

Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. note	Handwritten notes (partial, DOB, SSN) (1 page)	00/00/0000	b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Irene Bueno
OA/Box Number: 17173

FOLDER TITLE:

Crime Bill: VAWA [Violence Against Women Act]/ Battered Women [1]

2017-1120-S

ry2224

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Irene Bueno


 06/16/99 02:56:36 PM

Record Type: Record

To: Ronald E. Jones/OMB/EOP@EOP
cc:
bcc: Records Management@EOP
Subject: Re: Crime Bill 

I spoke to Jose and I will be sending you the changes that I am proposing to the battered immigrant sections. Please confirm that your room number is 7128 NEOB. *(see attached)*.
Also, FYI is a note I wrote to Jose.
Thanks.

Irene Bueno
456-6558

Ronald E. Jones



Ronald E. Jones

06/11/99 09:29:05 AM

Record Type: Record

To: Irene Bueno/OPD/EOP@EOP
cc:
bcc:
Subject: Re: Crime Bill 

It's fairly late in the process, but if they are minor and they are improvements, i think we can get them in.
The pressure to transmit this quickly has faded.
Irene Bueno

Irene Bueno


 06/09/99 12:01:55 PM

Record Type: Record

To: Ronald E. Jones/OMB/EOP@EOP
cc:
Subject: Crime Bill

What's the status of the Crime bill?

Irene Bueno

06/09/99 06:00:27 PM

Record Type: Record

To: Jose Cerda III/OPD/EOP

cc: Leanne A. Shimabukuro/OPD/EOP, Mary L. Smith/OPD/EOP

Subject: Battered Immigrant provisions of the Crime bill

Wendy Patten of DOJ/VAWA office, INS staff and I attended a battered immigrant conference last weekend. During the discussions about problems battered immigrants are encountering and provisions of other pending battered immigration legislation, we thought that if there is still an opportunity that we should make some minor changes to the President's crime bill battered immigrant sections.

I do not want to slow the process of clearing the crime bill b/c I know how difficult it has been. However, I understand that the crime bill is still pending final clearance. I would appreciate your reviewing these minor modifications and consider its inclusion in the crime bill. My understanding is that DOJ is agreeable and they are checking with INS. I will bring you a copy but below is brief summary. *(see attached)*.

Please let me know if you are okay with adding this language. Thanks.

Irene

Brief Summary of the Modifications

(1) Currently, the bill that provides that changes in the abuser's status would not effect the battered immigrant's immigration's application where the abuser is denaturalizes, loses their legal permanent status, etc. The modification would simply add that the abuser's death would not effect the battered immigrant's application.

(2) Currently, the bill allows the AG to make a finding of "good moral character" - for a variety of immigration purposes - cancellation, suspension of deportation, etc. - if a battered immigrant is convicted of a crime that is connected with the abuse. The modification would add if the battered immigrant "committed, was arrested for..." a certain crime that is a result of the abuse, the AG may make a finding of "good moral character."

(3) Currently, we provide an option for battered immigrants to include their children in their application for suspension of deportation cases but omitted this option for newer cancellation of removal cases (formerly known as deportation).

(4) Currently, the bill allows an immigrant who is subject to child abuse to self-petition under VAWA to address situations where an immigrant as applies as an adult. The modification would allow the child of an immigrant who was subject of child abuse to be included in the immigrant 's self-petitioning application. There are not many cases but there have been some compelling cases.

(5) New section - this provision reduces the control an abuser has on an battered immigrant by allowing an battered immigrant to self-petition under VAWA even when the petitioner/abuser withdraws his own application or does not act on his application. There have been cases where the abusers have withdrawn

applications and turned in their battered immigrant spouse subjecting her to deportation. This provision provides that if INS receives credible evidence of battery or cruelty, the battered immigrant can self-petition regardless if abuser's application has been withdrawn or not acted upon.

Let me know if you have any questions. Thanks.

the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(4) for the fiscal year then current."

(5) EXCLUSIVE MEANS OF ADJUSTMENT. — Section 245(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255(c)(5)) is amended by striking "section 101(a)(15)(S);" and inserting "section 101(a)(15)(S) or (T);".

~~(6) EMPLOYMENT AUTHORIZATION FOR COOPERATING ALIEN~~

Delete
~~WITNESSES. Section 236(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1226(c)) is amended by adding at the end the following: "An alien released under this paragraph is not entitled to employment authorization, but such authorization may be provided under regulation by the Attorney General."~~

SEC. 5008. BATTERED IMMIGRANT WOMEN.

(a) FINDINGS. — Congress finds that—

(1) the goal of the immigration protections for battered immigrants included in the Violence Against Women Act of 1994 was to remove immigration laws as a barrier that kept battered immigrant women and children locked in abusive relationships;

(2) providing battered immigrant women and children who were experiencing domestic violence at home with protection against deportation allows them to obtain protection orders against their abusers and frees them to cooperate with law enforcement and prosecutors in criminal cases brought against their abusers and the abusers of their children; and

(3) there are several groups of battered immigrant women and children who do not have access to the immigration protections of the Violence Against Women Act of 1994, which means that

their abusers are virtually immune from prosecution because their victims can be deported and the Immigration and Naturalization Service cannot offer them protection no matter how compelling their case under existing law.

(b) PURPOSES.-The purposes of this section are-

(1) to promote criminal prosecutions of all persons who commit acts of battery or extreme cruelty against immigrant women and children;

(2) to offer protection against domestic violence occurring in family and intimate relationships that are covered in State or tribal protection order, domestic violence, and family law statutes; and

(3) to correct erosions of Violence Against Women Act immigration protections that occurred as a result of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

(c) EFFECT OF CHANGES IN ABUSERS' CITIZENSHIP STATUS. --- (1) Section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)) is amended by adding at the end the following new clause:

✓ “(v) For the purposes of any petition filed under clause (iii), (iv) or (vii) of section 204(a)(1)(A), denaturalization, loss^{death} or renunciation, or changes to the abuser's citizenship status after filing of the petition shall not preclude the classification of the eligible self-petitioning spouse, child, son or daughter as an immediate relative.”.

(2) Section 204(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)) is amended by adding at the end the following new clause:

✓ " (iv)(I) For the purposes of petitions filed or approved under clause (ii), (iii), or (vi) of section 204(a)(1)(B), loss of lawful permanent residence status by a spouse or parent ^{or death of the lawful permanent} after the filing of a petition under that clause shall not preclude approval of the petition, and, for an approved petition, shall not ^{resident spouse or parent} affect the alien's ability to adjust status under section 245(a) and (c) or obtain status as a lawful permanent resident based on the approved self-petition under clauses (ii), (iii) or (vi).

"(II) Upon the lawful permanent resident spouse or parent becoming a United States citizen through naturalization, acquisition of citizenship, or other means, any petition filed with the Immigration and Naturalization Service and pending or approved under section 204(a)(1)(B)(ii), (iii), or (vi) on behalf of an alien who has been battered or subjected to extreme cruelty may be deemed to be a petition filed under section 204(a)(1)(A) of this Act even if the acquisition of citizenship occurs after divorce."

(3) Section 201(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C.

1154(b)(2)(A)) is amended by adding at the end the following sentence:

"For purposes of this definition, an alien who has filed a petition under clause (iii), (iv) or (vii) of section 204(a)(1)(A) of this Act remains an immediate relative in the event that the United States Citizen spouse or parent loses United States citizenship ^{or dies} after filing the petition."

(d) DETERMINATIONS OF GOOD MORAL CHARACTER. —

(1) CANCELLATIONS OF REMOVAL; SUSPENSIONS OF DEPORTATION. —

-- Section 240A(b) of the Immigration and Nationality Act (8 U.S.C. 1229b) is amended by adding at the end the following:

"(4) GOOD MORAL CHARACTER DETERMINATION.—

"(A) IN GENERAL.-For the purposes of making "good moral character"

determinations under this paragraph, the Attorney General is not limited by the criminal court record and may make a finding of good moral character, notwithstanding the existence of a disqualifying criminal act or criminal conviction, when police reports, court documents, or other contemporaneous evidence demonstrate that the alien has been battered or subjected to extreme cruelty. This provision shall apply only in the case of an alien who otherwise qualifies for relief under section 240A(b), but who —

~~committed, was arrested for,~~
"(i) has been convicted of, or who pled guilty to, violating a court order issued to

protect the alien; or

~~committed, was arrested for,~~
"(ii) was convicted of, or pled guilty to, prostitution, if the alien was forced into

prostitution by an abuser; or

~~committed, was arrested for~~
"(iii) was convicted of or pled guilty to committing a crime where there was a connection between the commission of the crime and the alien's having been

battered or subjected to extreme cruelty; or

~~committed, was arrested for~~
"(iv) was convicted of or pled guilty to a domestic violence-related crime if the

Attorney General determines that the alien acted in self-defense.

"(5) INCLUSION OF OTHER ALIENS IN PETITION. --- An alien applying for relief under section 244(a)(3) (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) or this subsection may include-

"(A) the alien's children in the alien's application, if such children are physically present in the United States at the time of the application, and, if the alien is found eligible for suspension, the Attorney General may adjust the status of the alien's children; or

✓
" (B) the alien's parent ^{or child} in the alien child's application in the case of an application filed by an alien child who was abused by a citizen or lawful permanent resident parent and, if the alien is found eligible for suspension, the Attorney General may adjust the status of both the alien child applicant and the alien's parent ^{or child}.

Insert in (c) attached page
(7) ~~(D)~~ DETERMINATIONS UNDER SUSPENSION OF DEPORTATION.---

(7) "(A) IN GENERAL. --- For the purposes of making good moral character determinations under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), the Attorney General is not limited by the criminal court record and may make a finding of good moral character, notwithstanding the existence of a disqualifying criminal act or criminal conviction, when police reports, court documents, or other contemporaneous evidence demonstrate that the alien has been battered or subjected to extreme cruelty. This provision shall apply only in the case of an alien who otherwise qualifies for relief under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), and who —

committed, was arrested for,
"(i) has been convicted of, or who pled guilty to, violating a court, order issued

to protect the alien;

committed, was arrested for,
"(ii) has been convicted of, or who pled guilty to, prostitution if the alien was

forced into prostitution by an abuser;

1 “(v) the removal would result in extreme
2 hardship to the alien, the alien's child, or the
3 alien's parent.

4 In acting on applications under this paragraph, the
5 Attorney General shall consider any credible evi-
6 dence relevant to the application. The determination
7 of what evidence is credible and the weight to be
8 given that evidence shall be within the sole discretion
9 of the Attorney General. For aliens who entered the
10 country on fiance visas failure to marry the sponsor,
11 or failure to marry the sponsor within 90 days as re-
12 quired under section 101(a)(15)(K) shall not bar ac-
13 cess to relief under this section to aliens who other-
14 wise qualify.

15 (6) ← ~~(A)~~ INCLUSION OF OTHER ALIENS IN
16 CANCELLATION OF REMOVAL APPLICATIONS.—

17 An alien applying for relief under ~~this~~ section
18 may include—

19 ~~(A)~~ ~~(6)~~ the alien's children, ~~sons, or~~
20 ~~daughters~~ in the alien's application and, if
21 the alien is found eligible for cancellation,
22 the Attorney General may adjust the sta-
23 tus of the alien's children, ~~sons, daughters,~~
24 or

1 “(ii) the alien’s parent^{or child} in the alien
2 child’s (as defined in section 101(b)(1)(G))
3 application in the case of an application
4 filed by an alien who was abused by a citi-
5 zen or lawful permanent resident parent
6 and, if the alien child is found eligible for
7 cancellation, the Attorney General may ad-
8 just the status of ~~both~~ the alien child ap-
9 plicant ~~and the alien child’s parent.~~ ~~and the alien~~ ~~child.~~

10 “(B) INCLUSION OF OTHER ALIENS IN
11 ~~SUSPENSION OF DEPORTATION APPLICA-~~
12 ~~TIONS.—An alien applying for relief under sec-~~
13 ~~tion 244(a)(8) (as in effect before the date of~~
14 ~~the enactment of Illegal Immigration Reform~~
15 ~~and Immigrant Responsibility Act of 1996) may~~
16 ~~include—~~

17 “(i) the alien’s children, sons, or
18 daughters in the alien ~~child’s~~ application
19 and, if the alien is found eligible for sus-
20 pension, the Attorney General may adjust
21 the status of the alien’s children, sons, or
22 daughters, or

23 “(ii) the alien’s parent^{or child} in the alien
24 child’s (as defined in section 101(b)(1)(G))
25 application in the case of an application

committed, was arrested for
“(iii) has been convicted of, or pled guilty to committing where there was a

connection between the commission of the crime and the alien's having been battered or
subjected to extreme cruelty; or

committed, was arrested for
“(iv) was convicted of, or pled guilty to, a domestic violence-related crime if the

Attorney General determines that the alien acted in self-defense.

(2) IMMEDIATE RELATIVE STATUS.--- Section 204(a)(1)(A) of

the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)) is amended by adding at the end the
following new clause:

“(vi)(I) For the purposes of making good moral character determinations under this
subparagraph, the Attorney General is not limited by the criminal court record and may, in her sole and
unreviewable discretion, make a finding of good moral character, notwithstanding the existence of a
disqualifying criminal act or criminal conviction, when police reports, court documents, or other
contemporaneous evidence demonstrate that the alien has been battered or subjected to extreme cruelty.
This provision shall apply only in the case of an alien who otherwise qualifies for relief under section
204(a)(1)(A)(iii), (iv) or (vii), and who —

committed, was arrested for
“(aa) ^Nhas been convicted of, or who pled guilty to, violating a court order issued to

protect the alien;

committed, was arrested for
“(bb) ^Nwas convicted of or pled guilty to, prostitution if the alien was forced into

prostitution by an abuser;

committed, was arrested for,
“(cc) ~~was~~ convicted of, or pled guilty to, committing a crime where there was a connection between the commission of the crime and the alien’s having been battered or subjected to extreme cruelty; or
committed, was arrested for,
“(dd) ~~was~~ convicted of, or pled guilty to, a domestic violence-related crime, if the Attorney General determines that the alien acted in self-defense.”

