109TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
109–

DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT, FISCAL YEARS 2006 THROUGH 2009

R E P O R T

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

TO ACCOMPANY

H.R. 3402

SEPTEMBER 22, 2005.—Ordered to be printed

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SEPTEMBER 22, 2005.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. SENSENBRENNER, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 3402]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3402) to authorize appropriations for the Department of Justice for fiscal years 2006 through 2009, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

THE AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Department of Justice Appropriations Authorization Act, Fiscal Years 2006 through 2009".

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

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2006.

There are authorized to be appropriated for fiscal year 2006, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $161,407,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $216,286,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $72,828,000, which shall include not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $679,661,000, which shall include—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals;

(B) not less than $15,000,000 for the investigation and prosecution of violations of title 17 of the United States Code;

(C) not to exceed $20,000 to meet unforeseen emergencies of a confidential character; and

(D) $5,000,000 for the investigation and prosecution of violations of chapter 77 of title 18 of the United States Code.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $144,451,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,626,146,000.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $5,761,237,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $800,255,000.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $5,065,761,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,716,173,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(11) BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES.—For the Bureau of Alcohol, Tobacco, Firearms and Explosives: $923,613,000.

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $181,137,000, which shall include not to exceed $8,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $661,940,000 for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,270,000.

(15) COMMUNITY RELATIONS SERVICE.— For the Community Relations Service: $9,759,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $21,468,000 for expenses authorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $11,300,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $1,222,000,000.

(19) JUSTICE INFORMATION SHARING TECHNOLOGY.—For necessary expenses for information sharing technology, including planning, development, and deployment: $181,490,000.

(b) DEPORTATION AND EXCLUSION PROCEEDINGS.—

(1) IN GENERAL.—Section 1506(c)(2) of VAWA–2000 is amended—

(A) in the matter before clause (i) of subparagraph (A), by striking "Notwithstanding any limitation imposed by law on motions to reopen or rescind deportation" inserting "Notwithstanding any limitation on the number of motions, or the deadlines for filing motions (including the deadline specified in section 242B(c)(3) of the Immigration and Nationality Act before the title III–A effective date), to reopen or rescind deportation or exclusion";

(B) in the matter before clause (i) of subparagraph (A), by striking "there is no time limit on the filing of a motion" and all that follows through "does not apply" and inserting "such limitations shall not apply to the filing of a single motion under this subparagraph to reopen such proceedings";

(C) by adding at the end of subparagraph (A) the following:

"The filing of a motion under this subparagraph shall stay the removal of the alien pending a final disposition of the motion including the exhaustion of all appeals if the motion establishes a prima facie case for the relief applied for. ";

(D) in subparagraph (B), by inserting "who are physically present in the United States and" after "filed by aliens"; and

(E) in subparagraph (B)(i), by inserting "or exclusion" after "deportation".

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

SEC. 937. REMOVAL PROCEEDINGS.

(a) TREATMENT OF BATTERY OR EXTREME CRUELTY AS EXCEPTIONAL CIRCUMSTANCES.—Section 240(e)(1) of such Act (8 U.S.C. 1230(e)(1)) is amended by inserting "battery or extreme cruelty of the alien or any child or parent of the alien or" after "exceptional circumstances (such as".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to a failure to appear that occurs before, on, or after such date.

SEC. 938. CONFORMING RELIEF IN SUSPENSION OF DEPORTATION PARALLEL TO THE RELIEF AVAILABLE IN VAWA–2000 CANCELLATION FOR BIGAMY.

Section 244(a)(3) of 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) shall be applied as if "or by a United States citizen or lawful permanent resident whom the alien intended to marry, but whose marriage is not legitimate because of that United States citizen's or permanent resident's bigamy" were inserted after "by a spouse or parent who is a United States citizen or lawful permanent resident".

SEC. 939. CORRECTION OF CROSS-REFERENCE TO CREDIBLE EVIDENCE PROVISIONS.

(a) CUBAN ADJUSTMENT PROVISION.—The last sentence of the first section of Public Law 89–732 (November 2, 1966; 8 U.S.C. 1255 note), as amended by section 1509(a) of VAWA–2000, is amended by striking "204(a)(1)(H)" and inserting "204(a)(1)(J)".

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

(c) IIARAIRA.—Section 309(c)(5)(C)(iii) of the Illegal Immigration and Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1101 note), as amended by section 1510(b)(2) of VAWA–2000, is amended by striking "204(a)(1)(H)" and inserting "204(a)(1)(J)".

(d) HRIFA.—Section 902(d)(1)(B)(iii) of the Haitian Refugee Immigration Fairness Act of 1998 (division A of section 101(h) of Public Law 105–277; 112 Stat. 2681–538), as amended by section 1511(a) of VAWA–2000, is amended by striking "204(a)(1)(H)" and inserting "204(a)(1)(J)".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of VAWA–2000.

SEC. 940. TECHNICAL CORRECTIONS.

(a) TECHNICAL CORRECTIONS TO REFERENCES IN APPLICATION OF SPECIAL PHYSICAL PRESENCE AND GOOD MORAL CHARACTER RULES.—

Section 704. Grants to Combat Domestic Violence, Dating Violence, Sexual Assault and Stalking in Middle and High Schools

This section authorizes grants to train school personnel to recognize signs of violence in middle school and high school and establish policies for intervention.

TITLE VIII—STRENGTHENING AMERICA'S FAMILIES BY PREVENTING VIOLENCE IN THE HOME

Section 801. Preventing Violence in the Home

This section would authorize programs for mentoring, advocacy and counseling for young victims of domestic violence and training for and coordination for programs that serve children and youth. Grants to communities to establish alliances between men, women and youth to prevent domestic violence, dating, violence, sexual assault and stalking are also included in this section. This section authorizes $5 million to establish a program to train home visitation providers in recognizing signs of domestic violence.

TITLE IX—PROTECTION FOR IMMIGRANT VICTIMS OF VIOLENCE

Section 900. Short Title of Title; References to VAWA-2000; Regulations

This section requires that regulations implementing both this Act (including materials and dissemination under section 922) and the Act reauthorizing the Violence Against Women Act in 2000 ("VAWA 2000"), be issued within 180 days of this Act's enactment. In applying such regulations, in the case of petitions or applications affected by the changes made by the Acts, there shall be no requirement to submit an additional petition, application, or certification from a law enforcement agency with the date of the application for interim relief establishing the priority date of counting time towards adjustment of status. However, the Department of Homeland Security may request additional evidence be submitted when the documentation supporting an outstanding VAWA self-petition or justifying interim relief is now insufficient.

SUBTITLE A—VICTIMS OF CRIME

Section 901. Conditions Applicable to U and T Visas.

U visas are available to victims of certain crimes who cooperate with law enforcement in investigations and/or prosecutions. T visas are available to the victims of trafficking who cooperate with law enforcement in investigations and/or prosecutions. Certain family members of T visa recipients can also receive T visas.

Section 901(a) provides that certain family members and trafficking victims can receive T visas without having to first show that the visas are necessary to avoid "extreme hardship."

Section 901(b) provides that T and U visas shall be issued for 4 years and may be extended under certain conditions. This provides victims who qualify for permanent residence sufficient time to file before their visas expire. An extension shall be granted upon certification from a government official that the victim's presence is required to assist a criminal investigation or prosecution, or to give the Bureau of Citizenship and Immigration Services ("CIS") time to

adjudicate the petitions for permanent residence and for adjustment of status to permanent residence.

Section 901(c) provides that aliens in the U.S. on K (fiance or spouse) and S (informant) visas, or pursuant to the visa waiver program, are not prohibited from qualifying for T and U visa status. Aliens who came to the U.S. on J visas to receive graduate medical training, and aliens who are subject to the 2-year foreign residence requirement, may also qualify for T and U status.

Section 901(d) provides that aliens can qualify for T status if they respond to and cooperate with requests for evidence and information from law enforcement officials. It also permits State and local law enforcement officials investigating or prosecuting trafficking-related crimes to file a request (and certification) asking DHS to grant continued presence to trafficking victims.

Section 902. Clarification of Basis for Relief Under Hardship Waivers for Conditional Permanent Residence

The Secretary of Homeland Security can remove the conditional status of an alien who became a permanent resident, as the spouse of a U.S. citizen or permanent resident without the joint filing of a petition with the U.S. citizen or permanent resident spouse, upon the showing of hardship, battery, or certain other factors. This section provides that an application for such relief may be amended to change the ground or grounds for such relief without having to be resubmitted. The ability in current law to file hardship waivers while outside of the United States will not be available to applicants who have a final removal order in effect that was issued after the alien was granted conditional residency.

Section 903. Adjustment of Status for Victims of Trafficking

The Secretary of Homeland Security can adjust the status of a T visa recipient to that of a permanent resident after 3 years of physical presence in the U.S. under a T visa or after being granted "continued presence" by Federal law enforcement officials.

Section 903(a) provides that for aliens who have been granted both a T visa and continued presence, the required 3-year period may be counted by starting from the earlier of either the date on which an alien was granted continued presence by DHS, or the date on which the T visa was granted. In addition, the Secretary may waive or reduce the required 3-year period if the Federal, State, or local law enforcement official investigating or prosecuting the relevant trafficking has no objection. An alien seeking to adjust status must be of good moral character through the 3-year period.

Section 903(b) provides that the Secretary may waive a factor that would otherwise disqualify the alien from being considered to have good moral character if there is a connection between the disqualifying factor and the trafficking of the alien. The Committee recognizes that DHS has issued policy memoranda defining "connection" in two other VAWA related contexts. See USCIS Interoffice Memorandum HQOPRD 70/8.1/8.2, January 19, 2005, from Paul E. Novak to William R Yates and INS Memorandum HQADN/70/8, January 2, 2002, from Michael A. Pearson to Stuart Anderson. The Committee encourages the Department of Homeland Security to use standards and analysis similar to those described in

these memos when defining the term "connection" for the purposes of this section, sections 917, 919, 932, and 935 of this Act, and other VAWA-related provisions of the Immigration and Nationality Act ("INA").

Section 903(c) provides that the Secretary must, as part of an already required annual report, include statistics regarding the number of law enforcement officials who have been trained in the identification and protection of trafficking victims and their eligibility for T visas.

SUBTITLE B—VAWA PETITIONERS.

Section 911. Definition of VAWA Petitioner

This section defines a "VAWA petitioner" as an alien who has applied for classification or relief under a number of provisions of the INA, including those who have filed self-petitions for permanent residence as the battered spouses and children of U.S. citizens and permanent residents and, pursuant to this bill, as the battered parents of U.S. citizens. Also included in this definition are applicants for certain benefits under the Cuban Adjustment Act, the Haitian Refugee Immigrant Fairness Act ("HRIFA"), and the Nicaraguan Adjustment and Central American Relief Act ("NACARA").

In 1997, the Immigration and Naturalization Service consolidated adjudication of VAWA self-petitions and VAWA-related cases in one specially trained unit that adjudicates all VAWA immigration cases nationally. The unit was created "to ensure sensitive and expeditious processing of the petitions filed by this class of at-risk applicants . . .", to "[engender] uniformity in the adjudication of all applications of this type" and to "[enhance] the Service's ability to be more responsive to inquiries from applicants, their representatives, and benefit granting agencies." See 62 Fed. Reg. 16607–16608 (1997). T visa and U visa adjudications were also consolidated in the specially trained VAWA unit. See, USCIS Interoffice Memorandum HQINV 50/1, August 30, 2001, from Michael D. Cronin to Michael A. Pearson, 67 Fed. Reg. 4784 (Jan. 31, 2002).

Consistent with these procedures, the Committee recommends that the same specially trained unit that adjudicates VAWA self-petitions, T and U visa applications, process the full range of adjudications, adjustments, and employment authorizations related to VAWA cases (including derivative beneficiaries) filed with DHS: VAWA petitions T and U visas, VAWA Cuban, VAWA NACARA (§§ 202 or 203), and VAWA HRIFA petitions, 214(c)(15)(work authorization under section 933 of this Act), battered spouse waiver adjudications under 216(c)(4)(C) and (D), applications for parole of VAWA petitioners and their children, and applications for children of victims who have received VAWA cancellation.

Section 912. Self-Petitioning for Children

This section ensures that immigrant children who are victims of incest and child abuse get full access to VAWA protections. Additionally, this section extends Child Status Protection Act relief to children who qualify for VAWA immigration relief.

Section 912(a) provides that the minor child of a U.S. citizen or permanent resident may self-petition for permanent residence if

the abusive parent has died or otherwise terminated the parent-child relationship within the past 2 years (or, if later, 2 years after the date the child attains the age of 18). Also, the alien spouse of a permanent resident may self-petition for permanent residence if the abusive permanent resident spouse died within the past 2 years.

