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Violence Against Women Act Reauthorized

The Violence Against Women and Department of Justice Reauthorization Act of 2005 was signed by President Bush earlier this month. The violence against women provisions of the Act, commonly known as VAWA or VAWA 2005, recognizes the pervasiveness of violence committed against women and children through domestic violence, sexual assault, stalking, dating violence, human trafficking, and other violent crimes. Designed to reduce violence and secure the safety of victims and survivors, the new law increases funding by 20 percent to \$3.9 billion over the next five years.

VAWA 2005 adds new provisions and amends existing provisions, including (1) funding for programs that provide direct services to victims of sexual assault, (2) protecting domestic violence victims from being evicted from public housing and losing housing subsidies due to the criminal acts of their abusers, (3) creating a national resource center helping employers understand and respond to domestic violence, sexual assault, and stalking victims' needs in the workplace, and (4) improving parts of immigration law that inadvertently inhibit immigrant women from seeking the help they need.

Immigration Provisions

Immigration provisions were added or amended. VAWA 2005 eliminates some of the major obstacles that immigrant crime survivors face in achieving safety and legal immigration status. In this issue of WOMANVIEW we highlight some of the deportation, immigration relief, confidentiality, and economic stability provisions. Human trafficking provisions will be addressed in a future issue.

Deportation:

- Exempts VAWA cancellation of removal or suspension of deportation applicants from the motion to reopen filing deadlines and numerical limits, as long as such applicants are physically present in the United States at the time of filing. The filing of such motion shall stay their removal pending final disposition of the motion. This will enable otherwise eligible VAWA applicants to pursue VAWA relief from removal, deportation, or exclusion.
- Adds "extreme cruelty or battery" as an exceptional circumstances within removal proceedings.
- Exempts battered immigrants from penalties for those who overstay their departure date if "extreme cruelty or battery was at least one central reason" they failed to depart.
- Amends the definition of good moral character to clarify that a prior removal order will not serve as a bar to establishing good moral character.

Immigration Relief:

- Protects child abuse and incest victims by allowing them to self-petition up to the age of 25 as long as the abuse was a reason for the filing delay.
- Allows elder immigrants to self-petition if they are battered or subjected to extreme cruelty by citizen sons or daughters.
- Waives a two-year custody and residency requirement for adopted children if the child has been battered or subject to extreme cruelty by the adopting parent or a family member within the same household.

- Continues immigration protection for children even after they turn 21 if they can demonstrate that they are battered or subjected to extreme cruelty.
- Prevents victims from petitioning, or filing an application, on behalf of the abuser who was responsible for the abuse or trafficking which established the person's eligibility as a VAWA petitioner or for T or U visa status.

Confidentiality:

- Extends VAWA confidentiality rules to the Department of Homeland Security and the Department of State.
- Provides for congressional oversight by permitting disclosure, in a manner that protects victim confidentiality and safety, to the chairs and ranking members of the House and Senate Judiciary Committees.
- Gives the specially trained VAWA unit the discretion to refer survivors, with written consent, to nongovernmental organizations with expertise in serving immigrant victims for victim and legal services.

Economic Security:

- Grants eligibility for work authorization to immigrants whose VAWA self-petitions are approved.
- Improves access to legal representation by authorizing any Legal Services Corporation–funded program to use any source of funding, including LSC funding, to represent any victim of domestic violence, sexual assault, trafficking, or other crime, regardless of the victim's immigration status.

This is a brief overview, but we encourage readers to visit www.legalmomentum.org/issues/vio/vawa_immigration_provisions.pdf for a detailed breakdown of VAWA and immigration. For more information, contact Wendy Pollack at the Sargent Shriver National Center on Poverty Law at 312.263.3830 ext. 238 or wendypollack@povertylaw.org.

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