Subtitle F—Prevention of Trafficking in Persons and Abuses Involving Workers Recruited Abroad

SEC. 3601. DEFINITIONS.

(a) IN GENERAL.—Except as otherwise provided by this subtitle, the terms used in this subtitle shall have the same meanings, respectively, as are given those terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(b) OTHER DEFINITIONS.—

(1) FOREIGN LABOR CONTRACTOR.—The term “foreign labor contractor” means any person who performs foreign labor contracting activity, including any person who performs foreign labor contracting activity wholly outside of the United States, except that the term does not include any entity of the United States Government.

(2) FOREIGN LABOR CONTRACTING ACTIVITY.—The term “foreign labor contracting activity” means recruiting, soliciting, or related activities with respect to an individual who resides outside of the United States in furtherance of employment in the United States, including when such activity occurs wholly outside of the United States.
(3) **PERSON.**—The term “person” means any natural person or any corporation, company, firm, partnership, joint stock company or association or other organization or entity (whether organized under law or not), including municipal corporations.

(4) **WORKER.**—the term “worker” means an individual or exchange visitor who is the subject of foreign labor contracting activity.

**SEC. 3602. DISCLOSURE.**

(a) **REQUIREMENT FOR DISCLOSURE.**—Any person who engages in foreign labor contracting activity shall ascertain and disclose in writing in English and in the primary language of the worker at the time of the worker’s recruitment, the following information:

(1) The identity and address of the employer and the identity and address of the person conducting the recruiting on behalf of the employer, including any subcontractor or agent involved in such recruiting.

(2) All assurances and terms and conditions of employment, from the prospective employer for whom the worker is being recruited, including the work hours, level of compensation to be paid, the place and period of employment, a description of the type and nature of employment activities, any withholdings or
deductions from compensation and any penalties for terminating employment.

(3) A signed copy of the work contract between the worker and the employer.

(4) The type of visa under which the foreign worker is to be employed, the length of time for which the visa will be valid, the terms and conditions under which the visa may be renewed, and a clear statement of any expenses associated with securing or renewing the visa.

(5) An itemized list of any costs or expenses to be charged to the worker and any deductions to be taken from wages, including any costs for housing or accommodation, transportation to and from the worksite, meals, health insurance, workers’ compensation, costs of benefits provided, medical examinations, healthcare, tools, or safety equipment costs.

(6) The existence of any labor organizing effort, strike, lockout, or other labor dispute at the place of employment.

(7) Whether and the extent to which workers will be compensated through workers’ compensation, private insurance, or otherwise for injuries or death, including work-related injuries and death, during the period of employment and, if so, the name of the
State workers’ compensation insurance carrier or the 
name of the policyholder of the private insurance, the 
name and the telephone number of each person who 
must be notified of an injury or death, and the time 
period within which such notice must be given. 

(8) A statement, in a form specified by the Sec-
retary—

(A) stating that—

(i) no foreign labor contractor, agent, 
or employee of a foreign labor contractor, 
may lawfully assess any fee (including visa 
fees, processing fees, transportation fees, 
legal expenses, placement fees, and other 
costs) to a worker for any foreign labor con-
tracting activity; and 

(ii) the employer may bear such costs 
or fees for the foreign labor contractor, but 
that these fees cannot be passed along to the 
worker; 

(B) explaining that—

(i) no additional significant require-
ments or changes may be made to the origi-
nal contract signed by the worker without 
at least 24 hours to consider such changes 
and the specific consent of the worker, ob-
tained voluntarily and without threat of penalty; and

(ii) any significant changes made to the original contract that do not comply with clause (i) shall be a violation of this subtitle and be subject to the provisions of section 3610 of this Act; and

(C) describing the protections afforded the worker by this section and by section 202 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1375b) and any applicable visa program, including—

(i) relevant information about the procedure for filing a complaint provided for in section 3610; and

(ii) the telephone number for the national human trafficking resource center hotline number.

(9) Any education or training to be provided or required, including—

(A) the nature, timing, and cost of such training;

(B) the person who will pay such costs;
(C) whether the training is a condition of employment, continued employment, or future employment; and

(D) whether the worker will be paid or remunerated during the training period, including the rate of pay.

(b) RELATIONSHIP TO LABOR AND EMPLOYMENT LAWS.—Nothing in the disclosure required by subsection (a) shall constitute a legal conclusion as to the worker's status or rights under the labor and employment laws.

