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The 2019 Trafficking Victims Protection Reauthorization Act:

A Topical Summary and Analysis of Four Bills

Acknowledgements

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Introduction

The Trafficking Victims Protection Act (TVPA), originally passed in 2000, was amended for the 9th time at the end of the 115th Congress. In somewhat uncommon fashion, the full set of changes reauthorizing, changing and expanding upon the programs of the TVPRA, as amended, were passed in four separate bills in both December of 2018 and in the early days of January 2019. On behalf of the Polaris Project, this document provides a comprehensive policy review of the 2019 Trafficking Victims Protection Act (TVPRA) with a specific focus on the implications of the new or renewed authorities, appropriations, impacts on survivors and victim services and other specific areas.

This analysis looks at how these bills work together to change the US Government policy regime and laws related to human trafficking. It examines how different entities in the U.S. government are charged with preventing or addressing trafficking, assisting survivors, and ensuring a comprehensive government response and collaboration with State and local governments. It also looks at important provisions related to survivors, enforcement, reduction of demand for human trafficking, changes to criminal law, provisions on labor trafficking and child sexual exploitation, changes to the State Department's Trafficking In Persons (TIP) report, and impact on immigration law and protections, among other topics. It examines congressional authorizations under these bills for funding, shifts in authority, and new structures or partnerships created as tools for government action.

The four bills comprising the most recent reauthorization of the TVPA are:

- H.R. 2200, the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018, sponsored by Rep. Chris Smith (R-NJ) and Rep. Karen Bass (D-CA).
- S. 1311, the Abolish Human Trafficking Act of 2017, sponsored by Senators John Cornyn (R-TX) and Amy Klobuchar (D-MN).
- S. 1312, the Trafficking Victims Protection Act of 2017, sponsored by Senator Chuck Grassley (R-IA)
- S. 1862, the Trafficking Victims Protection Reauthorization Act of 2017, sponsored by Senators Bob Corker (R-TN) and Robert Menendez (D-NJ)

Author's Note: To assist your analysis, the bold sub topics are mostly identical to the topics on the Act sections and paragraphs they come from. To avoid too much duplication, details on a section are listed only once, in most cases, and are referenced in other sections. For example a provision on data collection of child sex trafficking and labor trafficking might be detailed in the Data section and then just listed and referenced in the Child Sexual Exploitation and Labor Trafficking section. There are possibly provisions that could have been crossed referenced to other related sections but have not been.

I. Reducing Demand for Commercial Sex

In 2015, Congress launched a new approach to ending human trafficking focused on combatting the demand for sexual and labor exploitation in the U.S. and around the world. While the programs established by the End Modern Slavery Initiative Act are getting underway, calls to address human trafficking by reducing the demand for trafficking victims have continued in Congress, especially among conservative members who want to curtail the demand for prostitution and sex trafficking that contributes to the prostitution market. However, in the final laws passed as part of the TVPRA package this year, there are only a few provisions relating to ending demand and they primarily show congressional consensus to using existing government mechanisms to enhance efforts to end demand. The bills seek to reduce demand from federal employees, increase coordination to focus on demand reduction, and activate law enforcement task forces to end demand across the country.

Ending government partnerships with the commercial sex industry. In section 19 of S. 1311, Congress sought to ensure that no federal funds or resources could be used for adult entertainment, to support the commercial sex trade or in partnership with any companies that are primarily engaged in these activities. This provision would ensure that federal money and resources are not used to support or increase market demand for trafficking. This is likely an outgrowth of some conferences or events where U.S. government workers, military members, or federal law enforcement officers have hired adult entertainers or frequented adult entertainment establishments using federal funds or equipment (such as cars).

Sense of Congress on the Senior Policy Operating Group. In addition, Section 115 of H.R. 2200 contains a sense of Congress provision urging the Interagency Task Force to Combat Trafficking's Senior Policy Operating Group (SPOG) to create a working group to examine ending demand for human trafficking domestically and internationally.

Demand reduction strategies in the United States. In section 121 of H.R. 2200, Congress instructs the DOJ to report on the tactics and strategies employed by nationwide DOJ task forces to reduce demand for human trafficking.² This will help ensure that each task force is taking actions to reduce demand and will outline what is being accomplished across the country.

Also, S. 1311 (sections 7 and 9, detailed below under DOJ) say that enhanced training for law enforcement officers at DOJ, and the mandated National Strategy for Combating Human Trafficking, must both be updated to include the concept that ending demand for human trafficking is a necessary component to combat trafficking.

At the introduction of this bill in 2017, co-sponsor Rep. Ann Wagner (R-VA) explained the motivation for taking an end demand approach: "The TVPA makes momentous steps toward combating trafficking at home and abroad, and it reiterates congressional expectations that the

² Section 105(d)(7) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(d)(7)).

¹ Section 19 of S. 1311.

Department of Justice prosecute buyers of trafficking victims. These horrific crimes happen because predators are able to purchase innocent women and children in a supply-and-demand market. Prosecuting these buyers and undercutting demand are imperative to putting an end to this form of modern-day slavery and should be one of the top priorities of Federal law enforcement."³ However, the statement she released when the bills were all signed by President Trump on January 10th did not mention end demand needs.⁴

³ Press Release: Smith, Bass Unveil Bill to Reauthorize Efforts to Fight Human Trafficking, April 27, 2017 https://chrissmith.house.gov/news/documentsingle.aspx?DocumentID=400289

⁴Press Release: Wagner Statement On President Trump Signing Legislation to Fight Human Trafficking, January 10, 2019. https://wagner.house.gov/media-center/press-releases/wagner-statement-on-president-trump-signing-legislation-to-fight-human.

II. Federal Agency Programs, Mandates and Authorities

The four bills that make up the 2019 reauthorization of the Trafficking Victims Protection Act create new authorities for federal agencies, employ new mandates and have extensive updates to the authorities, mandates and programs created in the original TVPA or later updates. They are presented below by agency.

The Department of Justice

Human Trafficking Justice Coordinators. Section 15 of S. 1311 amends the Justice for Victims of Trafficking Act to require the Department of Justice to assign a U.S. Attorney as a Human Trafficking Justice Coordinator in each federal judicial district in the country. These prosecutors will be responsible for enacting the National Human Trafficking Strategy in each region and ensuring that a number of other judicial system requirements to combat human trafficking are carried out. This includes prosecuting cases; providing information through public outreach; coordinating with other law enforcement, service providers and partners; collection of data and restitution per other 2019 amendments to the TVPA. The section also requires this prosecutor work with a human trafficking victim-witness specialist, so each region will need someone in that position.

The section also calls for the Attorney General (AG) to identify officials as DOJ Coordinators to coordinate on anti-trafficking efforts within the Department. Their duties involve sharing information and training tools with various professionals involved in countering human trafficking in the judicial system and other activities detailed in this section.

Reporting certain child labor and commercial sex crimes in federal databases.

Section 17 of S. 1311 requires that the FBI make changes to Uniform Crime Reporting System (UCRS) and the National Incident-Based Reporting System (NIBRS), the two primary federal databases used to record and track crime data in America. The NIBRS is a more detail-oriented update to the UCRS. Both are used by politicians and law enforcement at every level of government to make policy decisions as well. In 2008 the Wilberforce Act required one set of changes distinguishing between crimes of promoting prostitution, purchasing prostitution and providing prostitution or commercial sex acts.⁵ This amendment adds two additional categories to this list: '(4) incidents of assisting or promoting prostitution, child labor that is a violation of law, or forced labor of an individual under the age of 18 as described in paragraph (1) and ''(5) incidents of purchasing or soliciting commercial sex acts, child labor that is a violation of law, or forced labor with an individual under the age of 18 as described in paragraph (2).". This will mean that the FBI must now track crimes where people promote or purchase child or forced

⁵ "distinguish between reports of--(1) incidents of assisting or promoting prostitution, which shall include crimes committed by persons who--(A) do not directly engage in commercial sex acts; and(B) direct, manage, or profit from such acts, such as State pimping and pandering crimes;

⁽²⁾ incidents of purchasing prostitution, which shall include crimes committed by persons who purchase or attempt to purchase or trade anything of value for commercial sex acts; and

⁽³⁾ incidents of prostitution, which shall include crimes committed by persons providing or attempting to provide commercial sex acts."

labor with minors under the age of 18 in addition to the broader categories the Wilberforce Act requires them to track.

Holistic training for Federal law enforcement officers and prosecutors. (End demand).

Section 7 of S.1311 requires that training for federal law enforcement officers and prosecutors who work on anti-trafficking efforts must emphasize that a person who knowingly solicits commercial sex services from a minor or using force, fraud or coercion is engaging in a human trafficking offence under 18 U.S.C. 77. The curriculum should include:

- a) Training on how arrest and prosecution of buyers of commercial sex, those engaging in child labor or using force, forced labor can be an effective measure to prevent human trafficking;
- b) Investigating and prosecuting those who have knowingly financially benefited from a human trafficking venture;
- c) Identify that "any comprehensive approach to ending human trafficking shall include a demand reduction component."

Best practices in delivering justice for victims of trafficking. Under section 8 of S. 1311, 180 days after enactment, the AG shall issue guidance to the DOJ that a person who knowingly solicits or patronizes a commercial sex act from a minor or using force, fraud or coercion is engaging in a human trafficking offence under 18 U.S.C. 77 and is a party to human trafficking. The guidance must also recommend and implement best practices to collect special assessments (fines) and liens for human trafficking offenses. Finally, the guidance must indicate that commercial sexual exploitation is a form of gender-based violence.

Improving the national strategy to combat human trafficking. Section 9 of S. 1311 requires that a national strategy to prevent human trafficking and to reduce demand for human trafficking victims must be produced and included in the National Strategy for Combating Human Trafficking implemented by DOJ.

Specialized human trafficking training and technical assistance for service providers.

Section 10 of S. 1311 amends VAWA provisions on grants for law enforcement training programs. It expands the recipient list for these grants – allowing Indian tribes, non-profits, service providers and universities to receive these grants. In addition to authorizing these grants to identify and protect victims of trafficking, Congress has expanded the authorization to improve services to victims and improve coordination of service providers with governments. To achieve this, language was added so that the grants can now be used to:

- a) "provide technical assistance on the range of services available to victim service providers who serve trafficking victims;
- b) "develop and distribute materials, including materials identifying best practices in accordance with Federal law and policies, to support victim service providers working with human trafficking victims;
- c) "identify and disseminate other publicly available materials in accordance with Federal law to help build capacity of service providers;
- d) "provide training at relevant conferences, through webinars, or through other mechanisms in accordance with Federal law: or

e) "assist service providers in developing additional resources such as partnerships with Federal, State, tribal, and local law enforcement agencies and other relevant entities in order to access a range of available services in accordance with Federal law."

