

1 **Subtitle F—Prevention of Traf-**
2 **ficking in Persons and Abuses**
3 **Involving Workers Recruited**
4 **Abroad**

5 **SEC. 3601. DEFINITIONS.**

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

11 (b) *OTHER DEFINITIONS.*—

12 (1) *FOREIGN LABOR CONTRACTOR.*—*The term*
13 *“foreign labor contractor” means any person who per-*
14 *forms foreign labor contracting activity, including*
15 *any person who performs foreign labor contracting*
16 *activity wholly outside of the United States, except*
17 *that the term does not include any entity of the*
18 *United States Government.*

19 (2) *FOREIGN LABOR CONTRACTING ACTIVITY.*—
20 *The term “foreign labor contracting activity” means*
21 *recruiting, soliciting, or related activities with respect*
22 *to an individual who resides outside of the United*
23 *States in furtherance of employment in the United*
24 *States, including when such activity occurs wholly*
25 *outside of the United States.*

1 (3) *PERSON.*—*The term “person” means any*
2 *natural person or any corporation, company, firm,*
3 *partnership, joint stock company or association or*
4 *other organization or entity (whether organized under*
5 *law or not), including municipal corporations.*

6 (4) *WORKER.*—*the term “worker” means an in-*
7 *dividual or exchange visitor who is the subject of for-*
8 *ign labor contracting activity.*

9 **SEC. 3602. DISCLOSURE.**

10 (a) *REQUIREMENT FOR DISCLOSURE.*—*Any person*
11 *who engages in foreign labor contracting activity shall as-*
12 *certain and disclose in writing in English and in the pri-*
13 *mary language of the worker at the time of the worker’s*
14 *recruitment, the following information:*

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

19 (2) *All assurances and terms and conditions of*
20 *employment, from the prospective employer for whom*
21 *the worker is being recruited, including the work*
22 *hours, level of compensation to be paid, the place and*
23 *period of employment, a description of the type and*
24 *nature of employment activities, any withholdings or*

1 *deductions from compensation and any penalties for*
2 *terminating employment.*

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

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

11 (5) *An itemized list of any costs or expenses to*
12 *be charged to the worker and any deductions to be*
13 *taken from wages, including any costs for housing or*
14 *accommodation, transportation to and from the work-*
15 *site, meals, health insurance, workers' compensation,*
16 *costs of benefits provided, medical examinations,*
17 *healthcare, tools, or safety equipment costs.*

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

21 (7) *Whether and the extent to which workers will*
22 *be compensated through workers' compensation, pri-*
23 *vate insurance, or otherwise for injuries or death, in-*
24 *cluding work-related injuries and death, during the*
25 *period of employment and, if so, the name of the*

1 *State workers' compensation insurance carrier or the*
2 *name of the policyholder of the private insurance, the*
3 *name and the telephone number of each person who*
4 *must be notified of an injury or death, and the time*
5 *period within which such notice must be given.*

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

8 (A) *stating that—*

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

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

20 (B) *explaining that—*

21 (i) *no additional significant require-*
22 *ments or changes may be made to the origi-*
23 *nal contract signed by the worker without*
24 *at least 24 hours to consider such changes*
25 *and the specific consent of the worker, ob-*

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1 *tained voluntarily and without threat of*
2 *penalty; and*

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

8 *(C) describing the protections afforded the*
9 *worker by this section and by section 202 of the*
10 *William Wilberforce Trafficking Victims Protec-*
11 *tion Reauthorization Act of 2008 (8 U.S.C.*
12 *1375b) and any applicable visa program, includ-*
13 *ing—*

14 *(i) relevant information about the pro-*
15 *cedure for filing a complaint provided for*
16 *in section 3610; and*

17 *(ii) the telephone number for the na-*
18 *tional human trafficking resource center*
19 *hotline number.*

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

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

24 *(B) the person who will pay such costs;*

1 (C) *whether the training is a condition of*
2 *employment, continued employment, or future*
3 *employment; and*

4 (D) *whether the worker will be paid or re-*
5 *munerated during the training period, including*
6 *the rate of pay.*

