AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

108TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPT. 108–264, Part 2

TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT OF 2003

SEPTEMBER 29, 2003.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary, submitted the following

R E P O R T

together with

[To accompany H.R. 2620]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2620) to authorize appropriations for fiscal years 2004 and 2005 for the Trafficking Victims Protection Act of 2000, and for other purposes, having considered the same report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment adopted by this committee is identical to the text reported by the Committee on International Relations shown in their report filed September 5, 2003 (Rept. 108–264, Part 1).

CONTENTS

	Page
The Amendment	2
Purpose and Summary	2
Background and Need for the Legislation	2
Hearings	6
Committee Consideration	6
Vote of the Committee	7
Committee Oversight Findings	7
New Budget Authority and Tax Expenditures	7
Congressional Budget Office Cost Estimate	7
Performance Goals and Objectives	11
Constitutional Authority Statement	11
Section-by-Section Analysis and Discussion	11
Agency Views	13
Changes in Existing Law Made by the Bill, as Reported	20
Markup Transcript	20

19–006

THE AMENDMENT

The amendment adopted by the Committee on the Judiciary is identical to the text reported by the Committee on International Relations shown in their report filed September 5, 2003 (H. Rept No. 108–264, Part 1).

PURPOSE AND SUMMARY

H.R. 2620 authorizes appropriations for, and makes minor modifications to, the Trafficking Victims Protection Act of 2000, which was intended to prevent trafficking in persons, to ensure punishment of traffickers, and to protect their victims.

BACKGROUND AND NEED FOR THE LEGISLATION

BACKGROUND

Trafficking of persons has been a growing phenomenon within and across international borders, including those of the United States. Many trafficked persons are forced into the sex industry. The rapid expansion of the sex industry and the low status of women in many parts of the world have contributed to a burgeoning of the trafficking industry. Trafficking of persons also involves forced labor, involuntary servitude, or slavery.

The Trafficking Victims Protection Act of 2000[1] ("TVPA") was enacted to combat the trafficking of persons, especially into the sex trade and slavery in the U.S. and countries around the world through prosecution of traffickers and through protection and assistance to victims of trafficking.

The TVPA created a new nonimmigrant "T" visa for persons who: (1) are victims of severe forms of trafficking in persons (sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such acts has not attained 18 years of age, or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery, (2) are in the U.S. or at a U.S. port of entry on account of such trafficking, (3) have complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking or have not attained 15 years of age, and (4) would suffer extreme hardship involving unusual and severe harm upon removal from the U.S. The TVPA also permits the Department of Homeland Security ("DHS") to grant a T visa, if necessary to avoid extreme hardship, to the victim's spouse, children, and parents if the victim is under 21 years of age, and the victim's spouse and children if the victim is 21 years of age or older.

The TVPA precludes anyone from receiving a T visa if there is substantial reason to believe that the person has committed an act of a severe form of trafficking in persons. It also places an annual cap of 5,000 on T visas for trafficking victims and permits DHS to waive certain grounds of inadmissibility.

The TVPA requires DHS to grant a trafficking victim authorization to engage in employment in the United States during the pe-

[1] Pub. L. No. 106–386.

riod the alien is in lawful temporary resident status as a trafficking victim. It provides that DHS is not prohibited from instituting removal proceedings against an alien admitted with a T visa for conduct committed after the alien's admission into the U.S., or for conduct or a condition that was not disclosed to DHS prior to the alien's admission.

The TVPA permits DHS to adjust the status of a T visa holder to that of a permanent resident if the alien: (1) has been physically present in the U.S. for a continuous period of at least three years since the date of admission, (2) has throughout such period been a person of good moral character, and (3) has, during such period, complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking, or would suffer extreme hardship involving unusual and severe harm upon removal from the U.S. It also permits DHS to adjust the status of the victim's spouse, parent, or child, if admitted with a T visa, to that of an alien lawfully admitted for permanent residence. DHS may waive certain grounds of inadmissibility. An annual cap of 5,000 is placed on adjustments of status for trafficking victims.

Finally, the TVPA excludes significant traffickers, persons who knowingly assist them, and their spouses, sons, or daughters who knowingly benefit from the proceeds of their trafficking activities from entry into the U.S. A son or daughter who was a child at the time he or she received the benefit is exempt from such exclusion from the U.S.

It would be valuable at this point to recall language from the Judiciary Committee's report on the TVPA:

> Each year, tens of thousands of aliens pay smugglers to be brought to the United States. Once here, they must work long hours to pay off their smuggling debts of tens of thousands of dollars. It is not the committee's intent that such people receive the new nonimmigrant "T" visa created by [the TVPA] or the permanent residence provided by the [TVPA]. Otherwise, [the TVPA] would become a general amnesty for aliens who, we must remember, voluntarily sought out smugglers to bring them illegally to the United States. Additionally, the [TVPA] would actually encourage alien smuggling by providing the expectation of eventual amnesty.[2]

What has been the experience with T visas since enactment of the TVPA? In January of 2002, the INS issued interim regulation establishing the T visa program.[3] Since the regulation has gone into effect, and as of June 30, 2003, 172 T visas have been granted to applicants and 13 have been denied and 238 applications are currently pending.[4]

The commentary to the regulations states that "[i]n most cases, aliens who are voluntarily smuggled into the United States will not be considered victims of a severe form of trafficking in persons."[5] This is consistent with the intent of the Committee. Then, the commentary states that:

---

[2] H.R. Rep. No. 106–487, pt. II, at 17 (2000).
[3] 67 Fed. Reg. 4784 (2002) (codified at 8 C.F.R. sec. 214.11).
[4] Data provided by DHS.
[5] 67 Fed. Reg. at 4787.

> However, individuals who are voluntarily smuggled into the United States in order to be used for labor or services may become victims of a severe form of trafficking in persons, if, for example, after arrival the smuggler uses threats of serious harm or physical restraint to force the individual into involuntary servitude, peonage, debt bondage, or slavery.[6]

Such a situation might be justification for the granting of a T visa under certain circumstances. In order to give more guidance as to which circumstances merit the granting of a T visa, and which do not, the intent of the Judiciary Committee is as follows: an alien who voluntarily comes to the U.S.—an alien who makes use of a smuggler[7]—would only be eligible for a T visa if he or she was then forced upon arrival in the U.S. to perform labor which was illegal, such as prostitution or trafficking in controlled substances, or was upon arrival in the U.S. forcibly detained on a round the clock basis with no prospect of release.

The regulations provide that "the [INS] has determined that applicants may apply individually for T–1 nonimmigrant status without requiring third party sponsorship from a law enforcement agency, as is the case for the existing S nonimmigrant status for alien witnesses and informants."[8] The Judiciary Committee is quite concerned about this decision. If the primary goal of the T visa is the prosecution of traffickers, and an alien is only eligible for a T visa if he or she has complied with any reasonable request for assistance in the investigation or prosecution of his or her traffickers, the Committee finds it hard to think of a situation that would merit the granting of a T visa where the investigating or prosecuting law enforcement agency was not willing to sponsor the alien for a visa. Because the Committee cannot rule out that such a situation might exist, it will not require that T visa applications be filed by a law enforcement agency.

However, if the aliens themselves are to be the applicants, it is crucial that a law enforcement agency officially certifies that the alien has complied with any reasonable request for assistance in the investigation or prosecution of the alien's traffickers. In drafting the regulations, the INS created a "Supplement B, Declaration of a Law Enforcement Officer for Victim of Trafficking in Persons, of Form I–914, Application for T Nonimmigrant Status,[9] in which the investigating or prosecuting law enforcement agency certifies that an alien has complied with any reasonable request for assistance. The commentary to the regulations states that:

> A [law enforcement agency] endorsement is not a mandatory part of a T–1 nonimmigrant status application. * * * If the applicant chooses not to include an * * * endorsement, the [DHS] will make an independent assessment of any credible evidence presented * * * to determine if the applicant meets the cooperation with law enforcement requirement.[10]

---

[6] Id.

[7] A child who was sold to a smuggler by his or her parents would not be considered to have voluntarily come to the U.S.

[8] 67 Fed. Reg. at 4785.

[9] See id. at 4819–20.

[10] Id. at 4788. See 8 C.F.R. sec. 214.11(h).

This is inconsistent with the intent of the Judiciary Committee. If the investigating or prosecuting agency does not believe that the alien has provided adequate assistance, the alien will not be eligible for a T visa. In order to be eligible for a T visa, an applicant must include with his or her application a form, such as Supplement B, in which the investigating or prosecuting law enforcement agency has certified that the alien has complied with any reasonable request for assistance.[11]

Finally, it is the intent of the Committee that applications for T visas be adjudicated at the district office level, and not by a service center. A district office possesses distinct advantages: for instance, it is situated near where the trafficking crime has taken place and is in a better position to have knowledge of the trafficking activities in the area, and it can easily interview in person all the relevant parties.[12]

H.R. 2620

H.R. 2620 authorizes appropriations for, and makes minor modifications to, the Trafficking Victims Protection Act of 2000.

Immigration provisions

H.R. 2620 would make the following modifications to the immigration provisions of the TVPA:

• Aliens could qualify for T visas by cooperating with state and local law enforcement agencies well as federal agencies. The state or local agency would have to be investigating or prosecuting the alien's traffickers through relevant state law, such as anti-trafficking or kidnapping laws.

• The age of aliens who could receive T visas without cooperating with law enforcement authorities would be raised from under 15 years of age to under 18 years of age.

• If an alien receiving a T visa was under 21, unmarried siblings under 21 would be added to the list of family members who could also receive T visas.

• The public charge ground of inadmissibility would never apply to aliens seeking T visas.

• In order to protect traffickers from obtaining the applications for T visas of the aliens they trafficked, the dissemination of information that relates to an applicant would be extremely limited. The State Department and DHS could not permit use by or disclosure to anyone other than a sworn officer or employee of the two departments for legitimate departmental purposes of such information. Certain exceptions are made, such as disclosure to a judicial body or to law enforcement officials to be used for legitimate law enforcement purposes.

Criminal law provisions

H.R. 2620 would make the following modifications to the criminal law provisions in the TVPA:

---

[11] H.R. 2620 allows a state or local law enforcement agency, as well as a federal agency, to be the investigating or prosecuting agency. Since immigration is a purely federal function, DHS will retain the right to decide that an alien has not complied with any reasonable request for assistance even if a state or local law enforcement agency has submitted a form certifying that such assistance has been provided.

[12] The regulations provide that DHS may require a personal interview of the T visa applicant. See 8 C.F.R. 214.11(d)(6). It is the intent of the Committee that such an interview be required.

• The bill would amend 18 U.S.C. sec. 1591, dealing with the prosecution of traffickers, 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." This change is an expansion of Federal jurisdiction to cover foreign commerce situations and open seas situations.

• Currently the law provides that "whoever knowingly * * * recruits, entices, harbors, transports, provides, or obtains by any means a person * * * knowing that force, fraud, or coercions will be used to have the person engage in a commercial sex act" has committed a crime. However, currently punishment is only provided for in certain instances if the alien was transported for the purposes of trafficking. The subsection clarifies that punishment is provided for if the alien has been recruited, enticed, harbored, transported, provided, or obtained, for the purposes of trafficking

• The bill adds three new predicate crimes to the RICO statute. The first relates to forced labor, the second relates to slavery, and the third relates to sex trafficking of children. Congress enacted the Racketeer Influenced and Corrupt Organization (RICO) provisions as part of the Organized Crime Control Act of 1970 to increase civil and criminal consequences for crimes under certain circumstances. RICO was created to cover those activities which Congress characterized as organized crime. RICO crimes are punishable by fines, forfeiture, and imprisonment for not more than 20 years or life if a predicate offense carries such a penalty. Civil RICO allows the injured person to recover treble damages, costs, and attorneys' fees.

Courts provisions

H.R. 2620 makes the following modification to the courts provisions of the TVPA:

• Three provisions of title 18 of the U.S. Code criminalize specific acts of trafficking. Section 1589 prohibits coercion and other acts resulting in forced labor; section 1590 forbids trafficking with respect to peonage, slavery, involuntary servitude, or forced labor; and section 1591 forbids sex trafficking. Transgressors convicted of any of these offenses may be fined or imprisoned or both under title 18. The bill creates a civil cause of action for any victim of a violation of sections 1589, 1590 or 1591. Under the provision, a civil suit may be filed "in any appropriate [U.S.] district court[, which would be empowered to] award actual damages, punitive damage, reasonable attorneys' fees, and other litigation costs reasonably incurred."