Section 912(b) provides protections that prevent children from "aging out" of access to VAWA relief. The section guarantees that child self-petitioners, who are abused by citizen parents, will continue to be treated as immediate relatives (or as petitioners for preference status if subsequently married) if they turn 21 during the processing of their petitions. Child self-petitioners who are abused by permanent resident parents will be treated as applicants for "2A" preference status as the minor children of a permanent resident, if they turn 21 during the processing of their petitions.

Section 912(c) provides that the application for adjustment of status to permanent residence of an alien who self-petitioned for permanent residence shall also serve as an adjustment application for any derivative children. Derivative children of self-petitioners will receive lawful permanent residency along with their self-petitioning parents.

Section 912(d) provides that alien child abuse and incest victims who would have qualified to self-petition as the minor children of U.S. citizens or permanent residents can file the petition until the aliens attain the age of 25. This allows child abuse victims time to escape their abusive homes, secure their safety, access services and support that they may need, and address the trauma of their abuse.

Section 913. Self-Petitioning Parents

This section extends the ability to self-petition to the parent of an adult U.S. citizen who resides or has resided with the U.S. citizen son or daughter, if the alien demonstrates that he or she has been battered by, or has been the subject of extreme cruelty perpetrated by, their U.S. citizen son or daughter.

Section 914. Promoting Consistency in VAWA Adjudications

This section promotes consistency in VAWA adjudications by making technical corrections that replace references to "domestic violence" with references to "battery or extreme cruelty," the domestic abuse definition codified in the Violence Against Women Act of 1994 ("VAWA 1994"), the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") and regulations implementing the battered spouse waiver.

Section 915. Relief for Certain Victims Pending Actions on Petitions and Applications for Relief

Section 915(a)(1) provides that the Secretary of Homeland Security may grant deferred action to an alien who has filed a prima facie valid petition as a VAWA petitioner, or for T or U visa status, during the pendency of the application. The current practice of granting deferred action to approved VAWA self petitioners shall continue. Aliens with deferred action status shall not be removed or deported. Prima facie determinations and deferred action grants

called for in this section shall be made by the specially trained unit of immigration benefits adjudicators (currently at CIS) responsible for adjudicating VAWA petitions. These immigration benefits adjudicators (CIS) have authority to grant deferred action status in VAWA cases for the Department of Homeland Security. Immigration enforcement officials (currently at the Bureau of Immigration and Customs Enforcement and the Bureau of Customs and Immigration Enforcement) are not authorized to revoke deferred action, but may ask the specially trained CIS unit to review a case and determine whether or not to revoke a deferred action grant. Only the Secretary of Homeland Security (or a delegated official but only if that official has management authority over both the immigration services and immigration enforcement functions) may overrule a CIS grant of deferred action to an alien victim. Immigration enforcement officers should refer aliens they encounter who may qualify for relief under this Act to immigration benefits adjudicators handling VAWA cases at CIS.

This Committee encourages the Secretary of DHS to (a) develop a training program for trial attorneys and other DHS staff who regularly encounter alien victims of crimes, and (b) craft and implement policies and protocols on appropriate handling by DHS officers of cases under VAWA 1994, the Acts subsequently reauthorizing VAWA, and IIRIRA.

Section 915(a)(2) aims to discourage detention of aliens whom VAWA offers immigration relief. This section requires that an alien whose application as a VAWA petitioner or for T or U visa status has been approved may not be detained unless detention is required for terrorist activity or certain criminal activity.

Section 915(a)(3) provides that an alien whose petition as a VAWA petitioner or for T status has been approved shall be granted work authorization. U visa applicants are provided work authorization under existing law.

Section 915(b) provides that an alien who has filed a prima facie application for cancellation of removal as a battered alien shall not be removed or deported during the pendency of the application.

Under current law DHS has the discretionary authority to consent to the readmission of a previously removed alien (using the existing I-212 process). The protection VAWA offers immigrant victims of domestic violence, sexual assault and trafficking is undermined when otherwise qualified victims are cut off from VAWA benefits because of a prior removal from the United States. The victims, should they return to the U.S. without authorization, become subject to reinstatement of removal. This Committee encourages DHS to make use of its discretion in granting readmission to appropriately assist aliens with humanitarian cases including but not limited to, victims of domestic violence, sexual assault, victims of trafficking and crime victims who are cooperating in criminal investigations.

Section 916. Access to VAWA Protection Regardless of Manner of Entry

Section 916 has been designed to address Congress' concerns about U.S. citizen abusers who use the K visa process to petition for aliens outside the United States and abuse them. This section

protects these abused aliens by allowing them to self-petition for permanent residence as well as making them eligible for VAWA cancellation of removal and VAWA suspension of deportation. The section also works in conjunction with section 922 to prevent further abuse by instituting measures to distribute information that can help the K visa recipients learn about domestic violence protections available to them in the United States. It also provides them specific information about their U.S. citizen petitioners' criminal conviction history. Additionally, this section limits the ability of abusive U.S. citizens to repeatedly petition for K visas for aliens outside the U.S.

Section 916(a) provides that an alien may self-petition as, or in the same manner as, the spouse of a U.S. citizen if the alien entered the U.S. under a K visa with the intent to enter into a valid marriage and the alien (or the alien's child) was battered or subject to extreme cruelty in the U.S. by the U.S. citizen who filed the K visa petition. Also, such an alien does not have to depart within 3 months if the marriage does not occur.

Section 916(b) provides that a VAWA petitioner and a K visa recipient who seeks adjustment of status to that of permanent residence on the basis of an approved petition as a VAWA petitioner does not have to first go through 2 years of conditional permanent residence. Also, an alien who entered under a K visa with the intent to enter into a valid marriage and the alien (or child) was battered or subject to extreme cruelty in the U.S. by the U.S. citizen who filed the K visa petition is eligible for cancellation of removal as a battered alien if the alien meets the other requirements for cancellation.

The Committee seeks to deter filing of K visa applications by U.S. citizens with histories of domestic violence, sexual assaults, and child abuse, by requiring full disclosure to K visa recipients of information on any criminal convictions for these offenses by their petitioners. Section 916(c) provides that a U.S. citizen filing a petition for an alien for a K visa must include information on any criminal convictions for domestic violence, sexual assault, or child abuse. Following current practice, this information will be provided under penalty of perjury. *See e.g.,* Form I–130 (Rev. 06/05/02) (requiring petitioner to "certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.").

A consular officer may not approve a petition without verifying that the petitioner has not previously petitioned for more than two aliens applying for K visas. If the petitioner has had such a petition previously approved, the consular officer must verify that 2 years have elapsed since the filing of the previous petition. The Secretary of Homeland Security may grant waivers of the 2-year waiting period or the limit on filing more than two petitions. The waivers included here were designed to give DHS the discretion to waive both the time and number limitations when K visa applications are filed by non-abusive U.S. citizens. Such waivers may be appropriate, for example, for non-abusive U.S. citizens who live abroad and may be more likely to marry foreign spouses, or in cases of unusual circumstances, such as the sudden death of an alien approved for a prior K visa.

Section 916(d) provides that an alien who was the spouse or minor child of an alien granted asylum at the time of the granting of asylum, and who (or whose child) was battered or the subject of extreme cruelty by the asylee, is eligible for adjustment of status although they may have divorced or separated from the asylee.

Under current law, visa waiver entrants who are placed in removal proceedings are precluded from obtaining relief from removal, other than asylum. Section 916(e) guarantees access to VAWA relief for entrants under the visa waiver program by allowing those placed in removal proceedings to seek VAWA adjustment of status, VAWA cancellation of removal, VAWA self-petition, VAWA suspension of deportation and T and U visas.

Section 916(f) provides that an alien who has failed to meet the 2-year return requirement of a J visa may still file a petition as a VAWA petitioner, or for a T or U visa.

Section 917. Eliminating Abusers' Control Over Applications for Adjustments of Status

VAWA 2000 created routes to lawful permanent residence for abused spouses and children of primary applicants under various nationality-based immigration laws. Section 917 assures that a family members' eligibility for status will hinge neither on an abuser's filing status, nor on an ongoing relationship with or marriage to the abuser in order to eliminate an abuser's control over the abused family member. See section 936 for further amendments regarding the motions to reopen removal proceedings for battered aliens under VAWA.

Section 917(a) and (b) provide that the motions to reopen for abused aliens apply to all VAWA petitioners, VAWA cancellation of removal applicants and to those seeking adjustment of status in proceedings.

Section 917(c) allows abused spouses and children eligible for legal immigration status as Nicaraguans or Cubans under NACARA to apply for such status, even if the abuser did not apply for status and even through the deadline for filing has past.

Section 917(d) provides that an alien who was the spouse of a Cuban eligible for adjustment under the Cuban Adjustment Act shall continue to be treated as such a spouse for 2 years after the date on which the Cuban dies, or for 2 years after the date of termination of the marriage, if the alien demonstrates a connection between the termination of the marriage and being battered or subject to extreme cruelty by the Cuban.

Section 917(e) provides that if an alien abuser was eligible for status under HRIFA, but did not apply for status, the alien's abused spouse or children at the time may now apply for legal immigration status on their own.

Section 917(f) allows abused spouses and children to file their own suspension of deportation applications under NACARA if they were abused by a Guatemalan, Salvadoran or Eastern European abuser who was eligible for suspension of deportation under pre-1996 rules pursuant to NACARA. Abused spouses and children are also allowed to file motions to reopen their prior removal or deportation case using VAWA.

Section 917(g) provides that an individual who was a VAWA petitioner, or had a T or U visa, may not file an immigrant or nonimmigrant petition for the person who committed the battery or extreme cruelty or trafficking against the individual which established the individual's eligibility as a VAWA petitioner, or for T or U status.

Section 918. Parole for VAWA Petitioners and for Derivatives of Trafficking Victims

VAWA 2000 allowed victims of domestic violence abused by U.S. citizen and lawful permanent resident spouses to file VAWA self-petitions from outside of the U.S. if they had been abused in the U.S. or if their abuser was a member of the uniformed services or a government employee. Modeled after the VAWA 2000 protection offered to children on VAWA cancellation of removal grantees, section 918 assures that VAWA petitioners, their derivative children and children of trafficking victims, can enter the U.S. by requiring the Secretary of Homeland Security to grant parole to:

- a VAWA petitioner whose petition was approved based on having been battered or subject to extreme cruelty by a U.S. citizen spouse, parent, or child and who is admissible and eligible for an immigrant visa;
- a VAWA petitioner whose petition was approved based on having been battered or subject to extreme cruelty by a permanent resident spouse or parent, who is admissible and who would be eligible for an immigrant visa but for the fact that an immigrant visa is not immediately available, if at least 3 years have elapsed since the alien's priority date; and
- an alien who the Secretary of State determines would, but for an application or approval, meet the conditions for approval for a T visa as a family member of the trafficking victim.

When a VAWA petitioner's abuser is a permanent resident spouse or parent, the 3 year waiting period for the petitioner and any derivative children will be calculated based on the priority date assigned to the VAWA petition under 8 C.F.R. § 204.2(h)(2).

Section 919. Exemption of Victims of Domestic Violence, Sexual Assault and Trafficking from Sanctions for Failure to Depart Voluntarily

Section 919 provides that an alien who is a VAWA petitioner, or is seeking a T or U visa, or is seeking cancellation of removal or VAWA suspension as a battered alien is not subject to the penalties for failing to depart after agreeing to a voluntary departure order, if there is a connection between the failure to depart and the battery or extreme cruelty, trafficking, or criminal activity making them eligible to seek such status. As discussed in section 903, the Committee encourages the DHS to define "connection" for purposes of this section using similar standards and analysis to those described in the two policy memoranda cited in section 903.

Section 920. Clarification of Access to Naturalization for Victims of Domestic Violence

Section 920 provides that any alien who was subject to battery or extreme cruelty by a U.S. citizen spouse or parent may naturalize after 3 years as a permanent resident, regardless of whether the lawful permanent resident status was obtained on the basis of such battery or cruelty. This section prevents alien domestic violence victims from being forced by naturalization laws to remain in abusive marriages or to wait two additional years to file for naturalization. It allows victims the same access to 3-year naturalization they would have if their U.S. citizen spouse did not abuse them.

Section 921. Prohibition of Adverse Determinations of Admissibility or Deportability Based on Protected Information

In 1996, Congress created special protections for victims of domestic violence against disclosure of information to their abusers and the use of information provided by abusers in removal proceedings. In 2000, and in this Act, Congress extended these protections to cover victims of trafficking, certain crimes and others who qualify for VAWA immigration relief. These provisions are designed to ensure that abusers and criminals cannot use the immigration system against their victims. Examples include abusers using DHS to obtain information about their victims, including the existence of a VAWA immigration petition, interfering with or undermining their victims' immigration cases, and encouraging immigration enforcement officers to pursue removal actions against their victims.