Investigating complex human trafficking networks. Section 2516 of the U.S. Code, title 18, authorizes the use of wiretaps and electronic surveillance for the investigation of certain listed crimes. Section 13 of S. 1311 expands those crimes to include section 1582 (vessels for slave trade), section 1583 (enticement into slavery), . . . section 1585 (seizure, detention, transportation or sale of slaves), section 1586 (service on vessels in slave trade), section 1587 (possession of slaves aboard vessel), section 1588 (transportation of slaves from United States)." Most other forms of slavery or human trafficking such as peonage, indentured servitude, sex trafficking by force, fraud or coercion, etc., are already covered by this criminal law. A wire can also be intercepted when it may provide evidence of prostitution (adding to a list of crimes).

Understanding the effects of severe forms of trafficking in persons. Section 20 of S. 1311 amends Title VI of the Justice for Victims of Trafficking Act of 2015 (Public Law 114–22; 129 Stat. 258) by adding a provision that authorizes a study on the physical and psychological impacts of severe forms of trafficking in persons. The National Institute of Justice and the Centers for Disease Control and Prevention must jointly conduct a study on the short-term and long-term physical and psychological effects of serious harm from human trafficking (as defined in the TVPA) in order to determine the most effective types of services for individuals who are identified as victims of these crimes, and how treatment and programming should be adjusted to meet their needs. This report should be made public in three years from enactment.

Victim-centered training of tribal law enforcement and prosecutorial personnel. Section 504 of S. 1312 requires the Attorney General to work with tribal authorities to run a technical assistance and training program for tribal law enforcement that includes a victim-centered approach to investigating and prosecuting severe forms of trafficking in persons.

Encouraging a victim-centered approach to training of Federal law enforcement personnel. (See Impact on Survivors)

DOJ victim screening training. (See Impact on Survivors)

The Department of Homeland Security

International Megan's Law. Section 302 of H.R. 2200 extends the authorization for International Megan's Law, which limits global travel of known American pedophiles, to 2018 to 2021. This act is primarily implemented by DHS and DOS.

Victim protection training for the Department of Homeland Security. Section 5 of S. 1311 amends the Justice for Victims of Trafficking Act of 2015 by adding new section 906 on victim protection training for DHS. Within 180 days of enactment, the Secretary of DHS must issue a directive to all DHS law enforcement, other personnel and task force members that instructs on how to investigate johns and others who solicit trafficking victims as perpetrators of severe

forms of trafficking. This language is very similar, and in some places identical, to the language in S. 1312, calling for a similar victim-centered training protocol for the DOJ and for DHS operations. They are also to be instructed to view those who commit criminal acts while being victimized in human trafficking as victims who should not be prosecuted or charged with such crimes. DHS law enforcement officials must follow a protocol in any operations to counter human trafficking. Mandatory training is required on the protocol and the directive described above. The protocol must:

- a) Include an individual screening of each person who is suspected of engaging in commercial sex acts or labor trafficking to determine if they are a victim of human trafficking.
- b) Include affirmative actions to avoid arresting, investigating and charging trafficking victims for criminal acts related to their trafficking;
- c) Require all law enforcement and agency personnel involved in human trafficking investigations to take training on enforcement of protocol;
- d) Be developed with the help of interagency partners and NGOs that specialize in the identification, prevention and restoration of victims.
- e) Include processes to ensure that the screening process minimizes trauma or revictimization of the victim
- f) Include guidelines assisting trafficking victims in finding and receiving needed services.⁶

Authority for the President to apply Magnitsky Sanctions. Section 124 of H.R. 2200 amends section 111 of the TVPA⁷ to authorize the President to impose sanctions under the Global Magnitsky Act⁸ against any foreign government officials who "participate in, facilitate, or condone severe forms of trafficking in persons for significant financial gain." The Magnitsky Act authorizes the refusal of visas to enter the U.S., admission to the U.S., blocking all transactions in property and in interests that are in the U.S. or come within the possession or control of the U.S. This authority will vest in the DHS authority to issue or deny visas, the Department of Treasury authority to implement economic and financial sanctions, and the DOS's foreign policy influence.

Victim protection training for the Department of Homeland Security. Section 5 of S. 1311 amends the Justice for Victims of Trafficking Act of 2015 by adding new section 906 on victim protection training for DHS. Within 180 days of enactment, the Secretary of DHS must issue a directive to all DHS law enforcement, other personnel and task force members that instructs on how to investigate johns and others who solicit trafficking victims as perpetrators of severe forms of trafficking. This language is very similar to the language in S. 1312, calling for a similar victim-centered training protocol for the DOJ and for DHS operations. Employees are also to be instructed to view those who commit criminal acts while being victimized in human trafficking as victims who should not be prosecuted or charged with such crimes.

⁶ Amending Title IX of the Justice for Victims of Trafficking Act of 2015 (6 U.S.C. 641 et seq).

⁷ Section 111(a)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7108(a)(1))

⁸ Section 1263 of the Global Magnitsky Human Rights Accountability Act (subtitle F of title XII of Public Law 114–328; 22 U.S.C. 2656 note).

The protocol requires that DHS law enforcement officials must follow a protocol in any operations to counter human trafficking. Mandatory training is required on the protocol and the directive described above. The protocol must:

- (1) Include an individual screening of each person who is suspected of engaging in commercial sex acts or labor trafficking to determine if they are a victim of human trafficking.
- (2) Include affirmative actions to avoid arresting, investigating and charging trafficking victims for criminal acts related to their trafficking;
- (3) Require all law enforcement and agency personnel involved in human trafficking investigations to take training on enforcement of protocol;
- (4) Be developed with the help of interagency partners and NGOs that specialize in the identification, prevention and restoration of victims.
- (5) Include processes to ensure that the screening process minimizes trauma or revictimization of the victim
- (6) Include guidelines assisting trafficking victims in finding and receiving needed services.9

Encouraging a victim-centered approach to training of Federal law enforcement personnel. (See Impact on Survivors)

Forensic and investigative assistance. Section 203 of S. 1312 authorizes the Secret Service to provide forensic information to state and local law enforcement authorities at the request of NCMEC.

HERO Act improvements. Section 23 of S. 1311 amends section 890A of the Homeland Security Act of 2002. 10 This section addresses the law enforcement capabilities at the Cyber Crimes Center, Child Exploitation Investigations Unit, Computer Forensics Unit, and Cyber Crimes Unit. First the section expands the work of the Cyber Crimes Center (known as C3) to support cyber-related investigations for the entire Department of Homeland Security, not just ICE, as was the case under the prior language. Second, it calls for the Child Exploitation Investigations Unit (CEIU) within C3 to participate in the training for the Homeland Security Investigations personnel. Third, it calls on CEIU to direct some of the data it collects towards child victims of sexual exploitation. Fourth, it instructs the Computer Forensics Unit to administer a digital forensics and media exploitation program to Immigration and Customs Enforcement personnel and other law enforcement, and collaborate with the National Association to Protect Children (NAPC) and other entities, along with DOD, to recruit veterans for the HERO program.

This section then creates the Human Exploitation Rescue Operation Child-Rescue Corps Program as a program of DHS in collaboration with DOD and NAPC. "The purpose of the HERO Child-Rescue Corps Program shall be to recruit, train, equip, and employ members of the Armed Forces on active duty and wounded, ill, and injured veterans to combat and prevent child exploitation, including in investigative, intelligence, analyst, inspection, and forensic positions or any other positions determined appropriate by the employing agency." This

 $^{^{9}}$ Amending Title IX of the Justice for Victims of Trafficking Act of 2015 (6 U.S.C. 641 et seq). 10 6 U.S.C. 473.

program will run as an initial 12 month paid internship, leading to full time permanent positions. The participants will investigate child exploitation, child pornography, unidentified child victims, human trafficking, traveling child sex offenders, and forced child labor, including the sexual exploitation of minors. Participants will be assigned by Homeland Security Investigations to ICE or other federal agencies. After completing the internship, participants can be hired into positions in HSI that are created in this section of the Act.

Subsection (g) authorizes \$10 million a year to the Department of Homeland Security, for each fiscal year from 2019 to 2022, with no less than \$2 million a year going to the internship program. The Act says NAPC will provide logistical support to program participants.

The Department of Health and Human Services

Providing direct services to child victims of human trafficking. Section 6 of S. 1311 amends of the Victims of Child Abuse Act of 1990 (34 U.S.C. 20304(b)). Section 214(b) of that Act authorizes the Department of Justice's Administrator of the Office of Juvenile Justice and Delinquency Prevention to provide direct services to child victims of pornography. The amendment in S 1311 adds authority for the Administrator to provide child victims of severe forms of trafficking in persons with services provided to other children under the child abuse Act.11

Grants for public awareness in schools: Section 106(b) of the TVPRA empowers several Cabinet Secretaries to take actions to inform victims and increase public awareness about the dangers of human trafficking and the protections available to victims¹². Section 101 of the Frederick Douglass Act expands the authority of the Secretary of Health and Human Services (HHS)¹³ to "award grants to local educational agencies, in partnership with a nonprofit, nongovernmental agency, to establish, expand, and support programs— (i) to educate school staff to recognize and respond to signs of labor trafficking and sex trafficking; and (ii) to provide ageappropriate information to students on how to avoid becoming victims of labor trafficking and sex trafficking."14 Grants programmed under this provision shall be used for education at schools on avoiding victimization by sex and labor trafficking, indicators of victimization and (including how to refer for services and report to law enforcement), and a plan to ensure the safety of school staff and students when reporting trafficking. Congress has indicated that funding should be prioritized to local education authorities in high-intensity child sex trafficking areas. This section defines these areas as metropolitan areas designated by the FBI with a high rate of children involved in sex trafficking. The Act adds this program to the authorization for HHS without authorizing any additional funds.

Understanding the effects of severe forms of trafficking in persons. This study, noted under DOJ above, is also an authorized requirement of HHS.

¹¹ http://uscode.house.gov/view.xhtml?req=(title:34%20section:20304%20edition:prelim)

¹² Section 106(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(b)).

¹³ In consultation with the Secretaries of Labor and Education. (Douglass sec 101).

¹⁴ Douglass sec 101

Posting Hotline Number. HHS is required to ensure that the hotline number is posted in federal buildings. (See National Hotline below)

The Department of Labor

Include inputs in DOL Report on Goods Made with Forced/Trafficked Labor. Section 135 of H.R. 2200 amends the TVPRA¹⁵ to instruct the Department of Labor to begin including goods produced with inputs that are made with child or forced labor in its annual public report of goods made with trafficked labor, violating international standards. The Act does not provide additional funds for carrying out this section. Instead, it instructs the DOL to use already authorized funds for this new activity.

Encouraging a victim-centered approach to training of Federal law enforcement personnel. (See Impact on Survivors)

The Department of State

Child soldiers. All amendments to the Child Soldier's Protection Act are included in Addendum A because all or most of them are implemented by the Department of State and Polaris indicated that DOS work, authorities and requirements around the Trafficking In Persons report were not priorities for this analysis.

