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H.R.3402

Violence Against Women and Department of Justice Reauthorization Act of 2005 (Enrolled as Agreed to or Passed by Both House and Senate)

Subtitle A--Victims of Crime

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.

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.

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.

Subtitle D--International Marriage Broker Regulation

SEC. 831. SHORT TITLE.

This subtitle may be cited as the `International Marriage Broker Regulation Act of 2005'.

SEC. 832. ACCESS TO VAWA PROTECTION REGARDLESS OF MANNER OF ENTRY.

(a) Information on Certain Convictions and Limitation on Petitions for K Nonimmigrant Petitioners-

(1) 214(d) AMENDMENT- Section 214(d) of the Immigration and Nationality Act (8 U.S.C. 1184(d)) is amended--

(A) by striking '(d)' and inserting '(d)(1)';

(B) by inserting after the second sentence 'Such information shall include information on any criminal convictions of the petitioner for any specified crime.';

(C) by striking 'Attorney General' and inserting 'Secretary of Homeland Security' each place it appears; and

(D) by adding at the end the following:

(2)(A) Subject to subparagraphs (B) and (C), a consular officer may not approve a petition under paragraph (1) unless the officer has verified that--

(i) the petitioner has not, previous to the pending petition, petitioned under paragraph (1) with respect to two or more applying aliens; and

(ii) if the petitioner has had such a petition previously approved, 2 years have elapsed since the filing of such previously approved petition.

(B) The Secretary of Homeland Security may, in the Secretary's discretion, waive the limitations in subparagraph (A) if justification exists for such a waiver. Except in extraordinary circumstances and subject to subparagraph (C), such a waiver shall not be granted if the petitioner has a record of violent criminal offenses against a person or persons.

(C)(i) The Secretary of Homeland Security is not limited by the criminal court record and shall grant a waiver of the condition described in the second sentence of subparagraph (B) in the case of a petitioner described in clause (ii).

(ii) A petitioner described in this clause is a petitioner who has been battered or subjected to extreme cruelty and who is or was not the primary perpetrator of violence in the relationship upon a determination that--

(I) the petitioner was acting in self-defense;

(II) the petitioner was found to have violated a protection order intended to protect the petitioner; or

(III) the petitioner committed, was arrested for, was convicted of, or pled guilty to committing a crime that did not result in serious bodily injury and where there was a connection between the crime and the petitioner's having been battered or subjected to extreme cruelty.

(iii) In acting on applications under this subparagraph, the Secretary of Homeland Security shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Secretary.

(3) In this subsection:

(A) The terms 'domestic violence', 'sexual assault', 'child abuse and neglect', 'dating violence', 'elder abuse', and 'stalking' have the meaning

given such terms in section 3 of the Violence Against Women and Department of Justice Reauthorization Act of 2005.

`(B) The term `specified crime' means the following:

`(i) Domestic violence, sexual assault, child abuse and neglect, dating violence, elder abuse, and stalking.

`(ii) Homicide, murder, manslaughter, rape, abusive sexual contact, sexual exploitation, incest, torture, trafficking, peonage, holding hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, or an attempt to commit any of the crimes described in this clause.

`(iii) At least three convictions for crimes relating to a controlled substance or alcohol not arising from a single act.'

(2) 214(r) AMENDMENT- Section 214(r) of such Act (8 U.S.C. 1184(r)) is amended--

(A) in paragraph (1), by inserting after the second sentence `Such information shall include information on any criminal convictions of the petitioner for any specified crime.'; and

(B) by adding at the end the following:

`(4)(A) The Secretary of Homeland Security shall create a database for the purpose of tracking multiple visa petitions filed for fiance(e)s and spouses under clauses (i) and (ii) of section 101(a)(15)(K). Upon approval of a second visa petition under section 101(a)(15)(K) for a fiance(e) or spouse filed by the same United States citizen petitioner, the petitioner shall be notified by the Secretary that information concerning the petitioner has been entered into the multiple visa petition tracking database. All subsequent fiance(e) or spouse nonimmigrant visa petitions filed by that petitioner under such section shall be entered in the database.

`(B)(i) Once a petitioner has had two fiance(e) or spousal petitions approved under clause (i) or (ii) of section 101(a)(15)(K), if a subsequent petition is filed under such section less than 10 years after the date the first visa petition was filed under such section, the Secretary of Homeland Security shall notify both the petitioner and beneficiary of any such subsequent petition about the number of previously approved fiance(e) or spousal petitions listed in the database.

