

**State of Hawaii**  
**Department of the Attorney General**



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**REPORT ON THE  
HAWAII ANTI-TRAFFICKING  
TASK FORCE**

Pursuant to Act 260,  
Session Laws of Hawaii 2006

*Submitted to  
The Twenty-Fourth State Legislature  
Regular Session of 2007*

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## **I. Executive Summary**

Human trafficking is a worldwide form of exploitation in which men, women, and children are bought, sold, and held against their will in slave-like conditions. People are trafficked and forced to work in the commercial sex trade, sweatshops, agricultural settings, domestic service, and other types of servitude. In addition to the tremendous personal damage suffered by individual trafficking victims, this global crime has broad societal repercussions. It fuels criminal networks, imposes public health costs, and erodes government authority.

Human trafficking occurs worldwide and often involves transnational criminal organizations, violations of labor and immigration codes, and government corruption. Although their circumstances vary, fraud, force, or coercion typically distinguishes trafficking victims from people who are smuggled. Moreover, most trafficking cases follow the same pattern: people are abducted or recruited in the country of origin, transferred through transit regions, and then exploited in the destination country. People may also be trafficked domestically, that is, within the borders of their own country. Trafficking victims include agricultural workers who are brought into the United States, held in crowded unsanitary conditions, threatened with violence if they attempt to leave, and kept under constant surveillance.

Currently, the United States federal government is working to address this issue through funding and programming designed to prevent trafficking, prosecute traffickers, and protect victims through the Trafficking Victims Protection Act (TVPA) of 2000 and the reauthorization and further refinement of this act in 2003 and 2005.

## **II. Legislative Requirement**

This report is made pursuant to Act 260, Session Laws of Hawaii 2006, which established the Hawaii Anti-Trafficking Task Force ("task force") and required that the task force carry out the following activities:

- (1) Compile and review statutes, rules, and information relating to programs adopted in other states to combat human trafficking and to provide services to its victims;
- (2) Recommend further changes to Hawaii law necessary to assist in the prevention of human trafficking and to provide support to victims;
- (3) Develop protocols and training for individuals within designated state agencies, nongovernmental organizations, and private entities regarding provision of services to trafficked persons;
- (4) Develop interagency procedures to collect and organize data, including research and resource information on domestic trafficking, and to measure the extent of the need for protection and assistance to victims of trafficking; and

- (5) Engage in consultation with governmental and nongovernmental organizations, among other entities, to advance the purposes of this Act.

The task force was given two years to satisfy these requirements.

The task force is comprised of the following members:

- (1) The attorney general, or the attorney general's designees;
- (2) The directors of health, human services, and labor, or their designees;
- (3) The chief of police of each county or the chief's designee;
- (4) The prosecuting attorney of each county, or the prosecutor's designee;
- (5) The director of the victim and witness assistance program of the department of the prosecuting attorney, city and county of Honolulu;
- (6) The Salvation Army;
- (7) Sisters Offering Support<sup>1</sup>;
- (8) The Sex Abuse Treatment Center;
- (9) GirlFest;
- (10) Na Loio Immigrant Rights and Public Interest Legal Center ("Na Loio");
- (11) The Domestic Violence Clearinghouse and Legal Hotline; and
- (12) The Hawaii State Coalition Against Sexual Assault<sup>2</sup>.

The Task Force was also tasked to submit a report to the Legislature within 20 days of the opening of the session.

### **III. Defining the Trafficking Problem**

A trafficking victim can be anyone who is forced, defrauded or coerced into service regardless of movement. For example, victims of trafficking may include a

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<sup>1</sup> Since the enactment of Act 260, "Sister Offering Support" has disbanded and is no longer a member of the Task Force.

<sup>2</sup> There is currently no entity entitled "The Hawaii State Coalition Against Sexual Assault" but there is "The Hawaii State Coalition Against Domestic Violence."

child sold by his or her parents to work in a brick kiln outside of town, a migrant worker (illegal or not) threatened or beaten and forced to remain on the job, and a person who willingly takes a job only to be kept in debt bondage or servitude.

Trafficking takes on many forms but can be discussed in terms of two types: labor trafficking and sex trafficking. Victims, because of their vulnerable status, often experience both types of exploitation. According to the 2005 Trafficking in Persons Report, sex trafficking is often related to organized crime, while labor trafficking is usually perpetrated by individuals.

Labor trafficking, like sex trafficking, is a fundamental violation of human rights. Labor trafficking can take the form of bonded labor (debt bondage), involuntary servitude and child labor.

Debt bondage occurs when a person is forced to work to pay back a debt (first borrowed as a loan or demanded as a part of employment) without clearly defined terms or limits. While victims are “earning” money to pay back their debt, they also keep accruing expenses, ensuring the debt is never paid off. Victims are not given information on the amount of money they actually owe, or the terms keep changing so they can never realistically pay back the original sum.

Victims of involuntary servitude are forced to work against their will and under the threat of violence, punishment, or legal action. Involuntary servitude can range from an individual being forced to work as a nanny or housekeeper to an entire factory of people working without pay, freedom of movement, or the ability to quit.

The International Labour Organization, the United Nations specialized agency that seeks the promotion of social justice and internationally recognized human and labor rights, estimates that there are 246 million children worldwide who are being held in debt bondage, forced armed conflict, or are forced to work in a variety of other illegal trades. Labor trafficking denies children the opportunity for growth and development and interferes with educational attainment.

No matter the type of labor trafficking experienced, victims are isolated and highly controlled. Victims who are aliens (legal or illegal/undocumented) may have their identification confiscated and their illegal status used as method of control by their traffickers. If they are being used in an illegal industry, traffickers use their participation as another means of blackmail and control.

A sex trafficked victim is someone who has been forced or coerced into performing commercial sex acts. While a victim of sex trafficking can be anyone, the majority of victims are women and girls. Many of the sex trafficking victims are also being held in debt bondage, usually associated with living expenses (including rent, food, and medical care) and transportation costs into another country. Victims are forced into prostitution, escort services, pornography, servile marriage, or stripping.

#### **IV. Legislation to Combat Trafficking**

In 2000, Congress enacted the Trafficking Victims Protection Act ("TVPA") to combat trafficking in persons and established the President's Interagency Task Force to Monitor and Combat Trafficking in Persons. (P.L. 1063-386) The TVPA is the United States' central anti-trafficking law, enhancing the federal government's ability to protect, prosecute and prevent human trafficking. The TVPA expanded the crimes of trafficking, enhanced penalties against traffickers and expanded United States international activities to prevent victims from being trafficking in the first place. Congress reauthorized this act in the Trafficking Victims Protection Reauthorization Act of 2003 ("TVPRA"). (H.R. 2620) The TVPRA expanded the TVPA to include campaigns to combat sex tourism and refine the criminal laws around trafficking, and created a civil option for victims to sue their traffickers in federal district court. In 2005, the TVPA was once again reauthorized in the Trafficking Victims Protection Reauthorization Act of 2005 ("TVPRA 2005"). (H.R. 892) This legislation focused on protecting people in post-conflict or post-disaster areas from trafficking, addressed the issue of domestic trafficking, and held government contractors and personnel accountable for trafficking violations, both domestically and abroad. The TVPRA 2005 also requires the Secretary of State to report to Congress annually on foreign governments' compliance with minimum United States standards for the elimination of trafficking. Since 2001, the United States government provided about \$375 million in anti-trafficking assistance to foreign governments and nongovernmental organizations to help eliminate human trafficking. (See Attachment "A," copies of the TVPA, TVPRA, and TVPRA 2005.) (Hereinafter, the TVPA, TVPRA, and TVPRA 2005 will collectively be referred to as the "TVPA.")

The TVPA is used successfully to prosecute human traffickers and to provide services and protect the rights of a number of trafficked persons. However, state and local authorities are often more likely to encounter victims of trafficking while conducting routine arrests, inspecting buildings, factories and farms, operating fire, rescue and medical emergency services, and working with child abuse and neglect cases. For this reason, and also because the federal government recognized that it cannot prosecute all large and small trafficking cases, the United States Department of Justice ("DOJ") fashioned a model act to assist criminal law policymakers at the state level in addressing the human trafficking problem, specifically to encourage states to consider adopting laws that will allow local and state officials to investigate, prosecute and punish human traffickers, and to provide appropriate and adequate services for, and to protect the rights of, trafficked persons.

Many states already have laws on their books that directly address the crime problem of trafficking. For instance, many trafficking-like crimes may be codified in parts of a state code, such as kidnapping or prostitution crimes. Many state constitutions mirror the federal constitutional prohibition against involuntary servitude and some states have involuntary servitude statutes on their books. (See, e.g., NRS § 200.463 (Involuntary servitude; penalties) and N.C.G.S.A. § 14-43.2). Unfortunately, by being codified in disparate parts of the criminal code or even in the state constitution, it may be unclear to



prosecutors that the actions constitute trafficking in persons crimes and may be charged as such.

Currently, approximately 21 states have passed anti-trafficking laws that specifically define and criminalize the act of trafficking in persons. These states are Arizona, Arkansas, California, Connecticut, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, New Jersey, South Carolina, Texas, and Washington.

The task force surveyed Hawaii's existing criminal laws to determine whether they include prohibitions on involuntary servitude, kidnapping, or false imprisonment. While Hawaii's criminal laws do contain these prohibitions, the task force determined that creating separately defined anti-trafficking criminal provisions should result in increased use of such statutes. The bundling of appropriate statutes into distinct slavery/trafficking statutes will make it more likely that such crimes are recognized and charged.

#### **V. Trafficking Victims Assistance**

Victim assistance and services for trafficked persons are constrained by factors such as legal provisions barring undocumented migrants from benefits and victim-related services. Individuals that are trafficked but are not identified or recognized by law enforcement as "victims of a severe form of trafficking" may be expeditiously removed or detained in criminal detention facilities across the country.

Trafficked persons generally fear deportation and removal by the Immigration and Customs Enforcement ("ICE") branch of the United States Department of Homeland Security or arrest and imprisonment by local law enforcement agencies, precluding them from seeking help. Trafficked persons may be viewed as illegal aliens (unidentified as a victim of trafficking) or may be seen as accomplices to trafficking by the legal system. Their fear of removal is exploited by traffickers to keep individuals isolated and under their control. Consequently, the TVPA protects trafficked persons by providing immigration status, permission to work, and possible United States permanent residence once the victim is certified as a severe victim of trafficking.

Congress provided immigrant trafficking victims with two types of immigration relief – "continued presence" ("CP") and "T nonimmigrant status," also known as a "T" visa". CP is a status that allows a victim of a severe form of trafficking to secure legal presence in the United States. CP may only be requested by federal law enforcement officials on behalf of a potential human trafficking victim/witness. If CP status is approved by the Department of Homeland Security, the trafficking victim is initially allowed to remain in the United States for a period of one year and issued work authorization documents. If an investigation is ongoing, CP status may be extended for a longer period of time. Following an award of CP status, the victim may apply for a T visa at a later date.

Victims may also directly petition the Department of Homeland Security to receive a T visa, a status available to victims of a severe form of trafficking who have complied with reasonable requests for assistance in the investigation and prosecution of acts of trafficking. Victims who receive T visas may remain in the United States for three years, and then may apply for lawful permanent resident status subject to statutory criteria. In appropriate circumstances, T visas may be available to members of a victim's family.

Under the TVPA, a "severe form of trafficking in persons" is defined as:

- (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.

Once trafficked persons are identified, "certification" is a process by which trafficked persons are deemed eligible for benefits and services to the same extent as a refugee, namely federal and state benefits (including medical services), housing, legal services, protection, victim compensation and assistance, immigration benefits and programs, restitution, and translation and interpretation services. Like refugees, income qualified trafficking victims are eligible for federally funded Medicaid and cash assistance for a period of 8 months. After the expiration of 8 months they will remain eligible for Medicaid or cash assistance only if they are categorically qualified under another program, for example the Temporary Assistance to Other Needy Families ("TANOF"), Hawaii's cash assistance program for immigrants, or General Assistance. If they are categorically eligible, they face the same five year time bar as citizens.

Adult victims are eligible for certification by the United States Department of Health and Human Services ("HHS") for benefits equivalent to those that are available to refugees if the victim has been granted continued presence and is willing to assist law enforcement or has made a bona fide application for T visas. Minor victims are not required to have either continued presence or a bona fide T visa to receive benefits. Instead, they receive services as provided by a letter of eligibility for benefits.

Because certification often requires a considerable length of time to process, typically six months, there is the need for pre-certification victim services, from the time that individuals are identified as trafficked persons until they are certified by federal law enforcement. Pre-certification is a time when trafficked persons may experience the greatest need for services.

During the pre-certification period, non-citizen human trafficking victims are eligible for certain federally funded services, namely Emergency Medicaid, immunizations, and access to domestic violence shelters and other exempt services. However, they are



ineligible for other federal funded services and for core state funded services such as cash assistance programs or state funded comprehensive health care services.

#### **A. Current Services Needed By Human Trafficking Victims**

The needs of pre-certification trafficking victims are complex and varied. Significantly, a comprehensive needs assessment of service providers in Hawaii has not been conducted. Because the task force does not represent the entirety of the service providers in Hawaii, it would be irresponsible of the task force to claim that its survey of current services available to trafficking victims is comprehensive. Nevertheless, in the absence of a comprehensive needs assessment for Hawaii, the victim services sub-committee of the task force relied upon the findings of *Needs Assessment for Service Providers and Trafficking Victims* (Needs Assessment), drafted by the DOJ, National Institute of Justice ("NIJ"), to frame its survey of Hawaii's services. (See Attachment "B.") The NIJ Needs Assessment surveyed and conducted focus group discussions with service providers and trafficking victims. The agencies/organizations surveyed included legal, health, education, police department/law enforcement, immigrant, prostitution recovery services, sexual assault, domestic violence, trafficking, child-focused services, and faith-based services.

The following services assessment constitutes the task force's educated estimation of services available in Hawaii for trafficking victims. However, until a comprehensive needs assessment of the service needs of trafficking victims in Hawaii is conducted, a truly accurate and reliable determination of those needs cannot be made.

Per the NIJ Needs Assessment, the key identified needs of trafficking victims, ranked in order of need include: housing, medical care, advocacy, legal assistance, transportation, outreach, food, information and referral, mental health care, service coordination, employment, protection, education, counseling, crisis intervention, life skills, interpreter, job training, court orientation, dental care, victim's compensation, child care, self-help groups, and drug treatment. These categories were used by the task force to identify the services already being provided in Hawaii that victims of trafficking could theoretically access, as well as to assess the current gaps in services.

The Salvation Army – Hawaii ("The Salvation Army") currently has funding for a three year project to provide pre-certification services for immigrant trafficking victims found in Hawaii, American Samoa, Guam, and Saipan. This project is the Hawaii and American Samoa Anti-Trafficking Services ("HAATS") Project. Funds allocated to Hawaii and American Samoa over the three year life of the grant (January 2006 – December 2009) approximate \$600,000. There is \$100,000 budgeted for Guam and Saipan for the three year period. Funded by the DOJ Office of Justice Programs, Office of Victims of Crime ("OVC"), these monies were allocated to address the pre-certification needs of immigrant victims. Should Hawaii have few trafficking victims without complex medical issues, the funds should be adequate. However, future funding is not guaranteed and should a victim or group of victims present with catastrophic medical needs, the funds may well be eclipsed prior to the conclusion of the three year

funding cycle. However, The Salvation Army would not be precluded from requesting additional funds from OVC.

**B. An Initial Assessment of Hawaii's Capacity to Provide for the Basic Needs of Trafficking Victims**

**Housing:** This is Hawaii's most salient need. Public housing and Section 8 housing are not viable options because even Hawaii residents wait years to access public housing and Section 8 rentals.

Housing needs to be safe and appropriate. Shelters such as the Institute of Human Services are deemed inappropriate for trafficking victims who may need multiple services, including language assistance, mental health services, and acculturation services.

Hawaii's domestic violence shelters may be an option for some clients, as some clients may also be domestic violence victims. In addition to domestic violence shelters, possible housing solutions include Fernhurst Y on Oahu, renovated housing at Barber's Point, the Savio College hotel dorms, and churches.

Housing on the Neighbor Islands presents a challenge because resources are limited.

The Salvation Army on Oahu has a rental assistance program that, funding permitting, provides assistance with security deposits and the first month's rent.

The Salvation Army's HAATS Project pays for housing for pre-certified victims.

**Medical:** Pre-certified victims would be limited to Emergency Medicaid and primary health care through the community health care system. Primary health care includes only basic medical services. This leaves potential gaps in medical services for this vulnerable population.

The Salvation Army's HAATS Project pays for medical costs for pre-certified victims.

The Crime Victim Compensation Commission can provide up to \$10,000 for medical services for Hawaii crime victims and up to \$20,000 in circumstances with catastrophic need.

**Advocacy:** No one organization presently provides individualized system advocacy. Possible advocates are Na Loio, Legal Aid Society of Hawaii, Catholic Charities, and Child and Family Service.

Advocacy is provided through The Salvation Army's HAATS Project for pre-certified victims.

**Legal Services:** Pre-certified victims and certified victims require an array of legal services. In the past, Na Loio provided immigration legal services for Hawaii's

trafficking victims, utilizing its existing resources. Under the newly established Salvation Army HAATS Project, Na Loio receives funding for a part-time attorney to provide legal services for pre-certification victims and community education. Post-certification services would fall back under Na Loio's general funding.

If Hawaii sees an increase in human trafficking victims, Na Loio will be hard pressed to continue services for its trafficking clients without adversely impacting its other clients who include: domestic violence victims, crime victims, disabled and elderly immigrants, asylum seekers and other vulnerable immigrants.

Post-certification legal services include: applying for federal and possibly state public benefits, securing a social security card, attending depositions or other meetings and events tied to the criminal process, civil litigation to recoup damages, filing immigration documents to adjust status, and other related civil case work.

Legal services are provided through The Salvation Army's HAATS Project for pre-certified victims.

**Transportation:** On Oahu, victims may be eligible for bus vouchers. Domestic violence victims can access bus vouchers through the statewide shelter system. Bus vouchers may also be available through Helping Hands Hawaii.

On the Neighbor Islands, the issue is much more complicated. Some shelters have their own transportation system, but outside the shelter network, transportation is a problem. In those situations where public transportation is unavailable, victims may need taxi fare.

Assistance with transportation funds is provided through The Salvation Army's HAATS Project for pre-certified victims.

**Outreach:** At this point in time there is no sustained outreach program. The Salvation Army and Na Loio are in preliminary discussions on outreach.

Hawaii is without a distribution network to disseminate existing federal outreach materials which include posters, safety information, brochures, and other trafficking materials, many of which are multilingual.

In part because, in part, no one is doing this work, the community is without protocols for outreach. For example, outreach workers travel in pairs of two for safety.

**Food:** Access to food is an issue. Hawaii opted out of a federal program that permits states to purchase food stamps from the federal government for redistribution to populations not eligible for the federally funded food stamp program. Accordingly, pre-certified trafficking victims will have no access to either state or federally funded food stamps.

Food is provided through The Salvation Army's HAATS Project for pre certified victims.

Without the HAATS project, pre-certified victims will be compelled to rely upon institutions such as The Salvation Army food program and church vendors. This is not a durable solution. In order to meet the statewide need for food, many pantries limit access to one visit per person, per month.

**Information/Referral:** The Sex Abuse Treatment Center agreed to permit its 24 hour hotline to accept and screen human trafficking phone calls.

**Mental Health:** Pre-certified victims do not qualify for federally funded healthcare except for emergency Medicaid services, which would cover acute psychiatric hospitalizations. They do have access to community health centers. Mental health treatment at most community health centers consists of counseling provided primarily by social workers, somatic treatment provided by psychiatrist, and some of the health centers may also have psychologists on staff. However, for severely mentally ill victims, outpatient services from the Department of Health's ("DOH's") Adult Mental Health Division are available for those individuals who meet the Divisions' eligibility criteria. Eligibility is not contingent upon citizenship, but upon the nature and severity of the mental illness. Post Traumatic Stress Disorder is an eligible diagnosis.

Further, children can receive mental health services if they are enrolled in school, are found to qualify for services provided for by the Individuals with Disabilities Education Improvement Act of 2004, and require mental health services pursuant to their Individualized Educational Plan ("IEP"). Depending on the severity of the problem, the Department of Education or DOH's Child and Adolescent Mental Health Division provide mental health services that are identified as necessary in the child's IEP at no charge.

Hawaii also has a shortage of psychologists. Indeed, on the Neighbor Islands there is a stunning shortage of psychologists and psychiatrists. The need for multilingual treatment may also be acute.

The Crime Victim Compensation Commission can provide up to \$10,000 for medical services for Hawaii crime victims, and up to \$20,000 in circumstances with catastrophic need.

**Service Coordination:** Service Coordination is provided through The Salvation Army's HAATS Project for pre-certified victims. This is currently not available for certified victims. However, two agencies in Hawaii are in the process of contracting with the United States Conference of Catholic Bishops ("USCCB") to provide this service for certified victims. The USSCCB is the current service provider for certified victims contracted by the federal government.

**Employment:** For pre-certified victims, the federal government does not provide. Post-certification trafficking victims will be issued employment authorization. Employment Authorization cards by the Department of Homeland Security.

Even with employment authorization, issues may arise regarding English as a second language problems and the lack of job training.

**Protection:** The difficulty with providing protection for trafficking victims lies in determining who gets protection and who does not. Where victims are placed in the community at large, there may be a need to provide them with safety planning, cell-phones, and other protective services to ensure safety.

**Education & Pre-certified adults:** Pre-certified victims are required to pay out-of-state tuition if they wished to access the University of Hawaii or community college system. All children are entitled to a free and public education irrespective of their legal status.

Certified adult trafficking victims are eligible for in-state tuition and federal grants to the same extent refugees are eligible. Barriers to education include language and adequacy of funds to pay tuition.

**Counseling:** There is no existing source of funding that covers the cost of counseling for pre-certified victims other than possibly the community health care system or The Salvation Army's HAATS Project.

Assuming counseling in this context means assistance in dealing with issues relating to adaptation, explaining processes, and assimilation, it is important to note that services must be provided in a culturally and linguistically appropriate manner.

**Case Management:** The Salvation Army HAATS Project currently provides case management for pre-certified human trafficking victims. There are currently no funding sources for this critical service for certified victims. The contracts with USCCB may provide these needed funds.

**Crisis Intervention:** No one entity in the State has adequate resources or training to provide crisis intervention services for human trafficking victims. Possible groups who could provide these services include: Sex Assault Treatment Center and their Neighbor Island equivalents; the County Police Departments; possibly the Children's Advocacy Center on Oahu and/or the Neighbor Islands; and the Department of Health 24 hour CRISP – Crisis Response Teams.

**Life Skills:** Life skill training for pre-certified victims is provided through The Salvation Army's HAATS Project.

It is possible that certified victims may be eligible for these services through Catholic Charities or Child and Family Services under existing funding received through the Office Refugee Resettlement. This needs to be verified. Life skills includes learning how to use cell phones, how to catch a bus, how to use a washing machine, how to count money, and an array of other skills necessary to navigate a complex society.

If these services are available through Catholic Charities or Child and Family Service, in all likelihood they will only be available on Oahu.

**Interpreter:** On Oahu, all victims may access the Honolulu Prosecuting Attorney's Office interpreters program currently funded under federal Victims of Crime Act ("VOCA") funding. In a crisis situation, the crisis management team would need to have in place its own system for accessing interpreters.

On the Neighbor Islands no one entity provides interpreting services for crime victims.

Act 290 and Title VI of the Civil Rights Act of 1964 require all entities receiving federal or state funding to provide their services in a manner that is language accessible. Service providers need to build language access into their budgets.

Capacity is also an issue. There may not be enough interpreters in a given language, or the interpreters may not be adequately trained.

Additionally, The Salvation Army's HAATS Project could pay for interpreters as needed for pre-certified victims.

**Job training:** Pre-certified victims are not eligible for either state or federally funded job training programs. Once certified, they may be eligible for job training programs.

On Oahu, Susannah Wesley Community Center, Catholic Charities, and Pacific Gateway Center may have funding and programs in place to assist certified victims. Similarly, on Hawaii, Catholic Charities may have funding for job training. On Maui and Kauai there may be no specialized services for immigrants.

The Office of Community Services may be able to provide information.

**Court Orientation:** The Victim Assistance Programs for county and federal law enforcement agencies have programs in place. It is important to note that if the trafficking case involves a large number of victims, these agencies will be overwhelmed by the needs of the victims surveyed and conducted focus group discussions with service providers and trafficking victims. The agency/organization category surveyed included legal, health, education, police department/law enforcement, immigrant, prostitution recovery services, sexual assault, domestic violence, trafficking, child-focused services, and faith-based services.

**Dental:** Dental services are only available for pre-certified victims through The Salvation Army's HAATS Project.

Certified victims, if eligible for federally funded Medicaid, can only access emergency dental care. If you are a child up to age 21, your range of services is broader.



If the offense took place in Hawaii, one possible source of funding could be the Crime Victim's Compensation Commission which can provide up to \$10,000 (\$20,000 if catastrophic) to reimburse for medical care.

**Child Care:** Child care is available under TANF, but not state funded TANOF. Thus, neither pre- nor post-certified immigrant victims will have funding for childcare. Funding for preschool may be available through the Open Doors Program.

**Self-Help Groups:** There appears to be no self-help group in Hawaii that focuses on human trafficking or crime victims. Churches may have ethnic based groups that may be valuable resources. If there are other component issues, self-help groups may be available.

**Drug Treatment:** Drug treatment is available for pre-certified victims through The Salvation Army. Other drug treatment programs are likely to be unavailable because they depend on state TANF funds to cover the room and board expenses associated with treatment.

**Services for Domestic Violence and Sex Abuse Victims:** On Oahu, the Domestic Violence Clearinghouse and Legal Hotline ("DVCLH") can provide assistance in obtaining restraining orders, and in family law issues, case management, and emergency cash assistance for victims of domestic violence. Teen survivors may also access advocacy and case management through DVCLH. The extent of case management and service provision amongst the Neighbor Islands must still be determined, and the Hawaii State Coalition Against Domestic Violence should be contacted.

Regarding sex abuse cases, the Sex Abuse Treatment Center on Oahu and its Neighbor Island equivalent entities provide medical examinations, legal assistance, and counseling. The Department of Human Services is able to take foster custody of minors in select cases involving sex assault. The Department of Human Services' first preference is to keep children in the home or place them with family members.

**Multiple Services Provided:** Na Loio currently provides legal services for T victims. Na Loio provided extensive advocacy—both legal and social service case coordination—prior to the award of OVC funding in Hawaii for pre-certified trafficking victims. Na Loio also provided much leadership on systemic advocacy issues and public awareness regarding human trafficking.

### **C. Additional Research Needed**

Groups and or resources that need to be contacted with respect to determining victim services in Hawai'i include but are not limited to:

Catholic Charities Immigrant Services  
CFS Refugee Program  
Primary Health Care

Sex Abuse Treatment Center - mainly on the Neighbor Islands  
Children's Advocacy Center  
Domestic Violence Shelters  
Protective Housing  
Department of Human Services, regarding benefits  
Office of Refugee Resettlement – 8 month benefit and medical assistance provisions.

**D. Summary and Caveats Regarding Assessment of Current Services Available to Trafficking Victims in Hawaii**

The subjugation that occurs as a result of trafficking may in some instances create the same needs as other crime victims. However, as evidenced by the national needs assessment, trafficked persons have many issues that must be resolved in order to serve them appropriately and adequately. Barriers such as lack of immigration status, fear of law enforcement and deportation, culture, language, use of force and threats against family in the country of origin, shame in being forced to work in the sex industry (and other forms of labor), and trauma and/or post-traumatic stress disorder are just some of the issues that must be addressed. Frequently, trafficked persons are culturally, linguistically, and/or physically isolated, and face many obstacles that prevent them from accessing available services. Gender and racial or ethnic discrimination compounds the isolation trafficked persons feel if unable to effectively express their needs. Moreover, most trafficked persons are unaware of their legal rights or services available to them, and they may require not just language translators, but cultural brokers.

As mentioned earlier, The Salvation Army currently provides pre-certification services for trafficking victims. This would include service coordination and case management. In addition, emergency medical needs and some mental health needs can be provided through community health centers. Interpretation and translation for trafficking victims on Oahu are provided through the City and County of Honolulu Prosecuting Attorney's Office, funded by VOCA monies. A range of immigrant-related legal services are provided by Na Loio.

However, despite The Salvation Army's OVC funding for pre-certified trafficking victims, the task force is concerned that seamless case management both pre and post certification may not be afforded to trafficking victims because there is no guarantee that such services will be provided by the same advocate.

Housing continues to be a major concern for trafficking victims, given the shortage of affordable housing options and average rental costs that exceed the reach of citizens. According to the HHS, most homeless and domestic violence shelters are not appropriate placements for human trafficking victims who live in extraordinary fear of their captors, are isolated by language and culture, and have suffered extreme trauma.

Finally, while this initial assessment focuses on the distinct needs identified by trafficking victims, it does not consider infrastructure gaps or other qualitative needs such as culturally accessible services. The task force strongly believes it is irresponsible to

simply tack trafficking onto existing social services programs without adequate resources and training. Furthermore, this needs/services assessment is limited because it focuses primarily on Oahu's capacity to service trafficking victims and even then is not a comprehensive assessment of the entirety of Oahu's service capacity.

## **VI. Hawaii Anti-Trafficking Task Force I (HATTF I)**

The Hawaii Anti-Trafficking Task Force I ("HATTF I") is supported by funding from the DOJ, Law Enforcement and Service Provider Multidisciplinary Anti-Trafficking Task Force grant (2005-VT-BX-0008). The HATTF I officially began meeting in June 2005 to develop working protocols between service providers and law enforcement, to provide law enforcement training for first responders, and to increase public awareness and reporting of human trafficking. In addition to Hawaii, the DOJ grant supports 31 other task forces across the United States and its territories.

### **A. Grant Awards**

The Law Enforcement and Service Provider Multi-Disciplinary Anti-Trafficking Task Force grant is being administered by the Hawaii Department of the Attorney General. The federal award is \$305,333 with a 25% match requirement of \$101,778. The grant period began on December 1, 2004 ends on May 31, 2009.

As of September 30, 2006, \$93,511 of the federal funds was spent, with a balance of \$208,247 remaining. The largest portion of the grant is to support the task force coordinator, followed by the law enforcement training cost, and the travel and subsistence cost for neighbor island members to attend meetings on Oahu.

Once the Law Enforcement and Service Provider Multi-disciplinary Anti-Trafficking Task Force grant was awarded to Hawaii, an OVC non-competitive grant was awarded to assist Hawaii in its efforts to provide comprehensive services to trafficking victims. In 2006, The Salvation Army, received this non-competitive grant award of \$700,000 to provide Anti-Trafficking Services to victims in Hawaii, American Samoa, Guam, and Saipan.

### **B. Goals & Objectives**

The HATTF I goals are:

- 1) To increase identification of trafficking victims through proactive law enforcement.
- 2) To assist trafficking victims with applications for T visas and continued presence in the United States.
- 3) To facilitate the development of service protocols by developing and implementing training in the identification of trafficking victims.

- 4) To conduct a strategy that supports a strong law enforcement role in public awareness and outreach.
- 5) To identify and collaborate with community stakeholders in an effort to eliminate trafficking in human subjects.

### **C. Task Force Members**

HATTF I membership is dynamic and evolves as new members are added (e.g., recent members are the Kauai Office of the Prosecuting Attorney, Kauai Police Department, and the Internal Revenue Service) and a couple of original member agencies discontinue their involvement. The grant recommends that the Department of the Attorney General, as the grant recipient, and the Hawaii U.S. Attorney's Office convene an appropriate representation of local and state law enforcement, federal law enforcement, and government and nongovernment service providers to design this collaborative approach and ensure that the goals are met. The Department of the Attorney General has succeeded in convening such a group. HATTF I represents an on-going development of a multi-disciplinary and multi-jurisdictional task force involving federal, state, and county law enforcement, and victim and social service providers to address human trafficking in Hawaii.

