Immigration and Nationality Act

Section 214

(p) 14/ 8/ REQUIREMENTS APPLICABLE TO SECTION 101(a)(15)(U) VISAS-

(1) PETITIONING PROCEDURES FOR SECTION 101(a)(15)(U) VISAS- The petition filed by an alien under section 101(a)(15)(U)(i) shall contain a certification from a Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating criminal activity described in section 101(a)(15)(U)(iii). This certification may also be provided by an official of the Service whose ability to provide such certification is not limited to information concerning immigration violations. This certification shall state that the alien "has been helpful, is being helpful, or is likely to be helpful" in the investigation or prosecution of criminal activity described in section 101(a)(15)(U)(iii).

(2) NUMERICAL LIMITATIONS-

(A) The number of aliens who may be issued visas or otherwise provided status as nonimmigrants under section 101(a)(15)(U) in any fiscal year shall not exceed 10,000.

(B) The numerical limitations in subparagraph (A) shall only apply to principal aliens described in section 101(a)(15)(U)(i), and not to spouses, children, or, in the case of alien children, the alien parents of such children.

(3) DUTIES OF THE ATTORNEY GENERAL WITH RESPECT TO "U" VISA NONIMMIGRANTS- With respect to nonimmigrant aliens described in subsection (a)(15)(U)--

(A) the Attorney General and other government officials, where appropriate, shall provide those aliens with referrals to nongovernmental organizations to advise the aliens regarding their options while in the United States and the resources available to them; and

(B) the Attorney General shall, during the period those aliens are in lawful temporary resident status under that subsection, provide the aliens with employment authorization.

(4) CREDIBLE EVIDENCE CONSIDERED- In acting on any petition filed under this subsection, the consular officer or the Attorney General, as appropriate, shall consider any credible evidence relevant to the petition.

(5) NONEXCLUSIVE RELIEF- Nothing in this subsection limits the ability of aliens who qualify for status under section 101(a)(15)(U) to seek any other immigration benefit or status for which the alien may be eligible.

(6) 14a/ DURATION OF STATUS- The authorized period of status of an alien as a nonimmigrant under section 101(a)(15)(U) shall be for a period of not more than 4 years,

but shall be extended upon certification from a Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating or prosecuting criminal activity described in section 101(a)(15)(U)(iii) that the alien's presence in the United States is required to assist in the investigation or prosecution of such criminal activity.

8 CFR

§212.17 Applications for the exercise of discretion relating to U nonimmigrant status.

(a) Filing the waiver application. An alien applying for a waiver of inadmissibility under section 212(d)(3)(B) or (d)(14) of the Act (waivers of inadmissibility), 8 U.S.C. 1182(d)(3)(B) or (d)(14), in connection with an application for U nonimmigrant status being filed pursuant to 8 CFR 214.14, must submit Form I-192, "Application for Advance Permission to Enter as a Non-Immigrant," in accordance with the form instructions, along with Form I-918, "Petition for U Nonimmigrant Status," or Form I-918, Supplement A, "Petition for Qualifying Family Member of U-1 Recipient." An alien in U nonimmigrant status who is seeking a waiver of INA section 212(a)(9)(B), 8 U.S.C. 1182(a)(9)(B) (unlawful presence ground of inadmissibility triggered by departure from the United States), must file Form I-192 prior to his or her application for re-entry to the United States in accordance with the form instructions.

(b) Treatment of waiver application. (1) USCIS, in its discretion, may grant Form I-192 based on section 212(d)(14) of the Act, 8 U.S.C. 1182(d)(14), if it determines that it is in the public or national interest to exercise discretion to waive the applicable ground(s) of inadmissibility. USCIS may not waive a ground of inadmissibility based upon section 212(a)(3)(E) of the Act, 8 U.S.C. 1182(a)(3)(E). USCIS, in its discretion, may grant Form I-192 based on section 212(d)(3) of the Act, 8 U.S.C. 1182(d)(3), except where the ground of inadmissibility arises under sections 212(a)(3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii), (3)(C), (3)(E)(i), or (3)(E)(ii) of the Act, 8 U.S.C. 1182(a)(3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii), (3)(C), (3)(E)(i), or (3)(E)(ii).

(2) There is no appeal of a decision to deny a waiver. However, nothing in this paragraph is intended to prevent an applicant from re-filing a request for a waiver of ground of inadmissibility in appropriate cases.

(c) Revocation. The Secretary of Homeland Security, at any time, may revoke a waiver previously authorized under section 212(d) of the Act, 8 U.S.C. 118(d). Under no circumstances shall the alien or any party acting on his or her behalf have a right to appeal from a decision to revoke a waiver.

§ 214.14 Alien victims of certain qualifying criminal activity.

(a) Definitions. As used in this section, the term:

(1) BIWPA means Battered Immigrant Women Protection Act of 2000 of the Victims of Trafficking and Violence Protection Act of 2000, div. B, Violence Against Women Act of 2000, tit. V, Pub. L. No. 106-386, 114 Stat. 1464, (2000), as amended by Violence Against Women and Department of Justice Reauthorization Act of 2005, Title VIII, Pub. L. No. 109-162, 119 Stat. 2960 (2006).

(2) Certifying agency means a Federal, State, or local law enforcement agency, prosecutor, judge, or other authority, that has responsibility for the investigation or prosecution of a qualifying crime or criminal activity. This definition includes agencies that have criminal investigative jurisdiction in their respective areas of expertise, including, but not limited to, child protective services, the Equal Employment Opportunity Commission, and the Department of Labor.

(3) Certifying official means: (i) the head of the certifying agency, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency; or (ii) a Federal, State, or local judge.

(4) Indian Country is defined as: (i) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; (ii) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and (iii) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

(5) Investigation or prosecution refers to the detection or investigation of a qualifying crime or criminal activity, as well as to the prosecution, conviction, or sentencing of the perpetrator of the qualifying crime or criminal activity.

(6) Military Installation means any facility, base, camp, post, encampment, station, yard, center, port, aircraft, vehicle, or vessel under the jurisdiction of the Department of Defense, including any leased facility, or any other location under military control.

(7) Next friend means a person who appears in a lawsuit to act for the benefit of an alien under the age of 16 or incapacitated or incompetent, who has suffered substantial physical or mental abuse as a result of being a victim of qualifying criminal activity. The next friend is not a party to the legal proceeding and is not appointed as a guardian.

(8) Physical or mental abuse means injury or harm to the victim's physical person, or harm to or impairment of the emotional or psychological soundness of the victim.

(9) Qualifying crime or qualifying criminal activity includes one or more of the following or any similar activities in violation of Federal, State or local criminal law of the United States: rape; torture; trafficking; incest; domestic violence; sexual assault;

abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes. The term, "similar activity," refers to criminal offenses in which the nature and elements of the offenses are substantially similar to the statutorily enumerated list of criminal activities.

(10) Qualifying family member means the spouse or child(ren) of an alien victim 21 years of age or older who is eligible for U nonimmigrant status as described in section 101(a)(15)(U) of the Act, 8 U.S.C. 1101(a)(15)(U). In the case of an alien victim under the age of 21, qualifying family member means the spouse, child(ren), parents, or unmarried siblings under the age of 18 of such an alien.

(11) Territories and Possessions of the United States means American Samoa, Bajo Nuevo (the Petrel Islands), Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Navassa Island, Northern Mariana Islands, Palmyra Atoll, Serranilla Bank, and Wake Atoll.

(12) U nonimmigrant status certification means Form I-918, Supplement B, "U Nonimmigrant Status Certification," which confirms that the petitioner has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim.

