

115TH CONGRESS
2D SESSION

S. _____

To protect alien victims of crime or serious labor or employment violations from removal from the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To protect alien victims of crime or serious labor or employment violations from removal from the United States, 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 “Protect Our Workers
5 from Exploitation and Retaliation Act” or the “POWER
6 Act”.

1 **SEC. 2. PROTECTION OF VICTIMS OF CRIME OR SERIOUS**
2 **LABOR AND EMPLOYMENT VIOLATIONS.**

3 (a) AVAILABILITY OF U VISAS.—Section
4 101(a)(15)(U) of the Immigration and Nationality Act (8
5 U.S.C. 1101(a)(15)(U)) is amended—

6 (1) in clause (i)—

7 (A) by amending subclause (I) to read as
8 follows:

9 “(I) the alien—

10 “(aa) has suffered substantial
11 abuse or harm as a result of having
12 been a victim of criminal activity de-
13 scribed in clause (iii);

14 “(bb) has suffered substantial
15 abuse or harm relating to a labor or
16 employment violation described in
17 clause (iv);

18 “(cc)(AA) is a victim of criminal
19 activity described in clause (iii); and

20 “(BB) would suffer extreme
21 hardship on removal from the United
22 States; or

23 “(dd)(AA) has suffered a labor
24 or employment violation described in
25 clause (iv); and

1 “(BB) would suffer extreme
2 hardship on removal from the United
3 States;”;

4 (B) in subclause (II)—

5 (i) by striking “concerning” and all
6 that follows through the semicolon at the
7 end and inserting “relating to, as applica-
8 ble—

9 “(aa) criminal activity de-
10 scribed in clause (iii); or

11 “(bb) the labor or employ-
12 ment violation described in clause
13 (iv);”;

14 (C) by amending subclause (III) to read as
15 follows:

16 “(III) with respect to the inves-
17 tigation or prosecution of criminal ac-
18 tivity described in clause (iii) or the
19 investigation, prosecution, or pursuit
20 of civil remedies relating to the labor
21 or employment violation described in
22 clause (iv), as applicable, the alien (or
23 in the case of an alien child under the
24 age of 16, the parent, guardian, or
25 next friend of the alien) has been

1 helpful, is being helpful, or is likely to
2 be helpful to—

3 “(aa) a Federal, State, or
4 local law enforcement official;

5 “(bb) a Federal, State, or
6 local prosecutor;

7 “(cc) a Federal, State, or
8 local judge;

9 “(dd) the Secretary of
10 Homeland Security;

11 “(ee) the Equal Employment
12 Opportunity Commission;

13 “(ff) the Secretary of Labor;

14 “(gg) the National Labor
15 Relations Board; or

16 “(hh) any other Federal,
17 State, or local authority; and”;

18 and

19 (D) in subclause (IV), by inserting before
20 the semicolon at the end “or a workplace claim
21 (as defined in section 274A(e)(10)(C)(iii)(II))
22 resulted from the labor or employment violation
23 described in clause (iv), as applicable”;

24 (2) in clause (ii)(II), by striking “and” at the
25 end;

1 (3) by moving clause (iii) 2 ems to the left;

2 (4) in clause (iii), by striking “or” at the end

3 and inserting “and”; and

4 (5) by adding at the end the following:

5 “(iv) a labor or employment violation
6 described in this clause is a violation—

7 “(I) that results in the filing of a
8 bona fide workplace claim (as defined
9 in section 274A(e)(10)(C)(iii)(II))—

10 “(aa) by an alien;

11 “(bb) for which an alien is a
12 material witness; or

13 “(cc) in the investigation of
14 which an alien is likely to be
15 helpful; and

16 “(II) with respect to which an
17 alien reasonably fears, has been
18 threatened with, or has been the vic-
19 tim of, an action involving force, phys-
20 ical restraint, retaliation, or abuse of
21 the immigration or other legal process
22 against the alien or any other person
23 by an employer relating to—

24 “(aa) an act underlying such
25 workplace claim; or

1 “(bb) the filing of such
2 workplace claim; or”.