This Committee wants to ensure that immigration enforcement agents and government officials covered by this section do not initiate contact with abusers, call abusers as witnesses or relying on information furnished by or derived from abusers to apprehend, detain and attempt to remove victims of domestic violence, sexual assault and trafficking, as prohibited by section 384 of IIRIRA. In determining whether a person furnishing information is a prohibited source, primary evidence should include, but not be limited to, court records, government databases, affidavits from law enforcement officials, and previous decisions by DHS or Department of Justice personnel. Other credible evidence must also be considered. Government officials are encouraged to consult with the specially trained VAWA unit in making determinations under the special "any credible evidence" standard.

Section 921(a) and (b) provide that the Secretary of Homeland Security and the Attorney General and other Federal officials may not use information furnished by, or derived from information provided solely by, an abuser, crime perpetrator or trafficker to make an adverse determination of admissibility or removal of an alien. However, information in the public record and government data bases can be relied upon, even if government officials first became aware of it through an abuser.

Section 921(c) provides that this provision shall not apply to prevent information from being disclosed, in a manner that protects victim confidentiality and safety, to the chairs and Ranking Members of the House and Senate Judiciary Committees, including the

Immigration Subcommittees, in the exercise of their oversight authority.

Section 921(d) provides that in the case of an alien applying for relief as a special immigrant juvenile who has been abused, neglected, or abandoned, the government may not contact the alleged abuser.

Section 921(e) provides that investigation and enforcement of these provisions shall be by the Office of Professional Responsibility of the Justice Department.

Section 921(f) establishes a system to verify that removal proceedings are not based on information prohibited by section 384 of IIRIRA. DHS must certify that:

- (1) no enforcement action was taken leading to such proceedings against an alien at certain places including a domestic violence shelter, a rape crisis center, and a courthouse if the alien is appearing in connection with a protection order or child custody case, or that
- (2) such an enforcement action was taken, but that there was no violation of the aforementioned provisions. Persons who knowingly make a false certification shall be subject to penalties.

Removal proceedings filed in violation of section 384 of IIRIRA shall be dismissed. However, further proceedings can be brought if not in violation of section 384.

Section 922. Information for K Nonimmigrants About Legal Rights and Resources for Immigrant Victims of Domestic Violence

Section 922 contains provisions designed to allow K visa applicants to make informed decisions about their marriage to a U.S. citizen and have information about how to gain help if they experience battering or extreme cruelty at the hands of their U.S. citizen spouse or fiance. This section provides that the Secretary of Homeland Security shall consult with non-governmental organizations with expertise on the legal rights of immigrant victims and the Departments of Justice and State to develop consistent and accurate materials, including an information pamphlet, on legal rights and resources for immigrant victims of domestic violence for dissemination to applicants for K visas. The following materials will be mailed to K visa applicants with an instruction packet regarding the visa process: the information pamphlet; a copy of the K visa application (including information about criminal convictions of the U.S. citizen sponsor for domestic violence, sexual assault and child abuse as provided for in section 916); and any information that DHS possesses about the petitioner who filed the K visa (e.g. from IBIS (the Interagency Border Inspection System), National Crime Information Center, or Federal and State domestic violence databases) regarding convictions for crime(s) of violence as defined in 18 U.S.C. sec. 16, any similar State conviction, or any domestic violence adjudication. Information from the pamphlet and regarding convictions will be orally transmitted by consular officers at the applicant's interview. It is the intent of Congress that this section does not create an actionable ground for lawsuits against DHS or other any government agency. In implementing this section, con-

sistent with and under the requirements of Section 900(c) of this Act, the Secretary of Homeland Security shall develop and put in use the information, materials and distribution mechanism described in section 922(a) through (e) not later than 180 days from enactment.

Section 923. Authorization of Appropriations

This section authorizes appropriations of such sums as may be necessary for the Department of Homeland Security's specially trained unit to adjudicate applications, adjustments, and employment authorizations related to VAWA cases (primary or derivative) filed with DHS.

SUBTITLE C—MISCELLANEOUS PROVISIONS

Section 931. Removing 2 Year Custody and Residence Requirement for Battered Adopted Children

Section 931 provides that an adopted alien qualifies as a child for immigration purposes, despite not having been in the legal custody of, or having resided with, the adopting parent for at least 2 years, 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. This section, consistent with VAWA's protective purpose, ensures that child abuse victims are not required to suffer abuse or risk losing immigration benefits they would otherwise receive if they had not been subjected to child abuse.

Section 932. Waiver of Certain Grounds of Inadmissibility for VAWA Petitioners

Section 932(a) provides that the Secretary of Homeland Security may waive the ground of inadmissibility for falsely claiming to be a U.S. citizen in the case of a VAWA petitioner who demonstrates a connection between the false claim and the alien's being subjected to battery or extreme cruelty. As discussed in section 903, the Committee encourages the Department of Homeland Security to define "connection" for purposes of this section using the standards and analysis described in the previously cited policy memoranda.

Section 932(b) provides that the public charge ground of inadmissibility shall not apply to a VAWA petitioner or a qualified alien described in the Personal Responsibility and Work Opportunity Reconciliation Act.

Section 933. Employment Authorization for Battered Spouses of Certain Nonimmigrants

Section 933 provides that an alien spouse admitted under the A (foreign diplomats), E-3 (Australian professionals), G (international organizations), or H (temporary worker) visa programs accompanying or following to join a principal alien shall be granted work authorization if the spouse demonstrates that during the marriage he or she (or a child) has been battered or has been subjected to extreme cruelty perpetrated by the principal alien. This section is intended to reduce domestic violence by giving victims tools to pro-

tect themselves and hold abusers accountable. Research has found the financial dependence on an abuser is a primary reason that battered women are reluctant to cooperate in their abuser's prosecution. With employment authorization, many abused spouses protected by this section will be able to attain work providing them the resources that will make them more able to safely act to stop the domestic violence. The specially trained CIS unit shall adjudicate these requests.

Section 934. Grounds for Hardship Waiver for Conditional Permanent Residence for Intended Spouses

Section 934 adds an additional ground for a hardship waiver of the 2-year conditional permanent resident joint petition requirement for an alien spouse of a citizen or permanent resident. Under this section such spouses may qualify for a waiver if, following the marriage ceremony, the alien has been battered or subject to extreme cruelty by their intended U.S. citizen spouse. This section allows battered immigrants who participated in a marriage ceremony and unknowingly married an abusive U.S. citizen or lawful permanent resident bigamist to avail themselves of an intended spouse hardship waiver and attain lawful permanent residency.

Section 935. Cancellation of Removal

VAWA 2000 created several new waivers and exceptions to deportation and grounds of inadmissibility that might otherwise bar domestic violence victims from gaining immigration status. Due to a drafting error, immigration judges could not utilize many of these waivers and exceptions. Section 935(a) clarifies that immigration judges can utilize these waivers and exceptions to provide relief for VAWA applicants. This subsection shall apply retroactively as if included in VAWA 2000. Judges are expected to continue to exercise discretion, where appropriate, in determining ultimate eligibility for the waivers and exceptions, taking into account the ameliorative intent of these laws. This section also provides that an alien remains eligible for cancellation of removal as a battered alien if removable for failure to register or document fraud or for marriage fraud (if there was a connection between the marriage fraud and the battery or extreme cruelty; this Committee encourages the Department of Homeland Security to define "connection" for purposes of this section using standards and analysis similar to that described in the previously cited policy memoranda).

Section 935(b) provides that the 4,000 annual limit on cancellations of removal does not apply to cancellations of removal of battered aliens.

Section 936. Motions to Reopen

Section 936 contains amendments that clarify the VAWA 2000 motions to reopen for abused aliens, enabling otherwise eligible VAWA applicants to pursue VAWA relief from removal, deportation or exclusion. This section provides that the limitation of one motion to reopen a removal proceeding shall not prevent the filing of one special VAWA motion to reopen. In addition, a VAWA petitioner can file a motion to reopen removal proceedings after the normal 90-day cut-off period, measured from the time of the final adminis-

trative order of removal. However, such battered aliens must be physically present in the U.S. at the time of filing the special motion. The filing of a special VAWA motion to reopen shall stay the removal of the alien pending final disposition of the motion, including exhaustion of all appeals, if the motion establishes a prima facie case for the relief. One VAWA 2005 post-enactment motion to reopen may be filed by a VAWA applicant. Aliens who filed and were denied special VAWA motions under VAWA 2000 may file one new motion under this Act.

Section 937. Removal Proceedings

Some abusers have prevented their victims from attending their removal proceedings. As a result, these battered victims are ordered deported in absentia. Under current law, the in absentia orders may be rescinded if the applicant files a motion to reopen and demonstrates that there were exceptional circumstances for failure to appear at the removal hearing. Section 937 provides that battery or extreme cruelty of the alien (or a child or parent of the alien) shall qualify as exceptional circumstances justifying failure to appear at a removal proceeding.

Section 938. Conforming Relief in Suspension of Deportation Parallel to the Relief Available in VAWA-2000 Cancellation for Bigamy

Section 938 provides that suspension of deportation for battered aliens, as it existed before 1996, shall apply in cases of battery perpetrated by a U.S. citizen or permanent resident whom the alien intended to marry, but whose marriage was not legitimate because of the citizen's or permanent resident's bigamy. VAWA 2000 offered protection to intended immigrant spouses who unknowingly married bigamists for purposes of VAWA self-petitioning and VAWA cancellation of removal. This section adds protection under VAWA suspension of deportation.

Section 939. Correction of Cross-Reference to Credible Evidence Provisions

Technical corrections to conform correct cross-reference for VAWA credible evidence provisions in the Cuban Adjustment Act, NACARA, IIRIRA, and HRIFA.

Section 940. Technical Corrections

Technical corrections.

TITLE X—SAFETY ON TRIBAL LANDS

Section 1001. Purposes

This section establishes the purpose of this Title to reduce domestic violence, dating violence, sexual assault and stalking on tribal lands and hold perpetrators accountable.

Section 1002. Consultation

This section requires the Attorney General to consult with Indian tribes regarding ways to improve the grant funds to Indian tribes to address violent crimes on reservations.

whole, shall be conclusive, but the court, for good cause shown, may remand the case to the Office of Justice Programs, Bureau of Justice Assistance, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, or the Bureau of Justice Statistics, to take additional evidence to be made part of the record. The Office of Justice Programs, Bureau of Justice Assistance, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention, or the National Institute of Justice, may thereupon make new or modified findings of fact by reason of the new evidence so taken and filed with the court and shall files such modified or new findings along with any recommendations such entity may have for the modification or setting aside of such entity's original action. All new or modified findings shall be conclusive with respect to questions of fact if supported by substantial evidence when the record as a whole is considered.

[(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Office of Justice Programs, Bureau of Justice Assistance, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention, or the National Institute of Justice, or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certifications as provided in section 1254 of title 28, United States Code.**]**

* * * * * * *

TITLE TO PERSONAL PROPERTY

SEC. 808. Notwithstanding any other provision of law, title to all expendable and nonexpendable personal property purchased with funds made available under this title, including such property purchased with funds made available under this title as in effect before the effective date of the Justice Assistance Act of 1984, shall vest in the criminal justice agency or nonprofit organization that purchased the property if it certifies to **[**the State office described in section 507 or 1408**]** *the State office responsible for the trust fund required by section 507, or the State office described in section 1408,* as the case may be, of this title that it will use the property for criminal justice purposes. If such certification is not made, title to the property shall vest in the State office, which shall seek to have the property used for criminal justice purposes elsewhere in the State prior to using it or disposing of it in any other manner.

* * * * * * *

CONFIDENTIALITY OF INFORMATION

Sec. 812. (a) **[**Except as provided by Federal law other than this title, no**]** *No* officer or employee of the Federal Government, and no recipient of assistance under the provisions of this title shall use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this title. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be

admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.

* * * * * * *

PART I—DEFINITIONS

DEFINITIONS

SEC. 901. (a) As used in this title—

(1) * * *

(2) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands: *Provided,* That for the purposes of section [506(a)] *505(a)*, American Samoa and the Commonwealth of the Northern Mariana Islands shall be considered as one State and that for these purposes 67 per centum of the amounts allocated shall be allocated to American Samoa, and 33 per centum to the Commonwealth of the Northern Mariana Islands.

