**LEGAL AMENDMENTS MADE BY CARTER-ADERHOLT BILL**

***Amendments to Wilberforce Act (TVPRA)***

SEC. 235. ENHANCING EFFORTS TO COMBAT THE TRAFFICKING OF CHILDREN.

(a) Combating Child Trafficking at the Border and Ports of Entry of the United States-

(1) POLICIES AND PROCEDURES- In order to enhance the efforts of the United States to prevent trafficking in persons, the Secretary of Homeland Security, in conjunction with the Secretary of State, the Attorney General, and the Secretary of Health and Human Services, shall develop policies and procedures to ensure that unaccompanied alien children in the United States are safely repatriated to their country of nationality or of last habitual residence.

(2) - RULES FOR UNACCOMPANIED ALIEN CHILDREN.

(A) DETERMINATIONS- Any unaccompanied alien child shall be treated in accordance with subparagraph (B), if the Secretary of Homeland Security determines, on a case-by-case basis, that--

(i) such child has not been a victim of a severe form of trafficking in persons, and there is no credible evidence that such child is at risk of being trafficked upon return to the child’s country of nationality or of last habitual residence; and

(ii) such child does not have a fear of returning to the child’s country of nationality or of last habitual residence owing to a credible fear of persecution .

 (B) RETURN- An immigration officer who finds an unaccompanied alien child described in subparagraph (A) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) --

(i) may permit such child to withdraw the child’s application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)); and

(ii) shall return such child to the child’s country of nationality or country of last habitual residence.

(C) AGREEMENTS WITH FOREIGN COUNTRIES- The Secretary of State may negotiate agreements between the United States and any foreign country that the Secretary determines appropriate with respect to the repatriation of children. Such agreements shall be designed to protect children from severe forms of trafficking in persons, and shall, at a minimum, provide that--

(i) no child shall be returned to the child’s country of nationality or of last habitual residence unless returned to appropriate employees or officials, including child welfare officials where available, of the accepting country’s government;

(ii) no child shall be returned to the child’s country of nationality or of last habitual residence outside of reasonable business hours; and

(iii) border personnel of the countries that are parties to such agreements are trained in the terms of such agreements.

(3) RULE FOR OTHER CHILDREN- The custody of unaccompanied alien children not described in paragraph (2)(A) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with subsection (b).

(4) SCREENING- Within 48 hours of the apprehension of a child who is believed to be described in paragraph (2)(A), but in any event prior to returning such child to the child’s country of nationality or of last habitual residence, the child shall be screened to determine whether the child meets the criteria listed in paragraph (2)(A). If the child does not meet such criteria, or if no determination can be made within 48 hours of apprehension, the child shall immediately be transferred to the Secretary of Health and Human Services and treated in accordance with subsection (b). Nothing in this paragraph may be construed to preclude an earlier transfer of the child.

(5) ENSURING THE SAFE REPATRIATION OF CHILDREN-

(A) REPATRIATION PILOT PROGRAM- To protect children from trafficking and exploitation, the Secretary of State shall create a pilot program, in conjunction with the Secretary of Health and Human Services and the Secretary of Homeland Security, nongovernmental organizations, and other national and international agencies and experts, to develop and implement best practices to ensure the safe and sustainable repatriation and reintegration of unaccompanied alien children into their country of nationality or of last habitual residence, including placement with their families, legal guardians, or other sponsoring agencies.

(B) ASSESSMENT OF COUNTRY CONDITIONS- The Secretary of Homeland Security shall consult the Department of State’s Country Reports on Human Rights Practices and the Trafficking in Persons Report in assessing whether to repatriate an unaccompanied alien child to a particular country.

(C) REPORT ON REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN- Not later than 18 months after the date of the enactment of this Act, and annually thereafter, the Secretary of State and the Secretary of Health and Human Services, with assistance from the Secretary of Homeland Security, shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on efforts to improve repatriation programs for unaccompanied alien children. Such report shall include--

(i) the number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States;

(ii) a statement of the nationalities, ages, and gender of such children;

(iii) a description of the policies and procedures used to effect the removal of such children from the United States and the steps taken to ensure that such children were safely and humanely repatriated to their country of nationality or of last habitual residence, including a description of the repatriation pilot program created pursuant to subparagraph (A);

(iv) a description of the type of immigration relief sought and denied to such children;

(v) any information gathered in assessments of country and local conditions pursuant to paragraph (2); and

(vi) statistical information and other data on unaccompanied alien children as provided for in section 462(b)(1)(J) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(1)(J)).