HATTF I's work as a whole is robust considering the large number of agencies involved, the number of goals to accomplish, the varying level of knowledge and experience in the area of human trafficking among its members, the varying working relationships members have with one another, and the difficulty securing a task force coordinator.

The task force includes a Protocol Committee and a Law Enforcement Working Group. The Protocol Committee was established in January 2006 to develop:

- a) Hawaii Law Enforcement & Victim Response to Human Trafficking Flow Chart;
- b) Procedures to Identify Victims:
  - Screening tool;
  - Law Enforcement Training;
  - Victim and Service Provider Training;
- c) Process for Information Sharing:
  - Between service providers;
  - Between law enforcement;
  - Between law enforcement & service providers; and
- d) Process for referrals:
  - Create a Resource Directory;
  - Referral form;
  - Implement effective referral practices; and
  - Outcome of Referral (Feedback Loop).

To help facilitate the law enforcement response to human trafficking, the Protocol Committee identified a need for local, state, and federal law enforcement agencies to

form its own working group. The law enforcement members agreed, and the Law Enforcement Working group was established in June 2006 to:

- a) Provide a forum for county, state, and federal law enforcement/investigators to discuss trafficking protocols (e.g., working agreements with one another and victim service providers);
- b) Implement human trafficking training for law enforcement personnel (first responders); and
- c) Improve the identification of trafficking victims.

**D. HATTF I goals and accomplishments as of November 2006**

**1. To increase identification of trafficking victims through proactive law enforcement.**

The Department of the Attorney General contracted (\$29,934) with the Honolulu Police Department ("HPD") for officer training on the identification and law enforcement's response to human trafficking victims and perpetrators. The Department of the Attorney General has also awarded the Hawaii, Maui, and Kauai Police Departments a portion of the DOJ grant (\$15,000, \$15,000, and \$10,000 respectively) for the same purpose.

The HPD took the lead to begin officer roll call training on identifying and responding to human trafficking and anticipates training its officers in Spring 2007. Several detectives and officers from HPD attended human trafficking trainings on the mainland. The Maui and Hawaii Police Departments' task force members are working with HPD on the police training material. In November 2006, the Kauai Police Department accepted an invitation to be a member of HATTF I and the award for police training. The Law Enforcement Working Group adopted DOJ Bureau of Justice Assistance materials from the 2005 National Human Trafficking Conference for police training. The group is reviewing a training strategy that includes a refresher training after completion of the initial training is completed.

The Law Enforcement Working Group meets monthly to discuss progress being made to train law enforcement officers, and how to proceed with investigations and referrals. The working group's discussion has been focused on clarifying the screening and referral process among law enforcement offices, and the roles of the enforcement agencies as it applies to human trafficking cases. This includes jurisdictional issues under the Department of Homeland Security – Immigration and Customs Enforcement, Office of the United States Attorney, Federal Bureau of Investigations, United States Office of Civil Rights, and for civil relief, the United States Department of Labor, and the Equal Employment Opportunity Commission.

To assist police with screening possible human trafficking victims, HATTF I adopted the Rescue and Restore Victims of Human Trafficking campaign material. Under the TVPA, HHS is designated as the agency responsible for helping victims of human trafficking become eligible to receive benefits and services so they may rebuild their lives safely in

the United States. As part of this effort, HHS initiated the Rescue and Restore Victims of Human Trafficking campaign to help identify and assist victims of human trafficking in the United States. A copy of the law enforcement screening tool can be found at Rescue & Restore Campaign Tool for Law Enforcement Officers, Screening Questions to Assess Whether a Person is a Trafficking Victim, <http://www.acf.hhs.gov/trafficking/>.

**2. To assist trafficking victims with applications for T visas and continued presence in the United States.**

Na Loio is the designated agency to provide immigrant victims with assistance to complete their human trafficking and victim of violent crimes visa application.

Continued presence, however, may be sought only by federal law enforcement to the Department of Homeland Security on behalf of potential victims. If the request for continued presence is approved, then trafficking victims are provided with an HHS Certification. This certification allows foreign adult victims of trafficking to receive the same benefits and services available to refugees, thereby giving these victims access to both state and federal assistance programs.

It is anticipated that if the HATTF I, Law Enforcement and Victim Response to Human Trafficking manual proceeds as planned, the manual will contain a resource directory section that will include information about Na Loio legal services and the federal law enforcement offices' primary and alternate contact information.

**3. To facilitate the development of service protocols by developing and implementing training in the identification of trafficking victims.**

HATTF I expanded this goal to include developing a coordinated response among the task force members. To bridge and strengthen the working relations between law enforcement and service providers, the Protocol Committee is developing a Law Enforcement and Victim Response to Human Trafficking manual to:

- (a) Outline HATTF I members' roles, responsibilities, processes, and protocols on identifying and serving adult and child victims of human trafficking within the defined geographic area; and
- (b) Build and/or enhance collaborative efforts between local law enforcement and trafficking victim service providers that leverage limited resources to strengthen, but not duplicate, existing trafficking victim service efforts, including:
  - (i) Identifying and serving victims through a coordinated community response;
  - (ii) Promoting greater community public awareness and understanding of the nature and scope of human trafficking;



- (iii) Developing and providing training and support for law enforcement to proactively identify, rescue, and place victims with service providers who:
- \* Understand the complex legal and immigration issues attached to assisting victims of human trafficking, and
  - \* Understand the complex service needs of human trafficking victims to ensure their safety, reduce trauma, and support the victims' ability to work with law enforcement to hold their traffickers accountable.

This manual is currently under development. The Protocol Committee's outline for the manual includes:

Introduction

Purpose

Caveats

Hawaii Anti-Trafficking Task Force I Members

Hawaii Response to Human Trafficking

- Screening Tools
- Response Priorities
- Law Enforcement Case Investigation
  - Federal
  - Local
- Prosecution
  - Federal
  - Local
- Special Visas (T- & U-Visas)
- Civil Rights Remedies Related to Trafficking
- Victim Services and Safety Plan
- Hotlines
- Flow Chart-Hawaii Law Enforcement & Victim Response to Human Trafficking

Appendix

- Program Goals & Performance Measures
- Screening Tool for Health Care Providers
- Screening Tool for Law Enforcement
- Screening Tool for Service Providers
- U.S. Department of Justice: Guidelines for Victims of Human Trafficking and Provision of Special Services for Victims of Human Trafficking (May 2005)
- Hawaii Resource Directory
- BJA Human Trafficking Task Force FY 2005

The Protocol Committee is developing a card containing basic human trafficking and assistance information for trafficking victims and the public. The information is

formatted to fit on a bookmark to be user friendly and easy to distribute. This informational bookmark is one of the cornerstones in developing a public awareness strategy, specifically that the information provided to the public is accurate, accessible, and victim-centered. The Protocol Committee oversees the process that is tedious and time consuming, but is an overall positive experience. The process entails follow-up work to ensure that the assistance information is responsive to the needs of the public and trafficking victims.

**4. To conduct a strategy that supports a strong law enforcement role in public awareness and outreach.**

The Law Enforcement Working Group and the Protocol Committee are working on plans for police training and on clarifying agencies' roles and areas of responsibility when a trafficking report is made. Therefore, HATTF I decided to delay coordinated public awareness activities until the "who," "what," "where," and "how" are clarified. For example, if public awareness is conducted (either by police or a service provider) before the police training, then reports on trafficking may not receive the law enforcement attention and response that HATTF I intends. Also, public awareness will not be effective if the assistance information (who the public and victims can contact for information/assistance) is inaccurate, inaccessible, or not tailored for the public or victims.

**5. To identify and collaborate with community stakeholders in an effort to eliminate trafficking in human subjects.**

This continues to be an on-going process. HATTF I started primarily with members from Oahu, and in 2006, HATTF I expanded to include members from the Neighbor Islands. HATTF I is not limited to government agencies and service providers, and its meetings include members of the public. The task force has the need to include faith-based organizations and businesses when public awareness plans are developed.

**VII. Task Force Recommendations**

- 1. Criminal Offense of Human Trafficking:** The task force recommends the adoption of the criminal offense of human trafficking, the inclusion of the crime of human trafficking to the list of offenses addressed by the Crime Victim Compensation Commission, the addition of human trafficking as a covered offense for forfeitures, and the addition of human trafficking as an offense involving organized crime and racketeering activity. (See Attachment "C," proposed language for criminal offense of human trafficking.)
- 2. Comprehensive Needs Assessment:** First and foremost, in order to determine the capacity of Hawaii to service trafficking victims statewide to ensure that Hawaii's programs are both responsive and effective to meet the needs of trafficking victims, a comprehensive assessment of the needs of

trafficking victims and service providers in **Hawaii** must be done. The assessment should:

- a. Identify barriers for trafficking victims in assessing services,
- b. Include a gap assessment survey to determine social service agencies' capacity to assist trafficked victims and this survey should include but not be limited to questions regarding the organization's experience in assisting trafficked victims, the services of the organization to address basic needs, the cultural relevance of services available, and whether or not life skills assistance is offered;
- c. Take into consideration the potential for trafficking victims to utilize not only the T visa but also the U visas, because certain victims will not be eligible for certain benefits; and
- d. Include a gap assessment survey amongst existing service providers for minor victims of trafficking, including but not limited to:
  - i. An investigation as to how minor victims are referred for services;
  - ii. A comprehensive study of the extent to which minors are involved in the sex trafficking industry;
  - iii. A comprehensive study of how minors are currently dealt within the criminal justice system;
  - iv. A comprehensive study of how minors are dealt with in service provider systems;
  - v. The identification of the gaps in services for unaccompanied minors who are victims of trafficking; and
  - vi. A study of the problem of housing and lack of shelters for minors.

The task force recommends the appropriation of sufficient funds to enable this comprehensive needs assessment.

3. **Training:** Information gathered from other states and jurisdictions indicates that criminal legislation of human trafficking and improvement of service delivery are not sufficient to address the issue, given the complicated nature of trafficking, the criminal and other legal issues involved, and that law enforcement, service providers, community-based organizations and other relevant entities must be trained to identify human trafficking.

**Law Enforcement and Service Providers:** The coordinated efforts of HATTF I and this task force are needed to further identify other entities needing training, and to determine the future training needs of law enforcement and service providers.

While HATTF I and The Salvation Army have funds designated for training, if these funds prove insufficient to meet Hawaii's training needs, additional funds for training must be a priority.

4. **Public Awareness:** Public awareness and education must be distinguished from training. Currently, HATTF I is focused on establishing public awareness efforts and outreach. Given that a representative from the DOJ Office on Civil Rights recently acknowledged that most trafficking cases are identified by the public, a concentrated public awareness campaign is recommended and must parallel training efforts. A public awareness piece will create community “buy in” for the need for further training on trafficking.

The task force recommends that \$100,000 be appropriated to the Department of the Attorney General over the next two years, \$50,000 each year for 2007-2008 and 2008-2009, for public awareness and education initiatives regarding human trafficking

5. **Protocol Development:** The task force defers to HATTF I for the development of protocols to strengthen the law enforcement response and coordinated service provision for trafficking victims. The protocols should acknowledge the various points of identification and entry for victims of trafficking. Effective protocols should also distinguish between when the identified trafficking case is initiated by the victim and when it is initiated by law enforcement, and must be victim-centered in their approach to address the comprehensive needs of trafficking victims.

The task force recommends that law enforcement, service providers, community-based organizations, and all identified points of entry receive training on the protocols developed by HATTF I.

The task force recommends that it continue dialogue with HATTF I to discuss the development of protocols regarding information sharing amongst first responders on the local, state and federal level. One goal for these protocols is to develop a network of centralized information that must take into consideration confidentiality and safety concerns (e.g. by utilizing a protected internet site).

6. **Future Funding:** The continued work of the task force must be supported, particularly regarding further investigation on how the State will provide resources to build its capacity and infrastructure to comprehensively serve the needs of trafficking victims. Further investigation and dialogue is also needed amongst task force members to consider future recommendations regarding cash assistance and housing needs of trafficking victims. The Legislature must also support funding and programmatic recommendations that allow for continuous and consistent case management and advocacy for trafficking victims during both the pre-certified and the post-certified stages. In order to develop expertise and build the capacity of agencies and community organizations to provide comprehensive services statewide for trafficking

victims, a funding stream should be established and administered by the Department of the Attorney General.

- 7. Extension of Sunset Date of Task Force:** The task force recommends that the current 2008 sunset date be extended to 2010 to enable the task force to follow through on these recommendations, and the needs assessment in particular.

ATTACHMENT  
"A"



# Victims of Trafficking and Violence Protection Act of 2000

 PDF version

H.R.3244

One Hundred Sixth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday,

the twenty-fourth day of January, two thousand

An Act

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

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

## SECTION 1. SHORT TITLE.

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

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

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

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

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

(3) DIVISION C- Miscellaneous Provisions.

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

Sec.1.Short title.

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

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

Sec.101.Short title.

Sec.102.Purposes and findings.

Sec.103.Definitions.

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

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

Sec.106.Prevention of trafficking.

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

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

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

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

Sec.111.Actions against significant traffickers in persons.

Sec.112.Strengthening prosecution and punishment of traffickers.

Sec.113.Authorizations of appropriations.

### DIVISION B--VIOLENCE AGAINST WOMEN ACT OF 2000

Sec.1001.Short title.

Sec.1002.Definitions.

Sec.1003.Accountability and oversight.

#### **TITLE I--STRENGTHENING LAW ENFORCEMENT TO REDUCE VIOLENCE AGAINST WOMEN**

Sec.1101.Full faith and credit enforcement of protection orders.

Sec.1102.Role of courts.

Sec.1103.Reauthorization of STOP grants.

Sec.1104.Reauthorization of grants to encourage arrest policies.

Sec.1105.Reauthorization of rural domestic violence and child abuse enforcement grants.

Sec.1106.National stalker and domestic violence reduction.

Sec.1107.Amendments to domestic violence and stalking offenses.

Sec.1108.School and campus security.

Sec.1109.Dating violence.

#### **TITLE II--STRENGTHENING SERVICES TO VICTIMS OF VIOLENCE**

Sec.1201.Legal assistance for victims.

Sec.1202.Shelter services for battered women and children.

Sec.1203.Transitional housing assistance for victims of domestic violence.

Sec.1204.National domestic violence hotline.

Sec.1205.Federal victims counselors.

Sec.1206.Study of State laws regarding insurance discrimination against victims of violence against women.

Sec.1207.Study of workplace effects from violence against women.

Sec.1208.Study of unemployment compensation for victims of violence against women.

Sec.1209.Enhancing protections for older and disabled women from domestic violence and sexual assault.

#### **TITLE III--LIMITING THE EFFECTS OF VIOLENCE ON CHILDREN**

Sec.1301.Safe havens for children pilot program.

Sec.1302.Reauthorization of victims of child abuse programs.

Sec.1303.Report on effects of parental kidnapping laws in domestic violence cases.

#### **TITLE IV--STRENGTHENING EDUCATION AND TRAINING TO COMBAT VIOLENCE AGAINST WOMEN**

Sec.1401.Rape prevention and education.

Sec.1402.Education and training to end violence against and abuse of women with disabilities.

Sec.1403.Community initiatives.

Sec.1404.Development of research agenda identified by the Violence Against Women Act of 1994.

Sec.1405.Standards, practice, and training for sexual assault forensic examinations.

Sec.1406.Education and training for judges and court personnel.

Sec.1407.Domestic Violence Task Force.

#### **TITLE V--BATTERED IMMIGRANT WOMEN**

Sec.1501.Short title.

Sec.1502.Findings and purposes.

Sec.1503.Improved access to immigration protections of the Violence Against Women Act of 1994 for battered immigrant women.

Sec.1504.Improved access to cancellation of removal and suspension of deportation under the Violence Against Women Act of 1994.

Sec.1505.Offering equal access to immigration protections of the Violence Against Women Act of 1994 for all qualified battered immigrant self-petitioners.

Sec.1506.Restoring immigration protections under the Violence Against Women Act of 1994.

Sec.1507.Remedying problems with implementation of the immigration provisions of the Violence Against Women Act of 1994.

Sec.1508.Technical correction to qualified alien definition for battered immigrants.

Sec.1509.Access to Cuban Adjustment Act for battered immigrant spouses and children.

Sec.1510.Access to the Nicaraguan Adjustment and Central American Relief Act for battered spouses and children.

Sec.1511.Access to the Haitian Refugee Fairness Act of 1998 for battered spouses and children.

Sec.1512.Access to services and legal representation for battered immigrants.

Sec.1513.Protection for certain crime victims including victims of crimes against women.

#### **TITLE VI--MISCELLANEOUS**

Sec.1601.Notice requirements for sexually violent offenders.

Sec.1602.Teen suicide prevention study.

Sec.1603.Decade of pain control and research.

#### **DIVISION C--MISCELLANEOUS PROVISIONS**

Sec.2001.Almea's law.

Sec.2002.Payment of anti-terrorism judgments.

Sec.2003.Aid to victims of terrorism.

Sec.2004.Twenty-first amendment enforcement.

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

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

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

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

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

(b) **FINDINGS-** Congress finds that:

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

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

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

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

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

(6) Victims are often forced through physical violence to engage in sex acts or perform slavery-like labor. Such force includes rape and other forms of sexual

abuse, torture, starvation, imprisonment, threats, psychological abuse, and coercion.

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

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

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

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

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

(12) Trafficking in persons substantially affects interstate and foreign commerce. Trafficking for such purposes as involuntary servitude, peonage, and other forms of forced labor has an impact on the nationwide employment network and labor market. Within the context of slavery, servitude, and labor or services which are obtained or maintained through coercive conduct that amounts to a condition of servitude, victims are subjected to a range of violations.

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

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

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

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

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

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

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

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

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

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

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

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

## SEC. 103. DEFINITIONS.

In this division:

- (1) **APPROPRIATE CONGRESSIONAL COMMITTEES**- The term 'appropriate congressional committees' means the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the Committee on International Relations and the Committee on the Judiciary of the House of Representatives.
- (2) **COERCION**- The term 'coercion' means--
- (A) threats of serious harm to or physical restraint against any person;
  - (B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
  - (C) the abuse or threatened abuse of the legal process.
- (3) **COMMERCIAL SEX ACT**- The term 'commercial sex act' means any sex act on account of which anything of value is given to or received by any person.
- (4) **DEBT BONDAGE**- The term 'debt bondage' means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.
- (5) **INVOLUNTARY SERVITUDE**- The term 'involuntary servitude' includes a condition of servitude induced by means of--
- (A) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or
  - (B) the abuse or threatened abuse of the legal process.
- (6) **MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING**- The term 'minimum standards for the elimination of trafficking' means the standards set forth in section 108.
- (7) **NONHUMANITARIAN, NONTRADE-RELATED FOREIGN ASSISTANCE**- The term 'nonhumanitarian, nontrade-related foreign assistance' means--
- (A) any assistance under the Foreign Assistance Act of 1961, other than--
    - (i) assistance under chapter 4 of part II of that Act that is made available for any program, project, or activity eligible for assistance under chapter 1 of part I of that Act;
    - (ii) assistance under chapter 8 of part I of that Act;
    - (iii) any other narcotics-related assistance under part I of that Act or under chapter 4 or 5 part II of that Act, but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of that Act;
    - (iv) disaster relief assistance, including any assistance under chapter 9 of part I of that Act;
    - (v) antiterrorism assistance under chapter 8 of part II of that Act;
    - (vi) assistance for refugees;
    - (vii) humanitarian and other development assistance in support of programs of nongovernmental organizations under chapters 1 and 10 of that Act;
    - (viii) programs under title IV of chapter 2 of part I of that Act, relating to the Overseas Private Investment Corporation; and
    - (ix) other programs involving trade-related or humanitarian assistance; and
  - (B) sales, or financing on any terms, under the Arms Export Control Act, other than sales or financing provided for narcotics-related purposes following notification in accordance with the prior notification procedures applicable to reprogrammings pursuant to section 634A of the Foreign Assistance Act of 1961.
- (8) **SEVERE FORMS OF TRAFFICKING IN PERSONS**- The term 'severe forms of trafficking in persons' means--
- (A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
  - (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- (9) **SEX TRAFFICKING**- The term 'sex trafficking' means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.
- (10) **STATE**- The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and territories and possessions of the United States.
- (11) **TASK FORCE**- The term 'Task Force' means the Interagency Task Force to Monitor and Combat Trafficking established under section 105.
- (12) **UNITED STATES**- The term 'United States' means the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

(b) **APPOINTMENT-** The President shall appoint the members of the Task Force, which shall include the Secretary of State, the Administrator of the United States Agency for International Development, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Director of Central Intelligence, and such other officials as may be designated by the President.

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

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

(1) Coordinate the implementation of this division.

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

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

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

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

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

(e) **SUPPORT FOR THE TASK FORCE-** The Secretary of State is authorized to establish within the Department of State an Office to Monitor and Combat Trafficking, which shall provide assistance to the Task Force. Any such Office shall be headed by a Director. The Director shall have the primary responsibility for assisting the Secretary of State in carrying out the purposes of this division and may have additional responsibilities as determined by the Secretary. The Director shall consult with nongovernmental organizations and multilateral organizations, and with trafficking victims or other affected persons. The Director shall have the authority to take evidence in public hearings or by other means. The agencies represented on the Task Force are authorized to provide staff to the Office on a nonreimbursable basis.

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

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

(1) microcredit lending programs, training in business development, skills training, and job counseling;

(2) programs to promote women's participation in economic 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) **CONSULTATION REQUIREMENT-** The President shall consult with appropriate nongovernmental organizations with respect to the establishment and conduct of initiatives described in subsections (a) and (b).

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

### (a) Assistance for Victims in Other Countries-

(1) IN GENERAL- The Secretary of State and the Administrator of the United States Agency for International Development, in consultation with appropriate nongovernmental organizations, shall establish and carry out programs and initiatives in foreign countries to assist in the safe integration, reintegration, or resettlement, as appropriate, of victims of trafficking. Such programs and initiatives shall be designed to meet the appropriate assistance needs of such persons and their children, as identified by the Task Force.

(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.

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

#### (1) ASSISTANCE-

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

(B) REQUIREMENT TO EXPAND BENEFITS AND SERVICES- Subject to subparagraph (C) and, in the case of 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, without regard to the immigration status of such victims.

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

(i) who has been subjected to an act or practice described in section 103(8) as in effect on the date of the enactment of this Act; and

(ii)(I) who has not attained 18 years of age; or

(II) who is the subject of a certification under subparagraph (E).

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

#### (E) CERTIFICATION-

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

(I) is willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking in persons; and

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

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

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

(iii) INVESTIGATION AND PROSECUTION DEFINED- For the purpose of a certification under this subparagraph, the term 'investigation and prosecution' includes--

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

(II) location and apprehension of such persons; and

(III) testimony at proceedings against such persons.

#### (2) GRANTS-

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

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

- (i) three percent for research, evaluation, and statistics;
- (ii) two percent for training and technical assistance; and
- (iii) one percent for management and administration.

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

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

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

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

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

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

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

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

(2) ACCESS TO INFORMATION- Victims of severe forms of trafficking shall have access to information about their rights and translation services.

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

(4) TRAINING OF GOVERNMENT PERSONNEL- Appropriate personnel of the Department of State and the Department of Justice shall be trained in identifying victims of severe forms of trafficking and providing for the protection of such victims.

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

(e) PROTECTION FROM REMOVAL FOR CERTAIN CRIME VICTIMS-

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

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

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

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

“(T)(i) subject to section 214(n), an alien who the Attorney General determines--

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

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

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

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

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

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

“(I) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, and parents of such alien; and

“(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien,

if accompanying, or following to join, the alien described in clause (i).”

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

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

(B) by adding at the end the following:

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

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

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

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

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

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

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

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

(4) DUTIES OF THE ATTORNEY GENERAL WITH RESPECT TO T VISA NONIMMIGRANTS- Section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) is amended by adding at the end the following new subsection:

(i) With respect to each nonimmigrant alien described in subsection (a)(15)(T)(i)--

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

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

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

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

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

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

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

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

(ii) the alien would suffer extreme hardship involving unusual and severe harm upon removal from the United States,

the Attorney General may adjust the status of the alien (and any person admitted under that section as the spouse, parent, or child of the alien) to that of an alien lawfully admitted for permanent residence.

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

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

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

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

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

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

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

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

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

(a) MINIMUM STANDARDS- For purposes of this division, the minimum standards for the elimination of trafficking applicable to the government of a country of origin, transit, or destination for a significant number of victims of severe forms of trafficking are the following:

- (1) The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.
- (2) For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.
- (3) For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.
- (4) The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.

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

- (1) Whether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons that take place wholly or partly within the territory of the country.
- (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.
- (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.
- (4) Whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons.
- (5) Whether the government of the country extradites persons charged with acts of severe forms of trafficking in persons on substantially the same terms and to substantially the same extent as persons charged with other serious crimes (or, to the extent such extradition would be inconsistent with the laws of such country or with international agreements to which the country is a party, whether the government is taking all appropriate measures to modify or replace such laws and treaties so as to permit such extradition).
- (6) Whether the government of the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies of the country respond to any such evidence in a manner that is consistent with the vigorous investigation and prosecution of acts of such trafficking, as well as with the protection of human rights of victims and the internationally recognized human right to leave any country, including one's own, and to return to one's own country.
- (7) Whether the government of the country vigorously investigates and prosecutes public officials who participate in or facilitate severe forms of trafficking in persons, and takes all appropriate measures against officials who condone such trafficking.

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

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

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

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

- (1) the drafting of laws to prohibit and punish acts of trafficking;
- (2) the investigation and prosecution of traffickers;
- (3) the creation and maintenance of facilities, programs, projects, and activities for the protection of victims; and
- (4) the expansion of exchange programs and international visitor programs for governmental and nongovernmental personnel to combat trafficking.

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

#### SEC. 110. ACTIONS AGAINST GOVERNMENTS FAILING TO MEET MINIMUM STANDARDS.

(a) STATEMENT OF POLICY- It is the policy of the United States not to provide nonhumanitarian, nontrade-related foreign assistance to any government that--

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

(2) is not making significant efforts to bring itself into compliance with such standards.

**(b) REPORTS TO CONGRESS-**

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

(A) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments fully comply with such standards;

(B) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not yet fully comply with such standards but are making significant efforts to bring themselves into compliance; and

(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.

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

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

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

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

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

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

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

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

**(1) WITHHOLDING OF NONHUMANITARIAN, 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 funding for participation by officials or employees of such governments in educational and cultural exchange programs for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; and

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

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

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

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

**(5) EXERCISE OF WAIVER AUTHORITY-**

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

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

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

(6) DEFINITION OF MULTILATERAL DEVELOPMENT BANK- In this subsection, the term 'multilateral development bank' refers to any of the following institutions: the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.

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

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

### (a) AUTHORITY TO SANCTION SIGNIFICANT TRAFFICKERS IN PERSONS-

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

- (A) Any foreign person that plays a significant role in a severe form of trafficking in persons, directly or indirectly in the United States.
- (B) Foreign persons that materially assist in, or provide financial or technological support for or to, or provide goods or services in support of, activities of a significant foreign trafficker in persons identified pursuant to subparagraph (A).
- (C) Foreign persons that are owned, controlled, or directed by, or acting for or on behalf of, a significant foreign trafficker identified pursuant to subparagraph (A).

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

### (b) REPORT TO CONGRESS ON IDENTIFICATION AND SANCTIONING OF SIGNIFICANT TRAFFICKERS IN PERSONS-

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

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

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

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

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

(d) EXCLUSION OF PERSONS WHO HAVE BENEFITED FROM ILLICIT ACTIVITIES OF TRAFFICKERS IN PERSONS- Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by inserting at the end the following new subparagraph:

#### (H) SIGNIFICANT TRAFFICKERS IN PERSONS-

“(i) IN GENERAL- Any alien who is listed in a report submitted pursuant to section 111(b) of the Trafficking Victims Protection Act of 2000, or who the consular officer or the Attorney General knows or has reason to believe is or has been a knowing aider, abettor, assister, conspirator, or colluder with such a trafficker in severe forms of trafficking in persons, as defined in the section 103 of such Act, is inadmissible.

“(ii) BENEFICIARIES OF TRAFFICKING- Except as provided in clause (iii), any alien who the consular officer or the Attorney General knows or has reason to believe is the spouse, son, or daughter of an alien inadmissible under clause (i), has, within the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien, and knew or reasonably should have known that the financial or other benefit was the product of such illicit activity, is inadmissible.

“(iii) EXCEPTION FOR CERTAIN SONS AND DAUGHTERS- Clause (ii) shall not apply to a son or daughter who was a child at the time he or she received the benefit described in such clause.”

### (e) IMPLEMENTATION-

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



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

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

(f) **DEFINITION OF FOREIGN PERSONS-** In this section, the term 'foreign person' means any citizen or national of a foreign state or any entity not organized under the laws of the United States, including a foreign government official, but does not include a foreign state.

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

## **SEC. 112. STRENGTHENING PROSECUTION AND PUNISHMENT OF TRAFFICKERS.**

(a) **TITLE 18 AMENDMENTS-** Chapter 77 of title 18, United States Code, is amended--

(1) in each of sections 1581(a), 1583, and 1584--

(A) by striking '10 years' and inserting '20 years'; and

(B) by adding at the end the following: 'If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.';

(2) by inserting at the end the following:

### **'Sec. 1589. Forced labor**

'Whoever knowingly provides or obtains the labor or services of a person--

'(1) by threats of serious harm to, or physical restraint against, that person or another person;

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

'(3) by means of the abuse or threatened abuse of law or the legal process,

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

### **'Sec. 1590. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor**

'Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

### **'Sec. 1591. Sex trafficking of children or by force, fraud or coercion**

'(a) Whoever knowingly--

'(1) in or affecting interstate commerce, recruits, entices, harbors, transports, provides, or obtains by any means a person; or

'(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1),

knowing that force, fraud, or coercion described in subsection (c)(2) will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

'(b) The punishment for an offense under subsection (a) is--

'(1) if the offense was effected by force, fraud, or coercion or if the person transported had not attained the age of 14 years at the time of such offense, by a fine under this title or imprisonment for any term of years or for life, or both; or

'(2) if the offense was not so effected, and the person transported had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title or imprisonment for not more than 20 years, or both.

'(c) In this section:

'(1) The term 'commercial sex act' means any sex act, on account of which anything of value is given to or received by any person.

'(2) The term 'coercion' means--

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

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

against any person; or

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

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

**Sec. 1592. Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor**

(a) Whoever knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person--

(1) in the course of a violation of section 1581, 1583, 1584, 1589, 1590, 1591, or 1594(a);

(2) with intent to violate section 1581, 1583, 1584, 1589, 1590, or 1591; or

(3) to prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person's liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000,

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

(b) Subsection (a) does not apply to the conduct of a person who is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, if that conduct is caused by, or incident to, that trafficking.

**Sec. 1593. Mandatory restitution**

(a) Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalties authorized by law, the court shall order restitution for any offense under this chapter.

(b)(1) The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses, as determined by the court under paragraph (3) of this subsection.

(2) An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

(3) As used in this subsection, the term 'full amount of the victim's losses' has the same meaning as provided in section 2259(b)(3) and shall in addition include the greater of the gross income or value to the defendant of the victim's services or labor or the value of the victim's labor as guaranteed under the minimum wage and overtime guarantees of the Fair Labor Standards Act (29 U.S.C. 201 et seq.).

(c) As used in this section, the term 'victim' means the individual harmed as a result of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or a representative of the victim's estate, or another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named such representative or guardian.

**Sec. 1594. General provisions**

(a) Whoever attempts to violate section 1581, 1583, 1584, 1589, 1590, or 1591 shall be punishable in the same manner as a completed violation of that section.

(b) The court, in imposing sentence on any person convicted of a violation of this chapter, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person shall forfeit to the United States--

(1) such person's interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of such violation; and

(2) any property, real or personal, constituting or derived from, any proceeds that such person obtained, directly or indirectly, as a result of such violation.

