

110TH CONGRESS
1ST SESSION

H. R. 2388

To amend the Immigration and Nationality Act to enhance protections for immigrant victims of domestic violence, sexual assault, and trafficking.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2007

Ms. SCHAKOWSKY introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Ways and Means, Agriculture, Financial Services, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Immigration and Nationality Act to enhance protections for immigrant victims of domestic violence, sexual assault, and trafficking.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Violence Against Immigrant Women Act of 2007”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REFERENCES; RULEMAKING

Sec. 101. References; rulemaking.

TITLE II—ADDITIONAL VAWA IMMIGRATION-RELATED PROVISIONS

Subtitle A—Provisions Relating to VAWA-2005

- Sec. 201. Miscellaneous corrections to VAWA-2005.
 Sec. 202. Additional technical correction.
 Sec. 203. Clarification of roles of Secretary of Homeland Security and Attorney General.
 Sec. 204. IMBRA Federal criminal penalty.

Subtitle B—Additional Provisions Relating to Victims of Crime

- Sec. 211. Treatment of good moral character for purposes of adjustment of status for victims of trafficking.
 Sec. 212. Status as qualified alien for nonimmigrant “U” and “T” applicants and visa holders.

Subtitle C—Additional Provisions Relating to VAWA Self-Petitioners, VAWA Cancellation, and VAWA Suspension Applicants

- Sec. 221. Self-petitioning for children.
 Sec. 222. Eligibility for safety net benefits of aliens suffering from domestic abuse.
 Sec. 223. Promoting consistency in VAWA adjudications.
 Sec. 224. Clarification of basis for relief under hardship waivers for conditional permanent residence.
 Sec. 225. Relief for certain victims pending actions on petitions and applications for relief.
 Sec. 226. Removing barriers to VAWA protection.
 Sec. 227. Eliminating abusers’ control over applications.
 Sec. 228. Parole for VAWA petitioners and for derivatives of trafficking victims.
 Sec. 229. Clarification of access to naturalization for victims of domestic violence.
 Sec. 230. Protections against adverse determinations of admissibility or deportability based on protected information.
 Sec. 231. Authorization of appropriations.
 Sec. 232. Waiver of certain grounds of inadmissibility for VAWA petitioners.
 Sec. 233. Clarifying nonapplication of cancellation cap to cancellation of removal.

Subtitle D—Miscellaneous Additional Provisions

- Sec. 241. Correction of cross-reference to credible evidence provisions.
 Sec. 242. Conforming amendment confirming IIRAIRA’s grant of public and assisted housing to all qualified aliens, including battered immigrants.
 Sec. 243. Miscellaneous technical corrections.

1 **TITLE I—REFERENCES;**
2 **RULEMAKING**

3 **SEC. 101. REFERENCES; RULEMAKING.**

4 (a) REFERENCES.—In this Act:

5 (1) The term “VAWA–2005” means title VIII
6 of the Violence Against Women and Department of
7 Justice Reauthorization Act of 2005 (Public Law
8 109–162).

9 (2) The term “VAWA–2000” means the Vio-
10 lence Against Women Act of 2000 (division B of
11 Public Law 106–386).

12 (b) RULEMAKING.—Not later than 180 days after the
13 date of enactment of this Act, the Attorney General, the
14 Secretary of Homeland Security, and the Secretary of
15 State shall promulgate regulations to implement the provi-
16 sions and amendments contained in this Act. Insofar as
17 required to carry out the previous sentence in a timely
18 manner, such regulations shall be promulgated to take ef-
19 fect on an interim basis, at the same time that notice and
20 opportunity for public comment are offered.

1 **TITLE II—ADDITIONAL VAWA IM-**
2 **MIGRATION-RELATED PROVI-**
3 **SIONS**

4 **Subtitle A—Provisions Relating to**
5 **VAWA–2005**

6 **SEC. 201. MISCELLANEOUS CORRECTIONS TO VAWA–2005.**

7 (a) SECTION 805.—Section 204(a)(1)(D) of the Im-
8 migration and Nationality Act (8 U.S.C. 1154(a)(1)(D)),
9 as amended by section 805(a) of VAWA–2005, is amend-
10 ed—

11 (1) in clause (i)(I), by striking “under clause
12 (iv) of section 204(a)(1)(A) or section
13 204(a)(1)(B)(iii)” and inserting “under subpara-
14 graph (A)(iv) or (B)(iii)” each place it appears; and

15 (2) by striking “a petitioner for preference sta-
16 tus under paragraph (1), (2), or (3) of section
17 203(a), whichever paragraph is applicable” and in-
18 sserting “to continue to be treated as an immediate
19 relative under section 201(b)(2)(A)(i), or to be a pe-
20 titioner for preference status under section
21 203(a)(3) if subsequently married or a petitioner for
22 preference status under section 203(a)(2)(A), which-
23 ever is applicable”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall apply to applications filed before, on,
3 or after the date of the enactment of VAWA–2000.

4 **SEC. 202. ADDITIONAL TECHNICAL CORRECTION.**

5 Effective as if included in Public Law 109–271, sec-
6 tion 6(a) of such Act is amended by inserting before the
7 period at the end the following: “the first place it appears
8 and by inserting ‘or (B)(iii), as the case may be’ after
9 ‘(A)(iv)’ the second place it appears”.

10 **SEC. 203. CLARIFICATION OF ROLES OF SECRETARY OF**
11 **HOMELAND SECURITY AND ATTORNEY GEN-**
12 **ERAL.**

13 (a) T-VISAS (SECTION 801 OF VAWA–2005).—Sec-
14 tion 101(a)(15)(T)(i) of the Immigration and Nationality
15 Act (8 U.S.C. 1101(a)(15)(T)(i)), as amended by section
16 801(a)(1)(A) of VAWA–2005, is amended by striking ‘,
17 or in the case of subclause (III)(aa) the Secretary of
18 Homeland Security and the Attorney General jointly”.

