

116TH CONGRESS
1ST SESSION

H. R. 5466

To provide relief for victims of hate crimes, advance the safety and well-being of immigrants and refugees, and fund improved law enforcement and prosecution official training.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 17, 2019

Mr. TAKANO introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To provide relief for victims of hate crimes, advance the safety and well-being of immigrants and refugees, and fund improved law enforcement and prosecution official training.

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 “Prevention of Anti-
5 Immigrant Violence Act of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Anti-immigrant violence is on the rise, with
2 the Federal Bureau of Investigation (FBI) reporting
3 an 11.8-percent increase in hate crimes against indi-
4 viduals for 2018 compared to 2017 and an observed
5 shift in crimes against individuals as opposed to
6 property. The FBI data shows that 59.6 percent of
7 hate crimes reported were motivated by race, eth-
8 nicity, or ancestry. In addition, the 24 hate crime
9 murders recorded in 2018 are the highest ever re-
10 ported by the FBI since it began tracking hate
11 crimes in 1991. Since 2014, FBI hate crime statis-
12 tics have shown an increasing trend in hate crimes,
13 with the highest yearly gains so far reported for
14 2017 at 17 percent.

15 (2) The vast majority of the reported hate
16 crimes are related to race, ethnicity, or ancestry. Ac-
17 cording to the Department of Justice's Bureau of
18 Justice Statistics (BJS), Hispanics experience close
19 to double the rate of hate crime victimization that
20 non-Hispanic Whites (1.3 vs 0.7 per 1,000). The
21 2019 National Crime Victimization Survey (NCVS)
22 data shows that non-US citizens are victimized at a
23 rate of approximately 12.5 victims per 1,000 non-US
24 citizens.

1 (3) BJS has shown a precipitous decline in re-
2 reporting of hate crimes since 2014, with BJS's
3 NCVS data showing that between 2013 and 2017
4 more than half of all hate crimes (>100,000) went
5 unreported annually. NCVS 2019 statistics show
6 that after declining by more than 60 percent in the
7 past 21 years, the number of violent crime victims
8 has steadily increased since 2015; and that the rate
9 of unreported violent crimes continues to rise; in-
10 creasing from 9.5 to 12.9 per 1,000 persons between
11 2015 and 2018.

12 (4) Many immigrant advocates cite fear of de-
13 portation as one of the reasons people are not com-
14 ing forward to report crimes. The threat of being re-
15 ported to Immigration and Customs Enforcement
16 (ICE) is used by perpetrators of hate crimes to si-
17 lence both victims and witnesses and to avoid crimi-
18 nal prosecution.

19 (5) Detention and removal of victims of hate
20 crimes undermine the rule of law and gives perpetra-
21 tors the means by which to escape prosecution. The
22 deportation of victims and witnesses denies them the
23 ability to see justice served, prevents law enforce-
24 ment from keeping communities safe, and exacer-

1 bates the problems communities face in the rise of
2 anti-immigrant violence.

3 (6) Lack of resources has prevented law en-
4 forcement, prosecutors, and victimized communities
5 from learning about available tools for their protec-
6 tion and the prosecution of these crimes. Everyone
7 seeking justice for victims and eager to see a reduc-
8 tion in hate crimes must be afforded the resources
9 to learn and educate the public of these available
10 tools.

11 **SEC. 3. EXPANSION OF CRIMINAL ACTIVITY FOR WHICH A**
12 **U VISA MAY BE ISSUED; ADDITIONAL U VISAS**
13 **MADE AVAILABLE.**

14 (a) **EXPANSION OF CRIMINAL ACTIVITY.**—Section
15 101(a)(15)(U)(iii) of the Immigration and Nationality Act
16 (8 U.S.C. 1101(a)(15)(U)) is amended by inserting after
17 “fraud in foreign labor contracting (as defined in section
18 1351 of title 18, United States Code);” the following:
19 “hate crime acts;”.

20 (b) **ADDITIONAL VISAS MADE AVAILABLE.**—Section
21 214(p)(2)(A) of the Immigration and Nationality Act (8
22 U.S.C. 1184(p)(2)(A)) is amended by striking “10,000”
23 and inserting “12,000”, thus designating the additional
24 2,000 visas for victims of hate crimes.

1 **SEC. 4. PROHIBITION OF REMOVAL OF NON-CITIZENS WITH**
 2 **PENDING PETITIONS AND APPLICATIONS.**

3 (a) IN GENERAL.—A non-citizen described in sub-
 4 section (b) shall not be removed from the United States
 5 under section 240 of the Immigration and Nationality Act
 6 (8 U.S.C. 1229a) or any other provision of law until there
 7 is a final denial of the non-citizen’s application for status
 8 after the exhaustion of administrative and judicial review.

9 (b) NON-CITIZENS DESCRIBED.—A non-citizen is de-
 10 scribed in this subsection if the non-citizen—

11 (1) has a pending application under section
 12 101(a)(15)(T), 101(a)(15)(U), 101(a)(27)(J), 106,
 13 240A(b)(2), or 244(a)(3) (as in effect on March 31,
 14 1997) of the Immigration and Nationality Act (8
 15 U.S.C. 1101, 1229a, 1254a); or

16 (2) is a VAWA self-petitioner, as defined in sec-
 17 tion 101(a)(51) of the Immigration and Nationality
 18 Act, with a pending application for relief.