(3) "unit of local government" means—

(A) * * *

* * * * * * *

(C) an Indian Tribe [(as that term is defined in section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603))] that performs law enforcement functions, as determined by the Secretary of the Interior; or

* * * * * * *

(5) "combination" as applied to States or units of local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a criminal justice [program or project] *program, plan, or project*;

* * * * * * *

(11) "neighborhood or community-based organizations" means organizations [which], *including faith-based, that* are representative of communities or significant segments of communities;

* * * * * * *

(24) the term "young offender" means a non-violent first-time offender or a non-violent offender with a minor criminal record who is 22 years of age or younger (including juveniles); [and]

(25) the term "residential substance abuse treatment program" means a course of individual and group activities, lasting between 6 and 12 months, in residential treatment facilities set apart from the general prison population—

(A) * * *

(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems[.]*;*

or dating violence under the auspices or supervision of a court or a law enforcement or prosecution agency.

(33) VICTIM SERVICES OR VICTIM SERVICE PROVIDER.—The term "victim services" or "victim service provider" means a nonprofit, nongovernmental organization that assists domestic violence, dating violence, sexual assault, or stalking victims, including rape crisis centers, domestic violence shelters, faith-based organizations, and other organizations, with a documented history of effective work, or a demonstrated capacity to work effectively in collaboration with an organization with a documented history of effective work, concerning domestic violence, dating violence, sexual assault, or stalking.

(34) YOUTH.—The term "youth" means teen and young adult victims of domestic violence, dating violence, sexual assault, or stalking.

(b) VIOLENCE AGAINST WOMEN PROVISION.—In this section, the term "violence against women provision" means any provision required by law to be carried out by or through the Violence Against Women Office.

SEC. 2000C. REQUIREMENTS THAT APPLY TO ANY GRANT PROGRAM CARRIED OUT BY VIOLENCE AGAINST WOMEN OFFICE.

(a) IN GENERAL.—In carrying out grants under this part, and in carrying out grants under any other violence against women grant program, the Director of the Violence Against Women Office shall ensure each of the following:

(1) NONDISCLOSURE OF CONFIDENTIAL OR PRIVATE INFORMATION.—

(A) IN GENERAL.—In order to ensure the safety of adult, youth, and minor victims of domestic violence, dating violence, sexual assault, or stalking, and their families, each grantee and subgrantee shall reasonably protect the confidentiality and privacy of persons receiving services.

(B) NONDISCLOSURE.—Subject to subparagraph (C), grantees and subgrantees shall not—

(i) disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs; or

(ii) reveal individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of persons with disabilities, the guardian) about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program.

(C) RELEASE.—If release of information described in subparagraph (B) is compelled by statutory or court mandate or is requested by a Member of Congress—

(i) grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the disclosure of information; and

(ii) grantees and subgrantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

(D) INFORMATION SHARING.—Grantees and subgrantees may share—

(i) nonpersonally identifying data in the aggregate regarding services to their clients and nonpersonally identifying demographic information in order to comply with Federal, State, tribal, or territorial reporting, evaluation, or data collection requirements; and

(ii) court-generated information and law-enforcement generated information contained in secure, governmental registries for investigation, prosecution, and enforcement purposes.

(2) APPROVED ACTIVITIES.—In carrying out activities under the grant program, grantees and subgrantees may collaborate with and provide information to Federal, State, local, tribal, and territorial public officials and agencies to develop and implement policies to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking.

(3) NON-SUPPLANTATION.—Any Federal funds received under the grant program shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for the activities carried out under the grant.

(4) USE OF FUNDS.—Funds authorized and appropriated under the grant program may be used only for the specific purposes described in the grant program and shall remain available until expended.

(5) EVALUATION.—Grantees must collect data for use to evaluate the effectiveness of the program (or for use to carry out related research), pursuant to the requirements described in paragraph (1)(D).

(6) PROHIBITION ON LOBBYING.—Any funds appropriated for the grant program shall be subject to the prohibition in section 1913 of title 18, United States Code, relating to lobbying with appropriated moneys.

(7) PROHIBITION ON TORT LITIGATION.—Funds appropriated for the grant program may not be used to fund civil representation in a lawsuit based on a tort claim. This paragraph shall not be construed as a prohibition on providing assistance to obtain restitution in a protection order or criminal case.

(b) VIOLENCE AGAINST WOMEN GRANT PROGRAM.—In this section, the term "violence against women grant program" means any grant program required by law to be carried out by or through the Violence Against Women Office.

SEC. 2001. PURPOSE OF THE PROGRAM AND GRANTS.

(a) * * *

(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women[, and specifically, for the purposes of—] *to develop and strengthen victim services in cases involving violent crimes against women, including collaborating with and in-*

(DD) at the time at which the spouse or child files an application for suspension of deportation or cancellation of removal; and

* * * * * * *

(iii) CONSIDERATION OF PETITIONS.—In acting on a petition filed under subclause (VII) of clause (i) the provisions set forth in section [204(a)(1)(H)] *204(a)(1)(J)* shall apply.

* * * * * * *

(g) MOTIONS TO REOPEN DEPORTATION OR REMOVAL PROCEEDINGS.—*(1)* Notwithstanding any limitation imposed by law on motions to reopen removal or deportation proceedings (except limitations premised on an alien's conviction of an aggravated felony (as defined in section 101(a) of the Immigration and Nationality Act)), *subject to paragraph (2),* any alien who has become eligible for cancellation of removal or suspension of deportation as a result of the amendments made by section 203 of the Nicaraguan Adjustment and Central American Relief Act may file one motion to reopen removal or deportation proceedings to apply for cancellation of removal or suspension of deportation. The Attorney General shall designate a specific time period in which all such motions to reopen are required to be filed. The period shall begin not later than 60 days after the date of the enactment of the Nicaraguan Adjustment and Central American Relief Act and shall extend for a period not to exceed 240 days.

(2) There shall be no limitation on a motion to reopen removal or deportation proceedings in the case of an alien who is described in subclause (VI) or (VII) of subsection (c)(5)(C)(i). Motions to reopen removal or deportation proceedings in the case of such an alien shall be handled under the procedures that apply to aliens seeking relief under section 204(a)(1)(A)(iii) of the Immigration and Nationality Act.

* * * * * * *

Subtitle F—Additional Provisions

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SEC. 384. PENALTIES FOR DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—Except as provided in subsection (b), in no case may the Attorney General, or any other official or employee of the Department of Justice [(including any bureau or agency of such Department)], *or the Secretary of Homeland Security, the Secretary of State, the Secretary of Health and Human Services, or the Secretary of Labor or any other official or employee of the Department of Homeland Security, the Department of State, the Department of Health and Human Services, or the Department of Labor (including any bureau or agency of any such Department)*—

(1) make an adverse determination of admissibility or deportability of an alien under the Immigration and Nationality Act using information [furnished solely by] *furnished by or derived from information provided solely by*—

(A) * * *

* * * * * * *

(D) a member of the spouse's or parent's family residing in the same household as the alien who has battered the alien's child or subjected the alien's child to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty, [or]

(E) in the case of an alien applying for status under section 101(a)(15)(U) of the Immigration and Nationality Act, the perpetrator of the substantial physical or mental abuse and the criminal activity, *or*

(F) in the case of an alien applying for continued presence as a victim of trafficking under section 107(b)(1)(E)(i)(II)(bb) of the Trafficking Protection Act of 2000 or status under section 101(a)(15)(T) of the Immigration and Nationality Act, the trafficker or perpetrator,

unless the alien has been convicted of a crime or crimes listed in section 241(a)(2) of the Immigration and Nationality Act; [or]

(2) permit use by or disclosure to anyone (other than a sworn officer or employee [of the Department,] *of any such Department,* or bureau or agency thereof, for legitimate Department, bureau, or agency purposes) of any information which relates to an alien who is the beneficiary of an application for relief [under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B)] *as a VAWA petitioner (as defined in section 101(a)(51) of the Immigration and Nationality Act), or under*, section 216(c)(4)(C), section 101(a)(15)(U), [or section 244(a)(3) of such Act as an alien (or the parent of a child) who has been battered or subjected to extreme cruelty.] *section 101(a)(15)(T), section 214(c)(15), or section 240A(b)(2) of such Act, or section 244(a)(3) of such Act (as in effect on March 31, 1997), or for continued presence as a victim of trafficking under section 107(b)(1)(E)(i)(II)(bb) of the Trafficking Protection Act of 2000, or any derivative of the alien; or*

(3) in the case of an alien described in section 101(a)(27)(J) of the Immigration and Nationality Act who has been abused, neglected, or abandoned, 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 clause (iii)(I) of such section.

The limitation under paragraph (2) ends when the application for relief is denied and all opportunities for appeal of the denial have been exhausted.

(b) EXCEPTIONS.—

(1) [The Attorney General may provide, in the Attorney General's discretion] *The Attorney General, Secretary of Homeland Security, Secretary of State, Secretary of Health and Human Services, and Secretary of Labor may provide, in each's discretion*, for the disclosure of information in the same manner and circumstances as census information may be disclosed

by the Secretary of Commerce under section 8 of title 13, United States Code.

(2) [The Attorney General may provide in the discretion of the Attorney General] *The Attorney General, Secretary of Homeland Security, Secretary of State, Secretary of Health and Human Services, and the Secretary of Labor may provide, in each's discretion* for the disclosure of information to law enforcement officials to be used solely for a legitimate law enforcement purpose.

* * * * * * *

(5) The Attorney General [is authorized to disclose], *Secretary of Homeland Security, Secretary of State, Secretary of Health and Human Services, and Secretary of Labor, or Attorney General may disclose* information, to Federal, State, and local public and private agencies providing benefits, to be used solely in making determinations of eligibility for benefits pursuant to section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(6) Subsection (a) shall not apply to prevent the Attorney General and the Secretary of Homeland Security from disclosing to the chairmen and ranking members of the Judiciary Committees of the House of Representatives and of the Senate in 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).

(c) PENALTIES FOR VIOLATIONS.—Anyone who willfully uses, publishes, or permits information to be disclosed in violation of this section *or who knowingly makes a false certification under section 239(e) of the Immigration and Nationality Act* shall be subject to appropriate disciplinary action and subject to a civil money penalty of not more than $5,000 for each such violation. *The Office of Professional Responsibility in the Department of Justice shall be responsible for carrying out enforcement under the previous sentence.*

* * * * * * *

MARKUP TRANSCRIPT

BUSINESS MEETING

WEDNESDAY, JULY 27, 2005

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:38 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

[Intervening business.]

Chairman SENSENBRENNER. Pursuant to notice, I now call up the bill H.R. 3402, the "Department of Justice Appropriations Authorization Act" for fiscal years 2006 through 2009 for purposes of markup and move its favorable recommendation to the House.

Without objection, the bill will be considered as read and open for amendment at any point.

[The bill, H.R. 3402, follows:]

Chairman SENSENBRENNER. The chair recognizes himself for 5 minutes to explain the bill.

Authorization is the process by which Congress creates, amends, and extends programs in executive agency. It is probably the most important oversight tool that Congress and Committees of jurisdiction can employ. Through authorizations, our Committees can establish programs, their objectives, and the upper limits for spending on them. Once a Federal program has been authorized, the actual budget authority for the program comes from appropriation bills.

I would point out that one of the seminal accomplishments of this Committee was in 2002, passing the first DOJ reauthorization bill since 1979, and that has been a tremendous oversight tool for both the majority and the minority in terms of actually overseeing the effectiveness of the programs that the Department of Justice administers.

We will today again exercise this very important authority with this bill. The legislation contains many of the provisions that we agreed upon as a Committee in the last Congress and contains many new provisions that Members on both sides of the aisle have contributed to and should feel proud of. Titles I through III contain many provisions from H.R. 3036, with modified authorization levels. Additional provisions were added to reauthorize programs which will expire, or have expired, such as the Juvenile Accountability Block Grants Program and the Sex Offender Management Program.

Some of the programs within these titles, such as the COPS grants program were modified and updated to address the new priorities affecting State and local governments since the program was established. The bill also includes some very important modifications to the criminal code, such as extending the statute of limitation for human trafficking offenses, and creates increased criminal penalties to guards who sexually abuse persons in their custody.

In addition to the important provisions contained in titles I through III, titles IV through X reauthorize core programs on domestic violence from 1994 to 2000 and make improvements to those grant programs to enhance our ability to combat domestic violence, dating violence, sexual assault, and stalking. The bill reauthorizes the STOP program, which provides State formula grants to help fund collaboration efforts between police and prosecutors and victims service providers.

The bill reauthorizes grants to encourage arrest programs that provide funds to communities to develop and strengthen programs and policies that encourage police officers to arrest abusers who commit acts of violence or violate protection orders. Additionally, the bill authorizes several new programs, including grants to improve training for court officials and law enforcement and grants to encourage community-based solutions to domestic violence.

