

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.

S. 1494

To amend the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to protect alien minors and to amend the Immigration and Nationality Act to end abuse of the asylum system and establish refugee application and processing centers outside the United States, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. BLUMENTHAL

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Sensitive
5 Locations Act”.

6 **SEC. 2. POWERS OF IMMIGRATION OFFICERS AND EMPLOY-
7 EES AT SENSITIVE LOCATIONS.**

8 Section 287 of the Immigration and Nationality Act
9 (8 U.S.C. 1357) is amended by adding at the end the fol-
10 lowing:

1 “(i)(1) In this subsection:

2 “(A) The term ‘appropriate committees of Con-
3 gress’ means—

4 “(i) the Committee on Appropriations of
5 the Senate;

6 “(ii) the Committee on Homeland Security
7 and Governmental Affairs of the Senate;

8 “(iii) the Committee on the Judiciary of
9 the Senate;

10 “(iv) the Committee on Appropriations of
11 the House of Representatives;

12 “(v) the Committee on Homeland Security
13 of the House of Representatives; and

14 “(vi) the Committee on the Judiciary of
15 the House of Representatives.

16 “(B) The term ‘early childhood education pro-
17 gram’ has the meaning given the term under section
18 103 of the Higher Education Act of 1965 (20
19 U.S.C. 1003).

20 “(C) The term ‘enforcement action’—

21 “(i) means an apprehension, arrest, inter-
22 view, request for identification, search, or sur-
23 veillance for the purposes of immigration en-
24 forcement; and

1 “(ii) includes an enforcement action at, or
2 focused on, a sensitive location that is part of
3 a joint case led by another law enforcement
4 agency.

5 “(D) The term ‘exigent circumstances’ means a
6 situation involving—

7 “(i) the imminent risk of death, violence,
8 or physical harm to any person or property, in-
9 cluding a situation implicating terrorism or the
10 national security of the United States;

11 “(ii) the immediate arrest or pursuit of a
12 dangerous felon, terrorist suspect, or other indi-
13 vidual presenting an imminent danger; or

14 “(iii) the imminent risk of destruction of
15 evidence that is material to an ongoing criminal
16 case.

17 “(E) The term ‘prior approval’ means—

18 “(i) in the case of officers and agents of
19 U.S. Immigration and Customs Enforcement,
20 prior written approval to carry out an enforce-
21 ment action involving a specific individual or in-
22 dividuals authorized by—

23 “(I) the Assistant Director of Oper-
24 ations, Homeland Security Investigations;

1 “(II) the Executive Associate Director
2 of Homeland Security Investigations;

3 “(III) the Assistant Director for Field
4 Operations, Enforcement and Removal Op-
5 erations; or

6 “(IV) the Executive Associate Direc-
7 tor for Field Operations, Enforcement and
8 Removal Operations;

9 “(ii) in the case of officers and agents of
10 U.S. Customs and Border Protection, prior
11 written approval to carry out an enforcement
12 action involving a specific individual or individ-
13 uals authorized by—

14 “(I) a Chief Patrol Agent;

15 “(II) the Director of Field Operations;

16 “(III) the Director of Air and Marine
17 Operations; or

18 “(IV) the Internal Affairs Special
19 Agent in Charge; and

20 “(iii) in the case of other Federal, State,
21 or local law enforcement officers, to carry out
22 an enforcement action involving a specific indi-
23 vidual or individuals authorized by—

24 “(I) the head of the Federal agency
25 carrying out the enforcement action; or

1 “(II) the head of the State or local
2 law enforcement agency carrying out the
3 enforcement action.

4 “(F) The term ‘sensitive location’ includes all of
5 the physical space located within 1,000 feet of—

6 “(i) any medical treatment or health care
7 facility, including any hospital, health care
8 practitioner’s office, accredited health clinic, al-
9 cohol or drug treatment center, emergent or ur-
10 gent care facility, or community health center;

11 “(ii) public and private schools (including
12 preschools, primary schools, secondary schools,
13 and postsecondary schools (including colleges
14 and universities), sites of early childhood edu-
15 cation program facility, sites of after school
16 programs, other institutions of learning (includ-
17 ing vocational or trade schools), or other site at
18 which individuals who are unemployed or under-
19 employed may apply for or receive workforce
20 training;

21 “(iii) any scholastic or education-related
22 activity or event, including field trips and inter-
23 scholastic events;