(c) PROHIBITION ON FALSE AND MISLEADING INFORMATION.—No foreign labor contractor or employer who engages in any foreign labor contracting activity shall knowingly provide materially false or misleading information to any worker concerning any matter required to be disclosed under subsection (a). The disclosure required by this section is a document concerning the proper administration of a matter within the jurisdiction of a department or agency of the United States for the purposes of section 1519 of title 18, United States Code.

SEC. 3603. PROHIBITION ON DISCRIMINATION.

(a) IN GENERAL.—It shall be unlawful for an employer or a foreign labor contractor to fail or refuse to hire, discharge, intimidate, threaten, restrain, coerce, or blacklist any individual or otherwise discriminate against an indi-
vidual with respect to compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, creed, sex, national origin, religion, age, or disability.

(b) DETERMINATIONS OF DISCRIMINATION.—For the purposes of determining the existence of unlawful discrimination under subsection (a)—

(1) in the case of a claim of discrimination based on race, color, creed, sex, national origin, or religion, the same legal standards shall apply as are applicable under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);

(2) in the case of a claim of discrimination based on unlawful discrimination based on age, the same legal standards shall apply as are applicable under the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.); and

(3) in the case of a claim of discrimination based on disability, the same legal standards shall apply as are applicable under title I of the Americans With Disabilities Act of 1990 (42 U.S.C. 12111 et seq.).

SEC. 3604. RECRUITMENT FEES.

No employer, foreign labor contractor, or agent or employee of a foreign labor contractor, shall assess any fee (including visa fees, processing fees, transportation fees, legal
expenses, placement fees, and other costs) to a worker for
any foreign labor contracting activity.

SEC. 3605. REGISTRATION.

(a) REQUIREMENT TO REGISTER.—

(1) IN GENERAL.—Subject to paragraph (2),
prior to engaging in any foreign labor contracting ac-
tivity, any person who is a foreign labor contractor
or who, for any money or other valuable consideration
paid or promised to be paid, performs a foreign labor
contracting activity on behalf of a foreign labor con-
tractor, shall obtain a certificate of registration from
the Secretary of Labor pursuant to regulations pro-
mulgated by the Secretary under subsection (c).

(2) EXCEPTION FOR CERTAIN EMPLOYERS.—An
employer, or employee of an employer, who engages in
foreign labor contracting activity solely to find em-
ployees for that employer's own use, and without the
participation of any other foreign labor contractor,
shall not be required to register under this section.

(b) NOTIFICATION.—

(1) ANNUAL EMPLOYER NOTIFICATION.—Each
employer shall notify the Secretary, not less fre-
fquently than once every year, of the identity of any
foreign labor contractor involved in any foreign labor
contracting activity for, or on behalf of, the employer,
including at a minimum, the name and address of
the foreign labor contractor, a description of the serv-
ices for which the foreign labor contractor is being
used, whether the foreign labor contractor is to receive
any economic compensation for the services, and, if
so, the identity of the person or entity who is paying
for the services.

(2) **ANNUAL FOREIGN LABOR CONTRACTOR NOTIF-
IFICATION.**—Each foreign labor contractor shall notify
the Secretary, not less frequently than once every
year, of the identity of any subcontractee, agent, or
foreign labor contractor employee involved in any for-
eign labor contracting activity for, or on behalf of, the
foreign labor contractor.

(3) **NONCOMPLIANCE NOTIFICATION.**—An em-
ployer shall notify the Secretary of the identity of a
foreign labor contractor whose activities do not com-
ply with this subtitle.

(4) **AGREEMENT.**—Not later than 7 days after
receiving a request from the Secretary, an employer
shall provide the Secretary with the identity of any
foreign labor contractor with which the employer has
a contract or other agreement.

