

Comparing VAWA Suspension of Deportation, VAWA Cancellation of Removal, VAWA Nicaraguan and Central American Relief Act (NACARA),¹ and VAWA Self-Petitioning¹

By Leslye E. Orloff (January 28, 2021)

This chart compares the three forms of immigration relief created by the Violence Against Women Act (VAWA) that offer remedies for immigrant victims of spouse abuse and child abuse when the victim is involved in immigration proceedings before an immigration judge.² VAWA self-petitioning allows an abused immigrant victim to file their own immigration case (“self-petition) confidentially without their abusive spouse or parent’s knowledge, cooperation or assistance.³ To find a list of inadmissibility factors that may be exempted or waivable in other forms of crime victim related immigration relief see the charts NIWAP has created comparing VAWA cancellation of removal, VAWA suspension of deportation, VAWA HRIFA, VAWA, NACARA, and VAWA Cuban Adjustment applications. <https://niwaplibrary.wcl.american.edu/vawa-comparison-interlineated-statutes-ncara-hrifa-caa>.² This chart is for informational purposes only and is designed to help attorneys, victim advocates and court personnel identify the forms of immigration relief for which an immigrant victim they are working may be eligible.⁴ For comparison purposes the chart also includes VAWA self-petitions. Since this chart is comparing forms of immigration relief that immigrant victims of domestic violence, child abuse and elder abuse can seek in immigration proceedings before an immigration judge, it is extremely important that victims be represented in these cases by attorneys with expertise and specialized training on the immigration protections offered to immigrant victims under VAWA. NIWAP’s directory will help you identify agencies and programs with this expertise in your state. <http://niwaplibrary.wcl.american.edu/home/directory-programs-serving-immigrant-victims>. For more information on locating attorneys in your state with expertise serving immigrant victims professionals working with immigrant victims can contact NIWAP for technical assistance.³

	VAWA Suspension of Deportation ⁵	VAWA Cancellation of Removal	VAWA NACARA	VAWA self-petition ⁶
If granted the immigration relief what does the victim receive	Victims who are granted VAWA suspension of deportation receive lawful permanent residency from the immigration judge. ⁷	Victims who are granted VAWA cancellation of removal receive lawful permanent residency from the immigration judge. ⁸	Victims who are granted VAWA NACARA suspension of deportation receive lawful permanent residency from the immigration judge. ⁹	Victims whose VAWA self-petitions are approved receive work authorization, formal protection from deportation (deferred action), and the ability to apply for lawful permanent residency. <ul style="list-style-type: none"> Abused spouses, children, step-children and parents of over 21 year old U.S. citizens are immediately eligible to apply for lawful permanent residency Abused spouses, children and step-children of lawful permanent residents must wait in line until their priority date becomes current to file for lawful permanent residency. VAWA self-petitioners who are granted lawful permanent residency receive full unconditional lawful permanent residency. The conditional residency restrictions do not apply.¹⁰

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² Violence Against Women Act (VAWA) has created remedies for immigrant victims of spouse abuse and child abuse when the victim is involved in immigration proceedings before an immigration judge. See Leslye Orloff, *Comparing VAWA Haitian Refugee Immigrant Fairness Act of 1998 (“VAWA HRIFA”), VAWA Cuban Adjustment Act and VAWA Self-Petitioning*, NIWAP, (January 28, 2021) <https://niwaplibrary.wcl.american.edu/pubs/vawa-hrifa-cubans-self-petition-chart-4-28-20> (for more information on the different forms of VAWA Self-Petitions: 1) VAWA Haitian Refugee and Immigrant Fairness Act self-petitions (VAWA HRIFA); VAWA Cuban Adjustment Act self-petitions, and Self-petitions filed by abused spouses, children and parents of U.S. citizens and lawful permanent residents). See Leslye Orloff, *Comparing Inadmissibility Waivers Available to Immigrant Victims in VAWA Self-Petitioning, U Visa, T Visa and Special Immigrant Juvenile Status Cases*, NIWAP, (January 28, 2021) <https://niwaplibrary.wcl.american.edu/pubs/comparing-inadmissibility-waivers-available-to-immigrant-victims-in-vawa-self-petitioning-u-visa-t-visa-and-special-immigrant-juvenile-status-cases-1-28-21> (for information on comparing inadmissibility waivers and exceptions available to immigrant victims of domestic violence, child abuse or neglect, child abandonment, sexual assault, human trafficking and other U visa listed criminal activities who apply for immigration relief under the Violence Against Women Act (VAWA) Self-petition, the U Visa, the T Visa, or Special Immigrant Juvenile Status (SIJS) programs).

³ NIWAP’s technical assistance: phone (202) 274-4457 and email info@niwap.org. Visit <http://niwaplibrary.wcl.american.edu/> for training materials, resources, and webinars for on-line learning.