19 (b) ADJUSTMENT OF STATUS FOR VICTIMS OF TRAF-
20 FICKING (SECTION 803 OF VAWA–2005).—Section
21 245(l)(1) of the Immigration and Nationality Act (8
22 U.S.C. 1255(l)(1)), as amended by section 803(a) of
23 VAWA–2005, is amended—

1 (1) by striking “, or in the case of subpara-
2 graph (C)(i), the Attorney General,” each place it
3 appears; and

4 (2) in subparagraph (A), by striking “Attorney
5 General” and inserting “Secretary of Homeland Se-
6 curity”.

7 (c) ADJUSTMENT OF STATUS FOR CRIME VICTIMS.—
8 Section 245(m)(1) of the Immigration and Nationality Act
9 (8 U.S.C. 1255(m)(1)) is amended, in the matter before
10 subparagraph (A), by striking “unless the Attorney Gen-
11 eral” and inserting “unless the Secretary”.

12 (d) VICTIM OF TRAFFICKING CERTIFICATION PROC-
13 ESS (SECTION 804 OF VAWA–2005).—Section
14 107(b)(1)(E) of the Trafficking Victims Protection Act of
15 2000 (22 U.S.C. 7105(b)(1)(E)), as amended by section
16 804(b) of VAWA–2005, is amended—

17 (1) in clause (i) in the matter preceding sub-
18 clause (I), by striking “and the Secretary” and in-
19 serting “or the Secretary”;

20 (2) in clause (i)(II)(bb), by striking “Attorney
21 General and”; and

22 (3) in clause (ii), by striking “Attorney Gen-
23 eral”.

24 (e) CLARIFICATION OF CONTINUED INVOLVEMENT
25 OF BOTH DEPARTMENT OF JUSTICE AND THE DEPART-

1 MENT OF HOMELAND SECURITY IN ANNUAL TRAF-
2 FICKING REPORT.—Section 107(g) of the Trafficking Vic-
3 tims Protection Act of 2000 (22 U.S.C. 7105(g)), as
4 amended by subsections (a)(1) and (d) of section 804 of
5 VAWA–2005, is amended by striking “of each year” and
6 all that follows through “shall submit a report” and in-
7 serting “of each year, the Attorney General and the Sec-
8 retary of Homeland Security shall jointly submit a re-
9 port”.

10 (f) EFFECTIVE DATE.—This section, and the amend-
11 ments made by this section, shall be effective as if included
12 in the enactment of VAWA–2005.

13 **SEC. 204. IMBRA FEDERAL CRIMINAL PENALTY.**

14 Section 833(d)(5)(B) of VAWA–2005 is amended by
15 striking “interstate or foreign commerce, an international
16 marriage broker that, within the special maritime and ter-
17 ritorial jurisdiction of the United States, violates” and in-
18 serting “interstate or foreign commerce or within the spe-
19 cial maritime and territorial jurisdiction of the United
20 States, an international marriage broker that violates”.

1 **Subtitle B—Additional Provisions**
2 **Relating to Victims of Crime**

3 **SEC. 211. TREATMENT OF GOOD MORAL CHARACTER FOR**
4 **PURPOSES OF ADJUSTMENT OF STATUS FOR**
5 **VICTIMS OF TRAFFICKING.**

6 Section 245(l) of the Immigration and Nationality
7 Act (8 U.S.C. 1255(l)) is amended—

8 (1) in paragraph (1)(B), by inserting “subject
9 to paragraph (6),” after “(B)”; and

10 (2) by adding at the end the following new
11 paragraph:

12 “(6) For purposes of paragraph (1)(B), the Secretary
13 of Homeland Security, in the Secretary’s sole unreviewable
14 discretion, may waive consideration of a disqualification
15 from good moral character described in section 101(f) with
16 respect to an alien if there is a connection between the
17 disqualification and the trafficking with respect to the
18 alien described in section 101(a)(15)(T)(i).”.

19 **SEC. 212. STATUS AS QUALIFIED ALIEN FOR NON-**
20 **IMMIGRANT “U” AND “T” APPLICANTS AND**
21 **VISA HOLDERS.**

22 (a) IN GENERAL.—Section 431(c) of the Personal
23 Responsibility and Work Opportunity Reconciliation Act
24 of 1996 (8 U.S.C. 1641(c)) is amended—

1 (1) by striking “or” at the end of paragraph
2 (2)(B);

3 (2) by striking the period at the end of para-
4 graph (3)(B) and inserting a semicolon; and

5 (3) by adding at the end the following:

6 “(4) an alien who has applied for and not been
7 denied or who holds status as a nonimmigrant under
8 clause (i) or (ii) of section 101(a)(15)(U) of the Im-
9 migration and Nationality Act; or

10 “(5) an alien who has applied for and not been
11 denied or who holds status as a nonimmigrant under
12 clause (i) or (ii) of section 101(a)(15)(T) of the Im-
13 migration and Nationality Act.

14 The provisions of paragraph (5) are in addition to
15 the access to public benefits provided in the Traf-
16 ficking Victims Protection Act of 2000 and the Traf-
17 ficking Victims Reauthorization Act of 2003.”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section apply to applications for public benefits and
20 public benefits provided on or after the date of the enact-
21 ment of this Act without regard to whether regulations
22 to carry out such amendments are implemented, as re-
23 quired under section 101(b).

1 **Subtitle C—Additional Provisions**
2 **Relating to VAWA Self-Peti-**
3 **tioners, VAWA Cancellation, and**
4 **VAWA Suspension Applicants**

5 **SEC. 221. SELF-PETITIONING FOR CHILDREN.**

6 (a) SELF-PETITIONING BY CHILDREN OF PARENT-
7 ABUSERS UPON DEATH OR OTHER TERMINATION OF
8 PARENT-CHILD RELATIONSHIP.—

9 (1) CITIZEN PARENTS.—Section
10 204(a)(1)(A)(iv) of the Immigration and Nationality
11 Act (8 U.S.C. 1154(a)(1)(A)(iv)) is amended—

12 (A) by striking “or who” and inserting
13 “who”; and

14 (B) by inserting before “, and who is a
15 person of good moral character,” the following:
16 “or who was a child of a United States citizen
17 parent who within the past 2 years (or, if later,
18 two years after the date the child attains 18
19 years of age) died or otherwise terminated the
20 parent-child relationship (as defined under sec-
21 tion 101(b))”.