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

11 (c) **PROHIBITION ON FALSE AND MISLEADING INFOR-**
12 **MATION.**—*No foreign labor contractor or employer who en-*
13 *gages in any foreign labor contracting activity shall know-*
14 *ingly provide materially false or misleading information to*
15 *any worker concerning any matter required to be disclosed*
16 *under subsection (a). The disclosure required by this section*
17 *is a document concerning the proper administration of a*
18 *matter within the jurisdiction of a department or agency*
19 *of the United States for the purposes of section 1519 of title*
20 *18, United States Code.*

21 **SEC. 3603. PROHIBITION ON DISCRIMINATION.**

22 (a) **IN GENERAL.**—*It shall be unlawful for an em-*
23 *ployer or a foreign labor contractor to fail or refuse to hire,*
24 *discharge, intimidate, threaten, restrain, coerce, or blacklist*
25 *any individual or otherwise discriminate against an indi-*

1 *vidual with respect to compensation, terms, conditions, or*
2 *privileges of employment, because of such individual's race,*
3 *color, creed, sex, national origin, religion, age, or disability.*

4 (b) *DETERMINATIONS OF DISCRIMINATION.—For the*
5 *purposes of determining the existence of unlawful discrimi-*
6 *nation under subsection (a)—*

7 (1) *in the case of a claim of discrimination*
8 *based on race, color, creed, sex, national origin, or re-*
9 *ligion, the same legal standards shall apply as are*
10 *applicable under title VII of the Civil Rights Act of*
11 *1964 (42 U.S.C. 2000e et seq.);*

12 (2) *in the case of a claim of discrimination*
13 *based on unlawful discrimination based on age, the*
14 *same legal standards shall apply as are applicable*
15 *under the Age Discrimination in Employment Act of*
16 *1967 (29 U.S.C. 621 et seq.); and*

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

22 **SEC. 3604. RECRUITMENT FEES.**

23 *No employer, foreign labor contractor, or agent or em-*
24 *ployee of a foreign labor contractor, shall assess any fee (in-*
25 *cluding visa fees, processing fees, transportation fees, legal*

1 *expenses, placement fees, and other costs) to a worker for*
2 *any foreign labor contracting activity.*

3 **SEC. 3605. REGISTRATION.**

4 (a) *REQUIREMENT TO REGISTER.—*

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

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

20 (b) *NOTIFICATION.—*

21 (1) *ANNUAL EMPLOYER NOTIFICATION.—Each*
22 *employer shall notify the Secretary, not less fre-*
23 *quently than once every year, of the identity of any*
24 *foreign labor contractor involved in any foreign labor*
25 *contracting activity for, or on behalf of, the employer,*

1 *including at a minimum, the name and address of*
2 *the foreign labor contractor, a description of the serv-*
3 *ices for which the foreign labor contractor is being*
4 *used, whether the foreign labor contractor is to receive*
5 *any economic compensation for the services, and, if*
6 *so, the identity of the person or entity who is paying*
7 *for the services.*

8 (2) *ANNUAL FOREIGN LABOR CONTRACTOR NOTI-*
9 *FICATION.—Each foreign labor contractor shall notify*
10 *the Secretary, not less frequently than once every*
11 *year, of the identity of any subcontractee, agent, or*
12 *foreign labor contractor employee involved in any for-*
13 *oreign labor contracting activity for, or on behalf of, the*
14 *foreign labor contractor.*

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

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

24 (c) *REGULATIONS.—Not later than 180 days after the*
25 *date of the enactment of this Act, the Secretary shall pro-*

1 *mulgate regulations to establish an efficient electronic proc-*
2 *ess for the timely investigation and approval of an applica-*
3 *tion for a certificate of registration of foreign labor contrac-*
4 *tors, including—*

5 (1) *a declaration, subscribed and sworn to by the*
6 *applicant, stating the applicant's permanent place of*
7 *residence, the foreign labor contracting activities for*
8 *which the certificate is requested, and such other rel-*
9 *evant information as the Secretary may require;*