`(ii) A copy of the information and resources pamphlet on domestic violence developed under section 833(a) of the International Marriage Broker Regulation Act of 2005 shall be mailed to the beneficiary along with the notification required in clause (i).

`(5) In this subsection:

`(A) The terms `domestic violence', `sexual assault', `child abuse and neglect', `dating violence', `elder abuse', and `stalking' have the meaning given such terms in section 3 of the Violence Against Women and Department of Justice Reauthorization Act of 2005.

`(B) The term `specified crime' means the following:

`(i) Domestic violence, sexual assault, child abuse and neglect, dating violence, elder abuse, and stalking.

`(ii) Homicide, murder, manslaughter, rape, abusive sexual contact, sexual exploitation, incest, torture, trafficking, peonage, holding hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, or an attempt to commit any of the crimes described in this clause.

`(iii) At least three convictions for crimes relating to a controlled substance or alcohol not arising from a single act.'

(3) EFFECTIVE DATE- The amendments made by this subsection shall take effect on the date that is 60 days after the date of the enactment of this Act.

(b) Limitation on Use of Certain Information- The fact that an alien described in clause (i) or (ii) of section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C.

Subtitle D--International Marriage Broker Regulation

SEC. 831. SHORT TITLE.

This subtitle may be cited as the `International Marriage Broker Regulation Act of 2005'.

SEC. 832. ACCESS TO VAWA PROTECTION REGARDLESS OF MANNER OF ENTRY.

(a) Information on Certain Convictions and Limitation on Petitions for K Nonimmigrant Petitioners-

(1) 214(d) AMENDMENT- Section 214(d) of the Immigration and Nationality Act (8 U.S.C. 1184(d)) is amended--

(A) by striking `(d)' and inserting `(d)(1)';

(B) by inserting after the second sentence `Such information shall include information on any criminal convictions of the petitioner for any specified crime.';

(C) by striking `Attorney General' and inserting `Secretary of Homeland Security' each place it appears; and

(D) by adding at the end the following:

`(2)(A) Subject to subparagraphs (B) and (C), a consular officer may not approve a petition under paragraph (1) unless the officer has verified that--

`(i) the petitioner has not, previous to the pending petition, petitioned under paragraph (1) with respect to two or more applying aliens; and

`(ii) if the petitioner has had such a petition previously approved, 2 years have elapsed since the filing of such previously approved petition.

`(B) The Secretary of Homeland Security may, in the Secretary's discretion, waive the limitations in subparagraph (A) if justification exists for such a waiver. Except in extraordinary circumstances and subject to subparagraph (C), such a waiver shall not be granted if the petitioner has a record of violent criminal offenses against a person or persons.

`(C)(i) The Secretary of Homeland Security is not limited by the criminal court record and shall grant a waiver of the condition described in the second sentence of subparagraph (B) in the case of a petitioner described in clause (ii).

`(ii) A petitioner described in this clause is a petitioner who has been battered or subjected to extreme cruelty and who is or was not the primary perpetrator of violence in the relationship upon a determination that--

`(I) the petitioner was acting in self-defense;

`(II) the petitioner was found to have violated a protection order intended to protect the petitioner; or

`(III) the petitioner committed, was arrested for, was convicted of, or pled guilty to committing a crime that did not result in serious bodily injury and where there was a connection between the crime and the petitioner's having been battered or subjected to extreme cruelty.

`(iii) In acting on applications under this subparagraph, the Secretary of Homeland Security shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Secretary.

`(3) In this subsection:

`(A) The terms `domestic violence', `sexual assault', `child abuse and neglect', `dating violence', `elder abuse', and `stalking' have the meaning given such terms in section 3 of the Violence Against Women and Department of Justice Reauthorization Act of 2005.

`(B) The term `specified crime' means the following:

`(i) Domestic violence, sexual assault, child abuse and neglect, dating violence, elder abuse, and stalking.

`(ii) Homicide, murder, manslaughter, rape, abusive sexual contact, sexual exploitation, incest, torture, trafficking, peonage, holding hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, or an attempt to commit any of the crimes described in this clause.

`(iii) At least three convictions for crimes relating to a controlled substance or alcohol not arising from a single act.'