22 (2) LAWFUL PERMANENT RESIDENT PAR-
23 ENTS.—

1 (A) IN GENERAL.—Section
2 204(a)(1)(B)(iii) of such Act (8 U.S.C.
3 1154(a)(1)(B)(iii)) is amended—

4 (i) by striking “or who” and inserting
5 “who”; and

6 (ii) by inserting before “, and who is
7 a person of good moral character,” the fol-
8 lowing: “or who was a child of a lawful
9 permanent resident who within the past 2
10 years (or, if later, two years after the date
11 the child attains 18 years of age) died or
12 otherwise terminated the parent-child rela-
13 tionship (as defined under section
14 101(b))”.

15 (B) CONFORMING TREATMENT OF DE-
16 CEASED SPOUSES.—Section
17 204(a)(1)(B)(ii)(II)(aa)(CC) of such Act (8
18 U.S.C. 1154(a)(1)(B)(ii)(II)(aa)(CC)) is
19 amended—

20 (i) by redesignating subitems (aaa)
21 and (bbb) as subitems (bbb) and (ccc), re-
22 spectively; and

23 (ii) by inserting before subitem (bbb),
24 as so redesignated, the following:

1 “(aaa) whose spouse died within the past
2 2 years;”.

3 (c) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Subject to paragraph (2),
5 the amendments made by paragraphs (1) and (2) of
6 subsection (a) shall take effect on the date of the en-
7 actment of this Act.

8 (2) TRANSITION IN CASE OF CITIZEN PARENTS
9 WHO DIED BEFORE ENACTMENT.—In applying the
10 amendments made by paragraphs (1) and (2)(A) of
11 subsection (a) in the case of an alien whose citizen
12 parent or lawful permanent resident parent died or
13 whose parent-child relationship with such parent ter-
14 minated during the period beginning on October 28,
15 1998, and ending on the date of the enactment of
16 this Act, the following rules apply:

17 (A) The reference to “within the past 2
18 years” in section 204(a)(1)(A)(iv) or
19 204(a)(1)(B)(iii), respectively, of the Immigra-
20 tion and Nationality Act in the matter inserted
21 by such paragraph is deemed to be a reference
22 to such period.

23 (B) The petition must be filed under such
24 section within 2 years after the date of the en-

1 actment of this Act (or, if later, 2 years after
2 the alien’s 18th birthday).

3 (C) The determination of eligibility for
4 benefits as a child under such section (including
5 under section 204(a)(1)(D) of the Immigration
6 and Nationality Act by reason of a petition au-
7 thorized under such section) shall be deter-
8 mined as of the date of the death of the citizen
9 parent or lawful permanent resident parent or
10 the termination of the parent-child relationship.

11 **SEC. 222. ELIGIBILITY FOR SAFETY NET BENEFITS OF**
12 **ALIENS SUFFERING FROM DOMESTIC ABUSE.**

13 (a) EXEMPTION FROM SSI AND FOOD STAMPS
14 BAN.—Section 402(a)(2) of the Personal Responsibility
15 and Work Opportunity Reconciliation Act of 1996 (8
16 U.S.C. 1612(a)(2)) is amended by adding at the end the
17 following new subparagraph:

18 “(M) BATTERED AND CRIME VICTIM
19 ALIENS.—With respect to eligibility for a speci-
20 fied Federal program (as defined in paragraph
21 (3)), paragraph (1) shall not apply to an alien
22 who—

23 “(i) is described in section 431(c);

24 “(ii) is described in section 431(b)

25 and also is described in section 431(c),

1 other than paragraphs (1)(B), (2)(B), and
2 (3)(B) of such section; or

3 “(iii) is described in clause (i) or (ii)
4 and was lawfully admitted as a permanent
5 resident.”.

6 (b) EXEMPTION FROM TANF, SOCIAL SERVICE
7 BLOCK GRANT, AND MEDICAID BAN.—Section 402(b)(2)
8 of such Act (8 U.S.C. 1612(b)(2)) is amended by inserting
9 after subparagraph (F) the following new subparagraph:

10 “(G) BATTERED AND CRIME VICTIM
11 ALIENS.—An alien who—

12 “(i) is described in section 431(c);

13 “(ii) is described in section 431(b)
14 and also is described in section 431(c),
15 other than paragraphs (1)(B), (2)(B), and
16 (3)(B) of such section; or

17 “(iii) is described in clause (i) or (ii)
18 and was lawfully admitted as a permanent
19 resident.”.

20 (c) EXEMPTION FROM 5-YEAR BAN FOR SAFETY
21 NET PUBLIC BENEFITS.—Section 403(b) of such Act (8
22 U.S.C. 1613(b)) is amended by adding at the end the fol-
23 lowing new paragraph:

24 “(3) BATTERED AND CRIME VICTIM ALIENS.—
25 An alien who—

1 “(A) is described in section 431(c);

2 “(B) is described in section 431(b) and
3 also is described in section 431(c), other than
4 paragraphs (1)(B), (2)(B), and (3)(B) of such
5 section; or

6 “(C) is described in subparagraph (A) or
7 (B) and was lawfully admitted as a permanent
8 resident.”.

9 (d) **EFFECTIVE DATE.**—The amendments made by
10 this section apply to applications for public benefits and
11 public benefits provided on or after the date of the enact-
12 ment of this Act without regard to whether regulations
13 to carry out such amendments are implemented, as re-
14 quired under section 205(b).