	VAWA Suspension of Deportation⁵	VAWA Cancellation of Removal	VAWA NACARA	VAWA self-petition⁶
Where the application is filed	The victim must be in deportation or exclusion proceedings and must file their suspension of deportation application with the immigration judge using form EOIR-40. ¹¹	The victim must be in removal proceedings and must file their suspension of deportation application with the immigration judge using form EOIR-42B. ¹²	The victim must be in deportation, exclusion, or removal proceedings and must file their VAWA NACARA 203 application with the immigration judge using form EOIR-40. ¹³	The application for a VAWA self-petition is filed with the VAWA Unit of the U.S. Citizenship and Immigration Service (USCIS) Vermont Service Center ¹⁴ on form I-360. ¹⁵ Any eligible victim can file a self-petition including immigrant victims who have temporary legal immigration status, who are in removal or deportation proceedings and who are undocumented. VAWA self-petitioners' applications for lawful permanent residency are also filed with the VAWA Unit. ¹⁸
Filing deadlines that apply, where the application can be filed and are immigration court proceedings required	Victim must be in proceedings before an immigration judge to apply for VAWA suspension of deportation. ¹⁶ Victims whose deportation or exclusion proceedings began before April 1, 1997 are eligible for VAWA suspension of deportation. ¹⁷ Victim may reopen proceedings initiated before that date to apply for VAWA suspension of deportation.	Victim must be in proceedings before an immigration judge to apply for VAWA cancellation of removal. ¹⁸ Victims whose cancellation of removal proceedings were initiated on or after April 1, 1997 are eligible to apply for VAWA cancellation of removal. ¹⁹	Victim must be in proceedings before an immigration judge to apply for VAWA NACARA. ²⁰ No filing deadline imposed on when a VAWA NACARA application must be filed. ²¹ However, to apply the victim must have been placed in immigration court proceedings. Victims with prior deportation or removal orders can file motions to reopen to submit their VAWA NACARA application and have it adjudicated by the immigration judge. ²²	The victim files for VAWA self-petitioning directly with the United States Citizenship and Immigration Services VAWA Unit. ²³ There are no filing deadlines for VAWA self-petitions. The victims with open cases in immigration court and victims with outstanding removal or deportation orders issued against them are all eligible to self-petition. When there is a case filed against the self-petitioner in immigration court the victim may need to file a motion to reopen or otherwise seek a stay of the removal proceedings until the self-petition has been adjudicated. ²⁴ Many self-petitioners will also qualify to apply for one of the other forms of immigration relief listed in this chart if they are in removal proceedings.
Nationality of the Victim Applying	Immigrant victims qualify to file for VAWA suspension of deportation without regard to their nationality or place of birth. ²⁵	Immigrant victims qualify to file for VAWA cancellation of removal without regard to their nationality or place of birth. ²⁶	Immigrant victims qualify to file for VAWA NACARA without regard to their nationality or place of birth. ²⁷ They are not required to be of El Salvadoran, Guatemalan, or Eastern European origin. ²⁸	Immigrant victims qualify to file VAWA self-petitions without regard to their nationality or place of birth. ²⁹
Qualifying Abuse Suffered	Victim or the victim's child must be have been subject to battery or extreme cruelty, which includes crimes and forms of emotional abuse that may or may not constitute crimes. ³⁰	Victim or the victim's child must be have been subject to battery or extreme cruelty, which includes crimes and forms of emotional abuse that may or may not constitute crimes. ³¹	Victim or the victim's child must be have been subject to battery or extreme cruelty, which includes crimes and forms of emotional abuse that may or may not constitute crimes. ³²	Victim must be have been subject to battery or extreme cruelty, which includes crimes and forms of emotional abuse that may or may not constitute crimes. ³³
Where did the abuse take place	At least one incident of battering or extreme cruelty must have taken place in the United States. ³⁴	At least one incident of battering or extreme cruelty must have taken place in the United States. ³⁵	No restriction on where the abuse took place, but the applicant for VAWA NACARA must have been the spouse or child of a NACARA eligible abuser at one of the times specified times. ³⁶	At least one incident of the battering or extreme cruelty must have occurred in the United States. ³⁷ Exception: If the abusive spouse is an employee of the U.S. government or a member of the uniformed services living abroad, all of the battering or extreme cruelty may have been perpetrated abroad. ³⁸
When the abuse took place	At least one incident of the battering or extreme cruelty must have occurred during the marriage. ³⁹ Evidentiary rules require consideration of the full history of abuse in the relationship not limited to the abuse that occurred either during the marriage. ⁴⁰ Abuse may have occurred before the abuser became a citizen or lawful permanent resident.	At least one incident of the battering or extreme cruelty must have occurred during the marriage. ⁴¹ Evidentiary rules require consideration of the full history of abuse in the relationship not limited to the abuse that occurred either during the marriage. ⁴² Abuse may have occurred before the abuser became a citizen or lawful permanent resident.	The VAWA NACARA applicant or their child must have been battered or subjected to extreme cruelty by an NACARA eligible abuser and that applicant must have been the spouse or child of that NACARA eligible abuser at one of the times listed in the statute. ⁴³ Abuse may have occurred before the abuser became NACARA eligible.	At least one incident of the battering or extreme cruelty must have occurred during the marriage. ⁴⁴ Abuse occurring during the marriage is considered qualifying abuse. ⁴⁵ Evidentiary rules require consideration of the full history of abuse in the relationship not limited to the abuse that occurred either during the marriage. ⁴⁶ Abuse may have occurred before the abuser became a citizen or lawful permanent resident.

