

113TH CONGRESS  
2D SESSION

# H. R. 4586

To ensure that the provision of foreign assistance does not contribute to human trafficking and to combat human trafficking by requiring greater transparency in the recruitment of foreign workers outside of the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2014

Mr. ROYCE introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Foreign Affairs and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To ensure that the provision of foreign assistance does not contribute to human trafficking and to combat human trafficking by requiring greater transparency in the recruitment of foreign workers outside of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Fraudulent Overseas Recruitment and Trafficking Elimina-  
6 tion Act of 2014”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TRANSPARENCY IN THE RECRUITMENT OF FOREIGN  
 WORKERS OUTSIDE OF THE UNITED STATES

Sec. 101. Definitions.

Sec. 102. Transparency in foreign recruiting by foreign labor contractors.

Sec. 103. Transparency in foreign recruiting by third-party foreign labor re-  
 cruiters.

Sec. 104. Registration of third-party foreign labor recruiters.

Sec. 105. Third-party recruitment fees.

Sec. 106. Maintenance and posting of lists.

Sec. 107. Enforcement.

Sec. 108. Regulations; effective date; report.

TITLE II—OTHER PROVISIONS

Sec. 201. Ensuring that foreign assistance does not contribute to human traf-  
 ficking.

Sec. 202. Obligations of United States consular officers.

3 **TITLE I—TRANSPARENCY IN THE**  
 4 **RECRUITMENT OF FOREIGN**  
 5 **WORKERS OUTSIDE OF THE**  
 6 **UNITED STATES**

7 **SEC. 101. DEFINITIONS.**

8 As used in this title, the following definitions apply:

9 (1) EMPLOYER.—The term “employer” shall in-  
 10 clude any parent, branch, affiliate, or subsidiary of  
 11 a United States or foreign firm, corporation, or  
 12 other legal entity and any group treated as a single  
 13 employer under subsection (b), (c), (m), or (o) of  
 14 section 414 of the Internal Revenue Code of 1986.

15 (2) FOREIGN LABOR CONTRACTING ACTIVITY.—  
 16 The term “foreign labor contracting activity” means

1 recruiting, soliciting, or collecting funds from a pro-  
2 spective worker or worker who resides outside of the  
3 United States and is physically present outside of  
4 the United States at the time of such activities, in  
5 furtherance of employment in the United States,  
6 pursuant to a work-authorized nonimmigrant visa,  
7 that will compensate that worker at a rate of com-  
8 pensation below the rate of a highly compensated  
9 employee as required under the Fair Labor Stand-  
10 ards Act of 1938 (29 U.S.C. 201 et seq.) and re-  
11 quired under section 541.601(a) of title 29, Code of  
12 Federal Regulations, or any similar successor regu-  
13 lation, including when such activity occurs wholly  
14 outside of the United States.

15 (3) FOREIGN LABOR CONTRACTOR.—The term  
16 “foreign labor contractor” means any individual,  
17 group of individuals, or employer who performs for-  
18 eign labor contracting activity or utilizes a third-  
19 party foreign labor recruiter to perform such activ-  
20 ity, except that such term does not include—

21 (A) any Federal, State, or local govern-  
22 mental entity;

23 (B) a United States or foreign firm, cor-  
24 poration, or other legal entity or parent,  
25 branch, affiliate, or subsidiary thereof that

1 hires its own existing employee from outside the  
2 United States to work for a branch of the same  
3 firm, corporation, or other legal entity or a par-  
4 ent, affiliate, or subsidiary thereof within the  
5 United States; or

6 (C) any attorney or person to the extent  
7 they are assisting an employer with preparing a  
8 petition, certification, application, or other doc-  
9 uments or filings (such as a job order to be  
10 filed with a State workforce agency) related to  
11 the legal requirements to hire a prospective  
12 worker under the Immigration and Nationality  
13 Act (8 U.S.C. 1101 et seq.) or assisting with  
14 any subsequent administrative or judicial ap-  
15 peals related to such petitions, certifications,  
16 applications, or related legal documents or ad-  
17 vising the prospective worker about the visa ap-  
18 plication and consular process.

19 (4) PROSPECTIVE WORKER.—The term “pro-  
20 spective worker” means an individual who is not a  
21 national of the United States (as defined in section  
22 101(a)(22) of the Immigration and Nationality Act  
23 (8 U.S.C. 1101(a)(22))) or an individual lawfully  
24 admitted for permanent residence (as defined in sec-  
25 tion 101(a)(20) of such Act (8 U.S.C. 1101(a)(20)))

1 who is the subject of foreign labor contracting activ-  
2 ity in furtherance of employment in the United  
3 States pursuant to a work-authorized nonimmigrant  
4 visa.