(13) U interim relief refers to the interim benefits that were provided by USCIS to petitioners for U nonimmigrant status, who requested such benefits and who were deemed prima facie eligible for U nonimmigrant status prior to the publication of the implementing regulations.

(14) Victim of qualifying criminal activity generally means an alien who has suffered direct and proximate harm as a result of the commission of qualifying criminal activity.

(i) The alien spouse, unmarried children under 21 years of age and, if the victim is under 21 years of age, parents and unmarried siblings under 18 years of age, will be considered victims of qualifying criminal activity where the direct victim is deceased due to murder or manslaughter, or where a violent qualifying criminal activity has caused the direct victim physical harm of a kind and degree that makes the direct victim incompetent or incapacitated, and, therefore, unable to provide information concerning the criminal activity or be helpful in the investigation or prosecution of the criminal activity. For purposes of determining eligibility under this definition, USCIS will consider the age of the victim at the time the qualifying criminal activity occurred.

(ii) A petitioner may be considered a victim of witness tampering, obstruction of justice, or perjury, including any attempt, solicitation, or conspiracy to commit one or more of those offenses, if:

(A) The petitioner has been directly and proximately harmed by the perpetrator of the witness tampering, obstruction of justice, or perjury; and

(B) There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice, or perjury offense, at least in principal part, as a means:

(1) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; or

(2) To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system.

(iii) A person who is culpable for the qualifying criminal activity being investigated or prosecuted is excluded from being recognized as a victim of qualifying criminal activity.

(b) Eligibility. An alien is eligible for U-1 nonimmigrant status if he or she demonstrates all of the following in accordance with paragraph (c) of this section:

(1) The alien has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity. Whether abuse is substantial is based on a number of factors, including but not limited to: the nature of the injury inflicted or suffered; the severity of the perpetrator's conduct; the severity of the harm suffered; the duration of the infliction of the harm; and the extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim, including aggravation of pre-existing conditions. A series of acts taken together may be considered to have caused substantial physical or mental abuse even where no single act alone rises to that level;

(2) The alien possesses specific information establishing that he or she has knowledge of the details concerning the qualifying criminal activity upon which his or her petition is based. The petitioner must possess specific facts regarding the criminal activity leading a certifying official to determine that the petitioner has, is, or is likely to provide assistance to the investigation or prosecution of the qualifying criminal activity. In the event that the alien has not yet reached 16 years of age on the date on which an act constituting an element of the qualifying criminal activity first occurred, a parent, guardian or next friend of the alien may possess the information regarding a qualifying crime. In addition, if the petitioner is incapacitated or incompetent, a parent, guardian, or next friend may possess the information regarding the qualifying crime;

(3) The alien has been helpful, is being helpful, or is likely to be helpful to a certifying agency in the investigation or prosecution of the qualifying criminal activity upon which his or her petition is based, and since the initiation of cooperation, has not refused or failed to provide information and assistance reasonably requested. In the event that the alien has not yet reached 16 years of age on the date on which an act constituting

an element of the qualifying criminal activity first occurred, a parent, guardian or next friend of the alien may provide the required assistance. In addition, if the petitioner is incapacitated or incompetent and, therefore, unable to be helpful in the investigation or prosecution of the qualifying criminal activity, a parent, guardian, or next friend may provide the required assistance; and

(4) The qualifying criminal activity occurred in the United States (including Indian country and U.S. military installations) or in the territories or possessions of the United States, or violated a U.S. federal law that provides for extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.

(c) Application procedures for U nonimmigrant status. (1) Filing a petition. USCIS has sole jurisdiction over all petitions for U nonimmigrant status. A petitioner seeking U-1 nonimmigrant status must submit, by mail, Form I-918, "Petition for U Nonimmigrant Status," applicable fees (or request for a fee waiver as provided in 8 CFR 103.7(c)), and initial evidence to USCIS in accordance with this paragraph and the instructions to Form I-918. A petitioner who received interim relief is not required to submit initial evidence with Form I-918 if he or she wishes to rely on the law enforcement certification and other evidence that was submitted with the request for interim relief.

(2) Initial evidence. Form I-918 must include the following initial evidence:

(i) Form I-918, Supplement B, "U Nonimmigrant Status Certification," signed by a certifying official within the six months immediately preceding the filing of Form I-918. The certification must state that: (1) the person signing the certificate is the head of the agency, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency, or is a Federal, State, or local judge; (2) the agency is a Federal, State, or local law enforcement agency, or prosecutor, judge or other authority, that has responsibility for the detection, investigation, prosecution, conviction, or sentencing of qualifying criminal activity; (3) the applicant has been a victim of qualifying criminal activity that the certifying official's agency is investigating or prosecuting; (4) the petitioner possesses information concerning the qualifying criminal activity of which he or she has been a victim; (5) the petitioner has been, is being, or is likely to be helpful to an investigation or prosecution of that qualifying criminal activity; and (6) the qualifying criminal activity violated U.S. law, or occurred in the United States, its territories, its possessions, Indian country, or at military installations abroad.

(ii) Evidence that the petitioner is a victim of qualifying criminal activity;

(iii) Evidence that the petitioner has suffered substantial physical or mental abuse as a result of being a victim of qualifying criminal activity;

(iv) Evidence that the petitioner (or, in the case of a child under the age of 16 or petitioner who is incompetent or incapacitated, a parent, guardian or next friend of the

petitioner) possesses information establishing that he or she has knowledge of the details concerning the qualifying criminal activity of which he or she was a victim and upon which his or her application is based;

(v) Evidence that the petitioner (or, in the case of a child under the age of 16 or petitioner who is incompetent or incapacitated, a parent, guardian or next friend of the petitioner) has been helpful, is being helpful, or is likely to be helpful to a Federal, State, or local law enforcement agency, prosecutor, or authority, or Federal or State judge, investigating or prosecuting the criminal activity of which the petitioner is a victim;

(vi) Evidence that the criminal activity is qualifying and occurred in the United States (including Indian country and U.S. military installations) or in the territories or possessions of the United States, or violates a U.S. federal law that provides for extraterritorial jurisdiction to prosecute the offense in a U.S. federal court;

(vii) A signed statement by the petitioner describing the facts of the victimization. When the petitioner is under the age of 16, incapacitated, or incompetent, a parent, guardian, or next friend may submit a statement on behalf of the petitioner; and

(viii) If the petitioner is inadmissible, Form I-192, "Application for Advance Permission to Enter as a Non-Immigrant," in accordance with 8 CFR 212.17.

(3) Biometric capture. All petitioners for U-1 nonimmigrant status must submit to biometric capture and pay a biometric capture fee. USCIS will notify the petitioner of the proper time and location to appear for biometric capture after the petitioner files Form I-918.

(4) Evidentiary standards and burden of proof. The burden shall be on the petitioner to demonstrate eligibility for U-1 nonimmigrant status. The petitioner may submit any credible evidence relating to his or her Form I-918 for consideration by USCIS. USCIS shall conduct a de novo review of all evidence submitted in connection with Form I-918 and may investigate any aspect of the petition. Evidence previously submitted for this or other immigration benefit or relief may be used by USCIS in evaluating the eligibility of a petitioner for U-1 nonimmigrant status. However, USCIS will not be bound by its previous factual determinations. USCIS will determine, in its sole discretion, the evidentiary value of previously or concurrently submitted evidence, including Form I-918, Supplement B, "U Nonimmigrant Status Certification."

(5) Decision. After completing its de novo review of the petition and evidence, USCIS will issue a written decision approving or denying Form I-918 and notify the petitioner of this decision. USCIS will include in a decision approving Form I-918 a list of nongovernmental organizations to which the petitioner can refer regarding his or her options while in the United States and available resources.