This legislation already has a number of cosponsors on the Committee, on both sides of the aisle, who have made reauthorization of the Violence Against Women Act a priority. Representatives Mark Green and Zoe Lofgren have both worked very hard to encourage this Committee to make these programs a priority, and I am grateful to Ranking Member Conyers for all his hard work to

ensure that there be a bipartisan directive to the Department of Justice on the part of this Committee.

In this spirit, Mr. Conyers and I will be offering a manager's amendment to address additional priorities that Members requested be included in this legislation. This amendment includes authorization for DOJ to focus on individuals who operate organized theft rings or are engaged in human trafficking. Additional provisions authorize grants for gang resistance education and encourage current juvenile offender grant programs to focus on bullying prevention.

With the addition of these provisions in the manager's amendment, I am confident that this legislation truly reflects the bipartisan will of this Committee, and I thank the Members for their contribution.

I now recognize Mr. Conyers for his remarks.

Mr. CONYERS. Thank you, Mr. Chairman.

I rise in support of the legislation, commending Chairman Sensenbrenner for reasserting the Judiciary Committee's jurisdiction over the Department of Justice. I happen to have been the person that in 1979 was successful, with others, to get the first authorization bill through the Judiciary Committee.

The reason this is important is that the Department has become resistant to congressional oversight frequently, refusing sometimes to answer questions or so vaguely that we still don't feel the answers are adequate. Fortunately, by working together today to address our concerns with the Department, I think we have a bill that is better than any that has ever been brought forward in authorizing the Department of Justice.

The bill provides funding for various offices within the Department, but the one that I begin our discussion on is the Office of the Inspector General, with a $70 billion provision. In the past years, the Office of Inspector General has been diligent in overseeing the war on terrorism and the issues that have arisen as a result of it, and issuing reports on the 9/11 detainees and frequently pushing the Department to change how its procedures for handling terrorism suspects is done.

The second-most important provision that I bring to the attention of the Committee is the reauthorization of the Violence Against Women Act of 1994. For three Congresses we have worked on the bill, and each time, I think, dramatic improvements have been made. We have new vehicles to tackle this constant issue. And building on the work from previous years, the act reauthorizes some of the current programs that have been effective, including the STOP program, which provides State formula grants that help fund collaboration efforts between police and prosecutors and victims service providers, as well as legal assistance for victims.

This time, we have gone a step further, and instead of focusing on adult victims of violence only, we address the problem of violence against children and youth by including programs for college campuses and assistance to youth who are themselves victims of violence. There is also attempt here to broaden our scope by not only focusing on services for victims, but also by focusing on effective prevention programs targeting children who have been exposed to violence and young families at risk for violence. These are serious

prevention programs which deserve our continuing support as we move along with this measure.

We also do something else. We help immigrants subjected to domestic violence to secure their rights to stay in the country and seek shelter from those who batter them, by expanding the class of victims who can seek immigration status by self-petitioning through the Violence Against Women Act. For example, the bill protects children of child abuse from aging-out, by allowing the victims to self-petition up to the age of 25; parents abused by U.S. citizen children, by allowing them to file for relief under the Violence Against Women Act; and victims with prima facie cases for Violence Against Women Act self-petitioner, or a T or U visa, from removal or deportation.

The measure also limits detention for victims who have pending petitions or applications for relief.

And finally, this time around, we have tried to recognize the obstacles that some racial and ethnic minorities face in the mainstream system, and have included language and allow programs to target the communities of color.

Chairman SENSENBRENNER. The time of the gentleman has expired.

Mr. CONYERS. I ask unanimous consent that the remainder of my statement be included in the record.

Chairman SENSENBRENNER. Without objection, so ordered. Without objection, all Members' statements will appear in the record at this time.

[The prepared statement of Mr. Conyers follows:]

PREPARED STATEMENT OF THE HONORABLE JOHN CONYERS, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN, AND RANKING MEMBER, COMMITTEE ON THE JUDICIARY

I rise in support of this legislation. I first would like to commend Chairman Sensenbrenner for reasserting the Judiciary Committee's jurisdiction over the Department of Justice with this bill. In the past few years, the Department has become increasingly resistant to congressional oversight, either refusing to answer questions or answering them vaguely at best. Fortunately, we worked together to address our concerns with the Department and arrived at the bill before us today.

In general, the bill provides funding for the various offices within the Department. In this regard, I would like to note that it gives the Office of the Inspector General over $70 million for its responsibilities. In the past few years, the OIG has been diligent in overseeing the Department's war on terrorism, issuing reports on 9/11 detainees and pushing the Department to change how its procedures for handling terrorism suspects.

An important piece of the bill is the reauthorization of the Violence Against Women Act of 1994. This is the third time we have worked on this bill, and each time we make dramatic improvements by using new vehicles to tackle the issue. Building on work from previous years, the Act reauthorizes some of the current programs that have proven enormously effective, including the STOP program—which provides state formula grants that help fund collaboration efforts between police and prosecutors and victim services providers—and legal assistance for victims.

But this time we take it a step further. This time, instead of focusing on adult victims of violence only, we try to address the problem of violence against children and youth by including programs for college campuses and assistance to youth who are themselves victims of violence. We also try to broaden our scope by not only focusing on services for victims, but also by focusing on effective prevention programs targeting children who have been exposed to violence and young families at risk for violence.

In addition, the bill helps immigrants subjected to domestic violence secure the opportunity to stay in the country and seek shelter from their batterers. All too often women are threatened with deportation or a loss of legal immigrant status if

they flee or report the abuse they or their children are suffering. This bill will expand protections for battered and trafficked immigrants, those emigrating to the U.S. as fiancees or spouses, and close family members joining immigrant victims of domestic violence in the U.S.

Also, the bill will allow victims of child abuse to file for VAWA protection until they are 25, and it gives victims of elder abuse the right to seek VAWA protection as well. It will also help prevent the detention and removal of those with valid claims for immigration relief due to domestic violence. These improvements will help protect victims, encourage them to leave abusive relationships, and hopefully facilitate family unity and the prosecution of batterers.

Finally, this time around we have tried to recognize the obstacles that some racial and ethnic minorities face in the mainstream system and have included language that allows programs to target communities of color.

In addition, the bill reauthorizes the COPS office. We all know that this Clinton Administration program has been increasingly vital in crime prevention and crime solving. That is why COPS has received the praise of the Fraternal Order of Police, the largest law enforcement organization in the country. Local policing also is the backbone in our war on terrorism, as community officers are more likely to know the witnesses and more likely to be trusted by community residents who have information about potential attacks. This bill provides over $1 billion per year for this program.

The bill also includes language offered by Rep. Adam Schiff to require the Attorney General to report to Congress on the number of persons detained on suspicion of terrorism. This is important because the Department has thwarted congressional and judicial efforts to obtain justification for terrorism detainees. The Department's Office of the Inspector General found that the Department and its components had abused terrorism suspects, pushing them into walls, leaving them in legal limbo, and depriving them of access to family or counsel. With these reports, elected representatives can better determine whether the Department is overstepping its bounds again.

[The prepared statement of Mr. Goodlatte follows:]

PREPARED STATEMENT OF THE HONORABLE BOB GOODLATTE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. Chairman, I want to thank you for holding a markup of this important legislation, and for your willingness to include my amendment to this legislation that addresses organized retail theft (ORT), a serious and growing threat to our citizens and business community.

It is estimated that professional organized retail theft rings are responsible for pilfering up to $30 billion in merchandise from retail stores annually.

Organized retail theft groups typically target everyday household commodities and consumer items that can be easily sold through fencing operations, flea markets, swap meets and shady store-front operations. Items that are routinely stolen include over-the-counter drug products, such as analgesics and cold medications, razor blades, camera film, batteries, videos, DVDs, CDs, smoking cessation products, infant formula and computer software items. Thieves often travel from retail store to retail store, and from state to state, stealing relatively small amounts of goods from each store, but cumulatively stealing significant amounts of goods. Once stolen, these products can be sold back to fencing operations, which can dilute, alter and repackage the goods and then resell them, sometimes back to the same stores from which the products were originally stolen.

When a product does not travel through the authorized channels of distribution, there is an increased risk that the product has been altered, diluted, reproduced and/or repackaged. These so-called "diverted products" pose significant health risks to the public, especially the diverted medications and food products. Diverted products also cause considerable financial losses for legitimate manufacturers and retailers. Ultimately, the consumers bear the brunt of these losses as retail establishments are forced to raise prices to cover the additional costs of security and theft prevention measures.

At the state level, organized retail theft crimes are normally prosecuted under state shoplifting statutes as mere misdemeanors. As a result, the thieves that participate in organized retail theft rings typically receive the same punishment as common shoplifters. The thieves who are convicted usually see very limited jail time or are placed on probation. I believe that the punishment does not fit the crime in these situations. Mere slaps on the wrists of these criminals has practically no deterrent effect. In addition, criminals who are involved in organized retail theft rings

pose greater risks to the public because their intent is for the goods to be resold. Because the routes of these diverted products are extremely difficult to trace, there is a greater risk that these goods will be faulty, outdated and dangerous for consumer use. The punishment for these interstate crimes should be greater than that for common shoplifters. DOJ believes they have the authority under existing statutes to combat ORT rings. In addition, in December of 2003, the FBI established an organized retail theft initiative to combat this growing problem. While this is a good start, much work needs to be done to combat this problem.

This amendment would direct resources to DOJ specifically to address ORT crimes to ensure that these crimes receive the appropriate attention. Specifically, this amendment creates a federal definition of organized retail theft crimes, and authorizes $5 million for each of the next three fiscal years for educating and training federal law enforcement regarding these crimes, as well as for investigating, apprehending and prosecuting individuals engaged in these crimes. In addition, this amendment directs the FBI to contribute to the construction of a national database housed in the private sector, where retail establishments, as well as federal, state, and local law enforcement can compile evidence on specific organized retail theft crimes to aid investigations and prosecutions. Often, a lack of information about the interstate nature of these crimes prevents federal law enforcement from getting involved in these cases. This database will help put the pieces together to show the organized and multi-state nature of these crimes, as well as provide important evidence for prosecutions.

Thank you again, Mr. Chairman, for holding this important markup.

[The prepared statement of Mr. Green follows:]

PREPARED STATEMENT OF THE HONORABLE MARK GREEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

I rise in support of the Department of Justice Reauthorization Act before the Committee today. This is a good bill, with many great programs including the Violence Against Women Reauthorization Act. I worked extensively on this measure, introduced a comprehensive, stand alone act, and am glad to see it before us today in this bill.

As you know VAWA was originally passed ten years ago and since that time has helped us make remarkable gains in stopping domestic and sexual violence. During that decade, VAWA has saved lives and helped millions of women and children find safety, security and self-sufficiency. Because of the violence against women's act victims of domestic violence have found help to escape the violence and get treatment; law enforcement and the judicial system have learned how to better help these victims through what can be a very daunting legal process; and more people recognize the signs of abuse because of the awareness campaigns.

Every step we take to stop domestic violence helps not only save that victim, but can help break the cycle of abuse. In this bill we are building on the successes of the violence against women act by reauthorizing great programs and including new, innovative and cost-effective programs that will continue to help the criminal justice and legal systems better protect and help victims.

We are doing this through training grants; providing direct services for all victims; providing services to children, teens and young adults who have experienced violence in their lives; educating young people about domestic violence and sexual assault; ensuring existing forms of immigration relief are available to victims; and improving the response to American Indian and Native Alaskan victims, who experience staggering rates of physical and sexual assault.

Investing in these broad remedies and services for victims will help us to continue our exceptional progress in preventing these crimes and ensuring future generations are safe from domestic and sexual violence.

This is a great measure and I urge my colleagues to support this bill.

Thank you.

[The prepared statement of Ms. Lofgren follows:]

PREPARED STATEMENT OF THE HONORABLE ZOE LOFGREN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, a few weeks ago, I and over 120 of my colleagues introduced a comprehensive reauthorization of the Violence Against Women Act. VAWA is set to expire on September 30th of this year, so it is vital that this Congress quickly consider and pass a reauthorization.

Since its passage in 1994, VAWA has been a success. It has provided over $5.5 billion in Federal funding to improve our criminal and community responses to domestic violence. But the statistics remain alarming. One in four women will experience domestic violence during her lifetime. Just in my home State of California, almost 6% of women suffer physical injuries from domestic violence each year. In 2001, California law enforcement received 198,000 domestic violence calls, with weapons involved in over 136,000 of those cases.

I believe that the reauthorization that I put forth would go a long way towards putting a stop to this troubling reality. Today, we are considering a more limited reauthorization that includes only those provisions that are within the jurisdiction of the Judiciary Committee. I understand the need to keep the process moving in the House, and so I am a cosponsor of this bill and will support it today.