1 “(iv) any school bus or school bus stop
2 during periods when school children are present
3 on the bus or at the stop;

4 “(v) a location at which emergency service
5 providers distribute food or provide shelter;

6 “(vi) any organization that—

7 “(I) assists children, pregnant women,
8 victims of crime or abuse, or individuals
9 with significant mental or physical disabili-
10 ties; or

11 “(II) provides—

12 “(aa) disaster or emergency so-
13 cial services and assistance; or

14 “(bb) services for individuals ex-
15 periencing homelessness, including
16 food banks and shelters;

17 “(vii) any church, synagogue, mosque, or
18 other place of worship, including buildings
19 rented for the purpose of religious services, re-
20 treats, counseling, workshops, instruction, and
21 education;

22 “(viii) any Federal, State, or local court-
23 house, including the office of an individual’s
24 legal counsel or representative, and a probation,
25 parole, or supervised release office;

1 “(ix) the site of a funeral, wedding, or
2 other religious ceremony or observance;

3 “(x) any public demonstration, such as a
4 march, rally, or parade;

5 “(xi) any domestic violence shelter, rape
6 crisis center, supervised visitation center, family
7 justice center, or victim services provider;

8 “(xii) any congressional district office;

9 “(xiii) any public assistance office, includ-
10 ing Federal, State, and municipal locations at
11 which individuals may apply for or receive un-
12 employment compensation or report violations
13 of labor and employment laws;

14 “(xiv) any office of the Social Security Ad-
15 ministration;

16 “(xv) any indoor or outdoor premises of a
17 State Department of Motor Vehicles;

18 “(xvi) any public library; or

19 “(xvii) any other location specified by the
20 Secretary of Homeland Security for purposes of
21 this subsection.

22 “(2)(A) An enforcement action may not take place
23 at, or be focused on, a sensitive location unless—

24 “(i) the action involves exigent circumstances;

25 or

1 “(ii) prior approval for the enforcement action
2 was obtained from the appropriate official.

3 “(B) If an enforcement action is initiated pursuant
4 to subparagraph (A) and the exigent circumstances per-
5 mitting the enforcement action cease, the enforcement ac-
6 tion shall be discontinued until such exigent circumstances
7 reemerge.

8 “(C) If an enforcement action is carried out in viola-
9 tion of this subsection—

10 “(i) no information resulting from the enforce-
11 ment action may be entered into the record or re-
12 ceived into evidence in a removal proceeding result-
13 ing from the enforcement action; and

14 “(ii) the alien who is the subject of such re-
15 moval proceeding may file a motion for the imme-
16 diate termination of the removal proceeding.

17 “(3)(A) This subsection shall apply to any enforce-
18 ment action by officers or agents of the Department of
19 Homeland Security, including—

20 “(i) officers or agents of U.S. Immigration and
21 Customs Enforcement;

22 “(ii) officers or agents of U.S. Customs and
23 Border Protection; and

1 “(iii) any individual designated to perform im-
2 migration enforcement functions pursuant to sub-
3 section (g).

4 “(B) While carrying out an enforcement action at a
5 sensitive location, officers and agents referred to in sub-
6 paragraph (A) shall make every effort—

7 “(i) to limit the time spent at the sensitive loca-
8 tion;

9 “(ii) to limit the enforcement action at the sen-
10 sitive location to the person or persons for whom
11 prior approval was obtained; and

12 “(iii) to conduct themselves as discreetly as pos-
13 sible, consistent with officer and public safety.

14 “(C) If, while carrying out an enforcement action
15 that is not initiated at or focused on a sensitive location,
16 officers or agents are led to a sensitive location, and no
17 exigent circumstance and prior approval with respect to
18 the sensitive location exists, such officers or agents shall—

19 “(i) cease before taking any further enforce-
20 ment action;

21 “(ii) conduct themselves in a discreet manner;

22 “(iii) maintain surveillance; and

23 “(iv) immediately consult their supervisor in
24 order to determine whether such enforcement action
25 should be discontinued.

1 “(D) The limitations under this paragraph shall not
2 apply to the transportation of an individual apprehended
3 at or near a land or sea border to a hospital or health
4 care provider for the purpose of providing medical care
5 to such individual.

