116TH CONGRESS
1ST SESSION

H. R. ______

To protect victims of crime or serious labor violations from removal during Department of Homeland Security enforcement actions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. JUDY CHU of California introduced the following bill; which was referred to the Committee on ____________________

A BILL

To protect victims of crime or serious labor violations from removal during Department of Homeland Security enforcement actions, 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”.
SEC. 2. VICTIMS OF SERIOUS LABOR AND EMPLOYMENT VIOLATIONS OR CRIME.

(a) PROTECTION FOR VICTIMS OF LABOR AND EMPLOYMENT VIOLATIONS.—Section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)) is amended—

(1) in clause (i)—

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

“(I) the alien—

“(aa) has suffered substantial abuse or harm as a result of having been a victim of criminal activity described in clause (iii);

“(bb) has suffered substantial abuse or harm related to a violation described in clause (iv);

“(cc) is a victim of criminal activity described in clause (iii) and would suffer extreme hardship upon removal; or

“(dd) has suffered a violation described in clause (iv) and would suffer extreme hardship upon removal;”;

(B) in subclause (II), by inserting “, or a labor or employment violation resulting in a
workplace claim described in clause (iv)” before
the semicolon at the end;

(C) in subclause (III)—

(i) by striking “or State judge, to the
Service” and inserting “, State, or local
judge, to the Department of Homeland Se-
curity, to the Equal Employment Oppor-
tunity Commission, to the Department of
Labor, to the National Labor Relations
Board”; and

(ii) by inserting “, or investigating,
prosecuting, or seeking civil remedies for a
labor or employment violation related to a
workplace claim described in clause (iv)”
before the semicolon at the end; and

(D) in subclause (IV)—

(i) by inserting “(aa)” after “(IV)”;

and

(ii) by adding at the end the fol-
lowing: “or

“(bb) a workplace claim described in clause (iv)
resulting from a labor or employment violation;”;

(2) in clause (ii)(II), by striking “and” at the
end;
(3) in clause (iii), by striking “or” at the end and inserting “and”; and

(4) by adding at the end the following:

“(iv) in the labor or employment violation related to a workplace claim, the alien—

“(I) has filed, is a material witness in, or is likely to be helpful in the investigation of, a bona fide workplace claim (as defined in section 274A(e)(10)(C)(iii)(II)); and

“(II) reasonably fears, has been threatened with, or has been the victim of, an action involving force, physical restraint, retaliation, or abuse of the immigration or other legal process against the alien or another person by the employer in relation to acts underlying the workplace claim or related to the filing of the workplace claim; or”.

(b) TEMPORARY PROTECTION FOR VICTIMS OF CRIME, LABOR, AND EMPLOYMENT VIOLATIONS.—Notwithstanding any other provision of law, the Secretary of Homeland Security may permit an alien to temporarily remain in the United States, and grant the alien employ-
ment authorization, if the Secretary determines that the alien—

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

(2)(A) has filed, or is a material witness to, a bona fide workplace claim (as defined in section 274A(c)(10)(B)(iii)(II) of such Act, as added by section 3(b) of this Act); and

(B) has been helpful, is being helpful, or is likely to be helpful to—

(i) a Federal, State, or local law enforcement official;

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

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

(iv) the Department of Homeland Security;

(v) the Equal Employment Opportunity Commission;

(vi) the Department of Labor, including the Occupational Safety and Health Administration;

(vii) the National Labor Relations Board;

(viii) the head official of a State or local government department of labor, workforce
commission, or human relations commission or
council; or
(ix) other Federal, State, or local authori-
ties investigating, prosecuting, or seeking civil
remedies related to the workplace claim.

(c) REQUIREMENTS APPLICABLE TO U VISAS.—Sec-
tion 214(p) of the Immigration and Nationality Act (8
U.S.C. 1184(p)) is amended—

(1) in paragraph (1)—

(A) by inserting “or investigating, pros-
cecuting, or seeking civil remedies for workplace
claims described in section 101(a)(15)(U)(iv)”
after “section 101(a)(15)(U)(iii)” each place
such term appears;

(B) by striking “The petition” and insert-
ing the following:

“(A) IN GENERAL.—The petition”; and
(C) by adding at the end the following:

“(B) FEES.—An alien petitioning for, or
having status under, section 101(a)(15)(U)
shall not be required to submit any fee (or re-
quest any fee waiver) in connection with such
petition or status, including fees associated with
biometric services, or an application for advance
permission to enter as a nonimmigrant.
“(C) CONFIDENTIALITY OF INFORMATION.—Neither the Secretary of Homeland Security, nor the Attorney General, may use the information furnished pursuant to a petition for status under section 101(a)(15)(U) for purposes of initiating or carrying out a removal proceeding.”;

(2) by striking paragraph (2); and

(3) in paragraph (6)—

(A) by inserting “or workplace claims described in section 101(a)(15)(U)(iv)” after “described in section 101(a)(15)(U)(iii)”; and

(B) by inserting “or workplace claim” after “prosecution of such criminal activity”.