5 (5) SECRETARY.—Except as otherwise specified  
6 in section 106, the term “Secretary” means the Sec-  
7 retary of Homeland Security.

8 (6) THIRD-PARTY FOREIGN LABOR RE-  
9 CRUITER.—The term “third-party foreign labor re-  
10 cruitter” means any foreign labor contractor who re-  
11 ceives remuneration for conducting foreign labor  
12 contracting activity, except that an employer who en-  
13 gages in foreign labor contracting activity solely to  
14 find workers to be employed by the employer shall  
15 not be considered a third-party foreign labor re-  
16 cruitter. An employer shall not be considered to be  
17 engaged in foreign labor contracting activity solely  
18 to find a worker to be employed by such employer  
19 if the worker performs duties predominantly at one  
20 or more worksites owned, operated, or controlled by  
21 another employer or employers and the other em-  
22 ployer or employers direct and control the work of  
23 the worker.

24 (7) WORK-AUTHORIZED NONIMMIGRANT VISA.—  
25 The term “work-authorized nonimmigrant visa”

1 means a nonimmigrant visa (as defined in section  
2 101(a)(26) of the Immigration and Nationality Act  
3 (8 U.S.C. 1101(a)(26))) issued to a class of non-  
4 immigrant aliens listed in section 214(s) of such Act  
5 (8 U.S.C. 1184(s)) (as added by section 202 of this  
6 Act) who are eligible under the Immigration and Na-  
7 tionality Act (8 U.S.C. 1101 et seq.) to be employed  
8 in the United States.

9 (8) WORKER.—The term “worker” means an  
10 individual who was the subject of foreign labor con-  
11 tracting activity that resulted in the individual being  
12 issued a work-authorized nonimmigrant visa. Such  
13 term does not include an unauthorized alien (as de-  
14 fined in section 274A(h)(3) of the Immigration and  
15 Nationality Act (8 U.S.C. 1324a(h)(3))).

16 **SEC. 102. TRANSPARENCY IN FOREIGN RECRUITING BY**  
17 **FOREIGN LABOR CONTRACTORS.**

18 (a) PROVISION OF IMMIGRATION DOCUMENTS.—A  
19 foreign labor contractor (including a third-party foreign  
20 labor recruiter) who files a petition, certification, or appli-  
21 cation required under the Immigration and Nationality  
22 Act (8 U.S.C. 1101 et seq.) for the purpose of obtaining,  
23 for a prospective worker such contractor has recruited or  
24 solicited (or has had a third-party labor recruiter recruit  
25 or solicit), a work-authorized nonimmigrant visa, shall

1 provide a copy of such petition, certification, or application  
2 to the prospective worker (but may exclude any financial  
3 or proprietary information of the employer and, in the case  
4 of a group petition, any personally identifiable information  
5 about other beneficiaries) and a copy of the approval noti-  
6 fication regarding the petition, certification, or application  
7 to the worker (but may exclude any financial or propri-  
8 etary information of the employer).

9 (b) **PROHIBITION ON FALSE AND MISLEADING IN-**  
10 **FORMATION.**—No foreign labor contractor (including a  
11 third-party foreign labor recruiter) described in subsection  
12 (a) shall knowingly provide materially false or misleading  
13 information to any worker or prospective worker con-  
14 cerning any document required to be provided under such  
15 subsection.

16 **SEC. 103. TRANSPARENCY IN FOREIGN RECRUITING BY**  
17 **THIRD-PARTY FOREIGN LABOR RECRUITERS.**

18 (a) **REQUIREMENT FOR DISCLOSURE.**—A third-party  
19 foreign labor recruiter shall ascertain and, at the time a  
20 job offer is made, disclose to each prospective worker in  
21 writing in English and in the primary language of the  
22 worker, the following information:

23 (1) All information that is reasonably available  
24 (including in summarized form, but not including  
25 any financial or proprietary information of the em-

1        ployer) that would be required to be included in a  
2        petition, certification, or application under the Immi-  
3        gration and Nationality Act (8 U.S.C. 1101 et seq.)  
4        for the purpose of obtaining for such worker a work-  
5        authorized nonimmigrant visa, should the employer  
6        offering the job file such a petition, certification, or  
7        application.

8            (2) All information regarding any fees and ex-  
9        penses allowable under such Act that the foreign  
10       labor contractor (including a third-party foreign  
11       labor recruiter) will or may charge the worker (in-  
12       cluding any costs for housing or accommodation,  
13       transportation to and from the United States and to  
14       and from the worksite, meals, health insurance,  
15       worker's compensation, medical examinations, health  
16       care, tools or safety equipment costs, training, or  
17       any other benefits provided).