(i) Approval of Form I-918, generally. If USCIS determines that the petitioner has met the requirements for U-1 nonimmigrant status, USCIS will approve Form I-918.

For a petitioner who is within the United States, USCIS also will concurrently grant U-1 nonimmigrant status, subject to the annual limitation as provided in paragraph (d) of this section.

(A) Notice of Approval of Form I-918 for U-1 petitioners within the United States. After USCIS approves Form I-918 for an alien who filed his or her petition from within the United States, USCIS will notify the alien of such approval on Form I-797, "Notice of Action," and include Form I-94, "Arrival-Departure Record," indicating U-1 nonimmigrant status.

(B) Notice of Approval of Form I-918 for U-1 petitioners outside the United States. After USCIS approves Form I-918 for an alien who filed his or her petition from outside the United States, USCIS will notify the alien of such approval on Form I-797, "Notice of Action," and will forward notice to the Department of State for delivery to the U.S. Embassy or Consulate having jurisdiction over the area in which the alien is located, or, for a visa exempt alien, to the appropriate port of entry.

(ii) Denial of Form I-918. In accordance with 8 CFR 103.3(a)(1)(i), USCIS will provide written notification to the petitioner of the reasons for the denial. The petitioner may appeal a denial of Form I-918 to the Administrative Appeals Office in accordance with the provisions of 8 CFR 103.3(a)(1)(iii).

(6) Petitioners granted U interim relief. Petitioners who were granted U interim relief as defined in paragraph (a)(13) of this section and whose Form I-918 is approved will be accorded U-1 nonimmigrant status as of the date that a request for U interim relief was initially approved.

(7) Employment authorization. An alien granted U-1 nonimmigrant status is employment authorized incident to status. USCIS automatically will issue an initial Employment Authorization Document (EAD) to such aliens who are in the United States. For principal aliens who applied from outside the United States, the initial EAD will not be issued until the petitioner has been admitted to the United States in U nonimmigrant status. After admission, the alien may receive an initial EAD, upon request and submission of a copy of his or her Form I-94, "Arrival-Departure Record," to the USCIS office having jurisdiction over the adjudication of petitions for U nonimmigrant status. No additional fee is required. An alien granted U-1 nonimmigrant status seeking to renew his or her expiring EAD or replace an EAD that was lost, stolen, or destroyed, must file Form I-765 in accordance with the instructions to the form.

(d) Annual cap of U-1 nonimmigrant status. (1) General. In accordance with section 214(p)(2) of the Act, 8 U.S.C. 1184(p)(2), the total number of aliens who may be issued a U-1 nonimmigrant visa or granted U-1 nonimmigrant status may not exceed 10,000 in any fiscal year.

(2) Waiting list. All eligible petitioners who, due solely to the cap, are not granted U-1 nonimmigrant status must be placed on a waiting list and receive written notice of

such placement. Priority on the waiting list will be determined by the date the petition was filed with the oldest petitions receiving the highest priority. In the next fiscal year, USCIS will issue a number to each petition on the waiting list, in the order of highest priority, providing the petitioner remains admissible and eligible for U nonimmigrant status. After U-1 nonimmigrant status has been issued to qualifying petitioners on the waiting list, any remaining U-1 nonimmigrant numbers for that fiscal year will be issued to new qualifying petitioners in the order that the petitions were properly filed. USCIS will grant deferred action or parole to U-1 petitioners and qualifying family members while the U-1 petitioners are on the waiting list. USCIS, in its discretion, may authorize employment for such petitioners and qualifying family members.

(3) Unlawful presence. During the time a petitioner for U status who was granted deferred action or parole is on the waiting list, no accrual of unlawful presence under section 212(a)(9)(B) of the INA, 8 U.S.C. 1182(a)(9)(B), will result. However, a petitioner may be removed from the waiting list and the deferred action or parole may be terminated at the discretion of USCIS.

(e) Restrictions on use and disclosure of information relating to petitioners for U nonimmigrant classification. (1) General. The use or disclosure (other than to a sworn officer or employee of DHS, the Department of Justice, the Department of State, or a bureau or agency of any of those departments, for legitimate department, bureau, or agency purposes) of any information relating to the beneficiary of a pending or approved petition for U nonimmigrant status is prohibited unless the disclosure is made:

(i) By the Secretary of Homeland Security, at his discretion, in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under 13 U.S.C. 8;

(ii) By the Secretary of Homeland Security, at his discretion, to law enforcement officials to be used solely for a legitimate law enforcement purpose;

(iii) In conjunction with judicial review of a determination in a manner that protects the confidentiality of such information;

(iv) After adult petitioners for U nonimmigrant status or U nonimmigrant status holders have provided written consent to waive the restrictions prohibiting the release of information;

(v) To Federal, State, and local public and private agencies providing benefits, to be used solely in making determinations of eligibility for benefits pursuant to 8 U.S.C. 1641(c);

(vi) After a petition for U nonimmigrant status has been denied in a final decision;

(vii) To the chairmen and ranking members of the Committee on the Judiciary of the Senate or the Committee on the Judiciary of the House of Representatives, for the

exercise of congressional oversight authority, provided the disclosure relates to information about a closed case and is made in a manner that protects the confidentiality of the information and omits personally identifying information (including locational information about individuals);

(viii) With prior written consent from the petitioner or derivative family members, to nonprofit, nongovernmental victims' service providers for the sole purpose of assisting the victim in obtaining victim services from programs with expertise working with immigrant victims; or

(ix) To federal prosecutors to comply with constitutional obligations to provide statements by witnesses and certain other documents to defendants in pending federal criminal proceedings.

(2) Agencies receiving information under this section, whether governmental or non-governmental, are bound by the confidentiality provisions and other restrictions set out in 8 U.S.C. 1367.

(3) Officials of the Department of Homeland Security are prohibited from making adverse determinations of admissibility or deportability based on information obtained from the perpetrator of substantial physical or mental abuse and the criminal activity.

(f) Admission of qualifying family members.

(1) Eligibility. An alien who has applied for or has been granted U-1 nonimmigrant status may apply for admission of a qualifying family member in a U-2 (spouse), U-3 (child), U-4 (parent of a U-1 alien who is a child under 21 years of age), or U-5 (unmarried sibling under the age of 18) derivative status, if accompanying or following to join the principal alien. A qualifying family member who committed the qualifying criminal activity in a family violence or trafficking context which established the principal alien's eligibility for U nonimmigrant status shall not be granted U-2, U-3, U-4, or U-5 nonimmigrant status. To be eligible for U-2, U-3, U-4, or U-5 nonimmigrant status, it must be demonstrated that:

(i) The alien for whom U-2, U-3, U-4, or U-5 status is being sought is a qualifying family member, as defined in paragraph (a)(10) of this section; and

(ii) The qualifying family member is admissible to the United States.

(2) Filing Procedures. A petitioner for U-1 nonimmigrant status may apply for derivative U nonimmigrant status on behalf of qualifying family members by submitting a Form I-918, Supplement A, "Petition for Qualifying Family Member of U-1 Recipient," for each family member either at the same time the petition for U-1 nonimmigrant status is filed, or at a later date. An alien who has been granted U-1 nonimmigrant status may also apply for derivative U nonimmigrant status on behalf of qualifying family members

by submitting Form I-918, Supplement A for each family member. All Form I-918, Supplement A must be accompanied by initial evidence and the required fees specified in the instructions to the form. Forms I-918, Supplement A that are not filed at the same time as Form I-918 but are filed at a later date must be accompanied by a copy of the Form I-918 that was filed by the principal petitioner or a copy of his or her Form I-94 demonstrating proof of U-1 nonimmigrant status, as applicable.