(3) SECOND PREFERENCE IMMIGRATION STATUS— Section 204(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)) is amended by inserting after clause (iv) the following:

“(v)(I) For the purposes of making good moral character determinations under this subparagraph, the Attorney General is not limited by the criminal court record and may, in her sole and unreviewable discretion, make a finding of good moral character, notwithstanding the existence of a disqualifying criminal act or criminal conviction, when police reports, court documents, or other contemporaneous evidence demonstrate that the alien has been battered or subjected to extreme cruelty. This provision shall apply only in the case of an alien who otherwise qualifies for relief under section 204(a)(1)(B)(ii), (iii) or (vi), and who —

committed, was arrested for,
“(aa) ~~has~~ been convicted of, or who pled guilty to, violating a court order issued to protect the alien;

committed, was arrested for,
“(bb) ~~was~~ convicted of, or pled guilty to, prostitution where the alien was forced into prostitution by an abuser;

committed, was arrested for
“(cc) was convicted of, or pled guilty to, committing a crime where there was a
connection between the commission of the crime and the alien’s having been battered or
subjected to extreme cruelty; or
committed, was arrested for
“(dd) was convicted of, or pled guilty to, a domestic violence-related crime, if
the Attorney General determines that the alien acted in self-defense.”.

(e) WAIVERS OF INADMISSIBILITY. —

(1) DISCRETIONARY WAIVERS FOR CERTAIN INADMISSIBILITY AND REMOVAL
GROUNDS. — Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by
adding at the end the following:

“(r) WAIVER OF SECTION 212. — The Attorney General, in the Attorney General’s sole
and unreviewable discretion, may waive any provision of section 212 (other than paragraphs (3),
(10)(A), (10)(D), and (10)(E) of subsection (a)) for humanitarian purposes, to assure family unity, or
when it is otherwise in the public interest, if the alien demonstrates a connection between the crime or
disqualifying act and battery or extreme cruelty and the alien qualifies for —

“(1) status under clause (iii), (iv) or (vii) of section 204(a)(1)(A) or classification under
clause (ii), (iii) or (vi) of section 204(a)(1)(B); or

“(2) relief under section 240A(b)(2) or 244(a)(3) (as in effect before the enactment of
the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).”.

(2) CONFORMING AMENDMENTS. — (A) Section 212(a)(6)(A)(ii) of the Immigration
and Nationality Act (8 U.S.C. 1182) is amended by striking subclause (ii); and

(B) Section 212(a)(9)(B)(iii) of the Immigration and Nationality Act is amended by striking subclause (IV).

(f) WAIVER OF CERTAIN REMOVAL GROUNDS. — Section 237(a)(2)(E) of the Immigration and Nationality Act (8U.S.C. 1227(a)(2)(E)) is amended by inserting at the end the following new clause:

“(iii) WAIVER.—The Attorney General may waive the application of clauses (i) and (ii)-

“(I) upon determination that-

“(aa) the alien was acting in self-defense,

“(bb) the alien was not the primary perpetrator of violence in the relationship,

“(cc) the alien was found to have violated a protection order intended to protect the alien, or

“(dd) the alien committed, ^{was arrested for} was convicted of, or plead guilty to committing a crime where there was a connection between the crime and having been battered or subjected to extreme cruelty, or

“(II) for humanitarian purposes.

“(III) such waiver shall not be available if the alien was the primary perpetrator of violence in the relationship.”.

(g) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—

(1) DEFINITION. --- Section 101(a)(35) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(35)) is amended by adding at the end the following: "For the purposes of a self-petition under section 204(a)(1)(A)(iii) or (vii) or 204(a)(1)(B)(ii) or (vi), cancellation of removal under 240A(b)(2), or suspension of deportation under section 244(a)(3) of the Act (as in effect before the Title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), the term 'spouse' shall include a United States citizen or lawful permanent resident to whom the alien believed he or she had married and with whom a marriage ceremony was actually performed, and who otherwise meets any applicable requirements under the Act to establish the existence and bona fides of a marriage, but whose marriage is not legitimate solely because of the United States citizen or lawful permanent resident's bigamy."

(2) CONFORMING AMENDMENTS. — Sections 204(a)(1)(A)(iii) and (vii), 204(a)(1)(B)(ii) and (vi), 240A(b)(2)(A) and 244(a)(3) as in effect before the Title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Pub. L. No. 104-208, Div C, 110 Stat 3009-546, 3009-625 (8 U.S.C. 1101 note)) are amended by inserting after "spouse" the following clause: ", including a spouse defined under Section 101(a)(35),".

(3) SELF-PETITIONING CHILDREN OF CITIZENS.--- Section 204(a)(1)(A)(iv) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(iv)) is amended to read as follows:

"(iv) An alien who is the child of a citizen of the United States, who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and

who has resided with or had visitation in the United States with the citizen parent (or has resided with or had visitation within or outside the territory of the United States with the citizen parent at the assigned foreign duty station if the alien's parent is an employee of the Department of State or a member of the United States Uniformed Forces stationed abroad) may file a petition with the Attorney General under this subparagraph for classification of the alien ^(and any child of the alien) under such section upon such showing and during such period of residence or visitation with the citizen parent the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's citizen parent."

(4) SELF-PETITIONING CHILDREN OF LAWFUL PERMANENT RESIDENTS.---

Section 204(a)(1)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B) (iii) is amended to read as follows:

"(iii) An alien who is the child of an alien lawfully admitted for permanent residence, who is a person of good moral character, who is eligible for classification under section 203(a)(2)(A), and who has resided with or had visitation in the United States with the alien's permanent resident alien parent (or has resided with or had visitation within or outside the territory of the United States with the lawful permanent resident parent at the assigned foreign duty station if the alien's parent is an employee of the Department of State or a member of the United States Uniformed Forces stationed abroad) may file a petition with the Attorney General under this subparagraph for classification of the alien ^(and any child of the alien) under such section upon such showing and during such period of residence or visitation with the permanent resident parent the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's permanent resident parent."

(i) met the definition of child in subparagraphs (A) through (F) of this paragraph:

and

(ii) was under the age of 21 on the date the application or petition was filed.”.

(l) IMMEDIATE RELATIVE STATUS FOR SELF-PETITIONING SON OR DAUGHTER OF US CITIZEN — Section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)), as amended by subsection (d)(2) of this Act, is amended by adding at the end the following:

“(vii) An alien who is the son or daughter of a citizen of the United States, who is a person of good moral character, who is eligible for classification by reason of a relationship described in paragraph (1) of section 203(a), and who resides or has resided, including visitation, in the past with the citizen parent may file a petition with the Attorney General under this clause for classification of the alien under ^{(and any} such section if the alien demonstrates to the Attorney General that during the period of residence or ^{of the} visitation with the citizen parent the alien has been battered by, or has been the subject of extreme ^{alien)} cruelty perpetrated by, the alien’s citizen parent, and the battery or extreme cruelty occurred before the son or daughter reached the age of 21.”.

(m) SECOND PREFERENCE STATUS FOR SELF-PETITIONING SON OR DAUGHTER OF LAWFUL PERMANENT RESIDENT — Section 204(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(b)) is amended by adding at the end the following:

“(vi) An alien who is the son or daughter of lawful permanent resident of the United States, who is a person of good moral character, who is eligible for classification by reason of a relationship described in paragraph (2) of section 203(a), and who resides or has resided, including visitation, in the

1 citizen spouse or parent ^{loses} ~~loses~~ United States citizenship
 2 ^{or dies} after the filing of the petition."

3 (b) EXEMPTION FOR BATTERED IMMIGRANT WOMEN
 4 WHO ENTERED THE UNITED STATES ON FLANCE VISAS
 5 FROM CONDITIONAL RESIDENCY STATUS REQUIRE-
 6 MENT.—Section 245(d) of the Immigration and National-
 7 ity Act (8 U.S.C. 1255(d)) is amended by adding at the
 8 end the following: "This subsection shall not apply to
 9 aliens who seek adjustment of status on the basis of an
 10 approved self-petition under clause (iii), (iv), ^(v) ~~(v)~~, or (vi)
 11 of section 204(a)(1)(A) or classification under clause (ii),
 12 (iii), or (iv) of section 204(a)(1)(B)."

NEW
SECTION

13 (c) REDUCING AN ABUSERS ^{CONTROL OVER A} ~~BA~~ BATTERED IMMI-
 14 GRANT'S IMMIGRATION CASE.—Section 205 of the Immi-
 15 gration and Nationality Act is amended by adding at the
 16 end ~~the~~ following: ~~the~~ "When a beneficiary ^{of a petition} provides the ^{filed under} section 204
 17 Attorney General with credible evidence of battery or ex-
 18 treme cruelty as defined in sections 216(c)(4)(C) and
 19 204(a)(1)(A) or 204(a)(1)(B), the Attorney General shall
 20 adjudicate the application filed under section 204 even
 21 when the petitioner withdraws the petition, when the peti-
 22 tioner fails to appear at the interview, ^{when the petitioner has} or when the peti-
 23 tioner's actions could result ^{or resulted} in the revocation of the peti-
 24 tion."

you can delete
this if you
need it

failed to
file an
affidavit
of support

Irene: This is the section Karen wrote that
we did not ~~we did not~~ discuss the
affidavit of support with
JMS.



Wendy Patten <PATTENW @ ojp.usdoj.gov>
05/20/99 01:37:22 PM

Record Type: Record

To: Irene Bueno/OPD/EOP

cc:

Subject: Re: VAWA -Forwarded -Reply

Irene --

This is a quick response to your question because I am heading out to town shortly. I have not researched this carefully, but spoke briefly to Barbara Strack, who is herself under the gun with public charge matters, but relayed to me what she knew from conversations with others. Neither of us was responsible for drafting the work auth provision, so our information is not firsthand.

Barbara confirmed what I understood about the provision regarding work auth in sec. 3007. In fact, it does not apply to T-visa holders. INS apparently has discretion under existing law to grant work auth to T-visa holders, much like S-visa holders (e.g, the Thai workers in El Monte got S-visas with EADs).

This provision is designed to help INS work with aliens who may be criminally involved but who are cooperating witnesses and whom we need to keep around to assist in an investigation or testify at trial. As I understand it, our discretion to grant EAD's under existing law is not sufficiently broad to cover this group, yet they can be critical in investigating and prosecuting traffickers. Work auth both allows them to support themselves during their time of cooperation, rather than relying on the taxpayers to do so, and provides a little incentive for continued cooperation. The provision is designed to be wholly discretionary on INS's part.

This proposal originated in INS. Given that I am heading out in about 30 minutes to catch a plane to CA and will not be back til Wed or thurs, please contact Barbara Strack at 514-8860 if you have any further questions.

Hope this helps. Take care -- WLP

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. note	Handwritten notes (partial, DOB, SSN) (1 page)	00/00/0000	b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Irene Bueno
OA/Box Number: 17173

FOLDER TITLE:

Crime Bill: VAWA [Violence Against Women Act]/ Battered Women [1]

2017-1120-S
ry2224

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Reside Orloff 3/15

DOB

(b)(6)

SSN

(b)(6)

[001]

Bill

Agency qualified alien - HUD Paul Ojeda
Shelter will deny Eva Plaza

The issue

Qualified immig = VAWA group - OK
approved 1-80

§214 Housing Code - all old stuff
~~pro~~ provision, etc. but continue to rely on the
old law.
Working

Barred women ~~economic~~ Act - working w/ Wellstone
to work §214

Welfare Reform Act - short-term housing. ~~What's~~ ^{2 year} transitional
short-term - no guidance - ~~transitional~~
housing = short-term
~~What~~ want clean
Want out
North Carolina
Barred women
need to be
working

of undocumented women requirement - can this a
work plan - but can work.

- How can ~~un~~ deserved \$ to immigrant groups -
VAWA skip out \$

- Network mtg - June 3, 4, 5 in minn. - ~~mtg~~
mtg in House bill -

Leslie - 3/19/99

Not in ~~the~~ Biken ~~text~~
want Admin to write in

- Eliminate extreme hardship in self-petitioners^{only} - judges don't like.
30% denial rate b/c can't prove extreme hardship
Difficult pose (INS - Karen Fitzgerald & VAWA Liaison - Supra)

Kids

- (1) Kids who age out b/c turn 21. For purposes of VAWA if file on child as ~~child~~ - sexual predator of this (see cheeba)
- (2) allow derivative ~~child~~ children in cancellation -
- (3) adult sons + daughters in (incest cases) Abraham suggested

Waiver of Exception

- (1) Eliminate distinction - 4/1/97 - prior + after Abraham doesn't
Unlawful entry considered to abuse
INS only applies to reentry
But it ~~is~~ 2645(d) ~~applies~~ reformed ~~applies~~ ^{unlawful}
- (2) Bars inadmissible - exception - prior deportations
If VAWA, certain bars ~~can~~ should not apply
Biden - waiver opposed but think
- (3) Waiver of deportation grounds for battered immig who are convicted of battery

~~TOP~~

TOP - Restoration of VAWA

- ① ~~TOP~~ funding VAWA C. Lee applicants who are married to US cit.
Smith - pointed to as part of Sen. Budget last year.
- Wellstone, Ashcroft, etc

~~TOP~~ Smith ~~TOP~~ signed SB on country the train
+ removal cap

Motion to reopen

Admin to write in

Gender issues

- ① Effect to changes in abuses - Reg

Bigamy

Don't get proof of divorce + see cit 635(a) & other
area

Expire

Agly out

Restoration

Bigamy?

