eligible applicants who did not receive visas under section 1101(a)(15)(T) of title 8, as added by subsection (e) of this section, or who were unable to adjust their status under section 1255(l) of title 8, solely on account of the unavailability of visas due to a limitation imposed by section 1184(o)(2) or 1255(l)(4)(A) of title 8.

(Pub. L. 106-386, div. A, §107, Oct. 28, 2000, 114 Stat. 1474; Pub. L. 107-228, div. A, title VI,

<sup>3</sup> So in original. Two subsecs. (f) have been enacted.

§ 682(a), Sept. 30, 2002, 116 Stat. 1409; Pub. L. 108-193, §§ 4(a)(1)–(3), 6(a)(2), 8(b)(2), Dec. 19, 2003, 117 Stat. 2877, 2880, 2887; Pub. L. 109-162, title VIII, § 804, Jan. 5, 2006, 119 Stat. 3055; Pub. L. 109-164, title I, § 102(a), Jan. 10, 2006, 119 Stat. 3560; Pub. L. 110-457, title I, § 104, title II, §§ 205(a)(1), 212, 213(a)(1), (3), Dec. 23, 2008, 122 Stat. 5046, 5060, 5063, 5064, 5066.)

## REFERENCES IN TEXT

Section 1101(a)(15)(T)(ii) of title 8, referred to in subsec. (b)(1)(A), (B), was in the original “section 101(a)(15)(T)(ii)”, and was translated as meaning section 101(a)(15)(T)(ii) of the Immigration and Nationality Act, act June 27, 1952, ch. 477, which is classified to section 1101(a)(15)(T)(ii) of title 8, to reflect the probable intent of Congress. Section 101 of Pub. L. 106-386 does not contain a subsec. (a)(15)(T)(ii), and section 101(a)(15)(T)(ii) of the Immigration and Nationality Act describes certain nonimmigrant aliens.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, referred to in subsec. (b)(1)(A), is Pub. L. 104-193, Aug. 22, 1996, 110 Stat. 2105. Title IV of the Act is classified principally to chapter 14 (§ 1601 et seq.) of Title 8, Aliens and Nationality. For complete classification of title IV to the Code, see Tables.

For the amendments made by this section, referred to in subsec. (e)(5), see Codification note below.

## CODIFICATION

Section is comprised of section 107 of Pub. L. 106-386. Subsec. (e)(1)–(4) of section 107 of Pub. L. 106-386 amended sections 1101, 1182, and 1184 of Title 8, Aliens and Nationality, and second subsec. (f) of section 107 of Pub. L. 106-386 amended section 1255 of Title 8.

## AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110-457, § 104(1)(A), inserted “, and shall be carried out in a manner which takes into account the cross-border, regional, and transnational aspects of trafficking in persons” after “as identified by the Task Force” in introductory provisions.

Subsec. (a)(1)(F). Pub. L. 110-457, § 104(1)(B), added subpar. (F).

Subsec. (a)(2). Pub. L. 110-457, § 104(2), inserted at end “In carrying out this paragraph, the Secretary and the Administrator shall take all appropriate steps to ensure that cooperative efforts among foreign countries are undertaken on a regional basis.”

Subsec. (b)(1)(E)(i)(I). Pub. L. 110-457, § 212(a)(1), inserted “or is unable to cooperate with such a request due to physical or psychological trauma” before semicolon.

Subsec. (b)(1)(F), (G). Pub. L. 110-457, § 212(a)(2), added subpars. (F) and (G).

Subsec. (b)(2)(B)(ii). Pub. L. 110-457, § 213(a)(3), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “two percent for training and technical assistance; and”.

Subsec. (c)(3). Pub. L. 110-457, § 205(a)(1), amended par. (3) generally. Prior to amendment, text read as follows: “Federal law enforcement officials may permit an alien individual’s continued presence in the United States, if after an assessment, it is determined that such individual is a victim of a severe form of trafficking and a potential witness to such trafficking, in order to effectuate prosecution of those responsible, and such officials in investigating and prosecuting traffickers shall protect the safety of trafficking victims, including taking measures to protect trafficked persons and their family members from intimidation, threats of reprisals, and reprisals from traffickers and their associates.”

Subsec. (c)(4). Pub. L. 110-457, § 212(b), inserted “, the Department of Homeland Security, the Department of Health and Human Services,” before “and the Depart-

ment of Justice” and “, including juvenile victims. The Attorney General and the Secretary of Health and Human Services shall provide training to State and local officials to improve the identification and protection of such victims” before period at end.

Subsec. (f). Pub. L. 110-457, § 213(a)(1), added subsec. (f) relating to assistance for United States citizens and lawful permanent residents.

2006—Subsec. (b)(1)(E). Pub. L. 109-162, § 804(b)(1), (2), which directed amendment of cl. (i) by inserting “and the Secretary of Homeland Security” after “Attorney General” in introductory provisions and in subcl. (II)(bb) and the amendment of cl. (ii) by inserting “Secretary of Homeland Security” after “Attorney General”, could not be executed because the words “Attorney General” did not appear subsequent to the amendment by Pub. L. 109-162, § 804(a)(1). See below.

Pub. L. 109-162, § 804(a)(1), substituted “Secretary of Homeland Security” for “Attorney General” wherever appearing.

Subsec. (b)(1)(E)(iii)(IV). Pub. L. 109-162, § 804(b)(3), added subcl. (IV).

Subsec. (c). Pub. L. 109-162, § 804(a)(2), inserted “, the Secretary of Homeland Security” after “Attorney General” in introductory provisions.

Subsec. (c)(2). Pub. L. 109-164 inserted at end “To the extent practicable, victims of severe forms of trafficking shall have access to information about federally funded or administered anti-trafficking programs that provide services to victims of severe forms of trafficking.”

Subsec. (e)(5). Pub. L. 109-162, § 804(a)(1), (c), made identical amendments, substituting “Secretary of Homeland Security” for “Attorney General” in two places.

Subsec. (g). Pub. L. 109-162, § 804(d), which directed the insertion of “or the Secretary of Homeland Security” after “Attorney General”, could not be executed because the words “Attorney General” did not appear subsequent to the amendment by Pub. L. 109-162, § 804(a)(1). See below.

Pub. L. 109-162, § 804(a)(1) substituted “Secretary of Homeland Security” for “Attorney General”.

2003—Subsec. (a)(1)(B). Pub. L. 108-193, § 4(a)(1), inserted before period at end “, and by facilitating contact between relevant foreign government agencies and such nongovernmental organizations to facilitate cooperation between the foreign governments and such organizations”.

Subsec. (b)(1)(A). Pub. L. 108-193, § 4(a)(2)(A), inserted “, or an alien classified as a nonimmigrant under section 1101(a)(15)(T)(ii) of title 8,” after “in persons”.

Subsec. (b)(1)(B). Pub. L. 108-193, § 4(a)(2)(B), inserted “and aliens classified as a nonimmigrant under section 1101(a)(15)(T)(ii) of title 8,” after “United States,” and inserted sentence at end relating to nonentitlement programs funded by the Secretary of Health and Human Services.

Subsec. (b)(1)(D). Pub. L. 108-193, § 6(a)(2), struck out subpar. (D) which related to annual reports on the number of persons receiving benefits or services under paragraph (1).

Subsec. (b)(1)(E)(iv). Pub. L. 108-193, § 4(a)(3), added cl. (iv).

Subsec. (g). Pub. L. 108-193, § 8(b)(2), substituted “1184(o)(2)” for “1184(n)(1)”.

2002—Subsec. (a)(1). Pub. L. 107-228 inserted “In addition, such programs and initiatives shall, to the maximum extent practicable, include the following:” at end of introductory provisions and added subpars. (A) to (E).

## EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-457, title II, § 205(a)(2), Dec. 23, 2008, 122 Stat. 5061, provided that: “The amendment made by paragraph (1) [amending this section]—

“(A) shall take effect on the date of the enactment of this Act [Dec. 23, 2008];

“(B) shall apply to pending requests for continued presence filed pursuant to section 107(c)(3) of the

Trafficking Victims Protection Act [of 2000] (22 U.S.C. 7105(c)(3)) and requests filed on or after such date; and

“(C) may not be applied to an alien who is not present in the United States.”