(3) Initial evidence. Form I-918, Supplement A, must include the following initial evidence:

(i) Evidence demonstrating the relationship of a qualifying family member, as provided in paragraph (f)(4) of this section;

(ii) If the petitioner is inadmissible, Form I-192, "Application for Advance Permission to Enter as a Non-Immigrant," in accordance with 8 CFR 212.17.

(4) Relationship. Except as set forth in paragraphs (f)(4)(i) and (ii) of this section, the relationship between the U-1 principal alien and the qualifying family member must exist at the time Form I-918 was filed, and the relationship must continue to exist at the time Form I-918, Supplement A is adjudicated, and at the time of the qualifying family member's subsequent admission to the United States.

(i) If the U-1 principal alien proves that he or she has become the parent of a child after Form I-918 was filed, the child shall be eligible to accompany or follow to join the U-1 principal.

(ii) If the principal petitioner was under 21 years of age at the time he or she filed Form I-918, and filed Form I-918, Supplement A for an unmarried sibling under the age of 18, USCIS will continue to consider such sibling as a qualifying family member for purposes of U nonimmigrant status even if the principal petitioner is no longer under 21 years of age at the time of adjudication, and even if the sibling is no longer under 18 years of age at the time of adjudication.

(5) Biometric capture and evidentiary standards. The provisions for biometric capture and evidentiary standards in paragraphs (c)(3) and (c)(4) of this section also are applicable to petitions for qualifying family members.

(6) Decision. USCIS will issue a written decision approving or denying Form I-918, Supplement A and send notice of this decision to the U-1 principal petitioner.

(i) Approvals for qualifying family members within the United States. When USCIS approves a Form I-918, Supplement A for a qualifying family member who is within the United States, it will concurrently grant that alien U-2, U-3, U-4, or U-5 nonimmigrant status. USCIS will notify the principal of such approval on Form I-797, "Notice of Action," with Form I-94, "Arrival-Departure Record," indicating U-2, U-3, U-4, or U-5 nonimmigrant status. Aliens who were previously granted U interim relief as

defined in paragraph (a)(13) of this section will be accorded U nonimmigrant status as of the date that the request for U interim relief was approved. Aliens who are granted U-2, U-3, U-4, or U-5 nonimmigrant status are not subject to an annual numerical limit. USCIS may not approve Form I-918, Supplement A unless it has approved the principal's Form I-918.

(ii) Approvals for qualifying family members outside the United States. When USCIS approves Form I-918, Supplement A for a qualifying family member who is outside the United States, USCIS will notify the principal of such approval on Form I-797. USCIS will forward the approved Form I-918, Supplement A to the Department of State for delivery to the U.S. Embassy or Consulate having jurisdiction over the area in which the qualifying family member is located, or, for a visa exempt alien, to the appropriate port of entry.

(iii) Denial of the Form I-918, Supplement A. In accordance with 8 CFR 103.3(a)(1), USCIS will provide written notification of the reasons for the denial. The principal may appeal the denial of Form I-918, Supplement A to the Administrative Appeals Office in accordance with the provisions of 8 CFR 103.3(a)(1)(iii).

(7) Employment authorization. An alien granted U-2, U-3, U-4, or U-5 nonimmigrant status is employment authorized incident to status. To obtain an Employment Authorization Document (EAD), such alien must file Form I-765, "Application for Employment Authorization," with the appropriate fee or a request for a fee waiver, in accordance with the instructions to that form. For qualifying family members within the United States, the Form I-765 may be filed concurrently with Form I-918, Supplement A, or at any time thereafter. For qualifying family members who are outside the United States, Form I-765 only may be filed after admission to the United States in U nonimmigrant status.

(g) Duration of U nonimmigrant status. (1) In general. U nonimmigrant status may be approved for a period not to exceed 4 years in the aggregate. A derivative family member granted U-2, U-3, U-4, and U-5 nonimmigrant status will be approved for an initial period that does not exceed the expiration date of the initial period approved for the principal.

(2) Extension of status. (i) Where a U nonimmigrant's approved period of stay on Form I-94 is less than 4 years, he or she may file Form I-539, "Application to Extend/Change Nonimmigrant Status," to request an extension of U nonimmigrant status for an aggregate period not to exceed 4 years. USCIS may approve an extension of status for a derivative beyond the date when the U-1 nonimmigrant's status expires when the derivative is unable to enter the United States timely due to delays in consular processing, and an extension of status is necessary to ensure that the derivative is able to attain at least 3 years in nonimmigrant status for purposes of adjusting status under section 245(m) of the Act, 8 U.S.C. 1255.

(ii) Extensions of U nonimmigrant status beyond the 4-year period are available upon attestation by the certifying official that the alien's presence in the United States continues to be necessary to assist in the investigation or prosecution of qualifying criminal activity. In order to obtain an extension of U nonimmigrant status based upon such an attestation, the alien must file Form I-539 and a newly executed Form I-918, Supplement B in accordance with the instructions to Form I-539.

(h) Revocation of approved petitions for U nonimmigrant status. (1) Automatic revocation. (A) An approved petition for U-1 nonimmigrant status will be revoked automatically if the certifying official withdraws the U nonimmigrant status certification referred to in 8 CFR 214.14(c)(2)(i) or disavows the contents in writing.

(B) An approved petition for U-1 nonimmigrant status will be revoked automatically if, pursuant to 8 CFR 214.14(d)(1), the beneficiary of the approved petition notifies the USCIS office that approved the petition that he or she will not apply for admission to the United States and, therefore, the petition will not be used.

(2) Revocation on notice. (i) USCIS may revoke an approved petition for U nonimmigrant status following a notice of intent to revoke. USCIS may revoke an approved petition for U nonimmigrant status based on one or more of the following reasons:

(A) Approval of the petition was in error;

(B) Where there was fraud in the petition;

(C) In the case of a U-2, U-3, U-4, or U-5 nonimmigrant, the relationship to the principal petitioner has terminated; or

(D) In the case of a U-2, U-3, U-4, or U-5 nonimmigrant, the principal U-1's nonimmigrant status is revoked.

(ii) The notice of intent to revoke must be in writing and contain a detailed statement of the grounds for the revocation and the time period allowed for the U nonimmigrant's rebuttal. The alien may submit evidence in rebuttal within 30 days of the date of the notice. USCIS shall consider all relevant evidence presented in deciding whether to revoke the approved petition for U nonimmigrant status. The determination of what is relevant evidence and the weight to be given to that evidence will be within the sole discretion of USCIS. If USCIS revokes approval of a petition and thereby terminates U nonimmigrant status, USCIS will provide the alien with a written notice of revocation that explains the specific reasons for the revocation.

(4) Appeal of a revocation of approval. A revocation on notice may be appealed to the Administrative Appeals Office in accordance with 8 CFR 103.3(a)(1)(iii) within 30 days after the date of the notice of revocation. Automatic revocations may not be appealed.

(5) Effects of revocation of approval. Revocation of a principal's approved Form I-918 will result in termination of status for the principal, as well as in the denial of any pending Form I-918, Supplement A filed for qualifying family members seeking U-2, U-3, U-4, or U-5 nonimmigrant status. Revocation of a derivative's approved Form I-918, Supplement A will result in termination of status for the derivative.