15 **SEC. 223. PROMOTING CONSISTENCY IN VAWA ADJUDICA-**
16 **TIONS.**

17 (a) **IN GENERAL.**—Section 204(a)(1) of the Immi-
18 gration and Nationality Act (8 U.S.C. 1154(a)(1)) is
19 amended—

20 (1) in subparagraph (A)(iii)(II)(aa)(CC)(bbb),
21 by striking “an incident of domestic violence” and
22 inserting “battering or extreme cruelty by the
23 United States citizen spouse”;

1 (2) in subparagraph (A)(iv), by striking “an in-
2 cident of domestic violence” and inserting “battering
3 or extreme cruelty by such parent”;

4 (3) in subparagraph (A)(vii)(I), as added by
5 section 816 of VAWA–2005, is amended by striking
6 “related to an incident of domestic violence” and in-
7 serting “related to battering or extreme cruelty by
8 the United States citizen son or daughter”;

9 (4) in subparagraph (B)(ii)(II)(aa)(CC)(aaa),
10 by striking “due to an incident of domestic violence”
11 and inserting “related to battering or extreme cru-
12 elty by the lawful permanent resident spouse”; and

13 (5) in subparagraph (B)(iii), by striking “due
14 to an incident of domestic violence” and inserting
15 “related to battering or extreme cruelty by such par-
16 ent”.

17 (b) **EFFECTIVE DATE.**—The amendments made by
18 subsection (a) shall take effect as if included in the enact-
19 ment of VAWA–2000, except that the amendment made
20 by subsection (a)(3) shall apply as if included in the enact-
21 ment of VAWA–2005.

1 **SEC. 224. CLARIFICATION OF BASIS FOR RELIEF UNDER**
2 **HARDSHIP WAIVERS FOR CONDITIONAL PER-**
3 **MANENT RESIDENCE.**

4 (a) GROUND FOR HARDSHIP WAIVER FOR CONDI-
5 TIONAL PERMANENT RESIDENCE FOR INTENDED
6 SPOUSES.—Section 216(c)(4) of the Immigration and Na-
7 tionality Act (8 U.S.C. 1186a(c)(4)) is amended—

8 (1) by striking “or” at the end of subparagraph
9 (B);

10 (2) by striking the period at the end of sub-
11 paragraph (C) and inserting “, or”; and

12 (3) by inserting after subparagraph (C) the fol-
13 lowing new subparagraph:

14 “(D) the alien meets the requirements
15 under section 204(a)(1)(A)(iii)(II)(aa)(BB) and
16 following the marriage ceremony has been bat-
17 tered by or was subject to extreme cruelty per-
18 petrated by his or her intended spouse and was
19 not at fault in failing to meet the requirements
20 of paragraph (1).”.

21 (b) GROUND FOR RELIEF.—Such section is further
22 amended by adding at the end the following: “An applica-
23 tion for relief under this paragraph may be based on one
24 or more grounds specified in subparagraphs (A) through
25 (D) and may be amended at any time to change the

1 ground or grounds for such relief without the application
2 being resubmitted.”.

3 (c) CONFORMING AMENDMENT.—Section
4 237(a)(1)(H)(ii) of such Act (8 U.S.C. 1227(a)(1)(H)(ii))
5 is amended by inserting before the period at the end the
6 following: “or qualifies for a waiver under section
7 216(c)(4)”.

8 (d) EFFECTIVE DATES.—

9 (1) The amendments made by subsection (a)
10 shall apply as if included in the enactment of
11 VAWA–2000.

12 (2) The amendments made by subsections (b)
13 and (c) shall apply to applications for relief pending
14 or filed on or after April 10, 2003.

15 **SEC. 225. RELIEF FOR CERTAIN VICTIMS PENDING AC-**
16 **TIONS ON PETITIONS AND APPLICATIONS**
17 **FOR RELIEF.**

18 (a) RELIEF.—

19 (1) LIMITATION ON REMOVAL OR DEPORTA-
20 TION.—Section 237 of the Immigration and Nation-
21 ality Act (8 U.S.C. 1227) is amended by adding at
22 the end the following new subsection:

23 “(d)(1) In the case of an alien in the United States
24 for whom a petition as a VAWA petitioner has been filed,
25 if the petition sets forth a prima facie case for approval,

1 the Secretary of Homeland Security may grant the alien
2 a stay of removal until the petition is approved or the peti-
3 tion is denied after exhaustion of administrative appeals.
4 Any appeal of the denial of a stay of removal under this
5 paragraph must accompany any appeal of the underlying
6 substantive petition or application for benefits. In the case
7 of the approval of a petition under this paragraph, such
8 stay of removal may be extended until a final determina-
9 tion is made on an application for adjustment of status.

10 “(2) In the case of an alien in the United States for
11 whom an application for nonimmigrant status (whether as
12 a principal or derivative child) under subparagraph (T)
13 or (U) of section 101(a)(15) has been filed, if the applica-
14 tion sets forth a prima facie case for approval, the Sec-
15 retary of Homeland Security may grant the alien a stay
16 of removal until the application is approved or the applica-
17 tion is denied after exhaustion of administrative appeals.
18 Any appeal of the denial of a stay of removal under this
19 paragraph must accompany any appeal of the underlying
20 substantive petition or application for benefits.

21 “(3) During a period in which an alien is provided
22 a stay of removal under this subsection, the alien shall
23 not be removed or deported.

24 “(4) Nothing in this subsection shall be construed as
25 limiting the authority of the Secretary of Homeland Secu-

1 rity to grant a stay of removal in any case not described
2 in this subsection.”.

3 (2) LIMITATION ON DETENTION.—Section 236
4 of such Act (8 U.S.C. 1226) is amended by adding
5 at the end the following new subsection:

6 “(f) LIMITATION ON DETENTION OF CERTAIN VIC-
7 TIMS OF VIOLENCE.—An alien for whom—

8 “(1) a petition as a VAWA petitioner has been
9 approved;

10 “(2) an application for nonimmigrant status
11 (whether as a principal or derivative child) under
12 subparagraph (T) or (U) of section 101(a)(15) has
13 been approved; or

14 “(3) an application under section 240A(b)(2) or
15 244(a)(3) (as in effect on March 31, 1997) has been
16 approved by the immigration judge (whether or not
17 the case has been appealed);

18 shall not be detained, unless the alien is subject to manda-
19 tory detention under section 236A or subsection (c). If the
20 alien is subject to detention under subsection (c) the alien
21 shall be released if the only basis for detention is a ground
22 for which there is a waiver or exception available under
23 section 204(a)(1)(C), 212(h), 212(d)(13), 212(d)(14),
24 237(a)(7), or 237(a)(2)(A)(V).”.