Legal Service

- * - allow LSC for ^{private} any alien who is within law of the state
not
- Use of LSC for agly who

~~Defense~~ + other co.
military spouses + children - abroad =

Elber Abuse +

Spouse restriction - ^{right} Lower priority -

~~Spouse~~

Spousal bill

① IIRIRA + Welfare - make better invig. public chx.

HUD

Ann up § 21.4

HUD?

Rg ~~let~~ guidance

NATIONAL TASK FORCE TO END VIOLENCE AGAINST WOMEN

NOW Legal Defense & Education Fund 119 Constitution Ave., NE., WDC 20002 (202) 544-4470 fax: 546-8605 E-mail: preuss@nowldefdc.org

April 22, 1999

Dear Representative:

We are writing to thank you for your past support for full funding of VAWA '94 domestic violence and sexual assault prevention programs. One out of every four American women reports that she has been physically abused by a husband or boyfriend at some point in her life. Forty percent of girls ages 14-17 report knowing someone their age that has been hit or beaten by a boyfriend. One out of every 6 women has been the victim of a rape or attempted rape in her lifetime. Violence against women, be it domestic violence or sexual assault, afflicts millions of women, children and men in this country. Your support for domestic violence and sexual assault prevention funding has enabled shelters, rape crisis centers, health care settings, schools, police forces and communities across the country to spearhead efforts to address and prevent violence against women in their communities. We hope that, as the FY 2000 appropriations cycle begins, we can count on your continued support.

We also recognize and applaud the Administration's strong commitment to domestic violence and sexual assault prevention. However, the President's budget request, which proposes roughly the same level of funding for these programs as last year, has a few areas which should be strengthened.

First, the Administration requests \$88.48 million for Family Violence Prevention and Services Act programs (FVPSA). FVPSA, which is administered by HHS, is the primary funding source for domestic violence shelters across the country. As women and children throughout the country continue to be turned away from shelters filled to capacity, advocates in the domestic violence community **urge you to fund shelters and services at a level of \$120 million.** In addition, we encourage you to support increased funding for the domestic violence hotline. The hotline is a national toll-free hotline that connects an average of 8,800 victims a month from across the country with shelter and services in their area, and serves them in their language of origin. The Administration recommends \$1.2 million for hotline services. **We urge you to consider increasing funding to \$1.8 million for FY 2000.**

HHS also administers vital funding for rape prevention and education. Funding for these programs has held strong at \$45 million for the past few years. Rape crisis centers and sexual assault programs throughout the nation use this critical funding to conduct education and prevention programs in schools as well as community outreach about

sexual assault prevention and services. With the majority of rapes nationwide being perpetrated against young women and girls, this funding is an indispensable tool for keeping women and girls safe from sexual violence. H.R. 357, VAWA '99, advocates an authorization of \$80 million for rape prevention programs. While we understand that funding is tight, **we encourage the Committee to recommend an increase for these programs.**

Second, several grant programs authorized under the Violence Against Women Act have been vital to improving police and court responses to domestic violence. The Administration has requested \$157.354 million in Grants to Combat Violence Against Women (STOP Grants) and \$25 million in Rural Domestic Violence and Child Abuse Grants, respectively. **We encourage you to support full funding for STOP grants (\$174 million) and \$35 million for rural grants.** Additionally, an equally important program, Grants to Encourage Arrest Policies, was inexplicably cut in the last year from \$59 million in FY 98 to \$34 million in FY 99. The Administration is requesting \$34 million again for this program. **We urge a funding level of \$63 million for this key law enforcement program.**

Congress last year allocated \$23 million for civil legal assistance programs for battered women, an increase of \$13 million. These programs provide the essential legal services that make it possible for victims of domestic violence to obtain safety and security for themselves and their children. By funding this program last year, Congress has directly tackled an often insurmountable hurdle in the road to freedom from violence for battered women. The administration's request decreases the program to \$18 million. **We urge you to continue support for this program at current levels.**

Finally, the National Taskforce to End Violence Against Women represents a coalition of 2,500 national and local grass roots organizations and individuals dedicated to the elimination of violence against women. This coalition includes both domestic violence and sexual assault groups. We support the work of both the sexual assault and domestic violence communities and feel strongly that full funding for work in both areas is vitally important to the health and safety of women and girls.

Thank you again for your support in the past for domestic violence and sexual assault prevention programs. Due in large part to the Appropriations Committee's efforts, communities all across the nation have put in place law enforcement, intervention, support, and advocacy services that are desperately needed. We hope that we can continue to count on your support.

If you have questions about our appropriations request or about any of the Violence Against Women initiatives currently before Congress, please contact Pat Reuss of the NOW Legal Defense and Education Fund (202-544-4470), Lisa Moreno of the Family Violence Prevention Fund (202-624-9470) or Juley Fulcher of the National Coalition Against Domestic Violence (202-544-7358).

VIOLENCE AGAINST WOMEN PROGRAM FUNDING

Commerce, Justice, State (expressed in millions)

	FY '98 Apps.	FY '99 Admin. Req.	FY '99 Apps.	FY '00 Admin. Req.	H.R. 357	Taskforce Req. FY '00
Child Abuse						
-CASA	7	7	9	9	10	10
-Judicial Training	2	2	2	2	2.3	2.3
-Televised Testimony	1	1	1	1	1	1
Grants to Encourage Arrest Policies	59	59	34	34	63	63
Rural Domestic Violence	25	25	25	25	35	35
STOP Grants	160	160	157.354	157.354	174	174
Training (Sex Offender)	2	2	10	5	n/a	5
Domestic Violence and Stalker Reduction	2.75	2.75	0	0	n/a	0
Research and Evaluation	7	7	5.2	10.2	14.7	10.2
Civil Legal Assistance	12	12	23	18	25	23
District of Columbia	.853	.853	1.196	1.196	n/a	1.196
Campus Violence Grants	0	0	10	10	n/a	10
DOJ Total	278.603	278.603	277.75	272.75	325	334.696

Labor, HHS, Education (expressed in millions)

FVPSA Programs/Shelters	86.8	88.8	88.8	88.8	120	120
Nat'l DV Hotline	1.2	1.2	1.2	1.2	1.6	1.8
Rape Prevention/Educ.	45	36.945	45	45	80	80
CDC Community Initiatives	0	0	6	6	6	6
HHS Total	133	126.945	141	141	207.6	207.8

Produced by the Family Violence Prevention Fund 4/99

For additional information, please contact:

Lisa Moreno, Family Violence Prevention Fund (202) 624-9470
 Juley Fulcher, National Coalition Against Domestic Violence (202) 544-7358
 Pat Reuss, NOW Legal Defense and Education Fund (202) 544-4470

To Irene Bueno DPC 456-7028
From Leslie Olliff
5/11/99

I'm off to the plane. Here is
the chart I promised you.
Hope this helps. Thanks for your
help in this.

Leslie



BATTERED IMMIGRANT WOMEN LEGISLATION 2/14/99

S. 51 Violence Against Women Act of 1999 (Senate)
 S. 245 Violence Against Women Act of 1999 (Senate - Hatch)
 H.R. 357 Violence Against Women Act II of 1999 (House)

Provision (as introduced in Congress)	SECTION AMENDED	SENATE S. 51	SENATE S. 245	BWESA	HOUSE H.R. 357	SCHAKOWSKY/ JACKSON-LEE
VAWA Restoration Act					631	
Adjustment of status for VAWA self-petitioners - 245(i) fix (S.245 requires payment of \$1,000 fee)	245(a)&(c)	208(h)	203(a)(1)		631(b) 223-224	3(a) 4-5
3 Year tolling provisions under cancellation & suspension	240A(d) & 309(c)(5) of IIRAIRA	208(j)	203(b)		631(c)(1)	3(b)(1) 5-6 3(b)(4) 7
Exemption from the cancellation of removal cap	240A(e)(3)	208(j)	203(b)		631(c)(2) 224-225	3(b)(2) 6-7
Remove time limits from motions to reopen	240(c)(6)(C) 242(B)(c)(3) pre IIRAIRA law	208(l)	203(c)		631(d) 226-227	3(c) 8-11
Remedying Problems with VAWA Implementation					632	
Effect of changes in abuser's citizenship status on self-petition	204(a)(1)(A) 204(a)(1)(B) 201(b)(2)(A)	208(c)			632(a) 229-230	4(a) 11-13
Exempt Fiancees from conditional residency requirement	245(d)				632(b) 230-231	4(b) 13
Access to INS information on abuser's status	5U.S.C.552a(b)				632(c) 231-232	
Requiring adjudication of the 1-130 without the abuser and preventing the 1-130 from being withdrawn in cases of battering or extreme cruelty	205					4(c) 13-14

Requiring prosecutor cooperation about on abuser's status	2101 VAWA Crime Bill				632(d) 232-233	4(d) 15
Waivers and Exceptions to Inadmissibility for VAWA Eligible Applicants					633	
General discretionary waiver for certain inadmissibility grounds (does not include security and related grounds, polygamists, unlawful voters, & tax evaders)	212	208(e)(1)			633(a)(1) 233-234	5(a) 15-16
Single marijuana offense waiver for domestic violence victims		208(e)(2)				
General Criminal and Related Grounds Exception (includes crimes of moral turpitude, multiple criminal convictions, & prostitution)		208(e)(3)				
Delete substantial connection b/w abuse & unlawful entry for EWIs	212(a)(6)(A)(II)				633(b)(1) 234	5(b)(1) 16-17
Exception from inadmissibility for prior deportation	212(a)(9)(III)				633(b)(2) 234	5(b)(2) 17
Delete substantial connection b/w abuse & visa violation	212(a)(8)(B)(III)(IV)				633(b)(3) 234	5(b)(3) 17
Exception for VAWA applicants who reenter a 2d time illegally or previously deported	212(a)(9)(C)(II)				633(b)(4) 235	5(b)(4) 17-18
Waiver of deportation ground for VAWA applicants with domestic violence convictions who acted in self-defense or under duress § 237	237(a)(2)(E)	208(f)		252	633(b)(5) 235-236	5(b)(5) 18
Calculation of Physical Presence in VAWA Cancellation of Removal and Suspension of Deportation					634	
Waiver for 90/180 days continuous presence for cancellation cases	240A(d)(2)	208(j)(1)			634(a) 236-237	6(a) 19

Waiver for brief, casual, innocent requirement for absences for suspension of deportation cases	244(a)(3) pre IIRAIRA law	208(j)(2)			634(b) 237	6(b) 19-20
Improved Access to VAWA for Battered Immigrant Women					635	
Definition of intended spouse: includes bigamy provided that a marriage ceremony was performed	101(a)adds new (50)	208(g)(1) 208(g)(2) (B)			635(a) 238	7(a) 20
Grant access to VAWA for child applicants who turn 21 and children who age-out of their parent's self-petition	101(b)(1)			253	635(b) 238-239	7(b) 20-21
Immediate Relative Status for self-petitioners married to USCs: - deletes residence in US requirement - deletes extreme hardship requirement - includes spouses of bigamists	204(a)(1)(A)(III)	208(g)(2) (A)- Military/ State Depart only			635(c)(1) (A) 239-241	7(c) 21-23
Extend VAWA self-petitioning to victims who file w/in 2 years of divorce from a USC	204(a)(1)(A)(III)				635(c)(1) (B) 240-241	7(c) 21-23
Extend VAWA self-petitioning to those women who were brought on fiancé visas and their abusers failed to marry them	204(a)(1)(A)(III) 101(a)(15)(k)				635(c)(2) 241	7(c)(2) 24
Immediate Relative Status for self-petitioning children of USCs: - deletes residence in US requirement - deletes extreme hardship requirement - allows a child filing under 21 to remain a child after turning 21 y/o.	204(a)(1)(A)(iv)	208(g)(2) (C)- Military/ State Depart. Only & no kids provision		254 kids provision only	635(c)(3) 241-242	7(c)(3) 24-25
Extend VAWA self-petitioning to parents of USCs who are immigrant victims of elder abuse	204(a)(1)(A) new (v)				635(c)(4) 242-243	7(c)(4) 25
Extend VAWA to sons & daughters of USCs over 21 y/o provided abuse happened when under 21	204(a)(1)(A) new (vi)				635(c)(5) 243	7(c)(5) 25-26

Allow VAWA to self-petitioners married to or the child of USCs living abroad to file for VAWA while living abroad, cases go to Vermont	204(a)(1)(A) new (vii)				635(c)(6) 243-244	7(c)(6) 26
Extend VAWA self-petitioning to applicants abroad who are married to or are the children of USC members of the armed forces and State Department		208(g)(2) (D)				
2d Preference Status for self-petitioners married to LPRs - deletes residence in US requirement - deletes extreme hardship requirement - includes spouses of bigamists	204(a)(1)(B)(ii)	208(g)(3) (A)			635(d)(1) 244-246	7(d) 26-29
Extend VAWA self-petitioning to victims who file w/in 2 years of divorce from an LPR	204(a)(1)(B)(iii)				635(d)(2) 246	7(d)(1-2) 28
2d preference status for self-petitioning children of LPRs: - deletes residence in US requirement - deletes extreme hardship requirement - allows a child filing under 21 to remain a child after turning 21 y/o	204(a)(1)(B)(iii)	208(g)(3) (C) No kids prov., military and state dept only		255, kids part only	635(d)(3) 246-247	7(d)(3) 29-30
Extend VAWA to sons and daughters of LPRs who are over 21 y/o	204(a)(1)(B) new (vi)				635(d)(4) 237-248	7(d)(4) 30
Allow filing for VAWA to self-petitioners married to or the child of LPRs living abroad with cases handled in Vermont	204(a)(1)(B) new (viii)				635(d)(5) 248	7(d)(5) 30-31
Extend VAWA self-petitioning to applicants abroad who are married to or are the children of LPR members of the armed forces and State Department		208(g)(3) (D)				
Continued derivative status for children who turn 21 after the self-petition is filed	203(d)			256	635(d)(6) 248	7(d)(6) 31