18            (3) A statement, in a form specified by the Sec-  
19       retary—

20            (A) stating that—

21            (i) no third-party foreign labor re-  
22       cruter, or agent or employee of such a  
23       person, lawfully may assess any recruit-  
24       ment, placement, legal or processing fee on  
25       a prospective worker or a worker;



1 (ii) unless required by such Act, no  
2 foreign labor contractor (including a third-  
3 party foreign labor recruiter) is required to  
4 pay for the visa or passport fees or costs  
5 of transportation to and from the United  
6 States of a prospective worker or worker;  
7 and

8 (iii) unless prohibited by such Act,  
9 any other law of the United States or a  
10 State, or the provisions related to a written  
11 employment contract entered into as pro-  
12 vided in paragraph (4), the employment of  
13 a worker may be terminated or modified at  
14 any time by the employer;

15 (B) explaining that—

16 (i) if a written employment contract is  
17 entered into as provided in paragraph (4),  
18 no material changes may be made to a the  
19 original contract signed by the prospective  
20 worker or worker without the worker hav-  
21 ing at least 24 hours to consider such  
22 changes and to provide their consent, ob-  
23 tained voluntarily, except that if the work-  
24 er does not provide consent, the worker  
25 may be terminated or the employment

1 modified pursuant to subparagraph  
2 (A)(iii); and

3 (ii) any material changes made to the  
4 original contract that do not comply with  
5 clause (i) shall be a violation of this section  
6 and be subject to the enforcement under  
7 section 107; and

8 (C) describing the protections afforded  
9 prospective workers and workers by this section,  
10 section 202 of the William Wilberforce Traf-  
11 ficking Victims Protection Reauthorization Act  
12 of 2008 (8 U.S.C. 1375e), and the Immigration  
13 and Nationality Act (8 U.S.C. 1101 et seq.), in-  
14 cluding—

15 (i) relevant information about the pro-  
16 cedure for filing a complaint provided for  
17 in section 107; and

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

21 (4) If a written employment contract is entered  
22 into by a prospective worker or worker and an em-  
23 ployer, either voluntarily by both parties or in com-  
24 pliance with the Immigration and Nationality Act (8

1 U.S.C. 1101 et seq.), a signed copy of the work con-  
2 tract.

3 (b) RELATIONSHIP TO LABOR AND EMPLOYMENT  
4 LAWS.—Nothing in the disclosure required by subsection  
5 (a) shall constitute a legal conclusion as to a prospective  
6 worker’s or worker’s status or rights under any labor or  
7 employment law. Unless otherwise required by the Immi-  
8 gration and Nationality Act (8 U.S.C. 1101 et seq.), a  
9 written employment contract shall not be required to es-  
10 tablish eligibility for a work authorized nonimmigrant visa  
11 under section 214(s) of the Immigration and Nationality  
12 Act (8 U.S.C. 1184(s)), as added by section 202 of this  
13 Act.

14 (c) PROHIBITION ON FALSE AND MISLEADING IN-  
15 FORMATION.—No third-party foreign labor recruiter shall  
16 knowingly provide materially false or misleading informa-  
17 tion to any prospective worker concerning any matter re-  
18 quired to be disclosed under subsection (a).

19 **SEC. 104. REGISTRATION OF THIRD-PARTY FOREIGN LABOR**  
20 **RECRUITERS.**

21 (a) REQUIREMENT TO REGISTER.—Prior to engag-  
22 ing in any foreign labor contracting activity, any indi-  
23 vidual, group of individuals, or employer who is a third-  
24 party foreign labor recruiter or who, for any money or  
25 other valuable consideration paid or promised to be paid,

1 performs a foreign labor contracting activity on behalf of  
2 a third-party foreign labor recruiter, shall have obtained  
3 a certificate of registration from the Secretary pursuant  
4 to regulations promulgated by the Secretary under sub-  
5 section (c), except that during the first year after such  
6 regulations are promulgated, any individual, group of indi-  
7 viduals, or employer who is a third-party foreign labor re-  
8 cruitor or who, for any money or other valuable consider-  
9 ation paid or promised to be paid, performs a foreign labor  
10 contracting activity on behalf of a third-party foreign labor  
11 recruiter, may engage in foreign labor contracting activity  
12 if such individual, group, or employer has applied for a  
13 certificate of registration from the Secretary pursuant to  
14 such regulations and the certificate has not been denied.