(c) **REGULATIONS.**—Not later than 180 days after the
date of the enactment of this Act, the Secretary shall pro-
mulgate regulations to establish an efficient electronic process for the timely investigation and approval of an application for a certificate of registration of foreign labor contractors, including—

(1) a declaration, subscribed and sworn to by the applicant, stating the applicant's permanent place of residence, the foreign labor contracting activities for which the certificate is requested, and such other relevant information as the Secretary may require;

(2) a set of fingerprints of the applicant;

(3) an expeditious means to update registrations and renew certificates;

(4) providing for the consent of any foreign labor recruiter to the designation by a court of the Secretary as an agent available to accept service of summons in any action against the applicant, if the applicant has left the jurisdiction in which the action is commenced, otherwise has become unavailable to accept service, or is subject to personal jurisdiction in no State;

(5) providing for the consent of any foreign labor recruiter to jurisdiction in the Department or any Federal or State court in the United States for any action brought by any aggrieved individual or worker;
(6) providing for cooperation in any investigation by the Secretary or other appropriate authorities;

(7) providing for consent to the forfeiture of the bond for failure to cooperate with these provisions;

(8) providing for consent to be liable for violations of this subtitle by any agents or subcontractees of any level in relation to the foreign labor contracting activity of the agent or subcontractee to the same extent as if the foreign labor contractor had committed the violation; and

(9) providing for consultation with other appropriate Federal agencies to determine whether any reason exists to deny registration to a foreign labor contractor.

(d) TERM OF REGISTRATION.—Unless suspended or revoked, a certificate under this section shall be valid for 2 years.

(e) APPLICATION FEE.—

(1) REQUIREMENT FOR FEE.—In addition to any other fees authorized by law, the Secretary shall impose a fee, to be deposited in the general fund of the Treasury, on a foreign labor contractor that submits an application for a certificate of registration under this section.
(2) AMOUNT OF FEE.—The amount of the fee required by paragraph (1) shall be set at a level that the Secretary determines sufficient to cover the full costs of carrying out foreign labor contract registration activities under this subtitle, including worker education and any additional costs associated with the administration of the fees collected.

(f) REFUSAL TO ISSUE; REVOCATION.—In accordance with regulations promulgated by the Secretary, the Secretary shall refuse to issue or renew, or shall revoke and debar from eligibility to obtain a certificate of registration for a period of not greater than 5 years, after notice and an opportunity for a hearing, a certificate of registration under this section if—

(1) the applicant for, or holder of, the certification has knowingly made a material misrepresentation in the application for such certificate;

(2) the applicant for, or holder of, the certification is not the real party in interest in the application or certificate of registration and the real party in interest—

(A) is a person who has been refused issuance or renewal of a certificate;

(B) has had a certificate revoked; or
(C) does not qualify for a certificate under this section;

(3) the applicant for, or holder of, the certification has been convicted within the preceding 5 years of—

(A) any felony under State or Federal law or crime involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, prostitution, peonage, or smuggling or harboring individuals who have entered the United States illegally; or

(B) any crime relating to gambling, or to the sale, distribution or possession of alcoholic beverages, in connection with or incident to any labor contracting activities; or

(4) the applicant for, or holder of, the certification has materially failed to comply with this section.

(g) RE-REGISTRATION OF VIOLATORS.—The Secretary shall establish a procedure by which a foreign labor contractor that has had its registration revoked under subsection (f) may seek to re-register under this subsection by demonstrating to the Secretary's satisfaction that the for-
eign labor contractor has not violated this subtitle in the
previous 5 years and that the foreign labor contractor has
taken sufficient steps to prevent future violations of this
subtitle.

SEC. 3606. BONDING REQUIREMENT.

(a) In General.—The Secretary shall require a for-
eign labor contractor to post a bond in an amount sufficient
to ensure the ability of the foreign labor contractor to dis-
charge its responsibilities and to ensure protection of work-
ers, including wages.

(b) Regulations.—The Secretary, by regulation,
shall establish the conditions under which the bond amount
is determined, paid, and forfeited.

(c) Relationship to Other Remedies.—The bond
requirements and forfeiture of the bond under this section
shall be in addition to other remedies under 3610 or any
other law.

SEC. 3607. MAINTENANCE OF LISTS.