(c)(1) The following shall be subject to forfeiture to the United States and no property right shall exist in them:

(A) Any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter.

(B) Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this chapter.

(2) The provisions of chapter 46 of this title relating to civil forfeitures shall extend to any seizure or civil forfeiture under this subsection.

(d) **WITNESS PROTECTION-** Any violation of this chapter shall be considered an organized criminal activity or other serious offense for the purposes of application of chapter 224 (relating to witness protection); and

(3) by amending the table of sections at the beginning of chapter 77 by adding at the end the following new items:

1589. Forced labor.

1590. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor.

1591. Sex trafficking of children or by force, fraud, or coercion.

1592. Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor.

1593. Mandatory restitution.

(b) AMENDMENT TO THE SENTENCING GUIDELINES-

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

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

(A) take all appropriate measures to ensure that these sentencing guidelines and policy statements applicable to the offenses described in paragraph (1) of this subsection are sufficiently stringent to deter and adequately reflect the heinous nature of such offenses;

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

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

(i) involve a large number of victims;

(ii) involve a pattern of continued and flagrant violations;

(iii) involve the use or threatened use of a dangerous weapon; or

(iv) result in the death or bodily injury of any person.

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

**SEC. 113. AUTHORIZATIONS OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS IN SUPPORT OF THE TASK FORCE- To carry out the purposes of sections 104, 105, and 110, there are authorized to be appropriated to the Secretary of State \$1,500,000 for fiscal year 2001 and \$3,000,000 for fiscal year 2002.

(b) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF HEALTH AND HUMAN SERVICES- To carry out the purposes of section 107(b), there are authorized to be appropriated to the Secretary of Health and Human Services \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002.

(c) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF STATE-

(1) ASSISTANCE FOR VICTIMS IN OTHER COUNTRIES- To carry out the purposes of section 107(a), there are authorized to be appropriated to the Secretary of State \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002.

(2) VOLUNTARY CONTRIBUTIONS TO OSCE- To carry out the purposes of section 109, there are authorized to be appropriated to the Secretary of State \$300,000 for voluntary contributions to advance projects aimed at preventing trafficking, promoting respect for human rights of trafficking victims, and assisting the Organization for Security and Cooperation in Europe participating states in related legal reform for fiscal year 2001.

(3) PREPARATION OF ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS- To carry out the purposes of section 104, there are authorized to be appropriated to the Secretary of State such sums as may be necessary to include the additional information required by that section in the annual Country Reports on Human Rights Practices, including the preparation and publication of the list described in subsection (a)(1) of that section.

(d) AUTHORIZATION OF APPROPRIATIONS TO ATTORNEY GENERAL- To carry out the purposes of section 107(b), there are authorized to be appropriated to the Attorney General \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002.

(e) Authorization of Appropriations to President-

(1) FOREIGN VICTIM ASSISTANCE- To carry out the purposes of section 106, there are authorized to be appropriated to the President \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002.

(2) ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS- To carry out the purposes of section 109, there are authorized to be appropriated to the President \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002.

(f) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF LABOR- To carry out the purposes of section 107(b), there are authorized to be appropriated to the Secretary of Labor \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002.

**DIVISION B--VIOLENCE AGAINST WOMEN ACT OF 2000**

**SEC. 1001. SHORT TITLE.**

This division may be cited as the 'Violence Against Women Act of 2000'.

**SEC. 1002. DEFINITIONS.**

In this division--

(1) the term 'domestic violence' has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C.

3796gg-2); and

(2) the term 'sexual assault' has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).

#### SEC. 1003. ACCOUNTABILITY AND OVERSIGHT.

(a) ~~REPORT BY GRANT RECIPIENTS-~~ The Attorney General or Secretary of Health and Human Services, as applicable, shall require grantees under any program authorized or reauthorized by this division or an amendment made by this division to report on the effectiveness of the activities carried out with amounts made available to carry out that program, including number of persons served, if applicable, numbers of persons seeking services who could not be served and such other information as the Attorney General or Secretary may prescribe.

(b) ~~REPORT TO CONGRESS-~~ The Attorney General or Secretary of Health and Human Services, as applicable, shall report biennially to the Committees on the Judiciary of the House of Representatives and the Senate on the grant programs described in subsection (a), including the information contained in any report under that subsection.

### TITLE I--STRENGTHENING LAW ENFORCEMENT TO REDUCE VIOLENCE AGAINST WOMEN

#### SEC. 1101. FULL FAITH AND CREDIT ENFORCEMENT OF PROTECTION ORDERS.

(a) IN GENERAL: Part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh et seq.) is amended--

(1) in the heading, by adding 'AND ENFORCEMENT OF PROTECTION ORDERS' at the end;

(2) in section 2101(b)--

(A) in paragraph (6), by inserting '(including juvenile courts)' after 'courts'; and

(B) by adding at the end the following:

'(7) To provide technical assistance and computer and other equipment to police departments, prosecutors, courts, and tribal jurisdictions to facilitate the widespread enforcement of protection orders, including interstate enforcement, enforcement between States and tribal jurisdictions, and enforcement between tribal jurisdictions.'; and

(3) in section 2102--

(A) in subsection (b)--

(i) in paragraph (1), by striking 'and' at the end;

(ii) in paragraph (2), by striking the period at the end and inserting ', including the enforcement of protection orders from other States and jurisdictions (including tribal jurisdictions).'; and

(iii) by adding at the end the following:

'(3) have established cooperative agreements or can demonstrate effective ongoing collaborative arrangements with neighboring jurisdictions to facilitate the enforcement of protection orders from other States and jurisdictions (including tribal jurisdictions); and

'(4) in applications describing plans to further the purposes stated in paragraph (4) or (7) of section 2101(b), will give priority to using the grant to develop and install data collection and communication systems, including computerized systems, and training on how to use these systems effectively to link police, prosecutors, courts, and tribal jurisdictions for the purpose of identifying and tracking protection orders and violations of protection orders, in those jurisdictions where such systems do not exist or are not fully effective.'; and

(B) by adding at the end the following:

'(c) DISSEMINATION OF INFORMATION- The Attorney General shall annually compile and broadly disseminate (including through electronic publication) information about successful data collection and communication systems that meet the purposes described in this section. Such dissemination shall target States, State and local courts, Indian tribal governments, and units of local government.'

(b) PROTECTION ORDERS-

(1) FILING COSTS- Section 2006 of part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-5) is amended--

(A) in the heading, by striking 'filing' and inserting 'and protection orders' after 'charges';

(B) in subsection (a)--

(i) by striking paragraph (1) and inserting the following:

'(1) certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a protection order, or a petition for a protection order, to protect a victim of domestic violence, stalking, or sexual assault, that the victim bear the costs associated with the filing of criminal charges against the offender, or the costs associated with the filing, issuance, registration, or service of a warrant, protection order, petition for a protection order, or witness subpoena, whether issued inside or outside the State, tribal, or local jurisdiction; or'; and

(ii) in paragraph (2)(B), by striking '2 years' and inserting '2 years after the date of the enactment of the Violence Against Women Act of 2000';

and

(C) by adding at the end the following:

“(c) DEFINITION- In this section, the term ‘protection order’ has the meaning given the term in section 2266 of title 18, United States Code.”

(2) ELIGIBILITY FOR GRANTS TO ENCOURAGE ARREST POLICIES- Section 2101 of part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended--

(A) in subsection (c), by striking paragraph (4) and inserting the following:

“(4) certify that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a protection order, or a petition for a protection order, to protect a victim of domestic violence, stalking, or sexual assault, that the victim bear the costs associated with the filing of criminal charges against the offender, or the costs associated with the filing, issuance, registration, or service of a warrant, protection order, petition for a protection order, or witness subpoena, whether issued inside or outside the State, tribal, or local jurisdiction.”; and

(B) by adding at the end the following:

“(d) DEFINITION- In this section, the term ‘protection order’ has the meaning given the term in section 2266 of title 18, United States Code.”

(3) APPLICATION FOR GRANTS TO ENCOURAGE ARREST POLICIES- Section 2102(a)(1)(B) of part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh-1(a)(1)(B)) is amended by inserting before the semicolon the following: “or, in the case of the condition set forth in subsection 2101(c)(4), the expiration of the 2-year period beginning on the date of the enactment of the Violence Against Women Act of 2000”.

(4) REGISTRATION FOR PROTECTION ORDERS- Section 2265 of title 18, United States Code, is amended by adding at the end the following:

“(d) NOTIFICATION AND REGISTRATION-

“(1) NOTIFICATION- A State or Indian tribe according full faith and credit to an order by a court of another State or Indian tribe shall not notify or require notification of the party against whom a protection order has been issued that the protection order has been registered or filed in that enforcing State or tribal jurisdiction unless requested to do so by the party protected under such order.

“(2) NO PRIOR REGISTRATION OR FILING AS PREREQUISITE FOR ENFORCEMENT- Any protection order that is otherwise consistent with this section shall be accorded full faith and credit, notwithstanding failure to comply with any requirement that the order be registered or filed in the enforcing State or tribal jurisdiction.

“(e) TRIBAL COURT JURISDICTION- For purposes of this section, a tribal court shall have full civil jurisdiction to enforce protection orders, including authority to enforce any orders through civil contempt proceedings, exclusion of violators from Indian lands, and other appropriate mechanisms, in matters arising within the authority of the tribe.”

(c) TECHNICAL AMENDMENT- The table of contents for title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended in the item relating to part U, by adding ‘AND ENFORCEMENT OF PROTECTION ORDERS’ at the end.

## SEC. 1102. ROLE OF COURTS.

(a) COURTS AS ELIGIBLE STOP SUBGRANTEES- Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended--

(1) in section 2001--

(A) in subsection (a), by striking ‘Indian tribal governments,’ and inserting ‘State and local courts (including juvenile courts), Indian tribal governments, tribal courts,’; and

(B) in subsection (b)--

(i) in paragraph (1), by inserting ‘, judges, other court personnel,’ after ‘law enforcement officers’;

(ii) in paragraph (2), by inserting ‘, judges, other court personnel,’ after ‘law enforcement officers’; and

(iii) in paragraph (3), by inserting ‘, court,’ after ‘police’; and

(2) in section 2002--

(A) in subsection (a), by inserting ‘State and local courts (including juvenile courts),’ after ‘States,’ the second place it appears;

(B) in subsection (c), by striking paragraph (3) and inserting the following:

“(3) of the amount granted--

“(A) not less than 25 percent shall be allocated to police and not less than 25 percent shall be allocated to prosecutors;

“(B) not less than 30 percent shall be allocated to victim services; and

“(C) not less than 5 percent shall be allocated for State and local courts (including juvenile courts); and”; and

(C) in subsection (d)(1), by inserting 'court,' after 'law enforcement,'.

(b) **ELIGIBLE GRANTEEES; USE OF GRANTS FOR EDUCATION-** Section 2101 of part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended--

(1) in subsection (a), by inserting 'State and local courts (including juvenile courts), tribal courts,' after 'Indian tribal governments,';

(2) in subsection (b)--

(A) by inserting 'State and local courts (including juvenile courts),' after 'Indian tribal governments';

(B) in paragraph (2), by striking 'policies and' and inserting 'policies, educational programs, and';

(C) in paragraph (3), by inserting 'parole and probation officers,' after 'prosecutors,'; and

(D) in paragraph (4), by inserting 'parole and probation officers,' after 'prosecutors,'.

(3) in subsection (c), by inserting 'State and local courts (including juvenile courts),' after 'Indian tribal governments'; and

(4) by adding at the end the following:

'(e) **ALLOTMENT FOR INDIAN TRIBES-** Not less than 5 percent of the total amount made available for grants under this section for each fiscal year shall be available for grants to Indian tribal governments.'

### **SEC. 1103. REAUTHORIZATION OF STOP GRANTS.**

(a) **REAUTHORIZATION-** Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (18) and inserting the following:

'(18) There is authorized to be appropriated to carry out part T \$185,000,000 for each of fiscal years 2001 through 2005.'

(b) **GRANT PURPOSES-** Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended--

(1) in section 2001--

(A) in subsection (b)--

(i) in paragraph (5), by striking 'racial, cultural, ethnic, and language minorities' and inserting 'underserved populations';

(ii) in paragraph (6), by striking 'and' at the end;

(iii) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(iv) by adding at the end the following:

'(8) supporting formal and informal statewide, multidisciplinary efforts, to the extent not supported by State funds, to coordinate the response of State law enforcement agencies, prosecutors, courts, victim services agencies, and other State agencies and departments, to violent crimes against women, including the crimes of sexual assault, domestic violence, and dating violence;

'(9) training of sexual assault forensic medical personnel examiners in the collection and preservation of evidence, analysis, prevention, and providing expert testimony and treatment of trauma related to sexual assault;'; and

(B) by adding at the end the following:

'(c) **STATE COALITION GRANTS-**

'(1) **PURPOSE-** The Attorney General shall award grants to each State domestic violence coalition and sexual assault coalition for the purposes of coordinating State victim services activities, and collaborating and coordinating with Federal, State, and local entities engaged in violence against women activities.

'(2) **GRANTS TO STATE COALITIONS-** The Attorney General shall award grants to--

(A) each State domestic violence coalition, as determined by the Secretary of Health and Human Services through the Family Violence Prevention and Services Act (42 U.S.C. 10410 et seq.); and

(B) each State sexual assault coalition, as determined by the Center for Injury Prevention and Control of the Centers for Disease Control and Prevention under the Public Health Service Act (42 U.S.C. 280b et seq.).

'(3) **ELIGIBILITY FOR OTHER GRANTS-** Receipt of an award under this subsection by each State domestic violence and sexual assault coalition shall not preclude the coalition from receiving additional grants under this part to carry out the purposes described in subsection (b).';

(2) in section 2002(b)--

(A) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively;

(B) in paragraph (1), by striking '4 percent' and inserting '5 percent';

(C) in paragraph (5), as redesignated, by striking '\$500,000' and inserting '\$600,000'; and

(D) by inserting after paragraph (1) the following:

'(2) 2.5 percent shall be available for grants for State domestic violence coalitions under section 2001(c), with the coalition for each State, the coalition for the District of Columbia, the coalition for the Commonwealth of Puerto Rico, and the coalition for the combined Territories of the United States, each receiving an amount equal to 1/54 of the total amount made available under this paragraph for each fiscal year;

'(3) 2.5 percent shall be available for grants for State sexual assault coalitions under section 2001(c), with the coalition for each State, the coalition for the District of Columbia, the coalition for the Commonwealth of Puerto Rico, and the coalition for the combined Territories of the United States, each receiving an amount equal to 1/54 of the total amount made available under this paragraph for each fiscal year;

'(4) 1/54 shall be available for the development and operation of nonprofit tribal domestic violence and sexual assault coalitions in Indian country;';

(3) in section 2003, by striking paragraph (7) and inserting the following:

'(7) the term 'underserved populations' includes populations underserved because of geographic location (such as rural isolation), underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the State planning process in consultation with the Attorney General;'; and

(4) in section 2004(b)(3), by inserting ', and the membership of persons served in any underserved population' before the semicolon.

#### **SEC. 1104. REAUTHORIZATION OF GRANTS TO ENCOURAGE ARREST POLICIES.**

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (19) and inserting the following:

'(19) There is authorized to be appropriated to carry out part U \$65,000,000 for each of fiscal years 2001 through 2005.'

#### **SEC. 1105. REAUTHORIZATION OF RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT GRANTS.**

Section 40295(c) of the Violence Against Women Act of 1994 (42 U.S.C. 13971(c)) is amended—

(1) by striking paragraph (1) and inserting the following:

'(1) IN GENERAL- There is authorized to be appropriated to carry out this section \$40,000,000 for each of fiscal years 2001 through 2005;'; and

(2) by adding at the end the following:

'(3) ALLOTMENT FOR INDIAN TRIBES- Not less than 5 percent of the total amount made available to carry out this section for each fiscal year shall be available for grants to Indian tribal governments.'

#### **SEC. 1106. NATIONAL STALKER AND DOMESTIC VIOLENCE REDUCTION.**

(a) REAUTHORIZATION- Section 40603 of the Violence Against Women Act of 1994 (42 U.S.C. 14032) is amended to read as follows:

##### **'SEC. 40603. AUTHORIZATION OF APPROPRIATIONS.**

'There is authorized to be appropriated to carry out this subtitle \$3,000,000 for each of fiscal years 2001 through 2005.'

(b) TECHNICAL AMENDMENT- Section 40602(a) of the Violence Against Women Act of 1994 (42 U.S.C. 14031 note) is amended by inserting 'and implement' after 'improve'.

#### **SEC. 1107. AMENDMENTS TO DOMESTIC VIOLENCE AND STALKING OFFENSES.**

(a) INTERSTATE DOMESTIC VIOLENCE- Section 2281 of title 18, United States Code, is amended by striking subsection (a) and inserting the following:

'(a) OFFENSES-

'(1) TRAVEL OR CONDUCT OF OFFENDER- A person who travels in interstate or foreign commerce or enters or leaves Indian country with the intent to kill, injure, harass, or intimidate a spouse or intimate partner, and who, in the course of or as a result of such travel, commits or attempts to commit a crime of violence against that spouse or intimate partner, shall be punished as provided in subsection (b).

'(2) CAUSING TRAVEL OF VICTIM- A person who causes a spouse or intimate partner to travel in interstate or foreign commerce or to enter or leave Indian country by force, coercion, duress, or fraud, and who, in the course of, as a result of, or to facilitate such conduct or travel, commits or attempts to commit a crime of violence against that spouse or intimate partner, shall be punished as provided in subsection (b).'

(b) INTERSTATE STALKING-

(1) IN GENERAL- Section 2261A of title 18, United States Code, is amended to read as follows:

##### **'Sec. 2261A. Interstate stalking**



'Whoever--

'(1) travels in interstate or foreign commerce or within the special maritime and territorial jurisdiction of the United States, or enters or leaves Indian country, with the intent to kill, injure, harass, or intimidate another person, and in the course of, or as a result of, such travel places that person in reasonable fear of the death of, or serious bodily injury to, that person, a member of the immediate family (as defined in section 115) of that person, or the spouse or intimate partner of that person; or

'(2) with the intent--

'(A) to kill or injure a person in another State or tribal jurisdiction or within the special maritime and territorial jurisdiction of the United States; or

'(B) to place a person in another State or tribal jurisdiction, or within the special maritime and territorial jurisdiction of the United States, in reasonable fear of the death of, or serious bodily injury to--

'(i) that person;

'(ii) a member of the immediate family (as defined in section 115) of that person; or

'(iii) a spouse or intimate partner of that person,

uses the mail or any facility of interstate or foreign commerce to engage in a course of conduct that places that person in reasonable fear of the death of, or serious bodily injury to, any of the persons described in clauses (i) through (iii),

shall be punished as provided in section 2261(b).'

## (2) AMENDMENT OF FEDERAL SENTENCING GUIDELINES-

(A) IN GENERAL- Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines to reflect the amendment made by this subsection.

(B) FACTORS FOR CONSIDERATION- In carrying out subparagraph (A), the Commission shall consider--

(i) whether the Federal Sentencing Guidelines relating to stalking offenses should be modified in light of the amendment made by this subsection; and

(ii) whether any changes the Commission may make to the Federal Sentencing Guidelines pursuant to clause (i) should also be made with respect to offenses under chapter 110A of title 18, United States Code.

(c) INTERSTATE VIOLATION OF PROTECTION ORDER- Section 2262 of title 18, United States Code, is amended by striking subsection (a) and inserting the following:

'(a) OFFENSES-

'(1) TRAVEL OR CONDUCT OF OFFENDER- A person who travels in interstate or foreign commerce, or enters or leaves Indian country, with the intent to engage in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, and subsequently engages in such conduct, shall be punished as provided in subsection (b).

'(2) CAUSING TRAVEL OF VICTIM- A person who causes another person to travel in interstate or foreign commerce or to enter or leave Indian country by force, coercion, duress, or fraud, and in the course of, as a result of, or to facilitate such conduct or travel engages in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, shall be punished as provided in subsection (b).'

(d) DEFINITIONS- Section 2266 of title 18, United States Code, is amended to read as follows:

### 'Sec. 2266. Definitions

'In this chapter:

'(1) BODILY INJURY- The term 'bodily injury' means any act, except one done in self-defense, that results in physical injury or sexual abuse.

'(2) COURSE OF CONDUCT- The term 'course of conduct' means a pattern of conduct composed of 2 or more acts, evidencing a continuity of purpose.

'(3) ENTER OR LEAVE INDIAN COUNTRY- The term 'enter or leave Indian country' includes leaving the jurisdiction of 1 tribal government and entering the jurisdiction of another tribal government.

'(4) INDIAN COUNTRY- The term 'Indian country' has the meaning stated in section 1151 of this title.

'(5) PROTECTION ORDER- The term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil and criminal court (other than a support or child custody order issued pursuant to State divorce and child custody laws, except to the extent that such an order is entitled to full faith and credit under other Federal law) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

(6) SERIOUS BODILY INJURY- The term 'serious bodily injury' has the meaning stated in section 2119(2).

(7) SPOUSE OR INTIMATE PARTNER- The term 'spouse or intimate partner' includes--

(A) for purposes of--

(i) sections other than 2261A, a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser; and

(ii) section 2261A, a spouse or former spouse of the target of the stalking, a person who shares a child in common with the target of the stalking, and a person who cohabits or has cohabited as a spouse with the target of the stalking; and

(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State or tribal jurisdiction in which the injury occurred or where the victim resides.

(8) STATE- The term 'State' includes a State of the United States, the District of Columbia, and a commonwealth, territory, or possession of the United States.

(9) TRAVEL IN INTERSTATE OR FOREIGN COMMERCE- The term 'travel in interstate or foreign commerce' does not include travel from 1 State to another by an individual who is a member of an Indian tribe and who remains at all times in the territory of the Indian tribe of which the individual is a member.

#### SEC. 1108. SCHOOL AND CAMPUS SECURITY.

(a) GRANTS TO REDUCE VIOLENT CRIMES AGAINST WOMEN ON CAMPUS- Section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152) is amended--

(1) in paragraphs (2), (6), (7), and (9) of subsection (b), by striking 'and domestic violence' and inserting 'domestic violence, and dating violence';

(2) in subsection (c)(2)(B), by striking 'and domestic violence' and inserting ', domestic violence and dating violence';

(3) in subsection (f)--

(A) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively;

(B) by inserting before paragraph (2) (as redesignated by subparagraph (A)) the following:

(1) the term 'dating violence' means violence committed by a person--

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) the length of the relationship;

(ii) the type of relationship; and

(iii) the frequency of interaction between the persons involved in the relationship.;

(C) in paragraph (2) (as redesignated by subparagraph (A)), by inserting ', dating' after 'domestic' each place the term appears; and

(D) in paragraph (4) (as redesignated by subparagraph (A))--

(i) by inserting 'or a public, nonprofit organization acting in a nongovernmental capacity' after 'organization';

(ii) by inserting ', dating violence' after 'assists domestic violence';

(iii) by striking 'or domestic violence' and inserting ', domestic violence or dating violence'; and

(iv) by inserting 'dating violence,' before 'stalking,'; and

(4) in subsection (g), by striking 'fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years' and inserting 'each of fiscal years 2001 through 2005'.

(b) MATCHING GRANT PROGRAM FOR SCHOOL SECURITY- Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting after part Z the following new part:

#### PART AA--MATCHING GRANT PROGRAM FOR SCHOOL SECURITY

##### SEC. 2701. PROGRAM AUTHORIZED.

(a) IN GENERAL- The Attorney General is authorized to make grants to States, units of local government, and Indian tribes to provide improved security, including the placement and use of metal detectors and other deterrent measures, at schools and on school grounds.

(b) USES OF FUNDS- Grants awarded under this section shall be distributed directly to the State, unit of local government, or Indian tribe, and shall be used to improve security at schools and on school grounds in the jurisdiction of the grantee through one or more of the following:

(1) Placement and use of metal detectors, locks, lighting, and other deterrent measures.

(2) Security assessments.

(3) Security training of personnel and students.

(4) Coordination with local law enforcement.

(5) Any other measure that, in the determination of the Attorney General, may provide a significant improvement in security.

(c) **PREFERENTIAL CONSIDERATION-** In awarding grants under this part, the Attorney General shall give preferential consideration, if feasible, to an application from a jurisdiction that has a demonstrated need for improved security, has a demonstrated need for financial assistance, and has evidenced the ability to make the improvements for which the grant amounts are sought.

(d) **MATCHING FUNDS-**

(1) The portion of the costs of a program provided by a grant under subsection (a) may not exceed 50 percent.

(2) Any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection.

(3) The Attorney General may provide, in the guidelines implementing this section, for the requirement of paragraph (1) to be waived or altered in the case of a recipient with a financial need for such a waiver or alteration.

(e) **EQUITABLE DISTRIBUTION-** In awarding grants under this part, the Attorney General shall ensure, to the extent practicable, an equitable geographic distribution among the regions of the United States and among urban, suburban, and rural areas.

(f) **ADMINISTRATIVE COSTS-** The Attorney General may reserve not more than 2 percent from amounts appropriated to carry out this part for administrative costs.

#### **SEC. 2702. APPLICATIONS.**

(a) **IN GENERAL-** To request a grant under this part, the chief executive of a State, unit of local government, or Indian tribe shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may require. Each application shall--

(1) include a detailed explanation of--

(A) the intended uses of funds provided under the grant; 675

(B) how the activities funded under the grant will meet the purpose of this part; and

(2) be accompanied by an assurance that the application was prepared after consultation with individuals not limited to law enforcement officers (such as school violence researchers, child psychologists, social workers, teachers, principals, and other school personnel) to ensure that the improvements to be funded under the grant are--

(A) consistent with a comprehensive approach to preventing school violence; and

(B) individualized to the needs of each school at which those improvements are to be made.

(b) **GUIDELINES-** Not later than 90 days after the date of the enactment of this part, the Attorney General shall promulgate guidelines to implement this section (including the information that must be included and the requirements that the States, units of local government, and Indian tribes must meet) in submitting the applications required under this section.

#### **SEC. 2703. ANNUAL REPORT TO CONGRESS.**

Not later than November 30th of each year, the Attorney General shall submit a report to the Congress regarding the activities carried out under this part. Each such report shall include, for the preceding fiscal year, the number of grants funded under this part, the amount of funds provided under those grants, and the activities for which those funds were used.

#### **SEC. 2704. DEFINITIONS.**

For purposes of this part--

(1) the term 'school' means a public elementary or secondary school;

(2) the term 'unit of local government' means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level; and

(3) the term 'Indian tribe' has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

#### **SEC. 2705. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this part \$30,000,000 for each of fiscal years 2001 through 2003.

#### **SEC. 1109. DATING VIOLENCE.**

(a) DEFINITIONS-

(1) SECTION 2003- Section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3996gg-2) is amended--

(A) in paragraph (8), by striking the period at the end and inserting `; and'; and

(B) by adding at the end the following:

`(9) the term `dating violence' means violence committed by a person--

`(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

`(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

`(i) the length of the relationship;

`(ii) the type of relationship; and

`(iii) the frequency of interaction between the persons involved in the relationship.'.

(2) SECTION 2105- Section 2105 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh-4) is amended--

(A) in paragraph (1), by striking `and' at the end;

(B) in paragraph (2), by striking the period at the end and inserting `; and'; and

(C) by adding at the end the following:

`(3) the term `dating violence' means violence committed by a person--

`(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

`(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

`(i) the length of the relationship;

`(ii) the type of relationship; and

`(iii) the frequency of interaction between the persons involved in the relationship.'.

(b) STOP GRANTS- Section 2001(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) is amended--

(1) in paragraph (1), by striking `sexual assault and domestic violence' and inserting `sexual assault, domestic violence, and dating violence'; and

(2) in paragraph (5), by striking `sexual assault and domestic violence' and inserting `sexual assault, domestic violence, and dating violence'.

(c) GRANTS TO ENCOURAGE ARREST POLICIES- Section 2101(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh(b)) is amended--

(1) in paragraph (2), by inserting `and dating violence' after `domestic violence'; and

(2) in paragraph (5), by inserting `and dating violence' after `domestic violence'.

(d) RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT- Section 40295(a) of the Safe Homes for Women Act of 1994 (42 U.S.C. 13971(a)) is amended--

(1) in paragraph (1), by inserting `and dating violence (as defined in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3996gg-2))' after `domestic violence'; and

(2) in paragraph (2), by inserting `and dating violence (as defined in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3996gg-2))' after `domestic violence'.

**TITLE II--STRENGTHENING SERVICES TO VICTIMS OF VIOLENCE**

**SEC. 1201. LEGAL ASSISTANCE FOR VICTIMS.**

(a) IN GENERAL- The purpose of this section is to enable the Attorney General to award grants to increase the availability of legal assistance necessary to provide effective aid to victims of domestic violence, stalking, or sexual assault who are seeking relief in legal matters arising as a consequence of that abuse or violence, at minimal or no cost to the victims.

(b) DEFINITIONS- In this section:

(1) DOMESTIC VIOLENCE- The term `domestic violence' has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).

(2) **LEGAL ASSISTANCE FOR VICTIMS-** The term 'legal assistance' includes assistance to victims of domestic violence, stalking, and sexual assault in family, immigration, administrative agency, or housing matters, protection or stay away order proceedings, and other similar matters. No funds made available under this section may be used to provide financial assistance in support of any litigation described in paragraph (14) of section 504 of Public Law 104-134.

(3) **SEXUAL ASSAULT-** The term 'sexual assault' has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).

(c) **LEGAL ASSISTANCE FOR VICTIMS GRANTS-** The Attorney General may award grants under this subsection to private nonprofit entities, Indian tribal governments, and publicly funded organizations not acting in a governmental capacity such as law schools, and which shall be used--

(1) to implement, expand, and establish cooperative efforts and projects between domestic violence and sexual assault victim services organizations and legal assistance providers to provide legal assistance for victims of domestic violence, stalking, and sexual assault;

(2) to implement, expand, and establish efforts and projects to provide legal assistance for victims of domestic violence, stalking, and sexual assault by organizations with a demonstrated history of providing direct legal or advocacy services on behalf of these victims; and

(3) to provide training, technical assistance, and data collection to improve the capacity of grantees and other entities to offer legal assistance to victims of domestic violence, stalking, and sexual assault.

(d) **ELIGIBILITY-** To be eligible for a grant under subsection (c), applicants shall certify in writing that--

(1) any person providing legal assistance through a program funded under subsection (c) has completed or will complete training in connection with domestic violence or sexual assault and related legal issues;

(2) any training program conducted in satisfaction of the requirement of paragraph (1) has been or will be developed with input from and in collaboration with a State, local, or tribal domestic violence or sexual assault program or coalition, as well as appropriate State and local law enforcement officials;

(3) any person or organization providing legal assistance through a program funded under subsection (c) has informed and will continue to inform State, local, or tribal domestic violence or sexual assault programs and coalitions, as well as appropriate State and local law enforcement officials of their work; and

(4) the grantee's organizational policies do not require mediation or counseling involving offenders and victims physically together, in cases where sexual assault, domestic violence, or child sexual abuse is an issue.

(e) **EVALUATION-** The Attorney General may evaluate the grants funded under this section through contracts or other arrangements with entities expert on domestic violence, stalking, and sexual assault, and on evaluation research.

(f) **AUTHORIZATION OF APPROPRIATIONS-**

(1) **IN GENERAL-** There is authorized to be appropriated to carry out this section \$40,000,000 for each of fiscal years 2001 through 2005.

(2) **ALLOCATION OF FUNDS-**

(A) **TRIBAL PROGRAMS-** Of the amount made available under this subsection in each fiscal year, not less than 5 percent shall be used for grants for programs that assist victims of domestic violence, stalking, and sexual assault on lands within the jurisdiction of an Indian tribe.

(B) **VICTIMS OF SEXUAL ASSAULT-** Of the amount made available under this subsection in each fiscal year, not less than 25 percent shall be used for direct services, training, and technical assistance to support projects focused solely or primarily on providing legal assistance to victims of sexual assault.