1 (3) PROCESSING OF APPLICATIONS.—Section
2 204(a)(1) of such Act (8 U.S.C. 1154(a)(1)) is
3 amended by adding at the end the following new
4 subparagraph:

5 “(M) A petition as a VAWA petitioner shall be proc-
6 essed without regard to whether a proceeding to remove
7 or deport such alien is brought or pending.”.

8 (4) EFFECTIVE DATE.—The amendments made
9 by this subsection shall take effect on the date of the
10 enactment of this Act and shall apply to petitions
11 and applications filed before, on, or after such date.

12 (b) CONFORMING RELIEF IN SUSPENSION OF DE-
13 PORTATION PARALLEL TO THE RELIEF AVAILABLE IN
14 VAWA–2000 CANCELLATION FOR BIGAMY.—

15 (1) IN GENERAL.—Section 244(a)(3) of the Im-
16 migration and Nationality Act (as in effect before
17 the title III–A effective date in section 309 of the Il-
18 legal Immigration Reform and Immigrant Responsi-
19 bility Act of 1996) shall be applied as if “or by a
20 United States citizen or lawful permanent resident
21 whom the alien intended to marry, but whose mar-
22 riage is not legitimate because of that United States
23 citizen’s or permanent resident’s bigamy” were in-
24 serted after “by a spouse or parent who is a United
25 States citizen or lawful permanent resident”.

1 citizen who filed the petition to accord status under
2 such section;”;

3 (C) in subclause (II)(cc), by striking “or
4 who” and inserting “, who” and by inserting
5 before the semicolon at the end the following: “,
6 or who is described in subitem (aa)(DD)”;

7 (D) in subclause (II)(dd), by inserting “or
8 who is described in subitem (aa)(DD)” before
9 the period at the end.

10 (2) EXCEPTION FROM REQUIREMENT TO DE-
11 PART.—Section 214(d) of such Act (8 U.S.C.
12 1184(d)) is amended by inserting before the period
13 at the end the following: “unless the alien (and the
14 child of the alien) entered the United States as an
15 alien described in section 101(a)(15)(K) with the in-
16 tent to enter into a valid marriage and the alien or
17 child was battered or subject to extreme cruelty in
18 the United States by the United States citizen who
19 filed the petition to accord status under such sec-
20 tion”.

21 (3) EFFECTIVE DATE.—The amendments made
22 by this subsection shall take effect on the date of the
23 enactment of this Act and shall apply to aliens ad-
24 mitted before, on, or after such date.

25 (b) RELIEF FOR ABUSED FIANCÉ(E)S.—

1 (1) CONFORMING APPLICATION IN CANCELLA-
2 TION OF REMOVAL.—Section 240A(b)(2)(A)(i) of the
3 Immigration and Nationality Act (8 U.S.C.
4 1229b(b)(2)(A)(i)) is amended—

5 (A) by striking “or” at the end of sub-
6 clause (II);

7 (B) by adding “or” at the end of subclause
8 (III); and

9 (C) by adding at the end the following new
10 subclause:

11 “(IV) the alien entered the United
12 States as an alien described in section
13 101(a)(15)(K) with the intent to enter into
14 a valid marriage and the alien (or the child
15 of the alien who is described in such sec-
16 tion) was battered or subject to extreme
17 cruelty in the United States by the United
18 States citizen who filed the petition to ac-
19 cord status under such section;”.

20 (2) EXCEPTION TO RESTRICTION ON ADJUST-
21 MENT OF STATUS.—The second sentence of section
22 245(d) of such Act (8 U.S.C. 1255(d)) is amended
23 by inserting before the period at the end the fol-
24 lowing: “, unless the alien is described in section
25 204(a)(1)(A)(iii)(II)(aa)(DD)”.

1 (3) APPLICATION UNDER SUSPENSION OF DE-
2 PORTATION.—Section 244(a)(3) of such Act (as in
3 effect on March 31, 1997) shall be applied (as if in
4 effect on such date) as if the phrase “is described
5 in section 240A(b)(2)(A)(i)(IV) or” were inserted
6 before “has been battered” the first place it appears.

7 (4) EFFECTIVE DATE.—The amendments made
8 by this subsection, and the provisions of paragraph
9 (3), shall take effect on the date of the enactment
10 of this Act and shall apply to applications for adjust-
11 ment of status, for cancellation of removal, or for
12 suspension of deportation filed before, on, or after
13 such date.

14 (c) SPOUSES AND CHILDREN OF ASYLUM APPLI-
15 CANTS UNDER ADJUSTMENT PROVISIONS.—

16 (1) IN GENERAL.—Section 209(b)(3) of the Im-
17 migration and Nationality Act (8 U.S.C. 1159(b)(3))
18 is amended—

19 (A) by inserting “(A)” after “(3)”; and

20 (B) by adding at the end the following:

21 “(B) was the spouse of a refugee within the
22 meaning of section 101(a)(42)(A) at the time the
23 asylum application was granted and who was bat-
24 tered or was the subject of extreme cruelty per-
25 petrated by such refugee or whose child was battered

1 or subjected to extreme cruelty by such refugee
2 (without the active participation of such spouse in
3 the battery or cruelty), or

4 “(C) was the child of a refugee within the
5 meaning of section 101(a)(42)(A) at the time of the
6 filing of the asylum application and who was bat-
7 tered or was the subject of extreme cruelty per-
8 petrated by such refugee,”.

9 (2) EFFECTIVE DATE.—The amendments made
10 by paragraph (1) shall take effect on the date of the
11 enactment of this Act and—

12 (A) section 209(b)(3)(B) of the Immigra-
13 tion and Nationality Act, as added by para-
14 graph (1)(B), shall apply to spouses of refugees
15 for whom an asylum application is granted be-
16 fore, on, or after such date; and

17 (B) section 209(b)(3)(C) of such Act, as so
18 added, shall apply with respect to the child of
19 a refugee for whom an asylum application is
20 filed before, on, or after such date.