Child protection (USAID). Section 204 of H.R. 2200 requires USAID to add child protection and trafficking reduction measures to the country development cooperation strategies created under the TVPA, and the special watch list¹⁶ The measures must "(A) address the root causes of insecurity that leave children and youth vulnerable to trafficking; and (B) include common metrics and indicators to monitor progress across Federal agencies to prevent, address, and end violence against children and youth globally in post- conflict and post-disaster areas."¹⁷

Report trafficking in the U.S. to an Embassy/State. Section 102 of H.R. 2200 mandates a mechanism whereby people can report instances of trafficking in persons in the United States to U.S. embassies and missions abroad. It requires that the Secretary of State identify, in each overseas post or mission, an employee to serve as recipient of information about human trafficking from anyone who was a victim of severe forms of trafficking in persons while in the United States, or from any person who has information relating to such a victim. This information must be transferred to Justice, Labor and DHS and any other relevant agencies, and the Secretaries of these agencies must devise a process to address any actions taken in response to these reports. With permission of the victim, the employee should coordinate with the governments in the country of origin "to ensure that such victims receive any additional support available." ¹¹⁸

¹⁵ Section 105(b)(2)(C) of the Trafficking Victims Protection Reauthorization Act of 2005 (22 U.S.C. 7112(b)(2)(C))

¹⁶ Paragraph (1)(C) of section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b))

¹⁷ Section 204(b)(2).

¹⁸ Section 102 Douglass Act.

Authority for State to limit diplomatic visas. (see Immigration section below)

Authority for the President to apply Magnitsky Sanctions (see DHS authorities above)

III. The National Human Trafficking Hotline

The reauthorization language includes several provisions relating to the National Human Trafficking Hotline that is operated by Polaris under a contract from the Department of Health and Human Services. Most notably, the authorization for operation of the hotline is expanded to \$3.5 million dollars through fiscal year 2021.

Hotline referrals report. Section 18 of Abolish 1311 adds a reporting requirement relating to the National Human Trafficking Hotline to the duties of the Interagency Task Force in section 105(d)(3) of the TVPRA¹⁹. The provision requires the Interagency Task Force to report annually to Congress on the number of case referrals received by federal agencies from the National Human Trafficking Hotline, and to protect confidentiality while doing so. This may have implications for the way in which Polaris makes these referrals and may require new collaboration between Polaris and the agencies receiving referrals from the Hotline.

Posting hotline number. This section of the Act also requires that the Department of Health and Human Services post the National Human Trafficking Hotline phone number in a visible place in every federal agency or office space nationwide.²⁰

Hotline authorization. In section 301(b) of H.R. 2200, Congress authorized \$3.5 million each fiscal year for expenditure for the National Human Trafficking Hotline. These funds come from the \$19.5 million annual authorization for the Department of Health and Human Services.

¹⁹ Codified in 22 U.S.C. 7103(d)(3).

²⁰ Amends the Victims of Trafficking and Violence Prevention Act, section 107(b)(1)(B)(ii) of such Act (22 U.S.C. 7105(b)(1)(B)(ii)).

IV. Interagency Coordination

The combination of TVPRA bills contain a number of unrelated provisions that impact interagency coordination. These provisions relate to interagency cooperation between certain agencies, new directives for the Interagency Task Force to Monitor and Combat Trafficking in Persons, the Senior Policy Operating Group and the Advisory Council on Human Trafficking. Notably, one refers to the national hotline that Polaris runs.

Additions to the Interagency Task Force. Section 201 of H.R. 2200 instructs the President to appoint the Secretary of the Treasury and the United States Trade Representative to join the Interagency Task Force to Monitor and Combat Trafficking in Persons.²¹ The addition of the Treasury Secretary may be due to his engagement with multilateral banks, which are the focus of new steps to address human trafficking in S. 1862. (see Multilateral section below)

Hotline referrals report.

(See above in National Hotline section)

Ending demand. Section 115 of H.R. 2200 is a sense of Congress provision urging the Senior Policy Operating Group (SPOG) to create a working group to examine ending demand for human trafficking domestically and internationally. (see End Demand section)

The following provisions require interagency collaboration but were not statutorily assigned to the Interagency Task Force to Monitor and Combat Trafficking in Persons. While the Task Force was not named in these sections both may be addressed and responded to through coordination within the Interagency Task Force.

Report on U.S. Personnel Reporting on Afghan Security Forces Child Sexual Exploitation. Section 212(d) of H.R. 2200 also requires the Departments of State and Defense to report to Congress in 180 days on interagency efforts to create a system for U. S. personnel to report on child sexual abuse by Afghan security forces with whom they train, advise or provide assistance.

Compliance in Federal procurement. Section 112 of H.R. 2200 strengthens compliance with existing anti-trafficking requirements in federal procurement processes. It requires the Departments of State and Labor, USAID and the Office of Management and Budget to report annually to GSA on agency actions to ensure contractors and USG officials are following anti-trafficking requirements and are tracking and reporting cases of human trafficking that are identified in the federal procurement process. ²² There are many actions that must now be reported, including interagency meetings on any federal contractors disbarred or suspended due to severe forms of trafficking in persons.

²¹ Amending Section 105(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(b)).

²² Amending Section 106 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104).

V. Requirements on Corporations and Federal Contractors

The Acts reauthorizing the TVPRA are light on requirements for private corporations. Much of the impact on these companies will fall through federal contracting regulations or reporting requirements that federal agencies must now fulfill related to their contractor hiring and training. The provision addressing corporations and the private sector most directly is an unenforceable sense of Congress.

The role of business in preventing and combating child sex trafficking. Section 3 of S. 1862 has a Sense of Congress urging the President to work with the private sector to develop and use technology to strengthen federal law enforcement's ability to combat traffickers and criminal networks. It also states that the private sector should take every reasonable step to combat child sex trafficking.

Compliance in Federal procurement. Section 112 of H.R. 2200 strengthens compliance with existing anti-trafficking requirements in federal procurement processes. It requires the Departments of State and Labor, USAID and the Office of Management and Budget to report annually to GSA on agency actions to ensure contractors and USG officials are following anti-trafficking requirements and are tracking and reporting cases of human trafficking that are identified in the federal procurement process.²³ There are many actions that must now be reported but a few examples include: identifying a person in each agency who oversees these actions and files the report; ensuring the contractors and agency officials are educated and trained on compliance with the anti-trafficking requirements; reports on agency identified cases of human trafficking and the results of agency investigation into those acts; results of referrals to the Attorney General and prosecutions for human trafficking; impacts on the federal contract; and any interagency meetings on any disbarred or suspended contractors due to severe forms of trafficking in persons.

Prohibition on placement or recruitment fees. Section 4 of S. 1862 changes the standard in Section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)) on the prohibition on recruitment fees. That provision instructs the President to terminate any Federal grant, contract or agreement that is held with any grantee or contractor that uses labor recruiters, brokers or agents who charge "unreasonable" recruitment fees to employees they hire. The statutory language, passed in the 2013 TVPRA, gives an example of unreasonable placement or recruitment fees, "such as fees equal to or greater than the employee's monthly salary, or recruitment fees that violate the laws of the country from which an employee is recruited."²⁴ The amendment passed in S. 1862 eliminates the need for the recruitment fee to meet an "unreasonable" or "illegal" standard and replaces this language with an order for the President to terminate such contracts if any placement or recruitment fee is charged to recruited employees.²⁵ This will impact any remaining USG contractors that use recruitment

²³ Amending Section 106 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104).

²⁴ 2013 TVPRA.

²⁵ Corker TVPRA Section 4.

fees in their employment processes; they will need to eliminate fees (which are common in other countries) or lose their US Government contract.

Report on training for air carriers. Federal law requires domestic airlines to conduct training on human trafficking but it is unclear to Congress whether they are all doing so. Section 111 of H.R. 2200 requires that certified domestic air carriers (airlines) that have contracts with U.S. Government agencies must now report annually on training of their personnel on detection and reporting of human trafficking. This section amends Section 49 USC s.40118 on government-financed air transportation, which requires that airlines that received payment from the U.S. government are certified under section 41102. This section is added to the provision, and requires domestic air carriers under such contracts to report on "(1) the number of personnel trained in the detection and reporting of potential human trafficking (as described in paragraphs (9) and (10) of section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)), including the training required under section 44734(a)(4); "(2) the number of notifications of potential human trafficking victims received from staff or other passengers; and "(3) whether the air carrier notified the National Human Trafficking Hotline or law enforcement at the relevant airport of the potential human trafficking victim for each such notification of potential human trafficking, and if so, when the notification was made."

VI. Impact on Survivors and Victim Services

The TVPRA bills have numerous impacts on survivors and victims. Funding for victims services is increased substantially. A number of the legislative provisions seek to assist survivors by mandating additional and more thorough training for law enforcement officers in DOJ, DHS and at the State, local and Tribal Authority levels. In addition, several provisions enhance the opportunities for survivors to receive restitution or some form of financial supplement to assist their financial and recovery needs. Survivors also continue to be integrated into policy-making mechanisms of the U.S. government. Also, services are expanded in some respects and a broader array of entities that work closely with survivors can now qualify for some of the government funding supported by this bill. The provisions impacting survivors and victim services are below.

Advisory Council on Human Trafficking. Section 114 of H.R. 2200 amends the Survivors of Human Trafficking Empowerment Act providing survivors who are members of the advisory council with travel costs, including federal per diem, to attend council meetings.²⁶

Preserving Domestic Trafficking Victims' Fund. Section 2 of S. 1311 is a sense of Congress that clarifies that the Domestic Trafficking Victims' Fund is intended to supplement funding for victims, but not replace any other funding provided to trafficking victims.

Mandatory restitution for victims of commercial sexual exploitation. Section 3 of S. 1311 mandates that federal courts provide restitution to victims of crimes measured by the value of any loss to the victim and the cost of services the victim provided, if commercial sex acts were provided in violation of section 1591 of the criminal code. Property may have to be forfeited to make restitution. The amendment adds a new section to chapter 117 of 18 U.S.C. on transportation for illegal sexual activity. With the addition of this language in section 2429 the defendant will have to pay the full amount of the victim's losses for the specified commercial sex crime.

Victim-witness assistance in sexual exploitation cases. The Department of Justice can use its Assets Forfeiture Fund to provide payments to people who provide information or assistance related to certain violations of criminal laws, including laws related to peonage, slavery and trafficking in persons. Section 4 of S 1311 adds crimes related to sexual exploitation and abuse of children (18 U.S.C. 77) to the list of crimes covered, so those assisting prosecutors or law enforcement with cases related to these crimes can now receive payment from the asset forfeiture funds.

Victim protection training for the Department of Homeland Security. (see Federal Authorities/DHS)

²⁶ Amending section 115 of Public Law 114–22; 129 Stat. 243).

Direct services for child victims of human trafficking. Section 6 of S. 1311 amends of the Victims of Child Abuse Act of 1990.²⁷ Section 214(b) of that Act authorizes the Department of Justice's Administrator of the Office of Juvenile Justice and Delinquency Prevention to provide direct services to child victims of pornography. The amendment in S. 1311 adds authority for the Administrator to provide child victims of severe forms of trafficking in persons with services provided to other children under the child abuse Act.²⁸

Best practices in delivering justice for victims of trafficking. Under section 8 of S. 1311, 180 days after enactment, the AG shall issue guidance to the DOJ that a person who knowingly solicits or patronizes a commercial sex act from a minor or using force, fraud or coercion is engaging in a human trafficking offence under 18 U.S.C. 77 and is a party to human trafficking. The guidance must also recommend and implement best practices to collect special assessments (fines) and liens for human trafficking offenses. Finally, the guidance must indicate that commercial sexual exploitation is a form of gender-based violence.