3 (b) TEMPORARY PROTECTION FROM REMOVAL.—

4 Notwithstanding any other provision of law, the Secretary
5 of Homeland Security may allow an alien to temporarily
6 remain in the United States and grant the alien employ-
7 ment authorization if the Secretary determines that the
8 alien—

9 (1) has filed for relief under section
10 101(a)(15)(U) of the Immigration and Nationality
11 Act (8 U.S.C. 1101(a)(15)(U)); or

12 (2)(A) has filed, or is a material witness for, a
13 bona fide workplace claim (as defined in section
14 274A(e)(10)(B)(iii)(II) of that Act); and

15 (B) with respect to the investigation, prosecu-
16 tion, or pursuit of a civil remedy relating to the
17 workplace claim, has been helpful, is being helpful,
18 or is likely to be helpful to—

19 (i) a Federal, State, or local law enforce-
20 ment official;

21 (ii) a Federal, State, or local prosecutor;

22 (iii) a Federal, State, or local judge;

23 (iv) the Secretary of Homeland Security;

24 (v) the Equal Employment Opportunity
25 Commission;

- 1 (vi) the Secretary of Labor;
- 2 (vii) the National Labor Relations Board;
- 3 or
- 4 (viii) any other Federal, State, or local au-
- 5 thority.

6 (c) CONFORMING AMENDMENTS.—Section 214(p) of

7 the Immigration and Nationality Act (8 U.S.C. 1184(p))

8 is amended—

9 (1) in paragraph (1)—

10 (A) in the paragraph heading, by striking

11 “FOR SECTION 101(A)(15)(U) VISAS”;

12 (B) in the first sentence, by inserting “or

13 investigating, prosecuting, or seeking a civil

14 remedy relating to a labor or employment viola-

15 tion described in section 101(a)(15)(U)(iv)” be-

16 fore the period at the end; and

17 (C) in the third sentence, by inserting “or

18 the investigation, prosecution, or pursuit of a

19 civil remedy relating to a labor or employment

20 violation described in section 101(a)(15)(U)(iv),

21 as applicable” before the period at the end;

22 (2) in paragraph (2)(A), by striking “10,000”

23 and inserting “30,000”; and

24 (3) in paragraph (6), in the first sentence—

1 (A) by inserting “or investigating, pros-
2 ecuting, or seeking a civil remedy relating to a
3 labor or employment violation described in sec-
4 tion 101(a)(15)(U)(iv), as applicable” after
5 “described in section 101(a)(15)(U)(iii)”; and

6 (B) by inserting “or labor or employment
7 violation” after “prosecution of such criminal
8 activity”.

9 (d) ADJUSTMENT OF STATUS.—Section 245(m)(1) of
10 the Immigration and Nationality Act (8 U.S.C.
11 1255(m)(1)) is amended, in the matter preceding subpara-
12 graph (A), by inserting “or an investigation or prosecution
13 of a labor or employment violation, as applicable” after
14 “prosecution”.

15 (e) CHANGE OF NONIMMIGRANT CLASSIFICATION.—
16 Section 384(a)(1) of the Illegal Immigration Reform and
17 Immigrant Responsibility Act of 1996 (8 U.S.C.
18 1367(a)(1)) is amended—

19 (1) in subparagraph (E), by striking “physical
20 or mental abuse and the criminal activity” and in-
21 serting “abuse and the criminal activity or labor or
22 employment violation”;

23 (2) in subparagraph (F), by striking the comma
24 at the end and inserting “, or”; and

1 (3) by inserting after subparagraph (F) the fol-
2 lowing:

3 “(G) the alien’s employer,”.

4 **SEC. 3. LABOR ENFORCEMENT ACTIONS.**

5 (a) REMOVAL PROCEEDINGS.—Section 239(e) of the
6 Immigration and Nationality Act (8 U.S.C. 1229(e)) is
7 amended—

8 (1) in paragraph (1)—

9 (A) by striking “In cases where” and in-
10 serting “If”; and

11 (B) by inserting “or as a result of informa-
12 tion provided to the Secretary of Homeland Se-
13 curity in retaliation against an individual for
14 exercising or attempting to exercise his or her
15 employment rights or other legal rights” after
16 “paragraph (2)”; and

17 (2) in paragraph (2), by adding at the end the
18 following:

19 “(C) At a facility with respect to which a
20 workplace claim (as defined in section
21 274A(e)(10)(B)(iv)) has been filed or is con-
22 temporaneously filed.”.

