

117TH CONGRESS
1ST SESSION

H. R. 6078

To amend the Immigration and Nationality Act to eliminate the annual numerical limitation on visas for certain immigrants, to require the Secretary of Homeland Security to grant work authorization to certain immigrants with a pending application for nonimmigrant status under such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 23, 2021

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

A BILL

To amend the Immigration and Nationality Act to eliminate the annual numerical limitation on visas for certain immigrants, to require the Secretary of Homeland Security to grant work authorization to certain immigrants with a pending application for nonimmigrant status under 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 2021”.

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

2 (a) PURPOSE.—The purpose of this Act is to remove
3 barriers for alien survivors of domestic violence, sexual as-
4 sault, human trafficking, and other crimes who may be
5 eligible for protections under the Violence Against Women
6 Act of 1994 (VAWA), the Trafficking Victims Protection
7 Act of 2000 (TVPA), and their subsequent reauthoriza-
8 tions.

9 (b) FINDINGS.—Congress finds the following:

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

16 (2) A bipartisan majority in Congress created
17 critical immigration protections in VAWA, TVPA
18 and their subsequent reauthorizations in recognition
19 that alien survivors of domestic violence, sexual as-
20 sault, human trafficking, and other eligible crimes
21 often fear that reaching out for help may lead to
22 their deportation.

23 (3) Detention and removal of those with victim-
24 based cases undermines the intent of VAWA, TVPA,
25 and their subsequent reauthorizations and re-
26 traumatizes victims and their children. Deporting

1 survivors while they await decisions on their cases
2 discourages victims from accessing justice, under-
3 mines the usefulness of these forms of relief as tools
4 for law enforcement that seek to keep all commu-
5 nities safe, separates them from their children and
6 support networks, and eliminates the ability of local
7 law enforcement to continue protecting and working
8 with such crime survivors.

9 (4) Lack of timely access to employment au-
10 thorization makes victims more vulnerable and may
11 lead to their need to endure or return to abusive re-
12 lationships or exploitative conditions. Crime and
13 abuse survivors should have access to work author-
14 ization to escape abusive situations, and gain self-
15 sufficiency following victimization so they can sup-
16 port themselves and their families.

17 (c) SENSE OF CONGRESS.—It is the sense of Con-
18 gress that the Secretary of Homeland Security should not
19 deport crime victims or neglected, abused, or abandoned
20 youth before their applications for humanitarian relief are
21 fully adjudicated, as it undermines critical bipartisan pro-
22 tections created in VAWA, TVPA, and their subsequent
23 reauthorizations.

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

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

6 **SEC. 4. ELIMINATION OF ANNUAL NUMERICAL LIMITATION**
7 **ON SPECIAL IMMIGRANT JUVENILE VISAS.**

8 (a) **ALIENS NOT SUBJECT TO DIRECT NUMERICAL**
9 **LIMITATIONS.**—Section 201(b)(1)(A) of the Immigration
10 and Nationality Act (8 U.S.C. 1151(b)(1)(A)) is amended
11 by striking “subparagraph (A) or (B)” and inserting
12 “subparagraphs (A), (B), or (J)”.

13 (b) **PER COUNTRY LEVELS.**— Section 202(a)(2) of
14 the Immigration and Nationality Act (8 U.S.C.
15 1152(a)(2)) is amended by striking “(5),” and inserting
16 “(5), and except for special immigrants described in sub-
17 paragraph (J) of section 1101(a)(27) of this title,”.

18 (c) **CERTAIN SPECIAL IMMIGRANTS.**—Section
19 203(b)(4) of the Immigration and Nationality Act (8
20 U.S.C. 1153(b)(4)) is amended by striking “subparagraph
21 (A) or (B)” and inserting “subparagraphs (A), (B), or
22 (J)”.

23 **SEC. 5. WORK AUTHORIZATION WHILE APPLICATIONS AND**
24 **PETITIONS ARE PENDING.**

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

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

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

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

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

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

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

19 “(8) Notwithstanding any provision of this Act grant-
20 ing eligibility for employment in the United States, the
21 Secretary of Homeland Security shall grant employment
22 authorization to an alien who has filed a petition for non-
23 immigrant status under section 101(a)(15)(T) on the date
24 that is the earlier of—

1 “(A) the date on which the alien’s petition for
2 such status is approved; or

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

6 (c) VAWA SELF-PETITIONERS.—Section
7 204(a)(1)(K) of the Immigration and Nationality Act (8
8 U.S.C. 1154(a)(1)(K)) is amended to read:

9 “(K) Notwithstanding any provision of this
10 Act restricting eligibility for employment in the
11 United States, the Secretary of Homeland Se-
12 curity shall grant employment authorization to
13 such an alien in the United States on the date
14 that is the earlier of—

15 “(i) the date on which the alien’s peti-
16 tion as a VAWA self-petitioner is ap-
17 proved; or

18 “(ii) a date determined by the Sec-
19 retary that is not later than 180 days after
20 the date on which the alien filed the peti-
21 tion as a VAWA self-petitioner.”.