Specialized human trafficking training and technical assistance for service providers.

Section 10 of S. 1311 amends VAWA provisions on grants for law enforcement training programs.²⁹ It expands the recipient list for these grants – allowing Indian tribes, non-profits, service providers and universities to receive these grants. In addition to authorizing these grants to identify and protect victims of trafficking, Congress has expanded the authorization to improve services to victims and improve coordination of service providers with governments. To achieve this, language was added so that the grants can now be used to:

- "(4) provide technical assistance on the range of services available to victim service providers who serve trafficking victims;
- "(5) develop and distribute materials, including materials identifying best practices in accordance with Federal law and policies, to support victim service providers working with human trafficking victims;
- "(6) identify and disseminate other publicly available materials in accordance with Federal law to help build capacity of service providers;
- "(7) provide training at relevant conferences, through webinars, or through other mechanisms in accordance with Federal law; or
- "(8) assist service providers in developing additional resources such as partnerships with Federal, State, tribal, and local law enforcement agencies and other relevant entities in order to access a range of available services in accordance with Federal law.".

²⁷ 34 U.S.C. 20304(b).

²⁸ http://uscode.house.gov/view.xhtml?req=(title:34%20section:20304%20edition:prelim)

²⁹ Amending Section 111 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (34 U.S.C. 20708).

Extension and authorization of anti-trafficking grant programs for victim services.

Section 301 of S. 1312 extends the authorization for the Human Smuggling and Trafficking Center, the part of DHS that researches trafficking and its ties to other crimes. The authorization is extended from 2018 to 2021 and authorizes \$1 million per year to the Center.³⁰

Section 301 of S. 1312 includes a substantial increase in the authorization to DOJ for protection and services for victims in the United States in section 7105(b) of the TVPA. This increase covers funding for the National Human Trafficking Hotline, benefits and services to victims, assistance to children, grants for services, and assistance for investigations. \$77 million is authorized for each fiscal year from 2018 to 2021, up from annual authorizations of just \$11 million in the 2014-2017 period.

This section also extends the additional benefits for trafficking victims covered under section 7105(f) of the TVPA to 2021. This section covers assistance to citizens and legal permanent residents, and it maintains the prior authorization of \$11 million.

Section 301 of S. 1312 extends the authorization for several other programs to 2021. First, it reauthorizes the Department of Justice's biennial conference on human trafficking to 2021, continuing the prior authorization of \$250,000 for each year. Second, it extends the law enforcement grant program until 2021 and continues the funding authorization of \$10 million per fiscal year. Third, it extends the grant of \$2 million per fiscal year for child advocates of child trafficking victims and vulnerable unaccompanied immigrant children. This grant is also extended through 2021.

Section 301 of S. 1312 restores the expired block grants provided to entities in 4 regions to combat sex trafficking of minors in the United States under Section 202 of the Trafficking Victims Protection Reauthorization Act of 2005 (34 U.S.C. 20702). The 2013 Violence Against Women Reauthorization Act, which included the reauthorization of the TVPA, eliminated this language in law, replacing it with new language for a block grant to States, Tribes, localities and NGOs to provide services for U.S. citizens and permanent residents who were victimized by sexual abuse or commercial sex trafficking. ³⁴ Congress is now reversing the decision to replace that language in 2013 and restoring the original language of the block grant.

The restored 2005 language is much more detailed and has many differences from the repealed 2013 grant. A few key differences are that this section specifically creates a block grant for minors who are victims of commercial sex trafficking. It appears that this was expanded to all lawfully present victims of commercial sex trafficking in the 2013 law, but it is now being restricted again to focus on minor victims. It also requires a regional spread of the grants and even requires that at least one grant go to a State with a low population. This restored provision specifies numerous uses for the funding, including housing, case management, legal and mental health services, among others, and requires the receiving entity receive provide a matching grant of specified percentages. It also requires annual consultation and review by the

³⁰ Amending TVPA section 112A(b)(4) (22 U.S.C. 7109a(b)(4)),

³¹ Amending Section 201(c)(2) of the Trafficking Victims Protection Reauthorization Act of 2005 (42 U.S.C. 14044(c)(2)).

³² Amending Section 204(e) of the Trafficking Victims Protection Reauthorization Act of 2005 (34 U.S.C. §20705).

³³ Amending 235(c)(6)(F) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. §1232).

³⁴ Section 1241(b) of the Violence Against Women Reauthorization Act of 2013 (34 U.S.C. 20702 note) is repealed.

Attorney General and an academic or non-profit organization with experience in care and services needs for sex trafficking, and an annual GAO report reviewing the impact of the program on minor victims of sex trafficking. In restoring this language, Congress is extending this provision to 2021 and maintains the authorization of \$8 million in funding for this program.³⁵

Implementing a victim-centered approach to human trafficking. Section 302 of S. 1312 amends the TVPA section 107(b)(2), adding that when the AG determines grants for law enforcement operations and task forces, he/she may prioritize grants to entities that attest that the grants will be used for human trafficking prevention, to prosecute those who knowingly benefit financially from human trafficking, that will be used for affirmative measures to prevent arrest and prosecution of victims for crimes committed as part of their trafficking, will not require law enforcement cooperation in exchange for shelter or services, and the applicant will provide law enforcement resources beyond the period of the grant.

Improving victim screening. Section 303 of S.1312 adds a new section 107B to the TVPA, requiring the Attorney General to identify recommended practices for the screening of human trafficking victims, in consultation with the Secretary of HHS, and to then compile and disseminate "information about reliable and effective tools for the identification of victims of human trafficking" to grantees providing victims services under 107(b) or (f). These tools are to be used in providing services to youth.

Encouraging a victim-centered approach to training of Federal law enforcement personnel. Every two years, the Departments of Justice, Labor and Homeland Security must implement improvements in the training on human trafficking for the staff of these departments based on consultation with survivors and law enforcement agencies who work on human trafficking. A year after enactment, DOJ and DHS must also come up with advanced training on human trafficking for their investigative personnel that:

- (1) emphasizes a multidisciplinary and collaborative process for law enforcement and victims service providers;
- (2) provides guidance on recruiting techniques used by human traffickers and indicates that knowingly patronizing or soliciting a commercial sex act from a minor or a person under force, fraud or coercion is a human trafficking offense under the laws on peonage, slavery and human trafficking (18 U.S.C. 77);
- (3) explains that "victims of sex or labor trafficking often engage in criminal acts as a direct result of severe trafficking in persons and such individuals are victims of a crime and affirmative measures should be taken to avoid arresting, charging, or prosecuting such individuals for any offense that is the direct result of their victimization"; and (4) emphasizes that "a comprehensive approach to eliminating human trafficking should include demand reduction."

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³⁵ Polaris may want to check with bipartisan congressional staff on intent behind restoring this provision and eliminating the 2013 grant.

The curriculum developed under this section must be used by the Departments of Justice and Homeland Security to train law enforcement officers who may be involved in human trafficking cases and members of human trafficking task forces.

Additionally, the provisions detailing training for U.S. government employees who may encounter victims of human trafficking in their work was amended by this section. That training must also now include "a discussion clarifying" that knowingly patronizing or soliciting a commercial sex act from a minor, or a person under force, fraud or coercion, is a human trafficking offense under the laws on peonage, slavery and human trafficking (18 U.S.C. 77).

DOJ victim screening training. Section 502 of S. 1312 requires that all DOJ law enforcement training – for federal, state and local officials – must include an individual screening of each person who are suspected of engaging in commercial sex acts or labor trafficking to determine if they are a victim of human trafficking. This is to counter the view that they are perpetrators committing a criminal act. The training must also include information on how many victims of trafficking are forced to engage in criminal acts as a result of their trafficking and actions should be taken to avoid investigating and charging them for criminal acts related to their trafficking.

This section also establishes a new "Department of Justice Victim Screening Protocol" which must be issued within 180 days of enactment and used for all DOJ anti-trafficking law enforcement engagements. The protocol must:

- (1) Include affirmative actions to avoid arresting, investigating and charging trafficking victims for criminal acts related to their trafficking;
- (2) Require all law enforcement and agency personnel involved in human trafficking investigations to take training on enforcement of protocol;
- (3) Be developed with the help of State and local law enforcement, HHS, survivors and NGOs that specialize in the identification, prevention and restoration of victims.
- (4) Include processes to ensure that the screening process minimizes trauma or revictimization of the victim
- (5) Include guidelines assisting trafficking victims in finding and receiving needed services.

Preventing future trafficking in the United States through receipt of complaints abroad.

Section 102 of H.R. 2200 "establishes points of contact in each U.S. embassy to receive information regarding victims of severe forms of trafficking in the U.S., to help deter future trafficking from that country into the U.S., and to help coordinate available foreign government and civil society support to returning trafficking victims." It requires DOS coordination with host or source government "to ensure that such victims receive any additional support available."

Modification of grants for victim services. Section 107(2) of the TVPRA empowers the Attorney General to make grants to develop, strengthen and expand service programs that protect and assist victims/survivors of severe forms of human trafficking. These grants are made

to nonprofits, along with States and other entities³⁶. Additional language was added to this year's reauthorization, highlighting that this funding should be used to provide trauma care and housing to youth who are homeless, in or transitioning out of foster care, involved in the criminal justice system or are women or girls in underserved populations.³⁷

Updated authorization for the State Department. Section 301 of H.R. 2200 authorizes \$65 million to be appropriated to the State Department to carry out sections 105 and 106 of the TVPA (as amended), namely the provisions on the Interagency Task Force, the prevention of human trafficking (economic alternatives and public awareness), and assistance for victims in other countries.

Child protection. Section 204 of H.R. 2200 requires USAID to add child protection and trafficking reduction measures to the country development cooperation strategies created under the TVPA, and the special watch list³⁸ The measures must "(A) address the root causes of insecurity that leave children and youth vulnerable to trafficking; and (B) include common metrics and indicators to monitor progress across Federal agencies to prevent, address, and end violence against children and youth globally in post- conflict and post-disaster areas."³⁹

³⁶ These grants, made under Section 107 of the TVPRA, as amended, may be made by the Attorney General "to States, Indian tribes, units of local government, and nonprofit, nongovernmental victims' service organizations…" (H.R. 220 section 103)

³⁷ Section 103 of H.R. 2200.

³⁸ Paragraph (1)(C) of section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b))

³⁹ Section 204(b)(2).

VII. Impact on Immigration

This year's combined TVPRA bills do not have substantial amendments to immigration law or protections as in some past reauthorizations of the original TVPA. Congress continues to struggle to limit visas of diplomats who might commit sexual or labor trafficking violations against their household or personal staff. Amendments in H.R. 2200 attempt to tighten the law to prevent trafficking and abuse by diplomats. Congress also takes an important step in applying the Global Magnitsky Act sanctions to violators of human trafficking laws in H.R. 2200.