(2) 214(r) AMENDMENT- Section 214(r) of such Act (8 U.S.C. 1184(r)) is amended--

(A) in paragraph (1), by inserting after the second sentence `Such information shall include information on any criminal convictions of the petitioner for any specified crime.'; and

(B) by adding at the end the following:

`(4)(A) The Secretary of Homeland Security shall create a database for the purpose of tracking multiple visa petitions filed for fiance(e)s and spouses under clauses (i) and (ii) of section 101(a)(15)(K). Upon approval of a second visa petition under section 101(a)(15)(K) for a fiance(e) or spouse filed by the same United States citizen petitioner, the petitioner shall be notified by the Secretary that information concerning the petitioner has been entered into the multiple visa petition tracking database. All subsequent fiance(e) or spouse nonimmigrant visa

petitions filed by that petitioner under such section shall be entered in the database.

`(B)(i) Once a petitioner has had two fiance(e) or spousal petitions approved under clause (i) or (ii) of section 101(a)(15)(K), if a subsequent petition is filed under such section less than 10 years after the date the first visa petition was filed under such section, the Secretary of Homeland Security shall notify both the petitioner and beneficiary of any such subsequent petition about the number of previously approved fiance(e) or spousal petitions listed in the database.

`(ii) A copy of the information and resources pamphlet on domestic violence developed under section 833(a) of the International Marriage Broker Regulation Act of 2005 shall be mailed to the beneficiary along with the notification required in clause (i).

`(5) In this subsection:

`(A) The terms `domestic violence', `sexual assault', `child abuse and neglect', `dating violence', `elder abuse', and `stalking' have the meaning given such terms in section 3 of the Violence Against Women and Department of Justice Reauthorization Act of 2005.

`(B) The term `specified crime' means the following:

`(i) Domestic violence, sexual assault, child abuse and neglect, dating violence, elder abuse, and stalking.

`(ii) Homicide, murder, manslaughter, rape, abusive sexual contact, sexual exploitation, incest, torture, trafficking, peonage, holding hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, or an attempt to commit any of the crimes described in this clause.

`(iii) At least three convictions for crimes relating to a controlled substance or alcohol not arising from a single act.'

(3) EFFECTIVE DATE- The amendments made by this subsection shall take effect on the date that is 60 days after the date of the enactment of this Act.

(b) Limitation on Use of Certain Information- The fact that an alien described in clause (i) or (ii) of section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)) is aware of any information disclosed under the amendments made by this section or under section 833 shall not be used to deny the alien eligibility for relief under any other provision of law.

SEC. 833. DOMESTIC VIOLENCE INFORMATION AND RESOURCES FOR IMMIGRANTS AND REGULATION OF INTERNATIONAL MARRIAGE BROKERS.

(a) Information for K Nonimmigrants on Legal Rights and Resources for Immigrant Victims of Domestic Violence-

(1) IN GENERAL- The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, shall develop an information pamphlet, as described in paragraph (2), on legal rights and resources for immigrant victims of domestic violence and distribute and

make such pamphlet available as described in paragraph (5). In preparing such materials, the Secretary of Homeland Security shall consult with nongovernmental organizations with expertise on the legal rights of immigrant victims of battery, extreme cruelty, sexual assault, and other crimes.

(2) INFORMATION PAMPHLET- The information pamphlet developed under paragraph (1) shall include information on the following:

- (A) The K nonimmigrant visa application process and the marriage-based immigration process, including conditional residence and adjustment of status.
- (B) The illegality of domestic violence, sexual assault, and child abuse in the United States and the dynamics of domestic violence.
- (C) Domestic violence and sexual assault services in the United States, including the National Domestic Violence Hotline and the National Sexual Assault Hotline.
- (D) The legal rights of immigrant victims of abuse and other crimes in immigration, criminal justice, family law, and other matters, including access to protection orders.
- (E) The obligations of parents to provide child support for children.
- (F) Marriage fraud under United States immigration laws and the penalties for committing such fraud.
- (G) A warning concerning the potential use of K nonimmigrant visas by United States citizens who have a history of committing domestic violence, sexual assault, child abuse, or other crimes and an explanation that such acts may not have resulted in a criminal record for such a citizen.
- (H) Notification of the requirement under subsection (d)(3)(A) that international marriage brokers provide foreign national clients with background information gathered on United States clients from searches of Federal and State sex offender public registries and collected from United States clients regarding their marital history and domestic violence or other violent criminal history, but that such information may not be complete or accurate because the United States client may not have a criminal record or may not have truthfully reported their marital or criminal record.

(3) SUMMARIES- The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, shall develop summaries of the pamphlet developed under paragraph (1) that shall be used by Federal officials when reviewing the pamphlet in interviews under subsection (b).