Improved Access to VAWA Cancellation of Removal					636	
Extend VAWA cancellation to immigrant victims of elder abuse, sons and daughters abused when under the age of 21 and spouses of bigamists	240A(b)(2)				636(a) 248-251	8(a) 31-34
Derivative children, sons, daughters, & parents (in the case of a child applicant) in VAWA Cancellation and Suspension	244(a)(3) pre IIRAIRA 240A(b)(2)	208(d)(1)		257	636(a) 251-252	8(a)&(c) 34-35
Good Moral Character Determinations					637	
Discretionary Waiver for Good Moral Character Determination for Self-petitioning immediate relatives	204(a)(1)(A) new (x)	208(d)(2)			637(a) 252-254	9(a) 35-37
Discretionary Waiver for Good Moral Character Determinations for second-preference self-petitioners	204(a)(1)(B) new (vii)	208(d)(3)			637(b) 254-256	9(a) 37-38
Discretionary Waiver for Good Moral Character Determinations for VAWA cancellation	240A(b)(2) new addition	208(d)(1)			637(c) 256-257	9(a) 38-40
Discretionary Waiver for Good Moral Character Determinations for VAWA suspension of deportation	244(a)(3) pre IIRAIRA	208(d)(1)			637(d) 257-260	9(d) 40-42
Battered Immigrant Women's Economic Security Act					638	
Exemption from deeming requirements	42 USC 608(E)(6)			258	638(a) 259-260	10(a) 42
Discretionary waiver for domestic violence offenders paying child support	237(a)(2)(E)			259	638(b) 260-263	10(b) 42-46
Misrepresentation waivers	212(i) 237(a)(1)(H)			260	638(c) 236	5(b)(6) 18.5

Discretionary waiver for VAWA applicants making false claims of citizenship	237(a)(3)(D)			260	638(c) 238	5(b)(6)(B) 18.5
Public charge exception for VAWA applicants	212(a)(4)	208(k)		261	638(d) 265-266	10(c) 48-49
Access to naturalization for divorced VAWA approved applicants	319(a)			262	638(e) 266-267	10(d) 49
Access to work authorization					638(f)	
Elimination of VAWA filing and processing fees	240A(b)(2) 204(a)(A)(iii) (I) 244(a)(3) pre IIRAIRA			263	638(g) 267-269	10(e) 50-51
Access to Food Stamps and SSI for battered qualified aliens	7 USC 2016 402(a)(2) PRWORA			264	638(h) 269	10(k) 56-57 10(f) 51-52
Elimination of 5 year bar for qualified alien battered immigrants	403(b) PRWORA			265	638(i) 274	10(g) 52
Access to housing for VAWA battered qualified aliens	214 Housing Law 42 USC 1436a			266	638(i) 269-270	10(h) 52-53
Clarify welfare reporting requirements	42 USC 611(a)(10) 42 USC 1383(e)(9)(A)			267	638(j) 270-271	10(i) 53-54
Conform definition of "family" used in laws granting welfare access for battered immigrants to state family law	431(c) PRWORA			268	638(k) 271-273	10(j) 54-55
Ensuring VAWA applicants continued receipt of SSI or Food Stamp benefits using their abusive spouse's 40 quarters despite divorce	435 PRWORA			269	638(l) 273-274	10(k)(1) 55-56
Technical correction in IIRAIRA regarding qualified alien definition for battered immigrants	431(c)(l)(B) PRWORA			270	638(m) 274-275	10(m) 57-58

Access to Legal Services Corporation Funds					639	
Access to legal services with non-LSC funds for any abuse victim	502 CJS Approps 1998			271	639(a) 275-276	11(1) 58-59
Access to LSC funds for VAWA cases	502 CJS Approps 1998			271	639(a) 275-276	11(2) 59
VAWA Training for INS Officers, Immigration Judges, Civil and Criminal Court Justice System Personnel					640	
VAWA training for INS officers, asylum officers, state or federal immigration judges, and military personnel	42 USC 3711 Sec. 2006	208(l)			640(a) 276-278	12(a) 59-61
Clarify that police, judges, and prosecutors are not required to inquire into or report the immigration status of the crime victim	287(g)	208(l)(3)			640(b) 278-279	12(b) 61-62
INS report to Congress on processing of VAWA cases	Report to Congress	208(m)			640(c) 279-280	12(c) 62-63
Protection for Certain Victims of Crimes Against Women					641	
Adjustment of Status for Certain Victims of Crimes	101(a)(27) new (m) 245 new Section				641(b) 280-283	13(a) 63-66 13(b) 66
Cancellation of Removal for Certain Victims of Crimes	240A(b) new (3)				641(c) 283-284	13(c) 66-67



BATTERED IMMIGRANT WOMEN LEGISLATION

2/14/99

S. 51
S. 245
H.R. 357

Violence Against Women Act of 1999 (Senate)
Violence Against Women Act of 1999 (Senate - Hatch)
Violence Against Women Act II of 1999 (House)

Provision (as introduced in Congress)	SENATE S. 51	SENATE S. 245	HOUSE H.R. 357
VAWA Restoration Act			631
* Adjustment of status for VAWA self-petitioners - 245(i) fix (S.245 requires payment of \$1,000 fee) ✓	208(h)	203(a)(1)	631(b)
* 3 Year tolling provisions under cancellation & suspension ✓	208(j)	203(b)	631(c)(1)
↓ Exemption from the cancellation of removal cap ✓	208(j)	203(b)	631(c)(2)
↑ Remove time limits from motions to reopen ✓	208(l)	203(c)	631(d)
Remedying Problems with VAWA Implementation			632
* Effect of changes in abuser's citizenship status on self-petition ✓ <i>check INS</i>	208(c)		632(a)
Exempt Fiancees from conditional residency requirement			632(b)
↑ Access to INS information on abuser's status			632(c)
Requiring prosecutor cooperation about on abuser's status			632(d)
Waivers and Exceptions to Inadmissibility for VAWA Eligible Applicants			633
* General discretionary waiver for certain inadmissibility grounds (does not include security and related grounds, polygamists, unlawful voters, & tax evaders) - <i>women who commit serious crimes</i> ✓	208(e)(1)		633(a)(1)
Single marijuana offense waiver for domestic violence victims	208(e)(2)		
General Criminal and Related Grounds Exception (includes crimes of moral turpitude, multiple criminal convictions, & prostitution)	208(e)(3)		
Crime of moral turpitude waiver of inadmissibility			
Delete substantial connection b/w abuse & unlawful entry for EWIs <i>in Adm'r's bill</i>			633(b)(1)
Exception from inadmissibility for prior deportation ✓	✓		633(b)(2)
Delete substantial connection b/w abuse & visa violation ✓	✓		633(b)(3)
Exception for VAWA applicants who reenter a 2d time illegally or previously deported			633(b)(4)
Waiver for students who violated visa terms due to abuse			
Use of alcohol or illicit substances waiver if substantially connected to the domestic violence			
* Waiver of deportation ground for VAWA applicants with domestic violence convictions who acted in self-defense or under duress § 237 ✓	208(f)		633(b)(5)

Calculation of Physical Presence in VAWA Cancellation of Removal and Suspension of Deportation			634
✱ Waiver for 90/180 days continuous presence for cancellation cases ✓	208(j)(1)		634(a)
Waiver for brief, casual, innocent requirement for absences for suspension of deportation cases ✓	208(j)(2)		634(b)
Improved Access to VAWA for Battered Immigrant Women			635
✱ Definition of intended spouse: includes bigamy ✓	208(g)(1) 208(g)(2)(B)		635(a)
● Grant access to VAWA for child applicants who turn 21 and children who age-out of their parent's self-petition - <i>change l.f. to children</i>			635(b)
✱ Immediate Relative Status for self-petitioners married to USC's: - deletes residence in US requirement (H.R. 357 only) - deletes extreme hardship requirement - includes spouses of bigamists ✓	208(g)(2)(A)		635(c)(1)(A)
✱ Extend VAWA self-petitioning to victims who file w/in 2 years of divorce from a USC			635(c)(1)(B)
Extend VAWA self-petitioning to those women who were brought on fiancé visas and their abusers failed to marry them			635(c)(2)
● Immediate Relative Status for self-petitioning children of USC's: - deletes residence in US requirement (H.R. 357 only) - deletes extreme hardship requirement - allows a child filing under 21 to remain a child after turning 21 y/o. (H.R. 357 only) ✓	208(g)(2)(C)		635(c)(3)
Extend VAWA self-petitioning to parents of USC's who are immigrant victims of elder abuse			635(c)(4)
2 Extend VAWA to sons & daughters of USC's over 21 y/o ? IAB			635(c)(5)
✓ Extend VAWA to self-petitioners married to or the child of USC's living abroad			635(c)(6)
✱ Extend VAWA self-petitioning to applicants abroad who are married to or are the children of USC members of the armed forces and State Department ? (Abraham Liker)	208(g)(2)(D)		
2d Preference Status for self-petitioners married to LPRs: - deletes residence in US requirement (H.R. 357 only) - deletes extreme hardship requirement - includes spouses of bigamists ✓	208(g)(3)(A)		635(d)(1)
Extend VAWA self-petitioning to victims who file w/in 2 years of divorce from an LPR			635(d)(2)
● 2d preference status for self-petitioning children of LPRs: - deletes residence in US requirement (H.R. 357 only) - deletes extreme hardship requirement - allows a child filing under 21 to remain a child after turning 21 y/o IAB ✓	208(g)(3)(C)		635(d)(3)

Extend VAWA to sons and daughters of LPRs who are over 21 y/o			635(d)(4)
Extend VAWA to self-petitioners married to or the child of LPRs living abroad			635(d)(5)
Extend VAWA self-petitioning to applicants abroad who are married to or are the children of LPR members of the armed forces and State Department	208(g)(3)(D)		
Continued derivative status for children who turn 21 after the self-petition is filed			635(d)(6)
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Access to work authorization			638(f)
Elimination of VAWA filing and processing fees			638(g)
Access to Food Stamps and SSI for battered qualified aliens			638(h)
Access to housing for VAWA battered qualified aliens §214			638(i)
Clarify welfare reporting requirements			638(j)
Conform definition of "family" used in laws granting welfare access for battered immigrants to state family law			638(k)

Restrictions apply to VAWA

§31(c) battered only, children + battered by child

5 year bar except for VAWA

Direct SSI, Medicaid

af

Conform definition of "family" used in VAWA inadmissibility exception to state domestic violence laws			
Ensuring VAWA applicants continued receipt of SSI or Food Stamp benefits using their abusive spouse's 40 quarters despite divorce			638(l)
Technical correction in IIRAIRA regarding qualified alien definition for battered immigrants			638(m)
Access to Legal Services Corporation Funds			639
Access to legal services with non-LSC funds for any abuse victim	In Admin bill.		639(a)
Access to LSC funds for VAWA cases	"		639(a)
VAWA Training for INS Officers, Immigration Judges, Civil and Criminal Court Justice System Personnel			640
VAWA training for INS officers, asylum officers, state or federal immigration judges, and military personnel	208(l)		640(a)
Clarify that police, judges, and prosecutors are not required to inquire into or report the immigration status of the crime victim	208(l)(3)		640(b)
INS report to Congress on processing of VAWA cases	108(m)		640(c)
Protection for Certain Victims of Crimes Against Women			641
Adjustment of Status for Certain Victims of Crimes			641(b)
Cancellation of Removal for Certain Victims of Crimes			641(c)

BATTERED IMMIGRANT WOMEN PROVISIONS 2/28/99
OF THE VIOLENCE AGAINST WOMEN ACT OF 1999
H.R. 357



Section By Section Analysis

On January 19, 1999, Representatives Conyers (D-MI), Morella (R-MD), and Roybal-Allard (D-CA) introduced the Violence Against Women Act of 1999 (H.R. 357), which included Battered Immigrant Women provisions (Subtitle C of Title VI). The Battered Immigrant Women provisions of VAWA 1999 continue the work that began with the passage of the first Violence Against Women Act in 1994. Prior to VAWA 1994, immigration laws ensured that abusive citizens and permanent residents had total control over their spouse's immigration status. As a result, battered immigrant women and children were forced to remain in abusive relationships, unable to appeal to law enforcement and courts for protection for fear of deportation. VAWA 1994 immigration provisions remedied the situation by allowing battered immigrants abused by their U.S. citizen or lawful permanent resident spouses or parents to file their own applications for immigration relief without the cooperation of their abusive spouse or parent, enabling them to safely flee the violence.

VAWA 1994 provides two forms of immigration relief: VAWA self-petitions and VAWA cancellation of removal (formerly, suspension of deportation). VAWA self-petitions allow battered immigrants to file an application for permanent residency based on the battery or extreme cruelty of the citizen or permanent resident spouse. The self-petition may be filed without the cooperation and participation of the abusive spouse. VAWA cancellation of removal/ suspension of deportation is a defense to deportation that is raised when the battered immigrant is placed in deportation/removal proceedings. Both avenues of immigration relief lead to lawful permanent residency.

Despite the successes of the immigration provisions of VAWA 1994, subsequent immigration reform bills drastically reduced access to VAWA immigration relief for battered immigrant women and children. VAWA 1999 seeks to restore and expand access to a variety of legal protections for battered immigrants so they may flee violent homes, obtain court protection, cooperate in the criminal prosecution of their abusers, and take control of their lives without the fear of deportation.

