

# TRAFFICKING VICTIMS PROTECTION ACT



The Trafficking Victims Protection Act (TVPA) of 2000 created the first comprehensive federal law to address trafficking, focusing largely on international issues. The law focuses on three main issues: prevention, protection and prosecution. The TVPA was reauthorized through the Trafficking Victims Protection Reauthorization Act (TVPRA) in 2003, 2005 and 2008.

## TVPA 2000 KEY POINTS

### Prevention

- Creates an Office to Monitor and Combat Trafficking within the State Department, which is required to report on and rank countries' efforts to combat trafficking. The President may impose sanctions on countries that are neither in compliance with minimum standards for the elimination of trafficking nor are making significant efforts to do so.
- Creates public awareness and information programs, and international economic development programs to assist potential victims.
- Creates a federal task force to assist in the implementation of the TVPA.

### Protection

- Gives protection and assistance to certain foreign national victims of trafficking, by making them eligible for the Federal Witness Protection Program and other federal and state benefits to the same extent as refugees. Benefits include educational, health care, job training and other social service programs.
- Establishes the T Visa, which allows victims of trafficking to become temporary U.S. residents, through which they may become eligible for permanent residency after three years. Certain immediate family members are also eligible. The T Visa is extended to: 1) victims of "severe forms of trafficking;" 2) that are physically present in the U.S. on account of trafficking; 3) who have complied with any reasonable requests for assistance in the investigation and prosecution of trafficking crimes; and 4) who would otherwise suffer extreme hardship. Note: Minors do not have to meet the third criterion.
- Creates the temporary legal status of "continued presence," through which a federal law enforcement officer can request that the Department of Health and Human Services certify a victim whose presence is necessary for law enforcement, making the person eligible for federal benefits to the same extent as refugees.

### Prosecution

- Makes human trafficking a federal crime with severe penalties.
- Creates new crimes of forced labor; trafficking with respect to peonage, slavery, involuntary servitude, or forced labor; sex trafficking by force, fraud or coercion; or sex trafficking of children; and unlawful conduct with respect to documents in furtherance of trafficking. (18 U.S.C. §§ 1589-1592). Attempts to engage in these acts are also criminalized.
- Mandates that restitution be paid to victims (18 U.S.C. § 1593).

## TVPRA 2003 KEY POINTS

- Authorizes more than \$200 million over two years to combat human trafficking.
- Requires the U.S. government to terminate contracts with overseas contractors who engage in sex trafficking or commercial sex, or who use forced labor.
- Creates a federal civil cause of action for trafficking victims to sue their traffickers.
- Allows state and local law enforcement officials to assist in identifying trafficking victims for immigration purposes, who may then become eligible for federal social benefits. The TVPRA of 2003 extends benefits to additional family members of the trafficking victim.



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### TVPRA 2005 KEY POINTS

- Authorizes more than \$300 million over two years to combat human trafficking.
- Authorizes new programs to serve U.S. citizen victims of domestic trafficking, including a pilot program for sheltering minors.
- Addresses sex tourism with prevention programs.
- Expands federal criminal jurisdiction to trafficking offenses committed by U.S. government personnel and contractors while abroad.
- Requires the U.S. Agency for International Development to conduct studies on prevention and protection of trafficking victims abroad and authorizes \$5 million for a pilot treatment program.

### TVPRA 2008 KEY POINTS

#### Prevention

- Requires the U.S. government to provide detailed information about human trafficking, worker's rights, and access to available assistance to all applicants for work and education-based visas.
- Requires the Department of Labor to work toward preventing U.S. citizens from using goods produced or extracted with slave labor; and sets a deadline for the Department of Labor to provide a list of goods produced by slave labor or child labor.
- Requires the creation of an integrated database by the Human Smuggling and Trafficking Center to collect human trafficking data from all federal agencies.
- Prevents U.S. military assistance to countries using child soldiers in military forces or government-supported armed groups.

#### Protection

- Expands immigration-related protections to human trafficking victims and families as it relates to T-Visas, U-Visas, and Continued Presence.
- Requires unaccompanied alien children to be screened as potential human trafficking victims and to be transferred to the custody of Health and Human Services within 48 hours for assistance, whether or not eligibility determinations are made on their status at that time.
- Authorizes a new program for providing services to U.S. citizen survivors of human trafficking.
- Requires DHS and DOJ to develop materials to assist state law enforcement in obtaining Continued Presence status for victims.

#### Prosecution

- Expands criminal liability of financially benefiting from human trafficking crimes, as well as obstruction and conspiracy.
- Expands federal criminal jurisdiction to U.S. citizens and permanent residents who travel abroad to commit, attempt to commit, or conspire to commit human trafficking crimes.
- Expands the crime of sex trafficking by removing the knowledge-of-age requirement in certain instances involving minors and lowers the standard of proof to "reckless disregard" of the use of force, fraud, or coercion to cause a person to engage in commercial sex.
- Creates a new crime of fraud in foreign labor contracting, criminalizing the recruitment of foreign workers under false pretenses.
- Requires DOJ to create a new model state law to further a comprehensive approach in investigating and prosecuting human trafficking, including provisions criminalizing sex trafficking without proof of force, fraud, or coercion whether or not the victim is a minor.
- Human trafficking crimes are now placed in the most serious crime category under the two principle state reporting mechanisms (UCR and NIBRS).

States are required to separately report prostitution and vice crimes to the FBI for annual crime statistics under the categories of (a) those directing, managing, or profiting from commercial sex act; (b) those unlawfully purchasing commercial sex acts; and (c) those unlawfully providing commercial sex acts.

Sponsor: Senator Leahy, Patrick J. [VT] and 52 co-sponsors

#### FOR MORE INFORMATION AND ASSISTANCE

For more information, to get help, or to meet other domestic workers, contact your local NDWA affiliate: