

113TH CONGRESS
1ST SESSION

H. R. 3344

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.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 2013

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

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.

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.**

4 This Act may be cited as the “Fraudulent Overseas
5 Recruitment and Trafficking Elimination Act of 2013”.

6 **SEC. 2. DEFINITIONS.**

7 As used in this Act, the following definitions apply:

1 (1) FOREIGN LABOR CONTRACTING ACTIVITY.—

2 The term “foreign labor contracting activity” means
3 recruiting, soliciting, or related activities with re-
4 spect to an individual who resides outside of the
5 United States in furtherance of employment in the
6 United States, including when such activity occurs
7 wholly outside of the United States.

8 (2) FOREIGN LABOR CONTRACTOR.—The term

9 “foreign labor contractor” means any person who
10 performs foreign labor contracting activity, including
11 any person who performs foreign labor contracting
12 activity wholly outside of the United States, except
13 that the term does not include any entity of the
14 United States Government.

15 (3) PERSON.—The term “person” means any

16 natural person or any corporation, company, firm,
17 partnership, joint stock company or association or
18 other organization or entity (whether organized
19 under law or not), including municipal corporations.

20 (4) SECRETARY.—Except as otherwise speci-

21 fied, the term “Secretary” means the Secretary of
22 Labor.

23 (5) WORKER.—The term “worker” means an

24 individual who is the subject of foreign labor con-
25 tracting activity and does not include an exchange

1 visitor (as defined in section 62.2 of title 22, Code
2 of Federal Regulations, or any similar successor reg-
3 ulation).

4 **SEC. 3. ENSURING THAT FOREIGN ASSISTANCE DOES NOT**
5 **CONTRIBUTE TO HUMAN TRAFFICKING.**

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

8 (1) by redesignating subsections (i) and (j) as
9 subsections (j) and (k), respectively; and

10 (2) by inserting after subsection (h) the fol-
11 lowing:

12 “(i) PREVENTION OF TRAFFICKING IN CONJUNCTION
13 WITH FOREIGN ASSISTANCE.—The United States Agency
14 for International Development and the Department of
15 State shall make reasonable efforts to incorporate anti-
16 trafficking and anti-slavery priorities into other aspects of
17 foreign assistance, including the maintenance of systems,
18 such as appropriate supply chain monitoring, to ensure
19 that assistance programs do not contribute to vulnerability
20 to, or the prevalence of, human trafficking and slavery,
21 consistent with this Act.”.

22 **SEC. 4. TRANSPARENCY IN FOREIGN RECRUITING.**

23 (a) REQUIREMENT FOR DISCLOSURE.—Any foreign
24 labor contractor shall ascertain and disclose to each work-
25 er in writing in English and in the primary language of

1 the worker at the time of the worker's recruitment, the
2 following information:

3 (1) The identity and address of the employer
4 and the identity and address of the person con-
5 ducting the recruiting on behalf of the employer, in-
6 cluding any subcontractor or agent involved in such
7 recruiting.

8 (2) All assurances and terms and conditions of
9 employment, from the prospective employer for
10 whom the worker is being recruited, including the
11 work hours, level of compensation to be paid, the
12 place and period of employment, a description of the
13 type and nature of employment activities, and any
14 penalties for terminating employment.

15 (3) An itemized list of any costs or expenses to
16 be charged to the worker and any deductions to be
17 taken from wages, including any costs for housing or
18 accommodation, transportation to and from the
19 worksite, meals, health insurance, workers' com-
20 pensation, costs of benefits provided, medical exami-
21 nations, health care, tools, or safety equipment
22 costs.

23 (4) A signed copy of the work contract between
24 the worker and the employer.

1 (5) The type of visa under which the foreign
2 worker is to be employed, the length of time for
3 which the visa will be valid, the terms and conditions
4 under which the visa may be renewed, and a clear
5 statement of any expenses associated with securing
6 or renewing the visa.