21 (d) VISA WAIVER ENTRANTS.—

22 (1) IN GENERAL.—Section 217(b)(2) of such
23 Act (8 U.S.C. 1187(b)(2)) is amended by inserting
24 after “asylum,” the following: “as a VAWA peti-
25 tioner, or for relief under subparagraph (T) or (U)

1 of section 101(a)(15), under section 240A(b)(2), or
2 under section 244(a)(3) (as in effect on March 31,
3 1997),”.

4 (2) EFFECTIVE DATE.—The amendment made
5 by paragraph (1) shall take effect on the date of the
6 enactment of this Act and shall apply to waivers
7 provided under section 217(b)(2) of the Immigration
8 and Nationality Act before, on, or after such date as
9 if it had been included in such waivers.

10 (e) EXCEPTION FROM FOREIGN RESIDENCE RE-
11 QUIREMENT FOR EDUCATIONAL VISITORS.—

12 (1) IN GENERAL.—Section 212(e) of such Act
13 (8 U.S.C. 1182(e)) is amended, in the matter before
14 the first proviso, by inserting “unless the alien is a
15 VAWA petitioner or an applicant for nonimmigrant
16 status under subparagraph (T) or (U) of section
17 101(a)(15)” after “for an aggregate of at least two
18 years following departure from the United States”.

19 (2) EFFECTIVE DATE.—The amendment made
20 by paragraph (1) shall take effect on the date of the
21 enactment of this Act and shall apply to aliens re-
22 gardless of whether the foreign residence require-
23 ment under section 212(e) of the Immigration and
24 Nationality Act arises out of an admission or acqui-
25 sition of status under section 101(a)(15)(J) of such

1 Act before, on, or after the date of the enactment
2 of this Act.

3 **SEC. 227. ELIMINATING ABUSERS' CONTROL OVER APPLI-**
4 **CATIONS.**

5 (a) APPLICATION OF MOTIONS TO REOPEN FOR ALL
6 VAWA PETITIONERS.—Section 240(c)(7)(C)(iv) of the
7 Immigration and Nationality Act (8 U.S.C.
8 1230(c)(7)(C)(iv)), as redesignated by section 101(d)(1)
9 of the REAL ID Act of 2005 (division B of Public Law
10 109–13), is amended—

11 (1) in subclause (I), by striking “under clause
12 (iii) or (iv) of section 204(a)(1)(A), clause (ii) or
13 (iii) of section 204(a)(1)(B)” and inserting “as a
14 VAWA petitioner”; and

15 (2) in subclause (II), by inserting “or adjust-
16 ment of status” after “cancellation of removal”.

17 (b) SELF-PETITIONING RIGHTS UNDER SECTION
18 203 OF NACARA.—Section 309 of the Illegal Immigra-
19 tion and Reform and Immigrant Responsibility Act of
20 1996 (division C of Public Law 104–208; 8 U.S.C. 1101
21 note), as amended by section 203(a) of the Nicaraguan
22 Adjustment and Central American Relief Act (8 U.S.C.
23 1255 note; Public Law 105–100), is amended—

24 (1) in subsection (c)(5)(C)(i)(VII)(aa), as
25 amended by section 1510(b) of VAWA–2000—

1 (A) by striking “or” at the end of subitem
2 (BB);

3 (B) by striking “and” at the end of
4 subitem (CC) and inserting “or”; and

5 (C) by adding at the end the following new
6 subitem:

7 “(DD) at the time at which
8 the spouse or child files an appli-
9 cation for suspension of deporta-
10 tion or cancellation of removal;
11 and”; and

12 (2) in subsection (g)—

13 (A) by inserting “(1)” before “Notwith-
14 standing”;

15 (B) by inserting “subject to paragraph
16 (2),” after “section 101(a) of the Immigration
17 and Nationality Act),”; and

18 (C) by adding at the end the following new
19 paragraph:

20 “(2) There shall be no limitation on a motion to re-
21 open removal or deportation proceedings in the case of an
22 alien who is described in subclause (VI) or (VII) of sub-
23 section (c)(5)(C)(i). Motions to reopen removal or deporta-
24 tion proceedings in the case of such an alien shall be han-
25 dled under the procedures that apply to aliens seeking re-

1 lief under section 204(a)(1)(A)(iii) of the Immigration and
2 Nationality Act.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on the date of the enactment
5 of this Act.

6 **SEC. 228. PAROLE FOR VAWA PETITIONERS AND FOR DE-**
7 **RIVATIVES OF TRAFFICKING VICTIMS.**

8 (a) IN GENERAL.—Section 240A(b)(4) of the Immi-
9 gration and Nationality Act (8 U.S.C. 1229b(b)(4)) is
10 amended—

11 (1) in the heading, by striking “CHILDREN OF
12 BATTERED ALIENS” and inserting “BATTERED
13 ALIENS, CHILDREN OF BATTERED ALIENS, AND DE-
14 RIVATIVE FAMILY MEMBERS OF TRAFFICKING VIC-
15 TIMS,”;

16 (2) in subparagraph (A)—

17 (A) by striking “or” at the end of clause

18 (i);

19 (B) by striking the period at the end of
20 clause (ii) and inserting a semicolon; and

21 (C) by adding at the end the following new
22 clauses:

23 “(iii) VAWA petitioner whose petition
24 was approved based on having been bat-
25 tered or subjected to extreme cruelty by a

1 United States citizen spouse, parent, or
2 son or daughter and who is admissible and
3 eligible for an immigrant visa;

4 “(iv) VAWA petitioner whose petition
5 was approved based on having been bat-
6 tered or subjected to extreme cruelty by a
7 lawful permanent resident spouse or par-
8 ent, who is admissible and would be eligi-
9 ble for an immigrant visa but for the fact
10 that an immigrant visa is not immediately
11 available to the alien, and who filed a peti-
12 tion for classification under section
13 204(a)(1)(B), if at least 3 years has
14 elapsed since the petitioner’s priority date;
15 or

