

116TH CONGRESS  
1ST SESSION

# H. R. 4319

To amend the Immigration and Nationality Act to eliminate the annual numerical limitation on U visas, to require the Secretary of Homeland Security to grant work authorization to aliens with a pending application for nonimmigrant status under subparagraph (U) or (T) of section 101(a)(15) of such Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 12, 2019

Mr. PANETTA (for himself, Ms. JAYAPAL, Ms. BONAMICI, Mr. CARBAJAL, Ms. CLARKE of New York, Mr. CLEAVER, Mr. CORREA, Mr. BLUMENAUER, Ms. ESHOO, Mr. ESPAILLAT, Ms. GARCIA of Texas, Mr. GRIJALVA, Ms. HAALAND, Mr. JOHNSON of Georgia, Mr. KHANNA, Ms. LOFGREN, Mrs. CAROLYN B. MALONEY of New York, Mr. MCGOVERN, Ms. MENG, Ms. MOORE, Mrs. MURPHY, Mrs. NAPOLITANO, Ms. NORTON, Ms. OMAR, Ms. PRESSLEY, Ms. ROYBAL-ALLARD, Mr. RUSH, Ms. SÁNCHEZ, Ms. SCHAKOWSKY, Mr. SIRES, Mr. SMITH of Washington, Mr. SOTO, Mr. SUOZZI, Mr. SWALWELL of California, Mr. VARGAS, and Ms. VELÁZQUEZ) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the Immigration and Nationality Act to eliminate the annual numerical limitation on U visas, to require the Secretary of Homeland Security to grant work authorization to aliens with a pending application for nonimmigrant status under subparagraph (U) or (T) of section 101(a)(15) of such Act, 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.**

4       This Act may be cited as the “Immigrant Witness  
5       and Victim Protection Act of 2019”.

6       **SEC. 2. PURPOSE; FINDINGS; SENSE OF CONGRESS.**

7       (a) **PURPOSE.**—The purpose of this Act is to remove  
8       barriers for alien survivors of domestic violence, sexual as-  
9       sault, human trafficking, and other crimes who may be  
10      eligible for protections under the Violence Against Women  
11      Act of 1994 (VAWA), the Trafficking Victims Protection  
12      Act of 2000 (TVPA).

13      (b) **FINDINGS.**—Congress finds the following:

14           (1) Threats of deportation are one of the most  
15      potent tools abusers and perpetrators of crime use  
16      to maintain control over and silence alien victims  
17      and to avoid criminal prosecution. Abusers and per-  
18      petrators leverage the immigration system in the  
19      abuse and exploitation of aliens they victimize.

20           (2) A bipartisan majority in Congress created  
21      critical immigration protections in VAWA, TVPA  
22      and their subsequent reauthorizations in recognition  
23      that alien survivors of domestic violence, sexual as-  
24      sault, human trafficking, and other eligible crimes

1 often fear that reaching out for help may lead to  
2 their deportation.

3 (3) Detention and removal of those with victim-  
4 based cases undermines the intent of VAWA and re-  
5 traumatizes victims and their children. Deporting  
6 survivors while they await decisions on their cases  
7 discourages victims from accessing justice, under-  
8 mines the usefulness of these forms of relief as tools  
9 for law enforcement that seek to keep all commu-  
10 nities safe, separates them from their children and  
11 support networks, and eliminates the ability of local  
12 law enforcement to continue protecting and working  
13 with such crime survivors.

14 (4) Lack of timely access to employment au-  
15 thorization makes victims more vulnerable and likely  
16 to need to endure or return to abusive relationships  
17 or exploitative conditions. Crime survivors should  
18 have access to work authorization to escape abusive  
19 situations, and gain self-sufficiency following victim-  
20 ization so they can support themselves and their  
21 children.

22 (c) SENSE OF CONGRESS.—It is the sense of Con-  
23 gress that the Secretary of Homeland Security should not  
24 deport crime victims before their applications for humani-

1 tarian relief are fully adjudicated, as it undermines critical  
 2 bi-partisan protections created in VAWA and the TVPA.

3 **SEC. 3. ELIMINATION OF ANNUAL NUMERICAL LIMITATION**  
 4 **ON U VISAS.**

5 Section 214(p) of the Immigration and Nationality  
 6 Act (8 U.S.C. 1184(p)) is amended by striking paragraph  
 7 (2).

8 **SEC. 4. WORK AUTHORIZATION WHILE APPLICATIONS FOR**  
 9 **U AND T VISAS ARE PENDING.**

10 (a) U VISAS.—Section 214(p) of the Immigration  
 11 and Nationality Act (8 U.S.C. 1184(p)) is amended—

12 (1) in paragraph (6), by striking the last sen-  
 13 tence; and

14 (2) by adding at the end the following:

15 “(8) WORK AUTHORIZATION.—Notwithstanding  
 16 any provision of this Act granting eligibility for em-  
 17 ployment in the United States, the Secretary of  
 18 Homeland Security shall grant employment author-  
 19 ization to an alien who has filed an application for  
 20 nonimmigrant status under section 101(a)(15)(U)  
 21 on the date that is the earlier of—

22 “(A) the date on which the alien’s applica-  
 23 tion for such status is approved; or

1           “(B) a date determined by the Secretary  
2           that is not later than 180 days after the date  
3           on which the alien filed the application.”.