7 (6) Whether and the extent to which workers
8 will be compensated through workers' compensation,
9 private insurance, or otherwise for injuries or death,
10 including work-related injuries and death, during the
11 period of employment and, if so, the name of the
12 State workers' compensation insurance carrier or the
13 name of the policyholder of the private insurance,
14 the name and the telephone number of each person
15 who must be notified of an injury or death, and the
16 time period within which such notice must be given.

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

19 (A) stating that—

20 (i) no foreign labor contractor, agent,
21 or employee of a foreign labor contractor,
22 may lawfully assess any fee (including visa
23 fees, processing fees, transportation fees,
24 legal expenses, placement fees, and other

1 costs) to a worker for any foreign labor
2 contracting activity; and

3 (ii) the employer may bear such costs
4 or fees for the foreign labor contractor, but
5 that these fees cannot be passed along to
6 the worker;

7 (B) explaining that—

8 (i) no additional significant require-
9 ments or changes may be made to the
10 original contract signed by the worker
11 without at least 24 hours to consider such
12 changes and the specific consent of the
13 worker, obtained voluntarily and without
14 threat of penalty; and

15 (ii) any significant changes made to
16 the original contract that do not comply
17 with clause (i) shall be a violation of this
18 Act and be subject to the provisions of sec-
19 tion 10 of this Act; and

20 (C) describing the protections afforded the
21 worker by this section and by section 202 of the
22 William Wilberforce Trafficking Victims Protec-
23 tion Reauthorization Act of 2008 (8 U.S.C.
24 1375b) and any applicable visa program, in-
25 cluding—

1 (i) relevant information about the pro-
2 cedure for filing a complaint provided for
3 in section 10; and

4 (ii) the telephone number for the na-
5 tional human trafficking resource center
6 hotline number.

7 (8) Any education or training to be provided or
8 required, including—

9 (A) the nature, timing, and cost of such
10 training;

11 (B) the person who will pay such costs;

12 (C) whether the training is a condition of
13 employment, continued employment, or future
14 employment; and

15 (D) whether the worker will be paid or re-
16 munerated during the training period, including
17 the rate of pay.

18 (b) RELATIONSHIP TO LABOR AND EMPLOYMENT
19 LAWS.—Nothing in the disclosure required by subsection
20 (a) shall constitute a legal conclusion as to the worker’s
21 status or rights under any labor or employment law.

22 (c) PROHIBITION ON FALSE AND MISLEADING IN-
23 FORMATION.—No foreign labor contractor or employer
24 who engages in any foreign labor contracting activity shall
25 knowingly provide materially false or misleading informa-

1 tion to any worker concerning any matter required to be
2 disclosed under subsection (a). The disclosure required by
3 this section is a document concerning the proper adminis-
4 tration of a matter within the jurisdiction of a department
5 or agency of the United States for the purposes of section
6 1519 of title 18, United States Code.

7 **SEC. 5. RECRUITMENT FEES.**

8 No employer, foreign labor contractor, or agent or
9 employee of a foreign labor contractor, shall assess any
10 fee (including visa fees, processing fees, transportation
11 fees, legal expenses, placement fees, and other costs) to
12 a worker for any foreign labor contracting activity.

13 **SEC. 6. REGISTRATION.**

14 (a) REQUIREMENT TO REGISTER.—

15 (1) IN GENERAL.—Subject to paragraph (2),
16 prior to engaging in any foreign labor contracting
17 activity, any person who is a foreign labor contractor
18 or who, for any money or other valuable consider-
19 ation paid or promised to be paid, performs a for-
20 eign labor contracting activity on behalf of a foreign
21 labor contractor, shall obtain a certificate of reg-
22 istration from the Secretary of Labor pursuant to
23 regulations promulgated by the Secretary under sub-
24 section (c).

1 (2) EXCEPTION FOR CERTAIN EMPLOYERS.—An
2 employer, or employee of an employer, who engages
3 in foreign labor contracting activity solely to find
4 workers for that employer’s own use, and without
5 the participation of any other foreign labor con-
6 tractor, shall not be required to register under this
7 section.