(a) In General.—The Secretary shall maintain—

(1) a list of all foreign labor contractors reg-
istered under this subsection, including—

(A) the countries from which the contractors
recruit;

(B) the employers for whom the contractors
recruit;
(C) the visa categories and occupations for
which the contractors recruit; and
(D) the States where recruited workers are
employed; and
(2) a list of all foreign labor contractors whose
certificate of registration the Secretary has revoked.
(b) UPDATES; AVAILABILITY.—The Secretary shall—
(1) update the lists required by subsection (a) on
an ongoing basis, not less frequently than every 6
months; and
(2) make such lists publicly available, including
through continuous publication on Internet websites
and in written form at and on the websites of United
States embassies in the official language of that coun-
try.
(c) INTER-AGENCY AVAILABILITY.—The Secretary
shall share the information described in subsection (a) with
the Secretary of State.
SEC. 3608. AMENDMENT TO THE IMMIGRATION AND NA-
TIONALITY ACT.
Section 214 (8 U.S.C. 1184) is amended by adding
at the end the following:
“(s) A visa shall not be issued under the subparagraph
(A)(iii), (B)(i) (but only for domestic servants described in
clause (i) or (ii) of section 274a.12(c)(17) of title 8, Code
of Federal Regulations (as in effect on December 4, 2007)),
(G)(v), (H), (J), (L), (Q), (R), or (W) of section 101(a)(15)
until the consular officer—

“(1) has provided to and reviewed with the ap-
licant, in the applicant's language (or a language
the applicant understands), a copy of the information
and resources pamphlet required by section 202 of the
William Wilberforce Trafficking Victims Protection
Reauthorization Act of 2008 (8 U.S.C. 1375b); and

“(2) has reviewed and made a part of the visa
file the foreign labor recruiter disclosures required by
section 3602 of the Border Security, Economic Oppor-
tunity, and Immigration Modernization Act, includ-
ing whether the foreign labor recruiter is registered
pursuant to that section.”.

SEC. 3609. RESPONSIBILITIES OF SECRETARY OF STATE.

(a) In General.—The Secretary of State shall ensure
that each United States diplomatic mission has a person
who shall be responsible for receiving information from any
worker who has been subject to violations of this subtitle.
(b) Provision of Information.—The responsible
person referred to in subsection (a) shall ensure that the
information received is provided to the Department of Jus-
tice, the Department of Labor, or any other relevant Federal
agency.
(c) MECHANISMS.—The Attorney General and the Secretary shall ensure that there is a mechanism for any actions that need to be taken in response to information received under subsection (a).

(d) ASSISTANCE FROM FOREIGN GOVERNMENT.—The person designated for receiving information pursuant to subsection (a) is strongly encouraged to coordinate with governments and civil society organizations in the countries of origin to ensure the worker receives additional support.

(e) MAINTENANCE AND AVAILABILITY OF INFORMATION.—The Secretary of State shall ensure that consulates maintain information regarding the identities of foreign labor contractors and the employers to whom the foreign labor contractors supply workers. The Secretary of State shall make such information publicly available in written form and online, including on the websites of United States embassies in the official language of that country.

(f) ANNUAL PUBLIC DISCLOSE.—The Secretary of State shall make publicly available online, on an annual basis, data disclosing the gender, country of origin and state, if available, date of birth, wage, level of training, and occupation category, disaggregated by job and by visa category and subcategory.
SEC. 3610. ENFORCEMENT PROVISIONS.

(a) COMPLAINTS AND INVESTIGATIONS.—The Secretary—

(1) shall establish a process for the receipt, investigation, and disposition of complaints filed by any person, including complaints respecting a foreign labor contractor's compliance with this subtitle; and

(2) either pursuant to the process required by paragraph (1) or otherwise, may investigate employers or foreign labor contractors, including actions occurring in a foreign country, as necessary to determine compliance with this subtitle.

(b) ENFORCEMENT.—

(1) IN GENERAL.—A worker who believes that he or she has suffered a violation of this subtitle may seek relief from an employer by—

(A) filing a complaint with the Secretary within 3 years after the date on which the violation occurred or date on which the employee became aware of the violation; or

(B) if the Secretary has not issued a final decision within 120 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United
States, which shall have jurisdiction over such
an action without regard to the amount in con-
troversy.

(2) **Procedure.**—

(A) **In General.**—Unless otherwise pro-
vided herein, a complaint under paragraph
(1)(A) shall be governed under the rules and pro-
cedures set forth in paragraphs (1) and (2)(A) of
section 42121(b) of title 49, United States Code.

(B) **Exception.**—Notification of a com-
plaint under paragraph (1)(A) shall be made to
each person or entity named in the complaint as
a defendant and to the employer.

(C) **Statute of Limitations.**—An action
filed in a district court of the United States
under paragraph (1)(B) shall be commenced not
later than 180 days after the last day of the 120-
day period referred to in that paragraph.

(D) **Jury Trial.**—A party to an action
brought under paragraph (1)(B) shall be entitled
to trial by jury.