16 “(v) an alien would, but for an appli-
17 cation or approval, meet the conditions for
18 approval as a nonimmigrant described in
19 section 101(a)(15)(T)(ii).”; and

20 (3) in subparagraph (B)—

21 (A) in the first sentence, by striking “The
22 grant of parole” and inserting “(i) The grant of
23 parole under subparagraph (A)(i) or (A)(ii)”;

1 (B) in the second sentence, by striking
2 “covered under this paragraph” and inserting
3 “covered under such subparagraphs”;

4 (C) in the last sentence, by inserting “of
5 subparagraph (A)” after “clause (i) or (ii)”;
6 and

7 (D) by adding at the end the following new
8 clauses:

9 “(ii) The grant of parole under subpara-
10 graph (A)(iii) or (A)(iv) shall extend from the
11 date of approval of the applicable petition to the
12 time the application for adjustment of status
13 filed by aliens covered under such subpara-
14 graphs has been finally adjudicated. Applica-
15 tions for adjustment of status filed by aliens
16 covered under such subparagraphs shall be
17 treated as if they were applications filed under
18 section 204(a)(1) (A)(iii), (A)(iv), (B)(ii), or
19 (B)(iii) for purposes of section 245 (a) and (c).

20 “(iii) The grant of parole under subpara-
21 graph (A)(v) shall extend from the date of the
22 determination of the Secretary of State de-
23 scribed in such subparagraph to the time the
24 application for status under section
25 101(a)(15)(T)(ii) has been finally adjudicated.

1 Failure by such an alien to exercise due dili-
2 gence in filing a visa petition on the alien’s be-
3 half may result in revocation of parole.”.

4 (b) CONFORMING REFERENCE.—Section 212(d)(5)
5 of such Act (8 U.S.C. 1182(d)(5)) is amended by adding
6 at the end the following new subparagraph:

7 “(C) Parole is provided for certain battered aliens,
8 children of battered aliens, and parents of battered alien
9 children under section 240A(b)(4).”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect on the date of the enactment
12 of this Act.

13 **SEC. 229. CLARIFICATION OF ACCESS TO NATURALIZATION**
14 **FOR VICTIMS OF DOMESTIC VIOLENCE.**

15 (a) IN GENERAL.—Section 319(a) of the Immigra-
16 tion and Nationality Act (8 U.S.C. 1430(a)) is amended
17 by inserting after “extreme cruelty by a United States cit-
18 izen spouse or parent” the following: “, regardless of
19 whether the lawful permanent resident status was ob-
20 tained on the basis of such battery or cruelty”.

21 (b) USE OF CREDIBLE EVIDENCE.—Such section is
22 further amended by adding at the end the following: “The
23 provisions of section 204(a)(1)(J) shall apply in acting on
24 an application under this subsection in the same manner

1 as they apply in acting on petitions referred to in such
2 section.”

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on the date of the enactment
5 of this Act and shall apply to applications for naturaliza-
6 tion filed before, on, or after the date of the enactment
7 of this Act.

8 **SEC. 230. PROTECTIONS AGAINST ADVERSE DETERMINA-**
9 **TIONS OF ADMISSIBILITY OR DEPORTABILITY**
10 **BASED ON PROTECTED INFORMATION.**

11 (a) INCREASING SCOPE OF ALIENS AND INFORMA-
12 TION PROTECTED.—Subsection (a)(2) of section 384 of
13 the Illegal Immigration Reform and Immigrant Responsi-
14 bility Act of 1996 (division C of Public Law 104–208; 8
15 U.S.C. 1367) is amended by inserting “notwithstanding
16 section 552 of title 5, United States Code,” after “(2)”.

17 (b) Section 825 of VAWA–2005 is amended by add-
18 ing at the end the following new paragraph:

19 “(3) CONSTRUCTION.—Nothing in the amend-
20 ments made by this subsection shall be construed to
21 preclude an immigration judge from taking into ac-
22 count violations of section 384 of the Illegal Immi-
23 gration Reform and Immigrant Responsibility Act of
24 1996.”.

1 (c) EFFECTIVE DATES.—The amendment made by
2 subsection (a) shall be effective on the date of the enact-
3 ment of this Act and the amendment made by subsection
4 (c) shall be effective as if included in the enactment of
5 VAWA–2005.

6 **SEC. 231. AUTHORIZATION OF APPROPRIATIONS.**

7 There are authorized to be appropriated to the Sec-
8 retary of Homeland Security such sums as may be nec-
9 essary to provide for—

10 (1) adjudication of petitions and adjustment ap-
11 plications of VAWA petitioners (as defined in section
12 101(a)(51) of the Immigration and Nationality Act,
13 as added by section 811 of VAWA–2005) and of
14 aliens seeking status as nonimmigrants under sub-
15 paragraph (T) or (U) of section 101(a)(15) of such
16 Act;

17 (2) issuance of employment authorizations
18 under section 204(a)(1)(K) of such Act, as added by
19 section 814(b) of VAWA–2005, and under section
20 106 of such Act, as added by section 814(c) of
21 VAWA–2005; and

22 (3) processing of naturalization applications
23 under section 319(a) of the Immigration and Na-
24 tionality Act filed by aliens who have been battered
25 or subjected to extreme cruelty.

1 **SEC. 232. WAIVER OF CERTAIN GROUNDS OF INADMIS-**
2 **SIBILITY FOR VAWA PETITIONERS.**

3 (a) EXEMPTION FROM PUBLIC CHARGE GROUND.—

4 (1) IN GENERAL.—Section 212(a)(4) of the Im-
5 migration and Nationality Act (8 U.S.C. 1182(a)(4))
6 is amended by adding at the end the following new
7 subparagraph:

8 “(E) SPECIAL RULE FOR BATTERED
9 ALIENS.—Subparagraphs (A) through (C) shall
10 not apply to an alien who is a VAWA self-peti-
11 tioner, is an applicant or has been granted sta-
12 tus under section 101(a)(15)(U), or is a quali-
13 fied alien described in section 431(e) of the
14 Personal Responsibility and Work Opportunity
15 Reconciliation Act of 1996.”.