8 (b) NOTIFICATION.—

9 (1) ANNUAL EMPLOYER NOTIFICATION.—Each
10 employer shall notify the Secretary, not less fre-
11 quently than once every year, of the identity of any
12 foreign labor contractor involved in any foreign labor
13 contracting activity for, or on behalf of, the em-
14 ployer, including at a minimum, the name and ad-
15 dress of the foreign labor contractor, a description of
16 the services for which the foreign labor contractor is
17 being used, whether the foreign labor contractor is
18 to receive any economic compensation for the serv-
19 ices, and, if so, the identity of the person or entity
20 who is paying for the services.

21 (2) ANNUAL FOREIGN LABOR CONTRACTOR NO-
22 TIFICATION.—Each foreign labor contractor shall
23 notify the Secretary, not less frequently than once
24 every year, of the identity of any subcontractor,
25 agent, or foreign labor contractor employee involved

1 in any foreign labor contracting activity for, or on
2 behalf of, the foreign labor contractor.

3 (3) NONCOMPLIANCE NOTIFICATION.—An em-
4 ployer shall notify the Secretary of the identity of a
5 foreign labor contractor whose activities do not com-
6 ply with this Act.

7 (4) AGREEMENT.—Not later than 7 days after
8 receiving a request from the Secretary, an employer
9 shall provide the Secretary with the identity of any
10 foreign labor contractor with which the employer has
11 a contract or other agreement.

12 (c) REGULATIONS.—Not later than 180 days after
13 the date of enactment of this Act, the Secretary shall pro-
14 mulgate regulations to establish an efficient electronic
15 process for the timely investigation and approval of an ap-
16 plication for a certificate of registration of foreign labor
17 contractors, including—

18 (1) a declaration, subscribed and sworn to by
19 the applicant, stating the applicant's permanent
20 place of residence, the foreign labor contracting ac-
21 tivities for which the certificate is requested, and
22 such other relevant information as the Secretary
23 may require;

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

1 (3) an expeditious means to update registra-
2 tions and renew certificates;

3 (4) providing for the consent of any foreign
4 labor contractor to the designation by a court of the
5 Secretary as an agent available to accept service of
6 summons in any action against the applicant, if the
7 applicant has left the jurisdiction in which the action
8 is commenced, otherwise has become unavailable to
9 accept service, or is subject to personal jurisdiction
10 in no State;

11 (5) providing for the consent of any foreign
12 labor contractor to jurisdiction in any Federal or
13 State court in the United States for any action
14 brought by any aggrieved individual or worker;

15 (6) providing for cooperation in any investiga-
16 tion by the Secretary or other appropriate authori-
17 ties;

18 (7) providing for consent to the forfeiture of
19 any bond for failure to cooperate with these provi-
20 sions;

21 (8) providing for consent to be liable for viola-
22 tions of this Act by any agents or subcontractors of
23 any level in relation to the foreign labor contracting
24 activity of the agent or subcontractor to the same

1 extent as if the foreign labor contractor had com-
2 mitted the violation; and

3 (9) providing for consultation with other appro-
4 priate Federal agencies to determine whether any
5 reason exists to deny registration to a foreign labor
6 contractor.

7 (d) TERM OF REGISTRATION.—Unless suspended or
8 revoked, a certificate under this section shall be valid for
9 2 years.

10 (e) APPLICATION FEE.—

11 (1) REQUIREMENT FOR FEE.—In addition to
12 any other fees authorized by law, the Secretary shall
13 impose a fee, to be deposited in the general fund of
14 the Treasury, on a foreign labor contractor that sub-
15 mits an application for a certificate of registration
16 under this section.

17 (2) AMOUNT OF FEE.—The amount of the fee
18 required by paragraph (1) shall be set at a level that
19 the Secretary determines sufficient to cover the full
20 costs of carrying out foreign labor contract registra-
21 tion activities under this Act, including worker edu-
22 cation and any additional costs associated with the
23 administration of the fees collected.