(e) **Administrative Enforcement.**—

(1) **In General.**—If the Secretary finds, after
notice and an opportunity for a hearing, any foreign
labor contractor or employer failed to comply with
any of the requirements of this subtitle, the Secretary may impose the following against such contractor or employer—

(A) a fine in an amount not more than $10,000 per violation; and

(B) upon the occasion of a third violation or a failure to comply with representations, a fine of not more than $25,000 per violation.

(d) AUTHORITY TO ENSURE COMPLIANCE.—The Secretary is authorized to take other such actions, including issuing subpoenas and seeking appropriate injunctive relief and recovery of damages, as may be necessary to assure compliance with the terms and conditions of this subtitle.

(e) BONDING.—Pursuant to the bonding requirement in section 3606, bond liquidation and forfeitures shall be in addition to other remedies under this section or any other law.

(f) CIVIL ACTION.—

(1) IN GENERAL.—The Secretary or any person aggrieved by a violation of this subtitle may bring a civil action against any foreign labor contractor that does not meet the requirements under subsection (g)(2) in any court of competent jurisdiction—

(A) to seek remedial action, including injunctive relief;
(B) to recover damages on behalf of any worker harmed by a violation of this subsection;
and

(C) to ensure compliance with requirements of this section.

(2) ACTIONS BY THE SECRETARY OF HOMELAND SECURITY.—

(A) SUMS RECOVERED.—Any sums recovered by the Secretary on behalf of a worker under paragraph (1) or through liquidation of the bond held pursuant to section 3606 shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each worker affected. Any such sums not paid to a worker because of inability to do so within a period of 5 years shall be credited as an offsetting collection to the appropriations account of the Secretary for expenses for the administration of this section and shall remain available to the Secretary until expended or may be used for enforcement of the laws within the jurisdiction of the wage and hour division or may be transferred to the Secretary of Health and Human Services for the purpose of providing support to programs that provide assistance to victims of
trafficking in persons or other exploited persons.
The Secretary shall work with any attorney or
organization representing workers to locate work-
ers owed sums under this section.

(B) REPRESENTATION.—Except as provided
in section 518(a) of title 28, United States Code,
the Attorney General may appear for and rep-
resent the Secretary in any civil litigation
brought under this paragraph. All such litigation
shall be subject to the direction and control of the
Attorney General.

(3) ACTIONS BY INDIVIDUALS.—

(A) AWARD.—If the court finds in a civil
action filed by an individual under this section
that the defendant has violated any provision of
this subtitle (or any regulation issued pursuant
to this subtitle), the court may award—

(i) damages, up to and including an
amount equal to the amount of actual dam-
ages, and statutory damages of up to $1,000
per plaintiff per violation, or other equi-
table relief, except that with respect to stat-
utory damages—

(I) multiple infractions of a single
provision of this subtitle (or of a regu-
lution under this subtitle) shall constitute only 1 violation for purposes of section 3602(a) to determine the amount of statutory damages due a plaintiff; and

(II) if such complaint is certified as a class action the court may award—

(aa) damages up to an amount equal to the amount of actual damages; and

(bb) statutory damages of not more than the lesser of up to $1,000 per class member per violation, or up to $500,000; and other equitable relief;

(ii) reasonable attorneys’ fees and costs; and

(iii) such other and further relief, including declaratory and injunctive relief, as necessary to effectuate the purposes of this subtitle.

(B) CRITERIA.—In determining the amount of statutory damages to be awarded under subparagraph (A), the court is authorized to con-
sider whether an attempt was made to resolve the
issues in dispute before the resort to litigation.

(C) BOND.—To satisfy the damages, fees,
and costs found owing under this clause, the Sec-
retary shall release as much of the bond held
pursuant to section 3606 as necessary.

(D) APPEAL.—Any civil action brought
under this section shall be subject to appeal as
provided in chapter 83 of title 28, United States
Code (28 U.S.C. 1291 et seq.).

(E) ACCESS TO LEGAL SERVICES CORPO-
RATION.—Notwithstanding any other provision of
law, the Legal Services Corporation and recipi-
ents of its funding may provide legal assistance
on behalf of any alien with respect to any provi-
sion of this subtitle.