15 (b) NOTIFICATION.—

16 (1) ANNUAL EMPLOYER NOTIFICATION.—Each  
17 employer shall notify the Secretary, once each year,  
18 of the identity of any third-party foreign labor re-  
19 cruitor involved in any foreign labor contracting ac-  
20 tivity for, or on behalf of, the employer during that  
21 year, including at a minimum, the name and address  
22 of the third-party foreign labor recruiter, a descrip-  
23 tion of the services for which the third-party foreign  
24 labor recruiter was being used, and whether the

1 third-party foreign labor recruiter received any eco-  
2 nomic compensation for such services.

3 (2) ANNUAL THIRD-PARTY FOREIGN LABOR RE-  
4 CRUITER NOTIFICATION.—Each third-party foreign  
5 labor recruiter shall notify the Secretary, once each  
6 year, of the identity of any subcontractor, agent, or  
7 other third-party foreign labor recruiter involved in  
8 any foreign labor contracting activity for, or on be-  
9 half of, the third-party foreign labor during that  
10 year.

11 (3) NONCOMPLIANCE NOTIFICATION.—An em-  
12 ployer shall notify the Secretary of the identity of a  
13 third-party foreign labor recruiter whose activities  
14 the employer knows does not comply with this sec-  
15 tion.

16 (4) AGREEMENT.—Not later than 7 days after  
17 receiving a request from the Secretary, an employer  
18 shall provide the Secretary with the identity of any  
19 third-party foreign labor recruiter with which the  
20 employer has a contract or other agreement.

21 (c) REGULATIONS.—The Secretary shall promulgate  
22 regulations to establish an efficient electronic process for  
23 the timely investigation and approval of an application for  
24 a certificate of registration of third-party foreign labor re-  
25 cruiters, including—

1           (1) a declaration, subscribed and sworn to by  
2           the applicant, stating the applicant's permanent  
3           place of residence, the foreign labor contracting ac-  
4           tivities for which the certificate is requested, and  
5           such other relevant information as the Secretary  
6           may require;

7           (2) a set of fingerprints of the applicant;

8           (3) an expeditious means to update registra-  
9           tions and renew certificates;

10          (4) a means of obtaining the consent of any  
11          third-party foreign labor recruiter over whom the  
12          courts of the United States would not otherwise have  
13          jurisdiction to the designation by a court for the  
14          Secretary to serve as an agent available to accept  
15          service of summons in any action against the appli-  
16          cant, if the applicant has left the jurisdiction in  
17          which the action is commenced, otherwise has be-  
18          come unavailable to accept service, or is subject to  
19          personal jurisdiction in no State;

20          (5) providing for cooperation in any investiga-  
21          tion by the Secretary or other appropriate authori-  
22          ties;

23          (6) providing for consent to the forfeiture of  
24          any bond for willful failure or refusal to comply with  
25          these provisions;

1           (7) providing for consent of an agent or con-  
2           tractor to be liable for violations of this section by  
3           such agent or subcontractor of any level in relation  
4           to the foreign labor contracting activity to the same  
5           extent as if the third-party foreign labor recruiter  
6           had committed the violation if the third-party for-  
7           eign labor recruiter had knowledge of the violation;  
8           and

9           (8) providing for consultation with other appro-  
10          priate Federal agencies to determine whether any  
11          reason exists to deny registration to a third-party  
12          foreign labor recruiter.

13          (d) TERM OF REGISTRATION.—Unless suspended or  
14          revoked, a certificate under this section shall be valid for  
15          2 years.

16          (e) APPLICATION FEE.—

17               (1) REQUIREMENT FOR FEE.—In addition to  
18               any other fees authorized by law, the Secretary shall  
19               impose a fee, to be deposited in the general fund of  
20               the Treasury, on a third-party foreign labor re-  
21               cruiter that submits an application for a certificate  
22               of registration under this section.

23               (2) AMOUNT OF FEE.—The amount of the fee  
24               required by paragraph (1) shall be set at a level that  
25               the Secretary determines sufficient to cover the full

1 costs of regulating third-party foreign labor recruiter  
2 activities under this section, including worker edu-  
3 cation and any additional costs associated with the  
4 administration of the fees collected.