	VAWA Suspension of Deportation ⁵	VAWA Cancellation of Removal	VAWA NACARA	VAWA self-petition ⁶
Abuser's Immigration or Citizenship Status	Citizen or lawful permanent resident. ^{t47}	Citizen ⁴⁸ or lawful permanent resident. ⁴⁹	<p>The abusive spouse, former spouse, parent or step-parent must have been eligible for NACARA as a:</p> <p>El Salvadoran who⁵⁰</p> <ul style="list-style-type: none"> • Was not apprehended upon entry to the US after 12/19/90; First entered the US on or before 9/19/1990 and registered for ABC⁵¹ or TPS one or before 10/31/91; or • Filed for asylum before 4/1/90 <p>Guatemalan who⁵²</p> <ul style="list-style-type: none"> • Was not apprehended upon entry to the US after 12/19/90; First entered the US on or before 10/1/90 and registered for ABC or TPS on or before 12/31/91; or • Filed for asylum before 4/1/90 <p>Eastern European from Soviet Union, Russia, or any republic of the former Soviet Union including:</p> <ul style="list-style-type: none"> • Albania, Armenia, Azerbaijan, Belarus, Bulgaria, Czechoslovakia, East Germany (German Democratic Republic), Estonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Poland, Romania, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Yugoslavia (including Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Slovenia and Serbia) who -- • Entered the US on or before 12/31/90 and • Filed for asylum on or before 12/31/91 	Citizen ⁵³ or lawful permanent resident. ⁵⁴

	VAWA Suspension of Deportations	VAWA Cancellation of Removal	VAWA NACARA	VAWA self-petition ⁶
Relationship to the Abuser and abusers citizenship or immigration status	<p>Abuser must be the victim's citizen⁵⁵</p> <ul style="list-style-type: none"> Spouse⁵⁶ Former spouse⁵⁷ Parents⁵⁸ Step-parent⁵⁹ <p>Or</p> <p>Abuser must be the victim's lawful permanent resident⁶⁰</p> <ul style="list-style-type: none"> Spouse⁶¹ Former spouse⁶² Parent⁶³ Step-parent⁶⁴ <p>Or</p> <p>Victim is the parent of a⁶⁵</p> <ul style="list-style-type: none"> Child or Step-child who <p>Has been battered or subjected to extreme cruelty by the child's other parent who is a</p> <ul style="list-style-type: none"> U.S. citizen or Lawful permanent resident parent <p>The abused child may be a citizen, have legal immigration status or be undocumented.</p> <p>Proof of the spousal relationship, the step-parent/step-child relationship or parent/child relationship must be submitted.⁶⁶</p>	<p>Abuser must be the victim's citizen⁶⁷</p> <ul style="list-style-type: none"> Spouse⁶⁸ Intended spouse⁶⁹ Former spouse⁷⁰ Parent⁷¹ Step-parent⁷² <p>Or</p> <p>Abuser must be the victim's lawful permanent resident⁷³</p> <ul style="list-style-type: none"> Spouse⁷⁴ Intended spouse⁷⁵ Former spouse⁷⁶ Parent⁷⁷ Step-parent⁷⁸ <p>Or</p> <p>Victim is the parent of a⁷⁹</p> <ul style="list-style-type: none"> Child or Step-child who <p>Has been battered or subjected to extreme cruelty by the child's other parent who is a</p> <ul style="list-style-type: none"> U.S. citizen or Lawful permanent resident parent <p>The abused child may be a citizen, have legal immigration status or be undocumented.</p> <p>Proof of the spousal relationship, the stepparent/step-child relationship or parent/child relationship must be submitted.⁸⁰</p>	<p>Abuser must be or have been the victim's NACARA eligible family member who is or was a</p> <ul style="list-style-type: none"> Spouses⁸¹ Former spouse Parent⁸² Step-parent⁸³ <p>This spousal or parent/child relationship must have been in existence at one of the following points in time:</p> <p>When the abused spouse or child</p> <ul style="list-style-type: none"> Filed an application under VAWA NACARA for VAWA suspension of deportation or VAWA cancellation of removal⁸⁴ <p>OR</p> <p>Key Times: When the abusive NACARA eligible family member --</p> <ul style="list-style-type: none"> Was granted suspension of deportation or cancellation of removal⁸⁵ whether or not the grant was related to NACARA⁸⁶ Filed an application for suspension of deportation or cancellation of removal⁸⁷ Registered for ABC benefits⁸⁸ Applied for temporary protected status⁸⁹ Applied for asylum⁹⁰ <p>Proof of the spousal relationship, the stepparent/step-child relationship or parent/child relationship must be submitted.⁹¹</p>	<p>Abuser must be the victim's citizen⁹²</p> <ul style="list-style-type: none"> Spouse⁹³ Intended spouse⁹⁴ Former spouse⁹⁵ Parents⁹⁶ Step-parent⁹⁷ Over 21 year old son or daughter⁹⁸ <p>Or</p> <p>Abuser must be the victim's lawful permanent resident⁹⁹</p> <ul style="list-style-type: none"> Spouse¹⁰⁰ Intended spouse¹⁰¹ Former spouse¹⁰² Parent¹⁰³ Step-parent¹⁰⁴ <p>Or</p> <p>Victim is the parent of a</p> <ul style="list-style-type: none"> Child or Step-child who <p>Has been battered or subjected to extreme cruelty by the child's other parent who is the VAWA self-petitioners' citizen¹⁰⁵ or lawful permanent resident¹⁰⁶</p> <ul style="list-style-type: none"> Spouse¹⁰⁷ Intended spouse¹⁰⁸ Former spouse¹⁰⁹ <p>The abused child may be a citizen, have legal immigration status or be undocumented.</p> <p>Proof of the spousal relationship, the stepparent/step-child relationship or parent/child relationship must be submitted.¹¹⁰</p>