(g) AGENCY LIABILITY.—

(1) IN GENERAL.—Beginning 180 days after the
Secretary has promulgated regulations pursuant to
section 3605(c), an employer who retains the services
of a foreign labor contractor shall only use those for-

gin labor contractors who are registered under sec-
tion 3605.

(2) SAFE HARBOR.—An employer shall not have
any liability under this section if the employer hires
workers referred by a foreign labor contractor that has a valid registration with the Department pursuant to section 3604.

(3) LIABILITY FOR AGENTS.—Foreign labor contractors shall be subject to the provisions of this section for violations committed by the foreign labor contractor's agents or subcontractees of any level in relation to their foreign labor contracting activity to the same extent as if the foreign labor contractor had committed the violation.

(h) RETALIATION.—

(1) IN GENERAL.—No person shall intimidate, threaten, restrain, coerce, discharge, or in any other manner discriminate or retaliate against any worker or their family members (including a former employee or an applicant for employment) because such worker disclosed information to any person that the worker reasonably believes evidences a violation of this section (or any rule or regulation pertaining to this section), including seeking legal assistance of counsel or cooperating with an investigation or other proceeding concerning compliance with this section (or any rule or regulation pertaining to this section).

(2) ENFORCEMENT.—An individual who is subject to any conduct described in paragraph (1) may,
in a civil action, recover appropriate relief, including reasonable attorneys’ fees and costs, with respect to that violation. Any civil action under this subparagraph shall be stayed during the pendency of any criminal action arising out of the violation.

(i) WAIVER OF RIGHTS.—Agreements by employees purporting to waive or to modify their rights under this subtitle shall be void as contrary to public policy.

(j) PRESENCE DURING PENDENCY OF ACTIONS.—

(1) IN GENERAL.—If other immigration relief is not available, the Attorney General and the Secretary shall grant advance parole to permit a nonimmigrant to remain legally in the United States for time sufficient to fully and effectively participate in all legal proceedings related to any action taken pursuant to this section.

(2) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate regulations to carry out paragraph (1).

SEC. 3611. DETECTING AND PREVENTING CHILD TRAFFICKING.

The Secretary shall mandate the live training of all U.S. Customs and Border Protection personnel who are likely to come into contact with unaccompanied alien chil-
Such training shall incorporate the services of child welfare professionals with expertise in culturally competent, trauma-centered, and developmentally appropriate interviewing skills to assist U.S. Customs and Border Protection in the screening of children attempting to enter the United States.

SEC. 3612. PROTECTING CHILD TRAFFICKING VICTIMS.

(a) SHORT TITLE.—This section may be cited as the “Child Trafficking Victims Protection Act”.

(b) DEFINED TERM.—In this section, the term “unaccompanied alien children” has the meaning given such term in section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(c) MANDATORY TRAINING.—The Secretary, in consultation with the Secretary of Health and Human Services and independent child welfare experts, shall mandate appropriate training of all personnel who come into contact with unaccompanied alien children in the relevant legal authorities, policies, practices, and procedures pertaining to this vulnerable population.

(d) CARE AND TRANSPORTATION.—Notwithstanding any other provision of law, the Secretary shall ensure that all unaccompanied alien children who will undergo any immigration proceedings before the Department or the Executive Office for Immigration Review are duly transported
and placed in the care and legal and physical custody of the Office of Refugee Resettlement not later than 72 hours after their apprehension absent exceptional circumstances, including a natural disaster or comparable emergency beyond the control of the Secretary or the Office of Refugee Resettlement. The Secretary, to the extent practicable, shall ensure that female officers are continuously present during the transfer and transport of female detainees who are in the custody of the Department.

(e) QUALIFIED RESOURCES.—

(1) IN GENERAL.—The Secretary shall provide adequately trained and qualified staff and resources, including the accommodation of child welfare officials, in accordance with subsection (f), at U.S. Customs and Border Protection ports of entry and stations.

(2) CHILD WELFARE PROFESSIONALS.—The Secretary of Health and Human Services, in consultation with the Secretary, shall hire, on a full- or part-time basis, child welfare professionals who will provide assistance, either in person or by other appropriate methods of communication, in not fewer than 7 of the U.S. Customs and Border Protection offices or stations with the largest number of unaccompanied alien child apprehensions in the previous fiscal year.
(f) **Child Welfare Professionals.**—

(1) **In General.**—The Secretary, in consultation with the Secretary of Health and Human Services, shall ensure that qualified child welfare professionals with expertise in culturally competent, trauma-centered, and developmentally appropriate interviewing skills are available at each major port of entry described in subsection (e).