6 “(4)(A) Each official specified in subparagraph (B)
7 shall ensure that the employees under his or her super-
8 vision receive annual training on compliance with—

9 “(i) the requirements under this subsection in
10 enforcement actions at or focused on sensitive loca-
11 tions and enforcement actions that lead officers or
12 agents to a sensitive location; and

13 “(ii) the requirements under section 239 of this
14 Act and section 384 of the Illegal Immigration Re-
15 form and Immigrant Responsibility Act of 1996 (8
16 U.S.C. 1367).

17 “(B) The officials specified in this subparagraph
18 are—

19 “(i) the Chief Counsel of U.S. Immigration and
20 Customs Enforcement;

21 “(ii) the Field Office Directors of U.S. Immi-
22 gration and Customs Enforcement;

23 “(iii) each Special Agent in Charge of U.S. Im-
24 migration and Customs Enforcement;

1 “(iv) each Chief Patrol Agent of U.S. Customs
2 and Border Protection;

3 “(v) the Director of Field Operations of U.S.
4 Customs and Border Protection;

5 “(vi) the Director of Air and Marine Operations
6 of U.S. Customs and Border Protection;

7 “(vii) the Internal Affairs Special Agent in
8 Charge of U.S. Customs and Border Protection; and

9 “(viii) the chief law enforcement officer of each
10 State or local law enforcement agency that enters
11 into a written agreement with the Department of
12 Homeland Security pursuant to subsection (g).

13 “(5) The Secretary of Homeland Security shall mod-
14 ify the Notice to Appear form (I-862)—

15 “(A) to provide the subjects of an enforcement
16 action with information, written in plain language,
17 summarizing the restrictions against enforcement
18 actions at sensitive locations set forth in this sub-
19 section and the remedies available to the alien if
20 such action violates such restrictions;

21 “(B) so that the information described in sub-
22 paragraph (A) is accessible to individuals with lim-
23 ited English proficiency; and

24 “(C) so that subjects of an enforcement action
25 are not permitted to verify that the officers or

1 agents that carried out such action complied with
2 the restrictions set forth in this subsection.

3 “(6)(A) The Director of U.S. Immigration and Cus-
4 toms Enforcement and the Commissioner of U.S. Customs
5 and Border Protection shall each submit an annual report
6 to the appropriate committees of Congress that includes
7 the information set forth in subparagraph (B) with respect
8 to the respective agency.

9 “(B) Each report submitted under subparagraph (A)
10 shall include, with respect to the submitting agency during
11 the reporting period—

12 “(i) the number of enforcement actions that
13 were carried out at, or focused on, a sensitive loca-
14 tion;

15 “(ii) the number of enforcement actions in
16 which officers or agents were subsequently led to a
17 sensitive location; and

18 “(iii) for each enforcement action described in
19 clause (i) or (ii)—

20 “(I) the date on which it occurred;

21 “(II) the specific site, city, county, and
22 State in which it occurred;

23 “(III) the components of the agency and
24 the names of the agents involved in the enforce-
25 ment action;

1 “(IV) whether the enforcement action took
2 place with prior approval or if the enforcement
3 action was the result of exigent circumstances,
4 and—

5 “(aa) if prior approval was granted,
6 documentation confirming conditions of ap-
7 proval; or

8 “(bb) if under exigent circumstances,
9 a description of those circumstances;

10 “(V) a description of the enforcement ac-
11 tion, including the nature of the criminal activ-
12 ity of its intended target;

13 “(VI) the number of individuals, if any, ar-
14 rested or taken into custody;

15 “(VII) the number of collateral arrests, if
16 any, and the reasons for each such arrest;

17 “(VIII) a certification whether the location
18 administrator was contacted before, during, or
19 after the enforcement action; and

20 “(IX) the percentage of all of the staff
21 members and supervisors reporting to the offi-
22 cials listed in paragraph (4)(B) who completed
23 the training required under paragraph (4)(A).

24 “(7) Nothing in the subsection may be construed—

1 “(A) to affect the authority of Federal, State,
2 or local law enforcement agencies—

3 “(i) to enforce generally applicable Federal
4 or State criminal laws unrelated to immigra-
5 tion; or

6 “(ii) to protect residents from imminent
7 threats to public safety; or

8 “(B) to limit or override the protections pro-
9 vided in—

10 “(i) section 239; or

11 “(ii) section 384 of the Illegal Immigration
12 Reform and Immigrant Responsibility Act of
13 1996 (8 U.S.C. 1367).”.