(i) Removal proceedings. Nothing in this section prohibits USCIS from instituting removal proceedings under section 240 of the Act, 8 U.S.C. 1229(a), for conduct committed after admission, for conduct or a condition that was not disclosed to USCIS prior to the granting of U nonimmigrant status, for misrepresentations of material facts in Form I-918 or Form I-918, Supplement A and supporting documentation, or after revocation of U nonimmigrant status.

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SEC. 801. TREATMENT OF SPOUSE AND CHILDREN OF VICTIMS.

(a) Treatment of Spouse and Children of Victims of Trafficking- Section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)) is amended--

(1) in clause (i)--

(A) in the matter preceding subclause (I), by striking `Attorney General' and inserting `Secretary of Homeland Security, or in the case of subclause (III)(aa) the Secretary of Homeland Security and the Attorney General jointly;';

(B) in subclause (III)(aa)--

(i) by inserting `Federal, State, or local' before `investigation'; and

(ii) by striking `, or' and inserting `or the investigation of crime where acts of trafficking are at least one central reason for the commission of that crime; or'; and

(C) in subclause (IV), by striking `and' at the end;

(2) by amending clause (ii) to read as follows:

`(ii) if accompanying, or following to join, the alien described in clause (i)--

`(I) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause, and parents of such alien; or

`(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien; and'; and

(3) by inserting after clause (ii) the following:

`(iii) if the Secretary of Homeland Security, in his or her discretion and with the consultation of the Attorney General, determines that a trafficking victim, due to psychological or physical trauma, is unable to cooperate with a request for assistance described in clause (i)(III)(aa), the request is unreasonable.'.

(b) Treatment of Spouses and Children of Victims of Abuse- Section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)) is amended--

(1) in clause (i), by striking `Attorney General' and inserting `Secretary of Homeland Security'; and

(2) by amending clause (ii) to read as follows:

`(ii) if accompanying, or following to join, the alien described in clause (i)--

`(I) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause, and parents of such alien; or

`(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien; and'.

(c) Technical Amendments- Section 101(i) of the Immigration and Nationality Act (8 U.S.C. 1101(i)) is amended--

(1) in paragraph (1), by striking `Attorney General' and inserting `Secretary of Homeland Security, the Attorney General,'; and

(2) in paragraph (2), by striking `Attorney General' and inserting `Secretary of Homeland Security'.

SEC. 802. PRESENCE OF VICTIMS OF A SEVERE FORM OF TRAFFICKING IN PERSONS.

(a) In General- Section 212(a)(9)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)(iii)) is amended by adding at the end the following:

`(V) VICTIMS OF A SEVERE FORM OF TRAFFICKING IN PERSONS-

Clause (i) shall not apply to an alien who demonstrates that the severe form of trafficking (as that term is defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)) was at least one central reason for the alien's unlawful presence in the United States.'.

(b) Technical Amendment- Paragraphs (13) and (14) of section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) are amended by striking `Attorney General' each place it appears and inserting `Secretary of Homeland Security'.

SEC. 803. ADJUSTMENT OF STATUS.

(a) Victims of Trafficking- Section 245(l) of the Immigration and Nationality Act (8 U.S.C. 1255(l)) is amended--
(1) in paragraph (1)--

(A) by striking `Attorney General' each place it appears and inserting `Secretary of Homeland Security, or in the case of subparagraph (C)(i), the Attorney General,'; and

(B) in subparagraph (A), by inserting at the end `or has been physically present in the United States for a continuous period during the investigation or prosecution of acts of trafficking and that, in the opinion of the Attorney General, the investigation or prosecution is complete, whichever period of time is less;';

(2) in paragraph (2), by striking `Attorney General' each place it appears and inserting `Secretary of Homeland Security'; and

(3) in paragraph (5), by striking `Attorney General' and inserting `Secretary of Homeland Security'.

(b) Victims of Crimes Against Women- Section 245(m) of the Immigration and Nationality Act (8 U.S.C. 12255(m)) is amended--

(1) in paragraph (1)--

(A) by striking `Attorney General may adjust' and inserting `Secretary of Homeland Security may adjust'; and

(B) in subparagraph (B), by striking `Attorney General' and inserting `Secretary of Homeland Security';

(2) in paragraph (3)--

(A) by striking `Attorney General may adjust' and inserting `Secretary of

Homeland Security may adjust'; and

(B) by striking `Attorney General considers' and inserting `Secretary considers'; and

(3) in paragraph (4), by striking `Attorney General' and inserting `Secretary of Homeland Security'.

SEC. 804. PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING.

(a) Clarification of Department of Justice and Department of Homeland Security Roles- Section 107 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105) is amended--

(1) in subsections (b)(1)(E), (e)(5), and (g), by striking `Attorney General' each place it appears and inserting `Secretary of Homeland Security'; and

(2) in subsection (c), by inserting `, the Secretary of Homeland Security' after `Attorney General'.

(b) Certification Process- Section 107(b)(1)(E) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(1)(E)) is amended--

(1) in clause (i)--

(A) in the matter preceding subclause (I), by inserting `and the Secretary of Homeland Security' after `Attorney General'; and

(B) in subclause (II)(bb), by inserting `and the Secretary of Homeland Security' after `Attorney General'.

(2) in clause (ii), by inserting `Secretary of Homeland Security' after `Attorney General';

(3) in clause (iii)--

(A) in subclause (II), by striking `and' at the end;

(B) in subclause (III), by striking the period at the end and inserting `; or'; and

(C) by adding at the end the following:

`(IV) responding to and cooperating with requests for evidence and information.'.

(c) Protection From Removal for Certain Crime Victims- Section 107(e) of

the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(e)) is amended by striking `Attorney General' each place it occurs and inserting `Secretary of Homeland Security'.

(d) Annual Report- Section 107(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(g)) is amended by inserting `or the Secretary of Homeland Security' after `Attorney General'.

SEC. 805. PROTECTING VICTIMS OF CHILD ABUSE.

(a) Aging Out Children- Section 204(a)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(D)) is amended--

(1) in clause (i)--

(A) in subclause (I), by inserting `or section 204(a)(1)(B)(iii)' after `204(a)(1)(A)' each place it appears; and

(B) in subclause (III), by striking `a petitioner for preference status under paragraph (1), (2), or (3) of section 203(a), whichever paragraph is applicable,' and inserting `a VAWA self-petitioner'; and

(2) by adding at the end the following:

`(iv) Any alien who benefits from this subparagraph may adjust status in accordance with subsections (a) and (c) of section 245 as an alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii).'.

(b) Application of CSPA Protections-

(1) IMMEDIATE RELATIVE RULES- Section 201(f) of the Immigration and Nationality Act (8 U.S.C. 1151(f)) is amended by adding at the end the following:

`(4) APPLICATION TO SELF-PETITIONS- Paragraphs (1) through (3) shall apply to self-petitioners and derivatives of self-petitioners.'.

(2) CHILDREN RULES- Section 203(h) of the Immigration and Nationality Act (8 U.S.C. 1153(h)) is amended by adding at the end the following:

`(4) APPLICATION TO SELF-PETITIONS- Paragraphs (1) through (3) shall apply to self-petitioners and derivatives of self-petitioners.'.

(c) Late Petition Permitted for Immigrant Sons and Daughters Battered as Children-

(1) IN GENERAL- Section 204(a)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(D)), as amended by subsection (a), is further amended by adding at the end the following:

`(v) For purposes of this paragraph, an individual who is not less than 21 years of age, who qualified to file a petition under subparagraph (A)(iv) as of the day before the date on which the individual attained 21 years of age, and who did not file such a petition before such day, shall be treated as having filed a petition under such subparagraph as of such day if a petition is filed for the status described in such subparagraph before the individual attains 25 years of age and the individual shows that the abuse was at least one central reason for the filing delay. Clauses (i) through (iv) of this subparagraph shall apply to an individual described in this clause in the same manner as an individual filing a petition under subparagraph (A)(iv).'.