In addition to proof of legal marriage what if anything is required?	<p>Applicant may not be deportable based on marriage fraud.¹¹¹ No bigamy exception.</p>	<p>Applicant may not be deportable based on marriage fraud.¹¹² VAWA cancellation of removal is also available to abused immigrant victims who believed they married a U.S. citizen or lawful permanent resident who turned out to be a bigamist.¹¹³</p>	<p>Requires proof of the applicant victim's spousal relationship to the NACARA eligible spouse.¹¹⁴ This includes proof that the marriage was a legal marriage valid in the place where the marriage was performed.¹¹⁵</p>	<p>Applicant must prove that their marriage</p> <ul style="list-style-type: none"> Was a legal marriage valid in the place where the marriage was performed.¹¹⁶ Was entered into in good faith.¹¹⁷ VAWA self-petitioning also is available to abused immigrant victims who believed they married in good faith a U.S. citizen or lawful permanent resident who turned out to be a bigamist.¹¹⁸

	VAWA Suspension of Deportations	VAWA Cancellation of Removal	VAWA NACARA	VAWA self-petition ⁶
Effect of Divorce, Remarriage and Death	To file for VAWA suspension of deportation must have been battered or subjected to extreme cruelty by their citizen or lawful permanent resident spouse or parent, but the victim need not remain married to the abusive citizen or lawful permanent resident spouse to file the VAWA suspension of deportation case. ¹¹⁹ There is no deadline following termination of the marriage by which the VAWA suspension of deportation case must be filed. ¹²⁰ Remarriage is also permissible. ¹²¹	To file for VAWA cancellation of removal must have been battered or subjected to extreme cruelty by their citizen or lawful permanent resident spouse or parent, but the victim need not remain married to the abusive citizen or lawful permanent resident spouse to file the VAWA cancellation of removal case. ¹²² There is no deadline following termination of the marriage by which the VAWA cancellation of removal case must be filed. ¹²³ Remarriage is also permissible. ¹²⁴	The VAWA NACARA statute authorizes eligibility for an immigrant who is the current abused spouse or child or was the abused spouse or child of a NACARA eligible abuser at one of several different points of time, ¹²⁵ and a VAWA NACARA victim is not required to be residing with the perpetrator in order to apply. ¹²⁶ Divorce and remarriage will not impact a victim's VAWA NACARA eligibility or application.	<ul style="list-style-type: none"> Once the self-petition is filed, divorce will have no impact on adjudication of the self-petition.¹²⁷ The victim has within two years of a divorce to file the self-petition but must demonstrate a connection between the divorce and domestic violence.¹²⁸ Remarriage will not revoke an approved self-petition.¹²⁹ If the victim's citizen spouse dies the victim has to file the self-petition within two years of the death.¹³⁰
Protections for Family Members	<p>Victims granted VAWA suspension of deportation can seek and DHS must grant humanitarian parole to the following family members of VAWA suspension of deportation recipients:</p> <ul style="list-style-type: none"> Under 21 year old children Parents of under 21 year old child recipients <p>Are required after being granted parole to file a family based visa petition seeking lawful permanent residency for the family member. Family member must qualify for lawful permanent residency. Once that application is filed parole lasts until the victim's family member's lawful permanent residency application is adjudicated.¹³¹</p>	<p>Victims granted VAWA suspension of deportation can seek and DHS must grant humanitarian parole to the following family members of VAWA suspension of deportation recipients:</p> <ul style="list-style-type: none"> Under 21 year old children Parents of under 21 year old child recipients <p>Are required after being granted parole to file a family based visa petition seeking lawful permanent residency for the family member. Family member must qualify for lawful permanent residency. Once that application is filed parole lasts until the victim's family member's lawful permanent residency application is adjudicated.