VAWA Restoration Act

✓ **Sec. 631 Adjustment of status for VAWA self-petitioners - 245(i)**

Expiration of Section 245(i) of the Immigration and Nationality Act (INA) forces many battered immigrant women and children with approved VAWA self-petitions to leave the US to obtain their lawful permanent residence. Traveling outside the US deprives these battered immigrants of the protection provided by courts, legislation, custody decrees, and law enforcement. This section restores the option of adjustment of status, allowing

battered immigrants to apply for permanent residence while remaining safely in the US.

✓ **Sec. 631(c)(1) 3 Year tolling provisions under cancellation of removal and suspension of deportation**

VAWA cancellation of removal (formerly known as suspension of deportation) is a form of immigration relief in which the immigration judge cancels deportation/removal proceedings against a battered immigrant. To qualify for cancellation or suspension, the battered immigrant must be in the US unlawfully and continuously for 3 years prior to her application for cancellation or suspension. Under current immigration laws, the time applied to the 3 year continuous presence requirement ceases when INS initiates proceedings against the battered immigrant. Unfortunately, many battered immigrants have no knowledge of the INS action against them since their abusers control their access to the mail and information. These battered immigrants, therefore, often can not satisfy the 3 year continuous presence requirement even though they may have been in the US for over 10 years and consequently are denied access to cancellation or suspension relief. This section retroactively restores the method of counting battered immigrants' time in the US to what it was in 1994 when VAWA first became law, so that VAWA suspension or cancellation is once again an option for the battered immigrants VAWA intended to protect.

✓ **Sec. 631(c)(2) Exemption from the cancellation of removal cap**

The 1996 immigration reform bill (IIRAIRA) capped the number of cancellation of removal grants to 4,000 per year. This includes VAWA and non-VAWA cases. Once the cap is reached in a given year, a battered immigrant's meritorious cancellation claim is denied because the cap has been reached. This section ensures that the cap will not apply to limit the number of battered immigrants who could receive VAWA cancellation in any one year.

✓ **Sec. 631(d) Remove time limits from motions to reopen**

This section would allow battered immigrant women who need to file motions to reopen, to do so beyond the 90 day maximum time allotted under current immigration law. This is an important tool for battered immigrant women who otherwise qualify for VAWA suspension, cancellation, or self-petitions. Many battered immigrants are unaware that they have been placed in proceedings before an immigration judge because many abusers control the mail and any access to information. As a result, battered immigrants often fail to file a motion to reopen within the 90 day time limitation. This section allows battered immigrants to reopen their cases to apply for VAWA relief it is the procedural change necessary implement the changes included in section 631(c)(1).

Remedying Problems with VAWA Implementation**Sec. 632(a) Effect of changes in abuser's immigration status**

✓
Check w/
INS

IRAIRA made domestic violence a deportable crime; however, an unintended effect is that the battered immigrant spouse's pending VAWA self-petition becomes void when her husband is deported. This creates a perverse incentive for the battered immigrant spouse to tolerate the abuse rather than report it. This subsection would provide that abused spouses are treated like spouses in non-abusive relationships, where changes in the spouse's immigration status can only help the petitioner if the husband's immigration status is upgraded, enabling the wife to get in the shorter line reserved for wives of citizens (as opposed to the longer line for spouses of green card holders). If the husband is deported due to domestic violence, the battered wife's self-petition remains valid.

Sec. 632(b) Exempt fiancées from conditional residency requirement

Under current immigration laws, a battered immigrant woman who enters as a fiancée and seeks adjustment of status based on a VAWA self-petition are granted conditional permanent residence instead of full permanent residence. After the two-year grant of conditional permanent residence, the battered immigrant must file a battered spouse waiver to have the conditions removed and for a second time prove that she was battered or subjected to extreme cruelty. This conditional residence requirement fulfills no purpose when applied in cases of VAWA self-petitioners. Once the self-petition has been granted, there is no need for her to also file a battered spouse waiver two years later. This section allows battered immigrants who entered as fiancées to adjust their status to full lawful permanent residence instead of having to wait two years in order to be granted full lawful permanent residence.

Sec. 632(c) Access to INS information on abuser's status

A VAWA self-petitioner must provide evidence to INS that their abusive spouse is either a citizen or permanent resident. INS prefers that VAWA applicants submit primary evidence like birth certificates or other official records. It is often difficult, costly or unsafe for the battered immigrant to obtain such information from the abuser. This section grants battered immigrants access to information contained in INS files about their abusive spouse's or parent's immigration status that they need to file under VAWA immigration relief.

Sec. 632(d) Encourage prosecutor cooperation about abuser's status

Battered immigrant women who are eligible for relief under the VAWA must be able to prove the immigration status of their abusers in order to obtain VAWA relief. It is often

difficult for abuse victims to obtain information about their abuser's immigration status. This section encourages prosecutors and law enforcement officers to cooperate with immigrant domestic violence victims by providing victims with information about the immigration status of their abusers.

Waivers and Exceptions to Inadmissibility for VAWA Eligible Applicants

✓ Sec. 633(a)(1) General discretionary waiver for certain inadmissibility grounds (does not include security and related grounds, polygamists, unlawful voters, & tax evaders)

The inadmissibility grounds found in section 212 of the INA potentially bar battered immigrants from VAWA relief. This section grants the Attorney General the discretion to waive any ground of inadmissibility (except for security and related grounds, polygamists, unlawful voters, & tax evaders) in certain VAWA cases for humanitarian purposes, to assure family unity or when it is otherwise in the public interest. The discretionary waiver provides INS the flexibility to grant waivers in appropriate cases after examining the full history of domestic violence in the case and the effect of domestic violence on any children.

A.B. Sec. 633(b)(1)&(3) Delete substantial connection between abuse & unlawful entry

IIIRAIRA, changed section 212(a)(6)(A)(ii) by requiring battered immigrants married to either US citizens or permanent residents who "first enter" the US after April 1, 1997 to show that there is a substantial connection between their unlawful entry and the abuse in order to qualify for VAWA relief. This new requirement was not imposed on battered immigrants who entered the US prior April 1, 1997. This additional requirement undermines the ability newly arrived immigrants battered by U.S. citizen or lawful permanent resident spouses or parents to flee violent homes and cooperate in the prosecution of their abusers. This section removes the "substantial connection" requirement, thereby, restoring access to VAWA for applicants who were arbitrarily cut-off by this April 1, 1997 date. This section offers this protection to all persons otherwise eligible for VAWA -- those who entered the country unlawfully(1) and those who violated the terms of their visas (3).

Sec. 633(b)(2)&(4) Exception from Inadmissibility for prior deportation

IIIRAIRA added new provisions to the INA which bar some battered immigrants from VAWA relief. One such provision creates a 5 or 20 year bar to admissibility for immigrants to whom the INS previously issued orders of deportation or removal. Abusers of immigrant women often closely monitor all mail sent to abuse victims, turn immigrant abused spouses into INS without the battered immigrant's knowledge and control all information the victim has about her legal rights in this country, about her

immigration status, and about the pendency of any action against her by INS. Some otherwise eligible VAWA applicants may have had orders of deportation issued against them without their knowledge. Others may have been prohibited by their abuser threats from defending themselves in a deportation action. Still others may have been placed in deportation proceedings before VAWA became law. Once the battered immigrant departs from the US, and tries to re-enter, the admissibility bars are activated. This section amends current laws by exempting VAWA applicants from the inadmissibility for prior deportation ground. This provision parallels the exemptions from the 3 and 10 year bars granted battered immigrants in IIRAIRA. The purpose of this exemption and the exemptions from the 3 and 10 year bars are to ensure that battered immigrant spouse and children abused by U.S. citizen or lawful permanent residents will be able to obtain protection and cooperate in their abuser's criminal prosecution. These section offers this protection to all persons otherwise eligible for VAWA -- those who entered the country unlawfully(2) and those who violated the terms of their visas (4).

✓ **Sec. 633(b)(5) Waiver of deportation ground for VAWA applicants with domestic violence convictions that stemmed from their victimization or who acted in self-defense**

Since IIRAIRA made crimes of domestic violence deportable offenses, some battered immigrants who might otherwise qualify for VAWA relief are being denied protection because they were subject to a dual arrest, committed crimes under duress from their abusers, or were prosecuted for violating their own protection orders. This section would allow the Attorney General to waive this ground of deportation in appropriate cases where the otherwise qualified VAWA applicant acted in self-defense, violated her own protection order, or acted under duress from her abuser.

Calculation of Physical Presence in VAWA Cancellation of Removal and Suspension of Deportation

✓ **Sec. 634(a) Waiver for 90/180 days continuous presence for cancellation cases**

A VAWA cancellation of removal applicant must maintain continuous physical presence in the US by limiting their absences from the country to no more than 90 days, or 180 days in the aggregate. An abuser who wishes to undermine his abuse victim's cooperation with authorities in his criminal prosecution for domestic violence need only remove the victim from the country for a period of more than 90 days to make her ineligible for VAWA immigration benefits and the likelihood that he will be able to avoid prosecution and perhaps the loss of his own permanent residency status will be secure. Such departure under duress may easily exceed 90/180 days and would prevent a successful VAWA cancellation claim. This inflexible standard increases the abuser's

- Sec. 635(c)(1)(A) Immediate Relative Status for self-petitioners married to USCs:**
- **Deletes residence in US requirement**
 - **Deletes extreme hardship requirement**
 - **Extends VAWA to spouses of bigamists**

This section amends the self-petitioning provisions of the INA by removing barriers that bar access to VAWA to many needy battered immigrants:

Deleting the residence in the US requirement: Under current VAWA provisions, the applicant must reside within the territory of the US to file a self-petition. In regular family-based visa petitions, there is no such residence in the US requirement. If a citizen or permanent resident spouse living abroad wishes to file a visa petition on behalf of his immigrant spouse, he need only file at the American Consulate abroad. Battered immigrants married to either citizens or permanent residents living outside the US have no access to VAWA immigration relief. This section grants access to VAWA immigration relief to battered immigrants living abroad. This amendment will be particularly helpful for abused spouses and children of members of the United States uniformed forces and U.S. government employees living abroad.

Deleting the extreme hardship requirement: VAWA self-petitioning applicants would normally be beneficiaries of regular family-based petitions, but for the actions the abusive spouse or parent. There is no rational basis for further penalizing them through the immigration process by requiring them to overcome the extreme hardship element of proof that would not apply had their abusers filed petitions for them. Under current law battered immigrants who prove to INS's satisfaction that they are battered or subject to extreme cruelty, that they are in good faith marriages to U.S. citizens or lawful permanent residents who have abused them and that they are persons of good moral character, in order to win their VAWA self-petition have to in addition prove that their deportation will cause extreme hardship to themselves or their children. Extreme hardship is a difficult evidentiary test that battered immigrants who file applications with INS and are unrepresented find almost impossible to meet. As a result many battered immigrants who are in grave danger are having their VAWA self-petitions denied. Given the high evidentiary standards already in VAWA to deter fraudulent self-petitions, it is unnecessary to also require the battered immigrant to prove extreme hardship. This section deletes the extreme hardship requirement.

✓ Extends VAWA to spouses of bigamists: Self-petitions under VAWA are available only to battered spouses of a valid marriage. A battered immigrant who finds herself to be the second wife of a U.S. citizen or lawful permanent resident bigamist cannot file a VAWA self-petition. This section would allow battered immigrants who unknowingly marry bigamists to file VAWA self-petitions if the battered immigrant believed in good faith that she had married the citizen or permanent resident, but whose marriage is not legitimate solely because of the bigamy of such citizen or permanent resident.

Sec. 635(c)(1)(B) Extend VAWA self-petitioning to victims who file within 2 years of divorce from a US citizen

Under the VAWA provisions, a self-petitioner must be married to the abuser at the time of filing the self-petition. Savvy abusers often sprint to the courthouse for a quick divorce, because they know this will cut off his spouse's access to VAWA immigration relief. This section allows battered immigrants who are divorced from their abusers to file their VAWA self-petitions, if the self-petition is filed within two years of the divorce the applicant demonstrates a substantial connection between the legal termination of the marriage and the abuse. Battered immigrants will be offered the same 2 year time period to file a self-petition currently offers to widows.

Sec. 635(c)(2) Extend VAWA to those women who were brought on fiancé visas and their abusers failed to marry them

Some abusive citizens bring potential spouses to the US on fiancé visas, but fail to marry them or fail to marry them within the required 90 day period. If these women later marry this citizen or another citizen or lawful permanent resident who abuses them, they should have the same access to VAWA as any other battered immigrant woman. This section amends current law to guarantee battered immigrant women who otherwise qualify for VAWA access to protection without regard to whether they entered the U.S. on a fiancé visa.

Sec. 635(c)(3) Immediate relative status for self-petitioning children of citizens:

- Deletes residence in US requirement
- Deletes extreme hardship requirement
- Allows a child under 21 to remain a child

Please see Sections 635(c)(1)(A) and 635(b) for explanation of provisions.

Sec. 635(c)(4) Extend VAWA self-petitioning to immigrant victims of elder abuse

Many elder immigrants come to the US because their citizen sons or daughters bring them here. However, when the son or daughter is a citizen and is abusive to the elder parent the son or daughter may never file an immigration petition for the parent. These elder abuse victims who have no legal status in this country and are abused by their sons or daughters, are afraid to seek court protection orders and assistance from adult protective services because they fear that if they do so, their sons or daughters will have them deported. Under this provision, parents who are abused by citizen sons or daughters are able to obtain protection from elder abuse under VAWA.

Sec. 635 (c)(5) Extend VAWA self-petitioning to sons & daughters of citizens
Under immigration laws, only spouses or minor children of citizens or permanent residents are eligible for VAWA. Abused children over 21 years old have no access to VAWA even they may have suffered through years of domestic or sexual abuse perpetrated by their citizen or permanent resident parent. This section extends VAWA relief to children over 21.