#### SAVINGS PROVISION

Pub. L. 109–162, title I, §104(b), Jan. 5, 2006, 119 Stat. 2979, provided that: “Nothing in this Act [see Tables for classification], or the amendments made by this Act, shall be construed to restrict the legal assistance provided to victims of trafficking and certain family members authorized under section 107(b)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(1)).”

#### ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

#### ESTABLISHMENT OF PILOT PROGRAM FOR RESIDENTIAL REHABILITATIVE FACILITIES FOR VICTIMS OF TRAFFICKING

Pub. L. 109–164, title I, §102(b), Jan. 10, 2006, 119 Stat. 3561, as amended by Pub. L. 110–457, title III, §§302(1), 304(b), Dec. 23, 2008, 122 Stat. 5087, provided that:

“(1) STUDY.—

“(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Jan. 10, 2006], the Administrator of the United States Agency for International Development shall carry out a study to identify best practices for the rehabilitation of victims of trafficking in group residential facilities in foreign countries.

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

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

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

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

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

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

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

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

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

“(5) FORM OF ASSISTANCE.—In order to carry out the responsibilities of this subsection, the Administrator of the United States Agency for International Development shall enter into contracts with, or make grants

to, organizations with relevant expertise in the delivery of services to victims of trafficking.

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

“(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the United States Agency for International Development to carry out this subsection \$2,500,000 for each of the fiscal years 2008 through 2011.”

#### § 7105a. Increasing effectiveness of anti-trafficking programs

##### (a) Awarding of grants, cooperative agreements, and contracts

In administering funds made available to carry out this Act within and outside the United States—

(1) solicitations of grants, cooperative agreements, and contracts for such programs shall be made publicly available;

(2) grants, cooperative agreements, and contracts shall be subject to full and open competition, in accordance with applicable laws; and

(3) the internal department or agency review process for such grants, cooperative agreements, and contracts shall not be subject to ad hoc or intermittent review or influence by individuals or organizations outside the United States Government except as provided under paragraphs (1) and (2).

##### (b) Eligibility

###### (1) In general

An applicant desiring a grant, contract, or cooperative agreement under this Act shall certify that, to the extent practicable, persons or entities providing legal services, social services, health services, or other assistance have completed, or will complete, training in connection with trafficking in persons.

###### (2) Disclosure

If appropriate, applicants should indicate collaboration with nongovernmental organizations, including organizations with expertise in trafficking in persons.

##### (c) Evaluation of anti-trafficking programs

###### (1) In general

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

###### (2) Requirements

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

(A) establish performance goals for the assistance described in paragraph (1), expressed in an objective and quantifiable form, to the extent practicable;

(B) ensure that performance indicators are used for programs authorized under this Act



to measure and assess the achievement of the performance goals described in subparagraph (A);

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

(D) ensure that evaluations are conducted by subject matter experts in and outside the United States Government, to the extent practicable.

**(d) Targeted use of anti-trafficking programs**

In providing assistance under this chapter, the President should take into account the priorities and country assessments contained in the most recent report submitted by the Secretary of State to Congress pursuant to section 7107(b) of this title.

**(e) Consistency with other programs**

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

**(f) Authorization of appropriations**

For each of the fiscal years 2008 through 2011, not more than 5 percent of the amounts made available to carry out this chapter may be used to carry out this section, including—

(1) evaluations of promising anti-trafficking programs and projects funded by the disbursing agency pursuant to this Act; and

(2) evaluations of emerging problems or global trends.

(Pub. L. 106-386, div. A, §107A, as added Pub. L. 110-457, title I, §105, Dec. 23, 2008, 122 Stat. 5047.)

REFERENCES IN TEXT

This Act, referred to in text, is the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386, Oct. 28, 2000, 114 Stat. 1464. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

This chapter, referred to in subsecs. (d) and (f), was in the original “this division” meaning division A of Pub. L. 106-386, Oct. 28, 2000, 114 Stat. 1466, which is classified principally to this chapter. For complete classification of division A to the Code, see Short Title note set out under section 7101 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (e), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424. Part I of the Act is classified generally to subchapter I (§2151 et seq.) of chapter 32 of this title. Chapter 4 of part II of the Act is classified generally to part IV (§2346 et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

**§ 7106. Minimum standards for the elimination of trafficking**

**(a) Minimum standards**

For purposes of this chapter, the minimum standards for the elimination of trafficking applicable to the government of a country of ori-

gin, transit, or destination for victims of severe forms of trafficking are the following:

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

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

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

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

**(b) Criteria**

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

(1) Whether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons, and convicts and sentences persons responsible for such acts, that take place wholly or partly within the territory of the country, including, as appropriate, requiring incarceration of individuals convicted of such acts. For purposes of the preceding sentence, suspended or significantly-reduced sentences for convictions of principal actors in cases of severe forms of trafficking in persons shall be considered, on a case-by-case basis, whether to be considered an indicator of serious and sustained efforts to eliminate severe forms of trafficking in persons. After reasonable requests from the Department of State for data regarding investigations, prosecutions, convictions, and sentences, a government which does not provide such data, consistent with the capacity of such government to obtain such data, shall be presumed not to have vigorously investigated, prosecuted, convicted or sentenced such acts. During the periods prior to the annual report submitted on June 1, 2004, and on June 1, 2005, and the periods afterwards until September 30 of each such year, the Secretary of State may disregard the presumption contained in the preceding sentence if the government has provided some data to the Department of State regarding such acts and the Secretary has determined that the government is making a good faith effort to collect such data.

(2) Whether the government of the country protects victims of severe forms of trafficking in persons and encourages their assistance in the investigation and prosecution of such trafficking, including provisions for legal alternatives to their removal to countries in which they would face retribution or hardship, and ensures that victims are not inappropriately

incarcerated, fined, or otherwise penalized solely for unlawful acts as a direct result of being trafficked, including by providing training to law enforcement and immigration officials regarding the identification and treatment of trafficking victims using approaches that focus on the needs of the victims.

(3) Whether the government of the country has adopted measures to prevent severe forms of trafficking in persons, such as measures to inform and educate the public, including potential victims, about the causes and consequences of severe forms of trafficking in persons, measures to establish the identity of local populations, including birth registration, citizenship, and nationality, measures to ensure that its nationals who are deployed abroad as part of a peacekeeping or other similar mission do not engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking, and measures to prevent the use of forced labor or child labor in violation of international standards.

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

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

(6) Whether the government of the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies of the country respond to any such evidence in a manner that is consistent with the vigorous investigation and prosecution of acts of such trafficking, as well as with the protection of human rights of victims and the internationally recognized human right to leave any country, including one's own, and to return to one's own country.

(7) Whether the government of the country vigorously investigates, prosecutes, convicts, and sentences public officials who participate in or facilitate severe forms of trafficking in persons, including nationals of the country who are deployed abroad as part of a peacekeeping or other similar mission who engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking, and takes all appropriate measures against officials who condone such trafficking. After reasonable requests from the Department of State for data regarding such investigations, prosecutions, convictions, and sentences, a government which does not provide such data consistent with its resources shall be presumed not to have vigorously investigated, prosecuted, convicted, or sentenced such acts. During the periods prior to the annual report submitted on June 1, 2004, and on June 1, 2005,

and the periods afterwards until September 30 of each such year, the Secretary of State may disregard the presumption contained in the preceding sentence if the government has provided some data to the Department of State regarding such acts and the Secretary has determined that the government is making a good faith effort to collect such data.

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

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

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

(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.

(Pub. L. 106-386, div. A, §108, Oct. 28, 2000, 114 Stat. 1480; Pub. L. 108-193, §6(d), Dec. 19, 2003, 117 Stat. 2881; Pub. L. 109-164, title I, §104(b)(1), Jan. 10, 2006, 119 Stat. 3564; Pub. L. 110-457, title I, §106, Dec. 23, 2008, 122 Stat. 5048.)