¹³²</p>	<p>Persons who are spouses and children of VAWA NACARA suspension of deportation applicants on the date of the final decision on the VAWA NACARA suspension of deportation case receive VAWA NACARA suspension of deportation or cancellation of removal together with their VAWA suspension of deportation recipient spouse or parent.¹³³</p> <p>The over 21 year old son or daughter of the VAWA NACARA recipient can also receive VAWA NACARA suspension of deportation along with their parents if the son or daughter entered the U.S. on or before October 1, 1990.¹³⁴</p>	<p>Adult and child VAWA self-petitioners can seek VAWA self-petition protections for any of their unmarried children who are under the age of 21 who are not citizens or lawful permanent residents in their VAWA self-petition.¹³⁵ The VAWA self-petitioner's children can be included in their parent's VAWA self-petition, whether or not the children were also abused and even if the child is not related to the U.S. citizen or lawful permanent resident abuser.¹³⁶</p> <p>A non-abused immigrant spouse whose child or step-child is abused by their abusive U.S. citizen or lawful permanent resident spouse can also self-petition and can include any of their children who are not citizens or lawful permanent residents in their self-petition.¹³⁷</p> <p>If a self-petitioner who has included their children in their application dies while the self-petition is pending, after the self-petition was approved but before the application for lawful permanent residency has been filed or finally adjudicated, any children included in the self-petition can continue as self-petitioners and receive approval and lawful permanent residency based on the application.¹³⁸</p>
Residence with the abuser required?	No	No	No. Abused spouses and children applying for VAWA NACARA are not required to demonstrate residence with the NACARA eligible abusive spouse or parent in the United States. ¹³⁹	<p>Yes. The self-petitioner must reside or have resided with¹⁴⁰ the</p> <ul style="list-style-type: none"> Abusive citizen spouse, parent, or over 21 year old son or daughter, or Abusive lawful permanent resident spouse or parent Residence includes any period of visitation There is no specific amount of time required to establish residence with the abuser.¹⁴¹ Residence could have been inside or outside of the U.S.¹⁴²

	VAWA Suspension of Deportations	VAWA Cancellation of Removal	VAWA NACARA	VAWA self-petition ⁶
Is Residence in the U.S. required to file for the immigration relief?	Yes, must be physically present in the U.S. for a continuous period of 3 years immediately preceding filing. ¹⁴³	Yes, must be physically present in the U.S. for a continuous period of 3 years immediately preceding filing. ¹⁴⁴	Yes, must be physically present in the U.S. for a continuous period of 3 years immediately preceding filing. ¹⁴⁵	The self-petitioner must prove that they are either: ¹⁴⁶ <ul style="list-style-type: none"> Residing in the U.S., Are living abroad but were subjected to abuse by their U.S. citizen or lawful permanent resident spouse in the United States, or The abusive citizen or lawful permanent resident spouse is an employee of the U.S. government, the military or the uniformed services
Continuous physical presence requirement	Maintained continuous presence for not less than 3 years immediately preceding the victim's application for VAWA suspension of deportation. Absences that are brief, casual or innocent are allowed if they do not meaningfully interrupt continuous physical presence. ¹⁴⁷ Victims applying for VAWA suspension of deportation who demonstrate a connection between an absence and the battering or extreme cruelty can exclude those absences from the maximum single absence limit of 90 days and maximum cumulative absence limit of 180 days. ¹⁴⁸	The VAWA cancellation of removal applicant must prove physical presence for a continuous period of not less than 3 years immediately preceding the filing of the application for VAWA cancellation of removal. ¹⁴⁹ The issuance of a charging document in a removal proceeding will have no effect on continuous presence in a VAWA cancellation of removal case. ¹⁵⁰ Special rules for calculating physical presence apply in VAWA cancellation of removal cases. Victims applying for VAWA cancellation of removal who demonstrate a connection between an absence and the battering or extreme cruelty can exclude those absences from the maximum single absence limit of 90 days and maximum cumulative absence limit of 180 days. ¹⁵¹	Three years continuous physical presence in the United States is a required. ¹⁵² In calculating the three year continuous presence requirements for purposes of VAWA NACARA the factors the terminate continued presence and rules regarding the single absence limit of 90 days and the aggregate total absence limit of 180 days, do not apply. ¹⁵³	No continuous presence requirement applies to VAWA self-petitions.
