HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998
WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS

By Leslye E. Orloff
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VAWA 2000 changes are *underlined and italics;* ~~with deletions.~~
VAWA 2005 amendments are **underlined and bold,** ~~with deletions~~

Haitian Refugee Immigration Fairness Act of 1998. 8 USC 1101 note. TITLE IX--HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998

Sec. 901. Short Title. This title may be cited as the ``Haitian Refugee Immigration Fairness Act of 1998".

Sec. 902. <<NOTE: 8 USC 1255 note.>> Adjustment of Status of Certain Haitian Nationals.

(a) Adjustment of Status.—

(1) In general.--The status of any alien described in subsection (b) shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for such adjustment before April 1, 2000; and

(B) is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4),[1] (5),[2] (6)(A),[3] (7)(A),[4] and (9)(B)[5] of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) Relationship of application to certain orders.--An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition on submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General makes a final decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) Aliens Eligible for Adjustment of Status.--The benefits provided by subsection (a) shall apply to any alien who is a national of Haiti who—

(1) was present in the United States on December 31, 1995, who—

[1] INA Section 212(a)(4) Public Charge does not apply
[2] INA Section 212(A)(5) Labor certifications and labor qualifications inadmissibility grounds to do not apply
[3] INA Section 212(a)(6)(A) Immigrants present without admission or parole does not apply
[4] INA Section 212(a)(7)(A) Immigrants inadmissible for lack of valid unexpired visa, passport, or immigraiton documentation does not apply
[5] Unlawful presence and the 3 and 10 year bars do not apply

(A) filed for asylum before December 31, 1995,
(B) was paroled into the United States prior to December 31, 1995, after having been identified as having a credible fear of persecution, or paroled for emergent reasons or reasons deemed strictly in the public interest, or
(C) was a child (as defined in the text above subparagraph (A) of section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) at the time of arrival in the United States and on December 31, 1995, and who—

(i) arrived in the United States without parents in the United States and has remained without parents in the United States since such arrival,
(ii) became orphaned subsequent to arrival in the United States, or
(iii) was abandoned by parents or guardians prior to April 1, 1998 and has remained abandoned since such abandonment; and

(2) has been physically present in the United States for a continuous period beginning not later than December 31, 1995, and ending not earlier than the date the application for such adjustment is filed, except that an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(c) Stay of Removal.—

(1) In general.--The Attorney General shall provide by regulation for an alien who is subject to a final order of deportation or removal or exclusion to seek a stay of such order based on the filing of an application under subsection (a).
(2) During certain proceedings.--Notwithstanding any provision of the Immigration and Nationality Act, the Attorney General shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Attorney General has made a final determination to deny the application.
(3) Work authorization.--The Attorney General may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an ``employment authorized'' endorsement or other appropriate document signifying authorization of employment, except that if such application is pending for a period exceeding 180 days, and has not been denied, the Attorney General shall authorize such employment.

(d) Adjustment of Status for Spouses and Children.—

(1) In general.--The status of an alien shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if—

(A) the alien is a national of Haiti;

(B)[6]

(i) the alien is the spouse, child, or unmarried son or daughter of an alien ~~whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection~~ **who is or was eligible for classification** under subsection (a), except that, in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that ~~he or she~~ *the son or daughter* has been physically present in the United States for a continuous period beginning not later than December 1, 1995, and ending not earlier than the date the application for such adjustment is filed;

(*ii) at the time of filing of the application for adjustment under subsection (a), the alien is the spouse or child of an alien* ~~*whose status is adjusted to that of an alien lawfully admitted for permanent residence*~~ **who is or was eligible for classification** *under subsection (a) and the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the individual described in subsection (a); and*

(iii) in acting on applications under this section with respect to spouses or children who have been battered or subjected to extreme cruelty, the Attorney General shall apply the provisions of section ~~*204(a)(1)(H).*~~ **204(a)(1)(J)**

(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed; and

(D) the alien is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4),[7] (5),[8] (6)(A),[9] (7)(A),[10] and (9)(B)[11] of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) Proof of continuous presence.--For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(e) Availability of Administrative Review.--The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245[12] of the Immigration and Nationality Act; or

[6] VAWA 2000 Section 1511(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the Haitian Refugee Immigration Fairness Act of 1998 (division A of section 101(h) of Public Law 105–277; 112 Stat. 2681–538).(October 21, 1998)

[7] INA Section 212(a)(4) Public Charge does not apply

[8] INA Section 212(A)(5) Labor certifications and labor qualifications inadmissibility grounds to do not apply

[9] INA Section 212(a)(6)(A) Immigrants present without admission or parole does not apply

[10] INA Section 212(a)(7)(A) Immigrants inadmissible for lack of valid unexpired visa, passport, or immigraiton documentation does not apply

[11] INA Section 212(a)(9)(B) Unlawful presence and the 3 and 10 year bars do not apply

[12] INA Section 245 governing adjustment of status to lawful permanent residency

(2) aliens subject to removal proceedings under section 240 [13]of such Act.