Sec. 635(c)(6) Extend VAWA to self-petitioners married to or the child of citizens living abroad

Please see Section 635(c)(1)(A) for explanation of provision.

Sec. 635(d)(1) 2d Preference status for self-petitioners married to Lawful Permanent Residents:
- Deletes residence in US requirement
- Deletes extreme hardship requirement
- Extends VAWA to spouses of bigamists

Please see Section 635(c)(1)(A) for explanation of provisions.

Sec. 635(d)(2) Extend VAWA self-petitioning to victims who file within 2 years of divorce from a permanent resident

Please see Section 635(c)(1)(B) for explanation of this provision.

Sec. 635(d)(3) 2d preference status for self-petitioning children of Lawful Permanent Residents:

Please see Sections 635(c)(1)(A) and 635(b) for explanation of provisions.

Sec. 635(d)(4) Extend VAWA to sons and daughters of Lawful Permanent Residents who are over 21

Please see section 635(c)(5) for explanation of provision.

Improved Access to VAWA Cancellation of Removal

Sec. 636(a) Extend VAWA cancellation to immigrant victims of elder abuse and spouses of bigamists

Please see Section 635(c)(4), 635(c)(1)(A), 635(d)(1) for an explanation of these provisions. This section offers battered immigrants who have been victims of elder abuse or who are the spouses bigamists access to VAWA cancellation of removal.

**Sec. 636(a) Derivative children, sons, daughters & parents in VAWA
Cancellation and Suspension**

Please see Section 635(b), 635(c)(3), 635(c)(5), 635(d)(3), and 635(d)(4) for an explanation of these provisions. This section allows battered immigrants applying for VAWA cancellation of removal or suspension of deportation to include their children in their cancellation or suspension application. It will also grant access to VAWA cancellation of removal for immigrant victims of elder abuse and abused sons and daughters.

Good Moral Character Determinations

**Sec. 637(a) Discretionary Waiver for Good Moral Character Determination
for Self-petitioning immediate relatives**

In order to obtain VAWA relief, a battered immigrant must prove her good moral character. This subsection grants the Attorney General discretion to waive the bar to issuing a finding of good moral character in cases where the battered immigrant who otherwise qualifies for VAWA relief, committed, was convicted of, or had pled guilty to a crime she committed that was connected to the domestic violence, domestic violence related crimes if they acted in self-defense or violating their own protection orders. Without such a waiver a battered immigrant woman will be unable to access any relief no matter how compelling INS believes her case is. The discretionary waiver provides INS the flexibility to grant waivers in appropriate cases after examining the full history of domestic violence in the case, the effect the domestic violence is having on any children, and the crimes that are being committed against the battered immigrant.

**Sec. 637(b) Discretionary Waiver for Good Moral Character Determinations
for second-preference self-petitioners**

Please see Section 637(a) for an explanation of the provision.

**Sec. 637(c) Discretionary Waiver for Good Moral Character Determinations
for VAWA cancellation**

Please see Section 637(a) for an explanation of the provision.

Sec. 637(d) Discretionary Waiver for Good Moral Character Determinations for VAWA suspension of deportation

Please see Section 637(a) for an explanation of the provision.

Battered Immigrant Women's Security Act

Sec. 638(a) Exemption from deeming requirements

IIRAIRA exempted certain battered immigrant women from deeming requirements of the affidavit of support. However, subsequent legislation created provisions that drew a distinction between pre and post IIRAIRA cases. Pre-IIRAIRA cases were to be handled under the old rules. As a result cases of pre-IIRAIRA battered immigrants whose spouse had filed an affidavit of support under the old rules are still subject to deeming for three years after she receives her green card. As a consequence, she is barred from access to welfare benefits for herself and her children. Post IIRAIRA cases are not subject to the deeming requirements. This provision ensures that all battered immigrant women who obtained their lawful permanent residency or qualified alien status through their spouse or through VAWA will have equal access to the welfare safety net without regard to whether their case was filed before or after IIRAIRA.

Sec. 638(b) Discretionary waiver for Domestic Violence offenders paying child support

Many battered immigrant women are afraid to cooperate in the criminal prosecution of their abusers. Those who are dependant on the abuser for child support or financial support fear that cooperation in prosecution will result in the abuser's deportation and a cessation of financial support. Conviction of any domestic violence offense or violation of a protection order may result in the deportation of the abuser. If the deportation of the abuser occurs before the victim can have her VAWA case approved by INS, she loses her ability to obtain immigration relief under VAWA. To address battered immigrant women's concerns, this section creates a one-time discretionary waiver of the removal ground for some first time domestic violence offenders who are in compliance with family court child support orders. The immigration judge would only be authorized to grant the waiver after finding that the victim requested it and that the victim's safety will be protected if the waiver is granted. It would provide an option that would allow battered women to obtain child support and would encourage their cooperation in the criminal prosecution of their abusers.

Sec. 638(c) Misrepresentation waivers

control over the battered immigrant. This section allows the Attorney General to waive certain breaks in continuous presence for humanitarian purposes if the battered immigrant demonstrates a substantial connection between the absences and the abuse.

Sec. 634(b) Waiver for brief, casual, innocent requirement for absences for suspension of deportation cases

A VAWA suspension of deportation applicant must be continuously present in the US in order to obtain VAWA suspension relief. An abuser who wishes to undermine the victim's cooperation with authorities in his criminal prosecution for domestic violence need only remove the victim from the US for a certain period of time to render her ineligible for VAWA suspension relief. This section allows the Attorney General to waive certain breaks in continuous presence for humanitarian purposes if the battered immigrant demonstrates a substantial connection between the absences and the abuse.

Improved Access to VAWA for Battered Immigrant Women

Sec. 635(a) Definition of intended spouse: includes bigamy

This provision amends the definitional section of the INA by creating the term "intended spouse". Intended spouses are persons married to either citizens or permanent residents, but whose marriage is not legitimate solely because of the bigamy of such citizen or lawful permanent resident. (See Sec. 635(c)(1)(A) for explanation of provision).

Sec. 635(b) Grant access to VAWA for child applicants who turn 21 and children who age-out of their parent's self-petition

Under immigration laws, a VAWA applicant may include as derivatives her undocumented children under 21 years old in her VAWA self-petition. However, in order to obtain lawful permanent residency status, the child must be under 21 at the time the application for permanent residence is approved. The current waiting period to obtain permanent residence for spouses and children of permanent residents is at least four years. A child who is presently under 21 and included in her mother's self-petition may be over 21 years old by the time the application for residence is approved. As a consequence, the parent is granted permanent residence, but her child who is now over 21 is denied permanent resident status. Battered immigrant women fleeing abusive relationships need to be able to assure protection for their children as well as themselves. This provision allows derivative children who are under 21 when the self-petition is filed, to continue being derivatives under their parent's self-petition.

The INA provides waivers of inadmissibility due to misrepresentation when an immigrant can show that the failure to grant the waiver would result in extreme hardship to the immigrant's citizen or permanent resident spouse. In VAWA cases, the only way to obtain a waiver would be to show extreme hardship to *the battered immigrant woman's abuser*. This section would allow otherwise VAWA eligible battered immigrants to obtain this waiver by demonstrating extreme hardship to their citizen or permanent resident parent, child, son, or daughter.

Sec. 638(d) Public charge exception for VAWA applicants

Congress provided battered immigrants who were eligible under VAWA or who were the beneficiaries of petitions filed by their spouses or parents access to the public benefits safety net. Under current immigration laws, however, immigrants who use benefits may be deemed public charges and denied lawful permanent residency. This section creates an exception to the public charge ground of inadmissibility for battered immigrants who need access to benefits in order to flee their abusers and survive economically.

Sec. 638(e) Access to naturalization for divorced VAWA approved applicants

Under current immigration laws, an immigrant is eligible to become a naturalized citizen after being a permanent resident for five years. In cases where the immigrant is married to a citizen, the immigrant need only wait three years before they may be eligible for naturalization. During this three year wait, the immigrant must be not be divorced or separated from the citizen. If separation or divorce occurs, the immigrant must wait five years before they are eligible to naturalize. Many battered immigrants obtain divorces or separate from their abusers. As a result, the wait for them becomes five years before they are eligible to naturalize. This section grants battered immigrant women who obtained permanent residency through VAWA or through a battered spouse waiver the same access to naturalization that they would have had if they had not been abused.

Sec. 638(f) Access to work authorization

Beginning the June 1997, the INS Vermont Service Center began processing all VAWA self-petitions filed anywhere in the country. Upon approval of the application, the Center sends an approval notice, a grant of deferred action status, and instructions on how to obtain work authorization. Cases filed before June of 1997, however, were filed with INS District Offices across the country and are being treated differently than post June 1997 filings. Most INS District Offices are refusing to grant the deferred action status necessary so that VAWA applicants can obtain work authorization. This section will ensure that all needy battered immigrants with approved VAWA self-petitions are

granted access to work authorization without regard to when and where the case was filed.

Sec. 638(g) Elimination of VAWA filing and processing fees

Currently, there is an \$80 dollar filing fee for self-petitions, a \$70 filing fee for work authorization, and a \$100 filing fee for VAWA cancellation of removal. The fees are difficult for many VAWA applicants to raise, and obtaining a fee waiver can be a slow and unpredictable process. VAWA's original approach was to remove economic barriers that may bar battered women from turning to the justice system for help. Requiring battered immigrants who are still in domestic violence situations or who are about to flee or have newly fled to pay these VAWA fees creates a perverse incentive to stay with their abuser or go back to their abuser because they do not have the funds to access the legal system, immigration or public benefits relief. This section eliminates filing fees for VAWA self-petitions, work authorization based on an approved VAWA petition, and VAWA cancellation.

Sec. 638(h) Access to Food stamps and SSI for battered qualified aliens

Recent Food Stamp Act amendments make the children of battered immigrant women eligible for Food Stamps if they were in the US before August 22, 1996, but provides no access to Food Stamps for the abused immigrant women. In order to survive economically apart from their abusers battered immigrants need access to Food Stamps and SSI as a critical part of the welfare safety net. This provision would make battered immigrants who are "qualified aliens" eligible to receive Food Stamps and SSI benefits.

Sec. 638(i) Access to housing for VAWA battered qualified aliens

This section clarifies that battered immigrant women who are "qualified aliens" under welfare laws are qualified for public and assisted housing. While IIRAIRA and welfare reform granted benefits to certain "qualified aliens" which included access to public and assisted housing. Those acts failed to amend sections of prior housing law that could be interpreted to bar access to public and assisted housing that was granted to "qualified aliens" including qualified alien battered immigrants. The provisions contained here amend prior housing law to be consistent with IIRAIRA and welfare reform. This section also consistent with the Attorney General's directives guarantees access to domestic violence shelters and services to battered immigrants.

Sec. 638(j) Clarify welfare reporting requirements

Many state programs demand immigration status information from a parent applying for benefits for their child who is entitled to the benefits. Battered immigrant women need

be able to apply for benefits on behalf of their minor children without being questioned about their own immigration status. This section clearly instructs welfare workers to inquire only into the immigration status of the person who is actually applying for benefits. This guarantees that citizen and permanent resident children can obtain the benefits they are entitled to without their abused mother risking being reported to INS.

Sec. 638(k) Conform definition of "family" used in laws granting welfare access for battered immigrants to state family law

IIRAIRA provided access to welfare benefits for battered immigrant spouses and children of U.S. citizens or permanent residents who had been either abused by the citizen or permanent resident spouse or by a member of the spouse or parent's family. The goal was to offer welfare access persons who would otherwise be eligible for VAWA, and also to permanent residents abused by other family members. IIRAIRA, however, left unclear what definition of family member should be used. This section incorporates the definition of "family" used in the civil and criminal domestic violence laws of the state in which the battered immigrant woman resides or in which she received protection order. This approach parallels the approach taken throughout the Violence Against Women Act.

Sec. 638(l) Ensuring VAWA applicants continued receipt of SSI or Food Stamp benefits using their abusive spouse's 40 quarters despite divorce

Under the Food Stamp and SSI programs, a spouse is allowed to count her husband's work quarters only so long as she remains married to him. If a spouse divorces even after 10 years of marriage, she loses the ability to count her spouse's work quarters during the marriage. If she is married on the date of application she can count the quarters. However, if she is divorced from him when she must apply for recertification she will be cut off from benefits because she can no longer count his quarters. Battered immigrant women must not be required to remain married to their citizen or permanent resident abusers in order to continue receiving Food Stamps or SSI. This section changes current law to explicitly allow battered immigrant women to count the quarters of their abusive husbands even after divorce.

Sec. 638(m) Technical correction in IIRAIRA regarding qualified alien definition for battered immigrants

IIRAIRA made immigrants battered by citizen or permanent resident spouses or parents eligible for certain welfare benefits. The IIRAIRA provisions granting access to benefits, however, contained three technical errors that this section corrects. (1) The language granting welfare access for VAWA suspension cases failed to cite the proper code section for VAWA suspension. (2) Access to benefits was provided for VAWA

suspension of deportation applicants but the section omitted reference to VAWA cancellation (the new remedy that replaced suspension beginning with IIRAIRA); and (3) the section granting qualified alien status for immigrant children cited the wrong subparagraph of the INA.

Access to Legal Services Corporation Funds

Sec. 639(a) Access to legal services funded by non-Legal Services Corporation funds for any abuse victim

P.C

Under current law, agencies that receive federal funds from the Legal Services Corporation can use their non-federal funds to represent battered women and children in actions relating to their abuse by a spouse, but cannot represent immigrants battered by other family members covered in the state domestic violence statute, including boyfriends, persons who have a child in common or other persons related by blood or marriage to the victim. This subsection would allow the Legal Services Corporation funded agencies to use their non-federal funds to represent any battered immigrant who qualifies for relief under the states domestic violence laws. It also allows programs to use private funds to represent any battered immigrant who qualifies for relief under state domestic violence laws. The goal is to ensure that all battered immigrant victims of domestic violence can have access to legal services needed for interventions to stop the violence against them and their children.