Requirement that applicant faces extreme hardship if returning to home country	Proof that the victim's deportation if returned to their home country would cause extreme hardship ¹⁵⁴ to: <ul style="list-style-type: none"> The victim themselves The victim's citizen or lawful permanent resident <ul style="list-style-type: none"> Parent Unmarried under 21 year old child Both traditional and VAWA factors related to extreme hardship will be considered. ¹⁵⁵	Proof that the victim's deportation if returned to their home country would cause extreme hardship ¹⁵⁶ to: <ul style="list-style-type: none"> The victim themselves The victim's citizen or lawful permanent resident <ul style="list-style-type: none"> Parent Unmarried under 21 year old child Both traditional and VAWA factors related to extreme hardship will be considered. ¹⁵⁷	Proof that the victim's deportation if returned to their home country would cause extreme hardship to: ¹⁵⁸ <ul style="list-style-type: none"> The victim themselves The victim's citizen or lawful permanent resident <ul style="list-style-type: none"> Spouse Parent or Child Both traditional and VAWA factors related to extreme hardship will be considered. ¹⁵⁹ Rebuttable presumption of extreme hardship for ABC class members who were not apprehended at the time of entry after December 19, 1990 and NACARA Guatemalans and Salvadorans who filed applications for asylum on or before April 1, 1990. ¹⁶⁰	There is no requirement that the victim prove extreme hardship in VAWA self-petitioning cases. ¹⁶¹

	VAWA Suspension of Deportations	VAWA Cancellation of Removal	VAWA NACARA	VAWA self-petition ⁶
Is proof of good moral character required?	Proof that the victim is and has been for 3 years immediately prior to filing a person of good moral character. ¹⁶² Waivers available for crimes or other inadmissibility factors connected to the battering or extreme cruelty. ¹⁶³	Proof that the victim is and has been for 3 years immediately prior to filing a person of good moral character. ¹⁶⁴ Waivers available for crimes or other inadmissibility factors connected to the battering or extreme cruelty. ¹⁶⁵	Proof that the victim is and has been for 3 years immediately prior to filing a person of good moral character. ¹⁶⁶	Proof of good moral character is for the three years immediately preceding the filing of the VAWA self-petition required. ⁱ Waivers available for crimes or other inadmissibility factors connected to the battering or extreme cruelty. ⁱⁱ A finding of good moral character may be made if ⁱⁱⁱ <ul style="list-style-type: none"> • The act of conviction is waivable for purposes of determining inadmissibility or deportability,^{iv} and • The act or conviction was connected to the immigrant having been battered to subjected to extreme cruelty^v
Inadmissibility grounds exclusions that will not impact approval of case for victims	Excluded from inadmissibility for <ul style="list-style-type: none"> • Public charge¹⁷² Excluded deportation ground <ul style="list-style-type: none"> • Voluntary departure if battery or extreme cruelty was at least one central reason for overstaying the grant of voluntary departure¹⁷³ 	Excluded from inadmissibility for <ul style="list-style-type: none"> • Public charge¹⁷⁴ 	Excluded from inadmissibility for VAWA NACARA victims ¹⁷⁵ <ul style="list-style-type: none"> • Public charge¹⁷⁶ Exception for self-petitioners from <ul style="list-style-type: none"> • The 3 and 10 year bars for unlawful presence in the U.S. without admission or parole¹⁷⁷ 	VAWA Self-petitioners are excluded from inadmissibility for: <ul style="list-style-type: none"> • Public charge^{vi} Exception for self-petitioners from: <ul style="list-style-type: none"> • The 3 and 10 year bars for unlawful presence in the U.S.^{vii} • Unlawful entry, immigrants present without admission or parole^{viii}

<p>Inadmissibility Waivers Available So That The Victim Can Receive Lawful Permanent Residency</p>	<p>Inadmissibility waivers available to VAWA suspension of deportation applicants:</p> <ul style="list-style-type: none"> • Unlawful presence waiver of the 3 and 10 year bars¹⁸¹ • Smuggling waiver only for spouse, parent, son or daughter¹⁸² <p>In VAWA suspension of deportation cases a waiver is available of crimes involving moral turpitude if the offense was connected to the abuse.¹⁸³</p> <p>If extreme hardship to a US citizen or lawful permanent resident spouse, parent, child, son or daughter can file for a waiver of inadmissibility for:¹⁸⁴</p> <ul style="list-style-type: none"> • Crimes involving moral turpitude not connected to the abuse • Multiple criminal convictions • Prostitution • Commercialized vice • Certain serious criminal offenses for which the immigrant received immunity from prosecution • Controlled substance violation relating to a single offence for possession of 30 grams or less of marijuana 	<p>Inadmissibility waivers available to VAWA cancellation of removal applicants:</p> <ul style="list-style-type: none"> • Unlawful presence waiver of the 3 and 10 year bars¹⁸⁵ • Smuggling waiver only for spouse, parent, son or daughter¹⁸⁶ <p>In VAWA cancellation of removal cases a waiver is available of crimes involving moral turpitude if the offense was connected to the abuse.