

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 IN THE NATURE OF A SUBSTITUTE 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’ means all of
5 the physical space located within 1,000 feet of any
6 church, synagogue, mosque, or other place of wor-
7 ship, including buildings rented for the purpose of
8 religious services, retreats, counseling, workshops,
9 instruction, and education.

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

12 “(i) the action involves exigent circumstances;
13 or

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

16 “(B) If an enforcement action is initiated pursuant
17 to subparagraph (A) and the exigent circumstances per-
18 mitting the enforcement action cease, the enforcement ac-
19 tion shall be discontinued until such exigent circumstances
20 reemerge.

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

23 “(i) no information resulting from the enforce-
24 ment action may be entered into the record or re-

1 ceived into evidence in a removal proceeding result-
2 ing from the enforcement action; and

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

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

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

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

13 “(iii) any individual designated to perform im-
14 migration enforcement functions pursuant to sub-
15 section (g).

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

19 “(i) to limit the time spent at the sensitive loca-
20 tion;

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

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

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

6 “(i) cease before taking any further enforce-
7 ment action;

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

9 “(iii) maintain surveillance; and

10 “(iv) immediately consult their supervisor in
11 order to determine whether such enforcement action
12 should be discontinued.

13 “(D) The limitations under this paragraph shall not
14 apply to the transportation of an individual apprehended
15 at or near a land or sea border to a hospital or health
16 care provider for the purpose of providing medical care
17 to such individual.

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

21 “(i) the requirements under this subsection in
22 enforcement actions at or focused on sensitive loca-
23 tions and enforcement actions that lead officers or
24 agents to a sensitive location; and

1 “(ii) the requirements under section 239 of this
2 Act and section 384 of the Illegal Immigration Re-
3 form and Immigrant Responsibility Act of 1996 (8
4 U.S.C. 1367).

5 “(B) The officials specified in this subparagraph
6 are—

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

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

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

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

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

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

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

21 “(viii) the chief law enforcement officer of each
22 State or local law enforcement agency that enters
23 into a written agreement with the Department of
24 Homeland Security pursuant to subsection (g).

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

3 “(A) to provide the subjects of an enforcement
4 action with information, written in plain language,
5 summarizing the restrictions against enforcement
6 actions at sensitive locations set forth in this sub-
7 section and the remedies available to the alien if
8 such action violates such restrictions;

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

12 “(C) so that subjects of an enforcement action
13 are not permitted to verify that the officers or
14 agents that carried out such action complied with
15 the restrictions set forth in this subsection.

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

22 “(B) Each report submitted under subparagraph (A)
23 shall include, with respect to the submitting agency during
24 the reporting period—

1 “(V) a description of the enforcement ac-
2 tion, including the nature of the criminal activ-
3 ity of its intended target;

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

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

8 “(VIII) a certification whether the location
9 administrator was contacted before, during, or
10 after the enforcement action; and

11 “(IX) the percentage of all of the staff
12 members and supervisors reporting to the offi-
13 cials listed in paragraph (4)(B) who completed
14 the training required under paragraph (4)(A).

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

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

18 “(i) to enforce generally applicable Federal
19 or State criminal laws unrelated to immigra-
20 tion; or

21 “(ii) to protect residents from imminent
22 threats to public safety; or

23 “(B) to limit or override the protections pro-
24 vided in—

25 “(i) section 239; or

1 “(ii) section 384 of the Illegal Immigration
2 Reform and Immigrant Responsibility Act of
3 1996 (8 U.S.C. 1367).”.