10 (2) *a set of fingerprints of the applicant;*

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

13 (4) *providing for the consent of any foreign labor*
14 *recruiter to the designation by a court of the Sec-*
15 *retary as an agent available to accept service of sum-*
16 *mons in any action against the applicant, if the ap-*
17 *plicant has left the jurisdiction in which the action*
18 *is commenced, otherwise has become unavailable to*
19 *accept service, or is subject to personal jurisdiction in*
20 *no State;*

21 (5) *providing for the consent of any foreign labor*
22 *recruiter to jurisdiction in the Department or any*
23 *Federal or State court in the United States for any*
24 *action brought by any aggrieved individual or work-*
25 *er;*

1 (6) *providing for cooperation in any investiga-*
2 *tion by the Secretary or other appropriate authorities;*

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

5 (8) *providing for consent to be liable for viola-*
6 *tions of this subtitle by any agents or subcontractees*
7 *of any level in relation to the foreign labor con-*
8 *tracting activity of the agent or subcontractee to the*
9 *same extent as if the foreign labor contractor had*
10 *committed the violation; and*

11 (9) *providing for consultation with other appro-*
12 *priate Federal agencies to determine whether any rea-*
13 *son exists to deny registration to a foreign labor con-*
14 *tractor.*

15 (d) *TERM OF REGISTRATION.*—*Unless suspended or re-*
16 *voked, a certificate under this section shall be valid for 2*
17 *years.*

18 (e) *APPLICATION FEE.*—

19 (1) *REQUIREMENT FOR FEE.*—*In addition to*
20 *any other fees authorized by law, the Secretary shall*
21 *impose a fee, to be deposited in the general fund of*
22 *the Treasury, on a foreign labor contractor that sub-*
23 *mits an application for a certificate of registration*
24 *under this section.*

1 (2) *AMOUNT OF FEE.*—*The amount of the fee re-*
2 *quired by paragraph (1) shall be set at a level that*
3 *the Secretary determines sufficient to cover the full*
4 *costs of carrying out foreign labor contract registra-*
5 *tion activities under this subtitle, including worker*
6 *education and any additional costs associated with*
7 *the administration of the fees collected.*

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

15 (1) *the applicant for, or holder of, the certifi-*
16 *cation has knowingly made a material misrepresenta-*
17 *tion in the application for such certificate;*

18 (2) *the applicant for, or holder of, the certifi-*
19 *cation is not the real party in interest in the applica-*
20 *tion or certificate of registration and the real party*
21 *in interest—*

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

24 (B) *has had a certificate revoked; or*

1 (C) does not qualify for a certificate under
2 this section;

3 (3) the applicant for, or holder of, the certifi-
4 cation has been convicted within the preceding 5
5 years of—

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

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

18 (4) the applicant for, or holder of, the certifi-
19 cation has materially failed to comply with this sec-
20 tion.

21 (g) *RE-REGISTRATION OF VIOLATORS.*—The Secretary
22 shall establish a procedure by which a foreign labor con-
23 tractor that has had its registration revoked under sub-
24 section (f) may seek to re-register under this subsection by
25 demonstrating to the Secretary's satisfaction that the for-

1 *eign labor contractor has not violated this subtitle in the*
2 *previous 5 years and that the foreign labor contractor has*
3 *taken sufficient steps to prevent future violations of this*
4 *subtitle.*

5 **SEC. 3606. BONDING REQUIREMENT.**

6 (a) *IN GENERAL.*—*The Secretary shall require a for-*
7 *eign labor contractor to post a bond in an amount sufficient*
8 *to ensure the ability of the foreign labor contractor to dis-*
9 *charge its responsibilities and to ensure protection of work-*
10 *ers, including wages.*

11 (b) *REGULATIONS.*—*The Secretary, by regulation,*
12 *shall establish the conditions under which the bond amount*
13 *is determined, paid, and forfeited.*

14 (c) *RELATIONSHIP TO OTHER REMEDIES.*—*The bond*
15 *requirements and forfeiture of the bond under this section*
16 *shall be in addition to other remedies under 3610 or any*
17 *other law.*

18 **SEC. 3607. MAINTENANCE OF LISTS.**

19 (a) *IN GENERAL.*—*The Secretary shall maintain—*

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

22 (A) *the countries from which the contractors*
23 *recruit;*

24 (B) *the employers for whom the contractors*
25 *recruit;*

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1 (C) *the visa categories and occupations for*
2 *which the contractors recruit; and*

