

(i) taking measures to protect trafficked persons and their family members from intimidation and threats of reprisals and reprisals from traffickers and their associates; and

(ii) ensuring that the names and identifying information of trafficked persons and their family members are not disclosed to the public.

(2) Access to information

Victims of severe forms of trafficking shall have access to information about their rights and translation services.

(3) Authority to permit continued presence in the United States

Federal law enforcement officials may permit an alien individual's continued presence in the United States, if after an assessment, it is determined that such individual is a victim of a severe form of trafficking and a potential witness to such trafficking, in order to effectuate prosecution of those responsible, and such officials in investigating and prosecuting traffickers shall protect the safety of trafficking victims, including taking measures to protect trafficked persons and their family members from intimidation, threats of reprisals, and reprisals from traffickers and their associates.

(4) Training of Government personnel

Appropriate personnel of the Department of State and the Department of Justice shall be trained in identifying victims of severe forms of trafficking and providing for the protection of such victims.

(d) Construction

Nothing in subsection (c) of this section shall be construed as creating any private cause of action against the United States or its officers or employees.

(e) Protection from removal for certain crime victims

(1)–(4) Omitted

(5) Statutory construction

Nothing in this section, or in the amendments made by this section, shall be construed as prohibiting the Attorney General from instituting removal proceedings under section 1229a of title 8 against an alien admitted as a nonimmigrant under section 1101(a)(15)(T)(i) of title 8, as added by subsection (e) of this section, for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien's admission as a nonimmigrant under such section 1101(a)(15)(T)(i) of title 8.

(f) Omitted

(g) Annual reports

On or before October 31 of each year, the Attorney General shall submit a report to the appropriate congressional committees setting forth, with respect to the preceding fiscal year, the number, if any, of otherwise eligible applicants who did not receive visas under section

1101(a)(15)(T) of title 8, as added by subsection (e) of this section, or who were unable to adjust their status under section 1255(l) of title 8, solely on account of the unavailability of visas due to a limitation imposed by section 1184(n)(1) or 1255(l)(4)(A) of title 8.

(Pub. L. 106–386, div. A, §107, Oct. 28, 2000, 114 Stat. 1474.)

REFERENCES IN TEXT

Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, referred to in subsec. (b)(1)(A), is title IV (§ 400 et seq.) of Pub. L. 104–193, Aug. 22, 1996, 110 Stat. 2260, as amended. For complete classification of title IV to the Code, see Tables.

For the amendments made by this section, referred to in subsec. (e)(5), see Codification note below.

CODIFICATION

Section is comprised of section 107 of Pub. L. 106–386. Subsec. (e)(1)–(4) of section 107 of Pub. L. 106–386 amended sections 1101, 1182, and 1184 of Title 8, Aliens and Nationality, and subsec. (f) of section 107 of Pub. L. 106–386 amended section 1255 of Title 8.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7110 of this title.

§ 7106. Minimum standards for the elimination of trafficking

(a) Minimum standards

For purposes of this chapter, the minimum standards for the elimination of trafficking applicable to the government of a country of origin, transit, or destination for a significant number of victims of severe forms of trafficking are the following:

(1) The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.

(2) For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.

(3) For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.

(4) The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.

(b) Criteria

In determinations under subsection (a)(4) of this section, the following factors should be considered as indicia of serious and sustained efforts to eliminate severe forms of trafficking in persons:

(1) Whether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons that take place wholly or partly within the territory of the country.

(2) Whether the government of the country protects victims of severe forms of trafficking

in persons and encourages their assistance in the investigation and prosecution of such trafficking, including provisions for legal alternatives to their removal to countries in which they would face retribution or hardship, and ensures that victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts as a direct result of being trafficked.

(3) Whether the government of the country has adopted measures to prevent severe forms of trafficking in persons, such as measures to inform and educate the public, including potential victims, about the causes and consequences of severe forms of trafficking in persons.

(4) Whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons.

(5) Whether the government of the country extradites persons charged with acts of severe forms of trafficking in persons on substantially the same terms and to substantially the same extent as persons charged with other serious crimes (or, to the extent such extradition would be inconsistent with the laws of such country or with international agreements to which the country is a party, whether the government is taking all appropriate measures to modify or replace such laws and treaties so as to permit such extradition).

(6) Whether the government of the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies of the country respond to any such evidence in a manner that is consistent with the vigorous investigation and prosecution of acts of such trafficking, as well as with the protection of human rights of victims and the internationally recognized human right to leave any country, including one's own, and to return to one's own country.

(7) Whether the government of the country vigorously investigates and prosecutes public officials who participate in or facilitate severe forms of trafficking in persons, and takes all appropriate measures against officials who condone such trafficking.

(Pub. L. 106-386, div. A, § 108, Oct. 28, 2000, 114 Stat. 1480.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7102 of this title.

§ 7107. Actions against governments failing to meet minimum standards

(a) Statement of policy

It is the policy of the United States not to provide nonhumanitarian, nontrade-related foreign assistance to any government that—

- (1) does not comply with minimum standards for the elimination of trafficking; and
- (2) is not making significant efforts to bring itself into compliance with such standards.

(b) Reports to Congress

(1) Annual report

Not later than June 1 of each year, the Secretary of State shall submit to the appropriate

congressional committees a report with respect to the status of severe forms of trafficking in persons that shall include—

(A) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments fully comply with such standards;

(B) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not yet fully comply with such standards but are making significant efforts to bring themselves into compliance; and

(C) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not fully comply with such standards and are not making significant efforts to bring themselves into compliance.

(2) Interim reports

In addition to the annual report under paragraph (1), the Secretary of State may submit to the appropriate congressional committees at any time one or more interim reports with respect to the status of severe forms of trafficking in persons, including information about countries whose governments—

(A) have come into or out of compliance with the minimum standards for the elimination of trafficking; or

(B) have begun or ceased to make significant efforts to bring themselves into compliance,

since the transmission of the last annual report.

(3) Significant efforts

In determinations under paragraph (1) or (2) as to whether the government of a country is making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking, the Secretary of State shall consider—

(A) the extent to which the country is a country of origin, transit, or destination for severe forms of trafficking;

(B) the extent of noncompliance with the minimum standards by the government and, particularly, the extent to which officials or employees of the government have participated in, facilitated, condoned, or are otherwise complicit in severe forms of trafficking; and

(C) what measures are reasonable to bring the government into compliance with the minimum standards in light of the resources and capabilities of the government.

(c) Notification

Not less than 45 days or more than 90 days after the submission, on or after January 1, 2003, of an annual report under subsection (b)(1) of this section, or an interim report under subsection (b)(2) of this section, the President shall submit to the appropriate congressional committees a notification of one of the determinations listed in subsection (d) of this section with respect to each foreign country whose government, according to such report—