

HR 7311

William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008

Congress: 110 (2007–2009, Ended)

Chamber: House

Policy Area: International Affairs

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Sponsor

Name: Rep. Berman, Howard L. [D-CA-28]

Party: Democratic • State: CA • Chamber: House

Cosponsors (6 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Conyers, John, Jr. [D-MI-14]	D · MI		Dec 9, 2008
Rep. Fortenberry, Jeff [R-NE-1]	R · NE		Dec 9, 2008
Rep. Lofgren, Zoe [D-CA-16]	D · CA		Dec 9, 2008
Rep. Ros-Lehtinen, Ileana [R-FL-18]	R · FL		Dec 9, 2008
Rep. Scott, Robert C. "Bobby" [D-VA-3]	D · VA		Dec 9, 2008
Rep. Smith, Christopher H. [R-NJ-4]	R · NJ		Dec 9, 2008

Committee Activity

Committee	Chamber	Activity	Date
Energy and Commerce Committee	House	Referred to	Dec 9, 2008
Foreign Affairs Committee	House	Discharged From	Dec 10, 2008
Judiciary Committee	House	Discharged From	Dec 10, 2008

Subjects & Policy Tags

Policy Area:

International Affairs

Related Bills

Bill	Relationship	Last Action
110 S 3061	Related bill	Sep 8, 2008: Placed on Senate Legislative Calendar under General Orders. Calendar No. 946.
110 HR 3887	Related bill	Dec 5, 2007: Received in the Senate and Read twice and referred to the Committee on the Judiciary.

William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 - **Title I: Combating International Trafficking in Persons** - (Sec. 101) Amends the Trafficking Victims Protection Act of 2000 (TVPA) to include the Secretary of Education on the Interagency Task Force to Monitor and Combat Trafficking.

(Sec. 102) Directs the Secretary of State (Secretary) to establish within the Department of State an Office to Monitor and Combat Trafficking. (Current law authorizes such Office's establishment.)

Revises responsibilities of the Director of the Office.

(Sec. 103) Amends the Trafficking Victims Protection Act of 2000 (TVPA) to direct the President to establish assistance programs for foreign governments to prevent and deter trafficking in persons.

Amends the Foreign Assistance Act of 1961 to provide anti-trafficking assistance to foreign countries for investigations of individuals and entities involved in sexual exploitation.

(Sec. 104) Makes assistance for victims of trafficking in other countries available, through organizations that contract with, or receive grants from, the U.S. government, for the support of refugees and internally displaced persons.

(Sec. 105) Requires, both in the United States and abroad, that solicitations of grants, cooperative agreements, and contracts for anti-trafficking programs be made publicly available and on a competitive basis.

Directs the President to: (1) establish a system to evaluate anti-trafficking programs on a program-by-program basis; and (2) provide U.S. assistance consistent with annual reporting priorities and country assessments.

Obligates specified FY2008-FY2011 funds for activities under this section.

(Sec. 106) Revises provisions regarding minimum standards for the elimination of trafficking, including adding a requirement that a foreign government has made serious and sustained efforts to reduce the demand for commercial sex acts and participation in international sex tourism by nationals of the country.

(Sec. 107) Requires a country on the special watch list for two consecutive years to be on the list of countries not fully in compliance with standards to eliminate trafficking and not making significant compliance efforts

Authorizes a waiver by the President for up to two years if a country: (1) has a written plan that would constitute making such efforts; and (2) is devoting sufficient resources to the plan's implementation.

Requires translation of the Department's annual trafficking report into the principal languages of as many countries as possible and publication on appropriate websites.

(Sec. 108) Requires the establishment of an integrated database relating to trafficking trends. Authorizes FY2008-FY2011 appropriations.

(Sec. 109) Authorizes: (1) the President to establish the Presidential Award for Extraordinary Efforts to Combat Trafficking in Persons; and (2) FY2008-FY2011 appropriations.

(Sec. 110) Directs the Secretary of Labor to report to the appropriate congressional committees regarding Department of Labor activities to monitor and combat forced labor and child labor. Requires making available to the public a list of goods

from countries that the Bureau of International Labor Affairs has reason to believe are produced by forced labor or child labor in violation of international standards.

(Sec. 111) Expresses the sense of Congress that the Secretary should seek to establish a multilateral framework between labor exporting and labor importing countries to ensure that workers migrating between such countries are protected from trafficking in persons.