3 (D) *the States where recruited workers are*
4 *employed; and*

5 (2) *a list of all foreign labor contractors whose*
6 *certificate of registration the Secretary has revoked.*

7 (b) *UPDATES; AVAILABILITY.—The Secretary shall—*

8 (1) *update the lists required by subsection (a) on*
9 *an ongoing basis, not less frequently than every 6*
10 *months; and*

11 (2) *make such lists publicly available, including*
12 *through continuous publication on Internet websites*
13 *and in written form at and on the websites of United*
14 *States embassies in the official language of that coun-*
15 *try.*

16 (c) *INTER-AGENCY AVAILABILITY.—The Secretary*
17 *shall share the information described in subsection (a) with*
18 *the Secretary of State.*

19 **SEC. 3608. AMENDMENT TO THE IMMIGRATION AND NA-**
20 **TIONALITY ACT.**

21 *Section 214 (8 U.S.C. 1184) is amended by adding*
22 *at the end the following:*

23 “(s) *A visa shall not be issued under the subparagraph*
24 *(A)(iii), (B)(i) (but only for domestic servants described in*
25 *clause (i) or (ii) of section 274a.12(c)(17) of title 8, Code*

1 *of Federal Regulations (as in effect on December 4, 2007)),*
2 *(G)(v), (H), (J), (L), (Q), (R), or (W) of section 101(a)(15)*
3 *until the consular officer—*

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

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

16 **SEC. 3609. RESPONSIBILITIES OF SECRETARY OF STATE.**

17 (a) *IN GENERAL.—The Secretary of State shall ensure*
18 *that each United States diplomatic mission has a person*
19 *who shall be responsible for receiving information from any*
20 *worker who has been subject to violations of this subtitle.*

21 (b) *PROVISION OF INFORMATION.—The responsible*
22 *person referred to in subsection (a) shall ensure that the*
23 *information received is provided to the Department of Jus-*
24 *tice, the Department of Labor, or any other relevant Federal*
25 *agency.*

1 (c) *MECHANISMS.*—*The Attorney General and the Sec-*
2 *retary shall ensure that there is a mechanism for any ac-*
3 *tions that need to be taken in response to information re-*
4 *ceived under subsection (a).*

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

10 (e) *MAINTENANCE AND AVAILABILITY OF INFORMA-*
11 *TION.*—*The Secretary of State shall ensure that consulates*
12 *maintain information regarding the identities of foreign*
13 *labor contractors and the employers to whom the foreign*
14 *labor contractors supply workers. The Secretary of State*
15 *shall make such information publicly available in written*
16 *form and online, including on the websites of United States*
17 *embassies in the official language of that country.*

18 (f) *ANNUAL PUBLIC DISCLOSE.*—*The Secretary of*
19 *State shall make publicly available online, on an annual*
20 *basis, data disclosing the gender, country of origin and*
21 *state, if available, date of birth, wage, level of training, and*
22 *occupation category, disaggregated by job and by visa cat-*
23 *egory and subcategory.*

1 **SEC. 3610. ENFORCEMENT PROVISIONS.**

2 (a) *COMPLAINTS AND INVESTIGATIONS.*—The Sec-
3 retary—

4 (1) *shall establish a process for the receipt, inves-*
5 *tigation, and disposition of complaints filed by any*
6 *person, including complaints respecting a foreign*
7 *labor contractor's compliance with this subtitle; and*

8 (2) *either pursuant to the process required by*
9 *paragraph (1) or otherwise, may investigate employ-*
10 *ers or foreign labor contractors, including actions oc-*
11 *curring in a foreign country, as necessary to deter-*
12 *mine compliance with this subtitle.*

13 (b) *ENFORCEMENT.*—

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

17 (A) *filing a complaint with the Secretary*
18 *within 3 years after the date on which the viola-*
19 *tion occurred or date on which the employee be-*
20 *came aware of the violation; or*