(d) ADJUSTMENT OF STATUS FOR VICTIMS OF CRIMES.—Section 245(m)(1) of the Immigration and Nationality Act (8 U.S.C. 1255(m)(1)) is amended by inserting “or an investigation or prosecution regarding a workplace claim” after “prosecution”.

(e) CHANGE OF NONIMMIGRANT CLASSIFICATION.—

Section 384(a)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367(a)(1)) is amended—

(1) in subparagraph (E), by striking “physical or mental abuse and the criminal activity” and in-
serting “abuse and the criminal activity or workplace claim”;

(2) in subparagraph (F), by adding “or” at the end; and

(3) by inserting after subparagraph (F) the following:

“(G) the alien’s employer,.”

SEC. 3. LABOR ENFORCEMENT ACTIONS.

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

(1) in paragraph (1)—

(A) by striking “In cases where” and inserting “If”; and

(B) by inserting “or as a result of information provided to the Department of Homeland Security in retaliation against individuals for exercising or attempting to exercise their employment rights or other legal rights” after “paragraph (2)”; and

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

“(C) At a facility about which a workplace claim has been filed or is contemporaneously filed.”.
(b) **UNLAWFUL EMPLOYMENT OF ALIENS.**—Section 274A(e) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)) is amended by adding at the end the following:

“(10) **CONDUCT IN ENFORCEMENT ACTIONS.**—

“(A) **ENFORCEMENT ACTION.**—If the Secretary of Homeland Security undertakes an enforcement action at a facility about which a workplace claim has been filed or is contemporaneously filed, or as a result of information provided to the Department of Homeland Security in retaliation against employees for exercising their rights related to a workplace claim, the Secretary shall ensure that—

“(i) any aliens arrested or detained who are necessary for the investigation or prosecution of workplace claim violations or criminal activity (as described in subparagraph (T) or (U) of section 101(a)(15)) are not removed from the United States until after the Secretary—

“(I) notifies the appropriate law enforcement agency with jurisdiction over such violations or criminal activity; and
“(II) provides such agency with
the opportunity to interview such
aliens; and
“(ii) no aliens entitled to a stay of re-
moval or abeyance of removal proceedings
under this section are removed.
“(B) PROTECTIONS FOR VICTIMS OF
CRIME, LABOR, AND EMPLOYMENT VIOLA-
TIONS.—
“(i) STAY OF REMOVAL OR ABEYANCE
OF REMOVAL PROCEEDINGS.—An alien
against whom removal proceedings have
been initiated under chapter 4 of title II,
who has filed a workplace claim, who is a
material witness in any pending or antici-
pated proceeding involving a bona fide
workplace claim, or who has filed for relief
under section 101(a)(15)(U), shall be enti-
tled to a stay of removal or an abeyance of
removal proceedings and to employment
authorization until the resolution of the
workplace claim or the denial of relief
under section 101(a)(15)(U) after exhaus-
tion of administrative appeals, whichever is
later, unless the Secretary establishes, by a
preponderance of the evidence in proceedings before the immigration judge presiding over that alien’s removal hearing, that—

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

“(II) the workplace claim was filed in bad faith with the intent to delay or avoid the alien’s removal.

“(ii) DURATION.—Any stay of removal or abeyance of removal proceedings and employment authorization issued pursuant to clause (i) shall remain valid until the resolution of the workplace claim or the denial of relief under section 101(a)(15)(U) after the exhaustion of administrative appeals, and shall be extended by the Secretary of Homeland Security for a period of not longer than 10 additional years upon determining that—

“(I) such relief would enable the alien asserting a workplace claim to pursue the claim to resolution;
“(II) the deterrent goals of any statute underlying a workplace claim would be served; or

“(III) such extension would otherwise further the interests of justice.

“(iii) DEFINITIONS.—In this paragraph:

“(I) MATERIAL WITNESS.—Notwithstanding any other provision of law, the term ‘material witness’ means an individual who presents a declaration from an attorney investigating, prosecuting, or defending the workplace claim or from the presiding officer overseeing the workplace claim attesting that, to the best of the declarant’s knowledge and belief, reasonable cause exists to believe that the testimony of the individual will be relevant to the outcome of the workplace claim.

“(II) WORKPLACE CLAIM.—The term ‘workplace claim’ means any written or oral claim, charge, complaint, or grievance filed with, communicated to, or submitted to the em-
ployer, a Federal, State, or local agency or court, or an employee representative related to the violation of applicable Federal, State, and local labor laws, including laws concerning wages and hours, labor relations, family and medical leave, occupational health and safety, civil rights, or nondiscrimination.”.