



### Talking Points for H.R. 4970

On May 8, 2012, the Judiciary Committee reported out H.R. 4970 with only minor changes. Left intact are provisions that would roll back the 17-year bi-partisan commitment of Congress to protect victims of domestic violence, stalking, sex crimes, and trafficking. H.R. 4970 would make current law far worse for victims.

Law enforcement, immigration organizations, domestic violence service providers, and women's groups across this country oppose H.R. 4970 because it would undermine protections for domestic violence victims and help perpetrate the very abuse they are trying to escape. H.R. 4970 would place victims of domestic violence in danger, deter victims of crime from cooperating with law enforcement, and treat victims of abuse more harshly than any other applicant for immigration benefits.

- **H.R. 4970 would place immigrant victims of domestic violence who seek lawful status in the U.S. at risk.** VAWA “self-petitioning” was created in 1994 to ensure that immigrant victims of domestic violence obtain status on their own when their U.S. citizen and lawful permanent resident spouses, as part of the abuse, refuse to petition for them. H.R. 4970 would roll-back vital protections and insert abusers back into the immigration process.

**Section 801** would allow USCIS officers to interview the abuser, tipping them off that the victim has filed a VAWA self-petition and eviscerating important confidentiality protections in place since 1994. As a result, victims will be placed in even more danger and abusers will once again be able to use immigration as a tool of abuse.

- **H.R. 4970 creates extra hurdles for victims to jump through, making lawful status even more difficult for victims to attain.** Section 801 of H.R. 4970 would make it *more* difficult for victims of abuse to obtain lawful status by requiring VAWA applicants to establish their eligibility for lawful status by “clear and convincing” evidence—a higher standard than most other applicants applying for immigration benefits.

Many domestic violence victims are eligible for lawful status but are unable to obtain it because their abusers refuse to file spousal visa petitions for them, preferring to use the immigration process as a tool of abuse. The VAWA self-petition process was created to provide victims with a means of obtaining the status for which they are eligible and would have obtained but for the abuse. By putting in place higher standards for victims than for other applicants, Section 801 is penalizing victims for their abusers' failure to act.

- **H.R. 4970 would punish victims more harshly than other applicants for providing incorrect information, regardless of intent or knowledge.** The INA already makes someone ineligible for relief if they commit fraud or *willfully* misrepresent a material fact when seeking an immigrant benefit. However, **Section 801** of H.R. 4970 would go much further by requiring the removal, on an *expedited basis*, of a victim where there is *any evidence* of any material misrepresentation at any point during the process, regardless of whether the victim had any intent to defraud the government. H.R. 4970 would also *permanently bar* the immigrant from any future immigrant status, without any possibility of a waiver. Finally, H.R. 4970 would require that these applicants be referred to the FBI for criminal prosecution. Thus, an innocent mistake by a victim when completing the application could result in victims and their children being subject to expedited removal and permanently barred from the U.S. No other applicant for lawful status is treated as harshly or arbitrarily.
  
- **H.R. 4970 would unduly restrict U-visas and undermine the safety of our communities.** Currently, to obtain a U-visa (for victims of serious crime), a federal, state, or local law enforcement officer must certify that the applicant has, is, or is likely to be helpful in investigation or prosecuting the crime perpetrated against them.

  - The Judiciary Committee made minor improvements to Section 802 of H.R. 4970 by striking a provision that only victims who report the crime within 60 days are eligible for a U-visa.
  
  - However, H.R. 4970 would make current law far worse for victims. H.R. 4970 would require that the crime be under active investigation or prosecution at the time of certification. This arbitrary provision is extremely problematic for law enforcement agencies. U-visas are a law enforcement tool, meant to aid police and prosecutors in prosecuting perpetrators. Many law enforcement agencies choose to sign U-visa certifications only *after* the prosecution is complete. But under H.R. 4970, these victims would no longer be eligible for a U-visa. This provision would severely hamper prosecutors by taking away their flexibility to decide at what point in the process to provide a U-visa certification.
  
- **H.R. 4970 would deny victims the opportunity to apply for a green card. (Section 806)** In 2000, the “U” Visa was created as part of VAWA to encourage vulnerable victims of particularly serious crimes to come forward and report those crimes by removing the fear that they, rather than the perpetrator, will be deported. Under current law, U-visas are only temporary but U-visa holders are eligible to apply for a green card after three years. H.R. 4970 would roll-back U-visa protections by taking away the possibility of a green card. As a result, many victims will choose to remain silent, rather than risk deportation for only a temporary reprieve. When victims of crimes are afraid to go to the police, we are all less safe.