

Polaris Project – Trafficking Victims’ Protection Act (TVPA) – Fact Sheet

The Trafficking Victims Protection Act (TVPA) of 2000 created the first comprehensive federal law to address human trafficking, with a significant focus on the international dimension of the problem. The law provided a three-pronged approach: **prevention** through public awareness programs overseas and a State Department-led monitoring and sanctions program; **protection** through a new T-Visa and services for foreign national victims; and **prosecution** through new federal crimes.

The TVPA was reauthorized through the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003, the TVPRA of 2005, and the TVPRA of 2008, which included greater protections for U.S. citizen victims, enhanced and enacted new human trafficking crimes, enhanced victim service provisions, and strengthened the role of the Trafficking in Persons Office within the State Department.

KEY PROVISIONS OF TVPA OF 2000

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.¹

- 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).

KEY PROVISIONS OF TVPRA OF 2003

- 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.
- Requires an annual report from the Attorney General to Congress on U.S. Government activities to combat human trafficking.

KEY PROVISIONS OF TVPRA OF 2005

- Authorizes more than \$300 million over two years to combat human trafficking.
- Authorizes new programs to serve U.S. citizen or legal permanent resident victims of domestic human trafficking, including a pilot program for sheltering minors.

¹ The TVPA of 2000 set the age for required collaboration at 15, but it was raised to 18 by the TVPRA of 2003.

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- Authorizes grant programs to assist state and local law enforcement efforts in combating human trafficking.
- 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.

KEY PROVISIONS OF TVPRA OF 2008

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.

FOR MORE INFORMATION

PDF copies of these laws can be accessed via <http://www.thomas.gov> (the Library of Congress' *Thomas* website).

TVPA of 2000: (PL 106-386): http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_cong_public_laws&docid=f:publ386.106.pdf.

TVPRA of 2003 (PL 108-193): http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_public_laws&docid=f:publ193.108.pdf.

TVPRA of 2005 (PL 109-164): http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ164.109.pdf.

TVPRA of 2008 (PL 110-457): http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_public_laws&docid=f:publ457.110.pdf.