(f) Limitation on Judicial Review.--A determination by the Attorney General as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

(g) No Offset in Number of Visas Available.--When an alien is granted the status of having been lawfully admitted for permanent resident pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(h) Application of Immigration and Nationality Act Provisions.-- Except as otherwise specifically provided in this title, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this title shall beheld to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

(i) Adjustment of Status Has No Effect On Eligibility For Welfare and Public Benefits.--No alien whose status has been adjusted in accordance with this section and who was not a qualified alien on the date of enactment of this Act may, solely on the basis of such adjusted status, be considered to be a qualified alien under section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b)), as amended by section 5302 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 598), for purposes of determining the alien's eligibility for supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.).

(j) Period of Applicability.--Subsection (i) shall not apply after October 1, 2003.

(k) Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter (until all applications for adjustment of status under this section have been finally adjudicated), the Comptroller General of the United States shall submit to the Committees on the Judiciary and the Committees on Appropriations of the United States House of Representatives and the United States Senate a report containing the following:

(1)

(A) The number of aliens who applied for adjustment of status under subsection (a), including a breakdown specifying the number of such applicants who are described in subparagraph (A), (B), or (C) of subsection (b)(1), respectively.
(B) The number of aliens described in subparagraph (A) whose status was adjusted under this section, including a breakdown described in the subparagraph.

[13] INA Section 240 governing removal proceedings

(2)

(A) The number of aliens who applied for adjustment of status under subsection (d), including a breakdown specifying the number of such applicants who are sponsors, children, or unmarried sons or daughters described in such subsection, respectively.
(B) The number of aliens described in subparagraph (A) whose status was adjusted under this section, including a breakdown described in the subparagraph.

Sec. 903. <<NOTE: 8 USC 1377.>> Collection of Data on Detained Asylum Seekers.

(a) In General.--The Attorney General shall regularly collect data on a nation-wide basis with respect to asylum seekers in detention in the United States, including the following information:

(1) The number of detainees.
(2) An identification of the countries of origin of the detainees.
(3) The percentage of each gender within the total number of detainees.
(4) The number of detainees listed by each year of age of the detainees.
(5) The location of each detainee by detention facility.
(6) With respect to each facility where detainees are held, whether the facility is also used to detain criminals and whether any of the detainees are held in the same cells as criminals.
(7) The number and frequency of the transfers of detainees between detention facilities.
(8) The average length of detention and the number of detainees by category of the length of detention.
(9) The rate of release from detention of detainees for each district of the Immigration and Naturalization Service.
(10) A description of the disposition of cases.

(b) Annual Reports.--Beginning October 1, 1999, and not later than October 1 of each year thereafter, the Attorney General shall submit to the Committee on the Judiciary of each House of Congress a report setting forth the data collected under subsection (a) for the fiscal year ending September 30 of that year.

(c) Availability to Public.--Copies of the data collected under subsection (a) shall be made available to members of the public upon request pursuant to such regulations as the Attorney General shall prescribe.

Sec. 904. <<NOTE: 8 USC 1378.>> Collection of Data on Other Detained Aliens.

(a) In General.--The Attorney General shall regularly collect data on a nationwide basis on aliens being detained in the United States by the Immigration and Naturalization Service other than the aliens described in section 903, including the following information:

(1) The number of detainees who are criminal aliens and the number of detainees who are noncriminal aliens who are not seeking asylum.

(2) An identification of the ages, gender, and countries of origin of detainees within each category described in paragraph (1).
(3) The types of facilities, whether facilities of the Immigration and Naturalization Service or other Federal, State, or local facilities, in which each of the categories of detainees described in paragraph (1) are held.

(b) Length of Detention, Transfers, and Dispositions.--With respect to detainees who are criminal aliens and detainees who are noncriminal aliens who are not seeking asylum, the Attorney General shall also collect data concerning—

(1) the number and frequency of transfers between detention facilities for each category of detainee;
(2) the average length of detention of each category of detainee;
(3) for each category of detainee, the number of detainees who have been detained for the same length of time, in 3-month increments;
(4) for each category of detainee, the rate of release from detention for each district of the Immigration and Naturalization Service; and
(5) for each category of detainee, the disposition of detention, including whether detention ended due to deportation, release on parole, or any other release.