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

1 Secretary shall refuse to issue or renew, or shall revoke
2 and debar from eligibility to obtain a certificate of reg-
3 istration for a period of not greater than 5 years, after
4 notice and an opportunity for a hearing, a certificate of
5 registration under this section if—

6 (1) the applicant for, or holder of, the certifi-
7 cation has knowingly made a material misrepresen-
8 tation in the application for such certificate;

9 (2) the applicant for, or holder of, the certifi-
10 cation is not the real party in interest in the applica-
11 tion or certificate of registration and the real party
12 in interest—

13 (A) is a person who has been refused
14 issuance or renewal of a certificate;

15 (B) has had a certificate revoked; or

16 (C) does not qualify for a certificate under
17 this section;

18 (3) the applicant for, or holder of, the certifi-
19 cation has been convicted within the preceding 5
20 years of—

21 (A) any felony under State or Federal law
22 or crime involving robbery, bribery, extortion,
23 embezzlement, grand larceny, burglary, arson,
24 violation of narcotics laws, murder, rape, as-
25 sult with intent to kill, assault which inflicts

1 grievous bodily injury, prostitution, peonage, or
2 smuggling or harboring individuals who have
3 entered the United States illegally; or

4 (B) any crime relating to gambling, or to
5 the sale, distribution or possession of alcoholic
6 beverages, in connection with or incident to any
7 labor contracting activities; or

8 (4) the applicant for, or holder of, the certifi-
9 cation has materially failed to comply with this sec-
10 tion.

11 (g) RE-REGISTRATION OF VIOLATORS.—The Sec-
12 retary shall establish a procedure by which a foreign labor
13 contractor that has had its registration revoked under sub-
14 section (f) may seek to re-register under this subsection
15 by demonstrating to the Secretary's satisfaction that the
16 foreign labor contractor has not violated this Act in the
17 previous 5 years and that the foreign labor contractor has
18 taken sufficient steps to prevent future violations of this
19 Act.

20 (h) BONDING REQUIREMENT.—The Secretary is au-
21 thorized to require a foreign labor contractor to post a
22 bond in an amount sufficient to ensure the protection of
23 workers recruited by the foreign labor contractor, and to
24 establish, by regulation, the conditions under which the
25 bond amount is determined, paid, and forfeited. Any bond

1 requirements or the forfeiture of any bond under this sub-
2 section are in addition to other remedies under this Act
3 or any other law.

4 **SEC. 7. MAINTENANCE AND POSTING OF LISTS.**

5 (a) IN GENERAL.—The Secretary shall maintain—

6 (1) a list of all foreign labor contractors reg-
7 istered under this subsection, including—

8 (A) the countries from which the contrac-
9 tors recruit;

10 (B) the employers for whom the contrac-
11 tors recruit;

12 (C) the visa categories and occupations for
13 which the contractors recruit; and

14 (D) the States where recruited workers are
15 employed; and

16 (2) a list of all foreign labor contractors whose
17 certificate of registration the Secretary has revoked.

18 (b) UPDATES AND AVAILABILITY.—The Secretary
19 shall—

20 (1) update the lists required by subsection (a)
21 on an ongoing basis, not less frequently than every
22 6 months;

23 (2) make such lists publicly available, including
24 through continuous publication on Internet websites;
25 and

1 (3) provide such lists to the Secretary of State,
2 who shall make such lists available in written form
3 at, and on the websites of, each United States diplo-
4 matic mission in the official language of the host
5 country.

6 **SEC. 8. OBLIGATIONS OF UNITED STATES CONSULAR OFFI-**
7 **CERS.**

8 Section 214 of the Immigration and Nationality Act
9 (8 U.S.C. 1184) is amended by adding at the end the fol-
10 lowing:

11 “(s) A visa shall not be issued under the subpara-
12 graph (A)(iii), (B)(i) (but only for domestic servants de-
13 scribed in clause (i) or (ii) of section 274a.12(c)(17) of
14 title 8, Code of Federal Regulations (as in effect on De-
15 cember 4, 2007)), (G)(v), (H), (J), (L), (Q), or (R) of
16 section 101(a)(15) until the consular officer—

17 “(1) has provided to and reviewed with the ap-
18 plicant, in the applicant’s language (or a language
19 the applicant understands), a copy of the informa-
20 tion and resources pamphlet required by section 202
21 of the William Wilberforce Trafficking Victims Pro-
22 tection Reauthorization Act of 2008 (8 U.S.C.
23 1375b); and

24 “(2) has reviewed and made a part of the visa
25 file the foreign labor recruiter disclosures required

1 by section 4 of the Fraudulent Overseas Recruit-
2 ment and Trafficking Elimination Act of 2013, as
3 well as a notation of whether the foreign labor re-
4 cruiting is registered pursuant section 6 of that
5 Act.”.