Title II: Combating Trafficking of Persons in the United States - Subtitle A: Ensuring Availability of Possible Witnesses and Informants - (Sec. 201) Amends the Immigration and Nationality Act (INA) with respect to nonimmigrant T-visas (victims of severe form of trafficking in persons) to authorize aliens to apply for such visas who are: (1) brought into the country for investigations or as witnesses; (2) unable to participate in a law enforcement interview because of physical or psychological trauma; or (3) parents or unmarried siblings under the age of 18 who face retaliation as a result of their family member's escape from trafficking or cooperation with law enforcement.

Requires T-visa status extension during the pendency of an application for adjustment to permanent resident status.

Authorizes the Secretary of Homeland Security to: (1) extend the period of T-visa and U-visa (victims of certain crimes) status; and (2) waive the disqualification for lack of good moral character for T-visa holders applying for adjustment to permanent resident status if the disqualification is caused by or incident to the trafficking.

(Sec. 202) Directs the Secretary to develop and make available an information pamphlet on legal rights and resources for aliens applying for employment- or education-based nonimmigrant visas.

Sets forth provisions regarding: (1) pamphlet contents; and (2) consular responsibilities.

(Sec. 203) Prohibits the Secretary from issuing: (1) an A-3 visa (nonimmigrant employees of A-visa foreign government officials) unless the applicant is employed or has signed a specified employment contract to be employed by an officer of a diplomatic mission or consular post; or (2) a G-5 visa (nonimmigrant employees of G-visa international organization officials) unless the applicant is employed or has signed a specified contract to be employed by an employee in an international organization.

Suspends visa issuance to applicants of a diplomatic mission or international organization if its employees are found to have a record of exploiting such visa holders.

Prohibits the Secretary from issuing or renewing an A-3 visa or a G-5 visa unless: (1) the applicant has executed a specified contract with the employer; and (2) a consular officer has conducted a personal interview with the applicant outside the presence of the employer or any recruitment agent.

Authorizes, with exceptions, an A-3 or G-5 nonimmigrant who has filed a civil action regarding the terms of his or her employment contract to remain and work in the United States during the pendency of such action.

(Sec. 204) Authorizes the Secretary of Homeland Security to grant a stay of removal or deportation to a T-visa or U-visa applicant whose application sets forth a prima facie case of approval until the application is adjudicated.

(Sec. 205) Amends TVPA to authorize: (1) the Secretary of Homeland Security, upon application from a federal law enforcement official, to permit an alien trafficking victim's continued presence in the United States in order to effectuate investigation and prosecution of the traffickers; and (2) law enforcement officials to request the parole entry of specified relatives of such an alien. Directs the Secretary to permit such alien's continued presence if the alien has filed a civil

action against the traffickers.

Amends INA to provide for the parole entry of specified relatives of trafficking victims. Sets forth parole entry duration.

Subtitle B: Assistance for Trafficking Victims - (Sec. 211) Amends the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to make an alien who has had approved, or has pending, a petition that sets forth a prima facie case for T-visa status eligible for public benefits.

(Sec. 212) Amends TVPA to direct: (1) the Secretary of Health and Human Services, upon credible information that a child has been a trafficking victim, to provide 90-day interim assistance to the child and determine eligibility for long-term assistance; (2) federal and state and local officials to notify the Secretary within 24 hours of learning of such a child; and (3) the Secretary and the Attorney General to provide appropriate training for state and local officials.

(Sec. 213) Directs the Secretary of Health and Human Services and the Attorney General to establish an assistance program for U.S. citizens and lawful permanent residents who are victims of severe forms of trafficking.

Authorizes the Secretary of Health and Human Services and the Attorney General to make grants to states, Indian tribes, local government, and nonprofit victims' service organizations to develop and expand victim service programs.

Authorizes FY2008-FY2011 appropriations.

Subtitle C: Penalties Against Traffickers and Other Related Offenses - (Sec. 221) Amends the federal criminal code with respect to restitution of forfeited assets in instances of severe trafficking of persons.

(Sec. 222) Revises provisions regarding offenses of trafficking, forced labor, enticement into slavery, sex trafficking of children, and sex tourism.

Expands: (1) detention authority to include trafficking offenses with a maximum 20-year imprisonment; (2) the scope of obstruction offenses with respect to enticement into slavery or involuntary servitude.

Authorizes the same penalty for conspiracy as for the underlying offense with respect to peonage, enticement into slavery or involuntary servitude, trafficking in persons, or related document use.

Authorizes the same penalty for benefiting financially from peonage, slavery, or trafficking in persons as for the underlying offense.

Establishes criminal penalties for foreign labor contracting fraud.