HEARINGS

No hearings were held in the Committee on the Judiciary on H.R. 2620.

COMMITTEE CONSIDERATION

On September 24, 2003, the Committee met in open session and ordered favorably reported the bill H.R. 2620 with an amendment by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee notes that there were no recorded votes during the Judiciary Committee's consideration of H.R. 2620.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because the provisions of H.R. 2620 within the jurisdiction of the Judiciary Committee do not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to H.R. 2620, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 26, 2003.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2620, the Trafficking Victims Protection Reauthorization Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Sunita D'Monte (for federal costs), and Paige Piper/Bach (for the private-sector impact).

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 2620—Trafficking Victims Protection Reauthorization Act of 2003

Summary: H.R. 2620 would reauthorize several programs within the Departments of State, Labor, Justice, and Health and Human Services, and within other agencies that combat trafficking in persons. It would expand the current federal prohibitions against such trafficking and would make more victims of trafficking and their relatives eligible to enter and remain in the United States.

The bill would authorize appropriations of almost $106 million a year in 2004 and 2005. CBO estimates that implementing the bill would cost $197 million over the 2004–2008 period, assuming appropriation of the authorized amounts. The bill also contains provisions that would affect direct spending and revenues, but CBO estimates these provisions would not have a significant effect.

H.R. 2620 would impose a private-sector mandate, as defined in the Unfunded Mandates Reform Act (UMRA), on airlines organized under the laws of the United States and other airlines that operate in the United States. CBO expects that the direct costs of the mandate would fall well below the annual threshold established by UMRA ($117 million in 2003, adjusted annually for inflation). H.R. 2620 contains no intergovernmental mandates as defined in UMRA and would impose no significant costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2610 is shown in the following table. The costs of this legislation fall within budget functions 150 (international affairs), 500 (education, employment, training, and social services), 550 (health), 600 (income security), and 750 (administration of justice).

	By fiscal year, in millions of dollars—				
	2004	2005	2006	2007	2008
CHANGES IN SPENDING SUBJECT TO APPROPRIATION [1]					
Overseas Assistance:					
Authorization Level	61	61	0	0	0
Estimated Outlays	8	32	37	21	10
Department of Health and Human Services:					
Authorization Level	15	15	0	0	0
Estimated Outlays	5	10	8	4	2
Department of Justice:					
Authorization Level	15	15	0	0	0
Estimated Outlays	4	10	11	5	0
Department of Labor:					
Authorization Level	10	10	0	0	0
Estimated Outlays	*	4	9	6	1
Department of State:					
Authorization Level	5	5	0	0	0
Estimated Outlays	4	5	1	*	*
Total:					
Authorization Level	106	106	0	0	0
Estimated Outlays	21	61	66	36	13

[1] In addition to effects on spending subject to appropriation, CBO estimates enacting H.R. 2620 would have an insignificant effect on direct spending and receipts.

Note.—*=less than $500,000.

Spending subject to appropriation

The bill would authorize appropriations of about $106 million a year in 2004 and 2005 for various programs to combat trafficking in persons. This compares to less than $60 million in funding for similar programs in 2003, not counting spending by the Department of Labor that may benefit individual victims of trafficking under more general authority. Assuming that H.R. 2620 will be enacted late in calendar year 2003, that the amounts authorized are appropriated near the start of each fiscal year, and that outlays follow historical spending patterns, CBO estimates that implementing

the bill would cost $21 million in 2004 and $197 million over the 2004–2008 period.

Overseas Assistance. The bill would authorize appropriations in 2004 and 2005 of $30 million a year to the Secretary of State and $30 million a year to the President for programs to prevent trafficking in persons, to protect victims of trafficking, and to assist foreign states in meeting minimum standards for the elimination of trafficking. In addition, the bill would authorize $0.3 million a year in 2004 and 2005 for voluntary contributions to international organizations to prevent such trafficking and assist in related legal reform, $0.25 million a year in 2004 and 2005 for training at the International Law Enforcement Academies, and $0.3 million a year in 2004 and 2005 for research on domestic and international trafficking in persons. CBO estimates that implementing these provisions would cost $8 million in 2004 and $108 million over the 2004–2008 period.

Department of Health and Human Services. The bill also would authorize appropriations of $15 million in 2004 and 2005 for refugee assistance to trafficking victims. Under current law, the department plans to spend $10 million for these activities in 2003. Assuming appropriation of the authorized amounts and that spending from the authorized amounts would be similar to the larger refugee assistance programs administered by the department, CBO estimates that this assistance would cost $5 million in 2004 and $29 million over the 2004–2008 period.

Department of Justice. Section 7 would authorize appropriations of $15 million a year in 2004 and 2005 for the Attorney General to provide assistance to victims of trafficking living in the United States. CBO estimates that implementing this section would cost $30 million over the 2004–2008 period, assuming appropriation of the authorized amounts.

Department of Labor. H.R. 2620 would authorize appropriations of $10 million in 2004 and 2005 for services to trafficking victims. Services for these refugees are currently provided through the Employment and Training Administration, and CBO assumes that spending from the authorized amounts would be similar to those employment and training programs. Assuming appropriation of the authorized amounts, CBO estimates that providing these services would cost $500,000 in 2004 and $20 million over the 2004–2008 period.

Department of State. Section 7 would authorize appropriations of $5 million each year in 2004 and 2005 to the State Department for the expenses of monitoring, combating, and reporting on trafficking in persons. Assuming appropriation of the authorized amounts, CBO estimates that implementing this section would cost $10 million over the 2004–2008 period.

Direct spending and revenues

Enacting H.R. 2620 also could affect direct spending and revenues; but CBO estimates that any such changes would not be significant.

Medicaid and Other Entitlement Benefits. Certifications under the Trafficking Victims Protection Act have averaged fewer than 15 individuals a month since the program began early in fiscal year 2001. Only a minority of persons certified in 2001 applied for bene-

fits in that year—the only year for which these data are available—and fewer still actually received Medicaid, Food Stamps, or other entitlement benefits. Although the provisions in H.R. 2620 could increase the number of individuals applying for and becoming entitled to certain federal public benefits, CBO expects the changes would result in few new beneficiaries for these benefits. Thus, CBO estimates that under H.R. 2620 any increase in direct spending for these benefit programs would not be significant.

Immigration Status for Certain Victims. The bill would make it easier for more victims of trafficking and their relatives to enter and remain in the United States. Costs to the Bureau of Citizenship and Immigration Services for adjudicating such cases would be funded from fees collected by the agency. CBO estimates that any such costs would not be significant because of the relatively small number of trafficking victims likely to be involved.

Civil and Criminal Fines. The bill would expand the current federal crimes relating to trafficking in persons. Because those prosecuted and convicted under the bill could be subject to civil and criminal fines, the government might collect additional fines if the bill is enacted. Collection of civil fines are recorded in the budget as governmental receipts (revenues) and are deposited in the general fund. Collections of criminal fines are recorded as receipts and are deposited in the Crime Victims Fund and later spent. CBO expects that any additional receipts and direct spending would not be significant.

Estimated impact on state, local, and tribal governments: H.R. 2620 contains no intergovernmental mandates as defined in UMRA and would impose no significant costs on state, local, or tribal governments.

Estimated impact on the private sector: H.R. 2620 would impose a new private-sector mandate, as defined in UMRA, on airlines organized under the laws of the United States and other airlines that operate in the United States. The bill would require such airlines to develop and disseminate materials alerting travelers that sex tourism, as defined in the bill, is illegal, will be prosecuted, and presents dangers to those involved. Based on information from industry and government sources, CBO expects that the direct costs of the mandate would fall well below the annual threshold established by UMRA ($117 million in 2003, adjusted annually for inflation).

Previous CBO estimate: On August 13, 2003, CBO transmitted a cost estimate for H.R. 2620, the Trafficking Victims Protection Reauthorization Act of 2003, as ordered reported by the House Committee on International Relations on July 23, 2003. The two versions of the bill and their estimated costs are identical.

Estimate prepared by: Federal Costs: Department of State—Sunita D'Monte; Overseas Assistance—Joseph C. Whitehill; Immigration and Department of Justice—Mark Grabowicz; Medicaid—Eric Rollins; and Other Programs—Paul R. Cullinan. Impact on State, Local, and Tribal Governments: Melissa Merrell. Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

In compliance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee believes that the funding authorized should be used to eliminate trafficking and assist its victims.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article 1, section 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

The following is a discussion of the most important of the provisions of the bill that fall within the Judiciary Committee's jurisdiction. A full section by section analysis can be found in the report of the Committee on International Relations (H. Rept. No. 108–264, pt. 1).

Section 4. Enhancing protection for trafficking victims

Subsection (a)(4) creates a civil cause of action for any victim of a violation of 18 U.S.C. sections 1589 (forced labor), 1590 (trafficking) , or 1591 (sex trafficking). Under the provision, a civil suit may be filed "in any appropriate [U.S.] district court[, which would be empowered to] award actual damages, punitive damage, reasonable attorneys' fees, and other litigation costs reasonably incurred."

Subsection (b)(1) amends section 101(a)(15)(T) of the Immigration and Nationality Act to clarify that the assistance an alien seeking a T visa provides in the investigation or prosecution of acts of trafficking may be made to state and local, as well as to federal, law enforcement agencies; to raise the age of aliens who can receive T visas without having provided assistance in the investigation or prosecution of acts of trafficking from under 15 years of age to under 18 years of age; and to provide T visas where necessary to avoid extreme hardship to unmarried siblings under 18 years of age of primary T visa recipients who are under 21 years of age.

Subsection (b)(2) amends section 214(n)(3) of the INA to clarify that the 5,000 annual visa cap for T visa recipients does not apply to the siblings of primary T visa recipients.

Subsection (b)(3) amends section 245(l) of the INA to provide that an alien provided a T visa as the sibling of a primary T visa recipient can have his or her status adjusted to permanent residence if meeting certain criteria.

Subsection (c) amends section 214(n) of the INA to provide that an alien may receive a T visa regardless of his or her inadmissibility as a public charge (section 212(a)(4) of the INA).

Subsection (c) also amends section 214(n) of the INA to provide that in no case may the State Department or the Homeland Security Department permit use by, or disclosure to, anyone, other than a sworn officer or employee of one of such Departments for legitimate Department purposes, of any information that relates to an alien who has properly filed a bona fide application for, or been granted, a T visa. This limitation shall not apply if the alien is an adult and has waived the limitation, and it shall terminate when the application is denied and all opportunities for appeal have been

exhausted. The two Departments may each provide for the disclosure of such information in the same manner and circumstances as census information may be disclosed by the Commerce Department under section 8 of title 13, U.S. Code, to law enforcement officials to be used solely for a legitimate law enforcement purpose, and in connection with judicial review for a determination in a manner that protects its confidentiality. These amendments shall not be construed to supersede section 222(f) of the INA (regarding records of the State Department and of diplomatic and consular offices). Whoever willfully uses, publishes, or permits information to be disclosed in violation of these restrictions shall be subject to appropriate disciplinary action and subject to a civil monetary penalty of not more than $5,000 for each violation.

Section 5. Enhancing prosecutions of traffickers

Section (5)(a), dealing with the prosecution of traffickers, amends 18 U.S.C. section 1591 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." This change is an expansion of Federal jurisdiction to cover foreign commerce situations and open seas situations. The subsection also makes a conforming amendment. Currently the law provides that "whoever knowingly * * * recruits, entices, harbors, transports, provides, or obtains by any means a person * * * knowing that force, fraud, or coercions will be used to have the person engage in a commercial sex act" has committed a crime. However, currently, punishment is only provided for in certain instances if the alien was transported for the purposes of trafficking. The subsection clarifies that punishment is provided for if the alien has been recruited, enticed, harbored, transported, provided, or obtained, for the purposes of trafficking.

Section (5)(b) adds three new predicate crimes to the RICO statute. Section 1589 of title 18, U.S. Code, prohibits coercion and other acts resulting in forced labor; section 1590 forbids trafficking with respect to peonage, slavery, involuntary servitude, or forced labor; and section 1591 forbids sex trafficking.