#### AMENDMENTS

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

Subsec. (b)(1). Pub. L. 110-457, §106(2)(A), substituted “, including, as appropriate, requiring incarceration of individuals convicted of such acts. For purposes of the preceding sentence, suspended or significantly-reduced sentences for convictions of principal actors in cases of severe forms of trafficking in persons shall be considered, on a case-by-case basis, whether to be considered an indicator of serious and sustained efforts to eliminate severe forms of trafficking in persons.” for period at end of first sentence.

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

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

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

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

Subsec. (b)(7). Pub. L. 109-164, §104(b)(2), substituted “persons, including nationals of the country who are deployed abroad as part of a peacekeeping or other

similar mission who engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking,” for “persons,” in first sentence.

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

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

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

#### EFFECTIVE DATE OF 2006 AMENDMENT

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

### § 7107. Actions against governments failing to meet minimum standards

#### (a) Statement of policy

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

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

#### (b) Reports to Congress

##### (1) Annual report

Not later than June 1 of each year, the Secretary of State shall submit to the appropriate congressional committees a report with respect to the status of severe forms of trafficking in persons that shall include—

- (A) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments fully comply with such standards;
- (B) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not yet fully comply with such standards but are making significant efforts to bring themselves into compliance;
- (C) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not fully comply with such standards and are not making significant efforts to bring themselves into compliance;
- (D) information on the measures taken by the United Nations, the Organization for Security and Cooperation in Europe, the North Atlantic Treaty Organization and, as appropriate, other multilateral organizations in

which the United States participates, to prevent the involvement of the organization’s employees, contractor personnel, and peacekeeping forces in trafficking in persons or the exploitation of victims of trafficking;

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

(F) emerging issues in human trafficking.

#### (2) Interim reports

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

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

(B) have begun or ceased to make significant efforts to bring themselves into compliance,

since the transmission of the last annual report.

#### (3) Special watch list

##### (A) Submission of list

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

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

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

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

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

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

(III) the determination that a country is making significant efforts to bring

themselves into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year.

**(B) Interim assessment**

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

**(C) Relation of special watch list to annual trafficking in persons report**

A determination that a country shall not be placed on the special watch list described in subparagraph (A) shall not affect in any way the determination to be made in the following year as to whether a country is complying with the minimum standards for the elimination of trafficking or whether a country is making significant efforts to bring itself into compliance with such standards.

**(D) Countries on special watch list for 2 consecutive years**

**(i) In general**

Except as provided under clause (ii), a country that is included on the special watch list described in subparagraph (A) for 2 consecutive years after December 23, 2008, shall be included on the list of countries described in paragraph 1(C).

**(ii) Exercise of waiver authority**

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

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

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

(III) the country is devoting sufficient resources to implement the plan.

**(4) Significant efforts**

In determinations under paragraph (1) or (2) as to whether the government of a country is making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking, the Secretary of State shall consider—

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

(B) the extent of noncompliance with the minimum standards by the government and, particularly, the extent to which officials or employees of the government have participated in, facilitated, condoned, or are other-

wise complicit in severe forms of trafficking; and

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

**(c) Notification**

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

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

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

**(d) Presidential determinations**

The determinations referred to in subsection (c) of this section are the following:

**(1) Withholding of nonhumanitarian, nontrade-related assistance**

The President has determined that—

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

(ii) in the case of a country whose government received no nonhumanitarian, nontrade-related foreign assistance from the United States during the previous fiscal year, the United States will not provide such assistance to the government of the country for the subsequent fiscal year and will not provide funding for participation by officials or employees of such governments in educational and cultural exchange programs for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; and

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

**(2) Ongoing, multiple, broad-based restrictions on assistance in response to human rights violations**

The President has determined that such country is already subject to multiple, broad-based restrictions on assistance imposed in significant part in response to human rights abuses and such restrictions are ongoing and are comparable to the restrictions provided in paragraph (1). Such determination shall be accompanied by a description of the specific restriction or restrictions that were the basis for making such determination.

**(3) Subsequent compliance**

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

**(4) Continuation of assistance in the national interest**

Notwithstanding the failure of the government of the country to comply with minimum standards for the elimination of trafficking and to make significant efforts to bring itself into compliance, the President has determined that the provision to the country of non-humanitarian, nontrade-related foreign assistance or funding for participation in educational and cultural exchange programs, or the multilateral assistance described in paragraph (1)(B), or both, would promote the purposes of this chapter or is otherwise in the national interest of the United States.

**(5) Exercise of waiver authority**

**(A) In general**

The President may exercise the authority under paragraph (4) with respect to—

- (i) all nonhumanitarian, nontrade-related foreign assistance or funding for participation in educational and cultural exchange programs to a country;
- (ii) all multilateral assistance described in paragraph (1)(B) to a country; or
- (iii) one or more programs, projects, or activities of such assistance.

**(B) Avoidance of significant adverse effects**

The President shall exercise the authority under paragraph (4) when necessary to avoid significant adverse effects on vulnerable populations, including women and children.

**(6) Definition of multilateral development bank**

In this subsection, the term “multilateral development bank” refers to any of the following institutions: the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.

**(e) Certification**

Together with any notification under subsection (c) of this section, the President shall

provide a certification by the Secretary of State that, with respect to any assistance described in clause (ii), (iii), or (v) of section 7102(7)(A) of this title, or with respect to any assistance described in section 7102(7)(B) of this title, no assistance is intended to be received or used by any agency or official who has participated in, facilitated, or condoned a severe form of trafficking in persons.

**(f) Subsequent waiver authority**

After the President has made a determination described in subsection (d)(1) of this section with respect to the government of a country, the President may at any time make a determination described in paragraphs (4) and (5) of subsection (d) of this section to waive, in whole or in part, the measures imposed against the country by the previous determination under subsection (d)(1) of this section.

(Pub. L. 106-386, div. A, §110, Oct. 28, 2000, 114 Stat. 1482; Pub. L. 108-193, §6(e), (h), (i), Dec. 19, 2003, 117 Stat. 2882, 2884; Pub. L. 109-164, title I, §104(e)(1), Jan. 10, 2006, 119 Stat. 3565; Pub. L. 110-457, title I, §§107(a), (b), 108(b), Dec. 23, 2008, 122 Stat. 5049, 5051.)

AMENDMENTS

2008—Subsec. (b)(1)(E), (F). Pub. L. 110-457, §108(b), added subpars. (E) and (F).

Subsec. (b)(3)(D). Pub. L. 110-457, §107(a), added subpar. (D).

Subsec. (d)(1)(A)(ii). Pub. L. 110-457, §107(b), inserted “such assistance to the government of the country for the subsequent fiscal year and will not provide” after “the United States will not provide”.

2006—Subsec. (b)(1)(D). Pub. L. 109-164 added subpar. (D).

2003—Subsec. (b)(3), (4). Pub. L. 108-193, §6(e), added par. (3) and redesignated former par. (3) as (4).

Subsec. (d)(4). Pub. L. 108-193, §6(h)(1), inserted “or funding for participation in educational and cultural exchange programs” after “nonhumanitarian, nontrade-related foreign assistance”.

Subsec. (d)(5)(A)(i). Pub. L. 108-193, §6(h)(2), inserted “or funding for participation in educational and cultural exchange programs” after “foreign assistance”.

Subsec. (f). Pub. L. 108-193, §6(i), added subsec. (f).

TRANSLATION OF TRAFFICKING-IN-PERSONS REPORT

Pub. L. 110-457, title I, §107(c), Dec. 23, 2008, 122 Stat. 5050, provided that: “The Secretary of State shall—

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

“(2) ensure that the translations described in paragraph (1) are made available to the public through postings on the Internet website of the Department of State and other appropriate websites.”