Restricting diplomatic visas. Section 123 of H.R. 2200 amends section 203 of the William Wilberforce Trafficking in Persons Act (passed in 2008) that authorized restrictions on diplomatic visas for countries with a history of using the A-3 or G-5 visas⁴⁰ for diplomatic employees who trafficked persons into the U.S. or subjected immigrant workers, who often accompany diplomats, to labor, sexual or other severe forms of human trafficking. These visas are provided by the State Department under rules for special visa eligibility, as a reciprocal courtesy to foreign governments. In 2008, the Wilberforce Act gave the Secretary of State the authority to refuse such visas to a country that has shown repeated cases of human trafficking, yet the Department of State has not restricted this special visa eligibility, and no country has faced restrictions on these visas.

To toughen this policy response, Congress instructs State to limit A-3 and G-5 diplomatic staff visas for at least a year (unless less time is in the national interest) if the following conditions apply:

- (1) "there is an unpaid default or final civil judgment directly or indirectly related to human trafficking against the employer or a family member assigned to the embassy, or"
- (2) "the diplomatic mission or international organization hosting the employer or family member has not responded affirmatively to a request to waive immunity within 6 weeks of the request in a case brought by the United States Government and"
- (3) "the country that accredited the employer or family member or, in the case of international organizations, the country of citizenship, has not initiated prosecution against the employer or family member."

With this specificity and list of conditions that have occurred in several diplomatic trafficking cases, Congress intends to press the State Department to make use of the authority to limit these visas. This section of H.R. 2200 also details circumstances for lifting the restrictions on these visas.

Authority for the President to apply Global Magnitsky Act immigration sanctions. Section 124 of H.R. 2200 amends section 111 of the TVPA⁴¹ to authorize the President to impose

⁴⁰The A-3 visa allows entry for the attendants, servants, and personal employees of a diplomat or foreign government official. The G-5 visa is designated for attendants, servants, and personal domestic workers of an employee working for a designated international organization, such as the United Nations or the World Bank, "and the members of the immediate families of such attendants, servants, and personal employees." http://globalworkers.org/visas/a-3%20and%20g-5

⁴¹ Section 111(a)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7108(a)(1))

sanctions under the Global Magnitsky Act⁴² against identified people engaged in human trafficking. The Global Magnitsky Act authorizes the President to refuse visas to enter the U.S., and refuse admission to the U.S (at a border or port of entry), to any foreign person the President identifies as committing a human rights offense against someone who has acted to defend fundamental rights or freedoms, or to highlight an illegal or corrupt act of government. It also authorizes the President to block sanctioned individuals from all U.S. transactions in property, and in interests that are in the U.S. or come within the possession or control of the U.S.⁴³ (see Federal Authorities section above).

In adding the Global Magnitsky Act to section 111 of the TVPA, the President can extend Magnitsky sanctions to people engaged in trafficking that were already identified in this section and subject to Presidential sanctions under the International Emergency Economic Powers Act .44 This includes (1) any person who plays a direct or indirect role in severe forms of trafficking in persons in the U.S., (2) any foreign person that materially assists a significant foreign trafficker, and (3) foreign persons that are owned, controlled, directed by or acting on behalf of a significant foreign trafficker.⁴⁵ In addition, the amendment gives the President the authority to sanction any foreign government officials who "participate in, facilitate, or condone severe forms of trafficking in persons for significant financial gain" under the Global Magnitsky Act. Note that the Global Magnitsky Act was not amended here, just the TVPRA. Therefore, sanctions on traffickers will only apply to individuals who are government employees and who are acting for significant gain. These are not requirements for the President to apply sanctions for gross violations of internationally recognized human rights under Magnitsky. These requirements only apply to traffickers under the TVPRA. Similarly, while Magnitsky sanctions only apply to foreign individuals who to commit such rights violations against people who are challenging government actors or corruption, under this new authority in the TVPA, it appears that all of these conditions need not be met.

⁴² Section 1263 of the Global Magnitsky Human Rights Accountability Act (subtitle F of title XII of Public Law 114–328; 22 U.S.C. 2656 note).

⁴³ See also https://www.leahy.senate.gov/imo/media/doc/MagnitskyFactSheet.pdf

⁴⁴ 50 U.S.C. 1701 et seq.

⁴⁵ Section 111 of the TVPA.

VIII. Funding Grants and Authorizations

Grant accountability. Title 601 of S. 1312 expands the reach of the TVPA's accountability provisions to cover grants issued in fiscal year 2018 and onward to two already existing programs. The first program covers technical assistance and training programs to improve the judicial system's handling of child neglect and abuse cases. This includes judges, attorneys, child welfare personnel, and lay child advocates, state courts and judicial administrators. The second program is authorized by this Act under section 504. It gives the DOJ authority to provide training to tribal law enforcement on how to pursue a victim-centered approach to investigating and prosecuting severe forms of trafficking in persons. The accountability provisions that now apply to these programs relate to auditing measures, rules related to non-profits, conference expenditures and annual certifications.

Authorization for public awareness in schools programs. Section 101(b) of the Frederick Douglass Act authorizes \$19.5 million for the Department of Health and Human Services for public awareness of trafficking education in schools for fiscal years 2018 to 2021.

Authorization of the modification of grants for victim services. (see Impact on Survivors above)

Updated authorization of appropriations under the TVPA of 2000. Section 301 of H.R. 2200 authorizes \$13,822,000 (to the State Department) for Diplomatic and Consular Programs (D&CP funds) of the Office to Monitor and Combat Trafficking in Persons (JTIP) covering fiscal years 2018 through 2021.⁴⁷ This funding is for programming assistance to foreign governments to assist them with meeting the minimum standards, for JTIP personnel, to support the Interagency Task Force to combat trafficking in persons, and the regional bureaus strategies and goals to combat trafficking.⁴⁸

Authorization for benefits for victims. Section 301(b) of H.R. 2200 authorizes \$19.5 million to the Department of Health and Human Services to carry out sections 106and 107(b) of the TVPA for fiscal years 2018 to 2021. This is an increase of \$5 million over the prior authorization. Of these funds, \$3.5 million each year is authorized for expenditure for the National Human Trafficking Hotline. These funds are authorized for expenditure on public awareness on the risks of human trafficking and production of the TIP report on country's efforts to meet minimum standards to combat trafficking in persons.

This section also authorizes \$65 million to be appropriated to the State Department for fiscal years 2018 to 2021, to carry out sections 105 and 106 of the TVPA ,namely the provisions on the Interagency Task Force, the prevention of human trafficking (economic alternatives and public awareness), assistance for victims in other countries, assistance to foreign countries to help

⁴⁸ TVPA sections 105(e), 105(f), and 110.

⁴⁶ Section 1236 of the Violence Against Women Reauthorization Act of 2013 (22 U.S.C. 7113)

⁴⁷ Section 301 amending Section 113 of the Trafficking Victims Prevention Act of 2000 (22 U.S.C. 7110).

them meet the minimum standards to combat human trafficking, and other programs to improve law enforcement and judiciaries in foreign countries.

Continued authorization for domestic victims of trafficking. Section 301 of H.R. 2200 extends a \$5 million authorization to the Department of Labor for activities to protect victims from human trafficking in the U.S through fiscal years 2018 to 2021. This funding applies to section 7105(b) of the TVPA which can be applied to the National Hotline.

International Megan's Law. Section 302 of H.R. 2200 extends the \$6 million authorization for International Megan's Law, which seeks to limit the ability of known American pedophiles to commit sex crimes against children in other countries. This provision extends the authorization from 2018 to 2021.

Grant for state and local enforcement of labor trafficking. The existing DOJ grant to assist state and local prosecution of human trafficking crimes was amended to authorize funding for 1 prosecutor for each region to further investigate and prosecute labor trafficking cases at the state and local levels.⁴⁹ Currently there are 12 ACT Teams operating in various state and local districts. Since 2010, the rate of labor trafficking prosecutions has dropped from 60% to 27%. The added resource of an additional prosecutor is intended to help state and local areas prioritize and complete these prosecutions.

Airline education. Section 204 of H.R. 2200 authorizes \$250,000 to be expended by U.S. Customs and Border Security for fiscal years 2018 to 2021 to expend outreach and anti-trafficking education to airport and airline personnel.

Combating trafficking in persons. Section 21 of S.1311 authorizes \$10 million for each fiscal year from 2018 to 2012 to the Department of Homeland Security to support ICE investigations into severed forms of trafficking in persons. The section also authorizes \$8 million to the Secretary of HHS to carry out the program under section 7105 (f).

Extension of anti-trafficking grant programs. Section 301 of S. 1312 extends the authorization for the Human Smuggling and Trafficking Center, the part of DHS that researches trafficking and its ties to other crimes. The authorization is extended from 2018 to 2021 and authorizes \$1 million per year to the Center.⁵⁰

Training for school personnel. Section 102 of S. 1312 extends the \$15 million authorization of the grant program that allows the Attorney General⁵¹ to use grants to states and localities to increase safety for youth, prevent future violence, and invest in programs that service child victims of domestic violence, dating violence, sexual assault, stalking, or sex trafficking. Grant recipients must partner with a middle or high school, a school system or a school of higher education to qualify for this federal grant to address youth, and their authorized activities include education and awareness in schools, training educators and school personnel on issues

⁴⁹ Amends Section 204(a)(1) of the Trafficking Victims Protection Reauthorization Act of 2005 (34 U.S.C. 20705(a)(1)).

⁵⁰ in section 112A(b)(4) of the TVPRA (22 U.S.C. 7109a(b)(4)).

⁵¹ In collaboration with the Secretaries of HHS and the Department of Education.

of violence impacting youth, including human trafficking. This granted authority, in the Violence Against Women Act, is now authorized from fiscal years 2019 to 2022.⁵²

HERO Improvements. Section 23(g) of S. 1311 authorizes \$10 million a year to the Department of Homeland Security, for each fiscal year from 2019 to 2022, for the Human Exploitation Rescue Operation Child-Rescue Corps Program, with no less than \$2 million a year going to the HERO internship program.

⁵² Section 41201(f) of the Violence Against Women Act of 1994 (42 U.S.C. 14043c(f)).

IX. Multilateral Banks

Strengthening Approaches to Combat Trafficking at Multilateral Banks. Section 8 of S. 1862 authorizes the secretaries of Treasury and State to initiate dialogues with the executive directors of the multilateral banks in order to encourage them to take additional steps to combat trafficking in persons around the world. In the provision, Congress outlined an agenda for change or improvement on these efforts by the multilateral banks"

- "(1) further develop anti-human trafficking provisions in relevant project development, safeguards, procurement, and evaluation policies;
- (2) employing a risk-based approach, require human trafficking risk assessments and integration plans as a routine part of developing projects through existing, forthcoming or new mechanisms and processes;
- (3) support analyses of the impact of severe forms of trafficking in persons on key indicators of economic and social development and of the benefits of reducing human trafficking on economic and social development;
- (4) support the proactive integration of effective anti-trafficking interventions into projects with the objectives of enhancing development outcomes and reducing the incidence of severe forms of trafficking in project areas;
- (5) increase the capacity of multilateral development banks and of recipient governments to conduct human trafficking risk assessments and integrate anti-trafficking interventions into projects;
- (6) support the development of meaningful risk mitigation and reduction policies, regulations, and strategies within the multilateral development banks to reduce the incidence and prevalence of severe forms of trafficking in persons and enhance development outcomes that may be improved by reducing the incidence and prevalence of human trafficking; and
- (7) support the inclusion of human trafficking risk analysis in the development of relevant country strategies by each multilateral development bank".