Section 7. Authorization of appropriations; related matters

Section 7 provides authorization for the State Department to carry out section 134 of the Foreign Assistance Act of 1961 to authorize International Law Enforcement Academies ("ILEA") to train prosecutors and law enforcement regarding trafficking. ILEAs offer a law enforcement program targeted at mid-level officials in the police and criminal justice services of countries throughout the world. The Department of State works with the Departments of Justice and Treasury in running these programs. The Bureau for International Narcotics and Law Enforcement Affairs runs the State ILEA programs.

Section 8. Technical corrections

Subsection 8(a) makes technical changes in the INA.

Subsection 8(b) makes a technical change in the TVPA to a reference to the INA.

AGENCY VIEWS

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, September 24, 2003.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter presents the views of the Department of Justice on H.R. 2620, the "Trafficking Victims Protection Reauthorization Act of 2003." We support reauthorization of this important program, which is aimed at strengthening our efforts to combat trafficking in persons. However, we have several concerns about the bill, particularly the way it would alter the current statutory standard for certifying trafficking victims as eligible to receive benefits and services, the need for confidentiality provisions in T visa applications, and a new private right of action provision. In addition, we recommend adding the new trafficking crimes as RICO predicates and providing for the death penalty in human trafficking cases where the death of a victim results.

Subsection 3(a): Border Interdiction

Subsection 3(a) would amend section 106 of the Trafficking Victims Protection Act of 2000 ("TVPA"), Pub. L. 106–386, Div. A, to require the President to make grants to non-governmental organizations ("NGOs") to fund training for trafficking survivors who, in turn, would "educate and train border guards and officials, and other local law enforcement officials.* * *" Specifically, this subsection would establish grants to monitor "the implementation of border interdiction programs, including helping in the identification of such victims.* * *"

While we support training border and local officials in the identification of trafficking victims, we believe that subsection 3(a) is unnecessary and would potentially undermine the ability of Federal law enforcement to conduct border interdiction. We would therefore urge striking this subsection from the bill. Border security and intelligence gathering are Federal law enforcement functions. The TVPA mandated training for border officials and other Federal law enforcement officers on the identification of and assistance to trafficking victims, and the U.S. Government carriers it out.[1] While NGOs have an important role to play in helping trafficking victims, it remains nonetheless the purview of Federal law enforcement, while carrying out their law enforcement duties, to identify victims at the border.

In addition, we do not believe that monitoring border interdiction programs is the most effective use of Federal funding. Because it is not always clear who at the border is a "trafficking victim," as a victim must be destined for an exploitative labor or commercial sexual situation in order to have been "trafficked," the money appropriated for interdiction programs would be better spent enhancing our official border control efforts and increasing our ability to investigate and prosecute human trafficking.

[1] The Departments of State and Justice articulated their plans for U.S. Government anti-trafficking training responsibilities in the Federal Register. See 66 Fed. Reg. 38514 (July 24, 2001).

The provision does not clarify to what extent NGOs would monitor these programs or what authority NGOs would have to attempt to influence these programs. The lack of specificity makes it unclear as to how these functions would implicate the exercise of Federal law enforcement authority by civilians and/or local law enforcement officials. Additionally, it is not clear whether training will be provided to such organizations, and whether principles such as agency law and vicarious liability will apply to any functions performed by such organizations or local law enforcement.

We note that use of the term "transit shelter" implies that the victims are passing through the United States temporarily and will be returning to their countries of origin. This has not been the U.S. Government's experience with the majority of trafficking victims who have been identified. Most of them choose to access immigration relief available under the TVPA, rather than self-repatriation.

If Congress chooses to proceed with this provision despite our opposition, we suggest amending the section on border interdiction by inserting (in the bill, following the first occurrence of the word "interdiction" in the first sentence) ", including", thereby authorizing support to NGO programs, while not strictly limiting such programs solely to NGOs.

Subsection 3(a) also would "ensure that any program established under this subsection provides the opportunity for any trafficking victims who is freed to return to his or her previous residence if the victim so chooses." Guaranteeing immediate return could undermine law enforcement needs, which often will require the presence of the victim in the country as a material witness or for other purposes. In the event the Committee retains this subsection, we urge that it contain a mechanism to ensure that the interests of law enforcement be protected in any provision for the return of trafficking victims to their own or third countries.

Subsection 3(b): Termination of Certain Grants, Contracts and Cooperative Agreements

The State Department will be submitting a separate views letter on H.R. 2620, in which it will address concerns regarding subsection 3(b). We simply note that we defer to, and concur in, the State Department's position.

Subsections 4(a)(3) and 4(b)(1)(a): State and Local Law Enforcement

Subsection 4(a)(3) would broaden the availability of certification of trafficking victims (as would section 4(b)(1)(a) in similar ways) by permitting individuals to obtain certification as trafficking victims based on endorsements made by State and local law enforcement agencies (in addition to Federal law enforcement). We have reservations about altering the current statutory standard for the certification of victims to receive benefits and services.

In our experience, accurate certification requires some investigation to determine whether the victim actually has suffered as the result of conduct that satisfies the elements of the TVPA. This investigation is best performed by trained investigators who are familiar with the TVPA. Currently, the Attorney General is consulted on whether a trafficking victim is assisting in an investigation or prosecution of human trafficking and a Federal law enforcement

agency is in charge of the investigation and prosecution. We are concerned that State and local agencies may lack the resources or expertise to conduct the necessary inquiry. Only two States (Washington and Texas) have passed anti-trafficking laws. Hence, the vast majority of State and local law enforcement officials do not have the jurisdiction to investigate human trafficking. It is unclear whether State and local officials could determine that victims were cooperating with the investigation or prosecution of human trafficking, because the investigation would most likely be Federal. Further confusion may arise due to overlapping jurisdiction in cases in which State and local officials could be investigating activity that might constitute human trafficking under the Federal definition but that under State law would violate only non-trafficking laws, such as kidnaping.

We do not believe that these changes would result in substantial benefits in enforcing the anti-trafficking laws. Moreover, we are concerned about forcing the Department of Health and Human Services, when certifying trafficking victims, to reconcile possibly conflicting factual conclusions made by various Federal, State and local law enforcement authorities. For example, an individual might be cooperating with local law enforcement in a human trafficking investigation, but the Federal prosecutors, who are investigating the underlying activities, might have information that the victim does not meet the definition of a victim of a "severe form of trafficking in persons," the statutory standard for receipt of benefits. We note that the bill would continue to require the Secretary of Health and Human Services to consult with the Attorney General in making trafficking victim certifications, which we strongly support. Continuing to limit the endorsements to Federal law enforcement is more efficient and ensures uniformity in determining whether victims are cooperating with (the likely) Federal investigation or prosecution.

Congress may be looking to the Battered Immigrant Women Protection Act of 2000, § 1512 (regarding the U visa), Pub. L. 106–386, Div. B., Tit. V, as a model for allowing Federal, State or local officials to determine victimization and cooperation. Unlike that Act, where crimes related to battery are also crimes at the State level, enforcement against human trafficking remains predominantly a Federal sphere of activity. In many cases, it may be easier for State and local law enforcement to identify a crime that also violates State law than it would be to identify human trafficking. Therefore, we do not believe the U visa to be an analogous situation or a valid model to follow in trafficking cases.

We also are wary that this subsection would create the potential for forum shopping. We already are aware of persons who claim to be victims contacting multiple Federal agencies in the hope that one of them will support that person's request for certification from the Department of Health and Human Services. Extending the authority to determine that an individual meets one of the key criteria for certification to the 17,000 State and local law enforcement agencies in the country will exacerbate this situation. Under current law, Federal law enforcement analyzes claims of victimization and cooperation with law enforcement and ensures that certification is requested for legitimate, cooperating victims, so that such victims can receive the benefits mandated by the TVPA.

We believe this provision would cause confusion and potentially place Federal law enforcement against State and local law enforcement in determinations regarding cooperation in what is likely to be a Federal preserve.

Subsection 4(a)(4): Private Right of Action

The Department of Justice opposes the private right of action that would be established by subsection 4(a)(4), because it is unnecessary and could be accomplished by amending the Racketeer Influenced and Corrupt Organizations (RICO) Act (18 U.S.C. §§ 1589–1594).

Creation of a private right of action is a complex undertaking that should be approached only after careful consideration of collateral consequences and the appropriate standard for establishing a civil violation. It is common for civil rights violations to give rise to both civil and criminal sanctions. While these arrangements have produced some complexity in criminal prosecutions, Congress has concluded that the additional enforcement activity resulting from private civil actions is worthwhile. However, many such statutory schemes establish different elements for civil and criminal violations. If Congress believes that a civil action for human trafficking might be appropriate, it should consider in depth the conduct that should trigger a civil violation and the processes that would be helpful in protecting criminal enforcement.

We note that the amendment to the RICO Act included in H.R. 2620 would allow civil RICO claims for human trafficking, which may cover the universe of civil proceedings Congress is intending to extend to trafficking victims.

The creation of a federal civil remedy, one that would include treble damages, is best accomplished through the amendment to RICO. If the purpose is to establish a new Federal tort, we question the need for it. The entire range of trafficking behaviors is already captured under State tort law, under which a victim may already recover. We do not see a need to recreate such a scheme at the Federal level.

If Congress concludes that a private right of action beyond RICO is warranted in these circumstances, we suggest several improvements to this subsection. The subsection does not indicate who can be sued. For example, the class of defendants needs to be defined. Foreign governments with lax border enforcement policies could be called into court under the provision, as could anyone linked to the trafficking. Even prosecutors could face a civil suit if a trafficking victim believed that the prosecutor did not pursue the trafficking prosecution with sufficient diligence. Presumably the traffickers who knew (or ought to have known) about the victim's plight would be the intended class of defendants.

The subsection should stay all pending civil actions in the wake of a criminal prosecution. Notably, in the context of 18 USC § 2255 ("civil remedy for personal injuries"), all civil actions are stayed pending the completion of a criminal action. See also 18 USC § 3509(k) ("child victims' and child witnesses' rights") ("If, at any time that a cause of action for recovery of compensation for damage or injury to * * * a child exists, a criminal action is pending which arises out of the same occurrence and in which the child is the vic-

tim, the civil action shall be stayed until the end of all phases of the criminal action.* * *").

Without delineating who can be sued and whether the suit would be stayed until a prosecution was complete, this provision would provide unbridled discretion to trafficking victims to sue whomever they feel has victimized them and could hinder prosecutors' abilities to try a case unfettered by the complications of civil discovery. While perhaps unlikely, this provision could become an incentive for victims to skip criminal prosecution and go directly to Federal court to sue their traffickers for damages. We believe that prosecutions should take priority over civil redress and that prosecutions should be complete prior to going forward with civil suits.

Subsection 4(c): Waiver of Public Charge Ground for Inadmissibility

It is not clear what benefits would accrue from the amendments subsection 4(c) would make to § 214(n) of the Immigration and Nationality Act (INA) to disallow consideration of the "public charge" grounds for inadmissibility to the United States based on an approved T visa. The TVPA allows the Attorney General (now the Secretary of Homeland Security) to grant waivers generously for the public charge grounds of inadmissibility under § 212(d) of the INA and does not require that the public charge activity be linked to the trafficking victimization (as it did with regard to the criminal grounds, see 212(d)(13)(B)(ii)). That having been said, we believe the drafters probably intended to amend § 212(d)(13)(B)(i) to require DHS to waive the public charge ground in determining whether to grant the T visa application, rather than subsection 214(n).

Subsection 4(c): Penalties for Unlawful Disclosure of Information

We strongly oppose the new provisions governing confidentiality of T visa applications, and consequent penalties for unlawful disclosure of information, as unnecessary and inappropriate. Section 222(f) of the Immigration and Nationality Act already deems as confidential (with certain exceptions) information related to the issuance or denial of visas.

We are unaware of any inappropriate disclosures of information during the T visa process. That said, this provision does appear to preclude Federal law enforcement officials from reviewing T visa applications for the purpose of investigating or prosecuting human trafficking crimes. Proposed INA subsection 214(n)(5) states that "in no case" may DHS or Department of State officials "permit use by, or disclosure to, anyone, other than a sworn officer or employee of one of such Departments for legitimate Department purposes, of any information that relates to an alien" who has filed a T visa application.