(D) PLACEMENT IN REMOVAL PROCEEDINGS- Any unaccompanied alien child sought to be removed by the Department of Homeland Security who does not meet the criteria listed in paragraph (2)(A) shall be--

(i) placed in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a), which shall include a hearing before an immigration judge not later than 14 days after being screened under paragraph (4);

(ii) eligible for relief under section 240B of such Act (8 U.S.C. 1229c) at no cost to the child; and

(iii) provided access to counsel in accordance with subsection (c)(5).

(b) Combating Child Trafficking and Exploitation in the United States-

(1) CARE AND CUSTODY OF UNACCOMPANIED ALIEN CHILDREN- Consistent with section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279), and except as otherwise provided under subsection (a), the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be the responsibility of the Secretary of Health and Human Services.

(2) NOTIFICATION- Each department or agency of the Federal Government shall notify the Department of Health and Human services within 48 hours upon--

(A) the apprehension or discovery of an unaccompanied alien child believed not to meet the criteria listed in subsection (a)(2)(A); or

(B) any claim or suspicion that an alien in the custody of such department or agency is under 18 years of age and does not meet the criteria listed in subsection (a)(2)(A).

(3) TRANSFERS OF UNACCOMPANIED ALIEN CHILDREN- Except in the case of exceptional circumstances, any department or agency of the Federal Government that has an unaccompanied alien child in custody –

(A) in the case of a child who does not meet the criteria listed in subsection (a)(2)(A), shall transfer the custody of such child to the Secretary of Health and Human Services not later than 30 days after determining that such child is an unaccompanied alien child who does not meet such criteria; or

(B) in the case of child who meets the criteria listed in subsection (a)(2)(A), may transfer the custody of such child to the Secretary of Health and Human Services after determining that such child is an unaccompanied alien child who meets such criteria.

(4) AGE DETERMINATIONS- The Secretary of Health and Human Services, in consultation with the Secretary of Homeland Security, shall develop procedures to make a prompt determination of the age of an alien, which shall be used by the Secretary of Homeland Security and the Secretary of Health and Human Services for children in their respective custody. At a minimum, these procedures shall take into account multiple forms of evidence, including the non-exclusive use of radiographs, to determine the age of the unaccompanied alien.

(c) Providing Safe and Secure Placements for Children-

(1) POLICIES AND PROGRAMS- The Secretary of Health and Human Services, Secretary of Homeland Security, Attorney General, and Secretary of State shall establish policies and programs to ensure that unaccompanied alien children in the United States are protected from traffickers and other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity, including policies and programs reflecting best practices in witness security programs.

(2) SAFE AND SECURE PLACEMENTS- Subject to section 462(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(2)), an unaccompanied alien child in the custody of the Secretary of Health and Human Services shall be promptly placed in the least restrictive setting that is in the best interest of the child. In making such placements, the Secretary may consider danger to self, danger to the community, and risk of flight. Placement of child trafficking victims may include placement in an Unaccompanied Refugee Minor program, pursuant to section 412(d) of the Immigration and Nationality Act (8 U.S.C. 1522(d)), if a suitable family member is not available to provide care. A child shall not be placed in a secure facility absent a determination that the child poses a danger to self or others or has been charged with having committed a criminal offense. The placement of a child in a secure facility shall be reviewed, at a minimum, on a monthly basis, in accordance with procedures prescribed by the Secretary, to determine if such placement remains warranted.

(3) SAFETY AND SUITABILITY ASSESSMENTS-

(A) IN GENERAL- Subject to the requirements of subparagraph (B), an unaccompanied alien child may not be placed with a person or entity unless the Secretary of Health and Human Services makes a determination that the proposed custodian is capable of providing for the child’s physical and mental well-being. Such determination shall, at a minimum, include verification of the custodian’s identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child.

(B) HOME STUDIES- Before placing the child with an individual, the Secretary of Health and Human Services shall determine whether a home study is first necessary. A home study shall be conducted for a child who is a victim of a severe form of trafficking in persons, a special needs child with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2))), a child who has been a victim of physical or sexual abuse under circumstances that indicate that the child’s health or welfare has been significantly harmed or threatened, or a child whose proposed sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking to the child based on all available objective evidence. The Secretary of Health and Human Services shall conduct follow-up services, during the pendency of removal proceedings, on children for whom a home study was conducted and is authorized to conduct follow-up services in cases involving children with mental health or other needs who could benefit from ongoing assistance from a social welfare agency.

(C) ACCESS TO INFORMATION- Not later than 2 weeks after receiving a request from the Secretary of Health and Human Services, the Secretary of Homeland Security shall provide information necessary to conduct suitability assessments from appropriate Federal, State, and local law enforcement and immigration databases.

(D) INFORMATION ABOUT INDIVIDUALS WITH WHOM CHILDREN ARE PLACED-

(i) INFORMATION TO BE PROVIDED TO HOMELAND SECURITY- Before placing a child with an individual, the Secretary of Health and Human Services shall provide to the Secretary of Homeland Security, regarding the individual with whom the child will be placed, the following information:

(I) The name of the individual.