The section requires the Secretary of Treasury to make officials available to report to key congressional committees on the implementation of these this section.

X. Reports

Report on Training for Air Carriers. Federal law requires domestic airlines to conduct training on human trafficking but it is unclear to Congress whether they are all doing so. Section 111 of H.R. 2200 requires that certified domestic air carriers (airlines) that have contracts with U.S. Government agencies must now report annually on training of their personnel on detection and reporting of human trafficking. This section amends Section 49 USC s.40118 on government-financed air transportation, which requires that airlines that received payment from the U.S. government are certified under section 41102. This section is added to the provision, and requires domestic air carriers under such contracts to report on "(1) the number of personnel trained in the detection and reporting of potential human trafficking (as described in paragraphs (9) and (10) of section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)), including the training required under section 44734(a)(4); "(2) the number of notifications of potential human trafficking victims received from staff or other passengers; and "(3) whether the air carrier notified the National Human Trafficking Hotline or law enforcement at the relevant airport of the potential human trafficking victim for each such notification of potential human trafficking, and if so, when the notification was made.".

Bureau of Justice Statistics Report on State Enforcement. Section 121 of H.R. 2200 amends the Combat Human Trafficking Act of 2015⁵³ to adjust the data reported on state enforcement of human trafficking offenses, counting the number of people arrested, prosecuted and convicted, rather than the rate of people engaged in these acts.

Report on Tariff Act of 1930. Section 134 of H.R. 2200 calls on the Comptroller General to report on challenges to enforcing section 307 of the Tariff Act of 1930 two years after this law passed. This provision prohibits the importation of goods made with convict, forced, or indentured labor, including forced or indentured child labor.

Report on Trafficking in Post Conflict and Disaster Areas. In conjunction with a study ordered in the 2005 Reauthorization, section 204 of H.R. 2200 instructs USAID to provide Congress with an annual report for the next 7 years that indicates practices adopted by USAID or the State Department to reduce the risk of trafficking in persons in post-conflict and post-disaster areas of the world. If no strategies exist, a strategy to reduce the risk of trafficking in these areas must be included in the report. This report must be publicly available on a Department of State website.

Briefing on Countries with Substantial Migrant Labor. Section 205 of H.R. 2200 requires the Department of State to brief Congress on countries that have migrant labor constituting over 80% of their labor force. This briefing must cover "(1) an assessment of the progress made by the government of such country toward implementing" the country-specific recommendations contained in the most recent TIP Report, "as amended by section 203 of this Act; and (2) a description of the efforts made by the United States to ensure that any domestic worker brought into the United States by an official of such country is not a victim of trafficking." This briefing must be provided to several committees 30 days after enactment.

⁵³ Subsection (e)(1)(A) of the Combat Human Trafficking Act of 2015 (34 U.S.C. 20709(e)(1)(A))

Report on USAID Expenditures, Programs and Contracts. Under section 206 of H.R. 2200, this year, and for each of the next 4 years, USAID must report to Congress on "(1) each obligation or expenditure of Federal funds by the Agency for the purpose of combating human trafficking and forced labor; and (2) with respect to each such obligation or expenditure, the program, project, activity, primary recipient, and any subgrantees or subcontractors."

Update to Child Soldier Annual Report to Congress. Section 212(e) of H.R. 2200 amends the CSPA to require reporting on the amount of assistance provided to any country that is identified on the list of countries using child soldiers or that has received a waiver of the prohibition on assistance, and a description of that assistance. (see Child Soldiers Addendum).

XI. Provisions on Sexual Exploitation

Expanding law enforcement payment to child sexual exploitation crimes. The Department of Justice can use its Assets Forfeiture Fund to provide payments to people who provide information or assistance related to certain violations of criminal laws, including laws related to peonage, slavery and trafficking in persons. Section 4 of S 1311 adds crimes related to sexual exploitation and abuse of children (18 U.S.C. 77) to the list of crimes covered, so those assisting prosecutors or law enforcement with cases related to these crimes can now receive payment from the asset forfeiture funds. (connect to trafficking in children)

Combatting sex tourism. Section 14 of S. 1311 amends the criminal law on traveling with the purpose of committing a sex act. The amendment changes the need for a purpose to the need for a "motivating" purpose. It is unclear exactly what is intended by this or how courts will read it, unless "motivating purpose" is defined elsewhere in the criminal code. The paragraphs involved are in 18 USC 2423 (b) and (d)⁵⁴:

"(b) Travel With Intent To Engage in Illicit Sexual Conduct.— A person who travels in interstate commerce or travels into the United States, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, for the motivating purpose of engaging in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

(d) Ancillary Offenses.— Whoever, for the purpose of commercial advantage or private financial gain, arranges, induces, procures, or facilitates the travel of a person knowing that such a person is traveling in interstate commerce or foreign commerce for the motivating purpose of engaging in illicit sexual conduct shall be fined under this title, imprisoned not more than 30 years, or both."

The role of business in preventing and combating child sex trafficking. (See section on Employers).

International Megan's Law. Section 302 of H.R. 2200 extends the authorization for International Megan's Law, which limits global travel of known American pedophiles, to 2018 to 2021.

Providing direct services child victims of human trafficking. (see section on Impact on Survivors)

Improving support for missing and exploited children. Section 202 of S. 1312 makes amendments to section 402 of the Missing Children's Assistance Act (42 U.S.C. 5771). This amendment makes several immaterial changes to the findings and definitions in this Act. It adds one component to the report on calls to the National Center for Missing and Exploited

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⁵⁴ https://www.law.cornell.edu/uscode/text/18/2423

Children (NCMEC) Hotline. It asks for DOJ's Administrator of the Office of Juvenile Justice and Delinquency Prevention to report on the number and types of reports to the NCMEC tip line that relate to Internet-based and other forms of child sexual exploitation under section subsection (b)(1)(K)(i). NCMEC is newly or expanded authority to (1)to provide information on innovative and model programs, services, and legislation to state and local governments, organizations and individuals; (2) provide technical assistance to NGOs, local educational organizations, and the public (see (b)(1)(E) for details of the assistance and training provided); (3) expanded help locating and returning missing children; (4) provide forensic and identification services; (5) locate non-compliant sex offenders; (6) reduce the presence and distribution of online images of child sexual exploitation; (7) provide information to the public on risks and dangers of child sexual exploitation and the internet; and (8) assist schools in identifying missing children. NCMEC has expanded reporting requirements under these amendments.

XII. Provisions Relating to Forced Labor

Best practices on forced child labor. Section 116 of H.R. 2200 condemns forced child labor and trafficking and calls on the President to establish best practices for preventing forced child labor and indentured servitude, including trafficking.

Sense of Congress on development and labor trafficking. Section 131 of H.R. 2200 expresses the view that 1) development and humanitarian assistance are key parts of American responses to reduce vulnerability of children and others to human trafficking; 2) Department of Labor programs including ILAB reduce the risk of children to the worst forms of child labor including forced labor and trafficking; 3) the Department of Labor plays a critical role in helping to ensure that goods made with forced child labor are not admitted into the United States.

Inputs in DOL Report on Goods Made with Forced/Trafficked Labor. Section 135 of H.R. 2200 amends the TVPRA55 to instruct the Department of Labor to begin including goods produced with inputs that are made with child or forced labor in its annual public report of goods made with trafficked labor, violating international standards. The Act does not provide additional funds for carrying out this section. Instead, it instructs the DOL to use already authorized funds for this new activity.

Report on Tariff Act of 1930.

(see Report section)

Reporting Certain Child Labor and Commercial Sex Crimes in Federal Databases. Section 17 of S. 1311 requires that the FBI make changes to Uniform Crime Reporting System and the National Incident-Based Reporting System, the two primary federal databases used to record and track crime data in America. The NIBRS is a more detail-oriented update to the UCRS. Both are used by politicians and law enforcement at every level of government to make policy decisions as well. In 2008 the Wilberforce Act required one set of changes distinguishing between crimes of promoting prostitution, purchasing prostitution and providing prostitution or commercial sex acts. This amendment adds two additional categories to this list: '(4) incidents of assisting or promoting prostitution, child labor that is a violation of law, or forced labor of an individual under the age of 18 as described in paragraph (1) and ''(5) incidents of purchasing or soliciting commercial sex acts, child labor that is a violation of law, or forced labor with an individual under the age of 18 as described in paragraph (2).". This will mean that the FBI must also now track crimes where people promote or purchase child prostitution or forced labor with minors under the age of 18 in addition to the broader categories the Wilberforce Act requires them to track.

⁵⁵ Section 105(b)(2)(C) of the Trafficking Victims Protection Reauthorization Act of 2005 (22 U.S.C. 7112(b)(2)(C)) ⁵⁶ "distinguish between reports of--(1) incidents of assisting or promoting prostitution, which shall include crimes committed by persons who--(A) do not directly engage in commercial sex acts; and(B) direct, manage, or profit from such acts, such as State pimping and pandering crimes;

⁽²⁾ incidents of purchasing prostitution, which shall include crimes committed by persons who purchase or attempt to purchase or trade anything of value for commercial sex acts; and

⁽³⁾ incidents of prostitution, which shall include crimes committed by persons providing or attempting to provide commercial sex acts."

XIII. Changes to Criminal Law and Penalties

Enhanced penalties for human trafficking, child exploitation, and repeat offenders. Section 11 of S. 1311 expands the penalties for human trafficking offenses. Periods of possible imprisonment are extended as follows:

- a) for enticement into slavery, from 20 years to 30 years, ⁵⁷
- b) possession of slaves aboard vessel, from four years to 10 years,⁵⁸ and
- c) for sex trafficking of children by force, fraud, or coercion, from 20 to 25 years.⁵⁹
- d) for repeat offenders, from double the possible period of imprisonment to three times the period.⁶⁰

Targeting organized human trafficking perpetrators. Section 12 of S. 1311 amends the criminal laws related to crimes performed by gangs and gang members.⁶¹ This law adds 10 years to a sentence if the crime is committed as part of defined criminal gang activity. The amendment adds "a Federal offense involving human trafficking, sexual abuse, sexual exploitation, or transportation for prostitution or any illegal sexual activity" to the list of crimes that could result in this increased penalty if combined with gang activity.

Combating sex tourism.

(see Provisions on Child Sexual Exploitation section)

Injunctive relief. Chapter 201 of S. 1312 adds a new section (Section 1595A) to the criminal laws relating to trafficking that allows the AG to enjoin an act or conspiracy that would violate the laws against human trafficking (in chapter 117 of 18 U.S.C.). The court can move a civil action forward, issue an injunction or seal the proceedings.

⁵⁷ 18 U.S.C. 1583(a).