21 (B) *if the Secretary has not issued a final*
22 *decision within 120 days of the filing of the com-*
23 *plaint and there is no showing that such delay*
24 *is due to the bad faith of the claimant, bringing*
25 *an action at law or equity for de novo review in*
26 *the appropriate district court of the United*

1 *States, which shall have jurisdiction over such*
2 *an action without regard to the amount in con-*
3 *troversy.*

4 (2) *PROCEDURE.—*

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

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

14 (C) *STATUTE OF LIMITATIONS.—An action*
15 *filed in a district court of the United States*
16 *under paragraph (1)(B) shall be commenced not*
17 *later than 180 days after the last day of the 120-*
18 *day period referred to in that paragraph.*

19 (D) *JURY TRIAL.—A party to an action*
20 *brought under paragraph (1)(B) shall be entitled*
21 *to trial by jury.*

22 (c) *ADMINISTRATIVE ENFORCEMENT.—*

23 (1) *IN GENERAL.—If the Secretary finds, after*
24 *notice and an opportunity for a hearing, any foreign*
25 *labor contractor or employer failed to comply with*

1 *any of the requirements of this subtitle, the Secretary*
2 *may impose the following against such contractor or*
3 *employer—*

4 *(A) a fine in an amount not more than*
5 *\$10,000 per violation; and*

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

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

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

18 *(f) CIVIL ACTION.—*

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

24 *(A) to seek remedial action, including in-*
25 *jective relief;*

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1 (B) to recover damages on behalf of any
2 worker harmed by a violation of this subsection;
3 and

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

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

8 (A) *SUMS RECOVERED.*—Any sums recov-
9 ered by the Secretary on behalf of a worker
10 under paragraph (1) or through liquidation of
11 the bond held pursuant to section 3606 shall be
12 held in a special deposit account and shall be
13 paid, on order of the Secretary, directly to each
14 worker affected. Any such sums not paid to a
15 worker because of inability to do so within a pe-
16 riod of 5 years shall be credited as an offsetting
17 collection to the appropriations account of the
18 Secretary for expenses for the administration of
19 this section and shall remain available to the
20 Secretary until expended or may be used for en-
21 forcement of the laws within the jurisdiction of
22 the wage and hour division or may be trans-
23 ferred to the Secretary of Health and Human
24 Services for the purpose of providing support to
25 programs that provide assistance to victims of

1 *trafficking in persons or other exploited persons.*
2 *The Secretary shall work with any attorney or*
3 *organization representing workers to locate work-*
4 *ers owed sums under this section.*

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

12 *(3) ACTIONS BY INDIVIDUALS.—*

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

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

24 *(I) multiple infractions of a single*
25 *provision of this subtitle (or of a regu-*

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1 *lation under this subtitle) shall con-*
2 *stitute only 1 violation for purposes of*
3 *section 3602(a) to determine the*
4 *amount of statutory damages due a*
5 *plaintiff; and*

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

9 *(aa) damages up to an*
10 *amount equal to the amount of*
11 *actual damages; and*

12 *(bb) statutory damages of not*
13 *more than the lesser of up to*
14 *\$1,000 per class member per vio-*
15 *lation, or up to \$500,000; and*
16 *other equitable relief;*

17 *(ii) reasonable attorneys' fees and*
18 *costs; and*

19 *(iii) such other and further relief, in-*
20 *cluding declaratory and injunctive relief, as*
21 *necessary to effectuate the purposes of this*
22 *subtitle.*

23 *(B) CRITERIA.—In determining the amount*
24 *of statutory damages to be awarded under sub-*
25 *paragraph (A), the court is authorized to con-*

1 *sider whether an attempt was made to resolve the*
2 *issues in dispute before the resort to litigation.*

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

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

11 (E) *ACCESS TO LEGAL SERVICES CORPORA-*
12 *TION.*—*Notwithstanding any other provision of*
13 *law, the Legal Services Corporation and recipi-*
14 *ents of its funding may provide legal assistance*
15 *on behalf of any alien with respect to any provi-*
16 *sion of this subtitle.*

17 (g) *AGENCY LIABILITY.*—

18 (1) *IN GENERAL.*—*Beginning 180 days after the*
19 *Secretary has promulgated regulations pursuant to*
20 *section 3605(c), an employer who retains the services*
21 *of a foreign labor contractor shall only use those for-*
22 *foreign labor contractors who are registered under sec-*
23 *tion 3605.*