PRESIDENTIAL DETERMINATION WITH RESPECT TO FOREIGN GOVERNMENTS’ EFFORTS REGARDING TRAFFICKING IN PERSONS

Determination of President of the United States, No. 2011-18, Sept. 30, 2011, 76 F.R. 62599, provided:

Memorandum for the Secretary of State

Consistent with section 110 of the Trafficking Victims Protection Act of 2000 (Division A of Public Law 106-386), as amended (the “Act”), I hereby:

Make the determination provided in section 110(d)(1)(A)(i) of the Act, with respect to Burma, the Democratic Republic of the Congo, Equatorial Guinea, and Zimbabwe, not to provide certain funding for those

countries' governments for Fiscal Year 2012, until such governments comply with the minimum standards or make significant efforts to bring themselves into compliance, as may be determined by the Secretary of State in a report to the Congress pursuant to section 110(b) of the Act;

Make the determination provided in section 110(d)(1)(A)(ii) of the Act, with respect to Cuba, the Democratic People's Republic of North Korea (DPRK), Eritrea, Iran, Madagascar, and Venezuela, not to provide certain funding for those countries' governments for Fiscal Year 2012, until such governments comply with the minimum standards or make significant efforts to bring themselves into compliance, as may be determined by the Secretary of State in a report to the Congress pursuant to section 110(b) of the Act;

Determine, consistent with section 110(d)(4) of the Act, with respect to Algeria, the Central African Republic, Guinea-Bissau, Kuwait, Lebanon, Libya, Mauritania, Micronesia, Papua New Guinea, Saudi Arabia, Sudan, Turkmenistan, and Yemen that provision to these countries' governments of all programs, projects, or activities of assistance described in sections 110(d)(1)(A)(i)–(ii) and 110(d)(1)(B) of the Act would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Burma, that a partial waiver to allow funding for programs described in section 110(d)(1)(A)(i) of the Act to support government labs and offices that work to combat infectious disease and to support government participation in nongovernmental organization-run civil society programs and Association of South East Asian Nations programs addressing vulnerable populations would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Cuba and Venezuela, that a partial waiver to allow funding for educational and cultural exchange programs described in section 110(d)(1)(A)(ii) of the Act that are related to democracy or the rule of law programming would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Iran, that a partial waiver to allow funding for educational and cultural exchange programs described in section 110(d)(1)(A)(ii) of the Act would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to the Democratic Republic of the Congo, that assistance and programs described in section 110(d)(1)(A)(i) and 110(d)(1)(B) of the Act, with the exception of Foreign Military Sales and Foreign Military Financing, would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Venezuela, that a partial waiver to allow funding for programs described in section 110(d)(1)(A)(i) of the Act to support programs designed to strengthen the democratic process in Venezuela would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Equatorial Guinea, that a partial waiver to allow funding for programs described in section 110(d)(1)(A)(i) of the Act to support programs to study and combat the spread of infectious diseases and to advance sustainable natural resource management and biodiversity would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Equatorial Guinea, that assistance described in section 110(d)(1)(B) of the Act would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Zimbabwe, that a partial waiver to allow funding for programs described in section 110(d)(1)(A)(i) of the Act for assistance for victims of trafficking in persons or to combat such trafficking, and for programs to support the promotion of health, good governance, education, agriculture and food security, poverty reduction, livelihoods, family planning, and macroeconomic growth including anticorruption, and programs that would have a significant adverse effect on vulnerable populations if suspended, would promote the purposes of the Act or is otherwise in the national interest of the United States;

And determine, consistent with section 110(d)(4) of the Act, with respect to Venezuela and Zimbabwe, that assistance described in section 110(d)(1)(B) of the Act, which:

(1) is a regional program, project, or activity under which the total benefit to Venezuela or Zimbabwe does not exceed 10 percent of the total value of such program, project, or activity; or

(2) has as its primary objective the addressing of basic human needs, as defined by the Department of the Treasury with respect to other, existing legislative mandates concerning U.S. participation in the multilateral development banks; or

(3) is complementary to or has similar policy objectives to programs being implemented bilaterally by the United States Government; or

(4) has as its primary objective the improvement of Venezuela or Zimbabwe's legal system, including in areas that impact Venezuela or Zimbabwe's ability to investigate and prosecute trafficking cases or otherwise improve implementation of its anti-trafficking policy, regulations or legislation; or

(5) is engaging a government, international organization, or civil society organization, and seeks as its primary objective(s) to: (a) increase efforts to investigate and prosecute trafficking in persons crimes; (b) increase protection for victims of trafficking through better screening, identification, rescue or removal; aftercare (shelter, counseling) training and reintegration; or (c) expand prevention efforts through education and awareness campaigns highlighting the dangers of trafficking or training and economic empowerment of populations clearly at risk of falling victim to trafficking, would promote the purposes of the Act or is otherwise in the national interest of the United States.

The certification required by section 110(e) of the Act is provided herewith.

You are hereby authorized and directed to submit this determination to the Congress, and to publish it in the Federal Register.

BARACK OBAMA.

Prior determinations and certifications regarding trafficking in persons were contained in the following:

Determination of President of the United States, No. 2010–15, Sept. 10, 2010, 75 F.R. 67017, 68411.

Determination of President of the United States, No. 2009–29, Sept. 14, 2009, 74 F.R. 48365.

Determination of President of the United States, No. 2009–5, Oct. 17, 2008, 73 F.R. 63839.

Determination of President of the United States, No. 2008–4, Oct. 18, 2007, 72 F.R. 61037.

Determination of President of the United States, No. 2006–25, Sept. 26, 2006, 71 F.R. 64431.

Determination of President of the United States, No. 2005–37, Sept. 21, 2005, 70 F.R. 57481.

Determination of President of the United States, No. 2004–46, Sept. 10, 2004, 69 F.R. 56155.

Determination of President of the United States, No. 2003–35, Sept. 9, 2003, 68 F.R. 53871.

DELEGATION OF WAIVER AUTHORITY PURSUANT TO SECTION 107(a) OF PUBLIC LAW 110–457

Memorandum of President of the United States, Sept. 20, 2010, 75 F.R. 67023, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of

America, including section 301 of title 3, United States Code, I hereby delegate to you the functions conferred upon the President by section 107(a) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Public Law 110-457).

You are hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

**§ 7108. Actions against significant traffickers in persons**

**(a) Authority to sanction significant traffickers in persons**

**(1) In general**

The President may exercise the authorities set forth in section 1702 of title 50 without regard to section 1701 of title 50 in the case of any of the following persons:

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

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

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

**(2) Penalties**

The penalties set forth in section 1705 of title 50 apply to violations of any license, order, or regulation issued under this section.

**(b) Report to Congress on identification and sanctioning of significant traffickers in persons**

**(1) In general**

Upon exercising the authority of subsection (a) of this section, the President shall report to the appropriate congressional committees—

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

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

**(2) Removal of sanctions**

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

**(3) Submission of classified information**

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

**(c) Law enforcement and intelligence activities not affected**

Nothing in this section prohibits or otherwise limits the authorized law enforcement or intelligence activities of the United States, or the law enforcement activities of any State or subdivision thereof.

**(d) Omitted**

**(e) Implementation**

**(1) Delegation of authority**

The President may delegate any authority granted by this section, including the authority to designate foreign persons under paragraphs (1)(B) and (1)(C) of subsection (a) of this section.

**(2) Promulgation of rules and regulations**

The head of any agency, including the Secretary of Treasury, is authorized to take such actions as may be necessary to carry out any authority delegated by the President pursuant to paragraph (1), including promulgating rules and regulations.

**(3) Opportunity for review**

Such rules and regulations shall include procedures affording an opportunity for a person to be heard in an expeditious manner, either in person or through a representative, for the purpose of seeking changes to or termination of any determination, order, designation or other action associated with the exercise of the authority in subsection (a) of this section.

**(f) Definition of foreign persons**

In this section, the term “foreign person” means any citizen or national of a foreign state or any entity not organized under the laws of the United States, including a foreign government official, but does not include a foreign state.

**(g) Construction**

Nothing in this section shall be construed as precluding judicial review of the exercise of the authority described in subsection (a) of this section.

(Pub. L. 106-386, div. A, §111, Oct. 28, 2000, 114 Stat. 1484.)

CODIFICATION

Section is comprised of section 111 of Pub. L. 106-386. Subsec. (d) of section 111 of Pub. L. 106-386 amended section 1182 of Title 8, Aliens and Nationality.