This provision has the potential to derail our prosecutions when T visa applicants are prosecution witnesses, given prosecutors' discovery responsibilities. There is language in subparagraph (n)(5)(D) that may cover prosecutors' discovery obligations ("may each provide, in each Secretary's discretion, for the disclosure of information described in subparagraph (A) to law enforcement officials to be used solely for a legitimate law enforcement purpose" [followed by a series of examples unrelated to prosecutors' discovery obligations]). However, it is not clear that this would allow for disclosure

to defense counsel. And if it does not, then it might result in dismissal of the indictment because prosecutors could not comply with disclosure obligations. Moreover, it is unclear whether such a provision would require regulations to be issued by DHS or the State Department, that could potentially affect prosecutors' abilities to meet discovery obligations.

This provision does not appear to permit compliance with a judge's order to produce certain "confidential" information. Subparagraph (E) states "Subparagraph (A) shall not be construed as preventing disclosure of information in connection with judicial review of a determination in a manner that protects the confidentiality of such information." This language appears to provide for review of records in the case of judicial review of the applications, but not was regard to other forms of judicial requests.

Finally, these confidentiality provisions allow a penalty of $5,000 for each disclosure. We believe it unwise to subject prosecutors (or DHS or State Department personnel who allow them access) to these sanctions if they legitimately disclose information in the course of a prosecution that is not deemed to be a "law enforcement purpose."

If this provision is to remain, in carrying out the certification responsibilities in section 107(b)(1)(E) of the TVPA, the Department of Health and Human Services must be able to receive information from DHS regarding a person's bona fide application for a T via. We recommend that a new subparagraph (I) be added to section 214(n)(5) of the Immigration and Nationality Act, as added by the bill. The new subparagraph would read as follows:

> "(I) The Secretary of Homeland Security may disclose information described in subparagraph (A) to the Department of Health and Human Services for the purposes of implementing section 107(b)(1)(E) of the Trafficking Victims Protection Act of 2000.".

In summary, provisions and safeguards exist for sharing visa information for routine law enforcement activity. The provisions of this subsection would impede domestic and international criminal investigations to identify and gather evidence against traffickers.

Section 5: Enhancing Prosecutions of Traffickers (18 USC Amendments)

Subsection 5(a) would extend the jurisdictional nexus of 18 U.S.C. § 1591 to include foreign commerce and the special maritime jurisdiction of the United States; these changes are technical fixes to the original TVPA. We welcome these jurisdictional changes that will enhance prosecutors' ability to bring human trafficking cases.

Trafficking Crimes as RICO Predicates

We support the inclusion of human trafficking crimes as RICO predicates. These crimes occasionally are perpetrated by organized groups that RICO was intended to target. Indeed, the RICO predicate list in 18 U.S.C. § 1961(1) includes various offenses that overlap with human trafficking offenses, including the substantive offenses in the peonage and slavery chapter of the criminal code (18 U.S.C. §§ 1581–88) and the main prostitution offenses (18 U.S.C. §§ 2421–24). This existing offense coverage under RICO is useful.

Furthermore, we believe adding human trafficking offenses to RICO's coverage would prove to be beneficial.

We would suggest two changes to the RICO section as currently drafted. In section 5(b),which amends 18 U.S.C. § 1961(1) (definition of "racketeering activity") by adding the three criminal offenses related to trafficking in persons, we suggest that the amendatory language be inserted in section 1961(1) after "sections 1581–1588 (relating to peonage and slavery)," instead of after "murder-for-hire)," as proposed. The offenses that define "racketeering activity" should be placed in numerical order and with offenses in the same chapter of title 18 of easy reference. As proposed, the three offenses found in Chapter 77 (peonage and slavery) of title 18 have been inexplicably inserted in the list of statutes without consideration of their subject matter. Instead of being inserted to follow other offenses in Chapter 77, they have been inserted after "section 18 U.S.C. 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire)," an offense in Chapter 95 of title 18. We would also suggest that the Chapter 77 offenses be listed together. Therefore section 5(b) would now read:

> "(b) DEFINITION OF RACKETEERING ACTIVITY.—Section 1961(1) of title 18, United States Code, is amended by striking 'sections 1581–1588 (relating to peonage and slavery)' and by inserting after 'section 1546 (relating to fraud and misuse of visas, permits, and other documents)' the following: "section 1581–1591 (relating to peonage, slavery, and trafficking in persons,".

Title of Chapter 77

As a final edit to Chapter 77, we would suggest adding "trafficking in persons" to its title, which would now read "CHAPTER 77—PEONAGE, SLAVERY, AND TRAFFICKING IN PERSONS". Parallel edits would also have to be made to the "TITLE 18 CRIMES AND CRIMINAL PROCEDURE" list of "PART 1—CRIMES".

Death Penalty for Trafficking Crimes

Questions also have arisen regarding the justification for the discrepancy between alien smuggling crimes and human trafficking crimes with regard to death penalty eligibility. Because we do not see a logical justification for the discrepancy, we support equalizing the penalties between the two. Therefore, we would suggest that this bill include amended criminal provisions extending death penalty eligibility to the relevant human trafficking crimes that result in the deaths of trafficking victims, namely 18 U.S.C. §§ 1581, 1583, 1584, 1587, 1589, 1590, and 1591. We recognize that these provisions would have to interact with 18 U.S.C. § 3591 ("sentence of death").

Subsection 7(7): Restriction on Organizations

While we are not prepared to take the position that subsection 7(7) (proposed section 113(g)(2) of the TVPA) in unconstitutional, we do think that it raises serious First Amendment concerns and may not withstand judicial scrutiny. We therefore recommend that this provision be struck from the bill.

The Federal Government may, consistent with the First Amendment, prohibit private organizations from using Federal funds to

promote, support, or advocate the legalization or practice of prostitution. See *Rust* v. *Sullivan*, 500 U.S. 173, 196–198 (1991). There is substantial doubt, however, as to whether the Federal Government may restrict a domestic grant recipient participating in a Federal anti-trafficking program from using its own private, segregated funds to promote, support, or advocate the legalization or practice of prostitution, even if such a restriction applies only to those grant recipients providing assistance to victims of severe forms of trafficking. See *Rust*, 500 U.S. at 197; *FCC* v. *League of Women Voters*, 468 U.S. 364, 399–401 (1984). As a result, because this provision of H.R. 2620 would, in effect, prevent any organization receiving Federal funds to implement a program targeting victims of severe forms of trafficking from using its own private funds to promote, support, or advocate the legalization or practice of prostitution, we believe that there is serious doubt as to whether that provision would survive judicial scrutiny I challenged in court. In particular, we note that the prohibition on grant recipients using their own private, segregated funds to promote the legalization of prostitution, as opposed to the practice of prostitution, would be particularly vulnerable to legal challenge.

* * * * * * *

Thank you for the opportunity to comment on this matter. If we may be of additional assistance, we trust that you will not hesitate to call upon us. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

WILLIAM E. MOSCHELLA,
Assistant Attorney General.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

The bill was referred to this committee for consideration of such provisions of the bill and amendment as fall within the jurisdiction of this committee pursuant to clause 1(k) of Rule X of the Rules of the House of Representatives. The changes made to existing law by the amendment reported by the Committee on International Relations are shown in the report filed by that committee (Rept. 108–264, Part 1).

MARKUP TRANSCRIPT

BUSINESS MEETING, WEDNESDAY, SEPTEMBER 24, 2003, HOUSE OF REPRESENTATIVES, COMMITTEE ON THE JUDICIARY, WASHINGTON, DC

Pursuant to notice, I now call up the bill H.R. 2620, the Trafficking Victims Protection Reauthorization Act, for purposes of markup and moves it favorable recommendation to the House. Without objection, the bill will be considered as read and open for amendment at any point, and the text as reported by the Committee on International Relations, which the members have before them, will be considered as read, considered as the original text for purposes of amendment, open for amendment at any point.

[H.R. 2620 follows:]

[COMMITTEE PRINT]

[Showing H.R. 2620 as Reported by the Committee on International Relations]

108TH CONGRESS
1ST SESSION

H. R. 2620

[Report No. 108–]

To authorize appropriations for fiscal years 2004 and 2005 for the Trafficking Victims Protection Act of 2000, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2003

Mr. SMITH of New Jersey (for himself, Mr. LANTOS, Mr. PITTS, Ms. SLAUGHTER, and Ms. ESHOO) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER , 2003

Reported from the Committee on International Relations with an amendment

[For text of introduced bill, see copy of bill as introduced on June 26, 2003]

A BILL

To authorize appropriations for fiscal years 2004 and 2005 for the Trafficking Victims Protection Act of 2000, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Trafficking Victims
5 Protection Reauthorization Act of 2003".

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:
8 (1) Trafficking in persons continues to victimize
9 countless men, women, and children in the United
10 States and abroad.
11 (2) Since the enactment of the Trafficking Vic-
12 tims Protection Act of 2000 (division A of Public
13 Law 106–386), the United States Government has
14 made significant progress in investigating and pros-
15 ecuting acts of trafficking and in responding to the
16 needs of victims of trafficking in the United States
17 and abroad.
18 (3) On the other hand, victims of trafficking
19 have faced unintended obstacles in the process of se-
20 curing needed assistance, including admission to the
21 United States under section 101(a)(15)(T)(i) of the
22 Immigration and Nationality Act.
23 (4) Additional research is needed to fully under-
24 stand the phenomenon of trafficking in persons and

1 to determine the most effective strategies for com-
2 bating trafficking in persons.
3 (5) Corruption among foreign law enforcement
4 authorities continues to undermine the efforts by
5 governments to investigate, prosecute, and convict
6 traffickers.
7 (6) International Law Enforcement Academies
8 should be more fully utilized in the effort to train
9 law enforcement authorities, prosecutors, and mem-
10 bers of the judiciary to address trafficking in per-
11 sons-related crimes.

12 **SEC. 3. ENHANCING PREVENTION OF TRAFFICKING IN PER-**
13 **SONS.**

14 (a) BORDER INTERDICTION, PUBLIC INFORMATION
15 PROGRAMS, AND COMBATING INTERNATIONAL SEX TOUR-
16 ISM.—Section 106 of the Trafficking Victims Protection
17 Act of 2000 (22 U.S.C. 7104) is amended—
18 (1) by redesignating subsection (e) as sub-
19 section (f);
20 (2) by inserting after subsection (b) the fol-
21 lowing new subsections:
22 "(c) BORDER INTERDICTION.—The President shall
23 establish and carry out programs of foreign border inter-
24 diction by providing grants to nongovernmental organiza-
25 tions that provide for transit shelters operating at key bor-

1 der crossings and that help train survivors of trafficking
2 in persons to educate and train border guards and offi-
3 cials, and other local law enforcement officials, to identify
4 traffickers and victims of severe forms of trafficking, and
5 the appropriate manner in which to treat such victims, as
6 well as, to the extent appropriate, monitoring the imple-
7 mentation of border interdiction programs, including help-
8 ing in the identification of such victims to stop the cross-
9 border transit of victims. The President shall ensure that
10 any program established under this subsection provides
11 the opportunity for any trafficking victim who is freed to
12 return to his or her previous residence if the victim so
13 chooses.

14 "(d) INTERNATIONAL MEDIA.—The President shall
15 establish and carry out programs that support the produc-
16 tion of television and radio programs, including documen-
17 taries, to inform vulnerable populations overseas of the
18 dangers of trafficking, and to increase awareness of the
19 public in countries of destination regarding the slave-like
20 practices and other human rights abuses involved in traf-
21 ficking, including fostering linkages between individuals
22 working in the media in different countries to determine
23 the best methods for informing such populations through
24 such media.