(c) Criminal Aliens.--With respect to criminal aliens, the Attorney General shall also collect data concerning--

(1) the number of criminal aliens apprehended under the immigration laws and not detained by the Attorney General; and
(2) a list of crimes committed by criminal aliens after the decision was made not to detain them, to the extent this information can be derived by cross-checking the list of criminal aliens not detained with other databases accessible to the Attorney General.

(d) Annual Reports.--Beginning on October 1, 1999, and not later than October 1 of each year thereafter, the Attorney General shall submit to the Committee on the Judiciary of each House of Congress a report setting forth the data collected under subsections (a), (b), and (c) for the fiscal year ending September 30 of that year.

(e) Availability to Public.--Copies of the data collected under subsections (a), (b), and (c) shall be made available to members of the public upon request pursuant to such regulations as the Attorney General shall prescribe.

Motions to Reopen Suspension of Deportation and Cancellation of Removal Cases for VAWA HRIFA applicants

Section 825 Motions to Reopen: VAWA 2005 there is no filing deadline for motions to reopen for VAWA suspension of deportation, VAWA cancellation of removal cases, removal cases involving VAWA self-petitioners, T visa applicants and abused spouses whose abusive citizen or lawful permanent residents filed family based visa petitions (I-130) on their behalf. The following section first reports the motion to reopen statute that applies to VAWA suspension of deportation cases and then is followed by the amendments VAWA 2005 made to the VAWA cancellation of removal rule which also cites VAWA suspension of deportation.

Motions to Reopen VAWA Suspension of Deportation Cases

Section 825(b) VAWA 2005:

(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) 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))[14]*—*

(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)*[15] *of the Immigration and Nationality Act (as so in effect) (8 U.S.C. 1252b(c)(3)) does not apply—*

(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) ~~*or*~~*section 244(a)(3) of such Act (as so in effect) (8 U.S.C. 1254(a)(3));*

(IV) **the first section of Public Law 899-732 (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*

(ii) *if the motion is accompanied by a suspension of deportation* **or adjustment of status** *application to be filed with the Secretary of*

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[14] April 1, 1997

[15] 8 U.S.C. 1252b(c)(3) INA of 1995

(c) Consequences of failure to appear

(1) In general --Any alien who, after written notice required under subsection (a)(2) of this section has been provided to the alien or the alien's counsel of record, does not attend a proceeding under section 1252 of this title, shall be ordered deported under section 1252(b)(1) of this title in absentia if the Service establishes by clear, unequivocal, and convincing evidence that the written notice was so provided and that the alien is deportable. The written notice by the Attorney General shall be considered sufficient for purposes of this paragraph if provided at the most recent address provided under subsection (a)(1)(F) of this section.

(2) No notice if failure to provide address information -- No written notice shall be required under paragraph (1) if the alien has failed to provide the address required under subsection (a)(1)(F) of this section.

(3) Rescission of order -- Such an order may be rescinded only—

(A) upon a motion to reopen filed within 180 days after the date of the order of deportation if the alien demonstrates that the failure to appear was because of exceptional circumstances (as defined in subsection (f)(2) of this section), or

(B) upon a motion to reopen filed at any time if the alien demonstrates that the alien did not receive notice in accordance with subsection (a)(2) of this section or the alien demonstrates that the alien was in Federal or State custody and did not appear through no fault of the alien.

The filing of the motion to reopen described in subparagraph (A) or (B) shall stay the deportation of the alien pending disposition of the motion.

Homeland Security or by a copy of the self-petition[16] *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)[17] **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))[18] **pending the final disposition of the motion, including exhaustion of all appeals if the motion establishes that the alien is a qualified alien.''**;

(B) APPLICABILITY.—Subparagraph (A) shall apply to motions filed by aliens **who re physically present in the United States and** *who—*

(i) are, or were, in deportation **or exclusion** *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)); and*

(ii) have become eligible to apply **for relief described in subparagraph (A)(i)** ~~*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 in effect before the title III–A effective date in section 309 of the Illegal*~~

[16] Self-petition includes all of the forms of self-petitioning relief covered in INA Section 101(a)(51) (VAWA self-petition for spouses and children of U.S. citizen and lawful permanent residents who perpetrate battering or extreme cruelty, VAWA self-petition for parents of citizen over 21 year old daughters and sons who battered or subject their parent to extreme cruelty, battered spouse waiver applicants, VAWA Cuban Adjustment Act (VAWA CAA), VAWA Haitian Refugee and Immigrant Fairness Act (VAWA HRIFA), and VAWA Nicaraguan and Central American Relief Act (VAWA NACARA).