24 (2) *SAFE HARBOR.*—*An employer shall not have*
25 *any liability under this section if the employer hires*

1 *workers referred by a foreign labor contractor that has*
2 *a valid registration with the Department pursuant to*
3 *section 3604.*

4 (3) *LIABILITY FOR AGENTS.*—*Foreign labor con-*
5 *tractors shall be subject to the provisions of this sec-*
6 *tion for violations committed by the foreign labor con-*
7 *tractor’s agents or subcontractees of any level in rela-*
8 *tion to their foreign labor contracting activity to the*
9 *same extent as if the foreign labor contractor had*
10 *committed the violation.*

11 (h) *RETALIATION.*—

12 (1) *IN GENERAL.*—*No person shall intimidate,*
13 *threaten, restrain, coerce, discharge, or in any other*
14 *manner discriminate or retaliate against any worker*
15 *or their family members (including a former em-*
16 *ployee or an applicant for employment) because such*
17 *worker disclosed information to any person that the*
18 *worker reasonably believes evidences a violation of*
19 *this section (or any rule or regulation pertaining to*
20 *this section), including seeking legal assistance of*
21 *counsel or cooperating with an investigation or other*
22 *proceeding concerning compliance with this section*
23 *(or any rule or regulation pertaining to this section).*

24 (2) *ENFORCEMENT.*—*An individual who is sub-*
25 *ject to any conduct described in paragraph (1) may,*

1 *in a civil action, recover appropriate relief, including*
 2 *reasonable attorneys' fees and costs, with respect to*
 3 *that violation. Any civil action under this subpara-*
 4 *graph shall be stayed during the pendency of any*
 5 *criminal action arising out of the violation.*

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

9 *(j) PRESENCE DURING PENDENCY OF ACTIONS.—*

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

17 *(2) REGULATIONS.—Not later than 180 days*
 18 *after the date of the enactment of this Act, the Sec-*
 19 *retary shall promulgate regulations to carry out*
 20 *paragraph (1).*

21 **SEC. 3611. DETECTING AND PREVENTING CHILD TRAF-**
 22 **FICKING.**

23 *The Secretary shall mandate the live training of all*
 24 *U.S. Customs and Border Protection personnel who are*
 25 *likely to come into contact with unaccompanied alien chil-*

1 *dren. Such training shall incorporate the services of child*
2 *welfare professionals with expertise in culturally competent,*
3 *trauma-centered, and developmentally appropriate inter-*
4 *viewing skills to assist U.S. Customs and Border Protection*
5 *in the screening of children attempting to enter the United*
6 *States.*

7 **SEC. 3612. PROTECTING CHILD TRAFFICKING VICTIMS.**

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

10 (b) *DEFINED TERM.*—*In this section, the term “unac-*
11 *companied alien children” has the meaning given such term*
12 *in section 462 of the Homeland Security Act of 2002 (6*
13 *U.S.C. 279).*

14 (c) *MANDATORY TRAINING.*—*The Secretary, in con-*
15 *sultation with the Secretary of Health and Human Services*
16 *and independent child welfare experts, shall mandate ap-*
17 *propriate training of all personnel who come into contact*
18 *with unaccompanied alien children in the relevant legal au-*
19 *thorities, policies, practices, and procedures pertaining to*
20 *this vulnerable population.*

21 (d) *CARE AND TRANSPORTATION.*—*Notwithstanding*
22 *any other provision of law, the Secretary shall ensure that*
23 *all unaccompanied alien children who will undergo any im-*
24 *migration proceedings before the Department or the Execu-*
25 *tive Office for Immigration Review are duly transported*

1 *and placed in the care and legal and physical custody of*
2 *the Office of Refugee Resettlement not later than 72 hours*
3 *after their apprehension absent exceptional circumstances,*
4 *including a natural disaster or comparable emergency be-*
5 *yond the control of the Secretary or the Office of Refugee*
6 *Resettlement. The Secretary, to the extent practicable, shall*
7 *ensure that female officers are continuously present during*
8 *the transfer and transport of female detainees who are in*
9 *the custody of the Department.*