25 "(e) COMBATING INTERNATIONAL SEX TOURISM.—

1 "(1) DEVELOPMENT AND DISSEMINATION OF
2 MATERIALS.—The President, pursuant to such regu-
3 lations as may be prescribed, shall (A) require that
4 airlines organized under the laws of the United
5 States and other airlines operating in the United
6 States develop and disseminate materials alerting
7 travelers that sex tourism (as defined in section
8 2423(b-e) of title 18, United States Code) is illegal,
9 will be prosecuted, and presents dangers to those in-
10 volved, and (B) encourage such airlines to work with
11 nongovernmental organizations in developing these
12 materials. Such materials may include, for example,
13 brochures, public service announcements, and bill-
14 boards.
15 "(2) MONITORING OF COMPLIANCE.—The
16 President shall monitor compliance with the require-
17 ments of paragraph (1)."; and
18 (3) in subsection (f) (as redesignated), by strik-
19 ing "initiatives described in subsections (a) and (b)"
20 and inserting "initiatives and programs described in
21 subsections (a) through (e)".
22 (b) TERMINATION OF CERTAIN GRANTS, CONTRACTS
23 AND COOPERATIVE AGREEMENTS.—Section 106 of such
24 Act (as amended by subsection (a)) is further amended
25 by adding at the end the following new subsection:

1 "(g) TERMINATION OF CERTAIN GRANTS, CON-
2 TRACTS AND COOPERATIVE AGREEMENTS.—
3 "(1) TERMINATION.—
4 "(A) IN GENERAL.—The President shall
5 ensure that any grant, contract, or cooperative
6 agreement provided or entered into by a Fed-
7 eral department or agency under which funds
8 described in paragraph (2) are to be provided
9 to a private entity, in whole or in part, shall in-
10 clude a condition that authorizes the depart-
11 ment or agency to terminate the grant, con-
12 tract, or cooperative agreement, without pen-
13 alty, if the grantee or any subgrantee, or the
14 contractor or any subcontractor (i) engages in
15 severe forms of trafficking in persons or has
16 procured a commercial sex act during the pe-
17 riod of time that the grant, contract, or cooper-
18 ative agreement is in effect, or (ii) uses forced
19 labor in the performance of the grant, contract,
20 or cooperative agreement.
21 "(B) DEFINITION.—In subparagraph (A),
22 the term 'severe forms of trafficking in persons'
23 has the meaning given the term in section
24 103(8) of the Trafficking Victims Protection
25 Act of 2000 (22 U.S.C. 7102(8)).

1 "(2) ASSISTANCE DESCRIBED.—Funds referred
2 to in paragraph (1) are funds made available to
3 carry out any program, project, or activity funded
4 under major functional budget category 150 (relat-
5 ing to international affairs).".

6 **SEC. 4. ENHANCING PROTECTION FOR TRAFFICKING VIC-**
7 **TIMS.**

8 (a) AMENDMENTS TO TRAFFICKING VICTIMS PRO-
9 TECTION ACT OF 2000.—

10 (1) COOPERATION BETWEEN FOREIGN GOVERN-
11 MENTS AND NONGOVERNMENTAL ORGANIZATIONS.—
12 Section 107(a)(1)(B) of the Trafficking Victims Pro-
13 tection Act of 2000 (22 U.S.C. 7105(a)(1)(B)) is
14 amended by adding at the end before the period the
15 following: ", and by facilitating contact between rel-
16 evant foreign government agencies and such non-
17 governmental organizations to facilitate cooperation
18 between the foreign governments and such organiza-
19 tions".

20 (2) ASSISTANCE FOR FAMILY MEMBERS OF VIC-
21 TIMS OF TRAFFICKING IN UNITED STATES.—Section
22 107(b)(1) of the Trafficking Victims Protection Act
23 of 2000 (22 U.S.C. 7105(b)(1)) is amended—

24 (A) in subparagraph (A), by inserting ", or
25 an alien classified as a nonimmigrant under

1 section 101(a)(15)(T)(ii)," after "in persons";
2 and
3 (B) in subparagraph (B), by inserting
4 "and aliens classified as a nonimmigrant under
5 section 101(a)(15)(T)(ii)," after "United
6 States,".
7 (3) CERTIFICATION OF VICTIMS OF A SEVERE
8 FORM OF TRAFFICKING IN PERSONS.—Section
9 107(b)(1)(E)(i)(I) of the Trafficking Victims Protec-
10 tion Act of 2000 (22 U.S.C. 7105(b)(1)(E)(i)(I)) is
11 amended by striking "the investigation and prosecu-
12 tion" and inserting "any Federal, State, or local in-
13 vestigation or prosecution".
14 (4) PRIVATE RIGHT OF ACTION.—Section
15 107(b) of the Trafficking Victims Protection Act of
16 2000 (22 U.S.C. 7105(b)) is amended by adding at
17 the end the following new paragraph:
18 "(3) CIVIL ACTION.—An individual who is a
19 victim of a violation of section 1589, 1590, or 1591
20 of title 18, United States Code, may bring a civil ac-
21 tion in any appropriate district court of the United
22 States. The court may award actual damages, puni-
23 tive damages, reasonable attorneys' fees, and other
24 litigation costs reasonably incurred.".

1 (b) AMENDMENTS TO IMMIGRATION AND NATION-
2 ALITY ACT.—
3 (1) DEFINITIONS.—Section 101(a)(15)(T) of
4 the Immigration and Nationality Act (8 U.S.C.
5 1101(a)(15)(T)) is amended—
6 (A) in clause (i)(III)(aa), by inserting
7 "from any Federal, State, or local law enforce-
8 ment agency" after "reasonable request";
9 (B) in clause (i)(III)(bb), by striking "15
10 years of age," and inserting "18 years of age,";
11 and
12 (C) in clause (ii)(I), by inserting "unmar-
13 ried siblings under 18 years of age," before
14 "and parents".
15 (2) ADMISSION OF NONIMMIGRANTS.—Section
16 214(n)(3) of the Immigration and Nationality Act (8
17 U.S.C. 1184(n)(3)) is amended by inserting "sib-
18 lings," before "or parents".
19 (3) ADJUSTMENT OF STATUS.—Section 245(l)
20 of the Immigration and Nationality Act (8 U.S.C.
21 1255(l)) (as added by section 107(f) of Public Law
22 106–386) is amended—
23 (A) in paragraph (1)—

1 (i) by striking "admitted under that
2 section" and inserting "admitted under
3 section 101(a)(15)(T)(ii)"; and
4 (ii) by inserting "sibling," after "par-
5 ent,"; and
6 (B) in paragraph (3)(B), by inserting "sib-
7 lings," after "daughters,".
8 (c) WAIVER OF PUBLIC CHARGE GROUND FOR INAD-
9 MISSIBILITY; PENALTIES FOR UNLAWFUL DISCLOSURE
10 OF INFORMATION.—Section 214(n) of the Immigration
11 and Nationality Act (8 U.S.C. 1184(n)) is amended by
12 adding at the end the following:
13 "(4) In determining the admissibility of an alien
14 under section 101(a)(15)(T), section 212(a)(4) shall not
15 apply.
16 "(5)(A) Except as otherwise provided in this para-
17 graph, in no case may the Secretary of State, the Sec-
18 retary of Homeland Security, or any other official or em-
19 ployee of the Department of State or the Department of
20 Homeland Security (including any bureau or agency of ei-
21 ther of such Departments) permit use by, or disclosure
22 to, anyone, other than a sworn officer or employee of one
23 of such Departments for legitimate Department purposes,
24 of any information that relates to an alien who has prop-
25 erly filed a bona fide application for, or been granted, a

1 visa or nonimmigrant status under section
2 101(a)(15)(T)(i).
3 "(B) The limitation under subparagraph (A) shall
4 terminate when the application described in such subpara-
5 graph is denied and all opportunities for appeal of the de-
6 nial have been exhausted.
7 "(C) The Secretary of State and the Secretary of
8 Homeland Security may each provide, in each Secretary's
9 discretion, for the disclosure of information described in
10 subparagraph (A) in the same manner and circumstances
11 as census information may be disclosed by the Secretary
12 of Commerce under section 8 of title 13, United States
13 Code.
14 "(D) The Secretary of State and the Secretary of
15 Homeland Security may each provide, in each Secretary's
16 discretion, for the disclosure of information described in
17 subparagraph (A) to law enforcement officials to be used
18 solely for a legitimate law enforcement purpose, such as
19 the implementation of section 105(a) of this Act, section
20 414(c) of the Uniting and Strengthening America by Pro-
21 viding Appropriate Tools Required to Intercept and Ob-
22 struct Terrorism (USA PATRIOT ACT) Act of 2001 (8
23 U.S.C. 1365a note), and the interoperable electronic data
24 system described in section 202 of the Enhanced Border

1 Security and Visa Entry Reform Act of 2002 (8 U.S.C.
2 1722).
3 "(E) Subparagraph (A) shall not be construed as pre-
4 venting disclosure of information in connection with judi-
5 cial review of a determination in a manner that protects
6 the confidentiality of such information.
7 "(F) Subparagraph (A) shall not be construed to su-
8 persede section 222(f).
9 "(G) Subparagraph (A) shall not apply if the alien
10 is an adult and has waived the restrictions of such sub-
11 paragraph.
12 "(H) Whoever willfully uses, publishes, or permits in-
13 formation to be disclosed in violation of this paragraph
14 shall be subject to appropriate disciplinary action and sub-
15 ject to a civil money penalty of not more than $5,000 for
16 each such violation.".
17 **SEC. 5. ENHANCING PROSECUTIONS OF TRAFFICKERS.**
18 (a) SEX TRAFFICKING OF CHILDREN OR BY FORCE,
19 FRAUD, OR COERCION.—Section 1591 of title 18, United
20 States Code, is amended—
21 (1) in the heading, by inserting a comma after
22 "**FRAUD**";
23 (2) in subsection (a)(1), by striking "in or af-
24 fecting interstate commerce" and inserting "in or af-
25 fecting interstate or foreign commerce, or within the

1 special maritime and territorial jurisdiction of the
2 United States"; and
3 (3) in subsection (b), by striking "the person
4 transported" each place it appears and inserting
5 "the person recruited, enticed, harbored, trans-
6 ported, provided, or obtained".
7 (b) DEFINITION OF RACKETEERING ACTIVITY.—Sec-
8 tion 1961(1) of title 18, United States Code, is amended
9 by inserting after "peonage and slavery)," the following:
10 "section 1589 (relating to forced labor), section 1590 (re-
11 lating to trafficking with respect to peonage, slavery, invol-
12 untary servitude, or forced labor), section 1591 (relating
13 to sex trafficking of children or by force, fraud, or coer-
14 cion).".

15 **SEC. 6. ENHANCING UNITED STATES EFFORTS TO COMBAT**
16 **TRAFFICKING.**

17 (a) REPORT.—
18 (1) IN GENERAL.—Section 105(d) of the Vic-
19 tims of Trafficking and Violence Protection Act of
20 2000 (22 U.S.C. 7103(d)) is amended by adding at
21 the end the following new paragraph:
22 "(7) Not later than February 1, 2004, and
23 2005, the Task Force, acting through the Office to
24 Monitor and Combat Trafficking of the Department
25 of State (established under subsection (e)), shall

1 submit to the Committee on Ways and Means, the
2 Committee on International Relations, and the Com-
3 mittee on the Judiciary of the House of Representa-
4 tives and the Committee on Finance, the Committee
5 on Foreign Relations, and the Committee on the Ju-
6 diciary of the Senate, a report on Federal agencies
7 that are implementing any provision of this division,
8 or any amendment made by this division, which shall
9 include, at a minimum, information on—
10 "(A) the number of persons who received
11 benefits or other services under section 107(b)
12 in connection with programs or activities fund-
13 ed or administered by the Secretary of Health
14 and Human Services, the Secretary of Labor,
15 the Board of Directors of the Legal Services
16 Corporation, and other appropriate Federal
17 agencies during the preceding fiscal year;
18 "(B) the number of persons who have been
19 granted continued presence in the United
20 States under section 107(c)(3) during the pre-
21 ceding fiscal year;
22 "(C) the number of persons who have ap-
23 plied for, been granted, or been denied a visa or
24 otherwise provided status under section
25 101(a)(15)(T)(i) of the Immigration and Na-

1 tionality Act (8 U.S.C. 1101(a)(15)(T)(i)) dur-
2 ing the preceding fiscal year;
3 "(D) the number of persons who have been
4 charged or convicted under one or more of sec-
5 tions 1581, 1583, 1584, 1589, 1590, 1591,
6 1592, or 1594 of title 18, United States Code,
7 during the preceding fiscal year and the sen-
8 tences imposed against each such person;
9 "(E) the amount, recipient, and purpose of
10 each grant issued by any Federal agency to
11 carry out the purposes of sections 106 and 107
12 of this Act, or section 134 of the Foreign As-
13 sistance Act of 1961, during the preceding fis-
14 cal year;
15 "(F) the nature of training conducted pur-
16 suant to section 107(c)(4) during the preceding
17 fiscal year; and
18 "(G) the activities undertaken by the Sen-
19 ior Policy Operating Group to carry out its re-
20 sponsibilities under section 105(f) of this divi-
21 sion.".
22 (2) CONFORMING AMENDMENT.—Section
23 107(b)(1) of the Victims of Trafficking and Violence
24 Protection Act of 2000 (22 U.S.C. 7105(b)(1)) is
25 amended by striking subparagraph (D).