Along those lines, I also want to thank the Chairman and Ranking Member for agreeing to include some additional provisions from my bill. I want to especially thank them for including new prevention programs. Traditionally, VAWA funding has gone to programs designed to respond to domestic violence after the fact. I believe that we also need to fund programs that help prevent domestic violence before it occurs, and this bill will do that.

It is my understanding that the Senate will likely take up a broader bill that includes additional programs outside of the jurisdiction of the House Judiciary Committee, including housing and economic security programs for battered women. I understand that if that happens, the Chairman's intention is to have a meaningful conference with the Senate.

I just want to state for the record that I hope these additional programs will eventually become part of a conference report. These programs are very important and I do not want to see them slip through the cracks. I encourage my colleagues to support this bill, and to also support a broader conference report that provides a comprehensive response to the problem of domestic violence.

Chairman SENSENBRENNER. Are there amendments?

The gentlewoman from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. I thank you. I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 3402, offered by Ms. Jackson Lee of Texas. At the end of the bill, add the following section——

SEC. _____. It is the sense of Congress that it is important to study the concept of implementing a 'good time' release program for non-violent criminals in the Federal prison system.

[The amendment follows:]

AMENDMENT TO H.R. 3402, THE DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT, FY 2006 THROUGH 2009, OFFERED BY MS. JACKSON LEE OF TEXAS

At the end of the bill, add the following section –

SEC. _____ It is the sense of Congress that it is important to study the concept of implementing a `good time' release program for non-violent criminals in the Federal prison system.

Chairman SENSENBRENNER. Without objection, the amendment is agreed to.

Are there further amendments?

Ms. JACKSON LEE. I thank the Chairman very much, and I will just say I hope to work with you on this issue. Thank you.

Chairman SENSENBRENNER. The chair has a manager's amendment which represents more bipartisan work product on this one. The clerk will report the amendment.

The CLERK. Amendment to H.R. 3402, offered by Mr. Sensenbrenner and Mr. Conyers. Page 7, after line 7, insert the following (and make such technical and conforming changes as may be appropriate):

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The amendment follows:]

AMENDMENT TO H.R. 3402
OFFERED BY MR. SENSENBRENNER AND MR. CONYERS

Page 7, after line 7, insert the following (and make such technical and conforming changes as may be appropriate):

(D) $5,000,000 for the investigation and prosecution of violations of chapter 77 of title 18 of the United States Code.

Page 11, after line 12, insert the following (and make such technical and conforming changes as may be appropriate):

(D) $5,000,000 for the investigation and prosecution of violations of chapter 77 of title 18 of the United States Code.

Page 15, after line 16, insert the following (and make such technical and conforming changes as may be appropriate):

(D) $5,000,000 for the investigation and prosecution of violations of chapter 77 of title 18 of the United States Code.

Page 19, after line 18, insert the following (and make such technical and conforming changes as may be appropriate):

(D) $5,000,000 for the investigation and prosecution of violations of chapter 77 of title 18 of the United States Code.

Page 22, after line 14, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 105. ORGANIZED RETAIL THEFT.

(a) NATIONAL DATA.—(1) The Attorney General and the Federal Bureau of Investigation shall establish a task force to combat organized retail theft and provide expertise to the retail community for the establishment of a national database or clearinghouse housed and maintained in the private sector to track and identify where organized retail theft type crimes are being committed in the United Sates. The national database shall allow Federal, State, and local law enforcement officials as well as authorized

retail companies (and authorized associated retail databases) to transmit information into the database electronically and to review information that has been submitted electronically.

(2) The Attorney General shall make available funds to provide for the ongoing administrative and technological costs to federal law enforcement agencies participating in the database project.

(3) The Attorney General through the Bureau of Justice Assistance in the Office of Justice may make grants to help provide for the administrative and technological costs to State and local law enforcement agencies participating in the data base project.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2006 through 2009, $5,000,000 for educating and training federal law enforcement regarding organized retail theft, for investigating, apprehending and prosecuting individuals engaged in organized retail theft, and for working with the private sector to establish and utilize the database described in subsection (a).

(c) DEFINITION OF ORGANIZED RETAIL THEFT.—For purposes of this section, ''organized retail theft'' means—

(1) the violation of a State prohibition on retail merchandise theft or shoplifting, if the violation consists of the theft of quantities of items that would not normally be purchased for personal use or consumption and for the purpose of reselling the items or for reentering the items into commerce;

(2) the receipt, possession, concealment, bartering, sale, transport, or disposal of any property that is know or should be known to have been taken in violation of paragraph (1); or

(3) the coordination, organization, or recruitment of persons to undertake the conduct described in paragraph (1) or (2).

Page 62, line 24, insert ''child'' after ''establish''.

Page 64, strike lines 1 through 5 (and make such technical and conforming changes as may be appropriate).

Beginning on page 64, strike line 23 and all that follows through line 18 on page 67 (and make such technical and conforming changes as may be appropriate).

Page 97, strike lines 13 through 19, and insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 255. PRE-RELEASE AND POST-RELEASE PROGRAMS FOR JUVENILE OFFENDERS.

Section 1801(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee(b)) is amended—

(1) in paragraph (15) by striking ''or'' at the end;

(2) in paragraph (16) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(17) establishing, improving, and coordinating pre-release and post-release systems and programs to facilitate the successful reentry of juvenile offenders from State or local custody in the community.''.

Page 98, after line 7, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 258. EVIDENCE-BASED APPROACHES.

Section 1802 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in subsection (a)(1)(B) by inserting ‘‘, including the extent to which evidence-based approaches are utilized’’ after ‘‘part’’; and

(2) in subsection (b)(1)(A)(ii) by inserting ‘‘, including the extent to which evidence-based approaches are utilized’’ after ‘‘part’’.

Page 107, beginning in line 21, strike ‘‘1591’’ and all that follows through ‘‘Fraud),’’ in line 22.

Page 108, after the matter following line 6, insert the following:

(c) MODIFICATION OF STATUTE APPLICABLE TO OFFENSE AGAINST CHILDREN.—Section 3283 of title 18, United States Code, is amended by inserting ‘‘, or for ten years after the offense, whichever is longer’’ after ‘‘of the child’’.

Page 109, after line 6, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 317. REAUTHORIZATION OF LAW ENFORCEMENT TRIBUTE ACT.

Section 11001 of Public Law 107–273 (42 U.S.C. 15208) is amended in subsection (i) by striking ''2006'' and inserting ''2009''.

SEC. 318. AMENDMENT REGARDING BULLYING AND GANGS.

Paragraph (13) of section 1801(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee(b)) is amended to read as follows:

''(13) establishing and maintaining accountability-based programs that are designed to enhance school safety, which programs may include reseach-based bullying and gang prevention programs;''.

SEC. 319. TRANSFER OF PROVISIONS RELATING TO THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

(a) ORGANIZATIONAL PROVISION.—Part II of title 28, United States Code, is amended by adding at the end the following new chapter:

''CHAPTER 40A—BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES

''Sec.
''599A. Bureau of Alcohol, Tobacco, Firearms, and Explosives.
''599B. Personnel management demonstration project.''.

(b) TRANSFER OF PROVISIONS.—The section heading for, and subsections (a), (b), (c)(1), and (c)(3) of, section

1111, and section 1115, of the Homeland Security Act of 2002 (6 U.S.C. 531(a), (b), (c)(1), and (c)(3), and 533) are hereby transferred to, and added at the end of chapter 40A of such title, as added by subsection (a) of this section.

(c) CONFORMING AMENDMENTS.—

(1) Such section 1111 is amended—

(A) by striking the section heading and inserting the following:

"§ 599A. Bureau of Alcohol, Tobacco, Firearms, and Explosives"

; and

(B) in subsection (b)(2), by inserting ''of section 1111 of the Homeland Security Act of 2002 (as enacted on the date of the enactment of such Act)'' after ''subsection (c)'',

and such section heading and such subsections (as so amended) shall constitute section 599A of such title.

(2) Such section 1115 is amended by striking the section heading and inserting the following:

"§ 599B. Personnel management demonstration project",

and such section (as so amended) shall constitute section 599B of such title.

(d) CLERICAL AMENDMENT.—The chapter analysis for such part is amended by adding at the end the following new item:

"40A. Bureau of Alcohol, Tobacco, Firearms, and Explosives ..... 599A".

SEC. 320. REAUTHORIZE THE GANG RESISTANCE EDUCATION AND TRAINING PROJECTS PROGRAM.

Section 32401(b) of the Violent Crime Control Act of 1994 (42 U.S.C. 13921(b)) is amended by striking paragraphs (1) through (6) and inserting the following:

''(1) $20,000,000 for fiscal year 2006;

''(2) $20,000,000 for fiscal year 2007;

''(3) $20,000,000 for fiscal year 2008;

''(4) $20,000,000 for fiscal year 2009; and

''(5) $20,000,000 for fiscal year 2010.''T1.

SEC. 321. NATIONAL TRAINING CENTER.

(a) IN GENERAL.—The Attorney General may use the services of the National Training Center in Sioux City, Iowa, to utilize a national approach to bring communities and criminal justice agencies together to receive training to control the growing national problem of methamphetamine, poly drugs and their associated crimes. The National Training Center in Sioux City, Iowa, seeks a comprehensive approach to control and reduce methamphetamine trafficking, production and usage through training.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General to carry out this section the following amounts, to remain available until expended:

(1) $2,500,000 for fiscal year 2006

(2) $3,000,000 for fiscal year 2007

(3) $3,000,000 for fiscal year 2008

(4) $3,000,000 for fiscal year 2009.

Page 123, line 21, insert ''in collaboration with an organization with a documented history of effective work'' after ''effectively''.

Page 129, after line 19, insert the following (and make such technical and conforming changes as may be appropriate):

''(13) supporting the placement of special victim assistants (to be known as 'Jessica Gonzales Victim Assistants') in local law enforcement agencies to serve as liaisons between victims of domestic violence, dating violence, sexual assault, and stalking and personnel in local law enforcement agencies in order to improve the enforcement of protection orders. Jessica Gonzales Victim Assistants shall have

expertise in domestic violence, dating violence, sexual assault, or stalking and may undertake the following activities—

''(A) developing, in collaboration with prosecutors, courts, and victim service providers, standardized response policies for local law enforcement agencies, including triage protocols to ensure that dangerous or potentially lethal cases are identified and prioritized;

''(B) notifying persons seeking enforcement of protection orders as to what responses will be provided by the relevant law enforcement agency;

''(C) referring persons seeking enforcement of protection orders to supplementary services (such as emergency shelter programs, hotlines, or legal assistance services); and

''(D) taking other appropriate action to assist or secure the safety of the person seeking enforcement of a protection order.''.

Page 136, line 2, strike ''$75,000,000'' and insert ''$65,000,000''.

Page 143, line 14, strike ''$60,000,000'' and insert ''$55,000,000''.

Page 146, line 9, insert '', or a court system dedicated to the adjudication of domestic violence cases'' after ''services''.

Page 147, after line 7, insert the following (and make such technical and conforming changes as may be appropriate):

''(6) to provide training for specialized service providers, such as interpreters.''.

Strike section 602 and insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 602. SEXUAL ASSAULT SERVICES PROGRAM.

Part T of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by adding after section 2013 (as added by section 101 of this Act) the following:

''SEC. 2014. SEXUAL ASSAULT SERVICES PROGRAM.

''(a) PURPOSE.—The purposes of this section are—

''(1) to assist States, Indian tribes, and territories in providing intervention, advocacy, accom-

paniment, support services, and related assistance for—

''(A) adult, youth, and minor victims of sexual assault;

''(B) family and household members of such victims; and

''(C) those collaterally affected by the victimization except for the perpetrator of such victimization; and

''(2) to provide training and technical assistance to, and to support data collection relating to sexual assault by—

''(A) Federal, State, tribal, territorial, and local governments, law enforcement agencies, and courts;

''(B) professionals working in legal, social service, and health care settings;

''(C) nonprofit organizations;

''(D) faith-based organizations; and

''(E) other individuals and organizations seeking such assistance.

''(b) GRANTS TO STATES, TERRITORIES AND TRIBAL ENTITIES.—

''(1) GRANTS AUTHORIZED.—The Attorney General shall award grants to States, territories and

Indian tribes, tribal organizations, and non-profit tribal organizations within Indian country and Alaskan native villages for the establishment, maintenance and expansion of rape crisis centers or other programs and projects to assist those victimized by sexual assault.

''(2) SPECIAL EMPHASIS.—States, territories and tribal entities will give special emphasis to the support of community-based organizations with a demonstrated history of providing intervention and related assistance to victims of sexual assault.