(3) **NONSUPPLANTATION-** Amounts made available under this section shall be used to supplement and not supplant other Federal, State, and local funds expended to further the purpose of this section.

## **SEC. 1202. SHELTER SERVICES FOR BATTERED WOMEN AND CHILDREN.**

(a) **REAUTHORIZATION-** Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

'(a) **IN GENERAL-** There are authorized to be appropriated to carry out this title \$175,000,000 for each of fiscal years 2001 through 2005.'

(b) **STATE MINIMUM; REALLOTMENT-** Section 304 of the Family Violence Prevention and Services Act (42 U.S.C. 10403) is amended--

(1) in subsection (a), by striking 'for grants to States for any fiscal year' and all that follows and inserting the following: 'and available for grants to States under this subsection for any fiscal year--

'(1) Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than 1/8 of 1 percent of the amounts available for grants under section 303(a) for the fiscal year for which the allotment is made; and

'(2) each State shall be allotted for payment in a grant authorized under section 303(a), \$600,000, with the remaining funds to be allotted to each State in an amount that bears the same ratio to such remaining funds as the population of such State bears to the population of all States.';

(2) in subsection (c), in the first sentence, by inserting 'and available' before 'for grants'; and

(3) by adding at the end the following:

'(e) in subsection (a)(2), the term 'State' does not include any jurisdiction specified in subsection (a)(1).'

## **SEC. 1203. TRANSITIONAL HOUSING ASSISTANCE FOR VICTIMS OF DOMESTIC VIOLENCE.**

Title III of the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following:

**SEC. 319. TRANSITIONAL HOUSING ASSISTANCE.**

(a) IN GENERAL- The Secretary shall award grants under this section to carry out programs to provide assistance to individuals, and their dependents--

(1) who are homeless or in need of transitional housing or other housing assistance, as a result of fleeing a situation of domestic violence; and

(2) for whom emergency shelter services are unavailable or insufficient.

(b) ASSISTANCE DESCRIBED- Assistance provided under this section may include--

(1) short-term housing assistance, including rental or utilities payments assistance and assistance with related expenses, such as payment of security deposits and other costs incidental to relocation to transitional housing, in cases in which assistance described in this paragraph is necessary to prevent homelessness because an individual or dependent is fleeing a situation of domestic violence; and

(2) support services designed to enable an individual or dependent who is fleeing a situation of domestic violence to locate and secure permanent housing, and to integrate the individual or dependent into a community, such as transportation, counseling, child care services, case management, employment counseling, and other assistance.

(c) TERM OF ASSISTANCE-

(1) IN GENERAL- Subject to paragraph (2), an individual or dependent assisted under this section may not receive assistance under this section for a total of more than 12 months.

(2) WAIVER- The recipient of a grant under this section may waive the restrictions of paragraph (1) for up to an additional 6-month period with respect to any individual (and dependents of the individual) who has made a good-faith effort to acquire permanent housing and has been unable to acquire the housing.

(d) REPORTS-

(1) REPORT TO SECRETARY-

(A) IN GENERAL- An entity that receives a grant under this section shall annually prepare and submit to the Secretary a report describing the number of individuals and dependents assisted, and the types of housing assistance and support services provided, under this section.

(B) CONTENTS- Each report shall include information on--

(i) the purpose and amount of housing assistance provided to each individual or dependent assisted under this section;

(ii) the number of months each individual or dependent received the assistance;

(iii) the number of individuals and dependents who were eligible to receive the assistance, and to whom the entity could not provide the assistance solely due to a lack of available housing; and

(iv) the type of support services provided to each individual or dependent assisted under this section.

(2) REPORT TO CONGRESS- The Secretary shall annually prepare and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that contains a compilation of the information contained in reports submitted under paragraph (1).

(e) EVALUATION, MONITORING, AND ADMINISTRATION- Of the amount appropriated under subsection (f) for each fiscal year, not more than 1 percent shall be used by the Secretary for evaluation, monitoring, and administrative costs under this section.

(f) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to carry out this section \$25,000,000 for fiscal year 2001.

**SEC. 1204. NATIONAL DOMESTIC VIOLENCE HOTLINE.**

Section 316(f) of the Family Violence Prevention and Services Act (67 U.S.C. 10416(f)) is amended by striking paragraph (1) and inserting the following:

(1) IN GENERAL- There are authorized to be appropriated to carry out this section \$2,000,000 for each of fiscal years 2001 through 2005.

**SEC. 1205. FEDERAL VICTIMS COUNSELORS.**

Section 40114 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1910) is amended by striking "(such as District of Columbia)--" and all that follows and inserting "(such as District of Columbia), \$1,000,000 for each of fiscal years 2001 through 2005."

**SEC. 1206. STUDY OF STATE LAWS REGARDING INSURANCE DISCRIMINATION AGAINST VICTIMS OF VIOLENCE AGAINST WOMEN.**

(a) IN GENERAL- The Attorney General shall conduct a national study to identify State laws that address discrimination against victims of domestic violence and sexual assault related to issuance or administration of insurance policies.

(b) REPORT- Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to Congress a report on the findings and recommendations of the study required by subsection (a).

**SEC. 1207. STUDY OF WORKPLACE EFFECTS FROM VIOLENCE AGAINST WOMEN.**

The Attorney General shall--

- (1) conduct a national survey of plans, programs, and practices developed to assist employers and employees on appropriate responses in the workplace related to victims of domestic violence, stalking, or sexual assault; and
- (2) not later than 18 months after the date of the enactment of this Act, submit to Congress a report describing the results of that survey, which report shall include the recommendations of the Attorney General to assist employers and employees affected in the workplace by incidents of domestic violence, stalking, and sexual assault.

#### **SEC. 1208. STUDY OF UNEMPLOYMENT COMPENSATION FOR VICTIMS OF VIOLENCE AGAINST WOMEN.**

The Secretary of Labor, in consultation with the Attorney General, shall--

- (1) conduct a national study to identify State laws that address the separation from employment of an employee due to circumstances directly resulting from the experience of domestic violence by the employee and circumstances governing that receipt (or nonreceipt) by the employee of unemployment compensation based on such separation; and
- (2) not later than 1 year after the date of the enactment of this Act, submit to Congress a report describing the results of that study, together with any recommendations based on that study.

#### **SEC. 1209. ENHANCING PROTECTIONS FOR OLDER AND DISABLED WOMEN FROM DOMESTIC VIOLENCE AND SEXUAL ASSAULT.**

(a) ELDER ABUSE, NEGLECT, AND EXPLOITATION- The Violence Against Women Act of 1994 (108 Stat. 1902 et seq.) is amended by adding at the end the following:

**Subtitle H--Elder Abuse, Neglect, and Exploitation, Including Domestic Violence and Sexual Assault Against Older or Disabled Individuals**

##### **SEC. 40801. DEFINITIONS.**

In this subtitle:

- (1) IN GENERAL- The terms 'elder abuse, neglect, and exploitation', and 'older individual' have the meanings given the terms in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002).
- (2) DOMESTIC VIOLENCE- The term 'domestic violence' has the meaning given such term by section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).
- (3) SEXUAL ASSAULT- The term 'sexual assault' has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).

##### **SEC. 40802. TRAINING PROGRAMS FOR LAW ENFORCEMENT OFFICERS.**

The Attorney General may make grants for training programs to assist law enforcement officers, prosecutors, and relevant officers of Federal, State, tribal, and local courts in recognizing, addressing, investigating, and prosecuting instances of elder abuse, neglect, and exploitation and violence against individuals with disabilities, including domestic violence and sexual assault, against older or disabled individuals.

##### **SEC. 40803. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this subtitle \$5,000,000 for each of fiscal years 2001 through 2005.

(b) PROTECTIONS FOR OLDER AND DISABLED INDIVIDUALS FROM DOMESTIC VIOLENCE AND SEXUAL ASSAULT IN PRO-ARREST GRANTS- Section 2101 (b) of part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh et seq.) is amended by adding at the end the following:

(8) To develop or strengthen policies and training for police, prosecutors, and the judiciary in recognizing, investigating, and prosecuting instances of domestic violence and sexual assault against older individuals (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)) and individuals with disabilities (as defined in section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2))).

(c) PROTECTIONS FOR OLDER AND DISABLED INDIVIDUALS FROM DOMESTIC VIOLENCE AND SEXUAL ASSAULT IN STOP GRANTS- Section 2001(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) (as amended by section 1103(b) of this division) is amended by adding at the end the following:

(10) developing, enlarging, or strengthening programs to assist law enforcement, prosecutors, courts, and others to address the needs and circumstances of older and disabled women who are victims of domestic violence or sexual assault, including recognizing, investigating, and prosecuting instances of such violence or assault and targeting outreach and support, counseling, and other victim services to such older and disabled individuals; and

#### **TITLE III--LIMITING THE EFFECTS OF VIOLENCE ON CHILDREN**

##### **SEC. 1301. SAFE HAVENS FOR CHILDREN PILOT PROGRAM.**

(a) IN GENERAL- The Attorney General may award grants to States, units of local government, and Indian tribal governments that propose to enter into or expand the scope of existing contracts and cooperative agreements with public or private nonprofit entities to provide supervised visitation and safe visitation exchange of children by and between parents in situations involving domestic violence, child abuse, sexual assault, or stalking.

(b) CONSIDERATIONS- In awarding grants under subsection (a), the Attorney General shall take into account--



(1) the number of families to be served by the proposed visitation programs and services;

(2) the extent to which the proposed supervised visitation programs and services serve underserved populations (as defined in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2));

(3) with respect to an applicant for a contract or cooperative agreement, the extent to which the applicant demonstrates cooperation and collaboration with nonprofit, nongovernmental entities in the local community served, including the State or tribal domestic violence coalition, State or tribal sexual assault coalition, local shelters, and programs for domestic violence and sexual assault victims; and

(4) the extent to which the applicant demonstrates coordination and collaboration with State and local court systems, including mechanisms for communication and referral.

(c) **APPLICANT REQUIREMENTS-** The Attorney General shall award grants for contracts and cooperative agreements to applicants that--

(1) demonstrate expertise in the area of family violence, including the areas of domestic violence or sexual assault, as appropriate;

(2) ensure that any fees charged to individuals for use of programs and services are based on the income of those individuals, unless otherwise provided by court order;

(3) demonstrate that adequate security measures, including adequate facilities, procedures, and personnel capable of preventing violence, are in place for the operation of supervised visitation programs and services or safe visitation exchange; and

(4) prescribe standards by which the supervised visitation or safe visitation exchange will occur.

(d) **REPORTING-**

(1) **IN GENERAL-** Not later than 1 year after the last day of the first fiscal year commencing on or after the date of the enactment of this Act, and not later than 180 days after the last day of each fiscal year thereafter, the Attorney General shall submit to Congress a report that includes information concerning--

(A) the number of--

(i) individuals served and the number of individuals turned away from visitation programs and services and safe visitation exchange (categorized by State);

(ii) the number of individuals from underserved populations served and turned away from services; and

(iii) the type of problems that underlie the need for supervised visitation or safe visitation exchange, such as domestic violence, child abuse, sexual assault, other physical abuse, or a combination of such factors;

(B) the numbers of supervised visitations or safe visitation exchanges ordered under this section during custody determinations under a separation or divorce decree or protection order, through child protection services or other social services agencies, or by any other order of a civil, criminal, juvenile, or family court;

(C) the process by which children or abused partners are protected during visitations, temporary custody transfers, and other activities for which supervised visitation is established under this section;

(D) safety and security problems occurring during the reporting period during supervised visitation under this section, including the number of parental abduction cases; and

(E) the number of parental abduction cases in a judicial district using supervised visitation programs and services under this section, both as identified in criminal prosecution and custody violations.

(2) **GUIDELINES-** The Attorney General shall establish guidelines for the collection and reporting of data under this subsection.

(e) **AUTHORIZATION OF APPROPRIATIONS-** There is authorized to be appropriated to carry out this section \$15,000,000 for each of fiscal years 2001 and 2002.

(f) **ALLOTMENT FOR INDIAN TRIBES-** Not less than 5 percent of the total amount made available for each fiscal year to carry out this section shall be available for grants to Indian tribal governments.

## **SEC. 1302. REAUTHORIZATION OF VICTIMS OF CHILD ABUSE PROGRAMS.**

(a) **COURT-APPOINTED SPECIAL ADVOCATE PROGRAM-** Section 218 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13014) is amended by striking subsection (a) and inserting the following:

“(a) **AUTHORIZATION-** There is authorized to be appropriated to carry out this subtitle \$12,000,000 for each of fiscal years 2001 through 2005.”

(b) **CHILD ABUSE TRAINING PROGRAMS FOR JUDICIAL PERSONNEL AND PRACTITIONERS-** Section 224 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13024) is amended by striking subsection (a) and inserting the following:

“(a) **AUTHORIZATION-** There is authorized to be appropriated to carry out this subtitle \$2,300,000 for each of fiscal years 2001 through 2005.”

(c) **GRANTS FOR TELEVISED TESTIMONY-** Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (7) and inserting the following:

“(7) There is authorized to be appropriated to carry out part N \$1,000,000 for each of fiscal years 2001 through 2005.”

(d) **DISSEMINATION OF INFORMATION-** The Attorney General shall--

(1) annually compile and disseminate information (including through electronic publication) about the use of amounts expended and the projects funded under section 218(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13014(a)), section 224(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13024(a)), and section 1007(a)(7) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(7)), including any evaluations of the projects and information to enable replication and adoption of the strategies identified in the projects; and

(2) focus dissemination of the information described in paragraph (1) toward community-based programs, including domestic violence and sexual assault programs.

**SEC. 1303. REPORT ON EFFECTS OF PARENTAL KIDNAPPING LAWS IN DOMESTIC VIOLENCE CASES.**

(a) **IN GENERAL-** The Attorney General shall--

(1) conduct a study of Federal and State laws relating to child custody, including custody provisions in protection orders, the Uniform Child Custody Jurisdiction and Enforcement Act adopted by the National Conference of Commissioners on Uniform State Laws in July 1997, the Parental Kidnaping Prevention Act of 1980 and the amendments made by that Act, and the effect of those laws on child custody cases in which domestic violence is a factor; and

(2) submit to Congress a report describing the results of that study, including the effects of implementing or applying model State laws, and the recommendations of the Attorney General to reduce the incidence or pattern of violence against women or of sexual assault of the child.

(b) **SUFFICIENCY OF DEFENSES-** In carrying out subsection (a) with respect to the Parental Kidnaping Prevention Act of 1980 and the amendments made by that Act, the Attorney General shall examine the sufficiency of defenses to parental abduction charges available in cases involving domestic violence, and the burdens and risks encountered by victims of domestic violence arising from jurisdictional requirements of that Act and the amendments made by that Act.

(c) **AUTHORIZATION OF APPROPRIATIONS-** There is authorized to be appropriated to carry out this section \$200,000 for fiscal year 2001.

(d) **CONDITION FOR CUSTODY DETERMINATION-** Section 1738A(c)(2)(C)(ii) of title 28, United States Code, is amended by striking "he" and inserting "the child, a sibling, or parent of the child".

**TITLE IV--STRENGTHENING EDUCATION AND TRAINING TO COMBAT VIOLENCE AGAINST WOMEN**

**SEC. 1401. RAPE PREVENTION AND EDUCATION.**

(a) **IN GENERAL-** Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.) is amended by inserting after section 393A the following:

**SEC. 393B. USE OF ALLOTMENTS FOR RAPE PREVENTION EDUCATION.**

(a) **PERMITTED USE-** The Secretary, acting through the National Center for Injury Prevention and Control at the Centers for Disease Control and Prevention, shall award targeted grants to States to be used for rape prevention and education programs conducted by rape crisis centers, State sexual assault coalitions, and other public and private nonprofit entities for--

(1) educational seminars;

(2) the operation of hotlines;

(3) training programs for professionals;

(4) the preparation of informational material;

(5) education and training programs for students and campus personnel designed to reduce the incidence of sexual assault at colleges and universities;

(6) education to increase awareness about drugs used to facilitate rapes or sexual assaults; and

(7) other efforts to increase awareness of the facts about, or to help prevent, sexual assault, including efforts to increase awareness in underserved communities and awareness among individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

(b) **COLLECTION AND DISSEMINATION OF INFORMATION ON SEXUAL ASSAULT-** The Secretary shall, through the National Resource Center on Sexual Assault established under the National Center for Injury Prevention and Control at the Centers for Disease Control and Prevention, provide resource information, policy, training, and technical assistance to Federal, State, local, and Indian tribal agencies, as well as to State sexual assault coalitions and local sexual assault programs and to other professionals and interested parties on issues relating to sexual assault, including maintenance of a central resource library in order to collect, prepare, analyze, and disseminate information and statistics and analyses thereof relating to the incidence and prevention of sexual assault.

(c) **AUTHORIZATION OF APPROPRIATIONS-**

(1) **IN GENERAL-** There is authorized to be appropriated to carry out this section \$80,000,000 for each of fiscal years 2001 through 2005.

(2) **NATIONAL RESOURCE CENTER ALLOTMENT-** Of the total amount made available under this subsection in each fiscal year, not more than the greater of \$1,000,000 or 2 percent of such amount shall be available for allotment under subsection (b).

(d) **LIMITATIONS-**

(1) **SUPPLEMENT NOT SUPPLANT-** Amounts provided to States under this section shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services of the type described in subsection (a).

(2) STUDIES- A State may not use more than 2 percent of the amount received by the State under this section for each fiscal year for surveillance studies or prevalence studies.

(3) ADMINISTRATION- A State may not use more than 5 percent of the amount received by the State under this section for each fiscal year for administrative expenses.

(b) REPEAL- Section 40151 of the Violence Against Women Act of 1994 (108 Stat. 1920), and the amendment made by such section, is repealed.

#### **SEC. 1402. EDUCATION AND TRAINING TO END VIOLENCE AGAINST AND ABUSE OF WOMEN WITH DISABILITIES.**

(a) IN GENERAL- The Attorney General, in consultation with the Secretary of Health and Human Services, may award grants to States, units of local government, Indian tribal governments, and nongovernmental private entities to provide education and technical assistance for the purpose of providing training, consultation, and information on domestic violence, stalking, and sexual assault against women who are individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

(b) PRIORITIES- In awarding grants under this section, the Attorney General shall give priority to applications designed to provide education and technical assistance on--

- (1) the nature, definition, and characteristics of domestic violence, stalking, and sexual assault experienced by women who are individuals with disabilities;
- (2) outreach activities to ensure that women who are individuals with disabilities who are victims of domestic violence, stalking, and sexual assault receive appropriate assistance;
- (3) the requirements of shelters and victim services organizations under Federal anti-discrimination laws, including the Americans with Disabilities Act of 1990 and section 504 of the Rehabilitation Act of 1973; and
- (4) cost-effective ways that shelters and victim services may accommodate the needs of individuals with disabilities in accordance with the Americans with Disabilities Act of 1990.

(c) USES OF GRANTS- Each recipient of a grant under this section shall provide information and training to organizations and programs that provide services to individuals with disabilities, including independent living centers, disability-related service organizations, and domestic violence programs providing shelter or related assistance.

(d) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated to carry out this section \$7,500,000 for each of fiscal years 2001 through 2005.

#### **SEC. 1403. COMMUNITY INITIATIVES.**

Section 318 of the Family Violence Prevention and Services Act (42 U.S.C. 10418) is amended by striking subsection (h) and inserting the following:

(h) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to carry out this section \$6,000,000 for each of fiscal years 2001 through 2005.

#### **SEC. 1404. DEVELOPMENT OF RESEARCH AGENDA IDENTIFIED BY THE VIOLENCE AGAINST WOMEN ACT OF 1994.**

(a) IN GENERAL- The Attorney General shall--

(1) direct the National Institute of Justice, in consultation and coordination with the Bureau of Justice Statistics and the National Academy of Sciences, through its National Research Council, to develop a research agenda based on the recommendations contained in the report entitled 'Understanding Violence Against Women' of the National Academy of Sciences; and

(2) not later than 1 year after the date of the enactment of this Act, in consultation with the Secretary of the Department of Health and Human Services, submit to Congress a report which shall include--

(A) a description of the research agenda developed under paragraph (1) and a plan to implement that agenda; and

(B) recommendations for priorities in carrying out that agenda to most effectively advance knowledge about and means by which to prevent or reduce violence against women.

(b) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated such sums as may be necessary to carry out this section.

#### **SEC. 1405. STANDARDS, PRACTICE, AND TRAINING FOR SEXUAL ASSAULT FORENSIC EXAMINATIONS.**

(a) IN GENERAL- The Attorney General shall--

(1) evaluate existing standards of training and practice for licensed health care professionals performing sexual assault forensic examinations and develop a national recommended standard for training;

(2) recommend sexual assault forensic examination training for all health care students to improve the recognition of injuries suggestive of rape and sexual assault and baseline knowledge of appropriate referrals in victim treatment and evidence collection; and

(3) review existing national, State, tribal, and local protocols on sexual assault forensic examinations, and based on this review, develop a recommended national protocol and establish a mechanism for its nationwide dissemination.

(b) CONSULTATION- The Attorney General shall consult with national, State, tribal, and local experts in the area of rape and sexual assault, including rape crisis centers, State and tribal sexual assault and domestic violence coalitions and programs, and programs for criminal justice, forensic nursing, forensic science, emergency room medicine, law, social services, and sex crimes in underserved communities (as defined in section 2003(7) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2(7)), as amended by this division).

(c) **REPORT-** The Attorney General shall ensure that not later than 1 year after the date of the enactment of this Act, a report of the actions taken pursuant to subsection (a) is submitted to Congress.

(d) **AUTHORIZATION OF APPROPRIATIONS-** There is authorized to be appropriated to carry out this section \$200,000 for fiscal year 2001.

#### **SEC. 1406. EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL.**

##### ~~(a) GRANTS FOR EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN STATE COURTS-~~

(1) **SECTION 40412-** Section 40412 of the Equal Justice for Women in the Courts Act of 1994 (42 U.S.C. 13992) is amended--

(A) by striking 'and' at the end of paragraph (18);

(B) by striking the period at the end of paragraph (19) and inserting a semicolon; and

(C) by inserting after paragraph (19) the following:

'(20) the issues raised by domestic violence in determining custody and visitation, including how to protect the safety of the child and of a parent who is not a predominant aggressor of domestic violence, the legitimate reasons parents may report domestic violence, the ways domestic violence may relate to an abuser's desire to seek custody, and evaluating expert testimony in custody and visitation determinations involving domestic violence;

'(21) the issues raised by child sexual assault in determining custody and visitation, including how to protect the safety of the child, the legitimate reasons parents may report child sexual assault, and evaluating expert testimony in custody and visitation determinations involving child sexual assault, including the current scientifically-accepted and empirically valid research on child sexual assault;

'(22) the extent to which addressing domestic violence and victim safety contributes to the efficient administration of justice;'

(2) **SECTION 40414-** Section 40414(a) of the Equal Justice for Women in the Courts Act of 1994 (42 U.S.C. 13994(a)) is amended by inserting 'and \$ 1,500,000 for each of the fiscal years 2001 through 2005' after '1996'.

##### **(b) GRANTS FOR EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN FEDERAL COURTS-**

(1) **SECTION 40421-** Section 40421(d) of the Equal Justice for Women in the Courts Act of 1994 (42 U.S.C. 14001(d)) is amended to read as follows:

'(d) **CONTINUING EDUCATION AND TRAINING PROGRAMS-** The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, United States Code, shall include in the educational programs it prepares, including the training programs for newly appointed judges, information on the aspects of the topics listed in section 40412 that pertain to issues within the jurisdiction of the Federal courts, and shall prepare materials necessary to implement this subsection.'

(2) **SECTION 40422-** Section 40422(2) of the Equal Justice for Women in the Courts Act of 1994 (42 U.S.C. 14002(2)) is amended by inserting 'and \$500,000 for each of the fiscal years 2001 through 2005' after '1996'.

##### **(c) TECHNICAL AMENDMENTS TO THE EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1994-**

(1) **ENSURING COLLABORATION WITH DOMESTIC VIOLENCE AND SEXUAL ASSAULT PROGRAMS-** Section 40413 of the Equal Justice for Women in the Courts Act of 1994 (42 U.S.C. 13993) is amended by adding ', including national, State, tribal, and local domestic violence and sexual assault programs and coalitions' after 'victim advocates'.

(2) **PARTICIPATION OF TRIBAL COURTS IN STATE TRAINING AND EDUCATION PROGRAMS-** Section 40411 of the Equal Justice for Women in the Courts Act of 1994 (42 U.S.C. 13991) is amended by adding at the end the following: 'Nothing shall preclude the attendance of tribal judges and court personnel at programs funded under this section for States to train judges and court personnel on the laws of the States.'

(3) **USE OF FUNDS FOR DISSEMINATION OF MODEL PROGRAMS-** Section 40414 of the Equal Justice for Women in the Courts Act of 1994 (42 U.S.C. 13994) is amended by adding at the end the following:

'(c) **STATE JUSTICE INSTITUTE-** The State Justice Institute may use up to 5 percent of the funds appropriated under this section for annually compiling and broadly disseminating (including through electronic publication) information about the use of funds and about the projects funded under this section, including any evaluations of the projects and information to enable the replication and adoption of the projects.'

##### **(d) DATING VIOLENCE-**

(1) **SECTION 40411-** Section 40411 of the Equal Justice for Women in Courts Act of 1994 (42 U.S.C. 13991) is amended by inserting 'dating violence,' after 'domestic violence,'.

(2) **SECTION 40412-** Section 40412 of such Act (42 U.S.C. 13992) is amended--

(A) in paragraph (10), by inserting 'and dating violence (as defined in section 2003 of title 1 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3996gg-2))' before the semicolon;

(B) in paragraph (11), by inserting 'and dating violence' after 'domestic violence';

(C) in paragraph (13), by inserting 'and dating violence' after 'domestic violence' in both places that it appears;

(D) in paragraph (17), by inserting 'or dating violence' after 'domestic violence' in both places that it appears; and

(E) in paragraph (18), by inserting 'and dating violence' after 'domestic violence'.

## SEC. 1407. DOMESTIC VIOLENCE TASK FORCE

The Violence Against Women Act of 1994 (108 Stat. 1902 et seq.) (as amended by section 1209(a) of this division) is amended by adding at the end the following:

### Subtitle I--Domestic Violence Task Force

## SEC. 40901. TASK FORCE.

(a) ESTABLISH- The Attorney General, in consultation with national nonprofit, nongovernmental organizations whose primary expertise is in domestic violence, shall establish a task force to coordinate research on domestic violence and to report to Congress on any overlapping or duplication of efforts on domestic violence issues. The task force shall be comprised of representatives from all Federal agencies that fund such research.

(b) USES OF FUNDS- Funds appropriated under this section shall be used to--

(1) develop a coordinated strategy to strengthen research focused on domestic violence education, prevention, and intervention strategies;

(2) track and report all Federal research and expenditures on domestic violence; and

(3) identify gaps and duplication of efforts in domestic violence research and governmental expenditures on domestic violence issues.

(c) REPORT- The Task Force shall report to Congress annually on its work under subsection (b).

(d) DEFINITION- For purposes of this section, the term 'domestic violence' has the meaning given such term by section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2(1)).

(e) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated to carry out this section \$500,000 for each of fiscal years 2001 through 2004.<sup>1</sup>

## TITLE V--BATTERED IMMIGRANT WOMEN

## SEC. 1501. SHORT TITLE.

This title may be cited as the 'Battered Immigrant Women Protection Act of 2000'.

## SEC. 1502. FINDINGS AND PURPOSES.

(a) FINDINGS- Congress finds that--

(1) the goal of the immigration protections for battered immigrants included in the Violence Against Women Act of 1994 was to remove immigration laws as a barrier that kept battered immigrant women and children locked in abusive relationships;

(2) providing battered immigrant women and children who were experiencing domestic violence at home with protection against deportation allows them to obtain protection orders against their abusers and frees them to cooperate with law enforcement and prosecutors in criminal cases brought against their abusers and the abusers of their children without fearing that the abuser will retaliate by withdrawing or threatening withdrawal of access to an immigration benefit under the abuser's control; and

(3) there are several groups of battered immigrant women and children who do not have access to the immigration protections of the Violence Against Women Act of 1994 which means that their abusers are virtually immune from prosecution because their victims can be deported as a result of action by their abusers and the Immigration and Naturalization Service cannot offer them protection no matter how compelling their case under existing law.

(b) PURPOSES- The purposes of this title are--

(1) to remove barriers to criminal prosecutions of persons who commit acts of battery or extreme cruelty against immigrant women and children; and

(2) to offer protection against domestic violence occurring in family and intimate relationships that are covered in State and tribal protection orders, domestic violence, and family law statutes.

## SEC. 1503. IMPROVED ACCESS TO IMMIGRATION PROTECTIONS OF THE VIOLENCE AGAINST WOMEN ACT OF 1994 FOR BATTERED IMMIGRANT WOMEN.

(a) INTENDED SPOUSE DEFINED- Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

(50) The term 'intended spouse' means any alien who meets the criteria set forth in section 204(a)(1)(A)(iii)(II)(aa)(BB), 204(a)(1)(B)(ii)(II)(aa)(BB), or 240A(b)(2)(A)(i)(III).

(b) IMMEDIATE RELATIVE STATUS FOR SELF-PETITIONERS MARRIED TO U.S. CITIZENS-

(1) SELF-PETITIONING SPOUSES-

(A) BATTERY OR CRUELTY TO ALIEN OR ALIEN'S CHILD- Section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(iii)) is amended to read as follows:

(iii)(I) An alien who is described in subclause (II) may file a petition with the Attorney General under this clause for classification of the alien (and any child of the alien) if the alien demonstrates to the Attorney General that--

(aa) the marriage or the intent to marry the United States citizen was entered into in good faith by the alien; and

'(bb) during the marriage or relationship intended by the alien to be legally a marriage, the alien or a child of the alien has been battered or has been the subject of extreme cruelty perpetrated by the alien's spouse or intended spouse.

'(II) For purposes of subclause (I), an alien described in this subclause is an alien--

'(aa)(AA) who is the spouse of a citizen of the United States;

'(BB) who believed that he or she had married a citizen of the United States and with whom a marriage ceremony was actually performed and who otherwise meets any applicable requirements under this Act to establish the existence of and bona fides of a marriage, but whose marriage is not legitimate solely because of the bigamy of such citizen of the United States; or

'(CC) who was a bona fide spouse of a United States citizen within the past 2 years and--

'(aaa) whose spouse died within the past 2 years;

'(bbb) whose spouse lost or renounced citizenship status within the past 2 years related to an incident of domestic violence; or

'(ccc) who demonstrates a connection between the legal termination of the marriage within the past 2 years and battering or extreme cruelty by the United States citizen spouse;

'(bb) who is a person of good moral character;

'(cc) who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) or who would have been so classified but for the bigamy of the citizen of the United States that the alien intended to marry; and

'(dd) who has resided with the alien's spouse or intended spouse.'

(2) SELF-PETITIONING CHILDREN- Section 204(a)(1)(A)(iv) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(iv)) is amended to read as follows:

'(iv) An alien who is the child of a citizen of the United States, or who was a child of a United States citizen parent who within the past 2 years lost or renounced citizenship status related to an incident of domestic violence, and who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who resides, or has resided in the past, with the citizen parent may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien) under such section if the alien demonstrates to the Attorney General that the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's citizen parent. For purposes of this clause, residence includes any period of visitation.'

(3) FILING OF PETITIONS- Section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)) is amended by adding at the end the following:

'(v) An alien who--

'(I) is the spouse, intended spouse, or child living abroad of a citizen who--

'(aa) is an employee of the United States Government;

'(bb) is a member of the uniformed services (as defined in section 101(a) of title 10, United States Code); or

'(cc) has subjected the alien or the alien's child to battery or extreme cruelty in the United States; and

'(II) is eligible to file a petition under clause (iii) or (iv),

shall file such petition with the Attorney General under the procedures that apply to self-petitioners under clause (iii) or (iv), as applicable.'