6 **SEC. 9. RESPONSIBILITIES OF THE SECRETARY OF STATE.**

7 (a) OVERSEAS AVAILABILITY OF FOREIGN LABOR
8 CONTRACTOR LISTS.—The Secretary of State shall make
9 the lists required by section 7(a) publicly available in writ-
10 ten form at, and on the websites of, each United States
11 diplomatic and consular post in the official language of
12 the host country.

13 (b) DESIGNATION OF PERSONNEL TO RECEIVE COM-
14 PLAINS OVERSEAS.—The Secretary of State shall—

15 (1) designate personnel at each such post who
16 are responsible for receiving information regarding
17 alleged violations of this Act by foreign labor con-
18 tractors, and for conveying such information to the
19 Secretary of Labor for potential use in a complaint
20 or investigation pursuant to section 10; and

21 (2) make publicly available on the website of
22 each such post, in the official language of the host
23 country, information on how to contact the per-
24 sonnel designated at that mission pursuant to para-
25 graph (1).

1 **SEC. 10. ENFORCEMENT PROVISIONS.**

2 (a) COMPLAINTS AND INVESTIGATIONS.—The Sec-
3 retary—

4 (1) shall establish a process for the receipt, in-
5 vestigation, and disposition of complaints filed by
6 any person regarding the compliance of any em-
7 ployer or foreign labor contractor with this Act; and

8 (2) either pursuant to the process required by
9 paragraph (1) or otherwise, may investigate employ-
10 ers or foreign labor contractors, including actions oc-
11 ccurring in a foreign country, as necessary to deter-
12 mine compliance with this Act.

13 (b) ENFORCEMENT.—

14 (1) IN GENERAL.—A worker who believes that
15 he or she has suffered harm from a violation of sec-
16 tion 4 or 5 may seek relief from an employer or for-
17 eign labor contractor by—

18 (A) filing a complaint with the Secretary
19 within 3 years after the date on which the viola-
20 tion occurred or date on which the worker be-
21 came aware of the violation; or

22 (B) if the Secretary has not issued a final
23 decision within 120 days of the filing of the
24 complaint and there is no showing that such
25 delay is due to the bad faith of the claimant,
26 bringing an action at law or equity for de novo

1 review in the appropriate district court of the
2 United States, which shall have jurisdiction
3 over such an action without regard to the
4 amount in controversy.

5 (2) PROCEDURE.—

6 (A) IN GENERAL.—Unless otherwise pro-
7 vided herein, a complaint under paragraph
8 (1)(A) shall be governed under the rules and
9 procedures set forth in paragraphs (1) and
10 (2)(A) of section 42121(b) of title 49, United
11 States Code.

12 (B) EXCEPTION.—Notification of a com-
13 plaint under paragraph (1)(A) shall be made to
14 each person or entity named in the complaint
15 as a defendant and to the employer.

16 (C) STATUTE OF LIMITATIONS.—An action
17 filed in a district court of the United States
18 under paragraph (1)(B) shall be commenced
19 not later than 180 days after the last day of the
20 120-day period referred to in that paragraph.

21 (D) JURY TRIAL.—A party to an action
22 brought under paragraph (1)(B) shall be enti-
23 tled to trial by jury.