**§ 7109. Strengthening prosecution and punishment of traffickers**

**(a) Omitted**

**(b) Amendment to the Sentencing Guidelines**

(1) Pursuant to its authority under section 994 of title 28 and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the sentencing guidelines and policy statements applicable to persons convicted of offenses involving the trafficking of persons including component or related crimes of peonage, involuntary servitude, slave trade offenses, and possession, transfer or sale of false immigration documents in furtherance of trafficking, and the Fair Labor Standards Act [29 U.S.C. 201 et seq.] and the Migrant and Seasonal Agricultural Worker Protection Act [29 U.S.C. 1801 et seq.].

(2) In carrying out this subsection, the Sentencing Commission shall—

(A) take all appropriate measures to ensure that these sentencing guidelines and policy

statements applicable to the offenses described in paragraph (1) of this subsection are sufficiently stringent to deter and adequately reflect the heinous nature of such offenses;

(B) consider conforming the sentencing guidelines applicable to offenses involving trafficking in persons to the guidelines applicable to peonage, involuntary servitude, and slave trade offenses; and

(C) consider providing sentencing enhancements for those convicted of the offenses described in paragraph (1) of this subsection that—

- (i) involve a large number of victims;
- (ii) involve a pattern of continued and flagrant violations;
- (iii) involve the use or threatened use of a dangerous weapon; or
- (iv) result in the death or bodily injury of any person.

(3) The Commission may promulgate the guidelines or amendments under this subsection in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(Pub. L. 106-386, div. A, §112, Oct. 28, 2000, 114 Stat. 1486.)

#### REFERENCES IN TEXT

The Fair Labor Standards Act, referred to in subsec. (b)(1), probably means the Fair Labor Standards Act of 1938, act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified generally to chapter 8 (§201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

The Migrant and Seasonal Agricultural Worker Protection Act, referred to in subsec. (b)(1), is Pub. L. 97-470, Jan. 14, 1983, 96 Stat. 2584, as amended, which is classified generally to chapter 20 (§1801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 29 and Tables.

The Sentencing Act of 1987, referred to in subsec. (b)(3), is Pub. L. 100-182, Dec. 7, 1987, 101 Stat. 1266. Section 21(a) of the Act is set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure. For complete classification of this Act to the Code, see Short Title of 1987 Amendment note set out under section 3551 of Title 18, Crimes and Criminal Procedure, and Tables.

#### CODIFICATION

Section is comprised of section 112 of Pub. L. 106-386. Subsec. (a) of section 112 of Pub. L. 106-386 enacted sections 1589 to 1594 of Title 18, Crimes and Criminal Procedure, and amended sections 1581, 1583, and 1584 of Title 18.

### § 7109a. Research on domestic and international trafficking in persons

#### (a) In general

The President, acting through the Council of Economic Advisors, the National Research Council of the National Academies, the Secretary of Labor, the Secretary of Health and Human Services, the Attorney General, the Secretary of State, the Administrator of the United States Agency for International Development, and the Director of National Intelligence, shall carry out research, including by providing grants to nongovernmental organizations, as

well as relevant United States Government agencies and international organizations, which furthers the purposes of this chapter and provides data to address the problems identified in the findings of this chapter. Such research initiatives shall, to the maximum extent practicable, include, but not be limited to, the following:

(1) The economic causes and consequences of trafficking in persons.

(2) The effectiveness of programs and initiatives funded or administered by Federal agencies to prevent trafficking in persons and to protect and assist victims of trafficking.

(3) The interrelationship between trafficking in persons and global health risks, particularly HIV/AIDS.

(4) Subject to subsection (b) of this section, the interrelationship between trafficking in persons and terrorism, including the use of profits from trafficking in persons to finance terrorism.

(5) An effective mechanism for quantifying the number of victims of trafficking on a national, regional, and international basis, which shall include, not later than 2 years after December 23, 2008, the establishment and maintenance of an integrated database within the Human Smuggling and Trafficking Center.

(6) The abduction and enslavement of children for use as soldiers, including steps taken to eliminate the abduction and enslavement of children for use as soldiers and recommendations for such further steps as may be necessary to rapidly end the abduction and enslavement of children for use as soldiers.

#### (b) Role of Human Smuggling and Trafficking Center

##### (1) In general

The research initiatives described in paragraphs (4) and (5) of subsection (a) shall be carried out by the Human Smuggling and Trafficking Center, established under section 1777 of title 8.

##### (2) Database

The database described in subsection (a)(5) shall be established by combining all applicable data collected by each Federal department and agency represented on the Interagency Task Force to Monitor and Combat Trafficking, consistent with the protection of sources and methods, and, to the maximum extent practicable, applicable data from relevant international organizations, to—

(A) improve the coordination of the collection of data related to trafficking in persons by each agency of the United States Government that collects such data;

(B) promote uniformity of such data collection and standards and systems related to such collection;

(C) undertake a meta-analysis of patterns of trafficking in persons, slavery, and slave-like conditions to develop and analyze global trends in human trafficking;

(D) identify emerging issues in human trafficking and establishing integrated methods to combat them; and

(E) identify research priorities to respond to global patterns and emerging issues.



**(3) Consultation**

The database established in accordance with paragraph (2) shall be maintained in consultation with the Director of the Office to Monitor and Combat Trafficking in Persons of the Department of State.

**(4) Authorization of appropriations**

There are authorized to be appropriated \$2,000,000 to the Human Smuggling and Trafficking Center for each of the fiscal years 2008 through 2011 to carry out the activities described in this subsection.

**(c) Definitions**

In this section:

**(1) AIDS**

The term “AIDS” means the acquired immune deficiency syndrome.

**(2) HIV**

The term “HIV” means the human immunodeficiency virus, the pathogen that causes AIDS.

**(3) HIV/AIDS**

The term “HIV/AIDS” means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

(Pub. L. 106–386, div. A, §112A, as added Pub. L. 108–193, §6(g)(1), Dec. 19, 2003, 117 Stat. 2883; amended Pub. L. 109–164, title I, §104(c)(1), Jan. 10, 2006, 119 Stat. 3564; Pub. L. 110–457, title I, §108(a), Dec. 23, 2008, 122 Stat. 5050.)

## REFERENCES IN TEXT

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

## AMENDMENTS

2008—Subsec. (a)(5). Pub. L. 110–457, §108(a)(1), amended par. (5) generally. Prior to amendment, text read as follows: “An effective mechanism for quantifying the number of victims of trafficking on a national, regional, and international basis.”

Subsec. (b). Pub. L. 110–457, §108(a)(2), amended subsec. (b) generally. Prior to amendment, text read as follows: “The research initiatives described in subsection (a)(4) of this section shall be carried out by the Human Smuggling and Trafficking Center (established pursuant to section 1777 of title 8).”

2006—Pub. L. 109–164 designated existing provisions as subsec. (a), inserted subsec. heading, substituted “the Director of National Intelligence” for “the Director of Central Intelligence” in introductory provisions, inserted “, particularly HIV/AIDS” before period at end of par. (3), and added pars. (4) to (6) and subsecs. (b) and (c).

## DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see section 6 of Ex. Ord. No. 13257, Feb. 13, 2002, 67 F.R. 7259, as amended, set out as a note under section 7103 of this title.

**§ 7109b. Presidential Award for Extraordinary Efforts To Combat Trafficking in Persons****(a) Establishment of award**

The President is authorized to establish an award, to be known as the “Presidential Award

for Extraordinary Efforts To Combat Trafficking in Persons”, for extraordinary efforts to combat trafficking in persons. To the maximum extent practicable, the Secretary of State shall present the award annually to not more than 5 individuals or organizations, including—

(1) individuals who are United States citizens or foreign nationals; and

(2) United States or foreign nongovernmental organizations.

**(b) Selection**

The President shall establish procedures for selecting recipients of the award authorized under subsection (a).

**(c) Ceremony**

The Secretary of State shall host an annual ceremony for recipients of the award authorized under subsection (a) as soon as practicable after the date on which the Secretary submits to Congress the report required under section 7107(b)(1) of this title. The Secretary of State may pay the travel costs of each recipient and a guest of each recipient who attends the ceremony.