(4) TRANSLATION-

- (A) IN GENERAL- In order to best serve the language groups having the greatest concentration of K nonimmigrant visa applicants, the information pamphlet developed under paragraph (1) shall, subject to subparagraph (B), be translated by the

Secretary of State into foreign languages, including Russian, Spanish, Tagalog, Vietnamese, Chinese, Ukrainian, Thai, Korean, Polish, Japanese, French, Arabic, Portuguese, Hindi, and such other languages as the Secretary of State, in the Secretary's discretion, may specify.

(B) REVISION- Every 2 years, the Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, shall determine at least 14 specific languages into which the information pamphlet is translated based on the languages spoken by the greatest concentrations of K nonimmigrant visa applicants.

(5) AVAILABILITY AND DISTRIBUTION- The information pamphlet developed under paragraph (1) shall be made available and distributed as follows:

(A) MAILINGS TO K NONIMMIGRANT VISA APPLICANTS-

(i) The pamphlet shall be mailed by the Secretary of State to each applicant for a K nonimmigrant visa at the same time that the instruction packet regarding the visa application process is mailed to such applicant. The pamphlet so mailed shall be in the primary language of the applicant or in English if no translation into the applicant's primary language is available.

(ii) The Secretary of Homeland Security shall provide to the Secretary of State, for inclusion in the mailing under clause (i), a copy of the petition submitted by the petitioner for such applicant under subsection (d) or (r) of section 214 of such Act (8 U.S.C. 1184).

(iii) The Secretary of Homeland Security shall provide to the Secretary of State any criminal background information the Secretary of Homeland Security possesses with respect to a petitioner under subsection (d) or (r) of section 214 of such Act (8 U.S.C. 1184). The Secretary of State, in turn, shall share any such criminal background information that is in government records or databases with the K nonimmigrant visa applicant who is the beneficiary of the petition. The visa applicant shall be informed that such criminal background information is based on available records and may not be complete. The Secretary of State also shall provide for the disclosure of such criminal background information to the visa applicant at the consular interview in the primary language of the visa applicant. Nothing in this clause shall be construed to authorize the Secretary of Homeland Security to conduct any new or additional criminal background check that is not otherwise conducted in the course of adjudicating such petitions.

(B) CONSULAR ACCESS- The pamphlet developed under paragraph (1) shall be made available to the public at all consular posts. The summaries described in paragraph (3) shall be made available to foreign service officers at all consular posts.

(C) POSTING ON FEDERAL WEBSITES- The pamphlet developed under paragraph (1) shall be posted on the websites of the Department of State and the Department of Homeland Security, as well as on the websites of all consular posts processing applications for K nonimmigrant visas.

(D) INTERNATIONAL MARRIAGE BROKERS AND VICTIM ADVOCACY ORGANIZATIONS- The pamphlet developed under paragraph (1) shall be made available to any international marriage broker, government agency, or nongovernmental advocacy organization.

(6) DEADLINE FOR PAMPHLET DEVELOPMENT AND DISTRIBUTION- The pamphlet developed under paragraph (1) shall be distributed and made available (including in the languages specified under paragraph (4)) not later than 120 days after the date of the enactment of this Act.

(b) Visa and Adjustment Interviews-

(1) FIANCE(E)S, SPOUSES AND THEIR DERIVATIVES- During an interview with an applicant for a K nonimmigrant visa, a consular officers shall--

(A) provide information, in the primary language of the visa applicant, on protection orders or criminal convictions collected under subsection (a)(5)(A)(iii);

(B) provide a copy of the pamphlet developed under subsection (a)(1) in English or another appropriate language and provide an oral summary, in the primary language of the visa applicant, of that pamphlet; and

(C) ask the applicant, in the primary language of the applicant, whether an international marriage broker has facilitated the relationship between the applicant and the United States petitioner, and, if so, obtain the identity of the international marriage broker from the applicant and confirm that the international marriage broker provided to the applicant the information and materials required under subsection (d)(3)(A)(iii).

(2) FAMILY-BASED APPLICANTS- The pamphlet developed under subsection (a)(1) shall be distributed directly to applicants for family-based immigration petitions at all consular and adjustment interviews for such visas. The Department of State or Department of Homeland Security officer conducting the interview shall review the summary of the pamphlet with the applicant orally in the applicant's primary language, in addition to distributing the pamphlet to the applicant in English or another appropriate language.