24 (c) ADMINISTRATIVE ENFORCEMENT.—

1 (1) IN GENERAL.—If the Secretary finds, after
2 notice and an opportunity for a hearing, that any
3 foreign labor contractor or employer failed to comply
4 with any of the requirements of this Act, the Sec-
5 retary may impose the following against such con-
6 tractor or employer—

7 (A) a fine in an amount not more than
8 \$10,000 per violation; and

9 (B) upon the occasion of a third violation
10 or a failure to comply with representations, a
11 fine of not more than \$25,000 per violation.

12 (d) AUTHORITY TO ENSURE COMPLIANCE.—The
13 Secretary is authorized to take other such actions, includ-
14 ing issuing subpoenas and seeking appropriate injunctive
15 relief and recovery of damages, as may be necessary to
16 assure compliance with the terms and conditions of this
17 Act.

18 (e) BONDING.—Pursuant to any bond required pur-
19 suant to section 6(h), bond liquidation and forfeitures
20 shall be in addition to other remedies under this section
21 or any other law.

22 (f) CIVIL ACTION.—

23 (1) IN GENERAL.—The Secretary or any person
24 aggrieved by a violation of this Act may bring a civil
25 action against any foreign labor contractor that does

1 not meet the requirements under subsection (g)(2)
2 in any court of competent jurisdiction—

3 (A) to seek remedial action, including in-
4 junctive relief;

5 (B) to recover damages on behalf of any
6 worker harmed by a violation of section 4 or 5;
7 and

8 (C) to ensure compliance with require-
9 ments of this section.

10 (2) ACTIONS BY THE SECRETARY.—

11 (A) SUMS RECOVERED.—Any sums recov-
12 ered by the Secretary on behalf of a worker
13 under paragraph (1) or through liquidation of
14 any bond held pursuant to section 6(h) shall be
15 held in a special deposit account and shall be
16 paid, on order of the Secretary, directly to each
17 worker affected. Any such sums not paid to a
18 worker because of inability to do so within a pe-
19 riod of 5 years shall be credited as an offsetting
20 collection to the appropriations account of the
21 Secretary for expenses for the administration of
22 this section and shall remain available to the
23 Secretary until expended or may be used for en-
24 forcement of the laws within the jurisdiction of
25 the wage and hour division or may be trans-

1 ferred to the Secretary of Health and Human
2 Services for the purpose of providing support to
3 programs that provide assistance to victims of
4 trafficking in persons or other exploited per-
5 sons. The Secretary shall work with any attor-
6 ney or organization representing workers to lo-
7 cate workers owed sums under this section.

8 (B) REPRESENTATION.—Except as pro-
9 vided in section 518(a) of title 28, United
10 States Code, the Attorney General may appear
11 for and represent the Secretary in any civil liti-
12 gation brought under this paragraph. All such
13 litigation shall be subject to the direction and
14 control of the Attorney General.

15 (3) ACTIONS BY INDIVIDUALS.—

16 (A) AWARD.—If the court finds in a civil
17 action filed by an individual under this section
18 that the defendant has violated any provision of
19 this Act (or any regulation issued pursuant to
20 this Act), the court may award—

21 (i) damages, up to and including an
22 amount equal to the amount of actual
23 damages, and statutory damages of up to
24 \$1,000 per plaintiff per violation, or other

1 equitable relief, except that with respect to
2 statutory damages—

3 (I) multiple infractions of a sin-
4 gle provision of this Act (or of a regu-
5 lation under this Act) shall constitute
6 only 1 violation for purposes of sec-
7 tion 3(a) to determine the amount of
8 statutory damages due a plaintiff; and

9 (II) if such complaint is certified
10 as a class action the court may
11 award—

12 (aa) damages up to an
13 amount equal to the amount of
14 actual damages; and

15 (bb) statutory damages of
16 not more than the lesser of up to
17 \$1,000 per class member per vio-
18 lation, or up to \$500,000; and
19 other equitable relief;

20 (ii) reasonable attorneys' fees and
21 costs; and

22 (iii) such other and further relief, in-
23 cluding declaratory and injunctive relief, as
24 necessary to effectuate the purposes of this
25 Act.

1 (B) CRITERIA.—In determining the
2 amount of statutory damages to be awarded
3 under subparagraph (A), the court is author-
4 ized to consider whether an attempt was made
5 to resolve the issues in dispute before the resort
6 to litigation.