(2) **Duties.**—Child welfare professionals described in paragraph (1) shall—

(A) develop guidelines for treatment of unaccompanied alien children in the custody of the Department;

(B) conduct screening of all unaccompanied alien children in accordance with section 235(a)(4) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(a)(4));

(C) notify the Department and the Office of Refugee Resettlement of children that potentially meet the notification and transfer requirements set forth in subsections (a) and (b) of section 235 of such Act (8 U.S.C. 1232);

(D) interview adult relatives accompanying unaccompanied alien children;
(E) provide an initial family relationship and trafficking assessment and recommendations regarding unaccompanied alien children’s initial placements to the Office of Refugee Resettlement, which shall be conducted in accordance with the time frame set forth in subsections (a)(4) and (b)(3) of section 235 of such Act (8 U.S.C. 1232); and

(F) ensure that each unaccompanied alien child in the custody of U.S. Customs and Border Protection—

(i) receives emergency medical care when necessary;

(ii) receives emergency medical and mental health care that complies with the standards adopted pursuant to section 8(c) of the Prison Rape Elimination Act of 2003 (42 U.S.C. 15607(c)) whenever necessary, including in cases in which a child is at risk to harm himself, herself, or others;

(iii) is provided with climate appropriate clothing, shoes, basic personal hygiene and sanitary products, a pillow, linens, and sufficient blankets to rest at a comfortable temperature;
(iv) receives adequate nutrition;

(v) enjoys a safe and sanitary living environment;

(vi) has access to daily recreational programs and activities if held for a period longer than 24 hours;

(vii) has access to legal services and consular officials; and

(viii) is permitted to make supervised phone calls to family members.

(3) Final Determinations.—The Office of Refugee Resettlement in accordance with applicable policies and procedures for sponsors, shall submit final determinations on family relationships to the Secretary, who shall consider such adult relatives for community-based support alternatives to detention.

(4) Report.—Not later than 18 months after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to Congress that—

(A) describes the screening procedures used by the child welfare professionals to screen unaccompanied alien children;

(B) assesses the effectiveness of such screenings; and
(C) includes data on all unaccompanied alien children who were screened by child welfare professionals;

(g) **IMMEDIATE NOTIFICATION.** — The Secretary shall notify the Office of Refugee Resettlement of an unaccompanied alien child in the custody of the Department as soon as practicable, but not later than 48 hours after the Department encounters the child, to effectively and efficiently coordinate the child's transfer to and placement with the Office of Refugee Resettlement.

(h) **NOTICE OF RIGHTS AND RIGHT TO ACCESS TO COUNSEL.** —

(1) **IN GENERAL.** — The Secretary shall ensure that all unaccompanied alien children, upon apprehension, are provided—

(A) an interview and screening with a child welfare professional described in subsection (f)(1); and

(B) an orientation and oral and written notice of their rights under the Immigration and Nationality Act, including—

(i) their right to relief from removal;

(ii) their right to confer with counsel (as guaranteed under section 292 of such Act (8 U.S.C. 1362)), family, or friends
while in the temporary custody of the Department; and

(iii) relevant complaint mechanisms to report any abuse or misconduct they may have experienced.

(2) LANGUAGES.—The Secretary shall ensure that—

(A) the video orientation and written notice of rights described in paragraph (1) is available in English and in the 5 most common native languages spoken by the unaccompanied children held in custody at that location during the preceding fiscal year; and

(B) the oral notice of rights is available in English and in the most common native language spoken by the unaccompanied children held in custody at that location during the preceding fiscal year.

(i) CONFIDENTIALITY.—The Secretary of Health and Human Services shall maintain the privacy and confidentiality of all information gathered in the course of providing care, custody, placement, and follow-up services to unaccompanied alien children, consistent with the best interest of the unaccompanied alien child, by not disclosing
such information to other government agencies or non-
parental third parties unless such disclosure is—

(1) recorded in writing and placed in the child’s
file;

(2) in the child’s best interest; and

(3)(A) authorized by the child or by an approved
sponsor in accordance with section 235 of the William
Wilberforce Trafficking Victims Protection Reauthor-
ization Act of 2008 (8 U.S.C. 1232) and the Health
Insurance Portability and Accountability Act (Public
Law 104–191); or

(B) provided to a duly recognized law enforce-
ment entity to prevent imminent and serious harm to
another individual.