¹⁸⁷</p> <p>If extreme hardship to a US citizen or lawful permanent resident spouse, parent, child, son or daughter can file for a waiver of inadmissibility for:¹⁸⁸</p> <ul style="list-style-type: none"> • Crimes involving moral turpitude not connected to the abuse • Multiple criminal convictions • Prostitution • Commercialized vice • Certain serious criminal offenses for which the immigrant received immunity from prosecution • Controlled substance violation relating to a single offence for possession of 30 grams or less of marijuana 	<p>Inadmissibility waivers available to VAWA NACARA applicants: ¹⁸⁹</p> <ul style="list-style-type: none"> • Crimes involving moral turpitude¹⁹⁰ • Multiple criminal convictions¹⁹¹ • Engaging in prostitution within the past 10 years¹⁹² • Immigrants who committed a serious criminal offense who claimed immunity from prosecution¹⁹³ • Controlled substance violation relating to a single offence for possession of 30 grams or less of marijuana¹⁹⁴ • Unlawfully present in the U.S. after past immigration violations¹⁹⁵ • Health related grounds relating to communicable diseases¹⁹⁶ • Given false testimony¹⁹⁷ for the purpose of obtaining and immigration benefit¹⁹⁸ 	<p>The adjudication of a VAWA self-petition requires proof of good moral character^{ix} and obtaining lawful permanent residency once a VAWA self-petition is approved requires victims to be admissible^x or seek waivers of inadmissibility.^{xi}</p> <p>Determinations of good moral character and inadmissibility are closely connected. When an act or conviction is one for which there is a waiver of inadmissibility available, if that act or conviction was connected to the domestic violence, DHS has the discretion for a self-petitioner to:</p> <ul style="list-style-type: none"> • Make a finding of good moral character • Grant an inadmissibility waiver <p>Waivers of inadmissibility are available for^{xii}:</p> <ul style="list-style-type: none"> • Crimes involving moral turpitude^{xiii} • Multiple criminal convictions^{xiv} • Engaging in prostitution within the past 10 years^{xv} • Immigrants who committed a serious criminal offense who claimed immunity from prosecution^{xvi} • Controlled substance violation relating to a single offence for possession of 30 grams or less of marijuana^{xvii} • Not in possession of valid immigration documentation^{xviii} • Unlawfully present in the U.S. after past immigration violations^{xix} • Health related grounds relating to communicable diseases and vaccinations^{xx} • Giving false testimony^{xxi} for the purpose of obtaining and immigration benefit^{xxii} • Smuggling people into the United States^{xxiii} • Subject to a civil penalty for document fraud^{xxiv} <p>VAWA 2005 included a Sense of Congress urging DHS, the Department of State and the Department of Justice to exercise their discretion to consent to reapplications for admission from VAWA self-petitioners who had been previously deported, removed or excluded from the U.S.^{xxv}</p>
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	<p>VAWA Suspension of Deportations</p>	<p>VAWA Cancellation of Removal</p>	<p>VAWA NACARA</p>	<p>VAWA self-petition⁶</p>
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<p>Persons Ineligible by statute or because the conduct is not waivable for inadmissibility or deportation purposes or because it is a bar to a finding of good moral character</p>	<p>The following immigrants ineligible for VAWA suspension of deportation</p> <ul style="list-style-type: none"> Entered the U.S. as a crewmember after²¹¹ J visa recipients for graduate²¹² medical education or training Other J visa recipients who have not completed their 2 year foreign residence requirement²¹³ Immigrants involved in Nazi persecution²¹⁴ <p>The following immigrants are ineligible for VAWA suspension of deportation:</p> <ul style="list-style-type: none"> Criminal inadmissibility grounds that are not waivable²¹⁵ Terrorism/national security inadmissibility²¹⁶ Deportable due to marriage fraud²¹⁷ Deportable crimes for which a waiver is not available²¹⁸ Deportable due to document fraud, false claims to U.S. citizenship or failure to register²¹⁹ Deportable on security and related grounds²²⁰ Convicted of an aggravated felony²²¹ Someone DHS knows or has reason to believe is, or has been an illicit trafficker in any controlled substance²²² Foreign government officials who have committed particularly severe violations of religious freedom.²²³ Significant traffickers in persons²²⁴ Money laundering²²⁵ Security and related grounds²²⁶ Stowaways²²⁷ Practicing polygamists²²⁸ Guardian required to accompany a helpless immigrant²²⁹ International child abduction²³⁰ Unlawful voters²³¹ Former citizens who renounced citizenship to avoid taxation²³² <p>Immigrants placed in removal proceedings initiated after 4/1/97 must apply for VAWA cancellation of removal.²³³</p>	<p>The following immigrants are ineligible for VAWA cancellation of removal:</p> <ul style="list-style-type: none"> Criminal inadmissibility grounds that are not waivable²³⁴ Terrorism/national security inadmissibility²³⁵ Deportable due to marriage fraud²³⁶ Deportable crimes for which a waiver is not available²³⁷ Deportable due to document fraud, false claims to U.S. citizenship or failure to register²³⁸ Deportable on security and related grounds²³⁹ Convicted of an aggravated felony²⁴⁰ Someone DHS knows or has reason to believe is, or has been an illicit trafficker in any controlled substance²⁴¹ Foreign government officials who have committed particularly severe violations of religious freedom.²⁴² Significant traffickers in persons²⁴³ Money laundering²⁴⁴ Security and related grounds²⁴⁵ Stowaways²⁴⁶ Practicing polygamists²⁴⁷ Guardian required to accompany a helpless immigrant²⁴⁸ International child abduction²⁴⁹ Unlawful voters²⁵⁰ Former citizens who renounced citizenship to avoid taxation²⁵¹ 	<p>The following immigrants are ineligible for VAWA NACARA 203:</p> <ul style="list-style-type: none"> Convicted of an aggravated felony²⁵² They are deportable due to Nazi persecution, genocide, extrajudicial killing or as a perpetrator of persecution of others based on an individual's race, religion, nationality, membership in a particular social group or political opinion.