(c) SECOND PREFERENCE IMMIGRATION STATUS FOR SELF-PETITIONERS MARRIED TO LAWFUL PERMANENT RESIDENTS-

(1) SELF-PETITIONING SPOUSES- Section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)(ii)) is amended to read as follows:

'(ii)(I) An alien who is described in subclause (II) may file a petition with the Attorney General under this clause for classification of the alien (and any child of the alien) if such a child has not been classified under clause (iii) of section 203(a)(2)(A) and if the alien demonstrates to the Attorney General that--

'(aa) the marriage or the intent to marry the lawful permanent resident was entered into in good faith by the alien; and

'(bb) during the marriage or relationship intended by the alien to be legally a marriage, the alien or a child of the alien has been battered or has been the subject of extreme cruelty perpetrated by the alien's spouse or intended spouse.

'(II) For purposes of subclause (I), an alien described in this paragraph is an alien--

'(aa)(AA) who is the spouse of a lawful permanent resident of the United States; or

'(BB) who believed that he or she had married a lawful permanent resident of the United States and with whom a marriage ceremony was actually performed and who otherwise meets any applicable requirements under this Act to establish the existence of and bona fides of a marriage, but whose marriage is not legitimate solely because of the bigamy of such lawful permanent resident of the United States; or

'(CC) who was a bona fide spouse of a lawful permanent resident within the past 2 years and--

'(aaa) whose spouse lost status within the past 2 years due to an incident of domestic violence; or



“(bbb) who demonstrates a connection between the legal termination of the marriage within the past 2 years and battering or extreme cruelty by the lawful permanent resident spouse;

“(bb) who is a person of good moral character;

“(cc) who is eligible to be classified as a spouse of an alien lawfully admitted for permanent residence under section 203(a)(2)(A) or who would have been so classified but for the bigamy of the lawful permanent resident of the United States that the alien intended to marry; and

“(dd) who has resided with the alien's spouse or intended spouse.”

(2) SELF-PETITIONING CHILDREN- Section 204(a)(1)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)(iii)) is amended to read as follows:

“(iii) An alien who is the child of an alien lawfully admitted for permanent residence, or who was the child of a lawful permanent resident who within the past 2 years lost lawful permanent resident status due to an incident of domestic violence, and who is a person of good moral character, who is eligible for classification under section 203(a)(2)(A), and who resides, or has resided in the past, with the alien's permanent resident alien parent may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien) under such section if the alien demonstrates to the Attorney General that the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's permanent resident parent.”

(3) FILING OF PETITIONS- Section 204(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)) is amended by adding at the end the following:

“(iv) An alien who--

“(i) is the spouse, intended spouse, or child living abroad of a lawful permanent resident who--

“(aa) is an employee of the United States Government;

“(bb) is a member of the uniformed services (as defined in section 101(a) of title 10, United States Code); or

“(cc) has subjected the alien or the alien's child to battery or extreme cruelty in the United States; and

“(ii) is eligible to file a petition under clause (ii) or (iii),

shall file such petition with the Attorney General under the procedures that apply to self-petitioners under clause (ii) or (iii), as applicable.”

(d) GOOD MORAL CHARACTER DETERMINATIONS FOR SELF-PETITIONERS AND TREATMENT OF CHILD SELF-PETITIONERS AND PETITIONS INCLUDING DERIVATIVE CHILDREN ATTAINING 21 YEARS OF AGE- Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended--

(1) by redesignating subparagraphs (C) through (H) as subparagraphs (E) through (J), respectively;

(2) by inserting after subparagraph (B) the following:

“(C) Notwithstanding section 101(f), an act or conviction that is waivable with respect to the petitioner for purposes of a determination of the petitioner's admissibility under section 212(a) or deportability under section 237(a) shall not bar the Attorney General from finding the petitioner to be of good moral character under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) if the Attorney General finds that the act or conviction was connected to the alien's having been battered or subjected to extreme cruelty.

“(D)(i) Any child who attains 21 years of age who has filed a petition under clause (iv) of section 204(a)(1)(A) that was filed or approved before the date on which the child attained 21 years of age shall be considered (if the child has not been admitted or approved for lawful permanent residence by the date the child attained 21 years of age) a petitioner for preference status under paragraph (1), (2), or (3) of section 203(a), whichever paragraph is applicable, with the same priority date assigned to the self-petition filed under clause (iv) of section 204(a)(1)(A). No new petition shall be required to be filed.

“(II) Any individual described in subclause (I) is eligible for deferred action and work authorization.

“(III) Any derivative child who attains 21 years of age who is included in a petition described in clause (ii) that was filed or approved before the date on which the child attained 21 years of age shall be considered (if the child has not been admitted or approved for lawful permanent residence by the date the child attained 21 years of age) a petitioner for preference status under paragraph (1), (2), or (3) of section 203(a), whichever paragraph is applicable, with the same priority date as that assigned to the petitioner in any petition described in clause (ii). No new petition shall be required to be filed.

“(IV) Any individual described in subclause (III) and any derivative child of a petition described in clause (ii) is eligible for deferred action and work authorization.

“(ii) The petition referred to in clause (i)(III) is a petition filed by an alien under subparagraph (A)(iii), (A)(iv), (B)(ii) or (B)(iii) in which the child is included as a derivative beneficiary; and

(3) in subparagraph (J) (as so redesignated), by inserting “or in making determinations under subparagraphs (C) and (D),” after “subparagraph (B).”

(e) ACCESS TO NATURALIZATION FOR DIVORCED VICTIMS OF ABUSE- Section 319(a) of the Immigration and Nationality Act (8 U.S.C. 1430(a)) is amended--

(1) by inserting “, or any person who obtained status as a lawful permanent resident by reason of his or her status as a spouse or child of a United States citizen who battered him or her or subjected him or her to extreme cruelty,” after “United States” the first place such term appears; and

(2) by inserting “(except in the case of a person who has been battered or subjected to extreme cruelty by a United States citizen spouse or parent)” after “has been living in marital union with the citizen spouse”.



(a) CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS FOR CERTAIN NONPERMANENT RESIDENTS- Section 240A(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(2)) is amended to read as follows:

**(2) SPECIAL RULE FOR BATTERED SPOUSE OR CHILD-**

**(A) AUTHORITY-** The Attorney General may cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, an alien who is inadmissible or deportable from the United States if the alien demonstrates that--

**(i)(I)** the alien has been battered or subjected to extreme cruelty by a spouse or parent who is or was a United States citizen (or is the parent of a child of a United States citizen and the child has been battered or subjected to extreme cruelty by such citizen parent);

**(II)** the alien has been battered or subjected to extreme cruelty by a spouse or parent who is or was a lawful permanent resident (or is the parent of a child of an alien who is or was a lawful permanent resident and the child has been battered or subjected to extreme cruelty by such permanent resident parent); or

**(III)** the alien has been battered or subjected to extreme cruelty by a United States citizen or lawful permanent resident whom the alien intended to marry, but whose marriage is not legitimate because of that United States citizen's or lawful permanent resident's bigamy;

**(ii)** the alien has been physically present in the United States for a continuous period of not less than 3 years immediately preceding the date of such application, and the issuance of a charging document for removal proceedings shall not toll the 3-year period of continuous physical presence in the United States;

**(iii)** the alien has been a person of good moral character during such period, subject to the provisions of subparagraph (C);

**(iv)** the alien is not inadmissible under paragraph (2) or (3) of section 212(a), is not deportable under paragraphs (1)(G) or (2) through (4) of section 237(a) (except in a case described in section 237(a)(7) where the Attorney General exercises discretion to grant a waiver), and has not been convicted of an aggravated felony; and

**(v)** the removal would result in extreme hardship to the alien, the alien's child, or the alien's parent.

**(B) PHYSICAL PRESENCE-** Notwithstanding subsection (d)(2), for purposes of subparagraph (A)(i)(II) or for purposes of section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence if the alien demonstrates a connection between the absence and the battering or extreme cruelty perpetrated against the alien. No absence or portion of an absence connected to the battering or extreme cruelty shall count toward the 90-day or 180-day limits established in subsection (d)(2). If any absence or aggregate absences exceed 180 days, the absences or portions of the absences will not be considered to break the period of continuous presence. Any such period of time excluded from the 180-day limit shall be excluded in computing the time during which the alien has been physically present for purposes of the 3-year requirement set forth in section 240A(b)(2)(B) and section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).

**(C) GOOD MORAL CHARACTER-** Notwithstanding section 101(f), an act or conviction that does not bar the Attorney General from granting relief under this paragraph by reason of subparagraph (A)(iv) shall not bar the Attorney General from finding the alien to be of good moral character under subparagraph (A)(i)(III) or section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), if the Attorney General finds that the act or conviction was connected to the alien's having been battered or subjected to extreme cruelty and determines that a waiver is otherwise warranted.

**(D) CREDIBLE EVIDENCE CONSIDERED-** In acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.

**(b) CHILDREN OF BATTERED ALIENS AND PARENTS OF BATTERED ALIEN CHILDREN-** Section 240A(b) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)) is amended by adding at the end the following:

**(4) CHILDREN OF BATTERED ALIENS AND PARENTS OF BATTERED ALIEN CHILDREN-**

**(A) IN GENERAL-** The Attorney General shall grant parole under section 212(d)(5) to any alien who is a--

**(i)** child of an alien granted relief under section 240A(b)(2) or 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996); or

**(ii)** parent of a child alien granted relief under section 240A(b)(2) or 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).

**(B) DURATION OF PAROLE-** The grant of parole shall extend from the time of the grant of relief under section 240A(b)(2) or section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) to the time the application for adjustment of status filed by aliens covered under this paragraph has been finally adjudicated. Applications for adjustment of status filed by aliens covered under this paragraph shall be treated as if they were applications filed under section 204(a)(1) (A)(iii), (A)(iv), (B)(ii), or (B)(iii) for purposes of section 245 (a) and (c). Failure by the alien granted relief under section 240A(b)(2) or section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) to exercise due diligence in filing a visa petition on behalf of an alien described in clause (i) or (ii) may result in revocation of parole.

**(c) EFFECTIVE DATE-** Any individual who becomes eligible for relief by reason of the enactment of the amendments made by subsections (a) and (b), shall be eligible to file a motion to reopen pursuant to section 240(c)(6)(C)(iv). The amendments made by subsections (a) and (b) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 587). Such portions of the amendments made by subsection (b) that relate to section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) shall take effect as if included in subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1953 et seq.).

**SEC. 1505. OFFERING EQUAL ACCESS TO IMMIGRATION PROTECTIONS OF THE VIOLENCE AGAINST WOMEN ACT OF 1994 FOR ALL QUALIFIED BATTERED IMMIGRANT SELF-PETITIONERS.**

(a) **BATTERED IMMIGRANT WAIVER-** Section 212(a)(9)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(C)(ii)) is amended by adding at the end the following: "The Attorney General in the Attorney General's discretion may waive the provisions of section 212(a)(9)(C)(i) in the case of an alien to whom the Attorney General has granted classification under clause (iii), (iv), or (v) of section 204(a)(1)(A), or classification under clause (ii), (iii), or (iv) of section 204(a)(1)(B), in any case in which there is a connection between--

"(1) the alien's having been battered or subjected to extreme cruelty; and

"(2) the alien's--

"(A) removal;

"(B) departure from the United States;

"(C) reentry or reentries into the United States; or

"(D) attempted reentry into the United States."

**(b) DOMESTIC VIOLENCE VICTIM WAIVER-**

(1) **WAIVER FOR VICTIMS OF DOMESTIC VIOLENCE-** Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)) is amended by inserting at the end the following:

"(7) **WAIVER FOR VICTIMS OF DOMESTIC VIOLENCE-**

"(A) **IN GENERAL-** The Attorney General is not limited by the criminal court record and may waive the application of paragraph (2)(E)(i) (with respect to crimes of domestic violence and crimes of stalking) and (ii) in the case of an alien who has been battered or subjected to extreme cruelty and who is not and was not the primary perpetrator of violence in the relationship--

"(i) upon a determination that--

"(I) the alien was acting in self-defense;

"(II) the alien was found to have violated a protection order intended to protect the alien; or

"(III) the alien committed, was arrested for, was convicted of, or pled guilty to committing a crime--

"(aa) that did not result in serious bodily injury; and

"(bb) where there was a connection between the crime and the alien's having been battered or subjected to extreme cruelty.

"(B) **CREDIBLE EVIDENCE CONSIDERED-** In acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General."

(2) **CONFORMING AMENDMENT-** Section 240A(b)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(1)(C)) is amended by inserting "(except in a case described in section 237(a)(7) where the Attorney General exercises discretion to grant a waiver)" after "237(a)(3)".

**(c) MISREPRESENTATION WAIVERS FOR BATTERED SPOUSES OF UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS-**

(1) **WAIVER OF INADMISSIBILITY-** Section 212(i)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(i)(1)) is amended by inserting before the period at the end the following: "or, in the case of an alien granted classification under clause (iii) or (iv) of section 204(a)(1)(A) or clause (ii) or (iii) of section 204(a)(1)(B), the alien demonstrates extreme hardship to the alien or the alien's United States citizen, lawful permanent resident, or qualified alien parent or child".

(2) **WAIVER OF DEPORTABILITY-** Section 237(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(1)(H)) is amended--

(A) in clause (i), by inserting "(i)" after "(i)";

(B) by redesignating clause (ii) as subclause (II); and

(C) by adding after clause (i) the following:

"(ii) is an alien who qualifies for classification under clause (iii) or (iv) of section 204(a)(1)(A) or clause (ii) or (iii) of section 204(a)(1)(B)."

**(d) BATTERED IMMIGRANT WAIVER-** Section 212(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(g)(1)) is amended--

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by adding "or" at the end; and

(3) by inserting after subparagraph (B) the following:

(C) qualifies for classification under clause (iii) or (iv) of section 204(a)(1)(A) or classification under clause (ii) or (iii) of section 204(a)(1)(B);

(e) **WAIVERS FOR VAWA ELIGIBLE BATTERED IMMIGRANTS-** Section 212(h)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(h)(1)) is amended--

(1) in subparagraph (B), by striking 'and' and inserting 'or'; and

(2) by adding at the end the following:

~~(C) the alien qualifies for classification under clause (iii) or (iv) of section 204(a)(1)(A) or classification under clause (ii) or (iii) of section 204(a)(1)(B); and~~

(f) **PUBLIC CHARGE-** Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by adding at the end the following:

(p) In determining whether an alien described in subsection (a)(4)(C)(i) is inadmissible under subsection (a)(4) or ineligible to receive an immigrant visa or otherwise to adjust to the status of permanent resident by reason of subsection (a)(4), the consular officer or the Attorney General shall not consider any benefits the alien may have received that were authorized under section 501 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1641(c)).

(g) **REPORT-** Not later than 6 months after the date of the enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives covering, with respect to fiscal year 1997 and each fiscal year thereafter--

(1) the policy and procedures of the Immigration and Naturalization Service under which an alien who has been battered or subjected to extreme cruelty who is eligible for suspension of deportation or cancellation of removal can request to be placed, and be placed, in deportation or removal proceedings so that such alien may apply for suspension of deportation or cancellation of removal;

(2) the number of requests filed at each district office under this policy;

(3) the number of these requests granted reported separately for each district; and

(4) the average length of time at each Immigration and Naturalization office between the date that an alien who has been subject to battering or extreme cruelty appears before an immigration judge to file an application for suspension of deportation or cancellation of removal.

#### **SEC. 1506. RESTORING IMMIGRATION PROTECTIONS UNDER THE VIOLENCE AGAINST WOMEN ACT OF 1994.**

(a) **REMOVING BARRIERS TO ADJUSTMENT OF STATUS FOR VICTIMS OF DOMESTIC VIOLENCE-**

(1) **IMMIGRATION AMENDMENTS-** Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended--

(A) in subsection (a), by inserting 'or the status of any other alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) or' after 'into the United States.'; and

(B) in subsection (c), by striking 'Subsection (a) shall not be applicable to' and inserting the following: 'Other than an alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (A)(v), (A)(vi), (B)(ii), (B)(iii), or (B)(iv) of section 204(a)(1), subsection (a) shall not be applicable to'.

(2) **EFFECTIVE DATE-** The amendments made by paragraph (1) shall apply to applications for adjustment of status pending on or made on or after January 14, 1998.

(b) **REMOVING BARRIERS TO CANCELLATION OF REMOVAL AND SUSPENSION OF DEPORTATION FOR VICTIMS OF DOMESTIC VIOLENCE-**

(1) **NOT TREATING SERVICE OF NOTICE AS TERMINATING CONTINUOUS PERIOD-** Section 240A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1229b(d)(1)) is amended by striking 'when the alien is served a notice to appear under section 239(a) or' and inserting '(A) except in the case of an alien who applies for cancellation of removal under subsection (b)(2), when the alien is served a notice to appear under section 239(a), or (B)'.

(2) **EFFECTIVE DATE-** The amendment made by paragraph (1) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 587).

(3) **MODIFICATION OF CERTAIN TRANSITION RULES FOR BATTERED SPOUSE OR CHILD-** Section 309(c)(5)(C) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) is amended--

(A) by striking the subparagraph heading and inserting the following:

(C) **SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN-**; and

(B) in clause (i)--

(i) in subclause (IV), by striking 'or' at the end;

(ii) in subclause (V), by striking the period at the end and inserting '; or'; and

(iii) by adding at the end the following:

(VI) is an alien who was issued an order to show cause or was in deportation proceedings before April 1, 1997, and who applied for suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the date of the enactment of this Act).

(4) **EFFECTIVE DATE-** The amendments made by paragraph (3) shall take effect as if included in the enactment of section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note).

**(c) ELIMINATING TIME LIMITATIONS ON MOTIONS TO REOPEN REMOVAL AND DEPORTATION PROCEEDINGS FOR VICTIMS OF DOMESTIC VIOLENCE-**

**(1) REMOVAL PROCEEDINGS-**

**(A) IN GENERAL-** Section 240(c)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(6)(C)) is amended by adding at the end the following:

“(iv) **SPECIAL RULE FOR BATTERED SPOUSES AND CHILDREN-** The deadline specified in subsection (b)(5)(C) for filing a motion to reopen does not apply--

“(I) if the basis for the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), or section 240A(b)(2);

“(II) if the motion is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that has been or will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen; and

“(III) if the motion to reopen is filed within 1 year of the entry of the final order of removal, except that the Attorney General may, in the Attorney General's discretion, waive this time limitation in the case of an alien who demonstrates extraordinary circumstances or extreme hardship to the alien's child.”

**(B) EFFECTIVE DATE-** The amendment made by subparagraph (A) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1229-1229c).

**(2) DEPORTATION PROCEEDINGS-**

**(A) IN GENERAL-** Notwithstanding any limitation imposed by law on motions to reopen or rescind deportation proceedings under the Immigration and Nationality Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)), there is no time limit on the filing of a motion to reopen such proceedings, and the deadline specified in section 242B(c)(3) of the Immigration and Nationality Act (as so in effect) (8 U.S.C. 1252b(c)(3)) does not apply--

(i) if the basis of the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)), clause (ii) or (iii) of section 204(a)(1)(B) of such Act (8 U.S.C. 1154(a)(1)(B)), or section 244(a)(3) of such Act (as so in effect) (8 U.S.C. 1254(a)(3)); and

(ii) if the motion is accompanied by a suspension of deportation application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.

**(B) APPLICABILITY-** Subparagraph (A) shall apply to motions filed by aliens who--

(i) are, or were, in deportation proceedings under the Immigration and Nationality Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)); and

(ii) have become eligible to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)), clause (ii) or (iii) of section 204(a)(1)(B) of such Act (8 U.S.C. 1154(a)(1)(B)), or section 244(a)(3) of such Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)) as a result of the amendments made by--

(i) subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1953 et seq.); or

(ii) this title.

**SEC. 1507. REMEDYING PROBLEMS WITH IMPLEMENTATION OF THE IMMIGRATION PROVISIONS OF THE VIOLENCE AGAINST WOMEN ACT OF 1994.**

**(a) EFFECT OF CHANGES IN ABUSERS' CITIZENSHIP STATUS ON SELF-PETITION-**

**(1) RECLASSIFICATION-** Section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)) (as amended by section 1503(b)(3) of this title) is amended by adding at the end the following:

“(vi) For the purposes of any petition filed under clause (iii) or (iv), the denaturalization, loss or renunciation of citizenship, death of the abuser, divorce, or changes to the abuser's citizenship status after filing of the petition shall not adversely affect the approval of the petition, and for approved petitions shall not preclude the classification of the eligible self-petitioning spouse or child as an immediate relative or affect the alien's ability to adjust status under subsections (a) and (c) of section 245 or obtain status as a lawful permanent resident based on the approved self-petition under such clauses.”

**(2) LOSS OF STATUS-** Section 204(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)) (as amended by section 1503(c)(3) of this title) is amended by adding at the end the following:

“(v)(I) For the purposes of any petition filed or approved under clause (ii) or (iii), divorce, or the loss of lawful permanent resident status by a spouse or parent after the filing of a petition under that clause shall not adversely affect approval of the petition, and, for an approved petition, shall not affect the alien's ability to adjust status under subsections (a) and (c) of section 245 or obtain status as a lawful permanent resident based on an approved self-petition under clause (ii) or (iii).

“(II) Upon the lawful permanent resident spouse or parent becoming or establishing the existence of United States citizenship through naturalization, acquisition of citizenship, or other means, any petition filed with the Immigration and Naturalization Service and pending or approved under clause (ii) or (iii) on behalf of an alien who has been battered or subjected to extreme cruelty shall be deemed reclassified as a petition filed under subparagraph (A) even if the acquisition of citizenship occurs after divorce or termination of parental rights.”

(3) DEFINITION OF IMMEDIATE RELATIVES- Section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1154(b)(2)(A)(i)) is amended by adding at the end the following: 'For purposes of this clause, an alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) of this Act remains an immediate relative in the event that the United States citizen spouse or parent loses United States citizenship on account of the abuse.'

(b) ALLOWING REMARRIAGE OF BATTERED IMMIGRANTS- Section 204(h) of the Immigration and Nationality Act (8 U.S.C. 1154(h)) is amended by adding at the end the following: 'Remarriage of an alien whose petition was approved under section 204(a)(1)(B)(ii) or 204(a)(1)(A)(iii) or marriage of an alien described in clause (iv) or (vi) of section 204(a)(1)(A) or in section 204(a)(1)(B)(iii) shall not be the basis for revocation of a petition approval under section 205.'

#### **SEC. 1508. TECHNICAL CORRECTION TO QUALIFIED ALIEN DEFINITION FOR BATTERED IMMIGRANTS.**

Section 431(c)(1)(B)(iii) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)(1)(B)(iii)) is amended to read as follows:

'(iii) suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).'

#### **SEC. 1509. ACCESS TO CUBAN ADJUSTMENT ACT FOR BATTERED IMMIGRANT SPOUSES AND CHILDREN.**

(a) IN GENERAL- The last sentence of the first section of Public Law 89-732 (November 2, 1966; 8 U.S.C. 1255 note) is amended by striking the period at the end and inserting the following: ', except that such spouse or child who has been battered or subjected to extreme cruelty may adjust to permanent resident status under this Act without demonstrating that he or she is residing with the Cuban spouse or parent in the United States. In acting on applications under this section with respect to spouses or children who have been battered or subjected to extreme cruelty, the Attorney General shall apply the provisions of section 204(a)(1)(H).'

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall be effective as if included in subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1953 et seq.).

#### **SEC. 1510. ACCESS TO THE NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT FOR BATTERED SPOUSES AND CHILDREN.**

(a) ADJUSTMENT OF STATUS OF CERTAIN NICARAGUAN AND CUBAN BATTERED SPOUSES- Section 202(d) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1255 note; Public Law 105-100, as amended) is amended--

(1) in paragraph (1), by striking subparagraph (B) and inserting the following:

'(B) the alien--

'(i) is the spouse, child, or unmarried son or daughter of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that the son or daughter has been physically present in the United States for a continuous period beginning not later than December 1, 1995, and ending not earlier than the date on which the application for adjustment under this subsection is filed; or

'(ii) was, at the time at which an alien filed for adjustment under subsection (a), the spouse or child of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), and the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the alien that filed for adjustment under subsection (a);' and

(2) by adding at the end the following:

'(3) PROCEDURE- In acting on an application under this section with respect to a spouse or child who has been battered or subjected to extreme cruelty, the Attorney General shall apply section 204(a)(1)(H).'

(b) CANCELLATION OF REMOVAL AND SUSPENSION OF DEPORTATION TRANSITION RULES FOR CERTAIN BATTERED SPOUSES- Section 309(c)(5)(C) of the Illegal Immigration and Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 8 U.S.C. 1101 note) (as amended by section 1506(b)(3) of this title) is amended--

(1) in clause (i)--

(A) by striking the period at the end of subclause (VI) (as added by section 1506(b)(3) of this title) and inserting '; or'; and

(B) by adding at the end the following:

'(VII)(aa) was the spouse or child of an alien described in subclause (I), (II), or (V)--

'(AA) at the time at which a decision is rendered to suspend the deportation or cancel the removal of the alien;

'(BB) at the time at which the alien filed an application for suspension of deportation or cancellation of removal; or

'(CC) at the time at which the alien registered for benefits under the settlement agreement in American Baptist Churches, et. al. v. Thornburgh (ABC), applied for temporary protected status, or applied for asylum; and

'(bb) the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the alien described in subclause (I), (II), or (V);' and

(2) by adding at the end the following:

'(iii) CONSIDERATION OF PETITIONS- In acting on a petition filed under subclause (VII) of clause (i) the provisions set forth in section 204(a)(1)(H) shall apply.

'(iv) RESIDENCE WITH SPOUSE OR PARENT NOT REQUIRED- For purposes of the application of clause (i)(VII), a spouse or child shall not be required to demonstrate that he or she is residing with the spouse or parent in the United States.'

(c) **EFFECTIVE DATE-** The amendments made by subsections (a) and (b) shall be effective as if included in the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1255 note; Public Law 105-100, as amended).

#### **SEC. 1511. ACCESS TO THE HAITIAN REFUGEE FAIRNESS ACT OF 1998 FOR BATTERED SPOUSES AND CHILDREN.**

(a) **IN GENERAL-** Section 902(d)(1)(B) of the Haitian Refugee Immigration Fairness Act of 1998 (division A of section 101(h) of Public Law 105-277; 112 Stat. 2681-538) is amended to read as follows:

(B)(i) the alien is the spouse, child, or unmarried son or daughter of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that, in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that the son or daughter has been physically present in the United States for a continuous period beginning not later than December 1, 1995, and ending not earlier than the date on which the application for such adjustment is filed;

(ii) at the time of filing of the application for adjustment under subsection (a), the alien is the spouse or child of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a) and the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the individual described in subsection (a); and

(iii) in acting on applications under this section with respect to spouses or children who have been battered or subjected to extreme cruelty, the Attorney General shall apply the provisions of section 204(a)(1)(H).

(b) **EFFECTIVE DATE-** The amendment made by subsection (a) shall be effective as if included in the Haitian Refugee Immigration Fairness Act of 1998 (division A of section 101(h) of Public Law 105-277; 112 Stat. 2681-538).

#### **SEC. 1512. ACCESS TO SERVICES AND LEGAL REPRESENTATION FOR BATTERED IMMIGRANTS.**

(a) **LAW ENFORCEMENT AND PROSECUTION GRANTS-** Section 2001(b) of part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) (as amended by section 1209(c) of this division) is amended by adding at the end the following:

(1) providing assistance to victims of domestic violence and sexual assault in immigration matters.

(b) **GRANTS TO ENCOURAGE ARRESTS-** Section 2101(b)(5) of part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh(b)(5)) is amended by inserting before the period the following: ", including strengthening assistance to such victims in immigration matters".

(c) **RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT GRANTS-** Section 40295(a)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1953; 42 U.S.C. 13971(a)(2)) is amended to read as follows:

(2) to provide treatment, counseling, and assistance to victims of domestic violence and child abuse, including in immigration matters; and

(d) **CAMPUS DOMESTIC VIOLENCE GRANTS-** Section 826(b)(5) of the Higher Education Amendments of 1998 (Public Law 105-244; 20 U.S.C. 1152) is amended by inserting before the period at the end the following: ", including assistance to victims in immigration matters".

#### **SEC. 1513. PROTECTION FOR CERTAIN CRIME VICTIMS INCLUDING VICTIMS OF CRIMES AGAINST WOMEN.**

(a) **FINDINGS AND PURPOSE-**

(1) **FINDINGS-** Congress makes the following findings:

(A) Immigrant women and children are often targeted to be victims of crimes committed against them in the United States, including rape, torture, kidnapping, trafficking, incest, domestic violence, sexual assault, female genital mutilation, forced prostitution, involuntary servitude, being held hostage or being criminally restrained.

(B) All women and children who are victims of these crimes committed against them in the United States must be able to report these crimes to law enforcement and fully participate in the investigation of the crimes committed against them and the prosecution of the perpetrators of such crimes.

(2) **PURPOSE-**

(A) The purpose of this section is to create a new nonimmigrant visa classification that will strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking of aliens, and other crimes described in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act committed against aliens, while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States. This visa will encourage law enforcement officials to better serve immigrant crime victims and to prosecute crimes committed against aliens.

(B) Creating a new nonimmigrant visa classification will facilitate the reporting of crimes to law enforcement officials by trafficked, exploited, victimized, and abused aliens who are not in lawful immigration status. It also gives law enforcement officials a means to regularize the status of cooperating individuals during investigations or prosecutions. Providing temporary legal status to aliens who have been severely victimized by criminal activity also comports with the humanitarian interests of the United States.

(C) Finally, this section gives the Attorney General discretion to convert the status of such nonimmigrants to that of permanent residents when doing so is justified on humanitarian grounds, for family unity, or is otherwise in the public interest.

(b) **ESTABLISHMENT OF HUMANITARIAN/MATERIAL WITNESS NONIMMIGRANT CLASSIFICATION-** Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) (as amended by section 107 of this Act) is amended--

(1) by striking "or" at the end of subparagraph (S);

(2) by striking the period at the end of subparagraph (T) and inserting "; or"; and



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

“(U)(I) subject to section 214(o), an alien who files a petition for status under this subparagraph, if the Attorney General determines that--

“(I) the alien has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described in clause (iii);

“(II) the alien (or in the case of an alien child under the age of 16, the parent, guardian, or next friend of the alien) possesses information concerning criminal activity described in clause (iii);

“(III) the alien (or in the case of an alien child under the age of 16, the parent, guardian, or next friend of the alien) has been helpful, is being helpful, or is likely to be helpful to a Federal, State, or local law enforcement official, to a Federal, State, or local prosecutor, to a Federal or State judge, to the Service, or to other Federal, State, or local authorities investigating or prosecuting criminal activity described in clause (iii); and

“(IV) the criminal activity described in clause (iii) violated the laws of the United States or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States;

“(ii) if the Attorney General considers it necessary to avoid extreme hardship to the spouse, the child, or, in the case of an alien child, the parent of the alien described in clause (i), the Attorney General may also grant status under this paragraph based upon certification of a government official listed in clause (i)(III) that an investigation or prosecution would be harmed without the assistance of the spouse, the child, or, in the case of an alien child, the parent of the alien; and

“(iii) the criminal activity referred to in this clause is that involving one or more of the following or any similar activity in violation of Federal, State, or local criminal law: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.”

(c) CONDITIONS FOR ADMISSION AND DUTIES OF THE ATTORNEY GENERAL- Section 214 of such Act (8 U.S.C. 1184) (as amended by section 107 of this Act) is amended by adding at the end the following new subsection:

“(o) REQUIREMENTS APPLICABLE TO SECTION 101(a)(15)(U) VISAS-

“(1) PETITIONING PROCEDURES FOR SECTION 101(a)(15)(U) VISAS- The petition filed by an alien under section 101(a)(15)(U)(i) shall contain a certification from a Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating criminal activity described in section 101(a)(15)(U)(iii). This certification may also be provided by an official of the Service whose ability to provide such certification is not limited to information concerning immigration violations. This certification shall state that the alien ‘has been helpful, is being helpful, or is likely to be helpful’ in the investigation or prosecution of criminal activity described in section 101(a)(15)(U)(iii).