1 (b) SUPPORT FOR THE TASK FORCE.—

2 (1) AMENDMENT.—The second sentence of sec-
3 tion 105(e) of the Victims of Trafficking and Vio-
4 lence Protection Act of 2000 (22 U.S.C. 7103(e)) is
5 amended by inserting at the end before the period
6 the following: ", who shall be appointed by the
7 President, by and with the advice and consent of the
8 Senate, with the rank of Ambassador-at-Large".

9 (2) APPLICABILITY.—The individual who holds
10 the position of Director of the Office to Monitor and
11 Combat Trafficking of the Department of State may
12 continue to hold such position notwithstanding the
13 amendment made by paragraph (1).

14 (c) SENIOR POLICY OPERATING GROUP.—

15 (1) AMENDMENT.—Section 105 of the Victims
16 of Trafficking and Violence Protection Act of 2000
17 (22 U.S.C. 7103) is amended by adding at the end
18 the following new subsection:

19 "(f) SENIOR POLICY OPERATING GROUP.—

20 "(1) ESTABLISHMENT.—There shall be estab-
21 lished within the Task Force a Senior Policy Oper-
22 ating Group.

23 "(2) MEMBERSHIP; RELATED MATTERS.—

24 "(A) IN GENERAL.—The Operating Group
25 shall consist of the senior officials designated as

1 representatives of the appointed members of the
2 Task Force (pursuant to Executive Order
3 13257 of February 13, 2002).
4 "(B) CHAIRPERSON.—The Operating
5 Group shall be chaired by the Director of the
6 Office to Monitor and Combat Trafficking of
7 the Department of State.
8 "(C) MEETINGS.—The Operating Group
9 shall meet on a regular basis at the call of the
10 Chairperson.
11 "(3) DUTIES.—The Operating Group shall co-
12 ordinate activities of Federal departments and agen-
13 cies regarding policies (including grants and grant
14 policies) involving the international trafficking in
15 persons and the implementation of this division.
16 "(4) AVAILABILITY OF INFORMATION.—Each
17 Federal department or agency represented on the
18 Operating Group shall fully share all information
19 with such Group regarding the department or agen-
20 cy's plans, before and after final agency decisions
21 are made, on all matters relating to grants, grant
22 policies, and other significant actions regarding the
23 international trafficking in persons and the imple-
24 mentation of this division.

1 "(5) REGULATIONS.—Not later than 90 days
2 after the date of the enactment of the Trafficking
3 Victims Protection Reauthorization Act of 2003, the
4 President shall promulgate regulations to implement
5 this section, including regulations to carry out para-
6 graph (4).".
7 (2) CONFORMING AMENDMENT.—Section 406
8 of the Department of State and Related Agency Ap-
9 propriations Act, 2003 (as contained in division B of
10 Public Law 108–7) is hereby repealed.
11 (d) MINIMUM STANDARDS FOR THE ELIMINATION OF
12 TRAFFICKING.—Section 108(b) of the Victims of Traf-
13 ficking and Violence Protection Act of 2000 (22 U.S.C.
14 7106(b)) is amended—
15 (1) in paragraph (1)—
16 (A) by striking "that take place wholly or
17 partly within the territory of the country" and
18 inserting ", and convicts and sentences persons
19 responsible for such acts, that take place wholly
20 or partly within the territory of the country";
21 and
22 (B) by adding at the end the following new
23 sentence: "After reasonable requests from the
24 Department of State for data regarding inves-
25 tigations, prosecutions, convictions, and sen-

1 tences, a government which does not provide
2 such data consistent with its resources shall be
3 presumed not to have vigorously investigated,
4 prosecuted, convicted or sentenced such acts.";
5 and
6 (2) in paragraph (7)—
7 (A) by striking "and prosecutes" and in-
8 serting ", prosecutes, convicts, and sentences";
9 and
10 (B) by adding at the end the following new
11 sentence: "After reasonable requests from the
12 Department of State for data regarding such
13 investigations, prosecutions, convictions, and
14 sentences, a government which does not provide
15 such data consistent with its resources shall be
16 presumed not to have vigorously investigated,
17 prosecuted, convicted, or sentenced such acts.".
18 (e) ENHANCING UNITED STATES ASSISTANCE.—Sec-
19 tion 134(b) of the Foreign Assistance Act of 1961 (22
20 U.S.C. 2152d(b)) is amended by adding at the end the
21 following new sentence: "Assistance may be provided
22 under this section notwithstanding section 660 of this
23 Act.".
24 (f) RESEARCH RELATING TO TRAFFICKING IN PER-
25 SONS.—

1 (1) IN GENERAL.—The Victims of Trafficking
2 and Violence Protection Act of 2000 (22 U.S.C.
3 7101 et seq.) is amended by inserting after section
4 112 the following new section:

5 **"SEC. 112A. RESEARCH ON DOMESTIC AND INTERNATIONAL**
6 **TRAFFICKING IN PERSONS.**

7 "The President, acting through the Council of Eco-
8 nomic Advisors, the National Research Council of the Na-
9 tional Academies, the Secretary of Labor, the Secretary
10 of Health and Human Services, the Attorney General, the
11 Secretary of State, the Administrator of the United States
12 Agency for International Development, and the Director
13 of Central Intelligence, shall carry out research, including
14 by providing grants to nongovernmental organizations,
15 which furthers the purposes of this division and provides
16 data to address the problems identified in the findings of
17 this division. Such research initiatives shall, to the max-
18 imum extent practicable, include, but not be limited to,
19 the following:

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

22 "(2) The effectiveness of programs and initia-
23 tives funded or administered by Federal agencies to
24 prevent trafficking in persons and to protect and as-
25 sist victims of trafficking.

1 "(3) The interrelationship between trafficking
2 in persons and global health risks.".
3 (2) CONFORMING AMENDMENT.—The table of
4 contents of the Victims of Trafficking and Violence
5 Protection Act of 2000 is amended by inserting after
6 the item relating to section 112 the following new
7 item:

"Sec. 112A. Research on domestic and international trafficking in persons.".

8 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS; RELATED**
9 **MATTERS.**

10 Section 113 of the Trafficking Victims Protection Act
11 of 2000 (22 U.S.C. 7110) is amended—
12 (1) in subsection (a)—
13 (A) by striking "105" and inserting
14 "105(e), 105(f)"; and
15 (B) by striking "and $3,000,000 for each
16 of the fiscal years 2002 and 2003" and insert-
17 ing ", $3,000,000 for each of the fiscal years
18 2002 and 2003, and $5,000,000 for each of the
19 fiscal years 2004 and 2005";
20 (2) in subsection (b), by adding at the end be-
21 fore the period the following: "and $15,000,000 for
22 each of the fiscal years 2004 and 2005";
23 (3) in subsection (c)—
24 (A) in paragraph (1) to read as follows:

1 "(1) BILATERAL ASSISTANCE TO COMBAT TRAF-
2 FICKING.—
3 "(A) PREVENTION.—To carry out the pur-
4 poses of section 106, there are authorized to be
5 appropriated to the Secretary of State
6 $10,000,000 for each of the fiscal years 2004
7 and 2005.
8 "(B) PROTECTION.—To carry out the pur-
9 poses of section 107(a), there are authorized to
10 be appropriated to the Secretary of State
11 $15,000,000 for fiscal year 2003 and
12 $10,000,000 for each of the fiscal years 2004
13 and 2005.
14 "(C) PROSECUTION AND MEETING MIN-
15 IMUM STANDARDS.—To carry out the purposes
16 of section 134 of the Foreign Assistance Act of
17 1961, there are authorized to be appropriated
18 $10,000,000 for each of the fiscal years 2004
19 and 2005 to assist in promoting prosecution of
20 traffickers and otherwise to assist countries in
21 meeting the minimum standards described in
22 section 108 of this Act, including $250,000 for
23 each such fiscal year to carry out training ac-
24 tivities for law enforcement officers, prosecu-
25 tors, and members of the judiciary with respect

1 to trafficking in persons at the International
2 Law Enforcement Academies."; and
3 (B) in paragraph (2), by striking "for each
4 of the fiscal years 2001, 2002, and 2003" and
5 inserting "for each of the fiscal years 2001
6 through 2005";
7 (4) in subsection (d)—
8 (A) by adding at the end before the period
9 the following: "and $15,000,000 for each of the
10 fiscal years 2004 and 2005"; and
11 (B) by adding at the end the following new
12 sentence: "To carry out the purposes of section
13 134 of the Foreign Assistance Act of 1961 (as
14 added by section 109), there are authorized to
15 be appropriated to the President, acting
16 through the Attorney General, $250,000 for
17 each of fiscal years 2004 and 2005 to carry out
18 training activities for law enforcement officers,
19 prosecutors, and members of the judiciary with
20 respect to trafficking in persons at the Inter-
21 national Law Enforcement Academies.";
22 (5) in subsection (e)—
23 (A) in paragraphs (1) and (2), by striking
24 "for fiscal year 2003" each place it appears and

1 inserting "for each of the fiscal years 2003
2 through 2005"; and
3 (B) by adding at the end the following new
4 paragraph:
5 "(3) RESEARCH.—To carry out the purposes of
6 section 112A, there are authorized to be appro-
7 priated to the President $300,000 for fiscal year
8 2004 and $300,000 for fiscal year 2005.";
9 (6) in subsection (f), by adding at the end be-
10 fore the period the following: "and $10,000,000 for
11 each of the fiscal years 2004 and 2005"; and
12 (7) by adding at the end the following new sub-
13 section:
14 "(g) LIMITATION ON USE OF FUNDS.—
15 "(1) RESTRICTION ON PROGRAMS.—No funds
16 made available to carry out this division, or any
17 amendment made by this division, may be used to
18 promote, support, or advocate the legalization or
19 practice of prostitution. Nothing in the preceding
20 sentence shall be construed to preclude assistance
21 designed to promote the purposes of this Act by
22 ameliorating the suffering of, or health risks to, vic-
23 tims while they are being trafficked or after they are
24 out of the situation that resulted from such victims
25 being trafficked.

1 "(2) RESTRICTION ON ORGANIZATIONS.—No
2 funds made available to carry out this division, or
3 any amendment made by this division, may be used
4 to implement any program that targets victims of se-
5 vere forms of trafficking in persons described in sec-
6 tion 103(8)(A) of this Act through any organization
7 that has not stated in either a grant application, a
8 grant agreement, or both, that it does not promote,
9 support, or advocate the legalization or practice of
10 prostitution. The preceding sentence shall not apply
11 to organizations that provide services to individuals
12 solely after they are no longer engaged in activities
13 that resulted from such victims being trafficked.".