7 (C) BOND.—To satisfy the damages, fees,
8 and costs found owing under this subparagraph,
9 the Secretary shall release as much of any bond
10 held pursuant to section 6(h) as necessary.

11 (D) APPEAL.—Any civil action brought
12 under this section shall be subject to appeal as
13 provided in chapter 83 of title 28, United
14 States Code (28 U.S.C. 1291 et seq.).

15 (E) ACCESS TO LEGAL SERVICES COR-
16 PORATION.—Notwithstanding any other provi-
17 sion of law, the Legal Services Corporation and
18 recipients of its funding may provide legal as-
19 sistance on behalf of any alien with respect to
20 any provision of this Act.

21 (g) AGENCY LIABILITY.—

22 (1) IN GENERAL.—Beginning 180 days after
23 the Secretary has promulgated regulations pursuant
24 to section 6(c), an employer who retains the services
25 of a foreign labor contractor shall only use those for-

1 eign labor contractors who are registered under sec-
2 tion 6.

3 (2) SAFE HARBOR.—An employer shall not have
4 any liability under this section if—

5 (A) each worker claiming harm for any
6 violation of this Act was referred to the em-
7 ployer by a foreign labor contractor that had a
8 valid registration with the Secretary pursuant
9 to section 6 at the time of referral; and

10 (B) prior to the initiation of any complaint
11 or investigation under subsection (a), the em-
12 ployer did not fail to notify the Secretary of any
13 violation of this Act by a foreign labor con-
14 tractor of which the employer had actual knowl-
15 edge.

16 (3) LIABILITY FOR AGENTS.—Foreign labor
17 contractors shall be subject to the provisions of this
18 section for violations committed by the foreign labor
19 contractor’s agents or subcontractors of any level in
20 relation to their foreign labor contracting activity to
21 the same extent as if the foreign labor contractor
22 had committed the violation.

23 (h) RETALIATION.—

24 (1) IN GENERAL.—No person shall intimidate,
25 threaten, restrain, coerce, discharge, or in any other

1 manner discriminate or retaliate against any worker
2 or their family members (including a former em-
3 ployee or an applicant for employment) because such
4 worker disclosed information to any person that the
5 worker reasonably believes evidences a violation of
6 this section (or any rule or regulation pertaining to
7 this section), including seeking legal assistance of
8 counsel or cooperating with an investigation or other
9 proceeding concerning compliance with this section
10 (or any rule or regulation pertaining to this section).

11 (2) ENFORCEMENT.—An individual who is sub-
12 ject to any conduct described in paragraph (1) may,
13 in a civil action, recover appropriate relief, including
14 reasonable attorneys’ fees and costs, with respect to
15 that violation. Any civil action under this subpara-
16 graph shall be stayed during the pendency of any
17 criminal action arising out of the violation.

18 (i) WAIVER OF RIGHTS.—Agreements by workers
19 purporting to waive or to modify their rights under this
20 Act shall be void as contrary to public policy.

21 (j) PRESENCE DURING PENDENCY OF ACTIONS.—

22 (1) IN GENERAL.—If other immigration relief is
23 not available, the Attorney General and the Sec-
24 retary shall grant advance parole to permit a non-
25 immigrant to remain legally in the United States for

1 time sufficient to fully and effectively participate in
2 all legal proceedings related to any action taken pur-
3 suant to this section.

4 (2) REGULATIONS.—Not later than 180 days
5 after the date of the enactment of this Act, the Sec-
6 retary shall promulgate regulations to carry out
7 paragraph (1).

8 **SEC. 11. RULE OF CONSTRUCTION.**

9 Nothing in this Act shall be construed to preempt or
10 alter any other rights or remedies, including any causes
11 of action, available under any other Federal or State law.

12 **SEC. 12. REGULATIONS.**

13 The Secretary is authorized to prescribe regulations
14 to implement this Act and to develop policies and proce-
15 dures to enforce the provisions of this Act.

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