**(d) Authorization of appropriations**

There are authorized to be appropriated, for each of the fiscal years 2008 through 2011, such sums as may be necessary to carry out this section.

(Pub. L. 106–386, div. A, §112B, as added Pub. L. 110–457, title I, §109, Dec. 23, 2008, 122 Stat. 5051.)

**§ 7110. Authorizations of appropriations****(a) Authorization of appropriations in support of the Task Force**

To carry out the purposes of sections 7103(e), 7103(f) and 7107 of this title, there are authorized to be appropriated to the Secretary of State \$5,500,000 for each of the fiscal years 2008 through 2011. In addition, there are authorized to be appropriated to the Office to Monitor and Combat Trafficking \$1,500,000 for additional personnel for each of the fiscal years 2008 through 2011, and \$3,000 for official reception and representation expenses for each of the fiscal years 2008 through 2011.

**(b) Authorization of appropriations to the Secretary of Health and Human Services****(1) Eligibility for benefits and assistance**

To carry out the purposes of section 7105(b) of this title, there are authorized to be appropriated to the Secretary of Health and Human Services \$12,500,000 for each of the fiscal years 2008 through 2011<sup>1</sup>

**(2) Additional benefits for trafficking victims**

To carry out the purposes of section 7105(f)<sup>2</sup> of this title, there are authorized to be appropriated to the Secretary of Health and Human Services—

(A) \$2,500,000 for fiscal year 2008;

(B) \$5,000,000<sup>3</sup> for fiscal year 2009;

(C) \$7,000,000 for fiscal year 2010; and

(D) \$7,000,000 for fiscal year 2011.

<sup>1</sup> So in original. Probably should be followed by a period.

<sup>2</sup> See References in Text note below.

<sup>3</sup> So in original.

**(c) Authorization of appropriations to the Secretary of State****(1) Bilateral assistance to combat trafficking****(A) Prevention**

To carry out the purposes of section 7104 of this title, there are authorized to be appropriated to the Secretary of State \$10,000,000 for each of the fiscal years 2008 through 2011.

**(B) Protection**

To carry out the purposes of section 7105(a) of this title, there are authorized to be appropriated to the Secretary of State \$15,000,000 for fiscal year 2003 and \$10,000,000 for each of the fiscal years 2008 through 2011. To carry out the purposes of section 7105(a)(1)(F) of this title, there are authorized to be appropriated to the Secretary of State \$1,000,000 for each of the fiscal years 2008 through 2011.

**(C) Prosecution and meeting minimum standards**

To carry out the purposes of section 2152d of this title, there are authorized to be appropriated \$10,000,000 for each of the fiscal years 2008 through 2011 to assist in promoting prosecution of traffickers and otherwise to assist countries in meeting the minimum standards described in section 7106 of this title, including \$250,000 for each such fiscal year to carry out training activities for law enforcement officers, prosecutors, and members of the judiciary with respect to trafficking in persons at the International Law Enforcement Academies.

**(2) Preparation of annual country reports on human rights**

To carry out the purposes of sections 2151n(f) and 2304(h) of this title, there are authorized to be appropriated to the Secretary of State such sums as may be necessary to include the additional information required by that section in the annual Country Reports on Human Rights Practices.

**(d) Authorization of appropriations to Attorney General****(A) Eligibility for benefits and assistance**

To carry out the purposes of section 7105(b) of this title, there are authorized to be appropriated to the Attorney General \$10,000,000 for each of the fiscal years 2008 through 2011.

**(B) Assistance to foreign countries**

To carry out the purposes of section 2152d of this title, there are authorized to be appropriated to the President, acting through the Attorney General and the Secretary of State, \$250,000 for each of fiscal years 2008 through 2011 to carry out training activities for law enforcement officers, prosecutors, and members of the judiciary with respect to trafficking in persons at the International Law Enforcement Academies.

**(C) Additional benefits for trafficking victims**

To carry out the purposes of section 7105(f)<sup>2</sup> of this title, there are authorized to be appropriated to the Attorney General—

- (i) \$2,500,000 for fiscal year 2008;

- (ii) \$5,000,000<sup>3</sup> for fiscal year 2009;
- (iii) \$7,000,000 for fiscal year 2010; and
- (iv) \$7,000,000 for fiscal year 2011.

**(e) Authorization of appropriations to President****(1) Foreign victim assistance**

To carry out the purposes of section 7104 of this title, there are authorized to be appropriated to the President \$15,000,000 for each of the fiscal years 2008 through 2011.

**(2) Assistance to foreign countries to meet minimum standards**

To carry out the purposes of section 2152d of this title, there are authorized to be appropriated to the President \$15,000,000 for each of the fiscal years 2008 through 2011.

**(3) Research**

To carry out the purposes of section 7109a of this title, there are authorized to be appropriated to the President \$2,000,000 for each of the fiscal years 2008 through 2011.

**(f) Authorization of appropriations to the Secretary of Labor**

To carry out the purposes of section 7105(b) of this title, there are authorized to be appropriated to the Secretary of Labor \$10,000,000 for each of the fiscal years 2008 through 2011.

**(g) Limitation on use of funds****(1) Restriction on programs**

No funds made available to carry out this chapter, or any amendment made by this chapter, may be used to promote, support, or advocate the legalization or practice of prostitution. Nothing in the preceding sentence shall be construed to preclude assistance designed to promote the purposes of this Act by ameliorating the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked.

**(2) Restriction on organizations**

No funds made available to carry out this chapter, or any amendment made by this chapter, may be used to implement any program that targets victims of severe forms of trafficking in persons described in section 7102(8)(A) of this title through any organization that has not stated in either a grant application, a grant agreement, or both, that it does not promote, support, or advocate the legalization or practice of prostitution. The preceding sentence shall not apply to organizations that provide services to individuals solely after they are no longer engaged in activities that resulted from such victims being trafficked.

**(h) Authorization of appropriations to Director of the FBI**

There are authorized to be appropriated to the Director of the Federal Bureau of Investigation \$15,000,000 for each of the fiscal years 2008 through 2011, to remain available until expended, to investigate severe forms of trafficking in persons.

**(i) Authorization of appropriations to the Secretary of Homeland Security**

There are authorized to be appropriated to the Secretary of Homeland Security,<sup>4</sup> \$18,000,000 for each of the fiscal years 2008 through 2011, to remain available until expended, for investigations by the Bureau of Immigration and Customs Enforcement of severe forms of trafficking in persons.

(Pub. L. 106-386, div. A, §113, Oct. 28, 2000, 114 Stat. 1490; Pub. L. 107-228, div. A, title VI, §682(b), Sept. 30, 2002, 116 Stat. 1410; Pub. L. 108-193, §7, Dec. 19, 2003, 117 Stat. 2884; Pub. L. 109-164, title III, §301, Jan. 10, 2006, 119 Stat. 3572; Pub. L. 110-457, title II, §213(a)(2), title III, §301, Dec. 23, 2008, 122 Stat. 5065, 5085.)

REFERENCES IN TEXT

Section 7105(f) of this title, referred to in subsecs. (b)(2) and (d)(C), probably means the subsec. (f) of section 7105 of this title which relates to assistance for United States citizens and lawful permanent residents and was added by Pub. L. 110-457, title II, §213(a)(1), Dec. 23, 2008, 122 Stat. 5064.

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

This Act, referred to in subsec. (g)(1), is the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386, Oct. 28, 2000, 114 Stat. 1464, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-457, §301(1)(A)(ii), (B), in first sentence, substituted “\$5,500,000 for each of the fiscal years 2008 through 2011” for “\$1,500,000 for fiscal year 2001, \$3,000,000 for each of the fiscal years 2002 and 2003, \$5,000,000 for each of the fiscal years 2004 and 2005, and \$5,500,000 for each of the fiscal years 2006 and 2007” and, in second sentence, substituted “\$1,500,000 for additional personnel for each of the fiscal years 2008 through 2011, and \$3,000 for official reception and representation expenses” for “for official reception and representation expenses \$3,000” and “2008 through 2011” for “2006 and 2007”.