14 **SEC. 8. TECHNICAL CORRECTIONS.**

15 (a) IMMIGRATION AND NATIONALITY ACT.—
16 (1) CLASSES OF NONIMMIGRANT ALIENS.—Sec-
17 tion 101(a)(15) of the Immigration and Nationality
18 Act (8 U.S.C. 1101(a)(15)) is amended—
19 (A) by moving the margins of subpara-
20 graphs (T) and (U) 2 ems to the left;
21 (B) in subparagraph (T), by striking
22 "214(n)," and inserting "214(o),";
23 (C) in subparagraph (U), by striking
24 "214(o)," and inserting "214(p),"; and

1 (D) in subparagraph (V), by striking
2 "214(o)," and inserting "214(q),".
3 (2) CLASSES OF ALIENS INELIGIBLE FOR VISAS
4 AND ADMISSION.—Section 212(d) of the Immigra-
5 tion and Nationality Act (8 U.S.C. 1182(d)) is
6 amended by redesignating the paragraph (13) added
7 by section 1513(e) of the Battered Immigrant
8 Women Protection Act of 2000 (title V of division
9 B of Public Law 106–386; 114 Stat. 1536) as para-
10 graph (14).
11 (3) ADMISSION OF NONIMMIGRANTS.—Section
12 214 of the Immigration and Nationality Act (8
13 U.S.C. 1184) is amended by redesignating sub-
14 sections (m) (as added by section 105 of Public Law
15 106–313), (n) (as added by section 107(e) of Public
16 Law 106–386), (o) (as added by section 1513(c) of
17 Public Law 106–386), (o) (as added by section
18 1102(b) of the Legal Immigration Family Equity
19 Act), and (p) (as added by section 1503(b) of the
20 Legal Immigration Family Equity Act) as sub-
21 sections (n), (o), (p), (q), and (r), respectively.
22 (4) ADJUSTMENT OF STATUS OF NON-
23 IMMIGRANTS.—Section 245 of the Immigration and
24 Nationality Act (8 U.S.C. 1255) is amended—

1 (A) in the subsection (l) added by section
2 107(f) of Public Law 106–386, by redesig-
3 nating the second paragraph (2), and para-
4 graphs (3) and (4), as paragraphs (3), (4), and
5 (5), respectively; and
6 (B) by redesignating the subsection (l)
7 added by section 1513(f) of Public Law 106–
8 386 as subsection (m).
9 (b) TRAFFICKING VICTIMS PROTECTION ACT OF
10 2000.—(1) Section 103(7)(A)(i) of the Trafficking Vic-
11 tims Protection Act of 2000 (22 U.S.C. 7102(7)(A)(i)) is
12 amended by inserting after "part II of that Act" the fol-
13 lowing: "in support of programs of nongovernmental orga-
14 nizations".
15 (2) Section 107(g) of the Trafficking Victims Protec-
16 tion Act of 2000 (22 U.S.C. 7105(g)) is amended by strik-
17 ing "214(n)(1)" and inserting "214(o)(2)".

Chairman SENSENBRENNER. The Chair recognizes himself for 5 minutes to explain the bill.

The State Department has estimated that 50,000 women and children are trafficked annually to the U.S. for the sex trade the slave-like labor. Others estimate that 100,000 aliens are smuggled into the U.S. annually from China alone and are forced into slave-like labor to pay off their smuggling debt of tens of thousands of dollars.

The bill combats the trafficking of persons around the world through prosecution of traffickers and protection and assistance of victims of trafficking. Today's legislation authorizes appropriations under the act for the next 2 fiscal years and makes a number of modifications to the act. I have a more extensive opening statement, which I will put into the record at this point in time and yield back the balance of my time.

[The statement of Chairman Sensenbrenner follows:]

STATEMENT OF F. JAMES SENSENBRENNER, JR.

The State Department has estimated that 50,000 women and children are trafficked annually to the U.S. for the sex trade and slave-like labor. Others estimate that 100,000 aliens are smuggled into the U.S. annually from China alone and are forced into "slave-like" labor to pay off their smuggling debt of tens of thousands of dollars.

The Trafficking Victims Protections Act of 2000 combats trafficking of persons around the world through prosecution of traffickers and through protection and assistance to victims of trafficking. Today's legislation, H.R. 2620, authorizes appropriations for programs under the Act for fiscal years 2004 and 2005, and makes a number of modifications to the Act.

Among the provisions of the Trafficking Victims Protection Act that are within the jurisdiction of the Committee on the Judiciary are immigration law sections that:

- Make available "T" non-immigrant visas to victims of a severe form of trafficking who have complied with any reasonable request for assistance in the investigations or prosecution of acts of trafficking (unless they are younger than 15) and who would suffer extreme hardship upon removal; visas are also available to the victims' spouses, children, and parents if the victims are under 21, and to the spouse and children if the victims are over 21, and
- Grant such aliens permanent residence after three years if they have been of good moral character and if they have complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking or if they would suffer extreme hardship upon removal from the U.S.

H.R. 2620, as passed by the International Relations committee, modifies these provisions by providing that:

- Aliens can qualify to T visas by cooperating with state and local law enforcement agencies as well as federal agencies,
- The age of aliens who can receive T visas without cooperating with law enforcement would be raised from under 15 to under 18,
- If an alien receiving a T visa is under 21, unmarried siblings under 21 would be added to the list of family members who can receive visas,
- The "public charge" ground of inadmissibility would not apply to aliens seeking T visas, and
- In order to prevent traffickers from obtaining information contain in applications for T visas filed by trafficking victims, the dissemination of information that relates to an applicant would be extremely limited.

H.R. 2602 also makes a number of other modifications to the provisions in the TVPA within the jurisdiction of the Committee, such as:

- Adding three new predicate crimes to the RICO statute, relating to forced labor, slavery, and the sex trafficking of children; RICO crimes are punishable by fines, forfeiture, and imprisonment for not more than 20 years or life if a predicate offense carries such a penalty and civil RICO allows the injured person to recover treble damages, costs and attorneys' fees, and
- Authorizing International Law Enforcement Academies, which are targeted at mid-level officials in the police and criminal justice services of countries throughout the world, to train prosecutors and law enforcement regarding trafficking.

I urge my colleagues to support this legislation.

Chairman SENSENBRENNER. I would point out that the sequential expires on this bill on Monday, and its is unlikely that we will get an extension. So we are going to have to figure out how to get this bill out before the next vote; otherwise, we'll lose jurisdiction.

The gentleman from Michigan?

Mr. CONYERS. I have a record—a statement to put in the record, not a record to put in the statement.

Chairman SENSENBRENNER. Without objection, whatever the gentleman wants to put in the record will be done.

[The statement of Mr. Conyers follows:]

STATEMENT OF CONGRESSMAN JOHN CONYERS, JR.

Of all the human rights violations currently occurring in our world, the trafficking of human beings, predominantly women and children, has to be one of the most horrific practices of our time. At its core, the international trade in women and children is about abduction, coercion, violence and exploitation in the most reprehensible ways.

In the 106th Congress, we passed the Trafficking Victims Protection Act of 2000 in a modest effort to eradicate this form of modern day slavery. At that time, thousands of men and women were being forced to labor in our fields without pay, to work endless hours in sweatshops, and to serve in sexual slavery in cities across this country. And U.S. prosecution of traffickers faltered because attorneys in our Department of Justice did not have the right tools to pursue the new forms of trafficking.

Today the picture is visibly brighter. Because of the enactment of the Trafficking Victims Protection Act of 2000, the Attorney General is prosecuting cases from American Samoa to Massachusetts. And victims are coming forward because of the federal benefits we are offering to them, treating them like the refugees that they are.

But we need to do more. The legislation before us today, the Trafficking Victims Reauthorization Act of 2003, takes us one step further in our commitment to ending modern day slavery.

This bill authorizes new strategies for prevention, including using trafficking victims to identify traffickers at the borders and deterring sex tourism, which is part of the fuel of sex slavery around the world.

It increases protection by making measured expansions of the visa category for trafficking victims. And it enhances prosecution of traffickers by, ensuring that trafficking is treated like the organized crime that it is.

This is good bi-partisan bill. I urge my colleagues to support it.

Chairman SENSENBRENNER. And without objection, all members may put opening statements into the record at this point.

Are there amendments?

Mr. SCOTT. Mr. Chairman.

Chairman SENSENBRENNER. The gentleman from Virginia, Mr. Scott.

Mr. SCOTT. Move to strike the last word.

Chairman SENSENBRENNER. The gentleman's recognized for 5 minutes.

Mr. SCOTT. Mr. Chairman, I just want to ask a question. Looking through the bill, it looks like there are a lot of grant programs that are extended—that are extended. Are there any changes in criminal law in the bill? Criminal penalties?

Chairman SENSENBRENNER. If the gentleman will yield, the answer is yes, there are some changes in criminal law.

Mr. SCOTT. And could you——

Chairman SENSENBRENNER. If the gentleman will yield, there are RICO provisions that are added to this bill, and they add them as predicate offenses as well for sex trafficking.

Mr. SCOTT. Thank you, Mr. Chairman. I yield back.

Chairman SENSENBRENNER. Other amendments?

Mr. HOSTETTLER. Mr. Chairman.

Chairman SENSENBRENNER. The gentleman from Indiana, Mr. Hostettler.

Mr. HOSTETTLER. Mr. Chairman, I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 2620, offered by Mr. Hostettler. Page 9, strike lines 9 through 11 and insert the following——

Mr. HOSTETTLER. Mr. Chairman, I ask unanimous consent that it be considered as read.

[The amendment of Mr. Hostettler follows:]

AMENDMENT TO H.R. 2620

OFFERED BY MR. HOSTETTLER

(Page and line nos. refer to the Committee Print showing H.R. 2620 as Reported by the Committee on International Relations)

Page 9, strike lines 9 through 11 and insert the following (and redesignate provisions accordingly):

1 (B) in clause (i)(III)(bb), by striking "15
2 years of age, and" and inserting "18 years of
3 age;";
4 (C) by adding at the end of clause (i) the
5 following:
6 "(V) did not voluntarily come to the
7 location described in subclause (II), in the
8 case of an alien who attained 16 years of
9 age before the commencement of the phys-
10 ical presence described in such subclause;
11 and";
12 (D) in subclauses (I) and (II) of clause (i),
13 by striking the commas at the end and insert-
14 ing semicolons;
15 (E) in clause (i)(III)(aa), by striking ",
16 or" and inserting "; or";

Page 9, line 14, strike the period at the end and insert "; and".

Page 9, after line 14, insert the following:

1 (G) by striking the semicolon at the end of
2 clause (ii) and inserting the following:
3 ", and in the case of a spouse, child, sibling, or
4 parent who is physically present in the United
5 States, American Samoa, or the Commonwealth
6 of the Northern Mariana Islands on or after the
7 first day of the physical presence described in
8 clause (i)(II), and who attained 16 years of age
9 before such day, only if the Secretary of Home-
10 land Security determines that the spouse, child,
11 sibling, or parent did not voluntarily come to
12 the United States, American Samoa, or the
13 Commonwealth of the Northern Mariana Is-
14 lands;".

Chairman SENSENBRENNER. Without objection, so ordered. The gentleman's recognized for 5 minutes.

Mr. HOSTETTLER. I thank the chairman.

Mr. Chairman, my amendment makes a simple but important clarification to the Trafficking Victims Protection Act of 2000. Under the act, temporary visas and eventual permanent residency are available to aliens who are found to be victims of trafficking. A T visa is available to a victim of a severe form of trafficking in persons who, if 15 or older, has complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking and who would suffer extreme hardship involving unusual or severe harm upon removal.

A severe form of trafficking means, when not in the context of sex trafficking, "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 of involuntary servitude, peonage, debt bondage, or slavery."

But what is the difference between aliens who are smuggled into the U.S. and aliens who are trafficked into the U.S.? What is to prevent an alien who sought out a smuggler and promised to pay the smuggler tens of thousands of dollars after being smuggled into the United States from then turning around and claiming he deserves a victim of trafficking visa?

What if he claimed that he was subjected to debt bondage or peonage because he was put to work by the smuggler? After all, most illegal aliens from countries such as China agree to these very sort of deals when their smugglers—with their smugglers in order to obtain passage. This perverse result is all too possible under the trafficking Act as it now exists.

The T visa regulations demonstrate the trouble the INS had in differentiating smuggled and trafficked aliens. The commentary on the regulation states that, "Unlike alien smuggling, severe forms of trafficking in persons must involve both a particular means, such as the use of force, fraud, or coercion, and a particular ends, such as involuntary servitude or a commercial sex act."

Well, this is not much help because much alien smuggling involves these very things. The commentary then states that, "Individuals who are voluntarily smuggled into the U.S. in order to be used for labor or services may become victims of a severe form of trafficking in persons if, for example, after arrival the smuggler uses threats of serious harm or physical restraint to force the individual into involuntary servitude, peonage, debt bondage, or slavery. Federal law prohibits forced labor, regardless of the victim's initial consent to work."