“(2) NUMERICAL LIMITATIONS-

“(A) The number of aliens who may be issued visas or otherwise provided status as nonimmigrants under section 101(a)(15)(U) in any fiscal year shall not exceed 10,000.

“(B) The numerical limitations in subparagraph (A) shall only apply to principal aliens described in section 101(a)(15)(U)(i), and not to spouses, children, or, in the case of alien children, the alien parents of such children.

“(3) DUTIES OF THE ATTORNEY GENERAL WITH RESPECT TO ‘U’ VISA NONIMMIGRANTS- With respect to nonimmigrant aliens described in subsection (a)(15)(U)-

“(A) the Attorney General and other government officials, where appropriate, shall provide those aliens with referrals to nongovernmental organizations to advise the aliens regarding their options while in the United States and the resources available to them; and

“(B) the Attorney General shall, during the period those aliens are in lawful temporary resident status under that subsection, provide the aliens with employment authorization.

“(4) CREDIBLE EVIDENCE CONSIDERED- In acting on any petition filed under this subsection, the consular officer or the Attorney General, as appropriate, shall consider any credible evidence relevant to the petition.

“(5) NONEXCLUSIVE RELIEF- Nothing in this subsection limits the ability of aliens who qualify for status under section 101(a)(15)(U) to seek any other immigration benefit or status for which the alien may be eligible.”

(d) PROHIBITION ON ADVERSE DETERMINATIONS OF ADMISSIBILITY OR DEPORTABILITY- Section 384(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended--

(1) by striking ‘or’ at the end of paragraph (1)(C);

(2) by striking the comma at the end of paragraph (1)(D) and inserting ‘, or;’ and

(3) by inserting after paragraph (1)(D) the following new subparagraph:

“(E) in the case of an alien applying for status under section 101(a)(15)(U) of the Immigration and Nationality Act, the perpetrator of the substantial physical or mental abuse and the criminal activity;” and

(4) in paragraph (2), by inserting ‘section 101(a)(15)(U),’ after ‘section 216(c)(4)(C),’.

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

“(13) The Attorney General shall determine whether a ground of inadmissibility exists with respect to a nonimmigrant described in section 101(a)(15)(U). The Attorney General, in the Attorney General's discretion, may waive the application of subsection (a) (other than paragraph (3)(E)) in the case of a nonimmigrant described in section 101(a)(15)(U), if the Attorney General considers it to be in the public or national interest to do so.”

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

“(1)(1) The Attorney General may adjust the status of an alien admitted into the United States (or otherwise provided nonimmigrant status) under section 101(a)(15)(U) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E), unless the Attorney General determines based on affirmative evidence that the alien unreasonably refused to provide assistance in a criminal investigation or prosecution, if--

“(A) the alien has been physically present in the United States for a continuous period of at least 3 years since the date of admission as a nonimmigrant under clause (i) or (ii) of section 101(a)(15)(U); and

“(B) in the opinion of the Attorney General, the alien's continued presence in the United States is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest.

“(2) An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (1)(A) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days unless the absence is in order to assist in the investigation or prosecution or unless an official involved in the investigation or prosecution certifies that the absence was otherwise justified.

“(3) Upon approval of adjustment of status under paragraph (1) of an alien described in section 101(a)(15)(U)(i) the Attorney General may adjust the status of or issue an immigrant visa to a spouse, a child, or, in the case of an alien child, a parent who did not receive a nonimmigrant visa under section 101(a)(15)(U)(ii) if the Attorney General considers the grant of such status or visa necessary to avoid extreme hardship.

“(4) Upon the approval of adjustment of status under paragraph (1) or (3), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval.”

#### TITLE VI--MISCELLANEOUS

#### SEC. 1601. NOTICE REQUIREMENTS FOR SEXUALLY VIOLENT OFFENDERS.

(a) SHORT TITLE- This section may be cited as the “Campus Sex Crimes Prevention Act”.

(b) NOTICE WITH RESPECT TO INSTITUTIONS OF HIGHER EDUCATION-

(1) IN GENERAL- Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended by adding at the end the following:

“(j) NOTICE OF ENROLLMENT AT OR EMPLOYMENT BY INSTITUTIONS OF HIGHER EDUCATION-

“(1) NOTICE BY OFFENDERS-

“(A) IN GENERAL- In addition to any other requirements of this section, any person who is required to register in a State shall provide notice as required under State law--

“(i) of each institution of higher education in that State at which the person is employed, carries on a vocation, or is a student; and

“(ii) of each change in enrollment or employment status of such person at an institution of higher education in that State.

“(B) CHANGE IN STATUS- A change in status under subparagraph (A)(ii) shall be reported by the person in the manner provided by State law. State procedures shall ensure that the updated information is promptly made available to a law enforcement agency having jurisdiction where such institution is located and entered into the appropriate State records or data system.

“(2) STATE REPORTING- State procedures shall ensure that the registration information collected under paragraph (1)--

“(A) is promptly made available to a law enforcement agency having jurisdiction where such institution is located; and

“(B) entered into the appropriate State records or data system.

“(3) REQUEST- Nothing in this subsection shall require an educational institution to request such information from any State.”

(2) EFFECTIVE DATE- The amendment made by this subsection shall take effect 2 years after the date of the enactment of this Act.

(c) DISCLOSURES BY INSTITUTIONS OF HIGHER EDUCATION-

(1) IN GENERAL- Section 485(f)(1) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(1)) is amended by adding at the end the following:

“(1) A statement advising the campus community where law enforcement agency information provided by a State under section 170101(j) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(j)), concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.”

(2) EFFECTIVE DATE- The amendment made by this subsection shall take effect 2 years after the date of the enactment of this Act.

(d) AMENDMENT TO FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974- Section 444(b) of the General Education Provisions Act (20 U.S.C. 1232g(b)), also known as the Family Educational Rights and Privacy Act of 1974, is amended by adding at the end the following:



(7)(A) Nothing in this section may be construed to prohibit an educational institution from disclosing information provided to the institution under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) concerning registered sex offenders who are required to register under such section.

(B) The Secretary shall take appropriate steps to notify educational institutions that disclosure of information described in subparagraph (A) is permitted.

#### SEC. 1602. TEEN SUICIDE PREVENTION STUDY.

(a) **SHORT TITLE-** This section may be cited as the 'Teen Suicide Prevention Act of 2000'.

(b) **FINDINGS-** Congress finds that--

(1) measures that increase public awareness of suicide as a preventable public health problem, and target parents and youth so that suicide risks and warning signs can be recognized, will help to eliminate the ignorance and stigma of suicide as barriers to youth and families seeking preventive care;

(2) suicide prevention efforts in the year 2000 should--

(A) target at-risk youth, particularly youth with mental health problems, substance abuse problems, or contact with the juvenile justice system;

(B) involve--

(i) the identification of the characteristics of the at-risk youth and other youth who are contemplating suicide, and barriers to treatment of the youth; and

(ii) the development of model treatment programs for the youth;

(C) include a pilot study of the outcomes of treatment for juvenile delinquents with mental health or substance abuse problems;

(D) include a public education approach to combat the negative effects of the stigma of, and discrimination against individuals with, mental health and substance abuse problems; and

(E) include a nationwide effort to develop, implement, and evaluate a mental health awareness program for schools, communities, and families;

(3) although numerous symptoms, diagnoses, traits, characteristics, and psychosocial stressors of suicide have been investigated, no single factor or set of factors has ever come close to predicting suicide with accuracy;

(4) research of United States youth, such as a 1994 study by Lewinsohn, Rohde, and Seeley, has shown predictors of suicide, such as a history of suicide attempts, current suicidal ideation and depression, a recent attempt or completed suicide by a friend, and low self-esteem; and

(5) epidemiological data illustrate--

(A) the trend of suicide at younger ages as well as increases in suicidal ideation among youth in the United States; and

(B) distinct differences in approaches to suicide by gender, with--

(i) 3 to 5 times as many females as males attempting suicide; and

(ii) 3 to 5 times as many males as females completing suicide.

(c) **PURPOSE-** The purpose of this section is to provide for a study of predictors of suicide among at-risk and other youth, and barriers that prevent the youth from receiving treatment, to facilitate the development of model treatment programs and public education and awareness efforts.

(d) **STUDY-** Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall carry out, directly or by grant or contract, a study that is designed to identify--

(1) the characteristics of at-risk and other youth age 13 through 21 who are contemplating suicide;

(2) the characteristics of at-risk and other youth who are younger than age 13 and are contemplating suicide; and

(3) the barriers that prevent youth described in paragraphs (1) and (2) from receiving treatment.

(e) **AUTHORIZATION OF APPROPRIATIONS-** There are authorized to be appropriated to carry out this section such sums as may be necessary.

#### SEC. 1603. DECADE OF PAIN CONTROL AND RESEARCH.

The calendar decade beginning January 1, 2001, is designated as the 'Decade of Pain Control and Research'.

#### DIVISION C--MISCELLANEOUS PROVISIONS

#### SEC. 2001. AIMEE'S LAW.

(a) **SHORT TITLE-** This section may be cited as 'Aimee's Law'.

(b) **DEFINITIONS-** In this section:

(1) DANGEROUS SEXUAL OFFENSE- The term 'dangerous sexual offense' means any offense under State law for conduct that would constitute an offense under chapter 109A of title 18, United States Code, had the conduct occurred in the special maritime and territorial jurisdiction of the United States or in a Federal prison.

(2) MURDER- The term 'murder' has the meaning given the term in part I of the Uniform Crime Reports of the Federal Bureau of Investigation.

(3) RAPE- The term 'rape' has the meaning given the term in part I of the Uniform Crime Reports of the Federal Bureau of Investigation.

#### (c) PENALTY-

(1) SINGLE STATE- In any case in which a State convicts an individual of murder, rape, or a dangerous sexual offense, who has a prior conviction for any one of those offenses in a State described in paragraph (3), the Attorney General shall transfer an amount equal to the costs of incarceration, prosecution, and apprehension of that individual, from Federal law enforcement assistance funds that have been allocated to but not distributed to the State that convicted the individual of the prior offense, to the State account that collects Federal law enforcement assistance funds of the State that convicted that individual of the subsequent offense.

(2) MULTIPLE STATES- In any case in which a State convicts an individual of murder, rape, or a dangerous sexual offense, who has a prior conviction for any one or more of those offenses in more than one other State described in paragraph (3), the Attorney General shall transfer an amount equal to the costs of incarceration, prosecution, and apprehension of that individual, from Federal law enforcement assistance funds that have been allocated to but not distributed to each State that convicted such individual of the prior offense, to the State account that collects Federal law enforcement assistance funds of the State that convicted that individual of the subsequent offense.

(3) STATE DESCRIBED- A State is described in this paragraph if--

(A) the average term of imprisonment imposed by the State on individuals convicted of the offense for which the individual described in paragraph (1) or (2), as applicable, was convicted by the State is less than the average term of imprisonment imposed for that offense in all States; or

(B) with respect to the individual described in paragraph (1) or (2), as applicable, the individual had served less than 85 percent of the term of imprisonment to which that individual was sentenced for the prior offense.

For purposes of subparagraph (B), in a State that has indeterminate sentencing, the term of imprisonment to which that individual was sentenced for the prior offense shall be based on the lower of the range of sentences.

(d) STATE APPLICATIONS- In order to receive an amount transferred under subsection (c), the chief executive of a State shall submit to the Attorney General an application, in such form and containing such information as the Attorney General may reasonably require, which shall include a certification that the State has convicted an individual of murder, rape, or a dangerous sexual offense, who has a prior conviction for one of those offenses in another State.

#### (e) SOURCE OF FUNDS-

(1) IN GENERAL- Any amount transferred under subsection (c) shall be derived by reducing the amount of Federal law enforcement assistance funds received by the State that convicted such individual of the prior offense before the distribution of the funds to the State. The Attorney General shall provide the State with an opportunity to select the specific Federal law enforcement assistance funds to be so reduced (other than Federal crime victim assistance funds).

(2) PAYMENT SCHEDULE- The Attorney General, in consultation with the chief executive of the State that convicted such individual of the prior offense, shall establish a payment schedule.

(f) CONSTRUCTION- Nothing in this section may be construed to diminish or otherwise affect any court ordered restitution.

(g) EXCEPTION- This section does not apply if the individual convicted of murder, rape, or a dangerous sexual offense has been released from prison upon the reversal of a conviction for an offense described in subsection (c) and subsequently been convicted for an offense described in subsection (c).

(h) REPORT- The Attorney General shall--

(1) conduct a study evaluating the implementation of this section; and

(2) not later than October 1, 2006, submit to Congress a report on the results of that study.

#### (i) COLLECTION OF RECIDIVISM DATA-

(1) IN GENERAL- Beginning with calendar year 2002, and each calendar year thereafter, the Attorney General shall collect and maintain information relating to, with respect to each State--

(A) the number of convictions during that calendar year for--

(i) any dangerous sexual offense;

(ii) rape; and

(iii) murder; and

(B) the number of convictions described in subparagraph (A) that constitute second or subsequent convictions of the defendant of an offense described in that subparagraph.

(2) REPORT- Not later than March 1, 2003, and on March 1 of each year thereafter, the Attorney General shall submit to Congress a report, which shall include--

(A) the information collected under paragraph (1) with respect to each State during the preceding calendar year; and

(B) the percentage of cases in each State in which an individual convicted of an offense described in paragraph (1)(A) was previously convicted of another such offense in another State during the preceding calendar year.

(j) **EFFECTIVE DATE-** This section shall take effect on January 1, 2002.

## **SEC. 2002. PAYMENT OF CERTAIN ANTI-TERRORISM JUDGMENTS.**

### **(a) PAYMENTS-**

(1) **IN GENERAL-** Subject to subsections (b) and (c), the Secretary of the Treasury shall pay each person described in paragraph (2), at the person's election--

(A) 110 percent of compensatory damages awarded by judgment of a court on a claim or claims brought by the person under section 1605(a)(7) of title 28, United States Code, plus amounts necessary to pay post-judgment interest under section 1961 of such title, and, in the case of a claim or claims against Cuba, amounts awarded as sanctions by judicial order on April 18, 2000 (as corrected on June 2, 2000), subject to final appellate review of that order; or

(B) 100 percent of the compensatory damages awarded by judgment of a court on a claim or claims brought by the person under section 1605(a)(7) of title 28, United States Code, plus amounts necessary to pay post-judgment interest, as provided in section 1961 of such title, and, in the case of a claim or claims against Cuba, amounts awarded as sanctions by judicial order on April 18, 2000 (as corrected June 2, 2000), subject to final appellate review of that order.

Payments under this subsection shall be made promptly upon request.

(2) **PERSONS COVERED-** A person described in this paragraph is a person who--

(A)(i) as of July 20, 2000, held a final judgment for a claim or claims brought under section 1605(a)(7) of title 28, United States Code, against Iran or Cuba, or the right to payment of an amount awarded as a judicial sanction with respect to such claim or claims; or

(ii) filed a suit under such section 1605(a)(7) on February 17, 1999, December 13, 1999, January 28, 2000, March 15, 2000, or July 27, 2000;

(B) relinquishes all claims and rights to compensatory damages and amounts awarded as judicial sanctions under such judgments;

(C) in the case of payment under paragraph (1)(A), relinquishes all rights and claims to punitive damages awarded in connection with such claim or claims; and

(D) in the case of payment under paragraph (1)(B), relinquishes all rights to execute against or attach property that is at issue in claims against the United States before an international tribunal, that is the subject of awards rendered by such tribunal, or that is subject to section 1610(f)(1)(A) of title 28, United States Code.

### **(b) FUNDING OF AMOUNTS-**

(1) **JUDGMENTS AGAINST CUBA-** For purposes of funding the payments under subsection (a) in the case of judgments and sanctions entered against the Government of Cuba or Cuban entities, the President shall vest and liquidate up to and not exceeding the amount of property of the Government of Cuba and sanctioned entities in the United States or any commonwealth, territory, or possession thereof that has been blocked pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701-1702), or any other proclamation, order, or regulation issued thereunder. For the purposes of paying amounts for judicial sanctions, payment shall be made from funds or accounts subject to sanctions as of April 18, 2000, or from blocked assets of the Government of Cuba.

(2) **JUDGMENTS AGAINST IRAN-** For purposes of funding payments under subsection (a) in the case of judgments against Iran, the Secretary of the Treasury shall make such payments from amounts paid and liquidated from--

(A) rental proceeds accrued on the date of the enactment of this Act from Iranian diplomatic and consular property located in the United States; and

(B) funds not otherwise made available in an amount not to exceed the total of the amount in the Iran Foreign Military Sales Program account within the Foreign Military Sales Fund on the date of the enactment of this Act.

(c) **SUBROGATION-** Upon payment under subsection (a) with respect to payments in connection with a Foreign Military Sales Program account, the United States shall be fully subrogated, to the extent of the payments, to all rights of the person paid under that subsection against the debtor foreign state. The President shall pursue these subrogated rights as claims or offsets of the United States in appropriate ways, including any negotiation process which precedes the normalization of relations between the foreign state designated as a state sponsor of terrorism and the United States, except that no funds shall be paid to Iran, or released to Iran, from property blocked under the International Emergency Economic Powers Act or from the Foreign Military Sales Fund, until such subrogated claims have been dealt with to the satisfaction of the United States.

(d) **SENSE OF THE CONGRESS-** It is the sense of the Congress that the President should not normalize relations between the United States and Iran until the claims subrogated have been dealt with to the satisfaction of the United States.

(e) **REAFFIRMATION OF AUTHORITY-** Congress reaffirms the President's statutory authority to manage and, where appropriate and consistent with the national interest, vest foreign assets located in the United States for the purposes, among other things, of assisting and, where appropriate, making payments to victims of terrorism.

(f) **AMENDMENTS-** (1) Section 1610(f) of title 28, United States Code, is amended--

(A) in paragraphs (2)(A) and (2)(B)(ii), by striking 'shall' each place it appears and inserting 'should make every effort to'; and

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

'(3) **WAIVER-** The President may waive any provision of paragraph (1) in the interest of national security.'

(2) Subsections (b) and (d) of section 117 of the Treasury Department Appropriations Act, 1999 (as contained in section 101(h) of Public Law 105-277) are repealed.

## **SEC. 2003. AID FOR VICTIMS OF TERRORISM.**

### **(a) MEETING THE NEEDS OF VICTIMS OF TERRORISM OUTSIDE THE UNITED STATES-**

**(1) IN GENERAL-** Section 1404B(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603b(a)) is amended as follows:

#### **(a) VICTIMS OF ACTS OF TERRORISM OUTSIDE UNITED STATES-**

**(1) IN GENERAL-** The Director may make supplemental grants as provided in 1402(d)(5) to States, victim service organizations, and public agencies (including Federal, State, or local governments) and nongovernmental organizations that provide assistance to victims of crime, which shall be used to provide emergency relief, including crisis response efforts, assistance, training, and technical assistance, and ongoing assistance, including during any investigation or prosecution, to victims of terrorist acts or mass violence occurring outside the United States who are not persons eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

**(2) VICTIM DEFINED-** In this subsection, the term "victim"--

(A) means a person who is a national of the United States or an officer or employee of the United States Government who is injured or killed as a result of a terrorist act or mass violence occurring outside the United States; and

(B) in the case of a person described in subparagraph (A) who is less than 18 years of age, incompetent, incapacitated, or deceased, includes a family member or legal guardian of that person,

**(3) RULE OF CONSTRUCTION-** Nothing in this subsection shall be construed to allow the Director to make grants to any foreign power (as defined by section 101(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(a)) or to any domestic or foreign organization operated for the purpose of engaging in any significant political or lobbying activities.

**(2) APPLICABILITY-** The amendment made by this subsection shall apply to any terrorist act or mass violence occurring on or after December 21, 1988, with respect to which an investigation or prosecution was ongoing after April 24, 1996.

**(3) ADMINISTRATIVE PROVISION-** Not later than 90 days after the date of the enactment of this Act, the Director shall establish guidelines under section 1407(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10604(a)) to specify the categories of organizations and agencies to which the Director may make grants under this subsection.

**(4) TECHNICAL AMENDMENT-** Section 1404B(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10603b(b)) is amended by striking "1404(d)(4)(B)" and inserting "1402(d)(5)".

### **(b) AMENDMENTS TO EMERGENCY RESERVE FUND-**

**(1) CAP INCREASE-** Section 1402(d)(5)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(5)(A)) is amended by striking "\$50,000,000" and inserting "\$100,000,000".

**(2) TRANSFER-** Section 1402(e) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(e)) is amended by striking "in excess of \$500,000" and all that follows through "than \$500,000" and inserting "shall be available for deposit into the emergency reserve fund referred to in subsection (d)(5) at the discretion of the Director. Any remaining unobligated sums".

### **(c) COMPENSATION TO VICTIMS OF INTERNATIONAL TERRORISM-**

**(1) IN GENERAL-** The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404B the following:

## **SEC. 1404C. COMPENSATION TO VICTIMS OF INTERNATIONAL TERRORISM.**

### **(a) DEFINITIONS-** In this section:

**(1) INTERNATIONAL TERRORISM-** The term "international terrorism" has the meaning given the term in section 2331 of title 18, United States Code.

**(2) NATIONAL OF THE UNITED STATES-** The term "national of the United States" has the meaning given the term in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)).

### **(3) VICTIM-**

**(A) IN GENERAL-** The term "victim" means a person who--

(i) suffered direct physical or emotional injury or death as a result of international terrorism occurring on or after December 21, 1988 with respect to which an investigation or prosecution was ongoing after April 24, 1996; and

(ii) as of the date on which the international terrorism occurred, was a national of the United States or an officer or employee of the United States Government.

**(B) INCOMPETENT, INCAPACITATED, OR DECEASED VICTIMS-** In the case of a victim who is less than 18 years of age, incompetent, incapacitated, or deceased, a family member or legal guardian of the victim may receive the compensation under this section on behalf of the victim.

**(C) EXCEPTION-** Notwithstanding any other provision of this section, in no event shall an individual who is criminally culpable for the terrorist act or mass violence receive any compensation under this section, either directly or on behalf of a victim.

(b) AWARD OF COMPENSATION- The Director may use the emergency reserve referred to in section 1402(d)(5)(A) to carry out a program to compensate victims of acts of international terrorism that occur outside the United States for expenses associated with that victimization.

(c) ANNUAL REPORT- The Director shall annually submit to Congress a report on the status and activities of the program under this section, which report shall include--

(1) an explanation of the procedures for filing and processing of applications for compensation;

(2) a description of the procedures and policies instituted to promote public awareness about the program;

(3) a complete statistical analysis of the victims assisted under the program, including--

(A) the number of applications for compensation submitted;

(B) the number of applications approved and the amount of each award;

(C) the number of applications denied and the reasons for the denial;

(D) the average length of time to process an application for compensation; and

(E) the number of applications for compensation pending and the estimated future liability of the program; and

(4) an analysis of future program needs and suggested program improvements.

(2) CONFORMING AMENDMENT- Section 1402(d)(5)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(5)(B)) is amended by inserting ', to provide compensation to victims of international terrorism under the program under section 1404C,' after 'section 1404B'.

(d) AMENDMENTS TO VICTIMS OF CRIME FUND- Section 1402(c) of the Victims of Crime Act 1984 (42 U.S.C. 10601(c)) is amended by adding at the end the following: 'Notwithstanding section 1402(d)(5), all sums deposited in the Fund in any fiscal year that are not made available for obligation by Congress in the subsequent fiscal year shall remain in the Fund for obligation in future fiscal years, without fiscal year limitation.'

#### SEC. 2004. TWENTY-FIRST AMENDMENT ENFORCEMENT.

(a) SHIPMENT OF INTOXICATING LIQUOR IN VIOLATION OF STATE LAW- The Act entitled 'An Act divesting intoxicating liquors of their interstate character in certain cases', approved March 1, 1913 (commonly known as the 'Webb-Kenyon Act') (27 U.S.C. 122) is amended by adding at the end the following:

#### SEC. 2. INJUNCTIVE RELIEF IN FEDERAL DISTRICT COURT.

(a) DEFINITIONS- In this section--

(1) the term 'attorney general' means the attorney general or other chief law enforcement officer of a State or the designee thereof;

(2) the term 'intoxicating liquor' means any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind;

(3) the term 'person' means any individual and any partnership, corporation, company, firm, society, association, joint stock company, trust, or other entity capable of holding a legal or beneficial interest in property, but does not include a State or agency thereof; and

(4) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(b) ACTION BY STATE ATTORNEY GENERAL- If the attorney general has reasonable cause to believe that a person is engaged in, or has engaged in, any act that would constitute a violation of a State law regulating the importation or transportation of any intoxicating liquor, the attorney general may bring a civil action in accordance with this section for injunctive relief (including a preliminary or permanent injunction) against the person, as the attorney general determines to be necessary to--

(1) restrain the person from engaging, or continuing to engage, in the violation; and

(2) enforce compliance with the State law.

(c) FEDERAL JURISDICTION-

(1) IN GENERAL- The district courts of the United States shall have jurisdiction over any action brought under this section by an attorney general against any person, except one licensed or otherwise authorized to produce, sell, or store intoxicating liquor in such State.

(2) VENUE- An action under this section may be brought only in accordance with section 1391 of title 28, United States Code, or in the district in which the recipient of the intoxicating liquor resides or is found.

(3) FORM OF RELIEF- An action under this section is limited to actions seeking injunctive relief (a preliminary and/or permanent injunction).

(4) NO RIGHT TO JURY TRIAL- An action under this section shall be tried before the court.

(d) REQUIREMENTS FOR INJUNCTIONS AND ORDERS-

(1) IN GENERAL- In any action brought under this section, upon a proper showing by the attorney general of the State, the court may issue a preliminary or

permanent injunction to restrain a violation of this section. A proper showing under this paragraph shall require that a State prove by a preponderance of the evidence that a violation of State law as described in subsection (b) has taken place or is taking place.

(2) ADDITIONAL SHOWING FOR PRELIMINARY INJUNCTION- No preliminary injunction may be granted except upon--

- (A) evidence demonstrating the probability of irreparable injury if injunctive relief is not granted; and
- (B) evidence supporting the probability of success on the merits.

(3) NOTICE- No preliminary or permanent injunction may be issued under paragraph (1) without notice to the adverse party and an opportunity for a hearing.

(4) FORM AND SCOPE OF ORDER- Any preliminary or permanent injunction entered in an action brought under this section shall--

- (A) set forth the reasons for the issuance of the order;
- (B) be specific in terms;
- (C) describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and
- (D) be binding upon--
  - (i) the parties to the action and the officers, agents, employees, and attorneys of those parties; and
  - (ii) persons in active concert or participation with the parties to the action who receive actual notice of the order by personal service or otherwise.

(5) ADMISSIBILITY OF EVIDENCE- In a hearing on an application for a permanent injunction, any evidence previously received on an application for a preliminary injunction in connection with the same civil action and that would otherwise be admissible, may be made a part of the record of the hearing on the permanent injunction.

(e) RULES OF CONSTRUCTION- This section shall be construed only to extend the jurisdiction of Federal courts in connection with State law that is a valid exercise of power vested in the States--

- (1) under the twenty-first article of amendment to the Constitution of the United States as such article of amendment is interpreted by the Supreme Court of the United States including interpretations in conjunction with other provisions of the Constitution of the United States; and
- (2) under the first section herein as such section is interpreted by the Supreme Court of the United States; but shall not be construed to grant to States any additional power.

(f) ADDITIONAL REMEDIES-

- (1) IN GENERAL- A remedy under this section is in addition to any other remedies provided by law.
- (2) STATE COURT PROCEEDINGS- Nothing in this section may be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any State law.

### SEC. 3. GENERAL PROVISIONS.

(a) EFFECT ON INTERNET TAX FREEDOM ACT- Nothing in this section may be construed to modify or supersede the operation of the Internet Tax Freedom Act (47 U.S.C. 151 note).

(b) INAPPLICABILITY TO SERVICE PROVIDERS- Nothing in this section may be construed to--

- (1) authorize any injunction against an interactive computer service (as defined in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)) used by another person to engage in any activity that is subject to this Act;
- (2) authorize any injunction against an electronic communication service (as defined in section 2510(15) of title 18, United States Code) used by another person to engage in any activity that is subject to this Act; or
- (3) authorize an injunction prohibiting the advertising or marketing of any intoxicating liquor by any person in any case in which such advertising or marketing is lawful in the jurisdiction from which the importation, transportation or other conduct to which this Act applies originates.

(b) EFFECTIVE DATE- This section and the amendments made by this section shall become effective 90 days after the date of the enactment of this Act.

(c) STUDY- The Attorney General shall carry out the study to determine the impact of this section and shall submit the results of such study not later than 180 days after the enactment of this Act.

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

# Trafficking Victims Protection Reauthorization Act of 2003

PDF version

H.R.2620

One Hundred Eighth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday,  
the seventh day of January, two thousand and three

An Act

To authorize appropriations for fiscal years 2004 and 2005 for the Trafficking Victims Protection Act of 2000, and for other purposes.

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

## SECTION 1. SHORT TITLE.

This Act may be cited as the 'Trafficking Victims Protection Reauthorization Act of 2003'.

## SEC. 2. FINDINGS.

Congress finds the following:

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

## SEC. 3. ENHANCING PREVENTION OF TRAFFICKING IN PERSONS.

(a) BORDER INTERDICTION, PUBLIC INFORMATION PROGRAMS, AND COMBATING INTERNATIONAL SEX TOURISM- Section 106 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104) is amended--

- (1) by redesignating subsection (c) as subsection (f);
- (2) by inserting after subsection (b) the following new subsections:

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

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

(e) COMBATING INTERNATIONAL SEX TOURISM-

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

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

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

(3) in subsection (f) (as redesignated), by striking "initiatives described in subsections (a) and (b)" and inserting "initiatives and programs described in subsections (a) through (e)".

(b) TERMINATION OF CERTAIN GRANTS, CONTRACTS AND COOPERATIVE AGREEMENTS- Section 106 of such Act (as amended by subsection (a)) is further amended by adding at the end the following new subsection:

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

(1) TERMINATION- The President shall ensure that any grant, contract, or cooperative agreement provided or entered into by a Federal department or agency under which funds described in paragraph (2) 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.

(2) ASSISTANCE DESCRIBED- Funds referred to in paragraph (1) are funds made available to carry out any program, project, or activity abroad funded under major functional budget category 150 (relating to international affairs).'

#### SEC. 4. ENHANCING PROTECTION FOR TRAFFICKING VICTIMS.

(a) AMENDMENTS TO TRAFFICKING VICTIMS PROTECTION ACT OF 2000-

(1) COOPERATION BETWEEN FOREIGN GOVERNMENTS AND NONGOVERNMENTAL ORGANIZATIONS- Section 107(a)(1)(B) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(a)(1)(B)) is amended by adding at the end before the period the following: ', and by facilitating contact between relevant foreign government agencies and such nongovernmental organizations to facilitate cooperation between the foreign governments and such organizations'.

(2) ASSISTANCE FOR FAMILY MEMBERS OF VICTIMS OF TRAFFICKING IN UNITED STATES- Section 107(b)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(1)) is amended--

(A) in subparagraph (A), by inserting ', or an alien classified as a nonimmigrant under section 101(a)(15)(T)(ii),' after 'in persons'; and

(B) in subparagraph (B)--

(i) by inserting 'and aliens classified as a nonimmigrant under section 101(a)(15)(T)(ii),' after 'United States.'; and

(ii) by adding at the end the following new sentence: 'In the case of nonentitlement 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.'

(3) CERTIFICATION OF VICTIMS OF A SEVERE FORM OF TRAFFICKING IN PERSONS- Section 107(b)(1)(E) of the Trafficking Victims Protection Act of 2000 (22 U.S.C.-7105(b)(1)(E)) is amended by adding at the end the following new clause:

(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)(I) 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.'