(d) Removing a 2-Year Custody and Residency Requirement for Battered Adopted Children- Section 101(b)(1)(E)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)(E)(i)) is amended by inserting before the colon the following: `or if the child has been battered or subject to extreme cruelty by the adopting parent or by a family member of the adopting parent residing in the same household'.

Subtitle B--VAWA Self-Petitioners

SEC. 811. DEFINITION OF VAWA SELF-PETITIONER.

Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

`(51) The term `VAWA self-petitioner' means an alien, or a child of the alien, who qualifies for relief under--

`(A) clause (iii), (iv), or (vii) of section 204(a)(1)(A);

`(B) clause (ii) or (iii) of section 204(a)(1)(B);

`(C) section 216(c)(4)(C);

`(D) the first section of Public Law 89-732 (8 U.S.C. 1255 note) (commonly known as the Cuban Adjustment Act) as a child or spouse who has been battered or subjected to extreme cruelty;

`(E) section 902(d)(1)(B) of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note);

`(F) section 202(d)(1) of the Nicaraguan Adjustment and Central American Relief Act; or

`(G) section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208).'.

SEC. 812. APPLICATION IN CASE OF VOLUNTARY DEPARTURE.

Section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)) is amended to read as follows:

`(d) Civil Penalty for Failure To Depart-

`(1) IN GENERAL- Subject to paragraph (2), if an alien is permitted to depart voluntarily under this section and voluntarily fails to depart the United States within the time period specified, the alien--

`(A) shall be subject to a civil penalty of not less than $1,000 and not more than $5,000; and

`(B) shall be ineligible, for a period of 10 years, to receive any further relief under this section and sections 240A, 245, 248, and 249.

`(2) APPLICATION OF VAWA PROTECTIONS- The restrictions on relief under paragraph (1) shall not apply to relief under section 240A or 245 on the basis of a petition filed by a VAWA self-petitioner, or a petition filed under section 240A(b)(2), or under section 244(a)(3) (as in effect prior to March 31, 1997), if the extreme cruelty or battery was at least one central reason for the alien's overstaying the grant of voluntary departure.

`(3) NOTICE OF PENALTIES- The order permitting an alien to depart voluntarily shall inform the alien of the penalties under this subsection.'.

SEC. 813. REMOVAL PROCEEDINGS.

(a) Exceptional Circumstances-

(1) IN GENERAL- Section 240(e)(1) of the Immigration and Nationality Act (8 U.S.C. 1229a(e)(1)) is amended by striking `serious illness of the alien' and inserting `battery or extreme cruelty to the alien or any child or parent of the alien, serious illness of the alien,'.

(2) EFFECTIVE DATE- The amendment made by paragraph (1) shall apply to a failure to appear that occurs before, on, or after the date of the enactment of this Act.

(b) Discretion to Consent to an Alien's Reapplication for Admission-

(1) IN GENERAL- The Secretary of Homeland Security, the Attorney General, and the Secretary of State shall continue to have discretion to consent to an alien's reapplication for admission after a previous order of removal, deportation, or exclusion.

(2) SENSE OF CONGRESS- It is the sense of Congress that the officials described in paragraph (1) should particularly consider exercising this authority in cases under the Violence Against Women Act of 1994, cases involving nonimmigrants described in subparagraph (T) or (U) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), and relief under section 240A(b)(2) or 244(a)(3) of such Act (as in effect on March 31, 1997) pursuant to regulations under section 212.2 of title 8, Code of Federal Regulations.

(c) Clarifying Application of Domestic Violence Waiver Authority in Cancellation of Removal-

(1) IN GENERAL- Section 240A(b) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)) is amended--

(A) in paragraph (1)(C), by striking `(except in a case described in section 237(a)(7) where the Attorney General exercises discretion to grant a waiver)' and inserting `, subject to paragraph (5)';

(B) in paragraph (2)(A)(iv), by striking `(except in a case described in section 237(a)(7) where the Attorney General exercises discretion to grant a waiver)' and inserting `, subject to paragraph (5)'; and

(C) by adding at the end the following:

`(5) APPLICATION OF DOMESTIC VIOLENCE WAIVER AUTHORITY- The authority provided under section 237(a)(7) may apply under paragraphs (1)(B), (1)(C), and (2)(A)(iv) in a cancellation of removal and adjustment of status proceeding.'.

SEC. 814. ELIMINATING ABUSERS' CONTROL OVER APPLICATIONS AND LIMITATION ON PETITIONING FOR ABUSERS.

(a) Application of VAWA Deportation Protections to Aliens Eligible for Relief Under Cuban Adjustment and Haitian Refugee Immigration Fairness Act- Section 1506(c)(2) of the Violence Against Women Act of 2000 (8 U.S.C. 1229a note; division B of Public Law 106-386) is amended--

(1) in subparagraph (A)--

(A) by amending clause (i) to read as follows:

`(i) if the basis of the motion is to apply for relief under--

`(I) clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A));
`(II) clause (ii) or (iii) of section 204(a)(1)(B) of such Act (8 U.S.C. 1154(a)(1)(B));

`(III) section 244(a)(3) of such Act (8 U.S.C. 8 U.S.C. 1254(a)(3));

`(IV) the first section of Public Law 89-732 (8 U.S.C. 1255 note) (commonly known as the Cuban Adjustment Act) as a child or spouse who has been battered or subjected to extreme cruelty; or

`(V) section 902(d)(1)(B) of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note); and'; and

(B) in clause (ii), by inserting `or adjustment of status' after `suspension of deportation'; and

(2) in subparagraph (B)(ii), by striking `for relief' and all that follows through `1101 note))' and inserting `for relief described in subparagraph (A)(i)'.

(b) Employment Authorization for VAWA Self-Petitioners- Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended by adding at the end the following:

`(K) Upon the approval of a petition as a VAWA self-petitioner, the alien--

`(i) is eligible for work authorization; and

`(ii) may be provided an `employment authorized' endorsement or appropriate work permit incidental to such approval.'.

(c) Employment Authorization for Battered Spouses of Certain Nonimmigrants- Title I of the Immigration and Nationality Act is amended by adding at the end the following new section:

`SEC. 106. EMPLOYMENT AUTHORIZATION FOR BATTERED SPOUSES OF CERTAIN NONIMMIGRANTS.

`(a) In General- In the case of an alien spouse admitted under subparagraph

(A), (E)(iii), (G), or (H) of section 101(a)(15) who is accompanying or following to join a principal alien admitted under subparagraph (A), (E)(iii), (G), or (H) of such section, respectively, the Secretary of Homeland Security may authorize the alien spouse to engage in employment in the United States and provide the spouse with an `employment authorized' endorsement or other appropriate work permit if the alien spouse demonstrates that during the marriage the alien spouse or a child of the alien spouse has been battered or has been the subject of extreme cruelty perpetrated by the spouse of the alien spouse. Requests for relief under this section shall be handled under the procedures that apply to aliens seeking relief under section 204(a)(1)(A)(iii).

`(b) Construction- The grant of employment authorization pursuant to this section shall not confer upon the alien any other form of relief.'.

(d) Clerical Amendment- The table of contents of such Act is amended by inserting after the item relating to section 105 the following new item:

`Sec. 106. Employment authorization for battered spouses of certain nonimmigrants.'.