23 (b) UNLAWFUL EMPLOYMENT OF ALIENS.—Section
24 274A(e) of the Immigration and Nationality Act (8 U.S.C.
25 1324a(e)) is amended by adding at the end the following:

1 “(10) CONDUCT IN ENFORCEMENT ACTIONS.—

2 “(A) ENFORCEMENT ACTION.—If the Sec-
3 retary of Homeland Security undertakes an en-
4 forcement action at a facility with respect to
5 which a workplace claim has been filed or is
6 contemporaneously filed or as a result of infor-
7 mation provided to the Secretary in retaliation
8 against an individual for exercising his or her
9 rights relating to a workplace claim, the Sec-
10 retary shall ensure that—

11 “(i) any alien arrested or detained
12 who is necessary for the investigation or
13 prosecution of a labor or employment viola-
14 tion, as described in clause (iv) of subpara-
15 graph (U) of section 101(a)(15), or a
16 criminal activity, as described in subpara-
17 graph (T) or clause (iii) of subparagraph
18 (U) of that section, is not removed from
19 the United States until a date that is after
20 the date on which the Secretary—

21 “(I) notifies the appropriate law
22 enforcement agency with jurisdiction
23 over such labor or employment viola-
24 tion or criminal activity; and

11

1 “(II) provides such agency with
2 the opportunity to interview such
3 alien; and

4 “(ii) an alien entitled to a stay of re-
5 moval or an abeyance of removal pro-
6 ceedings under this section is not removed.

7 “(B) STAY OF REMOVAL OR ABEYANCE OF
8 REMOVAL PROCEEDINGS.—

9 “(i) IN GENERAL.—Except as pro-
10 vided in clause (ii), an alien against whom
11 removal proceedings have been initiated
12 under chapter 4 of title II shall be entitled
13 to a stay of removal or an abeyance of re-
14 moval proceedings and employment author-
15 ization if the alien—

16 “(I) has filed a workplace claim;

17 “(II) is a material witness in any
18 pending or anticipated proceeding re-
19 lating to a bona fide workplace claim;
20 or

21 “(III) has filed an application for
22 relief under section 101(a)(15)(U).

23 “(ii) EXCEPTION.—Clause (i) shall
24 not apply with respect to an alien if the
25 Secretary establishes, by a preponderance

1 of the evidence in a proceeding before the
2 immigration judge presiding over such
3 alien's removal hearing, that—

4 “(I) the alien has been convicted
5 of a felony; or

6 “(II) the workplace claim was
7 filed in bad faith with the intent to
8 delay or avoid the removal of the
9 alien.

10 “(iii) DURATION.—

11 “(I) IN GENERAL.—Any stay of
12 removal or abeyance of removal pro-
13 ceedings and employment authoriza-
14 tion issued pursuant to clause (i) shall
15 remain valid until the date on which
16 the workplace claim is resolved or re-
17 lief under section 101(a)(15)(U) is de-
18 nied after exhaustion of any adminis-
19 trative appeal, as applicable.

20 “(II) EXTENSION.—The Sec-
21 retary of Homeland Security may ex-
22 tend a stay of removal or an abeyance
23 of removal proceedings for a period of
24 not longer than 3 years if the Sec-
25 retary determines that—

1 “(aa) such relief would en-
2 able the alien asserting a work-
3 place claim to pursue the claim
4 to resolution;

5 “(bb) the deterrent goals of
6 any law underlying a workplace
7 claim would be served; or

8 “(cc) such extension would
9 otherwise further the interests of
10 justice.

11 “(iv) DEFINITIONS.—In this para-
12 graph:

13 “(I) MATERIAL WITNESS.—The
14 term ‘material witness’ means an indi-
15 vidual who presents a declaration
16 from an attorney investigating, pros-
17 ecuting, or defending a workplace
18 claim or the presiding officer over-
19 seeing the workplace claim that at-
20 tests that, to the best of the knowl-
21 edge and belief of the declarant, rea-
22 sonable cause exists to believe that the
23 testimony of the individual will be rel-
24 evant to the outcome of the workplace
25 claim.

1 “(II) WORKPLACE CLAIM.—The
2 term ‘workplace claim’ means any
3 written or oral claim, charge, com-
4 plaint, or grievance relating to the vio-
5 lation of applicable Federal, State, or
6 local labor laws (including laws relat-
7 ing to wages and hours, labor rela-
8 tions, family and medical leave, occu-
9 pational health and safety, civil rights,
10 and nondiscrimination) that is filed
11 with or communicated or submitted
12 to—

13 “(aa) an employer;

14 “(bb) a Federal, State, or
15 local—

16 “(AA) agency; or

17 “(BB) court; or

18 “(cc) an employee represent-
19 ative.”.