⁵⁸ 18 U.S.C. 1587.

⁵⁹ 18 U.S.C. 1591.

^{60 18} U.S.C. 2426.

^{61 18} U.S.C. 521(c).

XIV. Grant Accountability

In order to prevent waste, fraud and abuse of federal funds, section 22 of S.1311 creates a preference in grant awards to organizations that have not had an unresolved audit finding in the prior 3 fiscal years. It sets up a system for auditing of organizations receiving grants under S.1311 and prevents an organization from receiving a grant for two fiscal years after an unresolved audit finding. The section sets definitions, disclosures and prohibitions on organizations receiving grants, and it limits conference expenditures to \$20,000. The departments of Justice, Homeland Security and Health and Human Services must each report to Congress on the conference expenditures. Each agency head must also prevent duplicate awards and report to Congress if any are made. Annual reports to Congress are also required on the functioning of this auditing process.

XV. Training

Sec. 503. Judicial training on child neglect cases. Section 503 of S. 1312 amends the Victims of Child Abuse Act of 1990 (34 U.S.C. 20333(b)(2) by adding an additional criteria to those in the law that outlines the kind of national organization that should receive a DOJ grant to develop "model technical assistance and training programs to improve the judicial system's handling of child abuse and neglect cases." Priority will go to organizations that meet several factors, including the new factor of developing procedures that would improve the judicial response to children who are vulnerable to human trafficking.

Victim-centered training of tribal law enforcement and prosecutorial personnel. Section 504 of S. 1312 says the Attorney General will work with tribal authorities to run a technical assistance and training program for tribal law enforcement that includes a victim-centered approach to investigating and prosecuting severe forms of trafficking in persons.

Acquisitions training. Section 113 of H.R. 2200 requires that the Federal Acquisition Institute offer a 30-minute course on the laws and regulations on human trafficking and federal contracting to all acquisitions workers.⁶²

Air carriers. Section 111 of H.R. 2200 requires certain air carriers to train employees to recognize and prevent human trafficking (see Reports section above).

⁶² Amends 41 USC section 1201.

XVI. Gathering Law Enforcement Data

Promoting data collection on human trafficking. Section 401 of S 1312 instructs the Attorney General to provide a report to Congress "the efforts of the National Institute of Justice to develop a methodology to assess the prevalence of human trafficking in the United States, including a timeline for completion of the methodology" within a year of enactment.

This section also requires the FBI Director to report to Congress on the last 5 years of data collected on the Innocence Lost National Initiative. The data must include, the number of people arrested for human trafficking (disaggregated by arrest crime), adults arrested for prostitution, minors arrested and charged, and State social services provided for each minor victim. The report also must be publicized on the DOJ website

Crime reporting.

Author's Note: This section includes amendments to the federal criminal reporting and data collection process that applies to all crimes and federal agencies. It is NOT specific to trafficking crimes and has no real relationship to trafficking crimes, other than the fact that these crimes would be reported like other crimes. It appears that this section was added because the Chairman of the Senate Judiciary Committee, or the DOJ/FBI, or another Senator wanted to make this change and the TVPRA was an opportune legislative vehicle to do so.

The Uniform Federal Crime Reporting Act of 1988⁶³ requires all federal agencies to report any crime data they collect to the Department of Justice for analysis and processing with DOJ and state law enforcement data in the Uniform Crime Reports. Section 402 of S. 1312 makes a number of amendments to this system – first by eliminating the requirement that the data is shared using the Uniform Crime Reports form, and secondly by requiring the data be reported "not less than annually". 90 days after enactment, the FBI Director must coordinate with other agencies to ensure successful implementation. Six months after enactment, each agency that is required to provide crime data must do so to enable the FBI Director to compile and issue the first report. A year after enactment, the FBI will report to Congress on the compliance of all of the required federal agencies providing crime data.

Report on human trafficking investigations. Homeland Security Investigations is a division of ICE – the Bureau of Immigration and Customs Enforcement, a part of the Department of Homeland Security. HSI is a law enforcement agency with broad authority to enforce federal laws related to criminal organizations illegally exploiting America's travel, trade, financial and immigration systems. This includes some human trafficking crimes (committed abroad in via our immigration or border systems). Section 403 of S. 1312 requires the Executive Associate Director of Homeland Security Investigations to submit a report to Congress within a year of enactment on human trafficking investigations undertaken by that office. The report must include:

- "(1) the number of confirmed human trafficking investigations by category, including labor trafficking, sex trafficking, and transnational and domestic human trafficking;
- (2) the number of victims by category, including— (A) whether the victim is a victim of sex trafficking or a victim of labor trafficking; and (B) whether the victim is a minor or an adult; and

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⁶³ 28 U.S.C. section 534 note.

(3) an analysis of the data described in paragraphs (1) and (2) and other data available to Homeland Security Investigations that indicates any general human trafficking or investigatory trends."

Reporting certain child labor and commercial sex crimes in Federal databases. Section 17 of S. 1311 requires that the FBI make changes to Uniform Crime Reporting System and the National Incident-Based Reporting System, the two primary federal databases used to record and track crime data in America. The NIBRS is a more detail-oriented update to the UCRS. Both are used by politicians and law enforcement at every level of government to make policy decisions as well. In 2008 the Wilberforce Act required one set of changes distinguishing between crimes of promoting prostitution, purchasing prostitution and providing prostitution or commercial sex acts. [1]⁶⁴ This amendment adds two additional categories to this list: '(4) incidents of assisting or promoting prostitution, child labor that is a violation of law, or forced labor of an individual under the age of 18 as described in paragraph (1) and ''(5) incidents of purchasing or soliciting commercial sex acts, child labor that is a violation of law, or forced labor with an individual under the age of 18 as described in paragraph (2).''. This will mean that the FBI must also now track crimes where people promote or purchase child or forced labor with minors under the age of 18 in addition to the broader categories Wilberforce requires them to track.

Reporting data on peonage, slavery and trafficking in persons convictions. Under section 105(b)(7) of the TVPRA, the Attorney General provides Congress with an annual report on the work done by federal agencies in response to the duties and charges of the Interagency Task Force to Monitor and Combat Trafficking. Under paragraph (Q), the AG must report on efforts to identify, investigate, and prosecute offenses under federal criminal laws or equivalent State offenses related to trafficking, in cooperation with State, tribal, and local law enforcement officials. This report covers efforts to address Title 18 of the U.S. Code: sections 1581 (peonage), 1583 (enticement into slavery), 1584 (sale into involuntary servitude), 1589 (forced labor), 1590 (trafficking), 1592 (unlawful conduct with documents for trafficking), and 1594 (attempt and conspiracy related to these crimes).

The amendment to his law, passed in S. 1311, calls for the AG to report on the number of convictions obtained under Title 18, chapter 77, which includes the above provisions and others related to "Peonage, Slavery and Trafficking in Persons." These convictions must be "aggregated separately by the form of offense committed with respect to the victim, including recruiting, enticing, harboring, transporting, providing, obtaining, advertising, maintaining, patronizing, or soliciting a human trafficking victim." Sponsoring Senator Cornyn's press release notes that this "ensures regular reporting on the number of human trafficking crimes is separated from reports on the particular form of the offense for the use of the FBI Uniform Crime Reporting Program."

⁶⁴ "distinguish between reports of--(1) incidents of assisting or promoting prostitution, which shall include crimes committed by persons who--(A) do not directly engage in commercial sex acts; and(B) direct, manage, or profit from such acts, such as State pimping and pandering crimes;

⁽²⁾ incidents of purchasing prostitution, which shall include crimes committed by persons who purchase or attempt to purchase or trade anything of value for commercial sex acts; and (3) incidents of prostitution, which shall include crimes committed by persons providing or attempting to provide commercial sex acts."

⁶⁵ Section 105(d)(7)(Q) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(d)(7)(Q)) is amended by section 16 Abolish 1311 Act of 2017.

⁶⁶https://www.cornyn.senate.gov/content/news/cornyn-klobuchar-bill-fight-human-trafficking-signed-law

XVII. Partnerships

Public-private partnership Advisory Council to End Human Trafficking. Section 703 of S.1312 creates a Public-Private Partnership Advisory Council to End Human Trafficking which will advise the Interagency Task Force and the SPOG. The Council will be made of 8-14 diverse "representatives of nongovernmental organizations, academia, and nonprofit groups who have significant knowledge and experience in human trafficking prevention and eradication, identification of human trafficking, and services for human trafficking victims" domestically and internationally. Within 180 days of enactment the President shall appoint 4 of the Council members after consulting with the President Pro Tempore and Minority Leader of the Senate, and the Speaker and Minority Leader of the House and then the remaining 4 Members without any consultation requirement. The members can serve for 2 years, renewable, and are not paid for their service.

The Council is required to meet annually to review the Federal Government policy and programs intended to combat human trafficking. It will serve as a point of contact, with the United States Advisory Council on Human Trafficking, for Federal agencies reaching out to human trafficking nonprofit groups and nongovernmental organizations for input on programming and policies relating to human trafficking in the United States; formulate assessments and recommendations to ensure that the policy and programming efforts of the Federal Government conform, to the extent practicable, to the best practices in the field of human trafficking prevention and rehabilitation and aftercare of human trafficking victims; and (5) meet with the SPOG annually, and not later than 45 days before a meeting with the Task Force, to formally present the findings and recommendations of the Council.

Council Report. Section 704 of s 1312 requires a report from the Public-Private Partnership Advisory Council to End Human Trafficking, In coordination with the United States Advisory Council on Human Trafficking, on the findings from the review of federal policies and programs to combat trafficking, however, the Council is only authorized for a year and 9 months so unless it is reauthorized there will only be one report. The Council sunsets on September 30, 2020.⁶⁷

⁶⁷ section 705 of s 1312.

Addendum A: Child Soldiers

The Child Soldiers Prevention Act of 2018 was merged into H.R. 2200 at Subtitle B. This Act amends the Child Soldiers Prevention Act of 2008.⁶⁸ It is implemented by the Department of State.

- 1. Findings. Section 211 focuses on the abuse of children as child soldiers and sex slaves, especially in Afghanistan and South Sudan, but also in conflicts in Iran, Mali, Niger, Sudan, Burma, the Democratic Republic of the Congo, Iraq, Nigeria, Rwanda, Somalia, Syria, and Yemen.
- 2. Including law enforcement. Section 212 adds "police or other security forces" to references to "governmental armed forces" throughout the bill to ensure that the State Department is not under inclusive in its analysis and reporting of the use of child soldiers. This amendment will thereby cover children who are recruited, forced to join police or other security forces, or are forced to engage in direct hostilities on their behalf."
- 3. Notification of listing. Countries listed under the CSPA and the TVPA as countries that are violating prohibition on the recruitment and engagement of child soldiers are reported to Congress under the CSPA of 2008.⁶⁹ These countries are prohibited from receiving assistance or licenses for direct sale of military equipment from the U.S.⁷⁰ Section 212 of H.R. 2200 requires that the Secretary of State notify those countries of their status and listing within 45 days of the issuance of the TIP Report.⁷¹ After notifying all of the countries, the Secretary must also notify Congress. A waiver of the assistance prohibition is available, but this section further restricts the President's power to grant that waiver. In addition to a waiver being in the national interest, the President must also now certify to Congress that the foreign government is taking "effective and continuing steps to address the problem of child soldiers."
- 4. Limited assistance with child soldiers. Under the exception in CSPA 404(e),⁷² the President may provide some limited forms of assistance. This authority is specified further in the amendments in Section 212(b)(4) of H.R. 2200, as non-lethal supplies and professionalization training to countries that are taking active steps to demobilize and reintegrate child soldiers.
- 5. Update to Annual Report to Congress. Section 212(e) of H.R. 2200 amends the CSPA to require reporting on the amount of assistance provided to any country that is identified on the list of countries using child soldiers or that has received a waiver of the prohibition on assistance, and a description of that assistance.
- 6. Child soldiers amendment to the TIP Report. Section 212(f) of H.R. 2200 amends the TIP Report to increase the child soldier-related information to be included in the annual TIP Report when the Secretary lists a country using child soldiers or waives the prohibition on assistance.