5 (f) REFUSAL TO ISSUE; REVOCATION.—In accord-  
6 ance with regulations promulgated by the Secretary—

7 (1) the Secretary shall refuse to issue or renew,  
8 or shall revoke and debar from eligibility to obtain  
9 a certificate of registration for a period of not great-  
10 er than 5 years, after notice and an opportunity for  
11 a hearing, a certificate of registration under this sec-  
12 tion if—

13 (A) the applicant for, or holder of, the cer-  
14 tification has knowingly made a material mis-  
15 representation in the application for such cer-  
16 tificate;

17 (B) the applicant for, or holder of, the cer-  
18 tification is not the real party in interest in the  
19 application or certificate of registration and the  
20 real party in interest—

21 (i) is a person who has been refused  
22 issuance or renewal of a certificate;

23 (ii) has had a certificate revoked; or

24 (iii) does not qualify for a certificate  
25 under this section;



1 (C) the applicant for, or holder of, the cer-  
2 tification has materially failed to comply with  
3 this subsection; or

4 (D) the Secretary issues a final order pur-  
5 suant to section 107(c) finding that the appli-  
6 cant for, or holder of, the certification has com-  
7 mitted a material violation of this title; and

8 (2) the Secretary shall refuse to issue or renew,  
9 or shall revoke and debar from eligibility to obtain  
10 a certificate of registration, after notice and an op-  
11 portunity for a hearing, a certificate of registration  
12 under this section if the applicant for, or holder of,  
13 the certification has been convicted of—

14 (A) any felony under State or Federal law,  
15 any violation of section 274 of the Immigration  
16 and Nationality Act (8 U.S.C. 1324), or any  
17 crime under United States or foreign law in-  
18 volving sex trafficking, human trafficking, rob-  
19 bery, bribery, extortion, embezzlement, grand  
20 larceny, burglary, arson, violation of narcotics  
21 laws, murder, rape, assault with intent to kill,  
22 assault which inflicts grievous bodily injury,  
23 prostitution, or peonage; or

24 (B) any crime relating to gambling, or to  
25 the sale, distribution, or possession of alcoholic

1           beverages in connection with or incident to any  
2           labor contracting activities.

3           (g) RE-REGISTRATION OF VIOLATORS.—The Sec-  
4   retary shall establish a procedure by which a third-party  
5   foreign labor recruiter that has had its registration re-  
6   voked under this section (other than pursuant to sub-  
7   section (f)(2)) may seek to re-register under this sub-  
8   section by demonstrating to the Secretary’s satisfaction  
9   that the third-party foreign labor recruiter has not vio-  
10  lated this title in the previous 5 years and that the third  
11  party foreign labor recruiter has taken sufficient steps to  
12  prevent future violations of this title.

13          (h) BONDING REQUIREMENT.—The Secretary is au-  
14  thorized to require a third-party foreign labor recruiter to  
15  post a bond in an amount sufficient to ensure the protec-  
16  tion of prospective workers and workers recruited by the  
17  third-party foreign labor recruiter, and to establish, by  
18  regulation, the conditions under which the bond amount  
19  is determined, paid, and forfeited. Any bond requirements  
20  or the forfeiture of any bond under this subsection are  
21  in addition to other remedies under this section or any  
22  other law.

23 **SEC. 105. THIRD-PARTY RECRUITMENT FEES.**

24          (a) PROHIBITION.—No third-party foreign labor re-  
25  cruiter, or agent or employee of such a person, lawfully

1 may assess any recruitment, placement, legal or proc-  
2 essing fee on a prospective worker or a worker.

3 (b) NO REQUIREMENT TO PAY FOR VISA OR PASS-  
4 PORT FEES.—Unless required by the Immigration and  
5 Nationality Act (8 U.S.C. 1101 et seq.), no foreign labor  
6 contractor (including a third-party foreign labor recruiter)  
7 is required to pay for the visa or passport fees or costs  
8 of transportation to and from the United States of a pro-  
9 spective worker or worker.

10 **SEC. 106. MAINTENANCE AND POSTING OF LISTS.**

11 (a) IN GENERAL.—The Secretary—

12 (1) shall maintain an accurate list of all third-  
13 party foreign labor recruiters registered pursuant to  
14 section 104 that identifies—

15 (A) the countries from which the contrac-  
16 tors recruit;

17 (B) the visa categories and occupations for  
18 which the contractors recruit; and

19 (C) the States where recruited workers are  
20 employed;

21 (2) shall maintain a list of all third-party for-  
22 eign labor recruiters whose certificate of registration  
23 the Secretary has revoked;

1           (3) shall update the lists required by this sub-  
2           section on an ongoing basis, not less frequently than  
3           every 6 months;

4           (4) shall make such lists publicly available, in-  
5           cluding through continuous publication on Internet  
6           websites; and

7           (5) shall provide such lists to the Secretary of  
8           State, who shall make such lists available in written  
9           form at, and on the websites of, each United States  
10          diplomatic mission in the official language of the  
11          host country.

12          (b) RESPONSIBILITIES OF THE SECRETARY OF  
13          STATE.—

14               (1) OVERSEAS AVAILABILITY OF FOREIGN  
15          LABOR CONTRACTOR LISTS.—The Secretary of State  
16          shall make the lists required by subsection (a) pub-  
17          licly available in written form at, and on the  
18          websites of, each United States diplomatic and con-  
19          sular post in the official language of the host coun-  
20          try.