Amends INA to make trafficking in persons a grounds for inadmissibility to, and deportation from, the United States.

Requires the United States Sentencing Commission to review and, if appropriate, amend the sentencing guidelines and policy statements applicable to persons convicted of alien harboring to ensure conformity with the sentencing guidelines applicable to persons convicted of promoting a commercial sex act if: (1) the harboring was committed in furtherance of prostitution; and (2) the defendant is an organizer or leader of the criminal activity.

(Sec. 223) Provides U.S. courts with additional extraterritorial jurisdiction in certain trafficking, slavery, and peonage offenses if: (1) the alleged offender or victim is a U.S. national or lawful permanent resident; or (2) the alleged offender, irrespective of nationality, is present in the United States.

Prohibits such an action if the offense has been prosecuted or is being prosecuted in another country unless the Attorney General approves.

(Sec. 224) Authorizes the Attorney General to issue administrative subpoenas in investigations of sex trafficking involving children.

Applies repeat offender and release and detention provisions to sex trafficking of children violations.

(Sec. 225) Prohibits anything in this Act, TVPA, the Trafficking Victims Protection Reauthorization Act of 2003, the Trafficking Victims Protection Reauthorization Act of 2005, specified federal criminal law, or any model law issued by the Department of Justice: (1) from being construed to treat prostitution as a valid form of employment under federal law; or (2) from preempting state or federal criminal law.

Directs the Attorney General to facilitate the promulgation of a model state statute that: (1) furthers a comprehensive approach to investigation and prosecution through modernization of state and local prostitution and pandering statutes; and (2) is based in part on the provisions of the Act of August 15, 1935 (relating to prostitution and pandering).

Subtitle D: Activities of the United States Government - (Sec. 231) Amends TVPA to require the Attorney General's annual report to include information on: (1) Department of Defense (DOD) activities to combat trafficking in persons; and (2) federal actions taken to enforce policies against government contractors engaging in trafficking or related activities or procurement of slave labor- or convict-labor-produced goods.

(Sec. 232) Directs, for FY2010-FY2012, the Inspectors General of DOD, the Department, and the United States Agency for International Development (USAID) to investigate a sample of contracts under which there is a heightened risk that a contractor may engage in acts related to trafficking in persons.

(Sec. 234) Amends INA to add the Secretary and the Secretary of Homeland Security to the list of those may prohibit the entry of traffickers into the United States.

(Sec. 235) Directs the Secretary of Homeland Security to develop policies and procedures to ensure that unaccompanied alien children in the United States are safely repatriated to their country of nationality or of last habitual residence.

Sets forth special rules for unaccompanied alien children from contiguous countries.

Directs the Secretary to: (1) develop a safe repatriation pilot program for alien children; and (2) negotiate child repatriation agreements between the United States and countries contiguous to the United States designed to protect children from severe forms of trafficking in persons.

States, with specified exceptions, that the care and custody of unaccompanied alien children in the United States shall be the responsibility of the Secretary of Health and Human Services. Sets forth related provisions respecting: (1) notification of, and transfer to, the Department of Health and Human Services (HHS); (2) age determinations; (3) safe placement; (4) legal and child advocate access; (5) immigration status adjustment and asylum protections; and (6) assistance eligibility.

Authorizes the Secretary of Health and Human Services to award grants to, and enter into contracts with, voluntary agencies to carry out such responsibilities.

(Sec. 236) Prohibits the Secretary from issuing a passport to an individual who is convicted of a federal sex offense during a certain post-conviction period if the individual used a passport or otherwise crossed an international border in

committing such offense. Requires the revocation of a passport previously issued to such an individual.

Directs the Attorney General to notify the Secretary and the Secretary of Homeland Security regarding an individual's conviction of such a sex offense.

(Sec. 237) Directs the Federal Bureau of Investigation (FBI) to: (1) classify the offense of human trafficking as a Part I crime in the Uniform Crime Reports; (2) establish subcategories for state sex crimes that involve a person who is younger than 18 years old, the use of force or coercion, or neither of such elements; and (3) classify the offense of human trafficking as a Group A offense for purpose of the National Incident-Based Reporting System.

Sets forth additional reporting and study provisions.

(Sec. 238) Directs the Secretary of Homeland Security to report to the appropriate congressional committees regarding the operations of the Violence Against Women Act Unit at the Citizenship and Immigration Service's Vermont Service Center.

(Sec. 239) Directs the Secretary to temporarily increase the fee by \$1 for processing machine-readable: (1) nonimmigrant visas; and (2) combined border crossing and identification cards and nonimmigrant visas.