16 (2) CONFORMING AMENDMENT.—Section
17 212(a)(4)(C)(i) of such Act (8 U.S.C.
18 1182(a)(4)(C)(i)) is amended to read as follows:

19 “(i) the alien is described in subpara-
20 graph (E); or”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect on the date of the enactment
23 of this Act and shall apply regardless of whether the
24 alien’s application was filed before, on, or after such date.

1 **SEC. 233. CLARIFYING NONAPPLICATION OF CANCELLA-**
2 **TION CAP TO CANCELLATION OF REMOVAL.**

3 (a) IN GENERAL.—Section 240A(e)(3) of the Immigra-
4 tion and Nationality Act (8 U.S.C. 1229b(e)(3)) is amend-
5 ed by adding at the end the following new subparagraph:

6 “(C) Aliens with respect to their cancella-
7 tion of removal under subsection (b)(2).”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall apply to cancellations of removal oc-
10 ccurring on or after October 1, 2006.

11 **Subtitle D—Miscellaneous**
12 **Additional Provisions**

13 **SEC. 241. CORRECTION OF CROSS-REFERENCE TO CRED-**
14 **IBLE EVIDENCE PROVISIONS.**

15 (a) CUBAN ADJUSTMENT PROVISION.—The last sen-
16 tence of the first section of Public Law 89–732 (November
17 2, 1966; 8 U.S.C. 1255 note), as amended by section
18 1509(a) of VAWA–2000, is amended by striking
19 “204(a)(1)(H)” and inserting “204(a)(1)(J)”.

20 (b) NACARA.—Section 202(d)(3) of the Nicaraguan
21 Adjustment and Central American Relief Act (8 U.S.C.
22 1255 note; Public Law 105–100), as amended by section
23 1510(a)(2) of VAWA–2000, is amended by striking
24 “204(a)(1)(H)” and inserting “204(a)(1)(J)”.

25 (c) ILARAIRA.—Section 309(c)(5)(C)(iii) of the Ille-
26 gal Immigration and Reform and Immigrant Responsi-

1 bility Act of 1996 (division C of Public Law 104–208; 8
2 U.S.C. 1101 note), as amended by section 1510(b)(2) of
3 VAWA–2000, is amended by striking “204(a)(1)(H)” and
4 inserting “204(a)(1)(J)”.

5 (d) HRIFA.—Section 902(d)(1)(B)(iii) of the Hai-
6 tian Refugee Immigration Fairness Act of 1998 (division
7 A of section 101(h) of Public Law 105–277; 112 Stat.
8 2681–538), as amended by section 1511(a) of VAWA–
9 2000, is amended by striking “204(a)(1)(H)” and insert-
10 ing “204(a)(1)(J)”.

11 (e) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect as if included in the enact-
13 ment of VAWA–2000.

14 **SEC. 242. CONFORMING AMENDMENT CONFIRMING**
15 **HIRAIRA’S GRANT OF PUBLIC AND ASSISTED**
16 **HOUSING TO ALL QUALIFIED ALIENS, IN-**
17 **CLUDING BATTERED IMMIGRANTS.**

18 (a) IN GENERAL.—Section 214 of the Housing and
19 Community Development Act of 1980 (42 U.S.C. 1436a)
20 is amended—

21 (1) in subsection (a)—

22 (A) in paragraph (5), by striking “or” at
23 the end;

24 (B) by redesignating paragraph (7) as
25 paragraph (8); and

1 (C) by inserting after paragraph (6) the
2 following new paragraph:

3 “(7) a qualified alien described in section
4 431 of the Personal Responsibility and Work
5 Opportunity Reconciliation Act of 1996 (8
6 U.S.C. 1641), or”; and

7 (2) in subsection (c)—

8 (A) in paragraph (1)(A), by striking “(6)”
9 and inserting “(7)”; and

10 (B) in paragraph (2)(A), in the matter
11 preceding clause (i), by inserting “(other than
12 a qualified alien described in section 431 of the
13 Personal Responsibility and Work Opportunity
14 Reconciliation Act of 1996 (8 U.S.C. 1641)”
15 after “any alien”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 this section apply to applications for public benefits and
18 public benefits provided on or after the date of the enact-
19 ment of this Act without regard to whether regulations
20 to carry out such amendments are implemented, as re-
21 quired under section 205(b).

22 **SEC. 243. MISCELLANEOUS TECHNICAL CORRECTIONS.**

23 (a) PUNCTUATION CORRECTION.—Effective as if in-
24 cluded in the enactment of section 5(c)(2) of VAWA—
25 2000, section 237(a)(1)(H)(i)(II) of the Immigration and

1 Nationality Act (8 U.S.C. 1227(a)(1)(H)(i)(II)) is amend-
2 ed by striking the period at the end and inserting “; or”.

3 (b) TERMINOLOGY.—Effective as if included in the
4 enactment of section 811 of VAWA–2005, section
5 237(a)(1)(H)(ii) of the Immigration and Nationality Act
6 (8 U.S.C. 1227(a)(1)(H)(ii)) is amended by striking “is
7 an alien who qualifies for classification under clause (iii)
8 or (iv) of section 204(a)(1)(A) or clause (ii) or (iii) of sec-
9 tion 204(a)(1)(B)” and inserting “is a VAWA petitioner”.

10 (c) CORRECTION OF DESIGNATION.—The last sen-
11 tence of section 212(a)(9)(C)(ii) of the Immigration and
12 Nationality Act (8 U.S.C. 1182(a)(9)(C)(ii)), as added by
13 section 1505(a) of VAWA–2000, is amended by striking
14 “section 212(a)(9)(C)(i)” and inserting “clause (i)”.

15 (d) ADDITIONAL TECHNICAL CORRECTION.—Section
16 237(a)(7)(A)(i)(I) of the Immigration and Nationality Act
17 (8 U.S.C. 1227(a)(7)(A)(i)(I)) is amended by striking “is
18 self-defense” and inserting “in self-defense”.