(II) The social security number of the individual.

(III) The date of birth of the individual.

(IV) The location of the individual's residence where the child will be placed.

(V) The immigration status of the individual, if known.

(VI) Contact information for the individual.

(ii) SPECIAL RULE- In the case of a child who was apprehended on or after June 15, 2012, and before the date of the enactment of the Protection of Children Act of 2014, who the Secretary of Health and Human Services placed with an individual, the Secretary shall provide the information listed in clause (i) to the Secretary of Homeland Security not later than 90 days after the date of the enactment of the Protection of Children Act of 2014.

(iii) ACTIVITIES OF THE SECRETARY OF HOMELAND SECURITY- Not later than 30 days after receiving the information listed in clause (i), the Secretary of Homeland Security shall--

(I) in the case that the immigration status of an individual with whom a child is placed is unknown, investigate the immigration status of that individual; and

(II) upon determining that an individual with whom a child is placed is unlawfully present in the United States, initiate removal proceedings pursuant to chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.)

(4) LEGAL ORIENTATION PRESENTATIONS- The Secretary of Health and Human Services shall cooperate with the Executive Office for Immigration Review to ensure that custodians receive legal orientation presentations provided through the Legal Orientation Program administered by the Executive Office for Immigration Review. At a minimum, such presentations shall address the custodian’s responsibility to attempt to ensure the child’s appearance at all immigration proceedings and to protect the child from mistreatment, exploitation, and trafficking.

(5) ACCESS TO COUNSEL- The Secretary of Health and Human Services shall ensure, to the greatest extent practicable (at no expense to the Government) and consistent with section 292 of the Immigration and Nationality Act (8 U.S.C. 1362), that all unaccompanied alien children who are or have been in the custody of the Secretary or the Secretary of Homeland Security, and who are not described in subsection (a)(2)(A), have access to counsel to represent them in legal proceedings or matters and protect them from mistreatment, exploitation, and trafficking. To the greatest extent practicable, the Secretary of Health and Human Services shall make every effort to utilize the services of pro bono counsel who agree to provide representation to such children without charge.

(6) CHILD ADVOCATES- The Secretary of Health and Human Services is authorized to appoint independent child advocates for child trafficking victims and other vulnerable unaccompanied alien children. A child advocate shall be provided access to materials necessary to effectively advocate for the best interest of the child. The child advocate shall not be compelled to testify or provide evidence in any proceeding concerning any information or opinion received from the child in the course of serving as a child advocate. The child advocate shall be presumed to be acting in good faith and be immune from civil and criminal liability for lawful conduct of duties as described in this provision.

(d) Permanent Protection for Certain At-Risk Children-

(1) IN GENERAL- Section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) is amended--

(A) in clause (i), by striking ‘State and who has been deemed eligible by that court for long-term foster care due to abuse, neglect, or abandonment;’ and inserting ‘State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with 1 or both of the immigrant’s parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law;’; and

(B) in clause (iii)--

(i) in the matter preceding subclause (I), by striking ‘the Attorney General expressly consents to the dependency order serving as a precondition to the grant of special immigrant juvenile status;’ and inserting ‘the Secretary of Homeland Security consents to the grant of special immigrant juvenile status,’; and

(ii) in subclause (I), by striking ‘in the actual or constructive custody of the Attorney General unless the Attorney General specifically consents to such jurisdiction;’ and inserting ‘in the custody of the Secretary of Health and Human Services unless the Secretary of Health and Human Services specifically consents to such jurisdiction;’.

(2) EXPEDITIOUS ADJUDICATION- All applications for special immigrant status under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) shall be adjudicated by the Secretary of Homeland Security not later than 180 days after the date on which the application is filed.

(3) ADJUSTMENT OF STATUS- Section 245(h)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1255(h)(2)(A)) is amended to read as follows:

‘(A) paragraphs (4), (5)(A), (6)(A), (6)(C), (6)(D), (7)(A), and (9)(B) of section 212(a) shall not apply; and’.

(4) ELIGIBILITY FOR ASSISTANCE-

(A) IN GENERAL- A child who has been granted special immigrant status under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) and who was either in the custody of the Secretary of Health and Human Services at the time a dependency order was granted for such child or who was receiving services pursuant to section 501(a) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) at the time such dependency order was granted, shall be eligible for placement and services under section 412(d) of the Immigration and Nationality Act (8 U.S.C. 1522(d)) until the earlier of--

(i) the date on which the child reaches the age designated in section 412(d)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1522(d)(2)(B)); or

(ii) the date on which the child is placed in a permanent adoptive home.