Title III: Authorization of Appropriations - (Sec. 301) Amends TVPA to authorize appropriations through FY2011 for: (1) the Interagency Task Force to Monitor and Combat Trafficking; (2) the Senior Policy Operating Group; (3) actions against governments that do not meet minimum standards against trafficking; (4) the Office to Monitor and Combat Trafficking, including amounts for additional personnel; (5) the Secretary of Health and Human Services and the Attorney General for assistance to trafficking victims in the United States; (6) the Secretary for bilateral assistance to combat trafficking; (7) training for law enforcement, prosecutors, and the judiciary; (8) the President for foreign victim assistance, assistance to foreign countries, and research; (9) the Secretary of Labor; (10) FBI; and (11) the Secretary of Homeland Security.

(Sec. 302) Amends the Trafficking Victims Protection Reauthorization Act of 2005 to authorize appropriations through FY2011 for: (1) the pilot program for residential rehabilitative facilities for trafficking victims; (2) research, reports and an annual conference on trafficking; (3) a grant program to strengthen assistance for certain trafficking victims; (4) the pilot program for U.S. residential treatment facilities for juvenile trafficking victims; and (5) grants for state and local anti-trafficking programs.

Title IV: Child Soldiers Prevention - Child Soldiers Prevention Act of 2008 - (Sec. 402) Defines "child soldier" as a person: (1) under 18 years old who takes a direct part in hostilities as a member of governmental armed forces, has been compulsorily recruited into governmental armed forces, or has been recruited or used in hostilities by armed forces distinct from the armed forces of a state; or (2) under 15 years old who has been voluntarily recruited into governmental armed forces.

(Sec. 403) Expresses the sense of Congress that the U.S. government should: (1) condemn the use of child soldiers; (2) support the establishment of standards to end human rights abuses; (3) expand services to rehabilitate recovered child soldiers; and (4) work with the international community to achieve specified goals relating to ending the use of child soldiers and ending human rights abuses.

(Sec. 404) Prohibits, with a national interest waiver, funds for specified military and related areas from being made available to the government of a country identified by the Secretary as having governmental armed forces or government

supported armed groups that recruit or use child soldiers.

Authorizes the President to reinstate such assistance upon certifying to Congress that a government is implementing: (1) compliance measures; and (2) mechanisms to prohibit future use of child soldiers.

Authorizes the President to provide assistance to a country for international military education and training otherwise prohibited under this Act upon certifying to Congress that such assistance is for measures to demobilize child soldiers and for programs to professionalize the military.

(Sec. 405) Requires U.S. missions abroad to investigate reports on child soldiers.

Directs the Secretary to include in the annual country reports on human rights practices a description of the use of child soldiers.

(Sec. 406) Amends the Foreign Service Act of 1980 to require Foreign Service instruction relating to child soldiers and the substance of the Child Soldiers Prevention Act of 2008.

Actions Timeline

- **Dec 23, 2008:** Signed by President.
- **Dec 23, 2008:** Became Public Law No: 110-457.
- **Dec 12, 2008:** Presented to President.
- **Dec 10, 2008:** Mr. Berman asked unanimous consent to discharge from committee and consider.
- **Dec 10, 2008:** Committee on Foreign Affairs discharged.
- **Dec 10, 2008:** Committee on Energy and Commerce discharged.
- **Dec 10, 2008:** Committee on Judiciary discharged.
- **Dec 10, 2008:** Considered by unanimous consent. (consideration: CR H10888-10905)
- **Dec 10, 2008:** Passed/agreed to in House: On passage Passed without objection.(text: CR H10889-10902)
- **Dec 10, 2008:** On passage Passed without objection. (text: CR H10889-10902)
- **Dec 10, 2008:** Motion to reconsider laid on the table Agreed to without objection.
- **Dec 10, 2008:** Passed/agreed to in Senate: Received in the Senate, read twice, considered, read the third time, and passed without amendment by Unanimous Consent.(consideration: CR S10886-10887)
- **Dec 10, 2008:** Received in the Senate, read twice, considered, read the third time, and passed without amendment by Unanimous Consent. (consideration: CR S10886-10887)
- **Dec 10, 2008:** Message on Senate action sent to the House.
- **Dec 10, 2008:** Cleared for White House.
- **Dec 9, 2008:** Introduced in House
- **Dec 9, 2008:** Referred to the Committee on Foreign Affairs, and in addition to the Committees on Energy and Commerce, and 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.
- **Dec 9, 2008:** Referred to the Subcommittee on Health.