10 (e) *QUALIFIED RESOURCES.—*

11 (1) *IN GENERAL.—The Secretary shall provide*
12 *adequately trained and qualified staff and resources,*
13 *including the accommodation of child welfare offi-*
14 *cial, in accordance with subsection (f), at U.S. Cus-*
15 *toms and Border Protection ports of entry and sta-*
16 *tions.*

17 (2) *CHILD WELFARE PROFESSIONALS.—The Sec-*
18 *retary of Health and Human Services, in consulta-*
19 *tion with the Secretary, shall hire, on a full- or part-*
20 *time basis, child welfare professionals who will pro-*
21 *vide assistance, either in person or by other appro-*
22 *priate methods of communication, in not fewer than*
23 *7 of the U.S. Customs and Border Protection offices*
24 *or stations with the largest number of unaccompanied*
25 *alien child apprehensions in the previous fiscal year.*

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

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

12 (i) receives emergency medical care
13 when necessary;

14 (ii) receives emergency medical and
15 mental health care that complies with the
16 standards adopted pursuant to section 8(c)
17 of the Prison Rape Elimination Act of 2003
18 (42 U.S.C. 15607(c)) whenever necessary,
19 including in cases in which a child is at
20 risk to harm himself, herself, or others;

21 (iii) is provided with climate appro-
22 priate clothing, shoes, basic personal hy-
23 giene and sanitary products, a pillow, lin-
24 ens, and sufficient blankets to rest at a com-
25 fortable temperature;

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- 1 (iv) receives adequate nutrition;
- 2 (v) enjoys a safe and sanitary living
- 3 environment;
- 4 (vi) has access to daily recreational
- 5 programs and activities if held for a period
- 6 longer than 24 hours;
- 7 (vii) has access to legal services and
- 8 consular officials; and
- 9 (viii) is permitted to make supervised
- 10 phone calls to family members.

11 (3) *FINAL DETERMINATIONS.*—*The Office of Ref-*

12 *ugee Resettlement in accordance with applicable poli-*

13 *cies and procedures for sponsors, shall submit final*

14 *determinations on family relationships to the Sec-*

15 *retary, who shall consider such adult relatives for*

16 *community-based support alternatives to detention.*

17 (4) *REPORT.*—*Not later than 18 months after the*

18 *date of the enactment of this Act, and annually there-*

19 *after, the Secretary shall submit a report to Congress*

20 *that—*

21 (A) *describes the screening procedures used*

22 *by the child welfare professionals to screen unac-*

23 *companied alien children;*

24 (B) *assesses the effectiveness of such*

25 *screenings; and*

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1 (C) includes data on all unaccompanied
2 alien children who were screened by child welfare
3 professionals;

4 (g) IMMEDIATE NOTIFICATION.—The Secretary shall
5 notify the Office of Refugee Resettlement of an unaccom-
6 panied alien child in the custody of the Department as soon
7 as practicable, but not later than 48 hours after the Depart-
8 ment encounters the child, to effectively and efficiently co-
9 ordinate the child's transfer to and placement with the Of-
10 fice of Refugee Resettlement.

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

13 (1) IN GENERAL.—The Secretary shall ensure
14 that all unaccompanied alien children, upon appreh-
15 ension, are provided—

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

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

22 (i) their right to relief from removal;

23 (ii) their right to confer with counsel

24 (as guaranteed under section 292 of such
25 Act (8 U.S.C. 1362)), family, or friends

1 *while in the temporary custody of the De-*
2 *partment; and*

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

6 (2) *LANGUAGES.—The Secretary shall ensure*
7 *that—*

8 (A) *the video orientation and written notice*
9 *of rights described in paragraph (1) is available*
10 *in English and in the 5 most common native*
11 *languages spoken by the unaccompanied children*
12 *held in custody at that location during the pre-*
13 *ceding fiscal year; and*

14 (B) *the oral notice of rights is available in*
15 *English and in the most common native lan-*
16 *guage spoken by the unaccompanied children*
17 *held in custody at that location during the pre-*
18 *ceding fiscal year.*