''(c) GRANTS FOR CULTURALLY SPECIFIC PROGRAMS ADDRESSING SEXUAL ASSAULT.—

''(1) GRANTS AUTHORIZED.—The Attorney General shall award grants to culturally specific community-based organization that—

''(A) is a private, nonprofit organization that focuses primarily on racial and ethnic communities;

''(B) must have documented organizational experience in the area of sexual assault intervention or have entered into partnership with an organization having such expertise;

''(C) has expertise in the development of community-based, linguistically and culturally

specific outreach and intervention services relevant for the specific racial and ethnic communities to whom assistance would be provided or have the capacity to link to existing services in the community tailored to the needs of racial and ethnic populations; and

''(D) has an advisory board or steering committee and staffing which is reflective of the targeted racial and ethnic community.

''(2) AWARD BASIS.—The Attorney General shall award grants under this subsection on a competitive basis for a period of no less than 3 fiscal years.

''(d) SERVICES AUTHORIZED.—For grants under subsection (b) and (c) the following services and activities may include—

''(1) 24 hour hotline services providing crisis intervention services and referrals;

''(2) accompaniment and advocacy through medical, criminal justice, and social support systems, including medical facilities, police, and court proceedings;

''(3) crisis intervention, short-term individual and group support services, and comprehensive serv-

ice coordination, and supervision to assist sexual assault victims and family or household members;

''(4) support mechanisms that are culturally relevant to the community;

''(5) information and referral to assist the sexual assault victim and family or household members;

''(6) community-based, linguistically and culturally-specific services including outreach activities for racial and ethnic and other underserved populations and linkages to existing services in these populations;

''(7) Collaborating with and informing public officials and agencies in order to develop and implement policies to reduce or eliminate sexual assault;

''(8) the development and distribution of educational materials on issues related to sexual assault and the services described in clauses (A) through (G).

''(e) GRANTS TO STATE, TERRITORIAL, AND TRIBAL SEXUAL ASSAULT COALITIONS.—

''(1) GRANTS AUTHORIZED.—

''(A) IN GENERAL.—The Attorney General shall award grants to State, territorial and tribal sexual assault coalitions to assist in supporting the establishment, maintenance and ex-

pansion of such coalitions as determined by the National Center for Injury Prevention and Control Office in collaboration with the Violence Against Women Office of the Department of Justice.

''(B) FIRST-TIME APPLICANTS.—No entity shall be prohibited from submitting an application under this subsection because such entity has not previously applied or received funding under this subsection.

''(f) COALITION ACTIVITIES AUTHORIZED.—Grant Funds received under subsection (e) may be used to—

''(1) work with local sexual assault programs and other providers of direct services to encourage appropriate responses to sexual assault within the State, territory, or Indian tribe;

''(2) work with judicial and law enforcement agencies to encourage appropriate responses to sexual assault cases;

''(3) work with courts, child protective services agencies, and children's advocates to develop appropriate responses to child custody and visitation issues when sexual assault has been determined to be a factor;

''(4) design and conduct public education campaigns;

''(5) plan and monitor the distribution and use of grants and grant funds to their State, territory, or Indian tribe; and

''(6) collaborate with and inform Federal, State, Tribal, or local public officials and agencies to develop and implement policies to reduce or eliminate sexual assault.

''(g) APPLICATION.—

''(1) Each eligible entity desiring a grant under subsections (c) and (e) shall submit an application to the Attorney General at such time, in such manner and containing such information as the Attorney General determines to be essential to carry out the purposes of this section.

''(2) Each eligible entity desiring a grant under subsection (b) shall include—

''(A) demonstration of meaningful involvement of the State or territorial coalitions, or Tribal coalition, where applicable, in the development of the application and implementation of the plans;

''(B) a plan for an equitable distribution of grants and grant funds within the State, terri-

tory or tribal area and between urban and rural areas within such State or territory;

''(C) the State, territorial or Tribal entity that is responsible for the administration of grants; and

''(D) any other information the Attorney General reasonably determines to be necessary to carry out the purposes and provisions of this section.

''(h) REPORTING.—

''(1) Each entity receiving a grant under subsection (b), (c) and (e) shall submit a report to the Attorney General that describes the activities carried out with such grant funds.

''(i) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated $55,000,000 for each of the fiscal years 2006 through 2010 to carry out this section. Any amounts so appropriated shall remain available until expended.

''(2) ALLOCATIONS.—Of the total amount appropriated for each fiscal year to carry out this section—

''(A) not more than 2.5 percent shall be used by the Attorney General for evaluation,

monitoring and administrative costs under this section;

"(B) not more than 2.5 percent shall be used for the provision of technical assistance to grantees and sub- grantees under this section, except that in subsection (c) up to 5 percent of funds appropriated under that subsection may be available for technical assistance to be provided by a national organization or organizations whose primary purpose and expertise is in sexual assault within racial and ethnic communities;

"(C) not less than 75 percent shall be used for making grants to states and territories and tribal entities under subsection (b) of which not less than 10 percent of this amount shall be allocated for grants to tribal entities. State, territorial and tribal governmental agencies shall use no more than 5% for administrative costs;

"(D) not less than 10 percent shall be used for grants for culturally specific programs addressing sexual assault under subsection (c); and

"(E) not less than 10 percent shall be used for making grants to state, territorial and tribal

coalitions under subsection (e) of which not less than 10 percent shall be allocated for grants to tribal coalitions.

The remaining funds shall be available for grants to State and territorial coalitions, and the Attorney General shall allocate an amount equal to 1/56 of the amounts so appropriated to each of the several States, the District of Columbia, and the territories.

''(3) MINIMUM AMOUNT.—Of the amount appropriated under section (i)2(c), the Attorney General, not including the set aside for tribal entities, shall allocate not less than 1.50 percent to each State and not less than 0.125 percent to each of the territories. The remaining funds shall be allotted to each State and each territory in an amount that bears the same ratio to such remaining funds as the population of such State bears to the population of the combined States, or for territories, the population of the combined territories.''.

Page 183, line 14, strike ''$55,000,000'' and insert ''$50,000,000''.

Strike section 203 (and make such technical and conforming changes as may be appropriate).

Page 204, line 19, strike ''$15,000,000'' and insert ''$10,000,000''.

Page 229, line 12, strike ''$20,000,000'' and insert ''$15,000,000''.

Page 317, beginning on line 8, strike ''violent crimes against Indian women'' and insert ''domestic violence, dating violence, sexual assault, and stalking on Tribal lands''.

Page 317, line 12, strike ''violent crimes committed against Indian women'' and insert ''domestic violence, dating violence, sexual assault, and stalking on Tribal lands''.

Page 317, beginning on line 14, strike ''violent crimes committed against Indian women'' and insert ''domestic violence, dating violence, sexual assault, and stalking on Tribal lands''.

Page 325, line 18, strike ''the safety of members of Indian tribes'' and insert ''domestic violence, sexual assault, dating violence, and stalking''.

Page 326, after line 19, insert the following:

''(G) Section 2014(b) Sexual Assault Services Program, Grants to States, Territories and Indian Tribes.

''(H) Title VII, section 41201, Grants for Training and Collaboration on the Intersection Between Domestic Violence and Child Maltreatment. Section 41202, Services to Advocate For and Respond to Teens.

''(I) Section 704, Grants to Combat Domestic Violence, Dating Violence, Sexual Assault, and Stalking In Middle And High Schools.

Page 331, line 2, strike ''40'' and insert ''50''.

Chairman SENSENBRENNER. The chair will recognize himself for 5 seconds to state that this is the agreed upon amendment between the Ranking Member and the chair, and yields back the balance of his time.

The gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. CONYERS. The one thing that I would like to separate out to point out is that we include four amendments in the manager's amendment—one from the gentleman from Virginia, Mr. Bobby Scott; one from the gentlelady from California, Representative Linda Sánchez; one from the gentleman from California, Mr. Schiff; as a matter of fact, two from Mr. Schiff. And all of these are carefully worked out by our staffs, and I urge a yes on the manager's amendment and return my——

Ms. JACKSON LEE. Would the gentleman yield?

Mr. CONYERS. Yes, I would.

Ms. JACKSON LEE. I would just note that I will support the manager's amendment, with a caveat. And to avoid taking 5 minutes time, I would like to note that a few weeks ago, I and over 120 of my colleagues in the House, introduced a comprehensive reauthorization of the Violence Against Women Act, which, as the Chairman has noted and the Ranking Member, is set to expire on the 30th. Today we are considering a more limited reauthorization that includes only those provisions that are within the jurisdiction of the Judiciary Committee.

I understand the need to keep the process moving in the House and I am a cosponsor of this bill and I will support it. I also wanted to note that the Senate, I believe, is going to adopt a broader Violence Against Women measure, and it is my hope that in the Conference Committee it is the Chairman's intention to review carefully what the Senate is doing, and I would hope that a meaningful conference, that I hope to participate in, will bring back a more comprehensive Violence Against Women Act. And I will submit my full statement for the record.

Chairman SENSENBRENNER. Without objection the statement will be included.

Ms. JACKSON LEE. I thank the gentleman for yielding.

Chairman SENSENBRENNER. Will the gentleman from Michigan yield?

Mr. CONYERS. Yes, I will be glad to yield.

Chairman SENSENBRENNER. You know, I can give the gentlewoman from California my commitment that I will review seriously and carefully what the Senate does. I can't say they ever do that for what we do, but I will not cast the first stone this time. And I thank the——

Mr. CONYERS. Could I let the gentlelady know that I am a cosponsor, proudly, of the enlarged subject matter in the Violence Against Women provision, and I am happy to join her in it.

Ms. JACKSON LEE. Will the gentleman yield?

Mr. CONYERS. Yes. I yield to the gentlelady from Texas.

Ms. JACKSON LEE. The Chairman was so gracious and moved so quickly on my amendment, I just simply want to say that I support

the manager's amendment and I also wanted to have, because I was detained, unanimous consent to indicate on H.R. 3132 that I was detained. If I had been in the room, I would have voted aye on the Child Safety Act.

Chairman SENSENBRENNER. Without objection.

Ms. JACKSON LEE. And I thank the gentleman for yielding. I support the manager's amendment.

Mr. CONYERS. I yield back the balance of my time.

Chairman SENSENBRENNER. For what purpose does the gentleman from New York seek recognition?

Mr. NADLER. Mr. Chairman, I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. NADLER. Thank you, Mr. Chairman.

I strongly support this bill and the manager's amendment, particularly the section renewing the Violence Against Women Act. And the new program that I have worked on, and I thank the Ranking Member, Mr. Conyers, for working on it with me, the Jessica Gonzales Victim Assistance Program, which is included in the manager's amendment to better enforce protective orders. On June 27th of this year, 2 weeks ago, in *Castle Rock v. Gonzales,* the Supreme Court held that the police did not have the mandatory duty to make an arrest under a court-issued protective order to protect a woman from a violent husband. The ruling ended a lawsuit by a Colorado woman who claimed the police did not do enough to prevent her violent husband from killing their three young daughters. The ruling said Jessica Gonzales did not have a constitutional right to police enforcement of the protective order that had been ordered by the court against her husband.

The heartbreaking details of this case show the desperate need for legislation. That is why I drafted the Jessica Gonzales Victim Assistance Program, which will restore some of the effectiveness of protective orders and which is included in the manager's amendment. The Jessica Gonzales Victim Assistance Program would place special victim assistants in local law enforcement agencies to serve as liaisons between the agencies and victims of domestic violence, dating violence, sexual assault, and stalking, in order to improve the enforcement of protective orders. This program in turn would develop, in collaboration with prosecutors, courts, and victims service providers, standardized response policies for local law enforcement agencies, including triage protocols to ensure that dangerous and potentially lethal cases are identified and prioritized. These experts would also know what appropriate action should be taken to assist or secure the safety of domestic violence victims seeking the enforcement of a protective order.

I would like to thank the Chairman and Ranking Member for working with me to include this important program in the manager's amendment. I support the adoption of the amendment and the renewal of the Violence Against Women Act, and I ask unanimous consent to include the complete statement which I didn't just read in the record.

Chairman SENSENBRENNER. Without objection, the statement will be included.

[The statement of Mr. Nadler follows:]

PREPARED STATEMENT OF THE HONORABLE JERROLD NADLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, I am a strong supporter of this bill, particularly the section renewing the Violence Against Women Act, and a new program I've worked on, the Jessica Gonzalez Victim Assistance Program, to better enforce protective orders.

Every nine seconds a woman is battered in the United States. In 2004, 155,375 women and children in New York City alone requested help from domestic violence programs, and these were only the documented cases. Many more cases go unmentioned as women, fearing to come forward, leave the assaults unreported.

The most common form of domestic abuse is physical; but many men abuse their wives and partners emotionally, sexually, and economically; and women are not the only victims. Nationwide, between 3.3 and 10 million children annually witness the abuse that occurs between their parents, and so the domestic violence cycle is passed on from generation to generation.

