

## THE VIOLENCE AGAINST WOMEN ACT REAUTHORIZATION-S.1925 THE TRUTH ABOUT TITLE VIII, PROTECTION OF BATTERED IMMIGRANTS

**Myth: Immigrant victims of domestic violence, sexual assault, human trafficking, and other violent crimes do not need special protections under federal law.**

**Fact: Immigrant victims need legal protections to prevent abusers and perpetrators from using immigration status as a tool of abuse, exploitation and control.**

Research shows just how often this happens. Nearly 75% of abused immigrant women in one survey reported that their spouses had never filed immigration applications for them, even though they were eligible for legal status. Abusers who eventually filed for their immigrant spouses waited almost 4 years to do so.<sup>i</sup> VAWA's immigration provisions address these vulnerabilities by taking away the ability of an abuser to manipulate a victim's fears about her immigration status. Having legal immigration status is crucial to a victim feeling safe enough to seek help. Victims without legal status can be *half as likely* as those with stable status to call police.<sup>ii</sup> Victims of violence should never be forced to choose between living with abuse and facing deportation.

**Myth: The Senate VAWA bill (S. 1925) creates a new vehicle for expanding the immigration laws.**

**Fact: S. 1925 contains a small number of modest amendments to already existing provisions established through past bipartisan bills, to ensure that these protections actually work as intended.**

VAWA has always included protections for immigrant survivors of domestic violence. "Self-petitioning" for battered immigrant spouses of US citizens and permanent residents was created in VAWA 1994, for example, and the U visa (for victims of violent crimes) and T visa (for human trafficking victims) were created in VAWA 2000. This longstanding inclusion shows that domestic violence is a serious crime and a public safety issue that cannot be fully addressed if all victims are not safe, and all perpetrators are not held accountable. In addition, these provisions are considered an important tool for law enforcement.

**Myth: The VAWA self-petition and U visa processes are vulnerable to immigration fraud.**

**Fact: Department of Homeland Security (DHS) reports to Congress have outlined how the current system used by USCIS is best structured to protect victims while promoting efficiency and deterring fraud.**<sup>iii</sup>

In order to be eligible for a U visa, for example, the applicant must demonstrate that she is the victim of a qualifying crime and obtain law enforcement certification that she is helpful in the investigation or prosecution of that crime. All VAWA applications are processed through a centralized, specially trained expert unit. Scattering that authority among untrained staff at USCIS district offices around the country, as some have proposed, would make fraud-detection inconsistent and difficult as well as put victims at risk of harm. Finally, the number of cases approved annually is small. In FY2011 USCIS approved only 4,285 VAWA self-petitions<sup>iv</sup>, and the number of U visas is subject to an annual cap (10,000).

**Myth: The Senate VAWA bill (S. 1925) opens the floodgates for new visa applicants.**

**Fact: In 2000, VAWA legislation created the U visa and set an annual cap of 10,000 visas. But USCIS did not issue regulations to clarify the application process and eligibility criteria until September 2007, and continued to place the vast majority of backlogged U visa applications on hold until December 2008.**

S. 1925 contains a provision requested by DHS and law enforcement to help address a backlog of U visa applications created due to the government's delayed implementation of the 2000 VAWA legislation. S. 1925 allows for the annual U visa cap to be raised from 10,000 to 15,000 only so long as there are "unused" visas from the annual U visa allotments for FY2006-2011 to "recapture."

<sup>i</sup> Mary Ann Dutton, Leslye E. Orloff, & Giselle Hass, *Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 Geo. J. Poverty Law & Pol'y 245, 259 (2000).

<sup>ii</sup> Leslye Orloff, Mary Ann Dutton, Giselle Aguilar Hass, & Nawal Ammar, *Battered Immigrant Women's Willingness to Call for Help and Police Response*, 13 UCLA Women's L. J. 43, 60 (2003).

<sup>iii</sup> See USCIS, "Report on the Operations of the Violence Against Women Act Unit at the USCIS Vermont Service Center," October 22, 2010, at p. 3, available at: [www.uscis.gov/USCIS/Resources/Resources%20for%20Congress/Congressional%20Reports/vawa-vermont-service-center.pdf](http://www.uscis.gov/USCIS/Resources/Resources%20for%20Congress/Congressional%20Reports/vawa-vermont-service-center.pdf).

<sup>iv</sup> Data obtained from the USCIS Vermont Service Center.