



Important Protections for Immigrant Victims in the Violence Against Women Reauthorization Act of 2013 – S. 47

Since its inception, the Violence Against Women Act (VAWA) has incorporated provisions to protect battered immigrants whose noncitizen status can make them particularly vulnerable to crimes of domestic violence, sexual assault, dating violence, and stalking. The abusers of undocumented immigrants often exploit the victims' immigration status, leaving the victim afraid to seek services or report the abuse to law enforcement and making them fearful of assisting with the investigation and prosecution of these crimes. Congress sought to address this through the enactment of provisions in VAWA that enhance safety for victims and their children and provide an important tool for law enforcement to investigate and prosecute crimes.

S. 47 does not create any new immigration remedies but only makes the following modest, yet important, improvements to VAWA immigration protections already in current law:

- ✓ Clarifying that when victims of a qualifying crime, who cooperate in the investigation or prosecution of that crime, file for a U visa that includes their children under 21 years old, the children will not age out during the process. Instead, the child will be able to receive the immigration benefits of the U-visa along with their parent, even if the child turns 21 before the final adjudication, in order to keep families together.
- ✓ Strengthening the existing International Marriage Broker Regulation Act (IMBRA) to provide vital disclosures regarding any violent criminal histories of sponsoring U.S. fiancé(e)s/spouses and other safeguards to give foreign fiancé(e)s/ spouses of U.S. citizens information they need to protect themselves from entering abusive marriages, and to close implementation and enforcement gaps and otherwise ensure compliance with IMBRA's requirements by international marriage brokers;
- ✓ Adding "stalking" to the list of crimes covered by the U visa (a critical law enforcement tool that encourages non-citizen victims to assist with the investigation or prosecution of certain enumerated crimes; current law already includes domestic violence and sexual assault, among others);
- ✓ Requiring annual reports to Congress regarding outcomes and processing times for VAWA Self Petitions, U visas and T visas (for victims of human trafficking);
- ✓ Extending the so called "widow's and widower's fix", approved by Congress in 2009, to add the surviving minor children of a VAWA self-petitioner when the abusive spouse of the petitioner died after the filing of the petition. Spouses, parents of the petitioner, and extended family members would not be eligible;
- ✓ Clarifying that the following persons are exempt from the public charge inadmissibility ground: an individual who is a VAWA self-petitioner, a U visa petitioner or holder, or an immigrant who was battered and is deemed a "qualified alien" under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996(sec. 431(c));
- ✓ Extending the hardship waiver for conditional residents where the abuse occurred at the hands of a U.S. citizen or LPR spouse, but the underlying marriage was invalid because the U.S. citizen or LPR committed bigamy unbeknownst to the non-citizen victim spouse;
- ✓ Extending the application of the Prison Rape Elimination Act (PREA) to all immigration detention facilities that are under the authority of the DHS and HHS. PREA requires the adoption of standards for the detection, prevention, reduction, and punishment of rape and sexual assault in federal facilities.

- ✓ Clarifying the eligibility of crime and trafficking victims who are T or U Visa holders in the Commonwealth of the Northern Mariana Islands to adjust status after three years continuous presence, similar to other T or U visa holders.

- While this Senate version of VAWA does not include the modest and temporary increase in the annual U visa cap that was part of last year's bill, the U visa continues to be an important part of VAWA (originally enacted in the 2000 reauthorization of VAWA). Increasing the number of U visas will help both law enforcement and victims. Unfortunately, however, that provision led to a technical/procedural objection from Republican leaders. We will continue to work with Congressional leadership to find ways to achieve this U visa increase in comprehensive immigration reform legislation, while working toward the swift passage of the bipartisan VAWA reauthorization bill with the important improvements for immigrant victims listed above and with many other important improvements throughout the bill that will strengthen VAWA protections for all victims.

This update was compiled by the Immigration Committee of the National Task Force to End Sexual and Domestic Violence, which includes members that are leading national experts on VAWA protections for immigrant survivors such as: ASISTA Immigration Assistance, Casa de Esperanza: National Latin@ Network for Healthy Families and Communities, National Immigrant Justice Center, National Immigration Project of the National Lawyers' Guild, Tahirih Justice Center and the Washington State Coalition Against Domestic Violence.