19 **SEC. 5. PROHIBITION ON DETENTION OF CERTAIN VICTIMS**
 20 **WITH PENDING PETITIONS AND APPLICA-**
 21 **TIONS.**

22 Section 236 of the Immigration and Nationality Act
 23 (8 U.S.C. 1226) is amended by adding at the end the fol-
 24 lowing:

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

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of this Act, there shall be a presumption
3 that the non-citizen described in paragraph (2)
4 should be released from detention. The Secretary of
5 Homeland Security shall have the duty of rebutting
6 this presumption, which may only be shown based on
7 clear and convincing evidence, including credible and
8 individualized information, that the use of alter-
9 natives to detention will not reasonably ensure the
10 appearance of the non-citizen at removal pro-
11 ceedings, or that the non-citizen is a threat to an-
12 other person or the community. The fact that a non-
13 citizen has a criminal charge pending against the
14 non-citizen may not be the sole factor to justify the
15 continued detention of the non-citizen.

16 “(2) NON-CITIZEN DESCRIBED.—A non-citizen
17 is described in this paragraph if the non-citizen—

18 “(A) has a pending application under sec-
19 tion 101(a)(15)(T), 101(a)(15)(U),
20 101(a)(27)(J), 106, 240A(b)(2), or 244(a)(3)
21 (as in effect on March 31, 1997); or

22 “(B) is a VAWA self-petitioner, as defined
23 in section 101(a)(51), with a pending applica-
24 tion for relief.”.

1 **SEC. 6. GRANTS TO IDENTIFY, ASSIST, AND PROTECT VIC-**
2 **TIMS OF HATE CRIME VIOLENCE.**

3 (a) DEFINITIONS.—In this section:

4 (1) ELIGIBLE ENTITY.—The term “eligible enti-
5 ty” means a State, a local government, or non-gov-
6 ernmental organizations.

7 (2) STATE.—The term “State” means any
8 State of the United States, the District of Columbia,
9 the Commonwealth of Puerto Rico, Guam, the
10 United States Virgin Islands, the Commonwealth of
11 the Northern Mariana Islands, American Samoa,
12 and any other territory or possession of the United
13 States.

14 (b) GRANTS AUTHORIZED.—The Attorney General
15 may award grants to eligible entities to assist non-citizen
16 victims of hate crimes and/or provide training to State and
17 local law enforcement personnel or prosecution officials to
18 identify and protect victims of anti-immigrant driven hate
19 crime violence, criminal activities and harms covered by
20 section 101(a)(15)(T), 101(a)(15)(U), 101(a)(27)(J),
21 106, 240A(b)(2), or 244(a)(3) (as in effect on March 31,
22 1997); or is a VAWA self-petitioner, as defined in section
23 101(a)(51), with a pending application for relief.

24 (c) USE OF FUNDS.—

25 (1) PARTNERSHIP OR COLLABORATION.—An el-
26 igible entity receiving a grant under this section

1 shall carry out or possess at least one of the fol-
2 lowing activities or expertise described in paragraph
3 (2) in partnership or collaboration with—

4 (A) National, State, local, or Federal law
5 enforcement or prosecution officials dedicated
6 to reducing anti-immigrant hate crimes and
7 which possess personnel who have more than 2-
8 year expertise in and have received U Visa Law
9 Enforcement Certification and/or T visa dec-
10 larations training; or

11 (B) National, State, or local non-govern-
12 mental organizations with more than 2 years
13 expertise in the identification and prosecution
14 of hate crime, dedicated to the reduction of
15 anti-immigrant biased violence or expertise
16 training on and/or assisting non-citizens navi-
17 gate the process of applying for the U visa and
18 any of the forms of immigration relief listed in
19 section 4(b) of this Act; or

20 (C) a non-governmental organization work-
21 ing in partnership or collaboration with a group
22 in subparagraph (A) or (B).

23 (2) ACTIVITIES AND EXPERTISE.—The activi-
24 ties and expertises referred to in paragraph (1) are
25 as follows:

1 (A) To provide funding to community-
2 based, legal or victim services organizations, law
3 enforcement or prosecution programs with a
4 documented history of effective work in identi-
5 fication of hate crimes and anti-immigrant vio-
6 lence, to perform outreach in communities that
7 have experienced an increase in anti-immigrant
8 violence since 2014.

9 (B) To provide funding to community-
10 based, legal or victim services organizations, law
11 enforcement or prosecution programs with a
12 documented history of effective work in the
13 training of law enforcement and/or prosecution
14 agency personnel to protect victims of crimes
15 who are non-citizens without lawful immigration
16 status, including training such personnel to uti-
17 lize Federal, State, or local resources to assist
18 such victims and their families.

19 (C) To provide funding to community-
20 based, legal or victim services organizations, law
21 enforcement or prosecution programs with a
22 documented history of effective work in the
23 training of law enforcement or State or local
24 prosecutors to utilize Federal laws that protect
25 such non-citizens and their families.

1 (d) RESTRICTIONS.—

2 (1) SUPPLEMENT NOT SUPPLANT.—A grant
3 awarded under this section shall be used to supple-
4 ment and not supplant other Federal, State, and
5 local public funds available to carry out the training
6 described in subsection (c).

7 (2) ADMINISTRATIVE EXPENSES.—An eligible
8 entity that receives a grant under this section may
9 use not more than 5 percent of the total amount of
10 such grant for administrative expenses.

11 (3) NONEXCLUSIVITY.—Nothing in this section
12 may be construed to restrict the ability of an eligible
13 entity to apply for or obtain funding from any other
14 source to carry out the training described in sub-
15 section (c).

16 (e) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated \$10,000,000 for each
18 of fiscal years 2020 through 2030 to carry out this sec-
19 tion.

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