Sec. 639(a) Access to LSC funds for VAWA cases

This section allows Legal Services Corporation funded programs to represent VAWA eligible battered immigrants in a variety of legal actions related to halting the abuse using Legal Services Corporation funds. This representation could include assistance in obtaining protection orders, family court relief and representation in immigration cases. Access to Legal Services attorneys provides these battered immigrants with the security necessary to flee violent homes while gaining economic security.

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VAWA Training for INS Officers, Immigration Judges, Civil and Criminal Court Justice System Personnel

Sec. 640(a) VAWA training for INS officers, asylum officers, state or federal immigration judges, and military personnel

This section makes grant money available for training of federal and state civil and criminal judges, including immigration judges, INS officers, the military and other justice system personnel on battered immigrant issues such as VAWA.

Sec. 640(b) Clarify that police, judges, and prosecutors are not required to inquire into or report the immigration status of the crime victim

There have been increased reports of judges, prosecutors and police who are inquiring into the immigration status of domestic violence crime victims who call them for help. In such communities, battered immigrants are unwilling to call the police or seek protection orders or cooperate in their abuser's criminal prosecution. Instead immigrant victims are forced to remain silent, living with their abusers and continue suffering ever increasing violence. This section seeks to stop judicial and law enforcement system employees from inquiring into the immigration status of crime victims who turn to the justice system for protection and instead focuses the attention of justice system and law enforcement personnel on holding the abuser accountable for his crimes.

Sec. 640(c) INS report to Congress on processing of VAWA cases

This subsection requires the Attorney General to report to the House and Senate Judiciary Committees within six months of enactment on the number of VAWA petitions and processing times at INS District Offices and the INS Regional Office in St. Albans, Vermont. The report must also describe INS policy and procedure for an eligible immigrant to place herself in deportation proceedings so that she may apply for suspension of deportation or cancellation or removal under VAWA, and report that average length of time at each INS office between the date that an immigrant eligible for suspension of deportation or cancellation of removal asks to be placed in deportation, and the date the immigrant appears before an immigration judge to file an application.

Protection for Certain Victims of Crimes Against Women

Sec. 641(b) Adjustment of Status for Certain Victims of Crimes

This section allows victims of rape, torture, incest, battery or extreme cruelty, sexual assault, female genital mutilation, forced prostitution, trafficking, being held hostage, or any other violent crime to obtain permanent resident status in the US. The victim must have reported the crime to a Federal or State law enforcement or administrative officer, prosecutor, or judge and must show that they are willing or have participated in the criminal or civil action or Federal or State administrative agency enforcement action

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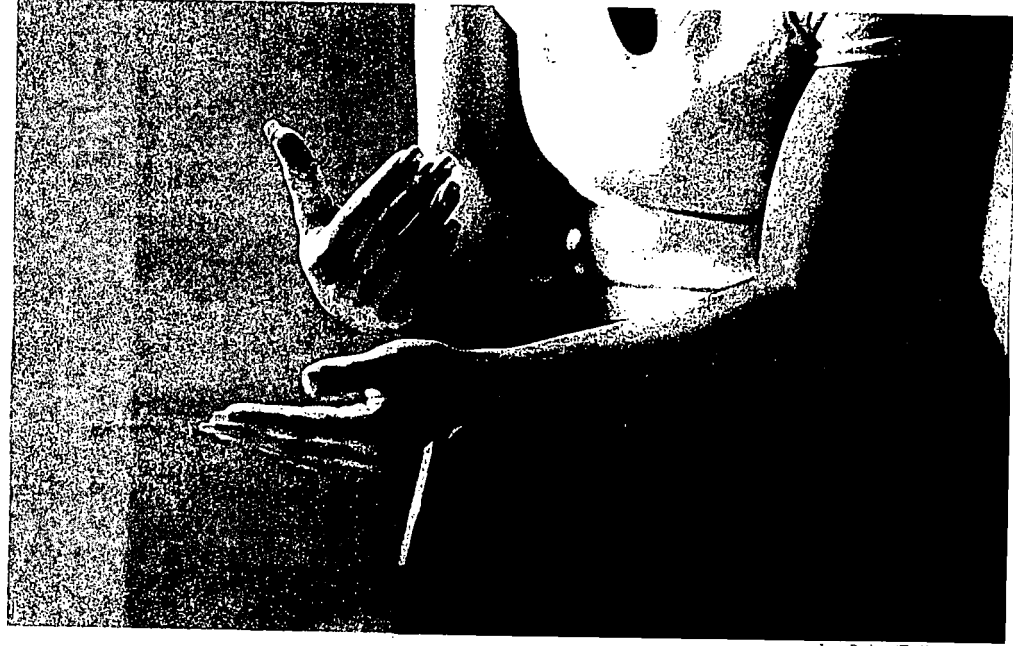
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Fearing Their Husbands, and the Law

Risk of Being Deported Grows for Battered Illegal Immigrants



Joyce Dopkeen/The New York Times

By GINGER THOMPSON

Shy and soft-spoken, the 26-year-old Dominican woman uses pictures rather than words to tell about the nightmare that was her marriage.

One photograph shows a ransacked apartment, the bedroom dresser pushed onto its side, lamps, mirrors and pots of tulips shattered on the floor. Another shows the woman battered; her mouth is swollen, her eyes are black and she has bruises on her legs.

The photographs, she said, were secretly taken by her sister and show what happened when her husband became angry. In his fits of rage, she said, he would beat her and throw her out of their home in Manhattan. Then he would apologize and ask her to return — always with a warning that made it impossible for her to refuse.

"He told me that if I did not come back, he would call the police and have me deported," said the woman, who entered America illegally five years ago from the Dominican Republic. "He would say that because he is legal, he has more rights in this country than I do, and that he could take my son away."

Advocates for immigrants say spousal abuse has long been one of the most critical and widespread problems endured by women who do not have legal residency in the United States but are married to someone who does. As the Federal Government has toughened immigration laws in recent years, it has become increasingly difficult for these women to gain permanent residency, making threats like those of the Dominican woman's husband more potent.

One of the most disputed changes came last year, when Congress allowed the expiration of a provision that permitted immigrants entitled to permanent residency to stay in this country while awaiting green cards. A green card certifies that an immigrant is a

permanent resident.

The expiration has roused immigrant advocates, particularly in New York, over the implications for battered women.

Advocates say the loss of 245i, as the expired provision of the Immigration and Naturalization Act was known, has already deterred battered women from seeking permanent residency because of concerns over what could happen when they are sent back to their native countries while their green card applications are processed.

Leslye Orloff, the national policy director for Ayuda, a group supporting battered immigrants, said many of the women feared that if they left the United States, they would be exposed to suits claiming custody of their children, many of whom were born here. Many also worry, Ms. Orloff said, that once they are outside this country, it will be easier for United States consular officials to challenge claims of abuse and hardship, and refuse to grant green cards — an irreversible decision.

"They know that they are going to be forced to make an impossible choice to either leave the country to get their green card, and risk extreme danger for themselves and their children," Ms. Orloff said, "or to give up their chance of ever getting a green card, putting themselves and their children at risk for different kinds of dangers."

Since 245i expired, groups like Ms. Orloff's have organized meetings to explore legal strategies that have so far allowed them to keep their clients in the United States. And members of Congress are debating whether to pass a bill introduced in January by Representative John Conyers Jr., a Democrat from Michigan, that would in effect re-enact 245i for battered women. Called the Violence Against Women

Continued on Page 30

New Suspect Jailed in Death Of an Officer

Freed Man Says Police Beat Him During Arrest

By ROBERT D. McFADDEN

Less than 24 hours after releasing a man wrongly held for almost a week as the prime suspect in the killing of an Orange, N.J., police woman, the Essex County authorities said yesterday that another suspect, a 25-year-old Newark man, had been arrested and charged with the officer's murder.

Officials said the new suspect, Condell Woodson, was seized in Newark by a task force of Federal, state and local law enforcement officials and was being held at the Essex County Jail in lieu of \$1 million bail on charges of killing Officer Joyce Anne Carnegie 10 days ago, and on robbery and weapons charges.

The time and other circumstances of the arrest yesterday were unclear, but its disclosure came just hours after a noon news conference in which Terrance Everett, who had been released and exonerated Friday night, charged that the police had brutalized him and terrorized his family at the time of his arrest.

The release of one suspect and the swearing in of another added yet more twists to a case that has evolved from the death of an officer into a perplexing tangle of even four arrests, the death of one suspect in custody and the release of another, a jumble of charges and countercharges, misgivings among law enforcement officials and talk of turmoil in the Prosecutor's office.

Yesterday's brief announcement by the County Prosecutor, Patricia A. Hurt, and the Orange Police Director, Richard Conte, said that Mr. Woodson was arrested at 118 11th Avenue in Newark — it was unclear whether that was his home — and that he would be arraigned early this week in Essex Superior Court.

Ray Weiss, a spokesman for the Prosecutor, declined to amplify on the one-page statement.

The statement did not say what had led officials to Mr. Woodson, and provided no information on the suspect beyond his name, age and the charges against him. But a report in The Star-Ledger of Newark yesterday said that investigators had gone to Georgia on Friday in search of a Cordell Woodson. The report, quoting unidentified law enforcement officials, said Mr. Woodson had been linked to the case through the serial number of a 9-millimeter pistol thought to be the weapon used. A partial fingerprint was said to have been found on the gun, though efforts to match it with prints of file have not been successful, the report said.

Officials have said little about a gun, except that one was "recovered" at an unspecified location after Officer Carnegie, 38, was shot in the abdomen and head in downtown Orange on the night of April 8 as she approached a suspect in two armed robberies that occurred earlier that evening in Orange.

After being booked and fingerprinted, Mr. Woodson was held at the Essex County Jail where Mr. Everett had been released Friday night after Ms. Hurt and other officials concluded that they had been holding the wrong

Continued on Page 33

Deregulation, Avoid New York

Mark Discourages Competition

PENNA. states in getting utilities to sell their power plants. That, she said, will mean vigorous wholesale competition among power producers, which will eventually translate into retail competition and lower prices.

Advocates of competition laud the sale of the power plants, but they say the price structure the state set still poses a long-term problem.

Competition in New York began last year in Con Edison's territory, New York City and Westchester County, where about one-fifth of the market has been opened up to competitive bidding.

Consumers snapped up that power as soon as it was available, but it is unclear how much real competition that reflects. Retailers were able to offer only a very small savings over Con Edison's rates, based mostly on a tax loophole that the administration has warned it will close this year. And many of the consumers who took advantage of the competition did not sign up with an outside retailer, but with Con Edison's own new, competitive subsidiary.

Even after states introduce competition, the old utilities still hold monopoly control of the system that distributes power and delivers it to homes and businesses. So a portion of every customer's bill will continue to go to the utility, even if the customer buys electricity elsewhere.

In a highly subjective process, state regulators look at the old, monopoly-style utility bill and decide which charges represent those services the utilities will continue to provide and which reflect the actual price of electricity. The electricity portion of the bill is known as a "shopping credit" or a "back-out rate," meaning that consumers can stay with the utility, for now, at that price, or shop for a better deal.

The lower the shopping credit, the higher the guaranteed revenue for the established utility, and the harder it becomes for any company to undercut the utility's price.

Among four of the five states where competition has begun — New York, Massachusetts, Pennsylvania and Rhode Island — as well as a few others that have set their price structures but have not yet ushered in competition, New York allows the least room for competition by setting the lowest shopping credits. The fifth state, California, is an anomaly in that regulators did not set specific shopping credits, letting them fluctuate instead, and its system effectively leaves even less of a margin for competition than New York's does.

The rate structure the Public Service Commission created for Con Edison allows a shopping credit averaging about 3.5 cents a kilowatt-hour out of a total bill of about 15 cents per kilowatt-hour.

Most residents and businesses in Pennsylvania have shopping credits of 4 to 5 cents per kilowatt-hour; the credits are scheduled to rise over the next few years until the average is above 5 cents. New Jersey, which is scheduled to begin some competition on June 1, has decided on a framework with shopping credits generally above 5 cents. In Rhode Island and Massachusetts, the average shopping credit is about 3.5 cents.

Fearing Their Husbands, and Immigration Law

Continued From Page 29

Restoration Act of 1999, it would allow battered immigrant women to stay in this country while they wait for their green cards. The Immigration and Naturalization Service also supports the measure.

"These women are in these situations through no fault of their own and our Government should be encouraging them to get out of abusive relationships," said Johanna Minguez, a lawyer at the Northern Manhattan Coalition for Immigrant Rights. "But without 245i, we are forcing them to make a choice between getting beat up, or getting removed from the country."

Before 245i expired, advocates said, roughly 400 undocumented women across the country filed petitions for permanent residency each month. Unlike most groups of undocumented immigrants — as those lacking any legal documents are commonly called — domestic abuse victims are able to file petitions without the support or knowledge of their spouses as long as they can show that leaving the United States would cause extreme hardship for themselves and their children and they can provide evidence of their abuse, like medical records, police reports and photographs.

While 400 women is not a high number, advocates consider it significant because immigrants are often uninformed about Federal laws or avoid filing for any kind of protection or benefits from Federal agencies for fear of deportation.

Now, more than a year since 245i expired, fewer than 250 women a month are filing petitions. The Immigration and Naturalization Service said there were no reliable estimates of the total number of undocumented women living in New York or nationally who are battered by their spouses.