(4) PRIVATE RIGHT OF ACTION-

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

##### Sec. 1595. Civil remedy

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

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

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

(B) CONFORMING AMENDMENT- The table of contents of chapter 77 of part I of title 18, United States Code, is amended by adding at the end the following new item:

'1595. Civil remedy.'

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT-

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



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

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

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

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

(B) by adding at the end the following:

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

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

'(6) In making a determination under section 101(a)(15)(T)(i)(III)(aa) with respect to an alien, statements from State and local law enforcement officials that the alien has complied with any reasonable request for assistance in the investigation or prosecution of crimes such as kidnapping, rape, slavery, or other forced labor offenses, where severe forms of trafficking in persons (as defined in section 103 of the Trafficking Victims Protection Act of 2000) appear to have been involved, shall be considered.'

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

(A) in paragraph (1)--

(i) by striking 'admitted under that section' and inserting 'admitted under section 101(a)(15)(T)(ii)'; and

(ii) by inserting 'sibling,' after 'parent,'; and

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

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

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

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

(B) in subparagraph (B)--

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

'(i) subsection (a)(1); and'; and

(ii) in clause (ii)--

(I) by striking 'such subsection' and inserting 'subsection (a)'; and

(II) by inserting '(4),' after '(3).'

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

'(iii) Is described in any of sections 1581-1585 or 1588-1591 of title 18, United States Code (relating to peonage, slavery, involuntary servitude, and trafficking in persons);'.

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

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

(1) in the heading, by inserting a comma after 'fraud';

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

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

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

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

**'CHAPTER 77--PEONAGE, SLAVERY, AND TRAFFICKING IN PERSONS'.**

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

**'77. Peonage, slavery, and trafficking in persons'.**

**SEC. 6. ENHANCING UNITED STATES EFFORTS TO COMBAT TRAFFICKING.**

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**(a) REPORT-**

(1) IN GENERAL- Section 105(d) of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7103(d)) is amended by adding at the end the following new paragraph:

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

'(A) the number of persons who received benefits or other services under section 107(b) in connection with programs or activities funded or administered by the Secretary of Health and Human Services, the Secretary of Labor, the Board of Directors of the Legal Services Corporation, and other appropriate Federal agencies during the preceding fiscal year;

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

'(C) the number of persons who have applied for, been granted, or been denied a visa or otherwise provided status under section 101(a)(15)(T)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)(i)) during the preceding fiscal year;

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

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

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

'(G) the activities undertaken by the Senior Policy Operating Group to carry out its responsibilities under section 105(f) of this division.'

(2) CONFORMING AMENDMENT- Section 107(b)(1) of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7105(b)(1)) is amended by striking subparagraph (D).

**(b) SUPPORT FOR THE TASK FORCE-**

(1) AMENDMENT- The second sentence of section 105(e) of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7103(e)) is amended by inserting at the end before the period the following: ', who shall be appointed by the President, by and with the advice and consent of the Senate, with the rank of Ambassador-at-Large'.

(2) APPLICABILITY- The individual who holds the position of Director of the Office to Monitor and Combat Trafficking of the Department of State may continue to hold such position notwithstanding the amendment made by paragraph (1).

**(c) SENIOR POLICY OPERATING GROUP-**

(1) AMENDMENT- Section 105 of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7103) is amended by adding at the end the following new subsection:

**'(f) SENIOR POLICY OPERATING GROUP-**

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

**'(2) MEMBERSHIP; RELATED MATTERS-**

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

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

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

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

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

'(5) REGULATIONS- Not later than 90 days after the date of the enactment of the Trafficking Victims Protection Reauthorization Act of 2003, the President

shall promulgate regulations to implement this section, including regulations to carry out paragraph (4).'

(2) CONFORMING AMENDMENT- Section 406 of the Department of State and Related Agency Appropriations Act, 2003 (as contained in division B of Public Law 108-7) is hereby repealed.

(d) MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING- Section 108(b) of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7108(b)) is amended--

(1) in paragraph (1)--

(A) by striking 'that take place wholly or partly within the territory of the country' and inserting ', and convicts and sentences persons responsible for such acts, that take place wholly or partly within the territory of the country'; and

(B) by adding at the end the following new sentences: '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) in paragraph (7)--

(A) by striking 'and prosecutes' and inserting ', prosecutes, convicts, and sentences'; and

(B) by adding at the end the following new sentence: '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.'

(3) by adding the following new paragraphs at the end:

'(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.'

(e) SPECIAL WATCH LIST- Section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)) is amended--

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

'(3) SPECIAL WATCH LIST-

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

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

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

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

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

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

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

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

'(C) RELATION OF SPECIAL WATCH LIST TO ANNUAL TRAFFICKING IN PERSONS REPORT- A determination that a country shall not be placed on the special watch list described in subparagraph (A) shall not affect in any way the determination to be made in the following year as to whether a country is complying with the minimum standards for the elimination of trafficking or whether a country is making significant efforts to bring itself into

compliance with such standards.'

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

**(g) RESEARCH RELATING TO TRAFFICKING IN PERSONS-**

(1) **IN GENERAL-** The Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 et seq.) is amended by inserting after section 112 the following new section:

**SEC. 112A. RESEARCH ON DOMESTIC AND INTERNATIONAL TRAFFICKING IN PERSONS.**

The President, acting through the Council of Economic Advisors, the National Research Council of the National Academies, the Secretary of Labor, the Secretary of Health and Human Services, the Attorney General, the Secretary of State, the Administrator of the United States Agency for International Development, and the Director of Central Intelligence, shall carry out research, including by providing grants to nongovernmental organizations, as well as relevant United States Government agencies and international organizations, which furthers the purposes of this division and provides data to address the problems identified in the findings of this division. Such research initiatives shall, to the maximum extent practicable, include, but not be limited to, the following:

(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.'

(2) **CONFORMING AMENDMENT-** The table of contents of the Victims of Trafficking and Violence Protection Act of 2000 is amended by inserting after the item relating to section 112 the following new item:

'Sec. 112A. Research on domestic and international trafficking in persons.'

(h) **SANCTIONS AND WAIVERS-** Section 110(d) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(d)) is amended--

(1) in paragraph (4), by inserting after 'nonhumanitarian, nontrade-related foreign assistance' the following: 'or funding for participation in educational and cultural exchange programs'; and

(2) in paragraph (5)(A)(i), by inserting after 'foreign assistance' the following: 'or funding for participation in educational and cultural exchange programs'.

(i) **SUBSEQUENT WAIVER AUTHORITY-** Section 110 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107) is amended by adding at the end the following new subsection:

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

**SEC. 7. AUTHORIZATION OF APPROPRIATIONS; RELATED MATTERS.**

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

(1) in subsection (a)--

(A) by striking '105' and inserting '105(e), 105(f)'; and

(B) by striking 'and \$3,000,000 for each of the fiscal years 2002 and 2003' and inserting ', \$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';

(2) in subsection (b), by adding at the end before the period the following: 'and \$15,000,000 for each of the fiscal years 2004 and 2005';

(3) in subsection (c)--

(A) in paragraph (1) to read as follows:

'(1) **BILATERAL ASSISTANCE TO COMBAT TRAFFICKING-**

'(A) **PREVENTION-** To carry out the purposes of section 106, there are authorized to be appropriated to the Secretary of State \$10,000,000 for each of the fiscal years 2004 and 2005.

'(B) **PROTECTION-** To carry out the purposes of section 107(a), there are authorized to be appropriated to the Secretary of State \$15,000,000 for fiscal year 2003 and \$10,000,000 for each of the fiscal years 2004 and 2005.

'(C) **PROSECUTION AND MEETING MINIMUM STANDARDS-** To carry out the purposes of section 134 of the Foreign Assistance Act of 1961, there are authorized to be appropriated \$10,000,000 for each of the fiscal years 2004 and 2005 to assist in promoting prosecution of traffickers and otherwise to assist countries in meeting the minimum standards described in section 108 of this Act, including \$250,000 for each such fiscal year to carry out training activities for law enforcement officers, prosecutors, and members of the judiciary with respect to trafficking in persons at the International Law Enforcement Academies; and

(B) in paragraph (2), by striking 'for each of the fiscal years 2001, 2002, and 2003' and inserting 'for each of the fiscal years 2001 through 2005';

(4) in subsection (d)--

(A) by adding at the end before the period the following: "and \$15,000,000 for each of the fiscal years 2004 and 2005"; and

(B) by adding at the end the following new sentence: "To carry out the purposes of section 134 of the Foreign Assistance Act of 1961 (as added by section 109), there are authorized to be appropriated to the President, acting through the Attorney General and the Secretary of State, \$250,000 for each of fiscal years 2004 and 2005 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.";

(5) in subsection (e)--

(A) in paragraphs (1) and (2), by striking "for fiscal year 2003" each place it appears and inserting "for each of the fiscal years 2003 through 2005"; and

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

"(3) RESEARCH- To carry out the purposes of section 112A, there are authorized to be appropriated to the President \$300,000 for fiscal year 2004 and \$300,000 for fiscal year 2005;"

(6) in subsection (f), by adding at the end before the period the following: "and \$10,000,000 for each of the fiscal years 2004 and 2005"; and

(7) by adding at the end the following new subsection:

"(g) LIMITATION ON USE OF FUNDS-

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

"(2) RESTRICTION ON ORGANIZATIONS- No funds made available to carry out this division, or any amendment made by this division, may be used to implement any program that targets victims of severe forms of trafficking in persons described in section 103(8)(A) of this Act through any organization that has not stated in either a grant application, a grant agreement, or both, that it does not promote, support, or advocate the legalization or practice of prostitution. The preceding sentence shall not apply to organizations that provide services to individuals solely after they are no longer engaged in activities that resulted from such victims being trafficked."

## SEC. 8. TECHNICAL CORRECTIONS.

(a) IMMIGRATION AND NATIONALITY ACT-

(1) CLASSES OF NONIMMIGRANT ALIENS- Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended--

(A) by moving the margins of subparagraphs (T) and (U) 2 ems to the left;

(B) in subparagraph (T), by striking "214(n)," and inserting "214(o).";

(C) in subparagraph (U), by striking "214(o)," and inserting "214(p)."; and

(D) in subparagraph (V), by striking "214(o)," and inserting "214(q).";

(2) CLASSES OF ALIENS INELIGIBLE FOR VISAS AND ADMISSION- Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by redesignating the paragraph (13) added by section 1513(e) of the Battered Immigrant Women Protection Act of 2000 (title V of division B of Public Law 106-386; 114 Stat. 1536) as paragraph (14).

(3) ADMISSION OF NONIMMIGRANTS- Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by redesignating subsections (m) (as added by section 105 of Public Law 106-313), (n) (as added by section 107(e) of Public Law 106-386), (o) (as added by section 1513(c) of Public Law 106-386), (p) (as added by section 1102(b) of the Legal Immigration Family Equity Act), and (q) (as added by section 1503(b) of the Legal Immigration Family Equity Act) as subsections (n), (o), (p), (q), and (r), respectively.

(4) ADJUSTMENT OF STATUS OF NONIMMIGRANTS- Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended--

(A) in the subsection (l) added by section 107(f) of Public Law 106-386, by redesignating the second paragraph (2), and paragraphs (3) and (4), as paragraphs (3), (4), and (5), respectively; and

(B) by redesignating the subsection (l) added by section 1513(f) of Public Law 106-386 as subsection (m).

(b) TRAFFICKING VICTIMS PROTECTION ACT OF 2000- (1) Section 103(7)(A)(i) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(7)(A)(i)) is amended by inserting after "part II of that Act" the following: "in support of programs of nongovernmental organizations".

(2) Section 107(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(g)) is amended by striking "214(n)(1)" and inserting "214(o)(2)".

655px of the House of Representatives.

Vice President of the United States and

President of the Senate.

# Trafficking Victims Protection Reauthorization Act of 2005

 [PDF version](#)

H.R. 972

One Hundred Ninth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday, the fourth day of January, two thousand and five

An Act

To authorize appropriations for fiscal years 2006 and 2007 for the Trafficking Victims Protection Act of 2000, and for other purposes.

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

## SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title- This Act may be cited as the "Trafficking Victims Protection Reauthorization Act of 2005".

(b) Table of Contents- The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

## TITLE I--COMBATting INTERNATIONAL TRAFFICKING IN PERSONS

Sec. 101. Prevention of trafficking in conjunction with post-conflict and humanitarian emergency assistance.

Sec. 102. Protection of victims of trafficking in persons.

Sec. 103. Enhancing prosecutions of trafficking in persons offenses.

Sec. 104. Enhancing United States efforts to combat trafficking in persons.

Sec. 105. Additional activities to monitor and combat forced labor and child labor.

## TITLE II--COMBATting DOMESTIC TRAFFICKING IN PERSONS

Sec. 201. Prevention of domestic trafficking in persons.

Sec. 202. Establishment of grant program to develop, expand, and strengthen assistance programs for certain persons subject to trafficking.

Sec. 203. Protection of juvenile victims of trafficking in persons.

Sec. 204. Enhancing State and local efforts to combat trafficking in persons.

Sec. 205. Report to Congress.

Sec. 206. Senior Policy Operating Group.

Sec. 207. Definitions.

## TITLE III--AUTHORIZATIONS OF APPROPRIATIONS

Sec. 301. Authorizations of appropriations.

## SEC. 2. FINDINGS.

Congress finds the following:

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

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

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

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

(5) 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.

#### TITLE I-COMBATTING INTERNATIONAL TRAFFICKING IN PERSONS

##### SEC. 101. PREVENTION OF TRAFFICKING IN CONJUNCTION WITH POST-CONFLICT AND HUMANITARIAN EMERGENCY ASSISTANCE.

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

"(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."

(b) Study and Report-

###### (1) STUDY-

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

(B) FACTORS- In carrying out the study, the Secretary of State and the Administrator of the United States Agency for International Development shall examine--

(i) the vulnerabilities to human trafficking of commonly affected populations, particularly women and children, generated by post-conflict and humanitarian emergencies;

(ii) the various forms of trafficking in persons, both internal and trans-border, including both sexual and labor exploitation;

(iii) a collection of best practices implemented to date to combat human trafficking in such areas; and

(iv) proposed recommendations to better combat trafficking in persons in conjunction with post-conflict reconstruction and humanitarian emergencies assistance.

(2) REPORT- Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Administrator of the United States Agency for International Development, with the concurrence of the Secretary of Defense, shall transmit to the Committee on International Relations and the Committee on Armed Services of the House of Representatives and the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report that contains the results of the study conducted pursuant to paragraph (1).

##### SEC. 102. PROTECTION OF VICTIMS OF TRAFFICKING IN PERSONS.

(a) Access to Information- Section 107(c)(2) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(c)(2)) is amended by adding at the end the following new sentence: "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."

(b) Establishment of Pilot Program for Residential Rehabilitative Facilities for Victims of Trafficking-

###### (1) STUDY-

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

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

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

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

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

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

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



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

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

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

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

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

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

#### **SEC. 103. ENHANCING PROSECUTIONS OF TRAFFICKING IN PERSONS OFFENSES.**

(a) **Extraterritorial Jurisdiction Over Certain Trafficking in Persons Offenses-**

(1) **IN GENERAL-** Part II of title 18, United States Code, is amended by inserting after chapter 212 the following new chapter:

##### **"CHAPTER 212A—EXTRATERRITORIAL JURISDICTION OVER CERTAIN TRAFFICKING IN PERSONS OFFENSES**

"Sec.

"3271. Trafficking in persons offenses committed by persons employed by or accompanying the Federal Government outside the United States.

"3272. Definitions.

"Sec. 3271. Trafficking in persons offenses committed by persons employed by or accompanying the Federal Government outside the United States

"(a) Whoever, while employed by or accompanying the Federal Government outside the United States, engages in conduct outside the United States that would constitute an offense under chapter 77 or 117 of this title if the conduct had been engaged in within the United States or within the special maritime and territorial jurisdiction of the United States shall be punished as provided for that offense.

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

"Sec. 3272. Definitions

"As used in this chapter:

"(1) The term "employed by the Federal Government outside the United States" means--

"(A) employed as a civilian employee of the Federal Government, as a Federal contractor (including a subcontractor at any tier), or as an employee of a Federal contractor (including a subcontractor at any tier);

"(B) present or residing outside the United States in connection with such employment; and

"(C) not a national of or ordinarily resident in the host nation.

"(2) The term "accompanying the Federal Government outside the United States" means--

"(A) a dependant of--

"(i) a civilian employee of the Federal Government; or

"(ii) a Federal contractor (including a subcontractor at any tier) or an employee of a Federal contractor (including a subcontractor at any tier);

"(B) residing with such civilian employee, contractor, or contractor employee outside the United States; and

"(C) not a national of or ordinarily resident in the host nation."

(2) **CLERICAL AMENDMENT-** The table of chapters at the beginning of such part is amended by inserting after the item relating to chapter 212 the following new item: --3271".

(b) **Laundering of Monetary Instruments-** Section 1956(c)(7)(B) of title 18, United States Code, is amended--

(1) in clause (v), by striking "or" at the end;

(2) in clause (vi), by adding "or" at the end; and

(3) by adding at the end the following new clause:

"(vii) trafficking in persons, selling or buying of children, sexual exploitation of children, or transporting, recruiting or harboring a person, including a child, for commercial sex acts;"

(c) **Definition of Racketeering Activity-** Section 1961(1)(B) of title 18, United States Code, is amended by striking "1581-1591" and inserting "1581-1592".

(d) **Civil and Criminal Forfeitures-**



(1) IN GENERAL- Chapter 117 of title 18, United States Code, is amended by adding at the end the following new section:

"Sec. 2428. Forfeitures

"(a) In General- The court, in imposing sentence on any person convicted of a violation of this chapter, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person shall forfeit to the United States--

~~"(1) such person's interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of such violation; and~~

"(2) any property, real or personal, constituting or derived from any proceeds that such person obtained, directly or indirectly, as a result of such violation.

"(b) Property Subject to Forfeiture-

"(1) IN GENERAL- The following shall be subject to forfeiture to the United States and no property right shall exist in them:

"(A) Any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter.

"(B) Any property, real or personal, that constitutes or is derived from proceeds traceable to any violation of this chapter.

"(2) APPLICABILITY OF CHAPTER 46- The provisions of chapter 46 of this title relating to civil forfeitures shall apply to any seizure or civil forfeiture under this subsection."

(2) CLERICAL AMENDMENT- The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2428. Forfeitures."

SEC. 104. ENHANCING UNITED STATES EFFORTS TO COMBAT TRAFFICKING IN PERSONS.

(a) Appointment to Interagency Task Force to Monitor and Combat Trafficking- Section 105(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(b)) is amended--

(1) by striking "the Director of Central Intelligence" and inserting "the Director of National Intelligence"; and

(2) by inserting ", the Secretary of Defense, the Secretary of Homeland Security" after "the Director of National Intelligence" (as added by paragraph (1)).

(b) Minimum Standards for the Elimination of Trafficking-

(1) AMENDMENTS- Section 108(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7106(b)) is amended--

(A) in paragraph (3), by adding at the end before the period the following: ", 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"; and

(B) in the first sentence of paragraph (7), by striking "persons," and inserting "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."

(2) EFFECTIVE DATE- The amendments made by subparagraphs (A) and (B) of paragraph (1) take effect beginning two years after the date of the enactment of this Act.

(c) Research-

(1) AMENDMENTS- Section 112A of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7109a) is amended--

(A) in the first sentence of the matter preceding paragraph (1)--

(i) by striking "The President" and inserting "(a) In General- The President"; and

(ii) by striking "the Director of Central Intelligence" and inserting "the Director of National Intelligence";

(B) in paragraph (3), by adding at the end before the period the following: ", particularly HIV/AIDS";

(C) by adding at the end the following new paragraphs:

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

"(5) An effective mechanism for quantifying the number of victims of trafficking on a national, regional, and international basis.

"(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."; and

(D) by further adding at the end the following new subsections:

"(b) Role of Human Smuggling and Trafficking Center- The research initiatives described in subsection (a)(4) shall be carried out by the Human Smuggling and Trafficking Center (established pursuant to section 7202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458)).

"(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."

(2) REPORT-

(A) IN GENERAL- Not later than one year after the date of the enactment of this Act, the Human Smuggling and Trafficking Center (established pursuant to section 7202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458)) shall submit to the appropriate congressional committees a report on the results of the research initiatives carried out pursuant to section 112A(4) of the Trafficking Victims Protection Act of 2000 (as added by paragraph (1)(C) of this subsection).

(B) DEFINITION- In this paragraph, the term "appropriate congressional committees" means--

(i) the Committee on International Relations and the Committee on the Judiciary of the House of Representatives; and

(ii) the Committee on Foreign Relations and the Committee on the Judiciary of the Senate.

(d) Foreign Service Officer Training- Section 708(a) of the Foreign Service Act of 1980 (22 U.S.C. 4028(a)) is amended--

(1) in the matter preceding paragraph (1), by inserting ", the Director of the Office to Monitor and Combat Trafficking," after "the International Religious Freedom Act of 1998";

(2) in paragraph (1), by striking "and" at the end;

(3) in paragraph (2), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(3) instruction on international documents and United States policy on trafficking in persons, including provisions of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106-386; 22 U.S.C. 7101 et seq.) which may affect the United States bilateral relationships."

(e) Prevention of Trafficking by Peacekeepers-

(1) INCLUSION IN TRAFFICKING IN PERSONS REPORT- Section 110(b)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)(1)) is amended--

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period at the end and inserting "; and"; and

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

"(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."

(2) 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 International Relations 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).

SEC. 105. 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 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)), 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 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b));

(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.

TITLE II--COMBATTING DOMESTIC TRAFFICKING IN PERSONS

SEC. 201. PREVENTION OF DOMESTIC TRAFFICKING IN PERSONS.

(a) Program to Reduce Trafficking in Persons and Demand for Commercial Sex Acts in the United States-

(1) COMPREHENSIVE RESEARCH AND STATISTICAL REVIEW AND ANALYSIS OF INCIDENTS OF TRAFFICKING IN PERSONS AND COMMERCIAL SEX ACTS-

(A) IN GENERAL- The Attorney General shall use available data from State and local authorities as well as research data to carry out a biennial comprehensive research and statistical review and analysis of severe forms of trafficking in persons; and a biennial comprehensive research and statistical review and analysis of sex trafficking and unlawful commercial sex acts in the United States, and shall submit to Congress separate biennial reports on the findings.

(B) CONTENTS- The research and statistical review and analysis under this paragraph shall consist of two separate studies, utilizing the same statistical data where appropriate, as follows:

(i) The first study shall address severe forms of trafficking in persons in the United States and shall include, but need not be limited to--

(I) the estimated number and demographic characteristics of persons engaged in acts of severe forms of trafficking in persons; and

(II) the number of investigations, arrests, prosecutions, and incarcerations of persons engaged in acts of severe forms of trafficking in persons by States and their political subdivisions.

(ii) The second study shall address sex trafficking and unlawful commercial sex acts in the United States and shall include, but need not be limited to--

(I) the estimated number and demographic characteristics of persons engaged in sex trafficking and commercial sex acts, including purchasers of commercial sex acts;

(II) the estimated value in dollars of the commercial sex economy, including the estimated average annual personal income derived from acts of sex trafficking;

(III) the number of investigations, arrests, prosecutions, and incarcerations of persons engaged in sex trafficking and unlawful commercial sex acts, including purchasers of commercial sex acts, by States and their political subdivisions; and

(IV) a description of the differences in the enforcement of laws relating to unlawful commercial sex acts across the United States.

(2) TRAFFICKING CONFERENCE-

(A) IN GENERAL- The Attorney General, in consultation and cooperation with the Secretary of Health and Human Services, shall conduct an annual conference in each of the fiscal years 2006, 2007, and 2008, and thereafter conduct a biennial conference, addressing severe forms of trafficking in persons and commercial sex acts that occur, in whole or in part, within the territorial jurisdiction of the United States. At each such conference, the Attorney General, or his designee, shall--

(i) announce and evaluate the findings contained in the research and statistical reviews carried out under paragraph (1);

(ii) disseminate best methods and practices for enforcement of laws prohibiting acts of severe forms of trafficking in persons and other laws related to acts of trafficking in persons, including, but not limited to, best methods and practices for training State and local law enforcement personnel on the enforcement of such laws;

(iii) disseminate best methods and practices for training State and local law enforcement personnel on the enforcement of laws prohibiting sex trafficking and commercial sex acts, including, but not limited to, best methods for investigating and prosecuting exploiters and persons who solicit or purchase an unlawful commercial sex act; and

(iv) disseminate best methods and practices for training State and local law enforcement personnel on collaborating with social service providers and relevant nongovernmental organizations and establishing trust of persons subjected to commercial sex acts or severe forms of trafficking in persons.

(B) PARTICIPATION- Each annual conference conducted under this paragraph shall involve the participation of persons with expertise or professional responsibilities with relevance to trafficking in persons, including, but not limited to--

(i) Federal Government officials, including law enforcement and prosecutorial officials;

(ii) State and local government officials, including law enforcement and prosecutorial officials;

(iii) persons who have been subjected to severe forms of trafficking in persons or commercial sex acts;

(iv) medical personnel;

(v) social service providers and relevant nongovernmental organizations; and

(vi) academic experts.

(C) REPORTS- The Attorney General and the Secretary of Health and Human Services shall prepare and post on the respective Internet Web sites of the Department of Justice and the Department of Health and Human Services reports on the findings and best practices identified and disseminated at the conference described in this paragraph.

(b) Termination of Certain Grants, Contracts, and Cooperative Agreements- Section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104) is amended--

(1) by striking "Cooperative Agreements- " and all that follows through "The President shall" and inserting "Cooperative Agreements- The President shall";

(2) by striking "described in paragraph (2)"; and

(3) by striking paragraph (2).

(c) Authorization of Appropriations- There are authorized to be appropriated--

(1) \$2,500,000 for each of the fiscal years 2006 and 2007 to carry out the activities described in subsection (a)(1)(B)(i) and \$2,500,000 for each of the fiscal years 2006 and 2007 to carry out the activities described in subsection (a)(1)(B)(ii); and

(2) \$1,000,000 for each of the fiscal years 2006 through 2007 to carry out the activities described in subsection (a)(2).

**SEC. 202. ESTABLISHMENT OF GRANT PROGRAM TO DEVELOP, EXPAND, AND STRENGTHEN ASSISTANCE PROGRAMS FOR CERTAIN PERSONS SUBJECT - TO TRAFFICKING.**

(a) Grant Program- The Secretary of Health and Human Services may make grants to States, Indian tribes, units of local government, and nonprofit, nongovernmental victims' service organizations to establish, develop, expand, and strengthen assistance programs for United States citizens or aliens admitted for permanent residence who are the subject of sex trafficking or severe forms of trafficking in persons that occurs, in whole or in part, within the territorial jurisdiction of the United States.

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

(c) Limitation on Federal Share- The Federal share of a grant made under this section may not exceed 75 percent of the total costs of the projects described in the application submitted.

(d) Authorization of Appropriations- There are authorized to be appropriated \$10,000,000 for each of the fiscal years 2006 and 2007 to carry out the activities described in this section.

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

(a) Establishment of Pilot Program- Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and carry out a pilot program to establish residential treatment facilities in the United States for juveniles subjected to trafficking.

(b) Purposes- The purposes of the pilot program established pursuant to subsection (a) are to--

(1) provide benefits and services to juveniles subjected to trafficking, including shelter, psychological counseling, and assistance in developing independent living skills;

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

(3) assess the need for and feasibility of establishing additional residential treatment facilities for juveniles subjected to trafficking.

(c) Selection of Sites- The Secretary of Health and Human Services shall select three sites at which to operate the pilot program established pursuant to subsection (a).

(d) Form of Assistance- In order to carry out the responsibilities of this section, the Secretary of Health and Human Services shall enter into contracts with, or make grants to, organizations that--

(1) have relevant expertise in the delivery of services to juveniles who have been subjected to sexual abuse or commercial sexual exploitation; or

(2) have entered into partnerships with organizations that have expertise as described in paragraph (1) for the purpose of implementing the contracts or grants.

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

(f) Definition- In this section, the term "juvenile subjected to trafficking" means a United States citizen, or alien admitted for permanent residence, who is the subject of sex trafficking or severe forms of trafficking in persons that occurs, in whole or in part, within the territorial jurisdiction of the United States and who has not attained 18 years of age at the time the person is identified as having been the subject of sex trafficking or severe forms of trafficking in persons.

(g) Authorization of Appropriations- There are authorized to be appropriated to the Secretary of Health and Human Services to carry out this section \$5,000,000 for each of the fiscal years 2006 and 2007.

**SEC. 204. ENHANCING STATE AND LOCAL EFFORTS TO COMBAT TRAFFICKING IN PERSONS.**

(a) Establishment of Grant Program for Law Enforcement-

(1) IN GENERAL- The Attorney General may make grants to States and local law enforcement agencies to establish, develop, expand, or strengthen programs--

(A) to investigate and prosecute acts of severe forms of trafficking in persons, and related offenses, which involve United States citizens, or aliens admitted for permanent residence, and that occur, in whole or in part, within the territorial jurisdiction of the United States;

(B) to investigate and prosecute persons who engage in the purchase of commercial sex acts;

(C) to educate persons charged with, or convicted of, purchasing or attempting to purchase commercial sex acts; and

(D) to educate and train law enforcement personnel in how to establish trust of persons subjected to trafficking and encourage cooperation with prosecution efforts.

(2) DEFINITION- In this subsection, the term "related offenses" includes violations of tax laws, transacting in illegally derived proceeds, money laundering, racketeering, and other violations of criminal laws committed in connection with an act of sex trafficking or a severe form of trafficking in persons.

(b) Multi-Disciplinary Approach Required- Grants under subsection (a) may be made only for programs in which the State or local law enforcement agency works collaboratively with social service providers and relevant nongovernmental organizations, including organizations with experience in the delivery of services to persons who are the subject of trafficking in persons.

(c) Limitation on Federal Share- The Federal share of a grant made under this section may not exceed 75 percent of the total costs of the projects described in the application submitted.

(d) Authorization of Appropriations- There are authorized to be appropriated to the Attorney General to carry out this section \$25,000,000 for each of the fiscal years 2006 and 2007.

**SEC. 205. REPORT TO CONGRESS.**

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

(1) in subparagraph (F), by striking "and" at the end;

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) the amount, recipient, and purpose of each grant under sections 202 and 204 of the Trafficking Victims Protection Act of 2005; and".

#### SEC. 206. SENIOR POLICY OPERATING GROUP.

Each Federal department or agency involved in grant activities related to combatting trafficking or providing services to persons subjected to trafficking inside the United States shall, as the department or agency determines appropriate, apprise the Senior Policy Operating Group established by section 105(f) of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7103(f)), under the procedures established by the Senior Policy Operating Group, of such activities of the department or agency to ensure that the activities are consistent with the purposes of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.).

#### SEC. 207. DEFINITIONS.

In this title:

(1) **SEVERE FORMS OF TRAFFICKING IN PERSONS**- The term "severe forms of trafficking in persons" has the meaning given the term in section 103(8) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(8)).

(2) **SEX TRAFFICKING**- The term "sex trafficking" has the meaning given the term in section 103(9) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(9)).

(3) **COMMERCIAL SEX ACT**- The term "commercial sex act" has the meaning given the term in section 103(3) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(3)).