(e) Limitation on Petitioning for Abuser- Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended by adding at the end the following new subparagraph:

`(L) Notwithstanding the previous provisions of this paragraph, an individual who was a VAWA petitioner or who had the status of a nonimmigrant under subparagraph (T) or (U) of section 101(a)(15) may not file a petition for classification under this section or section 214 to classify any person who committed the battery or extreme cruelty or trafficking against the individual (or the individual's child) which established the individual's (or individual's child) eligibility as a VAWA petitioner or for such nonimmigrant status.'.

SEC. 815. APPLICATION FOR VAWA-RELATED RELIEF.

(a) In General- Section 202(d)(1) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1255 note; Public Law 105-100) is amended--

(1) in subparagraph (B)(ii), by inserting `, or was eligible for adjustment,' after `whose status is adjusted'; and

(2) in subparagraph (E), by inserting `, or, in the case of an alien who qualifies under subparagraph (B)(ii), applies for such adjustment during the 18-month period beginning on the date of enactment of the Violence Against Women and Department of Justice Reauthorization Act of 2005' after

`April 1, 2000'.

(b) Technical Amendment- Section 202(d)(3) of such Act (8 U.S.C. 1255 note; Public Law 105-100) is amended by striking `204(a)(1)(H)' and inserting `204(a)(1)(J)'.

(c) Effective Date- The amendment made by subsection (b) shall take effect as if included in the enactment of the Violence Against Women Act of 2000 (division B of Public Law 106-386; 114 Stat. 1491).

SEC. 816. SELF-PETITIONING PARENTS.

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:

`(vii) An alien may file a petition with the Secretary of Homeland Security under this subparagraph for classification of the alien under section 201(b)(2)(A)(i) if the alien--

`(I) is the parent of a citizen of the United States or was a parent of a citizen of the United States who, within the past 2 years, lost or renounced citizenship status related to an incident of domestic violence or died;

`(II) is a person of good moral character;

`(III) is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i);

`(IV) resides, or has resided, with the citizen daughter or son; and

`(V) demonstrates that the alien has been battered or subject to extreme cruelty by the citizen daughter or son.'.

SEC. 817. VAWA CONFIDENTIALITY NONDISCLOSURE.

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

(1) in subsection (a)--

(A) in the matter preceding paragraph (1), by striking `(including any bureau or agency of such Department)' and inserting `, the Secretary of Homeland Security, the Secretary of State, or any other official or employee of the Department of Homeland Security or Department of State (including any bureau or agency of either of such Departments)'; and

(B) in paragraph (1)--

(i) in subparagraph (D), by striking `or' at the end; and

(ii) by inserting after subparagraph (E) the following:

`(F) in the case of an alien applying for status under section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)), under section 107(b)(1)(E)(i)(II)(bb) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105), under section 244(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1254a(a)(3)), as in effect prior to March 31, 1999, or as a VAWA self-petitioner (as defined in section 101(a)(51) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(51)), the trafficker or perpetrator,';

(2) in subsection (b), by adding at the end the following new paragraphs:

`(6) Subsection (a) may not be construed to prevent the Attorney General and the Secretary of Homeland Security from disclosing to the chairmen and ranking members of the Committee on the Judiciary of the Senate or the Committee on the Judiciary of the House of Representatives, for the exercise of congressional oversight authority, information on closed cases under this section in a manner that protects the confidentiality of such information and that omits personally identifying information (including locational information about individuals).

`(7) Government entities adjudicating applications for relief under subsection (a)(2), and government personnel carrying out mandated duties under section 101(i)(1) of the Immigration and Nationality Act, may, with the prior written consent of the alien involved, communicate with nonprofit, nongovernmental victims' service providers for the sole purpose of assisting victims in obtaining victim services from programs with expertise working with immigrant victims. Agencies receiving referrals are bound by the provisions of this section. Nothing in this paragraph shall be construed as affecting the ability of an applicant to designate a safe organization through whom governmental agencies may communicate with the applicant.';

(3) in subsection (c), by inserting `or who knowingly makes a false certification under section 239(e) of the Immigration and Nationality Act' after `in violation of this section'; and

(4) by adding at the end the following new subsection:

`(d) Guidance- The Attorney General and the Secretary of Homeland Security shall provide guidance to officers and employees of the Department of Justice or the Department of Homeland Security who have access to information covered by this section regarding the provisions of this

section, including the provisions to protect victims of domestic violence from harm that could result from the inappropriate disclosure of covered information.'.

Subtitle C--Miscellaneous Amendments

SEC. 821. DURATION OF T AND U VISAS.

(a) T Visas- Section 214(o) of the Immigration and Nationality Act (8 U.S.C. 1184(o)) is amended by adding at the end the following:

`(7)(A) Except as provided in subparagraph (B), an alien who is issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(T) may be granted such status for a period of not more than 4 years.

`(B) An alien who is issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(T) may extend the period of such status beyond the period described in subparagraph (A) if a Federal, State, or local law enforcement official, prosecutor, judge, or other authority investigating or prosecuting activity relating to human trafficking or certifies that the presence of the alien in the United States is necessary to assist in the investigation or prosecution of such activity.'.

(b) U Visas- Section 214(p) of the Immigration and Nationality Act (8 U.S.C. 1184(p)) is amended by adding at the end the following:

`(6) DURATION OF STATUS- The authorized period of status of an alien as a nonimmigrant under section 101(a)(15)(U) shall be for a period of not more than 4 years, but shall be extended upon certification from a Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating or prosecuting criminal activity described in section 101(a)(15)(U)(iii) that the alien's presence in the United States is required to assist in the investigation or prosecution of such criminal activity.'.

(c) Permitting Change of Nonimmigrant Status to T and U Nonimmigrant Status-

(1) IN GENERAL- Section 248 of the Immigration and Nationality Act (8 U.S.C. 1258) is amended--

(A) by striking `The Attorney General' and inserting `(a) The Secretary of Homeland Security';

(B) by inserting `(subject to subsection (b))' after `except'; and

(C) by adding at the end the following:

`(b) The exceptions specified in paragraphs (1) through (4) of subsection (a) shall not apply to a change of nonimmigrant classification to that of a nonimmigrant under subparagraph (T) or (U) of section 101(a)(15).'.

(2) CONFORMING AMENDMENT- Section 214(l)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(2)(A)) is amended by striking `248(2)' and inserting `248(a)(2)'.

SEC. 822. TECHNICAL CORRECTION TO REFERENCES IN APPLICATION OF SPECIAL PHYSICAL PRESENCE AND GOOD MORAL CHARACTER RULES.

(a) Physical Presence Rules- Section 240A(b)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(2)(B)) is amended--

(1) in the first sentence, by striking `(A)(i)(II)' and inserting `(A)(ii)'; and

(2) in the fourth sentence, by striking `subsection (b)(2)(B) of this section' and inserting `this subparagraph, subparagraph (A)(ii),'.

(b) Moral Character Rules- Section 240A(b)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(2)(C)) is amended by striking `(A)(i)(III)' and inserting `(A)(iii)'.

(c) Correction of Cross-Reference Error in Applying Good Moral Character-

(1) IN GENERAL- Section 101(f)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(f)(3)) is amended by striking `(9)(A)' and inserting `(10)(A)'.

(2) EFFECTIVE DATE- The amendment made by paragraph (1) shall be effective as if included in section 603(a)(1) of the Immigration Act of 1990 (Public Law 101-649; 104 Stat. 5082).

SEC. 823. PETITIONING RIGHTS OF CERTAIN FORMER SPOUSES UNDER CUBAN ADJUSTMENT.