21               (2) DESIGNATION OF PERSONNEL TO RECEIVE  
22          COMPLAINTS OVERSEAS.—The Secretary of State  
23          shall—

24                       (A) designate personnel at each such post  
25                       who are responsible for receiving information

1           regarding alleged violations of this title by  
2           third-party foreign labor recruiters, and for  
3           conveying such information to the Secretary of  
4           Homeland Security for potential use in a com-  
5           plaint or investigation pursuant to section 107;  
6           and

7                   (B) make publicly available on the website  
8           of each such post, in the official language of the  
9           host country, information on how to contact the  
10          personnel designated at that mission pursuant  
11          to subparagraph (A).

12 **SEC. 107. ENFORCEMENT.**

13          (a) **FILING AND NOTIFICATION.**—A worker who be-  
14          lieves that the worker has suffered harm as a result of  
15          a material violation of this title by a third-party foreign  
16          labor recruiter or by a foreign labor contractor may, not  
17          later than the later of 180 days after the date on which  
18          such violation occurs or the worker becomes aware of such  
19          violation, but not later than two years after the date of  
20          such violation, file a complaint with the Secretary alleging  
21          such material violation. Upon receipt of such a complaint,  
22          the Secretary shall notify, in writing, the third-party for-  
23          eign labor recruiter or foreign labor contractor named in  
24          the complaint of the filing of the complaint, of the allega-  
25          tions contained in the complaint, of the substance of evi-

1 dence supporting the complaint, and of the opportunities  
2 that will be afforded to such third-party foreign labor re-  
3 cruter or foreign labor contractor under subsection (b).

4 (b) INVESTIGATION; PRELIMINARY ORDER.—

5 (1) IN GENERAL.—Not later than 60 days after  
6 the date of receipt of a complaint filed under sub-  
7 section (a) and after affording the person named in  
8 the complaint an opportunity to submit to the Sec-  
9 retary a written response to the complaint and an  
10 opportunity to meet with a representative of the Sec-  
11 retary to present statements from witnesses, the  
12 Secretary shall conduct an investigation and deter-  
13 mine whether there is reasonable cause to believe  
14 that the complaint has merit and notify, in writing,  
15 by certified or registered mail, the complainant and  
16 the third-party foreign labor recruiter or foreign  
17 labor contractor alleged to have committed a mate-  
18 rial violation of this title of the Secretary's findings.  
19 If the Secretary concludes that there is a reasonable  
20 cause to believe that a material violation of this title  
21 has occurred, the Secretary shall accompany the  
22 Secretary's findings with a preliminary order pro-  
23 viding the relief prescribed by subsection (c)(2). Not  
24 later than 30 days after the date of notification of  
25 findings under this subsection, either the person al-

1       leged to have committed the violation or the com-  
2       plainant may file objections to the findings or pre-  
3       liminary order, or both, and request a hearing on  
4       the record. Such hearings shall be conducted expedi-  
5       tiously. If objections are not filed or a hearing is not  
6       requested in such 30-day period, the preliminary  
7       order shall be deemed a final order that is not sub-  
8       ject to judicial review.

9               (2) REQUIREMENTS.—

10               (A) REQUIRED SHOWING BY COMPLAIN-  
11       ANT.—The Secretary shall dismiss a complaint  
12       filed under this subsection and shall not con-  
13       duct an investigation otherwise required under  
14       paragraph (1) unless the complainant makes a  
15       prima facie showing that any alleged violation  
16       of this title is a material violation and that the  
17       complainant suffered harm as a result of such  
18       alleged material violation.

19               (B) CRITERIA FOR DETERMINATION BY  
20       SECRETARY.—The Secretary may determine  
21       that a violation of this title has occurred only  
22       if the complainant demonstrates by a prepon-  
23       derance of the evidence that the violation was  
24       material and that the complainant suffered  
25       harm as a result of the violation.

1 (c) FINAL ORDER.—

2 (1) DEADLINE FOR ISSUANCE; SETTLEMENT  
3 AGREEMENTS.—Not later than 120 days after the  
4 date of conclusion of a hearing under subsection  
5 (b)(1), the Secretary shall issue a final order pro-  
6 viding the relief prescribed by paragraph (2) or de-  
7 nying the complaint. At any time before issuance of  
8 a final order, a proceeding under this subsection  
9 may be terminated on the basis of a settlement  
10 agreement entered into by the Secretary, the com-  
11 plainant, and the third-party foreign labor recruiter  
12 or foreign labor contractor alleged to have com-  
13 mitted the violation.

