

115TH CONGRESS  
2D SESSION

# H. R. 5058

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

FEBRUARY 15, 2018

Mr. PANETTA (for himself, Ms. JAYAPAL, Mr. MCGOVERN, Ms. SCHAKOWSKY, Mr. KHANNA, Mr. SUOZZI, Mr. POLIS, Mr. CORREA, Miss RICE of New York, Ms. MOORE, Mr. KILMER, Mr. HECK, Ms. ROYBAL-ALLARD, Mr. GUTIÉRREZ, Mrs. CAROLYN B. MALONEY of New York, Mr. VARGAS, Ms. LOFGREN, Ms. ROS-LEHTINEN, Mr. O'HALLERAN, Mr. SOTO, Mr. BLUMENAUER, Mr. SWALWELL of California, and Ms. ESHOO) 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,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Immigrant Witness  
3 and Victim Protection Act of 2018”.

4 **SEC. 2. ELIMINATION OF ANNUAL NUMERICAL LIMITATION**  
5 **ON U VISAS.**

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

9 **SEC. 3. WORK AUTHORIZATION WHILE APPLICATIONS FOR**  
10 **U AND T VISAS ARE PENDING.**

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

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

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

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

23           “(A) the date on which the alien’s applica-  
24 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 **SEC. 4. PROHIBITION ON REMOVAL OF CERTAIN VICTIMS**  
19 **WITH PENDING PETITIONS AND APPLICA-**  
20 **TIONS.**

21 (a) EXPEDITED REMOVAL OF INADMISSIBLE ARRIV-  
22 ING ALIENS.—Section 235 of the Immigration and Na-  
23 tionality Act (8 U.S.C. 1225) is amended by adding at  
24 the end the following:

1       “(e) PROHIBITION ON REMOVAL OF CERTAIN VIC-  
2       TIMS WITH PENDING PETITIONS AND APPLICATIONS.—

3               “(1) IN GENERAL.—An alien described in para-  
4       graph (2) shall not be ordered removed under this  
5       section until there is a final administrative denial of  
6       the application for such status after the exhaustion  
7       of administrative appeals.

8               “(2) ALIENS DESCRIBED.—An alien is de-  
9       scribed in this paragraph if the alien—

10              “(A) has a pending application under sec-  
11       tion 101(a)(15)(T), 101(a)(15)(U), 106,  
12       240A(b)(2), or 244(a)(3) (as in effect on March  
13       31, 1997); or

14              “(B) is a VAWA self-petitioner, as defined  
15       in section 101(a)(51), with a pending applica-  
16       tion for relief under a provision referred to in  
17       one of subparagraphs (A) through (G) of such  
18       section.

19              “(3) EXCEPTION.—Paragraph (1) shall not  
20       apply in a case in which the Director of U.S. Citi-  
21       zenship and Immigration Services determines that  
22       the alien is prima facie ineligible for admission due  
23       to any of the circumstances described in section  
24       241(b)(3)(B).”.

1 (b) GENERAL CLASSES OF DEPORTABLE ALIENS.—

2 Section 237(d)(1) of the Immigration and Nationality Act

3 (8 U.S.C. 1227(d)(1)) is amended to read as follows:

4 “(d)(1) The Director of U.S. Citizenship and Immi-  
5 gration Services shall make a determination whether an  
6 application for nonimmigrant status under subparagraph  
7 (T) or (U) of section 101(a)(15) filed for an alien in the  
8 United States sets forth a prima facie case for approval,  
9 and, if so, the Secretary shall grant the alien an adminis-  
10 trative stay of a final order of removal under section  
11 241(c)(2) until—

12 “(A) the application for nonimmigrant status  
13 under such subparagraph (T) or (U) is approved; or

14 “(B) there is a final administrative denial of  
15 the application for such nonimmigrant status after  
16 the exhaustion of administrative appeals.”.

17 (c) EXPEDITED REMOVAL OF ALIENS CONVICTED OF  
18 COMMITTING AGGRAVATED FELONIES.—Section 238 of  
19 the Immigration and Nationality Act (8 U.S.C. 1228) is  
20 amended by adding at the end the following:

21 “(d) PROHIBITION ON REMOVAL OF CERTAIN VIC-  
22 TIMS WITH PENDING PETITIONS AND APPLICATIONS.—

23 “(1) IN GENERAL.—An alien described in para-  
24 graph (2) shall not be ordered removed under this  
25 section until there is a final administrative denial of

1 the application for such status after the exhaustion  
2 of administrative appeals.

3 “(2) ALIENS DESCRIBED.—An alien is de-  
4 scribed in this paragraph if the alien—

5 “(A) has a pending application under sec-  
6 tion 101(a)(15)(T), 101(a)(15)(U), 106,  
7 240A(b)(2), or 244(a)(3) (as in effect on March  
8 31, 1997); or

9 “(B) is a VAWA self-petitioner, as defined  
10 in section 101(a)(51), with a pending applica-  
11 tion for relief under a provision referred to in  
12 one of subparagraphs (A) through (G) of such  
13 section.

14 “(3) EXCEPTION.—Paragraph (1) shall not  
15 apply in a case in which the Director of U.S. Citi-  
16 zenship and Immigration Services determines that  
17 any of the circumstances described in section  
18 241(b)(3)(B) apply.”.

19 (d) DETENTION AND REMOVAL OF ALIENS ORDERED  
20 REMOVED.—Section 241(a) of the Immigration and Na-  
21 tionality Act (8 U.S.C. 1231(a)) is amended by adding at  
22 the end the following:

23 “(8) PROHIBITION ON REMOVAL OF CERTAIN  
24 VICTIMS WITH PENDING PETITIONS AND APPLICA-  
25 TIONS.—

1           “(A) IN GENERAL.—An alien described in  
2           subparagraph (B) shall not be removed under  
3           this section until there is a final administrative  
4           denial of the application for such status after  
5           the exhaustion of administrative appeals.

6           “(B) ALIENS DESCRIBED.—An alien is de-  
7           scribed in this paragraph if the alien—

8                   “(i) has a pending application under  
9                   section 101(a)(15)(T), 101(a)(15)(U), 106,  
10                  240A(b)(2), or 244(a)(3) (as in effect on  
11                  March 31, 1997); or

12                   “(ii) is a VAWA self-petitioner, as de-  
13                   fined in section 101(a)(51), with a pending  
14                   application for relief under a provision re-  
15                   ferred to in one of subparagraphs (A)  
16                   through (G) of such section.

17           “(C) EXCEPTION.—Paragraph (1) shall  
18           not apply in a case in which the Director of  
19           U.S. Citizenship and Immigration Services de-  
20           termines that any of the circumstances de-  
21           scribed in section 241(b)(3)(B) apply.”.

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