(a) In General- The first section of Public Law 89-732 (8 U.S.C. 1255 note) (commonly known as the Cuban Adjustment Act) is amended--

(1) in the last sentence, by striking `204(a)(1)(H)' and inserting `204(a)(1)(J)'; and

(2) by adding at the end the following: `An alien who was the spouse of any Cuban alien described in this section and has resided with such spouse

shall continue to be treated as such a spouse for 2 years after the date on which the Cuban alien dies (or, if later, 2 years after the date of enactment of Violence Against Women and Department of Justice Reauthorization Act of 2005), or for 2 years after the date of termination of the marriage (or, if later, 2 years after the date of enactment of Violence Against Women and Department of Justice Reauthorization Act of 2005) if there is demonstrated a connection between the termination of the marriage and the battering or extreme cruelty by the Cuban alien.'.

(b) Effective Date- The amendment made by subsection (a)(1) shall take effect as if included in the enactment of the Violence Against Women Act of 2000 (division B of Public Law 106-386; 114 Stat. 1491).

SEC. 824. SELF-PETITIONING RIGHTS OF HRIFA APPLICANTS.

(a) In General- Section 902(d)(1)(B) of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note) is amended--

(1) in clause (i), by striking `whose status is adjusted to that of an alien lawfully admitted for permanent residence' and inserting `who is or was eligible for classification';

(2) in clause (ii), by striking `whose status is adjusted to that of an alien lawfully admitted for permanent residence' and inserting `who is or was eligible for classification'; and

(3) in clause (iii), by striking `204(a)(1)(H)' and inserting `204(a)(1)(J)'.

(b) Effective Date- The amendment made by subsection (a)(3) shall take effect as if included in the enactment of the Violence Against Women Act of 2000 (division B of Public Law 106-386; 114 Stat. 1491).

SEC. 825. MOTIONS TO REOPEN.

(a) Removal Proceedings- Section 240(c)(7) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(7)), as redesignated by section 101(d)(1) of the REAL ID Act of 2005 (division B of Public Law 109-13), is amended--

(1) in subparagraph (A), by inserting `, except that this limitation shall not apply so as to prevent the filing of one motion to reopen described in subparagraph (C)(iv)' before the period at the end; and

(2) in subparagraph (C)--

(A) in the heading of clause (iv), by striking `SPOUSES AND CHILDREN'

and inserting `SPOUSES, CHILDREN, AND PARENTS';

(B) in the matter before subclause (I) of clause (iv), by striking `The deadline specified in subsection (b)(5)(C) for filing a motion to reopen does not apply' and inserting `Any limitation under this section on the deadlines for filing such motions shall not apply';

(C) in clause (iv)(I), by striking `or section 240A(b)' and inserting `, section 240A(b), or section 244(a)(3) (as in effect on March 31, 1997)';

(D) by striking `and' at the end of clause (iv)(II);

(E) by striking the period at the end of clause (iv)(III) and inserting `; and'; and

(F) by adding at the end the following:

`(IV) if the alien is physically present in the United States at the time of filing the motion.

The filing of a motion to reopen under this clause shall only stay the removal of a qualified alien (as defined in section 431(c)(1)(B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)(1)(B)) pending the final disposition of the motion, including exhaustion of all appeals if the motion establishes that the alien is a qualified alien.'.

(b) Deportation and Exclusion Proceedings- Section 1506(c)(2) of the Violence Against Women Act of 2000 (8 U.S.C. 1229a note) is amended--

(1) by striking subparagraph (A) and inserting the following:

`(A)(i) IN GENERAL- Notwithstanding any limitation imposed by law on motions to reopen or rescind deportation proceedings under the Immigration and Nationality 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 (8 U.S.C. 1101 note))--

`(I) there is no time limit on the filing of a motion to reopen such proceedings, and the deadline specified in section 242B(c)(3) of the Immigration and Nationality Act (as so in effect) (8 U.S.C. 1252b(c)(3)) does not apply--

`(aa) if the basis of the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)), clause (ii) or (iii) of section 204(a)(1)(B) of such Act (8 U.S.C. 1154(a)(1)(B)), or section 244(a)(3) of such Act (as so in effect) (8

U.S.C. 1254(a)(3)); and

`(bb) if the motion is accompanied by a suspension of deportation application to be filed with the Secretary of Homeland Security or by a copy of the self-petition that will be filed with the Department of Homeland Security upon the granting of the motion to reopen; and

`(II) any such limitation shall not apply so as to prevent the filing of one motion to reopen described in section 240(c)(7)(C)(iv) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(7)).

`(ii) PRIMA FACIE CASE- The filing of a motion to reopen under this subparagraph shall only stay the removal of a qualified alien (as defined in section 431(c)(1)(B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)(1)(B)) pending the final disposition of the motion, including exhaustion of all appeals if the motion establishes that the alien is a qualified alien.';

(2) in subparagraph (B), in the matter preceding clause (i), by inserting `who are physically present in the United States and' after `filed by aliens'; and

(3) in subparagraph (B)(i), by inserting `or exclusion' after `deportation'.

(c) Certification of Compliance in Removal Proceedings-

(1) IN GENERAL- Section 239 of the Immigration and Nationality Act (8 U.S.C. 1229) is amended by adding at the end the following new subsection:

`(e) Certification of Compliance With Restrictions on Disclosure-

`(1) IN GENERAL- In cases where an enforcement action leading to a removal proceeding was taken against an alien at any of the locations specified in paragraph (2), the Notice to Appear shall include a statement that the provisions of section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367) have been complied with.

`(2) LOCATIONS- The locations specified in this paragraph are as follows:

`(A) At a domestic violence shelter, a rape crisis center, supervised visitation center, family justice center, a victim services, or victim services provider, or a community-based organization.

`(B) At a courthouse (or in connection with that appearance of the alien at a courthouse) if the alien is appearing in connection with a protection order

case, child custody case, or other civil or criminal case relating to domestic violence, sexual assault, trafficking, or stalking in which the alien has been battered or subject to extreme cruelty or if the alien is described in subparagraph (T) or (V) of section 101(a)(15).'.

(2) EFFECTIVE DATE- The amendment made by paragraph (1) shall take effect on the date that is 30 days after the date of the enactment of this Act and shall apply to apprehensions occurring on or after such date.

SEC. 826. PROTECTING ABUSED JUVENILES.

Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357), as amended by section 726, is further amended by adding at the end the following new clause:

`(i) An alien described in section 101(a)(27)(J) of the Immigration and Nationality Act who has been battered, abused, neglected, or abandoned, shall not be compelled to contact the alleged abuser (or family member of the alleged abuser) at any stage of applying for special immigrant juvenile status, including after a request for the consent of the Secretary of Homeland Security under section 101(a)(27)(J)(iii)(I) of such Act.'.

SEC. 827. PROTECTION OF DOMESTIC VIOLENCE AND CRIME VICTIMS FROM CERTAIN DISCLOSURES OF INFORMATION.

In developing regulations or guidance with regard to identification documents, including driver's licenses, the Secretary of Homeland Security, in consultation with the Administrator of Social Security, shall consider and address the needs of victims, including victims of battery, extreme cruelty, domestic violence, dating violence, sexual assault, stalking or trafficking, who are entitled to enroll in State address confidentiality programs, whose addresses are entitled to be suppressed under State or Federal law or suppressed by a court order, or who are protected from disclosure of information pursuant to section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367).

SEC. 828. RULEMAKING.

Not later than 180 days after the date of enactment of this Act, the Attorney General, the Secretary of Homeland Security, and the Secretary of State shall promulgate regulations to implement the provisions contained in the Battered Immigrant Women Protection Act of 2000 (title V of Public Law 106-386), this Act, and the amendments made by this Act.