4           (b) T VISAS.—Section 214(o) of the Immigration and  
5   Nationality Act (8 U.S.C. 1184(o)) is amended by adding  
6   at the end the following:

7           “(8) Notwithstanding any provision of this Act grant-  
8   ing eligibility for employment in the United States, the  
9   Secretary of Homeland Security shall grant employment  
10   authorization to an alien who has filed an application for  
11   nonimmigrant status under section 101(a)(15)(T) on the  
12   date that is the earlier of—

13           “(A) the date on which the alien’s application  
14   for such status is approved; or

15           “(B) a date determined by the Secretary that  
16   is not later than 180 days after the date on which  
17   the alien filed the application.”.

18           (c)       VAWA       SELF-PETITIONERS.—Section  
19   204(a)(1)(K) of the Immigration and Nationality Act (8  
20   U.S.C. 1154(a)(1)(K)) is amended—

21           (1) in the matter preceding clause (i), by strik-  
22   ing “, the alien”;

23           (2) in clause (i), by inserting “the alien” before  
24   “is eligible”; and

25           (3) by amending clause (ii) to read as follows:

1 “(ii) notwithstanding any provision of  
2 this Act restricting eligibility for employ-  
3 ment in the United States, the Secretary  
4 of Homeland Security shall grant employ-  
5 ment authorization to such an alien on the  
6 date that is the earlier of—

7 “(I) the date on which the alien’s  
8 application for lawful permanent resi-  
9 dent status is approved; or

10 “(II) a date determined by the  
11 Secretary that is not later than 180  
12 days after the date that is the earlier  
13 of the date on which the alien filed  
14 the application or the alien’s petition  
15 as a VAWA self-petitioner is ap-  
16 proved.”.

17 (d) CANCELLATION OF REMOVAL.—Section  
18 240A(b)(2) of the Immigration and Nationality Act (8  
19 U.S.C. 1229b(b)(2)) is amended by adding at the end the  
20 following:

21 “(E) WORK AUTHORIZATION.—Notwith-  
22 standing any provision of this Act granting eli-  
23 gibility for employment in the United States,  
24 the Secretary of Homeland Security shall grant  
25 employment authorization to an alien who has

1 filed an application for cancellation of removal  
2 under this paragraph on a date that is not later  
3 than 180 days after the date on which the alien  
4 filed the application.”.

5 **SEC. 5. STAY OF REMOVAL.**

6 (a) IN GENERAL.—An alien described in subsection  
7 (b) shall not be removed from the United States under  
8 section 240 of the Immigration and Nationality Act (8  
9 U.S.C. 1229a) or any other provision of law until there  
10 is a final denial of the alien’s application for status after  
11 the exhaustion of administrative and judicial review.

12 (b) ALIENS DESCRIBED.—An alien is described in  
13 this subsection if the alien—

14 (1) has a pending application under section  
15 101(a)(15)(T), 101(a)(15)(U), 106, 240A(b)(2), or  
16 244(a)(3) (as in effect on March 31, 1997) of the  
17 Immigration and Nationality Act (8 U.S.C. 1101,  
18 1229a, 1254a); or

19 (2) is a VAWA self-petitioner, as defined in sec-  
20 tion 101(a)(51) of the Immigration and Nationality  
21 Act, with a pending application for relief under a  
22 provision referred to in one of subparagraphs (A)  
23 through (G) of such section.

1 **SEC. 6. PROHIBITION ON DETENTION OF CERTAIN VICTIMS**  
2 **WITH PENDING PETITIONS AND APPLICA-**  
3 **TIONS.**

4 Section 236 of the Immigration and Nationality Act  
5 (8 U.S.C. 1226) is amended by adding at the end the fol-  
6 lowing:

7 “(a) PROHIBITION ON DETENTION OF CERTAIN VIC-  
8 TIMS WITH PENDING PETITIONS AND APPLICATIONS.—

9 “(1) IN GENERAL.—Notwithstanding any other  
10 provision of this Act, there shall be a presumption  
11 that the alien described in paragraph (2) should be  
12 released from detention. The Secretary of Homeland  
13 Security shall have the duty of rebutting this pre-  
14 sumption, which may only be shown based on clear  
15 and convincing evidence, including credible and indi-  
16 vidualized information, that the use of alternatives  
17 to detention will not reasonably ensure the appear-  
18 ance of the alien at removal proceedings, or that the  
19 alien is a threat to another person or the commu-  
20 nity. The fact that an alien has a criminal charge  
21 pending against the alien may not be the sole factor  
22 to justify the continued detention of the alien.

23 “(2) ALIEN DESCRIBED.—An alien is described  
24 in this paragraph if the alien—

25 “(A) has a pending application under sec-  
26 tion 101(a)(15)(T), 101(a)(15)(U), 106,

1           240A(b)(2), or 244(a)(3) (as in effect on March  
2           31, 1997); or

3           “(B) is a VAWA self-petitioner, as defined  
4           in section 101(a)(51), with a pending applica-  
5           tion for relief under a provision referred to in  
6           one of subparagraphs (A) through (G) of such  
7           section.”.

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