[17] For text of VAWA cancellation of removal motions to reopen see the next section of this document

[18] Qualified alien is defined in 8 U.S.C. 1641(c)(1)(B)

(c)Treatment of certain battered aliens as qualified aliensFor purposes of this chapter, the term "qualified alien" includes—

(1)an alien who—

(A)has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(B)has been approved or has a petition pending which sets forth a prima facie case for—

(i)status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act [8 U.S.C. 1154(a)(1)(A)(ii), (iii), (iv)], (*VAWA self-petitioner abused by citizen spouse, parent, son or daughter)*

(ii)classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act [8 U.S.C. 1154(a)(1)(B)(ii), (iii)], (*VAWA self-petitioner abused by citizen spouse or parent)*

(iii) suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act [8 U.S.C. 1254(a)(3)] (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996). (*VAWA suspension of deportation)*

(iv)status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act [8 U.S.C. 1154(a)(1)(A)(i)], or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act [8 U.S.C. 1154(a)(1)(B)(i)]; (*Immigrant spouse or child abused by their citizen or lawful permanent resident spouse or parent who had filed a family based visa petition on the immigrant spouse or child's behalf)*

(v)cancellation of removal pursuant to section 240A(b)(2) of such Act [8 U.S.C. 1229b(b)(2)]; (*VAWA cancellation of removal)*

~~*Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note))*~~ *as a result of the amendments made by—*

(I) subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1953 et seq.)[19]*; or*
(II) this title.

Motions to Reopen VAWA Cancellation of Removal Cases

For the cancellation of removal motion to reopen statue we include the text of the INA code section current as of April 2020 and identifies the sections that were added by VAWA 2005.

Section 825 (a) VAWA 2005:

240(c)(7)Motions to reopen in VAWA Cancellation or Removal Cases

(A) In general -- An alien may file one motion to reopen proceedings under this section, **except that this limitation shall not apply so as to prevent the filing of one motion to reopen described in subparagraph (C)(iv).**

(B) Contents -- The motion to reopen shall state the new facts that will be proven at a hearing to be held if the motion is granted, and shall be supported by affidavits or other evidentiary material.

(C)Deadline

(i)In general -- Except as provided in this subparagraph, the motion to reopen shall be filed within 90 Faizadays of the date of entry of a final administrative order of removal.

(ii)Asylum -- There is no time limit on the filing of a motion to reopen if the basis of the motion is to apply for relief under sections 1158 or 1231(b)(3) of this title and is based on changed country conditions arising in the country of nationality or the country to which removal has been ordered, if such evidence is material and was not available and would not have been discovered or presented at the previous proceeding.

(iii)Failure to appear --The filing of a motion to reopen an order entered pursuant to subsection (b)(5) is subject to the deadline specified in subparagraph (C) of such subsection.

(iv) Special rule for battered spouses, children, **and parents** A**ny limitation under this section on the deadlines for filing such motions shall not apply—**

(I) if the basis for the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of this title, (*VAWA self-petition abusive citizen spouse or parent*) clause (ii) or (iii) of section 204(a)(1)(B) of this title, (*VAWA self-petition lawful permanent resident spouse or parent*) section 240A(b) of this title, (*VAWA*

[19] VAWA 1994

cancellation of removal) **or section 244 (a)(3) of this title (as in effect on March 31, 1997)** *(VAWA suspension of deportation)*;

(II)if the motion is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that has been or will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen;

(III)if the motion to reopen is filed within 1 year of the entry of the final order of removal, except that the Attorney General may, in the Attorney General's discretion, waive this time limitation in the case of an alien who demonstrates extraordinary circumstances or extreme hardship to the alien's child; **and**

(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 1641(c)(1)(B))[20] of this title pending the final disposition of the motion, including exhaustion of all appeals if the motion establishes that the alien is a qualified alien.

[20] Qualified alien is defined in 8 U.S.C. 1641(c)(1)(B)

(c)Treatment of certain battered aliens as qualified aliens. For purposes of this chapter, the term "qualified alien" includes—

(1)an alien who—

(A)has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(B)has been approved or has a petition pending which sets forth a prima facie case for—

(i)status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act [8 U.S.C. 1154(a)(1)(A)(ii), (iii), (iv)], (*VAWA self-petitioner abused by citizen spouse, parent, son or daughter)*

(ii)classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act [8 U.S.C. 1154(a)(1)(B)(ii), (iii)], (*VAWA self-petitioner abused by citizen spouse or parent)*

(iii) suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act [8 U.S.C. 1254(a)(3)] (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996). (*VAWA suspension of deportation)*

(iv)status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act [8 U.S.C. 1154(a)(1)(A)(i)], or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act [8 U.S.C. 1154(a)(1)(B)(i)]; (*Immigrant spouse or child abused by their citizen or lawful permanent resident spouse or parent who had filed a family based visa petition on the immigrant spouse or child's behalf)*

(v)cancellation of removal pursuant to section 240A(b)(2) of such Act [8 U.S.C. 1229b(b)(2)]; (*VAWA cancellation of removal)*