

THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT: RENEWING THE COMMITMENT TO PROTECTING IMMIGRANT VICTIMS OF DOMESTIC VIOLENCE

BACKGROUND: The Violence Against Women Act has always protected immigrant victims of violence. The threat to immigrant victims is often compounded when their abusers threaten to seek their deportation. To protect these vulnerable victims and encourage them to report crime, the VAWA self-petition for immigration status was created in the original Violence Against Women Act. The U Visa for victims of crime was established in 2000, when VAWA was reauthorized for the first time. Immigrant protections were again expanded in the 2005 reauthorization of VAWA.

Self-petitions authorized by VAWA protect victims of abuse rather than their abusers.

Self-petitions authorized by VAWA allow **battered immigrants who are living legally within the United States as the spouse of a U.S. citizen or lawful permanent resident to petition for independent legal status** without relying on their abusive spouse, who often use their ability to provide sponsorship as a tool of abuse against their immigrant spouse. If a VAWA self-petition is approved, the immigrant victim may file an adjustment of status application to become a lawful permanent resident directly.

In the self-petition process, the alleged abuser is not notified that an application has been filed. This **confidentiality is critical to protecting the immigrant from additional abuse**, and gives the victim the courage to report the domestic violence crimes. The confidentiality rules prohibit the Department of Homeland Security and the Department of Justice from releasing information about a battered immigrant's case to any person. The confidentiality protections bar the government from using information provided by an alleged abuser against an immigrant to deny an application for immigration relief. **Some abusers provide false information in an effort to sabotage an immigrant's efforts to obtain independent status.**

The VAWA confidentiality provisions are designed to deter fraud. The only information that cannot be relied upon by the government in adjudicating a VAWA self-petition is information obtained *solely* from the alleged abuser. **Immigration agents may rely upon information in the public record or in government databases**, even if they first become aware of that information from an alleged abuser. Officials may corroborate information submitted by the alleged abuser through a separate inquiry and rely upon any information that is independently confirmed. Nothing prevents one component agency of DHS from sharing information with USCIS's VAWA Adjudication Unit; if a part of DHS believes the VAWA self petitioner may be engaging in fraud, it will alert the VAWA Unit, which will then investigate the matter.

Law enforcement relies on U Visas to help catch and prosecute abusers.

The U Visa was created in the 2000 authorization of VAWA to encourage immigrant victims of crime to report and help prosecute the criminal activity. Only victims of certain crimes are able to seek relief through the U Visa, but the list of crimes includes domestic violence and sexual assault to ensure that immigrant victims who are not eligible to submit a VAWA self-petition may seek this relief. To be eligible to apply for a U Visa, **the applicant must have a law enforcement official certify that the criminal activity occurred in the U.S. or violated U.S. laws**, and that the applicant cooperated or is willing to cooperate with law enforcement in the investigation and prosecution of criminal activity. **These certifications are a deterrent to fraud.**

The U visa program allows law enforcement officials to request up to 10,000 visas each year for victims who are helping to investigate and prosecute serious crimes. In the past two years, **that cap has been reached prior to the end of the fiscal year.** The Secretary of Homeland Security, as well as State, local, and national law enforcement organizations, have asked Congress to increase the cap. The Violence Against Women Reauthorization Act **allows the Department of Homeland**

Security to draw from a pool of previously authorized but never used U Visas if the annual cap is reached in a given fiscal year. It does not authorize additional visas.

The nation's leading law enforcement organizations support the use of U Visas.

"On behalf of the members of the Fraternal Order of Police, I am writing to express our support for your efforts to expand the current U visa program. **This program is essential to the law enforcement community and I believe that its expansion will serve to strengthen criminal investigations across the country...**These changes are important to ensuring that non-citizens who are victims of crime remain available to assist law enforcement throughout criminal investigations." – *Fraternal Order of Police, February 1, 2102*

"Current law authorizes an annual issuance of only 10,000 U Visas. Unfortunately, dangerous criminals remain undaunted by this cap and it only serves to discourage non-citizen battered women from cooperating with law enforcement...By limiting the number of U Visas law enforcement can request, Congress is effectively amputating the long arm of the law. Law enforcement officers and prosecutors don't hand out U Visas like cotton candy. **U Visas are an essential tool carefully used by law enforcement and tempered with great scrutiny.** Again, our unwavering priority is to do everything within our means to protect women who are victimized by violent criminals." – *Federal Law Enforcement Officers Association, January 31, 2012*