#### TITLE III—AUTHORIZATIONS OF APPROPRIATIONS

##### SEC. 301. AUTHORIZATIONS OF APPROPRIATIONS.

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

(1) in subsection (a)--

(A) by striking "and \$5,000,000" and inserting "\$5,000,000";

(B) by adding at the end before the period the following: ", and \$5,500,000 for each of the fiscal years 2006 and 2007"; and

(C) by further adding at the end the following new sentence: "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.";

(2) in subsection (b), by striking "2004 and 2005" and inserting "2004, 2005, 2006, and 2007";

(3) in subsection (c)(1), by striking "2004 and 2005" each place it appears and inserting "2004, 2005, 2006, and 2007";

(4) in subsection (d), by striking "2004 and 2005" each place it appears and inserting "2004, 2005, 2006, and 2007";

(5) in subsection (e)--

(A) in paragraphs (1) and (2), by striking "2003 through 2005" and inserting "2003 through 2007"; and

(B) in paragraph (3), by striking "\$300,000 for fiscal year 2004 and \$300,000 for fiscal year 2005" and inserting "\$300,000 for each of the fiscal years 2004 through 2007";

(6) in subsection (f), by striking "2004 and 2005" and inserting "2004, 2005, 2006, and 2007"; and

(7) by adding at the end the following new subsections:

"(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 fiscal year 2006, 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, \$18,000,000 for each of the fiscal years 2006 and 2007, to remain available until expended, for investigations by the Bureau of Immigration and Customs Enforcement of severe forms of trafficking in persons."

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

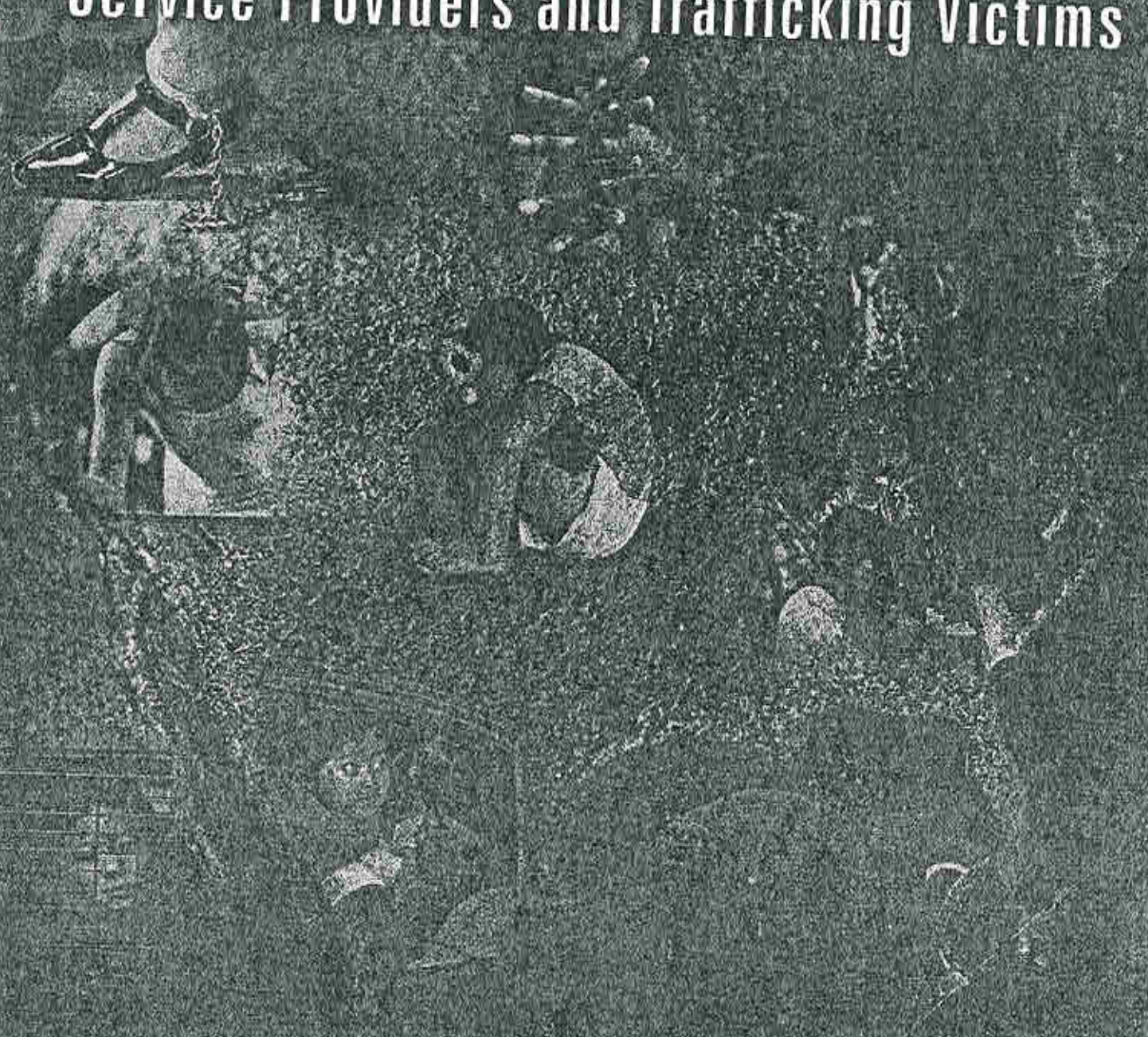
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# NEEDS ASSESSMENT

for

Service Providers and Trafficking Victims



Report prepared by Caliber Associates, Inc. for the U.S. Department of Justice, National Institute of Justice



# **NEEDS ASSESSMENT**

**for**

**Service Providers and Trafficking Victims**

**Prepared by:**

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This document was prepared by Caliber Associates Inc., Fairfax, VA, under contract number OJP-99-C-010 from the National Institute of Justice (NIJ), U.S. Department of Justice. The findings and recommendations presented in this report are those of the authors and do not represent the official positions or policies of the U.S. Department of Justice or National Institute of Justice.

# ACKNOWLEDGMENTS

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The *Needs Assessment for Service Providers and Trafficking Victims* project was a project that began in October 2001 between the National Institute of Justice and Caliber Associates. This report represents the joint effort of many individuals whose contributions we gratefully acknowledge.

We would like to thank from the National Institute of Justice, International Center, Marvene O'Rourke, Jay Albanese, and Jim Finckenaue for their vision and collective influence throughout the project. From Caliber Associates we would like to thank Dan Felker for oversight, Christine Leicht for providing analytic support, Ryan Mahon, and Nicki Bush who assisted with data collection, and Kris Oduro and Abolfazl Bahadori from Publication Design and Production.

We are grateful to the many service providers who took time to share their experiences for inclusion in this report. This report would not have been possible without their contributions.

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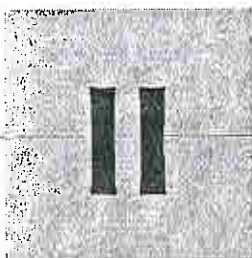
# INTRODUCTION

**W**hile there is a significant amount of information regarding the magnitude, causes and practices of trafficking, little information exists on the needs of trafficking victims and the service providers working to meet those needs. In fact, no studies have been conducted on a national scale to systematically assess the needs of victims and those service providers working with them. With the passage of the Victims of Trafficking and Violence Protection Act of 2000, it is increasingly important to better understand the needs of trafficking victims and service providers.

The following is a report of the findings from the National Needs Assessment of Service Providers and Trafficking Victims. It begins with a review of current literature on the issue of trafficking, continues with a description of the research design and methodology of the needs assessment and presentation of the findings.

In response, the National Institute of Justice (NIJ) commissioned assistance from Caliber Associates, Inc. (Caliber) under a task order contract to conduct a National Needs Assessment of Service Providers and Trafficking Victims that would provide the Office of Justice Programs and the field at large with information needed to develop more effective programs to service trafficking victims and ensure existing and new programs are both responsive and effective in meeting the needs of trafficking victims. Specifically, the needs assessment was designed to answer the following questions:

- What services currently exist for trafficking victims?
- How responsive are these services to victims? Are they meeting their needs?
- What are barriers to providing services to trafficking victims? Barriers to accessing services?
- What assistance/support do service providers need to effectively serve trafficking victims?



# BACKGROUND & UNDERSTANDING

## 1. HUMAN TRAFFICKING DEFINED

The United States Congress defines trafficking in persons as all acts involved in the transport, harboring, or sale of persons within national or across international borders through coercion, force, kidnapping, deception, or fraud, for purposes of placing persons in situations of forced labor or services, such as forced prostitution, domestic servitude, debt bondage, or other slavery-like practices.<sup>1</sup> Whether or not an activity falls under this definition of trafficking depends on two factors: the type of work victims are forced to do and the use of coercion, force, kidnapping, deception, or fraud to secure that forced work.

The crime of trafficking in persons affects virtually every country in the world.<sup>2</sup> This trade in humans occurs on a global scale, but due to its covert and underground nature, the international magnitude of the problem is difficult to ascertain. A recent United States (U.S.) Government estimate suggests that approximately 800,000 to 900,000 persons are trafficked across international borders each year.<sup>3</sup> Traffickers often prey on impoverished individuals who are frequently unemployed or underemployed and who may lack access to social safety nets, such as women and children from certain countries and cultures.<sup>4</sup> Trafficking victims are deceived and duped through false promises of economic opportunities that await them in more affluent destination countries, such as the U.S. Hence, patterns and routes of trafficking often flow from less developed countries to neighboring countries or industrialized nations with higher standards of living.<sup>5</sup> Victims are most commonly lured from third world countries in Asia, Eastern Europe, Africa, and Latin America that display consistently high rates of poverty, violence, and corruption.<sup>6</sup> Economic and political instability, government corruption, illiteracy, civil unrest, low food production, high infant mortality rates, and internal armed conflict within a country all represent various indicators or "push" factors that increase the likelihood that a country will become a source of trafficking victims.<sup>7</sup>

Upon arrival in a new location, instead of finding the opportunities they were promised, trafficked individuals suffer egregious human rights abuses, such as being held in slavery-like conditions and forced into prostitution, domestic service, or forced labor where they may be held in bondage, raped, beaten, and/or starved.<sup>8</sup> In these extreme living conditions, trafficking victims suffer severe physical, psychological, and emotional health consequences as they are subjected to a range of behaviors that may include physical violence, sexual assault, emotional abuse, mind-control, and torture.<sup>9</sup>

Trafficking in persons is the world's fastest growing criminal enterprise, with profits that rival the illegal drugs and arms trades.<sup>10</sup> The Vienna-based International Centre for Migration Policy Development estimates that overall profits from trafficking in persons were as much as \$7 billion in 1995.<sup>11</sup> More recent estimates suggest that overall profits from the crime have increased to the current range of \$9 billion.<sup>12</sup> The crime receives its name because the perpetrators often move or 'traffic' victims from their home communities to other areas - either domestically within the country of origin or to foreign countries - to make money from their forced labor.<sup>13</sup> Victims are often brought to areas where the demand is highest and most consistent, such as large cities, vacation and tourist areas, or near military bases.<sup>14</sup> Also, in many cases, the trafficker charges the unknowing victim an exorbitant smuggling fee or "employment" fee. These fees range anywhere from hundreds to thousands of dollars.<sup>15</sup> When the victim cannot pay this fee up front, the trafficker locks the victim in a vicious cycle of debt bondage or indentured servitude that prevents victims from ever paying off the original fee.<sup>16</sup> Traffickers capitalize on victims' indebtedness and isolation and combine the use of threats, intimidation, violence, and manipulation to control victims, break their will, confine them in captivity, and force them to engage in sex acts or to labor under slave-like conditions.<sup>17</sup> Types of trafficking include forced begging, bonded labor, forced prostitution, servile marriage, false adoption,

domestic servitude, and work in sweatshops. In addition, trafficking may also feed into the industries of agricultural labor, food processing, pornography, sex tourism and entertainment, construction, organ harvesting, and restaurant work.

The networks of international organized crime are attracted to the trade in humans precisely because of low risk and because the criminal penalties for sex trafficking are light in most countries.<sup>18</sup> This year's Trafficking in Persons Report-June 2003 reiterates this fact, describing how traffickers enjoy "virtually no risk of prosecution" by using dramatic improvements in transportation and communications to run their trafficking operations.<sup>19</sup> The report describes how traffickers avoid punishment for their crimes by operating in locations where there is little rule of law, lack of enforcement of anti-trafficking laws, and corruption of government and law enforcement institutions.<sup>20</sup> Moreover, trafficking is uniquely lucrative because traffickers can receive steady profits from forced labor or sexual exploitation for prolonged periods of time, as compared to smugglers who receive only one payment for transporting one person.<sup>21</sup> Unlike the sale of drugs, human victims can be sold repeatedly, which creates high profit margins for perpetrators.<sup>22</sup> Furthermore, the practice of trafficking does not require a large capital investment on the part of the trafficker. As a result, the crime of trafficking in persons offers international organized crime syndicates a low-risk opportunity to make billions in tax-free profits by exploiting a system of seemingly unlimited supply and unending demand for a relatively low cost.<sup>23</sup>

## 2. TRAFFICKING IN THE UNITED STATES

In its most recent yearly report entitled, Trafficking in Persons Report-June 2003, the United States Department of State (the State Department) finds that approximately 18,000 to 20,000 people are trafficked into the U.S. each year for the purposes of forced labor, involuntary domestic servitude, and/or sexual exploitation.<sup>24</sup> Moreover, the 2002 publication of this report asserts that the United States is principally a transit and destination country for the practice of human trafficking.<sup>25</sup> The Bureau of Immigration and Customs Enforcement (BICE) has identified numerous brothels throughout the United States that likely involved trafficking victims.<sup>26</sup> Investigative findings such as this one, combined with media stories and government reports, indicate that trafficking for sexual and

commercial exploitation is a growing national problem that annually increases in scope and magnitude.

While some trafficking victims do enter the United States through legal means, many trafficking victims are transported across America's borders in a variety of ways, such as by plane, boat, car, train, or on foot.<sup>27</sup> Traffickers also deceive BICE personnel by bringing women and children in under the guises of educational visas, tourist visas, or fraudulent entry papers. Furthermore, traffickers enjoy a low risk of prosecution or deterrence from the American criminal justice system. A review of prominent and recent trafficking court cases revealed that criminal penalties for traffickers appear light and harmless compared to sentences given to drug or weapons dealers.<sup>28</sup> For example, the statutory maximum for sale into involuntary servitude is only ten years per count, whereas the statutory maximum for dealing ten grams of LSD or distributing a kilo of heroin is life in prison.<sup>29</sup> Previously convicted traffickers charged with forced prostitution and forced servitude have received relatively light sentences, ranging from seven months to fifteen years of jail time.<sup>30</sup>

Due to its underground nature, the issue of trafficking in persons has received widespread attention within the last decade in the United States, and legislation specifically geared toward trafficking into the U.S. has only recently become a salient issue for U.S. policymakers. Unfortunately, conditions are prime for the trafficking industry to continue to thrive in this country. International trafficking to the United States is likely to increase due to weak economies, unemployment and scarce job opportunities in foreign countries of origin, the low risk of prosecution and enormous profit potential for traffickers, and improved international transportation and communication infrastructures.<sup>31</sup>

## 3. RESPONSES TO THE TRAFFICKING PROBLEM

Both domestically and internationally, various groups and institutions have made efforts to combat the trafficking problem on multiple fronts. The Federal government, domestic and international non-governmental organizations (NGOs), faith-based organizations, and social service providers have all responded with an array of prevention, intervention, and treatment strategies to address the crime. Because the crime and effects of trafficking in persons have only recently become a salient

issue, the national response to the issue is still in its early stages. Consequently, although the groundwork for a coordinated infrastructure of social services is new and developing, noticeable progress has been made during a relatively short period of time.

### 3.1 The Federal Legislative Response

The 106th Congress passed the Victims of Trafficking and Violence Protection Act of 2000, which President Clinton signed into law on October 28, 2000.<sup>32</sup> This Act is composed of three separate divisions. Division A of this Act is the Trafficking Victims Protection Act of 2000, commonly referred to as the TVPA.<sup>33</sup> The TVPA is the first comprehensive United States law to address the various aspects of trafficking in persons.<sup>34</sup> Based on a three-tiered framework of prevention, prosecution, and protection, the TVPA was formulated to reduce the imbalance between the severity of the crime and the average length of criminal sentences, to rectify the inadequacy of past United States' laws, and to begin to systematically and explicitly combat the issue of trafficking in persons on the domestic front. As it is stated in the Act, the purpose of the TVPA is 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."<sup>35</sup> The TVPA also recognized that, before its enactment, "existing legislation and law enforcement in the United States and other countries are inadequate to deter trafficking or to bring traffickers to justice, failing to reflect the gravity of the offenses involved."<sup>36</sup>

As one prevention strategy in the TVPA, Congress directed the President to establish and implement international initiatives to enhance economic opportunities for potential trafficking victims.<sup>37</sup>

Examples of these initiatives include micro-lending programs, job training and counseling, educational programs, public awareness programs, and grants to non-governmental organizations to accelerate and advance the political, economic, social, and educational roles of women in their home countries.<sup>38</sup> In addition, the TVPA also augments prevention efforts by providing for the allocation of grant funds to be set aside for research and evaluation to further explore the practices and effects of the crime.<sup>39</sup>

The TVPA, along with the Immigration and Nationality Act, endeavors to provide Federal prosecutors with more

statutes and stricter statutes under which to prosecute human trafficking offenses. For example, the TVPA provides the first definition under Federal law of a "victim of trafficking," and it broadens the definition of involuntary servitude as defined by the Supreme Court in *United States v. Kozminski*.<sup>40</sup> The Immigration and Nationality Act provides stiffer penalties for trafficking with respect to peonage, slavery, involuntary servitude, or forced labor. These crimes now carry a maximum prison term of 20 years.<sup>41</sup> If from any of these acts death results, or the violation includes kidnapping and/or aggravated sexual abuse, the defendant could be imprisoned for any term of years to life.<sup>42</sup> Moreover, the maximum prison term for the crime of sex trafficking of children by force, fraud or coercion is now 40 years.<sup>43</sup>

To protect victims, the TVPA creates new standards of eligibility for trafficking victims to receive government benefits under Federal or State programs, regardless of their potentially illegal or undocumented status.<sup>44</sup> To implement the vision outlined in the TVPA, the Federal Departments of Justice and Health and Human Services are working together to certify hundreds of trafficking victims through the Office of Refugee Resettlement (ORR), so that to the same extent as refugees, trafficking victims may receive a wide range of Federal and State benefits including employment authorization, housing, mental health services, medical care, and Supplemental Security Income.<sup>45</sup> The TVPA also provides for the protection of trafficked individuals while they are in the custody of the Federal government or are assisting in the prosecution of a Federal case.<sup>46</sup> In this regard, the TVPA creates eligibility for victims of trafficking to enter the Federal Witness Security Program, which is outlined in and regulated by the Victim and Witness Protection Act (VWPA).<sup>47</sup>

The Immigration and Nationality Act also provides protection to human trafficking victims by granting victims a T visa that gives them temporary residency status in the United States.<sup>48</sup> To be eligible for a T visa, trafficking victims must meet certain criteria including: a) that the victim is or has been a victim of a severe form of trafficking in persons as defined in section 7102(8) of the TVPA; b) the victim is physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry thereto, on account of such trafficking; c) the victim has complied with requests for help in the investigation or prosecution of traffickers or has not reached the age of 15; and d) the victim would suffer extreme hardship involving unusual or severe harm upon removal from



the United States.<sup>49</sup> In addition, the Immigration and Nationality Act outlines criteria for the protection of the families of trafficking victims as well. The Immigration and Nationality Act allows the Attorney General to grant derivative T visas to the victim's spouse and children, and to the victim's parents if the victim is less than 21 years of age.<sup>50</sup> These provisions signify a shift in United States' immigration policy, which previously subjected illegal aliens to deportation, irrespective of the circumstances that brought them to the country.<sup>51</sup>

The TVPA also created new mandates for numerous Federal agencies that would necessarily be involved in some aspect of response to the crime. The TVPA lays out new guidelines for the Departments of State, Justice, Labor, and Health and Human Services to respond to human trafficking in various preventive, protective, and investigative ways. For example, the TVPA calls for the establishment of an Interagency Task Force to Monitor and Combat Trafficking supported by a new office within the Department of State.<sup>52</sup> In addition, the TVPA requires the Secretary of State, with the assistance of the Interagency Task Force, to submit an Annual Report to Congress on the status of certain aspects of trafficking in persons, such as different countries' efforts to address and combat the issue.<sup>53</sup> Finally, the TVPA recognizes that combating the global issue requires international cooperation between countries of origin, transit, and destination. To this end, the TVPA sets minimum standards for the elimination of trafficking that other countries must satisfy, offers assistance to these countries to meet these standards, and outlines punishments to be taken against countries that fail to meet minimum thresholds, such as economic sanctions.<sup>54</sup> Overall, the passage of the TVPA represents a bold step taken by the United States government to begin to address the crime of trafficking in persons both domestically and internationally.

### 3.2 Critiques of the Trafficking Victims Protection Act of 2000

Although the TVPA is widely regarded as a positive step toward addressing the global crime of trafficking in persons, scholars have offered various critiques and posed numerous questions surrounding certain structural aspects of the Act. With regard to the international standards and minimum thresholds that it sets for other countries, the TVPA has been accused of being culturally imperialistic by imposing United States' requirements and values on other countries and cultures.<sup>55</sup>

In addition, scholars have noted the lack of an enforcement arm built into the TVPA and question whether the Act will have the power to truly enact and enforce its three-pronged strategy of prevention, prosecution and protection described above.<sup>56</sup> These critics point out that while the Act has the potential to do much good, there is no guarantee that its provisions will be enforced.<sup>57</sup> Similarly, some voice concern about certain burdens of proof being placed on victims and the strict eligibility requirements to obtain a T visa that are built into the TVPA. The TVPA has further been criticized for not providing adequate means of financial restitution for victims because it lacks mention of the awarding of actual and punitive damages, attorney's fees, and litigation expenses to victims.<sup>58</sup> Alternatively, some question whether the TVPA can appropriately balance the human rights of trafficking victims with law enforcement obligations. The crime-fighting mechanism in the TVPA compromises the protection and assistance needs of trafficking victims.<sup>59</sup> Many suggest that the protection and services infrastructure that exists for other crime victims in the United States has not yet been applied to victims of trafficking.<sup>60</sup>

Many critical questions surrounding the impact of the TVPA also remain unanswered in the areas of available services, funding, international standards, and the T visa. Having been in existence for only three years, the true impact of the TVPA may be determined once further regulations are produced, implemented, and studied.<sup>61</sup> The TVPA is being considered for reauthorization by Congress as the Trafficking Victims Protection Reauthorization Act of 2003 (H.R. 2620).<sup>62</sup> Sponsored by Rep. Christopher Smith (R-NJ), the bill was approved by a voice vote of the House International Relations Committee on July 23, 2003.<sup>63</sup>

Among other purposes, H.R. 2620 is intended to reauthorize appropriations for the TVPA for fiscal years 2004 and 2005.<sup>64</sup>

### 3.3 Other Federal Responses to Trafficking

The White House Office of the Press Secretary offered a press release on February 25, 2003 that outlined the U.S. government's specific efforts to combat trafficking in persons. President George W. Bush has newly signed a National Security Presidential Directive to advance the United States' fight against this modern form of slavery.<sup>65</sup>

This White House press release outlines different aspects of the Federal government's commitment to eradicate trafficking, which are stated as:

- Vigorously enforcing U.S. laws against all those who traffic in persons
- Raising awareness at home and abroad about human trafficking and how it can be eliminated
- Identifying, protecting, and assisting victims who have been exploited by traffickers
- Reducing the vulnerability of individuals to trafficking through increased education, economic opportunity, and protection and promotion of human rights
- Employing diplomatic and foreign policy tools to encourage other nations, the United Nations, and other multilateral institutions to work to combat this crime, to draft and enforce laws against trafficking, and to hold accountable those who are engaged in the practice.

The press release also lists various ways in which the United States government has addressed the crime since the passage of the TVPA. Drawing from this account as well as other sources, a list of Federal actions to combat human trafficking is shown below, highlighting services that are currently available for trafficking victims from the Federal government:

- Establishment of a Task Force-On February 13, 2002, President Bush signed Executive Order 13257 which established a Cabinet-level Interagency Task Force to Monitor and Combat Trafficking in Persons. In addition, a specific agency entitled the Office to Monitor and Combat Trafficking in Persons was created within the Department of State. This office has assessed the progress of 165 governments in addressing trafficking and published findings in the third annual Trafficking in Persons report submitted to Congress each year by the Secretary of State.<sup>66</sup>
- Funding for Anti-trafficking Programs-In FY 2002, the Department of State funded over 110 anti-trafficking programs in approximately 50 countries. These programs provide various forms of assistance to victims, such as shelters and reintegration services.<sup>67</sup> Additionally, since January 2001, the United States Agency for International Development

(USAID) has worked to support anti-trafficking programs and initiatives in developing countries. In FY 2002, USAID spent more than 10 million dollars throughout 30 countries where there are high levels of human trafficking.<sup>68</sup> To date, the Department of Health and Human Services has provided over 4 million dollars in grant funding to service providers throughout the country that provide education, outreach, and direct assistance to trafficking victims.<sup>69</sup> Lastly, the Department of Justice Office for Victims of Crime recently awarded 12 grants in January 2003 totaling more than 9.5 million dollars for trafficking-related services. Eight of these grants received funding to establish comprehensive social services for trafficking victims in specific States or regions, such as emergency medical attention, food, shelter, legal support, and mental health counseling. These grants are also designed to focus on those victims of trafficking who have not yet received a certification from the Office of Refugee Resettlement (ORR) and are thus in their pre-certification period. Three grants will support similar specialized services to trafficking victims in larger multi-State areas.<sup>70</sup>

- Certification for Victims-The Department of Health and Human Services has implemented a process of "certifying" victims of trafficking through the ORR to offer victims short-term eligibility for a wide range of Federal and State social services. To date, the ORR has certified over 370 victims of trafficking.<sup>71</sup>
- Granting T Visas-Since Attorney General John Ashcroft announced the implementation of the new T visa status, the BICE has been able to grant 23 T visas to trafficking victims.<sup>72</sup> The BICE has also granted 300 "continued presence" requests and is currently processing 150 new T visa applications.<sup>73</sup>
- Increasing Prosecution-Since the passage of the TVPA, the Justice Department has opened a record number of trafficking investigations and prosecuted more traffickers than at any time in recent years. Resulting convictions include 36 defendants in sex trafficking cases. Plus, trafficking investigations have been initiated in 46 States and in all United States territories.<sup>74</sup> As described by Rep. Christopher Smith in his statement to the U.S. House of Representatives Committee on International Relations, Federal prosecutors initiated prosecutions of 79 traffickers in the past two years.<sup>75</sup>

It is evident that the United States government is making numerous multi-pronged efforts to combat human trafficking both at home and abroad. Through the combined efforts of various offices and agencies within the White House, the Department of State, the Department of Justice, the Department of Health and Human Services, and the Department of Labor, the government has begun to build the foundations of an infrastructure designed to serve and protect trafficking victims.

### 3.4 Other Responses to Trafficking

#### Non-governmental Organizations

Numerous domestic and international non-governmental organizations (NGOs) have taken up the cause of trafficking in persons and are addressing the issue from multiple angles ranging from direct service to policy research.

Although few domestic NGOs have formed for the explicit purpose of serving only trafficking victims, other organizations, such as domestic violence shelters, sexual assault clinics, human rights advocates, and/or refugee services have responded by providing various direct services to trafficking victims whom they have encountered in their work with other victim populations. These organizations may be Federally-funded, State-funded, and/or privately funded through various foundations.<sup>76</sup> Local advocacy and cultural organizations designed to serve a particular ethnic group also may encounter trafficking victims in their work. Because human trafficking is a complex, multi-dimensional, and often an international crime, trafficking victims present characteristics and needs that overlap and can fit into many areas of service including immigration, legal, health, and/or mental health services. Notably, agencies in these areas vary by scope, size, specialization, and location, which affects the number of trafficking victims that any organization can serve, or the specific needs that any organization can meet. Consequently, because many service agencies specialize in one particular area, these agencies collaborate and piece services together to best meet the numerous needs of trafficking victims. Cooperation between Federal and State government agencies and the NGOs that serve this population is vital for the well-being of trafficking victims.<sup>77</sup> Overall, regardless of whether or not they were formed for the explicit purpose of serving trafficking victims, many non-governmental organizations have responded to the crime of trafficking in persons by offering critical and much-needed direct services to trafficking victims.

Other NGOs that do not provide direct services to trafficking victims also play an important role in the response to the crime of trafficking in persons.<sup>78</sup> These organizations may provide policy research, legislative advocacy, information dissemination, or public awareness campaigns. Efforts of these agencies combat trafficking on many of the necessary fronts that supplement direct services. For example, Vital Voices, a global partnership NGO that supports women's issues, has partnered with the United Nations Office on Drugs and Crime to launch a global television campaign to combat human trafficking, which includes the distribution of two public service announcements (PSAs) that were released on July 31, 2003.<sup>79</sup> These PSAs have aired in over 35 countries and are being distributed to broadcasters throughout the United States.

As a whole, regardless of their specific focus or mission, NGOs play an extremely important role in the response to human trafficking. Through the combined efforts of NGOs, a coordinated infrastructure of services for trafficking victims is growing in response to the crime.

#### Faith-based Organizations

Faith-based organizations have mobilized to help address the trafficking in persons problem in the United States in various ways. First, two national faith-based agencies, the United States Conference of Catholic Bishops (USCCB) and the Lutheran Immigration and Refugee Services, administer the Federal government's resettlement program for unaccompanied refugee minors in multiple locations throughout the country.<sup>80</sup> The program was formed in the late 70's and early 80's and was originally intended solely for the care of unaccompanied refugee entrant minors (UR/EM). However, the program has adapted in recent years to serve trafficking victims under the age of 18. The Department of Health and Human Services Office of Refugee Resettlement (ORR) works with these two national faith-based agencies to shelter and resettle trafficking victims who are minors. Although the incorporation of trafficking victims into these programs is a relatively new phenomenon, linkages and partnerships are in the process of forming, and these shelters now represent a new available service for trafficking victims.

In addition to administering this national resettlement program, faith-based organizations also offer a variety of social services to trafficking victims in general. Both

of the aforementioned national faith-based agencies attempt to meet the needs of trafficking victims through the provision of immigration and refugee services, legal services, and services for basic needs such as food, clothing, and shelter. Because these agencies have multiple locations throughout the country, the USCCB and the Lutheran Immigration and Refugee Services play a valuable and integral role in responding to the trafficking in persons on the domestic front. Other faith-based organizations, such as the Salvation Army, are beginning to work with trafficking victims by providing shelter and temporary housing services to victims of trafficking. In some locations, the Salvation Army permits its trafficking residents to utilize other social services that the Salvation Army provides (e.g., drug and alcohol treatment, primary health care, employment services, life skills classes).

#### **Social Service Providers**

State and local social service providers also play a role in the response to the crime of trafficking in persons. For example, trafficking victims may require services from city hospitals and city and State Health Departments for numerous physical and mental health needs. As collaboration among providers increases to meet the multiple needs of trafficking victims, social service agencies offer another important resource and are often included in the overall nexus of necessary services.

As the various sectors of providers have gained more knowledge of the necessary elements of meeting the needs of trafficking victims, a concurrent recognition has occurred that no one agency can do it alone. Not only do trafficking victims present a comprehensive host of needs, but also trafficking investigations and prosecutions require the coordination of efforts from a multitude of Federal, State, and local agencies. These agencies may include law enforcement entities, government agencies, health services, mental health organizations, legal services, non-governmental organizations, shelters, and social service providers.<sup>81</sup> In response to the need for collaboration, many major cities have formed citywide task forces or formal coalitions to address the trafficking problem in their particular locale or region. Examples of cities that have pioneered such coalitions include Atlanta, Chicago, Dallas, Los Angeles, New York, and San Francisco. In addition, the Freedom Network is a national coalition of non-governmental agencies dedicated to advocating for and empowering trafficking victims. As human trafficking grows in prevalence in the United States, domestic service providers are responding with the necessary steps to build a coordinated and collaborative infrastructure of effective services that meets the comprehensive needs of trafficking victims. While no one agency can complete the task alone, service providers collaborate to help piece their existing services together in an attempt to provide trafficking victims with the unique blend of services they require.