14 (2) REMEDY.—If, in response to a complaint  
15 filed under subsection (a), the Secretary determines  
16 that a material violation of this title has occurred,  
17 the Secretary shall order the third-party foreign  
18 labor recruiter or foreign labor contractor who com-  
19 mitted such violation to—

20 (A) take affirmative action to abate the  
21 violation;

22 (B) provide compensatory damages to the  
23 complainant; and

24 (C) at the request of the complainant, shall  
25 assess against the third-party foreign labor re-



1           recruiter or foreign labor contractor a sum equal  
2           to the aggregate amount of all costs and ex-  
3           penses (including attorneys' fees) reasonably in-  
4           curred, as determined by the Secretary, by the  
5           complainant for, or in connection with, the  
6           bringing the complaint upon which the order  
7           was issued.

8           (3) FRIVOLOUS COMPLAINTS.—If the Secretary  
9           determines that a complaint under subsection (a) is  
10          frivolous or has been brought in bad faith, the Sec-  
11          retary shall award to the prevailing third-party for-  
12          eign labor recruiter foreign labor contractor reason-  
13          able attorneys' fees and costs associated with de-  
14          fending against such frivolous complaint.

15          (d) JUDICIAL REVIEW.—

16          (1) APPEAL TO COURT OF APPEALS.—A com-  
17          plainant or third-party foreign labor recruiter or for-  
18          eign labor contractor adversely affected or aggrieved  
19          by an order issued under subsection (c) may obtain  
20          review of the order in the United States Court of  
21          Appeals for the circuit in which the violation, with  
22          respect to which the order was issued, allegedly oc-  
23          curred or the circuit in which the complainant re-  
24          sided on the date of such alleged violation. The peti-  
25          tion for review must be filed not later than 60 days

1 after the date of the issuance of the final order of  
2 the Secretary. Review shall conform to chapter 7 of  
3 title 5, United States Code.

4 (2) LIMITATION ON COLLATERAL ATTACK.—An  
5 order of the Secretary with respect to which review  
6 could have been obtained under subparagraph (A)  
7 shall not be subject to judicial review in any criminal  
8 or other civil proceeding.

9 (e) ENFORCEMENT OF ORDER BY SECRETARY OF  
10 HOMELAND SECURITY.—Whenever any person has failed  
11 to comply with an order issued under subsection (c), the  
12 Secretary may file a civil action in the United States dis-  
13 trict court for the district in which the violation was found  
14 to have occurred to enforce such order. The Department  
15 of Justice shall represent the Department of Homeland  
16 Security in any such action. In actions brought under this  
17 paragraph, the district courts shall have jurisdiction to  
18 grant all appropriate relief including, but not limited to,  
19 injunctive relief and compensatory damages.

20 (f) ENFORCEMENT OF ORDER BY PARTIES.—

21 (1) COMMENCEMENT OF ACTION.—A person on  
22 whose behalf an order was issued under subsection  
23 (c) may commence a civil action against the person  
24 to whom such order was issued to require compli-  
25 ance with such order. The appropriate United States

1 district court shall have jurisdiction, without regard  
2 to the amount in controversy or the citizenship of  
3 the parties, to enforce such order.

4 (2) ATTORNEYS' FEES.—The district court, in  
5 issuing any final order under this paragraph, may  
6 award costs of litigation (including reasonable attor-  
7 neys' fees) to any party whenever the court deter-  
8 mines such award is appropriate.

9 (g) TREATMENT OF EMPLOYERS THAT HIRE UN-  
10 REGISTERED THIRD-PARTY FOREIGN LABOR RECRUIT-  
11 ERS.—

12 (1) IN GENERAL.—An employer who hires a  
13 third-party foreign labor recruiter that is not reg-  
14 istered under section 104 shall, for purposes of this  
15 section, be treated as the third-party foreign labor  
16 recruiter (including with regard to notice, oppor-  
17 tunity to be heard, and the right to appeal) if the  
18 unregistered third-party foreign labor recruiter is  
19 not subject to the jurisdiction of the courts of the  
20 United States or if the Secretary determines that  
21 the circumstances are such that enforcing the provi-  
22 sions of this section against the unregistered foreign  
23 labor recruiter would be unreasonably difficult.

24 (2) EXCEPTION.—Paragraph (1) shall not  
25 apply if, in retaining the third-party labor recruiter,

1 the employer relied upon inaccurate or outdated in-  
2 formation maintained by the Secretary pursuant to  
3 section 106.

4 **SEC. 108. REGULATIONS; EFFECTIVE DATE; REPORT.**

5 (a) **REGULATIONS.**—The Secretary and Secretary of  
6 State shall, not later than one year after the date of the  
7 enactment of this Act, prescribe regulations to implement  
8 this title and develop policies and procedures to enforce  
9 the provisions of this title.