Pub. L. 110-457, §301(1)(A)(i), which directed striking out “section 104, and”, was executed by striking out “section 104 and” after “the purposes of”, to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 110-457, §213(a)(2)(A), designated existing provisions as par. (1), inserted par. (1) heading, and added par. (2).

Subsec. (b)(1). Pub. L. 110-457, §301(2), substituted “\$12,500,000 for each of the fiscal years 2008 through 2011” for “\$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002 and \$15,000,000 for each of the fiscal years 2004, 2005, 2006, and 2007.”

Subsec. (c)(1). Pub. L. 110-457, §301(3)(A)(i), substituted “2008 through 2011” for “2004, 2005, 2006, and 2007” wherever appearing.

Subsec. (c)(1)(B). Pub. L. 110-457, §301(3)(A)(ii), inserted at end “To carry out the purposes of section 7105(a)(1)(F) of this title, there are authorized to be appropriated to the Secretary of State \$1,000,000 for each of the fiscal years 2008 through 2011.”

Subsec. (c)(2). Pub. L. 110-457, §301(3)(D), substituted “sections 2151n(f) and 2304(h) of this title” for “section 104” and struck out “, including the preparation and publication of the list described in subsection (a)(1) of that section” before period at end.

Pub. L. 110-457, §301(3)(B), (C), redesignated par. (3) as (2) and struck out former par. (2). Prior to amendment, text read as follows: “To carry out the purposes of section 2152d of this title, there is authorized to be appropriated to the Secretary of State for each of the fiscal years 2001 through 2005 \$300,000 for voluntary contributions to advance projects aimed at preventing trafficking, promoting respect for human rights of trafficking victims, and assisting the Organization for Security and Cooperation in Europe participating states in related legal reform for such fiscal year.”

Subsec. (c)(3). Pub. L. 110-457, §301(3)(C), redesignated par. (3) as (2).

Subsec. (d). Pub. L. 110-457, §213(a)(2)(B), designated first and second sentences as subpars. (A) and (B), respectively, inserted subpar. headings, and added subpar. (C).

Subsec. (d)(A). Pub. L. 110-457, §301(4)(A), substituted “\$10,000,000 for each of the fiscal years 2008 through 2011” for “\$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002 and \$15,000,000 for each of the fiscal years 2004, 2005, 2006, and 2007”.

Subsec. (d)(B). Pub. L. 110-457, §301(4)(B), substituted “2008 through 2011” for “2004, 2005, 2006, and 2007”.

Subsec. (e)(1). Pub. L. 110-457, §301(5)(A), substituted “\$15,000,000 for each of the fiscal years 2008 through 2011.” for “\$5,000,000 for fiscal year 2001, \$10,000,000 for fiscal year 2002, and \$15,000,000 for each of the fiscal years 2003 through 2007.”

Subsec. (e)(2). Pub. L. 110-457, §301(5)(B), made technical amendment to reference in original act which appears in text as reference to section 2152d of this title and substituted “\$15,000,000 for each of the fiscal years 2008 through 2011.” for “\$5,000,000 for fiscal year 2001, \$10,000,000 for fiscal year 2002, and \$15,000,000 for each of the fiscal years 2003 through 2007.”

Subsec. (e)(3). Pub. L. 110-457, §301(5)(C), substituted “\$2,000,000 for each of the fiscal years 2008 through 2011.” for “\$300,000 for each of the fiscal years 2004 through 2007.”

Subsec. (f). Pub. L. 110-457, §301(6), substituted “\$10,000,000 for each of the fiscal years 2008 through 2011.” for “\$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002 and \$10,000,000 for each of the fiscal years 2004, 2005, 2006, and 2007.”

Subsec. (h). Pub. L. 110-457, §301(7), substituted “each of the fiscal years 2008 through 2011” for “fiscal year 2006”.

Subsec. (i). Pub. L. 110-457, §301(8), substituted “2008 through 2011” for “2006 and 2007”.

2006—Subsec. (a). Pub. L. 109-164, §301(1), substituted “\$5,000,000 for each of the fiscal years 2004 and 2005, and \$5,500,000 for each of the fiscal years 2006 and 2007. In addition, there are authorized to be appropriated to the Office to Monitor and Combat Trafficking for official reception and representation expenses \$3,000 for each of the fiscal years 2006 and 2007.” for “and \$5,000,000 for each of the fiscal years 2004 and 2005.”

Subsec. (b). Pub. L. 109-164, §301(2), substituted “2004, 2005, 2006, and 2007” for “2004 and 2005”.

Subsec. (c)(1). Pub. L. 109-164, §301(3), substituted “2004, 2005, 2006, and 2007” for “2004 and 2005” wherever appearing.

Subsec. (d). Pub. L. 109-164, §301(4), substituted “2004, 2005, 2006, and 2007” for “2004 and 2005” in two places.

Subsec. (e). Pub. L. 109-164, §301(5), substituted “2003 through 2007” for “2003 through 2005” in pars. (1) and (2) and “\$300,000 for each of the fiscal years 2004 through 2007” for “\$300,000 for fiscal year 2004 and \$300,000 for fiscal year 2005” in par. (3).

Subsec. (f). Pub. L. 109-164, §301(6), substituted “2004, 2005, 2006, and 2007” for “2004 and 2005”.

Subsecs. (h), (i). Pub. L. 109-164, §301(7), added subsecs. (h) and (i).

2003—Subsec. (a). Pub. L. 108-193, §7(1), substituted “7103(e), 7103(f)” for “7103” and “, \$3,000,000 for each of the fiscal years 2002 and 2003, and \$5,000,000 for each of the fiscal years 2004 and 2005” for “and \$3,000,000 for each of the fiscal years 2002 and 2003”.

Subsec. (b). Pub. L. 108-193, §7(2), inserted before period at end “and \$15,000,000 for each of the fiscal years 2004 and 2005”.

<sup>4</sup> So in original. Comma probably should not appear.

Subsec. (c)(1). Pub. L. 108–193, §7(3)(A), amended heading and text of par. (1) generally. Text read as follows: “To carry out the purposes of section 7105(a) of this title, there are authorized to be appropriated to the Secretary of State \$5,000,000 for fiscal year 2001, \$10,000,000 for fiscal year 2002, and \$15,000,000 for fiscal year 2003.”

Subsec. (c)(2). Pub. L. 108–193, §7(3)(B), substituted “for each of the fiscal years 2001 through 2005” for “for each of the fiscal years 2001, 2002, and 2003”.

Subsec. (d). Pub. L. 108–193, §7(4), inserted “and \$15,000,000 for each of the fiscal years 2004 and 2005” after “fiscal year 2002” and inserted at end sentence relating to authorization of appropriations to carry out training activities at the International Law Enforcement Academies.

Subsec. (e). Pub. L. 108–193, §7(5), substituted “for each of the fiscal years 2003 through 2005” for “for fiscal year 2003” in pars. (1) and (2) and added par. (3).

Subsec. (f). Pub. L. 108–193, §7(6), inserted “and \$10,000,000 for each of the fiscal years 2004 and 2005” before period at end.

Subsec. (g). Pub. L. 108–193, §7(7), added subsec. (g).

2002—Subsec. (a). Pub. L. 107–228, §682(b)(1), substituted “for each of the fiscal years 2002 and 2003” for “for fiscal year 2002”.

Subsec. (c)(1). Pub. L. 107–228, §682(b)(2)(A), substituted “, \$10,000,000 for fiscal year 2002, and \$15,000,000 for fiscal year 2003” for “and \$10,000,000 for fiscal year 2002”.

Subsec. (c)(2). Pub. L. 107–228, §682(b)(2)(B), substituted “there is authorized to be appropriated to the Secretary of State for each of the fiscal years 2001, 2002, and 2003” for “there are authorized to be appropriated to the Secretary of State” and “for such fiscal year” for “for fiscal year 2001”.

Subsec. (e)(1), (2). Pub. L. 107–228, §682(b)(3), substituted “, \$10,000,000 for fiscal year 2002, and \$15,000,000 for fiscal year 2003” for “and \$10,000,000 for fiscal year 2002”.