(B) STATE REIMBURSEMENT- Subject to the availability of appropriations, if State foster care funds are expended on behalf of a child who is not described in subparagraph (A) and has been granted special immigrant status under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), the Federal Government shall reimburse the State in which the child resides for such expenditures by the State.

(5) STATE COURTS ACTING IN LOCO PARENTIS- A department or agency of a State, or an individual or entity appointed by a State court or juvenile court located in the United States, acting in loco parentis, shall not be considered a legal guardian for purposes of this section or section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(6) TRANSITION RULE- Notwithstanding any other provision of law, an alien described in section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), as amended by paragraph (1), may not be denied special immigrant status under such section after the date of the enactment of this Act based on age if the alien was a child on the date on which the alien applied for such status.

(7) ACCESS TO ASYLUM PROTECTIONS- Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended--

(A) in subsection (a)(2), by adding at the end the following:

‘(E) APPLICABILITY- Subparagraphs (A) and (B) shall not apply to an unaccompanied alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g))).’; and

(B) in subsection (b)(3), by adding at the end the following:

‘(C) INITIAL JURISDICTION- An asylum officer (as defined in section 235(b)(1)(E)) shall have initial jurisdiction over any asylum application filed by an unaccompanied alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g))), regardless of whether filed in accordance with this section or section 235(b).’.

(8) SPECIALIZED NEEDS OF UNACCOMPANIED ALIEN CHILDREN- Applications for asylum and other forms of relief from removal in which an unaccompanied alien child is the principal applicant shall be governed by regulations which take into account the specialized needs of unaccompanied alien children and which address both procedural and substantive aspects of handling unaccompanied alien children’s cases.

(e) Training- The Secretary of State, the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Attorney General shall provide specialized training to all Federal personnel, and upon request, state and local personnel, who have substantive contact with unaccompanied alien children. Such personnel shall be trained to work with unaccompanied alien children, including identifying children who are victims of severe forms of trafficking in persons, and children for whom asylum or special immigrant relief may be appropriate, including children described in subsection (a)(2).

(f) Amendments to the Homeland Security Act of 2002-

(1) ADDITIONAL RESPONSIBILITIES- Section 462(b)(1)(L) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(1)(L)) is amended by striking the period at the end and inserting ‘, including regular follow-up visits to such facilities, placements, and other entities, to assess the continued suitability of such placements.’.

(2) TECHNICAL CORRECTIONS- Section 462(b) of such Act (6 U.S.C. 279(b)) is further amended--

(A) in paragraph (3), by striking ‘paragraph (1)(G),’ and inserting ‘paragraph (1),’; and

(B) by adding at the end the following:

‘(4) RULE OF CONSTRUCTION- Nothing in paragraph (2)(B) may be construed to require that a bond be posted for an unaccompanied alien child who is released to a qualified sponsor.’.

(g) Definition of Unaccompanied Alien Child- For purposes of this section, the term ‘unaccompanied alien child’ has the meaning given such term in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)).

(h) Effective Date- This section--

(1) shall take effect on the date that is 90 days after the date of the enactment of this Act; and

(2) shall also apply to all aliens in the United States in pending proceedings before the Department of Homeland Security or the Executive Office for Immigration Review, or related administrative or Federal appeals, on the date of the enactment of this Act.

(i) Grants and Contracts- The Secretary of Health and Human Services may award grants to, and enter into contracts with, voluntary agencies to carry out this section and section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

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***Amendments to Immigration and Nationality Act, Section 101(a)(27)(J)***

(27) The term "special immigrant" means-

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(J) an immigrant who is present in the United States--

(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with either of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law;

(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

(iii) in whose case the Secretary of Homeland Security consents to the grant of special immigrant juvenile status, except that--

(I) no juvenile court has jurisdiction to determine the custody status or placement of an alien in the custody of the Secretary of Health and Human Services unless the Secretary of Health and Human Services specifically consents to such jurisdiction; 24 and

(II) no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act;

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***Amendments to Immigration and Nationality Act, Section 208(b)(3)***

Sec. 208. (b) Conditions for Granting Asylum. –

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(3) TREATMENT OF SPOUSE AND CHILDREN-

(A) IN GENERAL- A spouse or child (as defined in section 101(b)(1)(A) , (B) , (C) , (D) , or (E) ) of an alien who is granted asylum under this subsection may, if not otherwise eligible for asylum under this section, be granted the same status as the alien if accompanying, or following to join, such alien.

(B) CONTINUED CLASSIFICATION OF CERTAIN ALIENS AS CHILDREN- An unmarried alien who seeks to accompany, or follow to join, a parent granted asylum under this subsection, and who was under 21 years of age on the date on which such parent applied for asylum under this section, shall continue to be classified as a child for purposes of this paragraph and section 209(b)(3) , if the alien attained 21 years of age after such application was filed but while it was pending.