22 (d) SPECIAL IMMIGRANT JUVENILES.—Section 245
23 of the Immigration and Nationality Act (8 U.S.C. 1255)
24 is amended by adding at the end the following:

1 “(n) WORK AUTHORIZATION FOR CERTAIN SPECIAL
2 IMMIGRANTS.—Notwithstanding any provision of this Act
3 granting eligibility for employment in the United States,
4 the Secretary of Homeland Security shall grant employ-
5 ment authorization to an alien who has filed a petition
6 for special immigrant status under section 101(a)(27)(J)
7 on the date that is the earlier of—

8 “(1) the date on which the alien’s petition for
9 such status is approved; or

10 “(2) a date determined by the Secretary that is
11 not later than 180 days after the date on which the
12 alien filed the petition.”.

13 (e) CANCELLATION OF REMOVAL.—Section
14 240A(b)(2) of the Immigration and Nationality Act (8
15 U.S.C. 1229b(b)(2)) is amended by adding at the end the
16 following:

17 “(E) WORK AUTHORIZATION.—Notwith-
18 standing any provision of this Act granting eli-
19 gibility for employment in the United States,
20 the Secretary of Homeland Security shall grant
21 employment authorization to an alien who has
22 filed an application for cancellation of removal
23 under this paragraph on a date that is not later
24 than 180 days after the date on which the alien
25 filed the application.”.

1 **SEC. 6. STAY OF REMOVAL.**

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

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

10 (1) has a pending or approved application or
11 petition under section 101(a)(15)(T),
12 101(a)(15)(U), 101(a)(27)(J), 106, 240A(b)(2), or
13 244(a)(3) (as in effect on March 31, 1997) of the
14 Immigration and Nationality Act (8 U.S.C. 1101,
15 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 under a
19 provision referred to in one of subparagraphs (A)
20 through (G) of such section.

21 **SEC. 7. PROHIBITION ON DETENTION OF CERTAIN VICTIMS**
22 **WITH PENDING OR APPROVED PETITION OR**
23 **APPLICATION.**

24 Section 236 of the Immigration and Nationality Act
25 (8 U.S.C. 1226) is amended by adding at the end the fol-
26 lowing:

1 “(a) PROHIBITION ON DETENTION OF CERTAIN VIC-
2 TIMS WITH PENDING OR APPROVED PETITIONS AND AP-
3 PPLICATIONS.—

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

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

20 “(A) has a pending or approved application
21 or petition under section 101(a)(15)(T),
22 101(a)(15)(U), 101(a)(27)(J), 106, 240A(b)(2),
23 or 244(a)(3) (as in effect on March 31, 1997);
24 or

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

6 **SEC. 8. PENALTIES FOR DISCLOSURE OF INFORMATION.**

7 (a) IN GENERAL.—Section 384 of the Illegal Immi-
8 gration Reform and Immigrant Responsibility Act of 1996
9 (8 U.S.C. 1367) is amended—

10 (1) in subsection (a)—

11 (A) in paragraph (1), by striking “solely”;

12 (B) in paragraph (2)—

13 (i) by striking “information which re-
14 lates” and inserting “information, files, or
15 records which relate”; and

16 (ii) by striking the period at the end
17 and inserting a semicolon;

18 (C) by adding at the end the following new
19 paragraph:

20 “(3) Except as provided in this paragraph, nei-
21 ther the Department, nor any other official or em-
22 ployee of the Department, or bureau or agency
23 thereof, nor the Department of Justice, nor any offi-
24 cial or employee of the Department of Justice, or
25 bureau or agency thereof, may—

1 “(A) use the information furnished by the
2 applicant pursuant to an application filed under
3 paragraph (15)(T), (15)(U), (27)(J), or (51) of
4 section 101(a) of the Immigration and Nation-
5 ality Act (8 U.S.C. 1101(a) (15)(T), (15)(U),
6 (27)(J), or (51)), or section 240A(b)(2) of such
7 Act (8 U.S.C. 1229b(b)(2)), section 106 (8
8 U.S.C. 1105a), for any purpose other than to
9 make a determination on the application, or for
10 enforcement of subsection (c) of this section;

11 “(B) make any publication of information
12 that identifies a particular individual; or

13 “(C) permit anyone other than the sworn
14 officers and employees of the Department or
15 bureau or agency to examine individual applica-
16 tions.”;

17 (2) in subsection (b)—

18 (A) in paragraph (2), by striking “legiti-
19 mate law enforcement purpose,” and inserting
20 “a criminal investigation or prosecution,”;

21 (B) by striking paragraph (4) and insert-
22 ing the following new paragraph:

23 “(4) Paragraphs (2) and (3) of this section
24 shall not apply if all the individuals in the case are

1 adults and they have all waived the restrictions of
2 such subsections.”; and

3 (3) in subsection (d), by inserting that end
4 “The Attorney General, Secretary of State, and the
5 Secretary of Homeland Security shall provide Con-
6 gress with an annual report regarding training pro-
7 vided to officers and employees, number of investiga-
8 tions opened for violations of sections (a)(1)–(a)(3),
9 and the results of those investigations.”.

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