(c) Confidentiality- In fulfilling the requirements of this section, no official of the Department of State or the Department of Homeland Security shall disclose to a nonimmigrant visa applicant the name or contact information of any person who was granted a protection order or restraining order against the petitioner or who was a victim of a crime of violence perpetrated by the petitioner, but shall disclose the relationship of the person to the petitioner.

(d) Regulation of International Marriage Brokers-

(1) PROHIBITION ON MARKETING CHILDREN- An international marriage broker shall not provide any individual or entity with the personal contact information, photograph, or general information about the background or interests of any individual under the age of 18.

(2) REQUIREMENTS OF INTERNATIONAL MARRIAGE BROKERS WITH RESPECT TO MANDATORY COLLECTION OF BACKGROUND INFORMATION-

(A) IN GENERAL-

(i) SEARCH OF SEX OFFENDER PUBLIC REGISTRIES- Each international marriage broker shall search the National Sex Offender Public Registry or State sex offender public registry, as required under paragraph (3)(A)(i).

(ii) COLLECTION OF BACKGROUND INFORMATION- Each international marriage broker shall also collect the background information listed in subparagraph (B) about the United States client to whom the personal contact information of a foreign national client would be provided.

(B) BACKGROUND INFORMATION- The international marriage broker shall collect a certification signed (in written, electronic, or other form) by the United States client accompanied by documentation or an attestation of the following background information about the United States client:

(i) Any temporary or permanent civil protection order or restraining order issued against the United States client.

(ii) Any Federal, State, or local arrest or conviction of the United States client for homicide, murder, manslaughter, assault, battery, domestic violence, rape, sexual assault, abusive sexual contact, sexual exploitation, incest, child abuse or neglect, torture, trafficking, peonage, holding hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, or stalking.

(iii) Any Federal, State, or local arrest or conviction of the United States client for--

(I) solely, principally, or incidentally engaging in prostitution;

(II) a direct or indirect attempt to procure prostitutes or persons for the purpose of prostitution; or
(III) receiving, in whole or in part, of the proceeds of prostitution.

(iv) Any Federal, State, or local arrest or conviction of the United States client for offenses related to controlled substances or alcohol.

(v) Marital history of the United States client, including whether the client is currently married, whether the client has previously been married and how many times, how previous marriages of the client were terminated and the date of termination, and whether the client has previously sponsored an alien to whom the client was engaged or married.

(vi) The ages of any of the United States client's children who are under the age of 18.

(vii) All States and countries in which the United States client has resided since the client was 18 years of age.

(3) OBLIGATION OF INTERNATIONAL MARRIAGE BROKERS WITH RESPECT TO INFORMED CONSENT-

(A) LIMITATION ON SHARING INFORMATION ABOUT FOREIGN NATIONAL CLIENTS- An international marriage broker shall not provide any United States client or representative with the personal contact information of any foreign national client unless and until the international marriage broker has--

(i) performed a search of the National Sex Offender Public Registry, or of the relevant State sex offender public registry for any State not yet participating in the National Sex Offender Public Registry in which the United States client has resided during the previous 20 years, for information regarding the United States client;

(ii) collected background information about the United States client required under paragraph (2);

(iii) provided to the foreign national client--

(I) in the foreign national client's primary language, a copy of any records retrieved from the search required under paragraph (2)(A)(i) or documentation confirming that such search retrieved no records;

(II) in the foreign national client's primary language, a copy of the background information collected by the international marriage broker under paragraph (2)(B); and

(III) in the foreign national client's primary language (or in English or other appropriate language if there is no translation available into the

client's primary language), the pamphlet developed under subsection (a)(1); and

(iv) received from the foreign national client a signed, written consent, in the foreign national client's primary language, to release the foreign national client's personal contact information to the specific United States client.

(B) CONFIDENTIALITY- In fulfilling the requirements of this paragraph, an international marriage broker shall disclose the relationship of the United States client to individuals who were issued a protection order or restraining order as described in clause (i) of paragraph (2)(B), or of any other victims of crimes as described in clauses (ii) through (iv) of such paragraph, but shall not disclose the name or location information of such individuals.

(C) PENALTY FOR MISUSE OF INFORMATION- A person who knowingly discloses, uses, or causes to be used any information obtained by an international marriage broker as a result of the obligations imposed on it under paragraph (2) and this paragraph for any purpose other than the disclosures required under this paragraph shall be fined in accordance with title 18, United States Code, or imprisoned not more than 1 year, or both.