19 (i) *CONFIDENTIALITY.—The Secretary of Health and*
20 *Human Services shall maintain the privacy and confiden-*
21 *tiality of all information gathered in the course of pro-*
22 *viding care, custody, placement, and follow-up services to*
23 *unaccompanied alien children, consistent with the best in-*
24 *terest of the unaccompanied alien child, by not disclosing*

1 *such information to other government agencies or non-*
2 *parental third parties unless such disclosure is—*

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

5 *(2) in the child’s best interest; and*

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

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

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

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

22 *(2) to utilize all legal authorities to defer the*
23 *child’s removal if the child faces a risk of life-threat-*
24 *ening harm upon return including due to the child’s*
25 *mental health or medical condition; and*

1 (3) to ensure, in accordance with the *Juvenile*
2 *Justice and Delinquency Prevention Act of 1974* (42
3 *U.S.C. 5601 et seq.*), that unaccompanied alien chil-
4 *dren, while in detention, are—*

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

7 (B) *separated from—*

8 (i) *immigration detainees and inmates*
9 *with criminal convictions;*

10 (ii) *pretrial inmates facing criminal*
11 *prosecution; and*

12 (iii) *inmates exhibiting violent behav-*
13 *ior.*

14 (k) *REPATRIATION AND REINTEGRATION PROGRAM.—*

15 (1) *IN GENERAL.—The Administrator of the*
16 *United States Agency for International Development,*
17 *in conjunction with the Secretary, the Secretary of*
18 *Health and Human Services, the Attorney General,*
19 *international organizations, and nongovernmental or-*
20 *ganizations in the United States with expertise in re-*
21 *patriation and reintegration, shall create a multi-*
22 *year program to develop and implement best practices*
23 *and sustainable programs in the United States and*
24 *within the country of return to ensure the safe and*
25 *sustainable repatriation and reintegration of unac-*

1 *accompanied alien children into their country of na-*
2 *tionality or of last habitual residence, including*
3 *placement with their families, legal guardians, or*
4 *other sponsoring agencies.*

5 (2) *REPORT ON REPATRIATION AND REINTEGRA-*
6 *TION OF UNACCOMPANIED ALIEN CHILDREN.—Not*
7 *later than 18 months after the date of the enactment*
8 *of this Act, and annually thereafter, the Adminis-*
9 *trator of the Agency for International Development*
10 *shall submit a substantive report to the Committee on*
11 *the Judiciary of the Senate and the Committee on the*
12 *Judiciary of the House of Representatives on efforts*
13 *to improve repatriation and reintegration programs*
14 *for unaccompanied alien children.*

15 (1) *TRANSFER OF FUNDS.—*

16 (1) *AUTHORIZATION.—The Secretary, in accord-*
17 *ance with a written agreement between the Secretary*
18 *and the Secretary of Health and Human Services,*
19 *shall transfer such amounts as may be necessary to*
20 *carry out the duties described in subsection (f)(2)*
21 *from amounts appropriated for U.S. Customs and*
22 *Border Protection to the Department of Health and*
23 *Human Services.*

24 (2) *REPORT.—Not later than 15 days before any*
25 *proposed transfer under paragraph (1), the Secretary*

1 *of Health and Human Services, in consultation with*
2 *the Secretary, shall submit a detailed expenditure*
3 *plan that describes the actions proposed to be taken*
4 *with amounts transferred under such paragraph to—*

5 *(A) the Committee on Appropriations of the*
6 *Senate; and*

7 *(B) the Committee on Appropriations of the*
8 *House of Representatives.*

9 **SEC. 3613. BEST INTERESTS OF THE CHILD.**

10 *(a) IN GENERAL.—In all procedures and decisions*
11 *concerning unaccompanied immigrant children that are*
12 *made by Federal agencies, private agencies subcontracted*
13 *by the Federal Government, and Federal courts of law, pur-*
14 *suant to the Immigration and Nationality Act (8 U.S.C.*
15 *1101 et seq.), and regulations implementing such Act, the*
16 *best interests of the child shall be a primary consideration.*

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

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

25 *(1) the views of the minor;*