#### RULE OF CONSTRUCTION

Pub. L. 110–457, title III, §303, Dec. 23, 2008, 122 Stat. 5087, provided that: “The amendments made by sections 301 and 302 [amending this section, sections 14044 to 14044c of Title 42, The Public Health and Welfare, and provisions set out as a note under section 7105 of this title] may not be construed to affect the availability of funds appropriated pursuant to the authorizations of appropriations under the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 22 U.S.C. 7101 et seq.) and the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109–164) [see Tables for classification] before the date of the enactment of this Act [Dec. 23, 2008].”

#### § 7111. Report by Secretary of State

At least 15 days prior to voting for a new or reauthorized peacekeeping mission under the auspices of the United Nations, the North Atlantic Treaty Organization, or any other multilateral organization in which the United States participates (or in an emergency, as far in advance as is practicable), the Secretary of State shall submit to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and any other appropriate congressional committee a report that contains—

(A) a description of measures taken by the organization to prevent the organization’s employees, contractor personnel, and peacekeeping forces serving in the peacekeeping mission from trafficking in persons, exploiting victims of trafficking, or committing acts of sexual exploitation or abuse, and the measures in place to hold accountable any such individuals

who engage in any such acts while participating in the peacekeeping mission; and

(B) an analysis of the effectiveness of each of the measures referred to in subparagraph (A).

(Pub. L. 109–164, title I, §104(e)(2), Jan. 10, 2006, 119 Stat. 3566; Pub. L. 110–457, title III, §304(b), Dec. 23, 2008, 122 Stat. 5087.)

#### CODIFICATION

Section was enacted as part of the Trafficking Victims Protection Reauthorization Act of 2005, and not as part of the Trafficking Victims Protection Act of 2000 which comprises this chapter.

#### AMENDMENTS

2008—Pub. L. 110–457 substituted “Committee on Foreign Affairs” for “Committee on International Relations” in introductory provisions.

#### § 7112. Additional activities to monitor and combat forced labor and child labor

##### (a) Activities of the Department of State

###### (1) Finding

Congress finds that in the report submitted to Congress by the Secretary of State in June 2005 pursuant to section 7107(b) of this title, the list of countries whose governments do not comply with the minimum standards for the elimination of trafficking and are not making significant efforts to bring themselves into compliance was composed of a large number of countries in which the trafficking involved forced labor, including the trafficking of women into domestic servitude.

###### (2) Sense of Congress

It is the sense of Congress that the Director of the Office to Monitor and Combat Trafficking of the Department of State should intensify the focus of the Office on forced labor in the countries described in paragraph (1) and other countries in which forced labor continues to be a serious human rights concern.

##### (b) Activities of the Department of Labor

###### (1) In general

The Secretary of Labor, acting through the head of the Bureau of International Labor Affairs of the Department of Labor, shall carry out additional activities to monitor and combat forced labor and child labor in foreign countries as described in paragraph (2).

###### (2) Additional activities described

The additional activities referred to in paragraph (1) are—

(A) to monitor the use of forced labor and child labor in violation of international standards;

(B) to provide information regarding trafficking in persons for the purpose of forced labor to the Office to Monitor and Combat Trafficking of the Department of State for inclusion in trafficking in persons report required by section 7107(b) of this title;

(C) to develop and make available to the public a list of goods from countries that the Bureau of International Labor Affairs has reason to believe are produced by forced labor or child labor in violation of international standards;

(D) to work with persons who are involved in the production of goods on the list described in subparagraph (C) to create a standard set of practices that will reduce the likelihood that such persons will produce goods using the labor described in such subparagraph; and

(E) to consult with other departments and agencies of the United States Government to reduce forced and child labor internationally and ensure that products made by forced labor and child labor in violation of international standards are not imported into the United States.

(Pub. L. 109-164, title I, §105, Jan. 10, 2006, 119 Stat. 3566.)

#### CODIFICATION

Section was enacted as part of the Trafficking Victims Protection Reauthorization Act of 2005, and not as part of the Trafficking Victims Protection Act of 2000 which comprises this chapter.

#### CONSULTATIVE GROUP TO ELIMINATE THE USE OF CHILD LABOR AND FORCED LABOR IN IMPORTED AGRICULTURAL PRODUCTS

Pub. L. 110-246, title III, §3205, June 18, 2008, 122 Stat. 1838, provided that:

“(a) DEFINITIONS.—In this section:

“(1) CHILD LABOR.—The term ‘child labor’ means the worst forms of child labor as defined in International Labor Convention 182, the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, done at Geneva on June 17, 1999.

“(2) CONSULTATIVE GROUP.—The term ‘Consultative Group’ means the Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products established under subsection (b).

“(3) FORCED LABOR.—The term ‘forced labor’ means all work or service—

“(A) that is exacted from any individual under menace of any penalty for nonperformance of the work or service, and for which—

“(i) the work or service is not offered voluntarily; or

“(ii) the work or service is performed as a result of coercion, debt bondage, or involuntary servitude (as those terms are defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)); and

“(B) by 1 or more individuals who, at the time of performing the work or service, were being subjected to a severe form of trafficking in persons (as that term is defined in that section).

“(b) ESTABLISHMENT.—There is established a group to be known as the ‘Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products’ to develop recommendations relating to guidelines to reduce the likelihood that agricultural products or commodities imported into the United States are produced with the use of forced labor and child labor.

“(c) DUTIES.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [June 18, 2008] and in accordance with section 105(d) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(d)), as applicable to the importation of agricultural products made with the use of child labor or forced labor, the Consultative Group shall develop, and submit to the Secretary [of Agriculture], recommendations relating to a standard set of practices for independent, third-party monitoring and verification for the production, processing, and distribution of agricultural products or commodities to reduce the likelihood that agricul-

tural products or commodities imported into the United States are produced with the use of forced labor or child labor.

“(2) GUIDELINES.—

“(A) IN GENERAL.—Not later than 1 year after the date on which the Secretary receives recommendations under paragraph (1), the Secretary shall release guidelines for a voluntary initiative to enable entities to address issues raised by the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.).

“(B) REQUIREMENTS.—Guidelines released under subparagraph (A) shall be published in the Federal Register and made available for public comment for a period of 90 days.

“(d) MEMBERSHIP.—The Consultative Group shall be composed of not more than 13 individuals, of whom—

“(1) 2 members shall represent the Department of Agriculture, as determined by the Secretary;

“(2) 1 member shall be the Deputy Under Secretary for International Affairs of the Department of Labor;

“(3) 1 member shall represent the Department of State, as determined by the Secretary of State;

“(4) 3 members shall represent private agriculture-related enterprises, which may include retailers, food processors, importers, and producers, of whom at least 1 member shall be an importer, food processor, or retailer who utilizes independent, third-party supply chain monitoring for forced labor or child labor;

“(5) 2 members shall represent institutions of higher education and research institutions, as determined appropriate by the Bureau of International Labor Affairs of the Department of Labor;

“(6) 1 member shall represent an organization that provides independent, third-party certification services for labor standards for producers or importers of agricultural commodities or products; and

“(7) 3 members shall represent organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)] that have expertise on the issues of international child labor and do not possess a conflict of interest associated with establishment of the guidelines issued under subsection (c)(2), as determined by the Bureau of International Labor Affairs of the Department of Labor, including representatives from consumer organizations and trade unions, if appropriate.

“(e) CHAIRPERSON.—A representative of the Department of Agriculture appointed under subsection (d)(1), as determined by the Secretary, shall serve as the chairperson of the Consultative Group.

“(f) REQUIREMENTS.—Not less than 4 times per year, the Consultative Group shall meet at the call of the Chairperson, after reasonable notice to all members, to develop recommendations described in subsection (c)(1).

“(g) NONAPPLICABILITY OF FACAA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Consultative Group.

“(h) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this Act [June 18, 2008], and annually thereafter through December 31, 2012, the Secretary [of Agriculture] shall submit to the Committees on Agriculture and Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the activities and recommendations of the Consultative Group.

“(i) TERMINATION OF AUTHORITY.—The Consultative Group shall terminate on December 31, 2012.”

#### CHAPTER 79—TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT

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