This is exactly what I was worried about, aliens who sought out their smugglers and now claim to be victims of trafficking. My amendment simply clarifies that adult aliens who are voluntarily smuggled into the U.S. are not eligible for trafficking T visas. Those with unclean hands should not be rewarded for their deeds. The real victims of trafficking, aliens who are brought here against their will or children—they are children who are sold into bondage by their parents will continue to be eligible for visas and permanent residence under my amendment. Without this crucial amendment, abuse of the T visa will only grow as legions of immigration attorneys become familiar with its benefits for their smuggled cli-

ents. Smuggling will become an even more attractive option than it already is, as prospective illegal aliens learn that they can receive visas and amnesty once being smuggled into the U.S. and forced into work.

I urge my colleagues to support this amendment, Mr. Chairman, and I yield back the balance of my time.

Ms. JACKSON LEE. Mr. Chairman.

Chairman SENSENBRENNER. The gentlewoman from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. Mr. Chairman, I had amendments at the desk that I thought were extremely important regarding age-out provisions, but I'm prepared to work——

Chairman SENSENBRENNER. The question is on——

Ms. JACKSON LEE [continuing]. With my colleague——

Chairman SENSENBRENNER. The current pending amendment is the Hostettler amendment.

Mr. SCOTT. Mr. Chairman.

Ms. JACKSON LEE. Then I'm speaking to that, then, Mr. Chairman.

Chairman SENSENBRENNER. The gentlewoman's recognized for 5 minutes.

Ms. JACKSON LEE. Mr. Chairman, these visas are for victims of abuse, victims of violent acts. I believe when you start trying to decipher how someone came into the country who is being abused, who may be in the process of seeking legalization, you make this extremely difficult. The victims are not the culprits. They're not the perpetrators of violence. And they may be in the country and be utilized in a trafficking aspect. They may come into that situation. They may come into prostitution. They may come into a situation where they cannot get out of in terms of slave employment, if you will.

And so I would ask that we not have a limitation like this with respect to this visa because we are trying to help people, and the help then is limited by the restriction of this particular amendment.

Mr. SCOTT. Mr. Chairman?

Chairman SENSENBRENNER. The question is on—the gentleman from Virginia.

Mr. SCOTT. Strike the last word.

Chairman SENSENBRENNER. The gentleman's recognized.

Mr. SCOTT. Mr. Chairman, as I understand the amendment, people who come in and are forced into slavery after they get here would lose their protection under the Act. I think that's going in the wrong direction, and I would hope that we would defeat the amendment.

Mr. HYDE. Would the gentleman yield?

Mr. SCOTT. I'll yield.

Mr. HYDE. I think a lot of these women are fraudulently lured into the country. You can't say they are forcibly moved into the country. But when they're promised a job, when they're promised all sorts of benefits, when they come over they find themselves working in a sweatshop or in the business of prostitution, they have been deceived and they ought to have the benefit of the—of the law and not be excluded because they were induced and seduced to come in through fraud. I think that is just as heinous as

forcibly kidnapping them. So I—and, again, I don't think you're talking about a substantial number of people, but I think in all fairness they are truly victims and ought to be protected. So I respectfully will vote no on the amendment.

Mr. SCOTT. Reclaiming my time, those are exactly the kinds of people that would lose protection under this amendment, and I don't think we ought to victimize the victims as this amendment might do.

Mr. CANNON. Would the gentleman yield?

Mr. SCOTT. I'll yield.

Mr. CANNON. Let me just add—associate myself with the comments of the gentleman from Illinois and add that in his speech to the UN, the President focused directly on this issue. I don't know how we can possibly expect other nations to work with us and follow suit and track down this pernicious, ancient evil if we ourselves gut our enforcement processes here and refuse protection to those people who are defrauded into coming to America.

Thank you. I yield back.

Mr. SCOTT. I yield back.

Chairman SENSENBRENNER. The gentleman yields back. The question is on the Hostettler amendment.

Mr. HOSTETTLER. Mr. Chairman.

Chairman SENSENBRENNER. The gentleman has already been recognized.

Mr. HOSTETTLER. A unanimous consent request.

Chairman SENSENBRENNER. State your request.

Mr. HOSTETTLER. Mr. Chairman, I, unanimous consent, ask to revise my amendment, to amend the amendment to state in line 6, "(V) did not voluntarily, unless found to be a victim of sex trafficking, come to the United States." And then on page 2, line 11, "sibling, or parent did not voluntarily"—once again insert it—"unless found to be a victim of sex trafficking."

Mr. WATT. Reserving the right to object.

Ms. WATERS. Mr. Chairman.

Mr. WATT. Reserving the right to object.

Chairman SENSENBRENNER. The gentleman from North Carolina reserves the right to object.

Mr. WATT. I may not object, but I would like to get a clarification on who would make this finding. Unless they are found to be by whom?

Mr. HOSTETTLER. The immigration authorities, immigration judge.

Ms. WATERS. Mr. Chairman.

Chairman SENSENBRENNER. Is there objection?

Ms. WATERS. Objection.

Chairman SENSENBRENNER. Objection is heard. The question is on the Hostettler amendment, not as modified. Those in favor will say aye? Opposed, no?

The noes appear to have it. The noes have it, and the amendment is not agreed to.

Are there further amendments? If not, a reporting quorum—

Ms. JACKSON LEE. I have an amendment at the desk, Mr. Chairman.

Chairman SENSENBRENNER. The clerk will report the amendment.

Ms. JACKSON LEE. Amendment 140.

The CLERK. Amendment to the Committee Print to H.R. 2620, offered by Ms. Jackson Lee of Texas. Page 9, strike lines 15 through 18 and insert the following: (2) Admission of Nonimmigrants. Section 214(n) of the Immigration and Nationality Act——

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The amendment of Ms. Jackson Lee follows:]

AMENDMENT TO H.R. 2620

OFFERED BY MS. JACKSON-LEE OF TEXAS

(Page & line nos. refer to the Committee Print Showing H.R. 2620 as Reported by the Committee on International Relations)

Page 9, strike lines 15 through 18 and insert the following:

1 (2) ADMISSION OF NONIMMIGRANTS.—Section
2 214(n) of the Immigration and Nationality Act (8
3 U.S.C. 1184(n)) is amended—
4 (A) in paragraph (3), by inserting "sib-
5 lings," before "or parents"; and
6 (B) by adding at the end the following:
7 "(4) An unmarried alien who seeks to accompany, or
8 follow to join, a parent granted status under section
9 101(a)(15)(T)(i), and who was under 21 years of age on
10 the date on which such parent applied for such status,
11 shall continue to be classified as a child for purposes of
12 section 101(a)(15)(T)(ii), if the alien attained 21 years
13 of age after such parent's application was filed but while
14 it was pending.".

Chairman SENSENBRENNER. And the gentlewoman's recognized for 5 minutes.

Ms. JACKSON LEE. As I said, Mr. Chairman, I have amendments 140, 141, and 142 that are dealing with issues of age-out. I would like to be able to—I see the chairman of the International Relations Committee here. I would like to be able to work with Mr. Hyde on this.

Mr. Hyde, this has to do with a parent having a 20-year-old or a 19-year-old getting classification and then that 20-year-old not being able to come under that visa because they might age out. I think that is something that we need to consider, and I'd appreciate if we'd have the opportunity to work on this, possibly before we went to the floor of the House.

With that, I'll withdraw the amendment.

[Statements of Congresswoman Sheila Jackson Lee follows:]

STATEMENT OF CONGRESSWOMAN SHEILA JACKSON LEE ON CHILD AGE-OUT PROTECTION AMENDMENT NO. 140

Under current law, a trafficking victim who has T visa status may be able to accord derivative T visa status to a child. Sometimes, however, the children of trafficking victims age-out during the approval process. For instance, consider the case of a mother who files a T visa application while her daughter is 20 years old. Subsequently, the mother's application is approved and her daughter now applies for a derivative T visa as the child of a trafficking victim. While the daughter's application is being processed, she turns 21 and her eligibility expires. She ages out of the child category. Under current law, the daughter is then ineligible for derivative T visa status.

This can be a disaster in the case of a derivative T visa. The child waiting for derivative status is only eligible for the T visa in the first place if DHS has determined that granting the visa is necessary to avoid extreme hardship. My amendment would avoid extreme hardship in such cases by providing age-out protection. If the daughter was under the age of 21 when the mother applied for T visa status for herself, the daughter will continue to satisfy this age requirement even if she reaches the age of 21 before she can be granted derivative T visa status.

I urge you to vote for this amendment to avoid such unnecessary and unwarranted consequences.

STATEMENT OF CONGRESSWOMAN SHEILA JACKSON LEE ON PARENT STATUS PROTECTION AMENDMENT NO. 141

Under current law, a trafficking victim with T visa status who is under the age of 21 may accord derivative T visa status to a parent. Sometimes, however, the trafficking victim ages-out during the approval process. For instance, consider the case of a daughter who files a T visa application while she is 20 years old. When her application is approved, she applies for derivative T visa status for her mother. While the application is being processed, the daughter turns 21 and her eligibility to accord derivative status to her mother expires. Under current law, the mother is then ineligible for derivative T visa status.

This can be a disaster in the case of a derivative T visa. The mother waiting for derivative status is only eligible for derivative T visa status in the first place if DHS has determined that granting the derivative visa is necessary to avoid extreme hardship. My amendment would avoid extreme hardship in such cases by providing age-out protection. If the daughter was under the age of 21 when the applied for T visa status for herself, the daughter will continue to satisfy this age requirement even if she reaches the age of 21 before her mother can be granted derivative T visa status.

I urge you to vote for this amendment to avoid such unnecessary and unwarranted hardships to the parents of trafficking victims.

STATEMENT OF CONGRESSWOMAN SHEILA JACKSON LEE ON A T-VISA RENEWAL AMENDMENT

Trafficking victims may be able to obtain temporary status in this country if the Department of Homeland Security (DHS) determines that they meet the requirements for a nonimmigrant T visa under section 101(a)(15)(T) of the Immigration and Nationality Act. These requirements include being a victim of a severe form of trafficking, being willing to comply with any reasonable request for assistance in the investigation or prosecution of acts of trafficking, and a finding by DHS that the alien would suffer extreme hardship involving unusual and severe harm upon removal from the United States. When such a visa is issued to a trafficking victim, his or her immediate family members (spouses, children, or parents) may be eligible to receive a derivative T visa if DHS considers this necessary to avoid extreme hardship.

When a trafficking victim has been present in the United States for a continuous period of at least 3 years on the basis of a T visa, DHS has discretionary authority to adjust the status of the trafficking victim and his or her immediate family members who have T visas too. DHS can grant them lawful permanent resident status if the trafficking victim continues to satisfy the requirements for the initial issuance of the T visa and has been a person of good moral character throughout his or her period of residence in the United States. Among other things, this means that DHS would have to find again that the trafficking victim would suffer extreme hardship involving unusual and severe harm upon removal from the United States.

The Immigration and Nationality Act does not limit the duration of T visas. The former Immigration and Naturalization Service (INS), however, promulgated a regulation that limits T visa status to a 3-year period and specifies that the status cannot be renewed. Consequently, when a trafficking victim with T visa status has resided in the United States for 3 years, he or she must file for permanent residency or return to his or her country of origin.

I question whether the INS had the authority to impose such a limit on the duration of T visa status. In any case, I am concerned about the fact that trafficking victims may have provided information about trafficking operations as a condition for maintaining their T via status. In such cases, the possibility of retribution could make it too dangerous for them to return until the traffickers are incarcerated, yet they may not want to remain in the United States permanently. Many of them were taken by force from their families and would like to go home when it is safe for them to do so.

My amendment would avoid this problem by permitting DHS to grant a 3-year extension on T via status for trafficking victims and family members. This authority would be limited to the cases of trafficking victims and their family members who can satisfy the same hardship requirements that they had to satisfy to obtain their initial grants of T via status, which almost certainly would be the case where serious retribution is feared.

I urge you to vote for my amendment. Thank you.

Chairman SENSENBRENNER. The amendment is withdrawn.

Are there further amendments? If not, a reporting quorum is present. The question occurs on the motion to report the bill H.R. 2620 favorably. All those in favor will say aye, those opposed, no.

The ayes appear to have it. The ayes have it, and the motion to report favorably is agreed to.

Without objection, the chairman is authorized to move to go to conference pursuant to House Rules. Without objection, the staff is directed to make any technical and conforming changes, and all members may be given 2 days as provided by the House Rules in which to submit additional, dissenting, supplemental, or minority views.

○