10 (b) **EFFECTIVE DATE.**—The provisions of this title  
11 shall be effective upon the promulgation of the final regu-  
12 lations described in subsection (a) and shall apply to for-  
13 eign labor contracting activity taking place on or after the  
14 effective date.

15 (c) **REPORT.**—Not later than one year after the effec-  
16 tive date, and annually for each of the following four  
17 years, the Secretary shall provide to the appropriate Con-  
18 gressional committees a report that includes the following  
19 information for the preceding year:

20 (1) Regarding complaints filed pursuant to sec-  
21 tion 107(a)—

22 (A) the number filed, both in total and  
23 broken out by visa category of the complaining  
24 worker;

1 (B) the number that were held to be time-  
2 barred;

3 (C) the number that resulted in a deter-  
4 mination by the Secretary of a material viola-  
5 tion of the requirements of this title, and a gen-  
6 eral description of the types of violations en-  
7 countered during the year; and

8 (D) the total number of final orders issued  
9 by the Secretary granting relief to a com-  
10 plaining worker, a general description of the  
11 types of remedies that were granted, and a gen-  
12 eral description of compensatory damages  
13 awarded during the year (including the range  
14 and the average of damages provided, both in  
15 total and broken out by visa category of the  
16 complaining worker).

17 (2) Regarding the registration of third-party  
18 foreign labor recruiters pursuant to section 104:

19 (A) the number of applications received,  
20 both in total and by country;

21 (B) the number of certifications granted,  
22 both in total and by country;

23 (C) the number of certifications refused,  
24 both in total and by country; and

1 (D) the number of certifications revoked,  
2 both in total and by country.

3 (d) APPROPRIATE CONGRESSIONAL COMMITTEES.—

4 For purposes of this section, “appropriate congressional  
5 committees” means—

6 (1) the Committee on Education and the Work-  
7 force, the Committee on Homeland Security, the  
8 Committee on the Judiciary, and the Committee on  
9 Foreign Affairs of the House; and

10 (2) the Committee on the Judiciary, the Com-  
11 mittee on Homeland Security and Governmental Af-  
12 fairs, and the Committee on Foreign Relations of  
13 the Senate.

## 14 **TITLE II—OTHER PROVISIONS**

### 15 **SEC. 201. ENSURING THAT FOREIGN ASSISTANCE DOES** 16 **NOT CONTRIBUTE TO HUMAN TRAFFICKING.**

17 Section 106 of the Trafficking Victims Protection Act  
18 of 2000 (22 U.S.C. 7104) is amended—

19 (1) by redesignating subsections (i) and (j) as  
20 subsections (j) and (k), respectively; and

21 (2) by inserting after subsection (h) the fol-  
22 lowing:

23 “(i) PREVENTION OF TRAFFICKING IN  
24 CONJUNCTION WITH FOREIGN ASSIST-  
25 ANCE.—The United States Agency for

1 International Development and the De-  
2 partment of State shall make reasonable  
3 efforts to incorporate anti-trafficking and  
4 anti-slavery priorities into other aspects of  
5 foreign assistance, including the mainte-  
6 nance of systems, such as appropriate sup-  
7 ply chain monitoring, to ensure that assist-  
8 ance programs do not contribute to vulner-  
9 ability to, or the prevalence of, human  
10 trafficking and slavery, consistent with this  
11 Act.”.

12 **SEC. 202. OBLIGATIONS OF UNITED STATES CONSULAR OF-**  
13 **FICERS.**

14 Section 214 of the Immigration and Nationality Act  
15 (8 U.S.C. 1184) is amended by adding at the end the fol-  
16 lowing:

17 “(s) A visa shall not be issued under the subpara-  
18 graph (A)(iii), (B)(i) (but only for domestic servants de-  
19 scribed in clause (i) or (ii) of section 274a.12(c)(17) of  
20 title 8, Code of Federal Regulations (as in effect on De-  
21 cember 4, 2007)), (G)(v), (H), (J) (but only for applicants  
22 for the Summer Work Travel Program described in sec-  
23 tion 62.32 of title 22, Code of Federal Regulations (as  
24 in effect on May 11, 2012)), or (R) of section 101(a)(15)  
25 until the consular officer—

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

8           “(2) has reviewed and made a part of the visa  
9           file the foreign labor recruiter disclosures required  
10          by title I of the Fraudulent Overseas Recruitment  
11          and Trafficking Elimination Act of 2014, as well as  
12          a notation of whether the foreign labor recruiter is  
13          registered pursuant section 104 of that Act.”.

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