(j) OTHER POLICIES AND PROCEDURES.—The Sec-
retary shall adopt fundamental child protection policies
and procedures—

(1) for reliable age determinations of children,
developed in consultation with medical and child wel-
fare experts, which exclude the use of fallible forensic
testing of children’s bone and teeth;

(2) to utilize all legal authorities to defer the
child’s removal if the child faces a risk of life-threat-
ening harm upon return including due to the child’s
mental health or medical condition; and
(3) to ensure, in accordance with the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.), that unaccompanied alien children, while in detention, are—

(A) physically separated from any adult who is not an immediate family member; and

(B) separated from—

(i) immigration detainees and inmates with criminal convictions;

(ii) pretrial inmates facing criminal prosecution; and

(iii) inmates exhibiting violent behavior.

(k) Repatriation and Reintegration Program.—

(1) In general.—The Administrator of the United States Agency for International Development, in conjunction with the Secretary, the Secretary of Health and Human Services, the Attorney General, international organizations, and nongovernmental organizations in the United States with expertise in repatriation and reintegration, shall create a multi-year program to develop and implement best practices and sustainable programs in the United States and within the country of return to ensure the safe and sustainable repatriation and reintegration of unac-
accompanied alien children into their country of nationality or of last habitual residence, including placement with their families, legal guardians, or other sponsoring agencies.

(2) REPORT ON REPATRIATION AND REINTEGRATION OF UNACCOMPANIED ALIEN CHILDREN.—Not later than 18 months after the date of the enactment of this Act, and annually thereafter, the Administrator of the Agency for International Development shall submit a substantive report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on efforts to improve repatriation and reintegration programs for unaccompanied alien children.

(1) TRANSFER OF FUNDS.—

(1) AUTHORIZATION.—The Secretary, in accordance with a written agreement between the Secretary and the Secretary of Health and Human Services, shall transfer such amounts as may be necessary to carry out the duties described in subsection (f)(2) from amounts appropriated for U.S. Customs and Border Protection to the Department of Health and Human Services.

(2) REPORT.—Not later than 15 days before any proposed transfer under paragraph (1), the Secretary
of Health and Human Services, in consultation with
the Secretary, shall submit a detailed expenditure
plan that describes the actions proposed to be taken
with amounts transferred under such paragraph to—

(A) the Committee on Appropriations of the
Senate; and

(B) the Committee on Appropriations of the
House of Representatives.

SEC. 3613. BEST INTERESTS OF THE CHILD.

(a) IN GENERAL.—In all procedures and decisions
concerning unaccompanied immigrant children that are
made by Federal agencies, private agencies subcontracted
by the Federal Government, and Federal courts of law, pur-
suant to the Immigration and Nationality Act (8 U.S.C.
1101 et seq.), and regulations implementing such Act, the
best interests of the child shall be a primary consideration.

(b) JUVENILE COURT DETERMINATIONS.—Best inter-
est determinations made by a juvenile court (as defined
in section 204.11(a) of title 8, Code of Federal Regulations)
shall be conclusive in assessing the best interests of the child
under this section.

(c) FACTORS.—In assessing the best interests of the
child, the entities referred to in subsection (a) shall consider,
in the context of the child’s age and developmental needs—

(1) the views of the minor;
(2) safety and security considerations of the child;

(3) family unity;

(4) the minor’s well-being and development, taking into particular consideration the minor’s ethnic, religious, cultural, and linguistic background; and

(5) access to education.

SEC. 3614. RULE OF CONSTRUCTION.
Nothing in this subtitle shall be construed to preempt or alter any other rights or remedies, including any causes of action, available under any other Federal or State law.

SEC. 3615. REGULATIONS.
The Secretary shall, in consultation with the Secretary of Labor, prescribe regulations to implement this subtitle and to develop policies and procedures to enforce the provisions of this subtitle.

Subtitle G—Interior Enforcement

SEC. 3701. CRIMINAL STREET GANGS.

(a) INADMISSIBILITY.—Section 212(a)(2) (8 U.S.C. 1182(a)(2)) is amended by inserting after subparagraph (I) the following:

“(J) ALIENS IN CRIMINAL STREET GANGS.—

“(i) IN GENERAL.—Any alien is inadmissible—