Advocates say stories like the Dominican woman's, whose name is not being used to protect her identity, are widespread among battered women in New York.

Tucked in her purse is a copy of the permanent order of protection a New York court issued to prohibit her husband from approaching her. If she returned to Santo Domingo, she said, she would be an open target should her husband follow her there. "If I go home, those orders will not mean anything," she said. "The police in the Dominican Republic will not come if I call."

Federal law prohibits immigration



Leslye Orloff, policy director of a group supporting battered immigrants, says mothers could be exposed to custody suits if they leave.

court officials and immigration officials from notifying battered women's husbands about their wives' petitions for permanent residency. The New York Times could not contact the husbands of the women interviewed for this article. The Times did examine court documents to verify the accuracy of the women's

Battered women's illegal residency is used as a weapon against them.

claims and found that all the women interviewed had obtained court orders of protection against their husbands.

One of them, a 34-year-old native of the Dominican Republic, said she stayed in an abusive marriage for nine years because she was afraid of losing custody of her two daughters, who are United States citizens. She and her husband, a legal permanent resident of the United States, met in the Dominican Republic. When they married, she said, he promised that he would file residency petitions for her once they arrived in New York.

But he never did. Many battered immigrants said that their spouses used their illegal residency status to oppress them.

"He did not want me to become legal because that was his way to control me," said the 34-year-old woman, who left her husband a year ago and has just moved from a woman's shelter to a public housing complex in New York City. "He never let me leave the house. He never let me take English classes. He never helped me find a job."

"It was like being a prisoner," she added.

Officials at the Immigration and Naturalization Service point to such cases in their support for restoring 245i. Officials said that battered women must show in their petitions that leaving the United States would cause them extreme hardship. It would be inconsistent, officials said, for the agency to accept hardship claims and still force battered women to leave the country to get their green cards.

"On the one hand, we are saying it would be an extreme hardship for these women to leave the country," said Efrén Hernandez, an assistant legal counsel at the immigration service, "but then on another, we are forcing them to go. The I.N.S. has always supported some kind of measure to fix that gap."

Others feel that fixing the gap would mean creating a loophole.

Daniel A. Stein, executive director of the Federation for American Immigration Reform, a conservative group that has long supported efforts to restrict immigration, said that if Congress allows battered women to stay in this country while waiting for their green cards, other immigrant groups will seek similar allowances.

Mr. Stein also said that battered undocumented women should be sent back to their homelands, where they could live in more familiar environments and get more support from friends and relatives.

"If a person enters this country illegally or overstays a visa, showing flagrant disregard for the laws of this country," he said, "the fact that they have suffered abuse is a tragedy, but it does not mean that they should not be subject to the same laws as any other undocumented immigrant."

He added, "We should not allow the woman to become a beachhead for a long chain of family migration to the United States, which is why a lot of them came here in the first place."

But a 31-year-old woman from Mexico said she never thought of living in America until she met her husband, who was a citizen. And now that she has left him, after three years of abuse, she said that she wished she could return home. But she is afraid for her life.

She was an office clerk in Mexico when she met her husband five years ago. They met on a picturesque cobblestone street, she said, and walked and talked for hours. After their wedding, her husband drove her across the border illegally, the woman said. A year later they had a son.

Then, she said, her husband's moods became erratic and violent and he began beating her. After one beating, the woman said, she packed her suitcases and told her husband she was going back to Mexico. He beat her and tore off her clothes. As she lay terrified on the bed, she said, he got a knife from the kitchen and cut apart all the clothes she had packed in her suitcases.

The Mexican woman and her son, 3, are now living in hiding in a heavily guarded women's shelter in New York. The woman said she would love to go home. But she is terrified that her husband will follow her.

"He has already gone to Mexico to try to talk to my family, telling them that he wants me to come home," she said, her eyes filling with tears. "It would be easier for him to hurt me, and maybe my family, if I go back to Mexico. I feel safer here."

Kiwi Air Lines Is Allowed to Reapply for Permission to Fly

By LAURENCE ZUCKERMAN

Kiwi International Air Lines, which was grounded by Federal regulators last month, reached a settlement with the Federal Aviation Administration late Friday that allows it to apply to regain its operating license.

The agreement clears the way for Kiwi to reapply for its license as if it were a new airline. Both the F.A.A. and the Department of Transportation, which certify all carriers, said they would "give expeditious consideration" to Kiwi's application, but it could be many months before the low-fare airline is flying again, if at all.

Kiwi's four planes were grounded on March 24, a day after the airline filed for bankruptcy as part of a deal that would have provided up to

\$3 million in new financing from Pan American Airlines. The F.A.A. cited several maintenance and safety violations by Kiwi, which is based in Newark.

Under the terms of the settlement, Kiwi's license will be placed on indefinite suspension instead of being revoked. In turn, the airline also agreed to drop its legal challenge to the F.A.A.'s action, which was scheduled to go to court on Tuesday. The deal must still be approved by the Federal bankruptcy court.

Rob Kulat, a spokesman for Kiwi, said the airline could be flying again in 120 days. But it may take much longer. Certification for new airlines often takes more than a year, and the agreement did not specify what the Government meant by "expeditious," said Arlene Salac, an F.A.A. spokeswoman.

In addition to being certified as safe by the F.A.A., airlines must also be deemed financially fit by the Department of Transportation.

Mr. Kulat said yesterday that Pan Am had not been notified of the new agreement, so it was not clear whether it was still interested in backing the airline. It is doubtful that the Transportation Department would certify Kiwi unless it received new financing.

Charles Stanziale, the court-appointed trustee now running Kiwi, said in a statement yesterday that the airline "will work slowly toward the ultimate goal of restarting."

Mr. Kulat said that was a signal to Kiwi's 470 laid-off employees that they might not be returning to work right away. About 30 people are still employed by the airline.



BATTERED IMMIGRANT WOMEN LEGISLATION

2/14/99

S. 51
S. 245
H.R. 357

Violence Against Women Act of 1999 (Senate)
Violence Against Women Act of 1999 (Senate - Hatch)
Violence Against Women Act II of 1999 (House)

Provision (as introduced in Congress)	SENATE S. 51	SENATE S. 245	HOUSE H.R. 357
VAWA Restoration Act			631
✓ Adjustment of status for VAWA self-petitioners - 245(i) fix (S.245 requires payment of \$1,000 fee) ✓	208(h)	203(a)(1)	631(b)
3 Year tolling provisions under cancellation & suspension ✓	208(j)	203(b)	631(c)(1)
Exemption from the cancellation of removal cap ✓	208(j)	203(b)	631(c)(2)
✓ Remove time limits from motions to reopen ✓	208(l)	203(c)	631(d)
Remedying Problems with VAWA Implementation			632
Effect of changes in abuser's citizenship status on self-petition ✓ <i>check w/ INS</i>	208(c)		632(a)
Exempt Fiancees from conditional residency requirement			632(b)
Access to INS information on abuser's status			632(c)
Requiring prosecutor cooperation about on abuser's status			632(d)
Waivers and Exceptions to Inadmissibility for VAWA Eligible Applicants			633
✓ General discretionary waiver for certain inadmissibility grounds (does not include security and related grounds, polygamists, unlawful voters, & tax evaders) - <i>women who can't arrive here</i> ✓	208(e)(1)		633(a)(1)
Single marijuana offense waiver for domestic violence victims	208(e)(2)		
General Criminal and Related Grounds Exception (includes crimes of moral turpitude, multiple criminal convictions, & prostitution)	208(e)(3)		
Crime of moral turpitude waiver of inadmissibility			
Delete substantial connection b/w abuse & unlawful entry for EWIs <i>In Admin bill</i>			633(b)(1)
Exception from inadmissibility for prior deportation <i>In Admin bill</i>			633(b)(2)
Delete substantial connection b/w abuse & visa violation <i>In Admin bill</i>			633(b)(3)
Exception for VAWA applicants who reenter a 2d time illegally or previously deported			633(b)(4)
Waiver for students who violated visa terms due to abuse			
Use of alcohol or illicit substances waiver if substantially connected to the domestic violence			
Waiver of deportation ground for VAWA applicants with domestic violence convictions who acted in self-defense or under duress § 237 ✓	208(f)		633(b)(5)

Calculation of Physical Presence in VAWA Cancellation of Removal and Suspension of Deportation			634
✓ Waiver for 90/180 days continuous presence for cancellation cases ✓	208(j)(1)		634(a)
Waiver for brief, casual, innocent requirement for absences for suspension of deportation cases ✓	208(j)(2)		634(b)
Improved Access to VAWA for Battered Immigrant Women			635
Definition of intended spouse: includes bigamy ✓	208(g)(1) 208(g)(2)(B)		635(a)
Grant access to VAWA for child applicants who turn 21 and children who age-out of their parent's self-petition - <i>change bef. to children</i>			635(b)
✓ Immediate Relative Status for self-petitioners married to USCs: - deletes residence in US requirement (H.R. 357 only) - deletes extreme hardship requirement - includes spouses of bigamists ✓	208(g)(2)(A)		635(c)(1)
Extend VAWA self-petitioning to victims who file w/in 2 years of divorce from a USC			635(c)(1)
Extend VAWA self-petitioning to those women who were brought on fiancé visas and their abusers failed to marry them			635(c)(2)
✓ Immediate Relative Status for self-petitioning children of USCs: - deletes residence in US requirement (H.R. 357 only) - deletes extreme hardship requirement - allows a child filing under 21 to remain a child after turning 21 y/o. (H.R. 357 only) - <i>In Admin bill</i> ✓	208(g)(2)(C)		635(c)(3)
Extend VAWA self-petitioning to parents of USCs who are immigrant victims of elder abuse			635(c)(4)
Extend VAWA to sons & daughters of USCs over 21 y/o <i>In Admin bill</i>			635(c)(5)
Extend VAWA to self-petitioners married to or the child of USCs living abroad			635(c)(6)
Extend VAWA self-petitioning to applicants abroad who are married to or are the children of USC members of the armed forces and State Department ? <i>(Abortion like)</i>	208(g)(2)(D)		
✓ 2d Preference Status for self-petitioners married to LPRs: - deletes residence in US requirement (H.R. 357 only) - deletes extreme hardship requirement - includes spouses of bigamists ✓	208(g)(3)(A)		635(d)(1)
Extend VAWA self-petitioning to victims who file w/in 2 years of divorce from an LPR			635(d)(2)
✓ 2d preference status for self-petitioning children of LPRs: - deletes residence in US requirement (H.R. 357 only) - deletes extreme hardship requirement - allows a child filing under 21 to remain a child after turning 21 y/o <i>In Admin bill</i> ✓	208(g)(3)(C)		635(d)(3)

Extend VAWA to sons and daughters of LPRs who are over 21 y/o ?			635(d)(4)
Extend VAWA to self-petitioners married to or the child of LPRs living abroad			635(d)(5)
Extend VAWA self-petitioning to applicants abroad who are married to or are the children of LPR members of the armed forces and State Department	208(g)(3)(D)		
Continued derivative status for children who turn 21 after the self-petition is filed ?			635(d)(6)
Improved Access to VAWA Cancellation of Removal			636
Extend VAWA cancellation to immigrant victims of elder abuse and spouses of bigamists ?			636(a)
Derivative children, sons, daughters, & parents (in the case of a child applicant) in VAWA Cancellation and Suspension ✓	208(d)(1)		636(a)
Good Moral Character Determinations			637
Discretionary Waiver for Good Moral Character Determination for Self-petitioning immediate relatives ✓	208(d)(2)		637(a)
Discretionary Waiver for Good Moral Character Determinations for second-preference self-petitioners ✓	208(d)(3)		637(b)
Discretionary Waiver for Good Moral Character Determinations for VAWA cancellation ✓	208(d)(1)		637(c)
Discretionary Waiver for Good Moral Character Determinations for VAWA suspension of deportation ✓	208(d)(1)		637(d)
Battered Immigrant Women's Economic Security Act			638
Exemption from deeming requirements			638(a)
Discretionary waiver for DV offenders paying child support			638(b)
Misrepresentation waivers			638(c)
Discretionary waiver for VAWA applicants making false claims of citizenship			
Public charge exception for VAWA applicants <i>may resolve in Public Charge Act</i> ✓	208(k)		638(d)
Access to naturalization for divorced VAWA approved applicants			638(e)
Access to work authorization			638(f)
Elimination of VAWA filing and processing fees			638(g)
Access to Food Stamps and SSI for battered qualified aliens			638(h)
Access to housing for VAWA battered qualified aliens §214			638(i)
Clarify welfare reporting requirements			638(j)
Conform definition of "family" used in laws granting welfare access for battered immigrants to state family law			638(k)

Conform definition of "family" used in VAWA inadmissibility exception to state domestic violence laws			
Ensuring VAWA applicants continued receipt of SSI or Food Stamp benefits using their abusive spouse's 40 quarters despite divorce			638(l)
Technical correction in IIRAIRA regarding qualified alien definition for battered immigrants			638(m)
Access to Legal Services Corporation Funds			639
Access to legal services with non-LSC funds for any abuse victim	In Admin bill.		639(a)
Access to LSC funds for VAWA cases	11	11	639(a)
VAWA Training for INS Officers, Immigration Judges, Civil and Criminal Court Justice System Personnel			640
VAWA training for INS officers, asylum officers, state or federal immigration judges, and military personnel	208(l)		640(a)
Clarify that police, judges, and prosecutors are not required to inquire into or report the immigration status of the crime victim	208(l)(3)		640(b)
INS report to Congress on processing of VAWA cases	108(m)		640(c)
Protection for Certain Victims of Crimes Against Women			641
Adjustment of Status for Certain Victims of Crimes			641(b)
Cancellation of Removal for Certain Victims of Crimes			641(c)