The Violence Against Women Reauthorization Act of 2011 S. 1925 Contains Many Important Protections for Immigrant Victims of Domestic Violence, Sexual Assault, Trafficking, Stalking and Dating Violence

Important provisions to make communities safer and protect immigrant victims include:

✓ Adding dating violence and stalking to list of crimes covered by the U visa (a critical immigration tool that encourages victims and witnesses to assist with the investigation or prosecution of a crime);\(^1\)

✓ Requiring annual reports to Congress regarding outcomes and processing times for VAWA Self Petitions, U and T visas (for victims of human trafficking);

✓ Extending the widow fix\(^2\) to abused victims of domestic violence who survive their abusive parents. Abusive spouses and parents 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 alien who was battered and is deemed a qualified alien under the 1996 Welfare Reform law (sec. 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;

✓ Allowing officials with supervisory responsibilities, not only the head of the agency, to sign the U visa law enforcement certification;

✓ Allowing victims who have sufficient evidence of cooperating in an investigation or prosecution of a crime to submit an application for a U visa when law enforcement certification is not available;

✓ Allowing DHS to issue up to 5,000 additional visas for the next few years through recapture of unused U visas.

✓ Clarifying that when an applicant files for a U-visa that includes their under 21 year old children, the will be able to receive immigration benefits of the U-visa along with their parent even if the child turns 21.

✓ 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;

✓ Providing the Secretary of Homeland Security the authority to grant work authorization to VAWA Self-Petitioners and U visa applicants 180 days after filing the application for VAWA or U visa relief, or upon approval of the application, whichever occurs first;

✓ Strengthening the existing International Marriage Broker Regulation Act (IMBRA) to protect foreign fiancés and fiancées of U.S. citizens from entering abusive or violent marriages;

✓ 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.

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\(^1\) A valuable law enforcement tool that is available to non-citizen victims of certain enumerated crimes who have been or are likely to be helpful to the investigation or prosecution of a crime.

\(^2\) In 2009, Congress enacted the so-called “widow’s and widower’s fix” to enable a spousal-based petition for lawful permanent residence (LPR) to survive when a U.S. citizen spouse died after filing the petition for their non-citizen spouse. This will offer children of VAWA self-petitioners the same protection.

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