For many years domestic violence has been viewed as a woman's problem, but that is not the case. Domestic violence is a woman's problem, a man's problem, the community's problem. The time is long overdue for men to take a stand and say that domestic violence is unacceptable.

Today, together, we are making a big leap forward in protecting women who are victims by working, in a bipartisan manner, to improve and renew the Violence Against Women Act. In particular, I would like to point out that the Manager's Amendment includes a provision that I authored dealing with the enforcement of protective orders.

On June 27, in *Castle Rock v. Gonzales,* the Supreme Court held that the police did not have a mandatory duty to make an arrest under a court-issued protective order to protect a woman from a violent husband. The ruling ended a lawsuit by a Colorado woman who claimed the police did not do enough to prevent her violent husband from killing their three young daughters. The ruling said Jessica Gonzales did not have a constitutional right to police enforcement of the protective court order against her husband.

The heartbreaking details of this case show the desperate need for legislation. That's why I have drafted the Jessica Gonzales Victim Assistance Program, which will restore some of the effectiveness of protective orders.

The Jessica Gonzales Victim Assistance Program would place special victim assistants in local law enforcement agencies to serve as liaisons between the agencies and victims of domestic violence, dating violence, sexual assault, and stalking in order to improve the enforcement of protection orders.

This program, in turn, would develop, in collaboration with prosecutors, courts, and victim service providers, standardized response policies for local law enforcement agencies, including triage protocols to ensure that dangerous or potentially lethal cases are identified and prioritized. Moreover, these experts would know what appropriate action should be taken to assist or secure the safety of domestic violence victims seeking the enforcement of a protection order.

I would like to thank the Chairman and Ranking Member for working with me to include this important program in the Manager's Amendment. I support the adoption of the amendment and the renewal of the Violence Against Women Act.

Mr. CONYERS. Would the gentleman yield?

Mr. NADLER. I would be happy to yield.

Mr. CONYERS. I want to thank him for his compliment and the work that he has done across the years on this subject matter. We are trying to move to report this bill before we begin our voting on the floor, and the only amendment that I know of on our side is the gentleman from New York, Mr. Weiner. It is likely that the vote will take place before 2 o'clock on the floor now, so I am hoping we can close this one down before we go to vote on the floor.

Chairman SENSENBRENNER. Without objection, the manager's amendment is agreed to.

For what purpose does the gentleman from New York seek recognition?

Mr. WEINER. Mr. Chairman, I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 3402, offered by Mr. Weiner of New York. Add at an appropriate place the following:

Mr. WEINER. Mr. Chairman, I ask unanimous consent that we consider this read.

Chairman SENSENBRENNER. Without objection.

[The amendment follows:]

AMENDMENT TO H.R. 3402

OFFERED BY MR. WEINER OF NEW YORK

Add at an appropriate place the following:

SEC. —. POLICE BADGES.

Section 716 of title 18, United States Code, is amended—

(1) in subsection (b), by inserting ''is a genuine police badge and'' after ''that the badge'' ;

(2) by adding at the end the following:

''(d) It is a defense to a prosecution under this section that the badge is a counterfeit police badge and is used or is intended to be used exclusively—

''(1) for a dramatic presentation, such as a theatrical, film, or television production; or

''(2) for legitimate law enforcement purposes.''.

Mr. WEINER. Mr. Chairman, first let me begin by expressing my gratitude to you for——

Chairman SENSENBRENNER. Without objection, the amendment is agreed to.

Mr. WEINER. Thank you, Mr. Chairman. I yield back the balance of my time.

Chairman SENSENBRENNER. Are there further amendments?

The gentleman from Indiana, Mr. Hostettler.

Mr. HOSTETTLER. Mr. Chairman, I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

Mr. HOSTETTLER. And the amendment begins——

Mr. CONYERS. Reserving the right to object, Mr. Chairman.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 3402, offered by Mr. Hostettler. Page 22, after line 14, insert the——

Mr. HOSTETTLER. Mr. Chairman, I ask unanimous consent——

Chairman SENSENBRENNER. The clerk will read until the amendment can be passed out.

The CLERK.—insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 105. Congressional Action Necessary to Execute Orders Relating to Certain Claims.

No order resulting from a claim pursuant to section 1979 of the Revised Statutes (42 U.S.C. 1983) may be executed without explicit statutory authority granted as a consequence of exercise of section 5 of the Fourteenth Amendment of the Constitution of the United States.

[The amendment follows:]

Amendment to H.R. 3402

Offered by Mr. Hostettler

Page 22, after line 14, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 105. CONGRESSIONAL ACTION NECESSARY TO EXECUTE ORDERS RELATING TO CERTAIN CLAIMS.

No order resulting from a claim pursuant to section 1979 of the Revised Statutes (42 U.S.C. 1983) may be executed without explicit statutory authority granted as a consequence of exercise of section 5 of the Fourteenth Amendment to the Constitution of the United States.

Chairman SENSENBRENNER. The gentleman from Indiana is recognized——

Mr. CONYERS. Mr. Chairman, could I ask unanimous consent to withdraw my reservation.

Chairman SENSENBRENNER. Without objection.

The gentleman from Indiana is recognized for 5 minutes.

Mr. HOSTETTLER. Thank you, Mr. Chairman.

Mr. Chairman, Members are having passed out to them now the wording of the fourteenth amendment as well as a handout that will be instructive in this discussion.

The wording of the fourteenth amendment is quite clear. Historically, Congress has used its power to enact civil rights statutes of various types, and that is evident on the handout. This fact was reiterated in testimony by Richard Parker, the Williams Professor of Law at Harvard University, before the Constitution Subcommittee on May 7, 2003. When asked about the practical impact of the 1954 Supreme Court decision, *Brown v. Board of Education,* on civil rights in America, Professor Parker responded: "There was not much real desegregation of the public schools until the end of the 1960's, and it was Congress that did the heavy lifting."

The history of the ratification of the fourteenth amendment indicates that the Supreme Court held that rights reserved to the people indicated in the Bill of Rights before the fourteenth amendment were prohibitions against the National Government. The first suggestion of incorporation was made to the Court in 1887, 19 years after the ratification of the fourteenth amendment, and a Supreme Court justice did not subscribe to the notion of incorporation until 1892.

Between 1868, the ratification of the fourteenth amendment, and 1947, when Justice Black suggested—reiterated incorporation in *Adamson v. California, only three justices of the Supreme Court had suggested support for the doctrine of incorporation. And one of them actually recanted his support for that doctrine after first supporting the notion.*

The intent of the fourteenth amendment is clear, to give the Congress the authority to legislate on matters of civil rights. However, the Supreme Court has used the fourteenth amendment and the incorporation doctrine to, among other things, remove prayer, Bible reading, and the Ten Commandments from various public venues, including graduation, and to allow the destruction of innocent preborn human life in *Roe v. Wade.*

If you agree with those decisions and that it is the Court that is empowered by the fourteenth amendment to create rights, such as in *Roe,* and take away rights, such as in *Kelo,* then you should vote against my amendment. However, if you believe the clear wording of the Amendment empowers the people through their elected Members of Congress to legislate civil rights, then I would request that you support my amendment.

14th Amendment to the U.S. Constitution

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article. (emphasis added)

Civil Rights Statutes Enacted
Since the 14th Amendment was ratified in 1868 (not exhaustive)
and whose enforcement would not be impacted by the Hostettler amendment

Civil Action for Deprivation of Rights (1871)

Robinson-Patman Anti-Discrimination Act (1936)

Equal Pay Act of 1963

Civil Rights Act of 1964, Title VII

Federal employment non-discrimination, 1964 Civil Rights Act

Older Americans Act of 1965

Voting Rights Act of 1965

Age Discrimination in Employment Act of 1967 (ADEA)

Indian Civil Rights Act of 1968

Equal Employment Opportunity Act of 1972

Education Amendments of 1972 (Title IX)

Rehabilitation Act of 1973

Equal Credit Opportunity Act (1974)

Age Discrimination Act of 1975

Pregnancy Discrimination Act of 1978

Equal Access to Justice Act (1980)

United States Commission on Civil Rights Act of 1983

Equal Access Act (1984)

Age Discrimination Claims Assistance Act of 1988

Americans with Disabilities Act of 1990, Titles I and V

Civil Rights Act of 1991

Mr. HOSTETTLER. Mr. Chairman, I yield back the balance of my time.

Chairman SENSENBRENNER. The chair recognizes himself for 5 minutes in opposition to the amendment.

This amendment is way overbroad and is going to have a lot of unintended consequences. But what I will say is that the civil rights statutes that have been passed since the time of the end of the Civil War until the present have been done pursuant to Congress's constitutional authority and may have created causes of action where people can bring alleged civil rights violations to the attention of the Federal courts, and if they win their case, the courts can fashion appropriate relief.

What this amendment does is it says that somebody who wins a section 1983 case is going to have to come to Congress to get it executed, and there's going to have to be a bill passed by Congress in order to execute the award that someone has won after a trial. And we don't do this. If you have got a claim against somebody on contract, you win your case, you get a judgment, and then you get a writ of execution. And I don't see why we should have to say that making people come back to Congress after they win a certain type of civil rights case is good law, and it certainly means that when someone's civil rights have been violated, getting relief is a political question rather than a legal question.

I would strongly urge opposition to this amendment, because it is going to have many unintended consequences.

Mr. CONYERS. Mr. Chairman?

Chairman SENSENBRENNER. I yield to the gentleman from Michigan.

Mr. CONYERS. All I can add to that, and I agree completely, is that title 42, section 1983 is the overriding Civil Rights Act in the entire Federal Code. If we were to follow the suggestion that is made in this amendment, we would be ripping out dozens of civil rights provisions and I don't know where to land this. This could have an incredibly far-reaching negative effect, especially as we are marshalling our bipartisan resources to extend provisions of the Voting Rights Act at this same time. So this would be one of the most shocking, largest steps backwards that I could imagine could possibly happen. And I urge that we quickly remove this amendment from discussion.

I return my time.

Chairman SENSENBRENNER. The chair yields back the balance of his time.

The question is on the Hostettler amendment. Those in favor will say aye? Opposed, no?

The noes appear to have it. The noes have it. The amendment is not agreed to.

Are there further amendments? The gentleman from California.

Mr. ISSA. Thank you, Mr. Chairman. I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 3402, offered by Mr. Issa of California. Insert at an appropriate place the following:

SEC. _____. Officially Approved Postage.

Section 475 of title 18, United States Code, is amended by adding at the end the following: "Nothing in this section applies to evidence of postage payment approved by the US Postal Service."

[The amendment follows:]

AMENDMENT TO H.R. 3402

OFFERED BY MR. ISSA OF CALIFORNIA

Insert at an appropriate place the following:

SEC. —- OFFICIALLY APPROVED POSTAGE.

Section 475 of title 18, United States Code, is amended by adding at the end the following: ''Nothing in this section applies to evidence of postage payment approved by the US Postal Service.''.

Chairman SENSENBRENNER. Without objection, the amendment is agreed to.

Are there further amendments?

If there are no further amendments—the gentleman from Iowa, Mr. King?

Mr. KING. Mr. Chairman, I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. KING. Thank you, Mr. Chairman.

I wanted to voice my opinion and concern before this Committee. And I will be supporting this bill on its passage out of this Committee. There are some very, very good provisions in here and I appreciate the work that has been done on both sides of the aisle in this bipartisan manner. I do have some reservations with regard to some of the provisions, especially the fiancee provision, the significant-other provisions, and the opportunity there for fraud. I hope that the Chairman and the Ranking Member will be willing to look at some suggestions that I am likely to bring after this passes out of Committee.

And I would yield back the balance of my time.

Chairman SENSENBRENNER. Are there further amendments? There are no further amendments.

A reporting quorum is present. The question occurs on the motion to report the bill H.R. 3402 favorably, as amended. All in favor will say aye? Opposed, no?

The ayes appear to have it. The ayes have it. The motion to report favorably is agreed to.

Without objection, the bill will be reported favorably to the House in the form of a single amendment in the nature of a substitute incorporating the amendments adopted here today.

Without objection, the staff is directed to make any technical and conforming changes, and all Members will be given 2 days, as provided by the House rules, in which to submit additional, dissenting, supplemental, or minority views.

The chair would like to thank everybody for their patience and forbearance on passing out two major bills and four important resolutions today. Because the agenda has been cleaned off, we will not come back tomorrow. We do have two items left over from the previous markup, the Civil Rights Restoration Act and the continued consideration of the Federal Prison Industries bill. We will be dealing with those when we come back here in September.

The business having been concluded, without objection the Committee stands adjourned.

[Whereupon, at 1:45 p.m., the Committee was adjourned.]

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