⁶⁸ Section 402(a), 404(a) of the Child Soldiers Prevention Act of 2008 (22 U.S.C. 2370c(2)).

⁶⁹ Section 404 of the Child Soldiers Prevention Act of 2008 (22 U.S.C. 2370c–1)

⁷⁰ Section 404(a) of the Child Soldiers Prevention Act of 2008 (22 U.S.C. 2370c–1)

⁷¹ Issued under section 110(b) of the TVPA

⁷² Section 404(e) of the Child Soldiers Protection Act of 2008 (22 U.S.C. 2370c–1)

7. Child Sexual Assault by Afghan Security Forces. 73

- a. Sense of Congress on report and implementation. Congress expressed its view that the Departments of State and Defense should fully implement the recommendations in the Special Inspector General for Afghanistan Reconstruction's 2017 report on Child Sexual Assault in Afghanistan. Congress also instructed these agencies to report on the status of implementation of each recommendation included in the report within 90 days of passage.
- b. Report by U.S. personnel. This section also requires these agencies to report to Congress in 180 days on interagency efforts to create a system for U. S. personnel to report on child sexual abuse by Afghan security forces with whom they train, advise or provide assistance.
- c. Mandating diplomacy on bacha bazi. This section requires that the Department of State use diplomacy at an inter-ministerial conference on Afghanistan in November 2018 to end the practice known as bacha bazi.

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⁷³ Section 404(d)

Addendum B: Amendments to the Annual Trafficking In Persons Report

1. Minimum standards

Definitions for TIP Report. Section 2 of S. 1862 re-designates the numbers for the definitions section of the TVPRA, section 103, and adds new definitions for the terms "concrete actions" and "credible information" – both relating to the State Department's assessment of whether a foreign government has met the minimum standards to combat trafficking in persons. "Credible actions "are actions that demonstrate increased efforts by the government of a country to meet the minimum standards for the elimination of trafficking and includes enforcement, investigations, prosecutions, convictions, training, programs and partnerships, prevention efforts, victim services and the commitment of funding to achieve these changes. "Credible information" is reports by the Department of State or other agencies, such as the Department of Labor report on goods produced using child labor and forced labor, documentation provided by the foreign government (on laws passed, enforcement actions taken), information from survivors and organizations, reliable media and academic reports, information from multilateral institutions and an assessment (presumably by State) on the prevalence of trafficking in a country.

Prosecuting officials who enable. Section 5 of S.1862 includes a slight word change in the list of indicators of serious and sustained efforts that the Department of State considers in determining whether a country meets the minimum standards to combat trafficking in persons. Indicia (7) now calls on the Department to also consider prosecutions against public officials who not only engage in or condone human trafficking, but also those who enable it. The language will now say "Whether the government of the country vigorously investigates, prosecutes, convicts, and sentences public officials, including diplomats and soldiers, who participate in or facilitate severe forms of trafficking in persons, ... and takes all appropriate measures against officials who condone or enable such trafficking."

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Encouraging countries to share data on efforts to counter trafficking. Section 202 of H.R. 2200 makes an important shift on the standards for data collection that the U.S. government will expect of other governments that it reviews in the annual Trafficking in Persons Report (TIP Report). Countries that fail to provide data on trafficking in persons prosecutions and

convictions will be given a presumption in their favor if they are demonstrably increasing their capacity to collect data on these law enforcement actions. Congress intended for this to prevent countries from being assumed to be on Tier 2 in the wake of missing data. Under prior law, the foreign governments were assumed to be making a good faith effort to vigorously investigate, prosecute, convict or sentence acts of human trafficking between a gap in the reporting periods.⁷⁴

2. Tier 2 Watch List

Adjustments to TIP Report rankings. Section 203 of H.R. 2200 amends the TVPA provisions⁷⁵ guiding the country rankings of the TIP Report, in a congressional effort to make the rankings more accurate and to induce countries to make concrete progress in countering trafficking in persons. This provision tightens the Tier 2 Watch List (2WL) qualifications to ensure that countries are taking steps commensurate with the significance or quantification of their trafficking problems before they qualify for an upgrade to the Tier 2WL. It prevents the use or abuse of Tier 2WL as a parking lot for poorly performing countries, by putting a one year limit on the length of time that a previously auto-downgraded country (from Tier 2WL to Tier 3) can be reinstated back onto 2WL. Finally, it limits the Secretary of State's political discretion to avoid a Tier 3 designation for countries that are trafficking their own people. 76 The section says, in evaluating a country's compliance with the minimum standards for the elimination of trafficking, "the Secretary of State shall consider, as proof of failure to make significant efforts, a government policy or pattern of—"(i) trafficking; "(ii) trafficking in government-funded programs; "(iii) forced labor (in government-affiliated medical services, agriculture, forestry, mining, construction, or other sectors); "(iv) sexual slavery in government camps, compounds, or outposts; or "(v) employing or recruiting child soldiers."

Actions against governments failing to meet minimum standards. Section 6 paragraph (1) of S. 1862 makes a number of changes to section 110 of the TVPRA which outlines how the State Department should create the annual TIP Report. (paragraph 1)

a) First, the section mandates what Congress must include in the Report (shifting from what the report should include to what it shall include) and says that it must rely on data covering April 1 to of the prior year to March 31 of the current year.

⁷⁴ CHECK! Amends Section 108(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7106(b)): "After reasonable requests from the Department of State for data regarding investigations, prosecutions, convictions, and sentences, a government which does not provide such data, consistent with the capacity demonstrably increasing capacity of such government to obtain such data, shall be presumed not to have vigorously investigated, prosecuted, convicted or sentenced such acts. During the periods prior to the annual report submitted on June 1, 2004, and on June 1, 2005, and the periods afterwards until September 30 of each such year, the Secretary of State may disregard the presumption contained in the preceding sentence if the government has provided some data to the Department of State regarding such acts and the Secretary has determined that the government is making a good faith effort to collect such data."

⁷⁵ Section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)).

⁷⁶ House Section-by-Section of H.R. 2200. This document is privately shared with Polaris and is not necessarily reflective of the views of all House members.

⁷⁷ Section 203 of H.R. 2200, amending Section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)).

- b) The second amendment requires that based only "concrete actions taken by the country that are recorded during the reporting period" can be used to determine whether the minimum standards have been met.
- c) Tier 2 standards cannot be determined on the basis of commitments by the country to take additional future steps during the next year.
- d) For each country that switches tiers from one year to the next, the report must explain how the concrete actions taken impacted the change in tiers, including a clear link to the minimum standards in section 108 of the TVPRA.

Paragraph 2 of section 6 in S. 1862 makes changes to the Special or Tier 2 Watch List. It adjusts the list of countries needing special scrutiny during the year that are reported to Congress.

- a) The reported countries include those where there is a significant increase in the number of trafficking victims. With these amendments, this section can now be based on an estimated number of victims, and it will only apply to those countries where such an increase is occurring, and the country is not taking proportional concrete steps to address trafficking.⁷⁸
- b) Language including countries that have made significant commitments to improve in the coming year are now eliminated from this list with the amendment.
- c) The Interim Assessment provided to Congress from the Secretary will now cover changes made in a country since April 1 of the prior reporting year.⁷⁹
- d) Tier 2 Watch List countries are listed to Congress under paragraph (1)(C) can only stay on the watch list for 2 years before they are required to move to Tier 3 unless there is substantial improvement to meet the minimum standards, unless a waiver is provided. The amendment to paragraph (2)(D) says that a waiver can only now be given for one year; eliminating the ability of a country to be waived to stay on the Tier 2 Watch List from 2 years.
- e) Paragraph (2)(E) requires that the Secretary offer to brief the key congressional committees on the countries listed on the Tier 2 Watch List, any action plans provided to the Department by those countries, and permits the committees to review those plans.
- f) Paragraph (2)(F) prevents a country from returning to the Tier 2 Watch List for more than 1 year if the country was previously on the Tier 2 Watch List for 2 consecutive years, was previously given a Presidential waiver that avoided a Tier 3 designation, and was then subsequently returned to the Tier 2 Watch List. The way the tiers have been enacted, there is often political pressure within the Department to keep some countries off of Tier 3 due to diplomatic relations or other interests of the Department. As a result, some countries get on Tier 2 and either remain there, or drop to Tier 3 under mandatory requirements and are then returned to Tier 2 the next year. This provision is designed to prevent the "parking lot" nature and protection of the Tier 2 Watch List, which can shield countries from sanctions under the TVPRA.

Paragraph 3 expands the behaviors that should be considered by the State Department when it determines whether a country has made significant efforts to meet the minimum standards to combat trafficking in persons. This paragraph adds:

⁷⁸ (2)(A)

⁷⁹ (2)(B)

- a) The extent a government is expending significant budgetary resources to investigate, prosecute, convict traffickers and obtain restitution to victims;
- b) The extent a government is expending significant budgetary resources to protect victims, prevent severe forms of trafficking in persons,
- c) The extent a government consulted with international organizations resulting in concrete actions to improve victim services.

Paragraph (4) adds a new section 4 to this section of the TVPRA, detailing how and when the Tier 2 Watch List action plans should be prepared and presented to the relevant countries. It says that the action plans for countries that are moving up from Tier 3 to Tier 2 Watch List should receive an action plan on how to improve their ranking, within 180 days that they are listed as Tier 2 Watch List. This plan is produced by the Ambassador of JTIP, the regional Assistant Secretary and the country Ambassador, in coordination with officials of the country involved. Each plan must contain concrete actions the country can take to address deficiencies that kept it from receiving a Tier 2 ranking, and must include a short term and multi-year plan. The State Department officials are required to make themselves available for briefing the key committees of Congress.

Communication of Tier 2 Watch List Status. Under section 7 of S. 1862, each year, the Secretary of State must provide the foreign minister of a country that has been downgraded with a copy of the TIP Report, confirmation that the country has been downgraded to Tier 2 Watch List, factors that influenced the downgrade, the implications of this status and consequences of at Tier 3 downgrade, and steps that must be taken for an upgrade in a future year.