²⁵³ Someone DHS knows or has reason to believe is, or has been an illicit trafficker in any controlled substance²⁵⁴ Foreign government officials who have committed particularly severe violations of religious freedom.²⁵⁵ Significant traffickers in persons²⁵⁶ Money laundering²⁵⁷ Security and related grounds²⁵⁸ Stowaways²⁵⁹ Practicing polygamists²⁶⁰ Guardian required to accompany a helpless immigrant²⁶¹ International child abduction²⁶² Unlawful voters²⁶³ Former citizens who renounced citizenship to avoid taxation²⁶⁴ 	<p>The following categories are not waivable and render the individual ineligible to self-petition and unable to attain lawful permanent residency through the self-petitioning process:</p> <ul style="list-style-type: none"> Person convicted of an aggravated felony^{xxvi} Is or was a habitual drunkard;^{xxvii} Certain persons previously removed from the United States.^{xxviii} DHS knows or has reason to believe the applicant is, or has been an illicit trafficker in any controlled substance^{xxix} Someone whose present income is derived principally from illegal gambling or convicted of 2 or more gambling offenses^{xxx} Was incarcerated for an aggregate period of 180 days or more as a result of conviction^{xxxi} Foreign government officials who have committed particularly severe violations of religious freedom.^{xxxii} Significant traffickers in persons^{xxxiii} Money laundering^{xxxiv} Security and related grounds^{xxxv} Stowaways^{xxxvi} Practicing polygamists^{xxxvii} Guardian required to accompany a helpless immigrant^{xxxviii} International child abduction^{xxxix} Unlawful voters^{xl} Former citizens who renounced citizenship to avoid taxation^{xli} Persons ineligible for citizenship or anyone who has left the US to evade service in the armed forces during a time of war or emergency declared by the President^{xlii}
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	VAWA Suspension of Deportations	VAWA Cancellation of Removal	VAWA NACARA	VAWA self-petition⁶
Reinstatement of Removal Protections for Victims Available	DHS has the discretion not to apply reinstatement of removal to VAWA suspension of deportation cases. ²⁸¹	DHS has the discretion not to apply reinstatement of removal to VAWA cancellation of removal cases. ²⁸²	VAWA NACARA 203 applicants are statutorily exempt from reinstatement of removal. ²⁸³ Since VAWA NACARA applicants are VAWA self-petitioners DHS should have the same discretion as in VAWA self-petitioning cases to not apply reinstatement of removal in cases of VAWA NACARA applicants. ²⁸⁴	DHS has the discretion not to apply reinstatement of removal to VAWA self-petition cases. ²⁸⁵
Motions to Reopen Rules	The time limit for filing motions to reopen in deportation or exclusion cases does not apply if the purpose of the motion is to apply for VAWA suspension of deportation or to file a VAWA self-petition. ²⁸⁶ The motion to reopen must be accompanied by a VAWA suspension of deportation application or a copy of the victim's VAWA self-petition that has been or will be filed with DHS. ²⁸⁷ The victim can also request that the immigration judge enter a prima facie determination in the victim's case based on a review of the VAWA suspension application or VAWA self-petition ²⁸⁸ and the prima facie determination stays the removal of the VAWA suspension applicant until final disposition of the motion to reopen. ²⁸⁹	The time limit for filing motions to reopen in deportation or exclusion cases does not apply if the purpose of the motion is to apply for VAWA suspension of deportation or to file a VAWA self-petition. ²⁹⁰ The motion to reopen must be accompanied by a VAWA suspension of deportation application or a copy of the victim's VAWA self-petition that has been or will be filed with DHS. ²⁹¹ The victim can also request that the immigration judge enter a prima facie determination in the victim's case based on a review of the VAWA suspension application or VAWA self-petition ²⁹² and the prima facie determination stays the removal of the VAWA suspension applicant until final disposition of the motion to reopen. ²⁹³	The time limitation for filing and the numerical limitations on motions to reopen do not apply in cases of VAWA NACARA applicants. ²⁹⁴ Motions to reopen removal and deportation proceedings involving VAWA NACARA eligible applicants are to follow the same rules as apply to these motions filed by VAWA self-petitioners. ²⁹⁵	The time limit for filing motions to reopen in deportation, ²⁹⁶ exclusion ²⁹⁷ and removal ²⁹⁸ cases does not apply if the purpose of the motion is to apply for VAWA suspension of deportation or to file a VAWA self-petition. ²⁹⁹ The motion to reopen must be accompanied by a VAWA suspension of deportation application or a copy of the victim's VAWA self-petition that has been or will be filed with DHS. ³⁰⁰ Generally within 3 months of filing the VAWA self-petition the VAWA self-petitioner will receive a prima facie determination from USCIS. The self-petitioner can request that based on this prima facie determination that the immigration judge concurs with the prima facie determination and stays the victim's removal until final disposition of the motion to reopen. ³⁰¹
Applicable Evidence Rules	The immigration judge must apply VAWA's any credible evidence rules ³⁰²	The immigration judge must apply VAWA's any credible evidence rules. ³⁰³	The immigration judge must apply VAWA's any credible evidence rules. ³⁰⁴	USCIS must apply VAWA's any credible evidence rules to VAWA self-petition adjudications. ³⁰⁵
Does an annual cap apply	The annual cap on suspension of deportation and cancellation of removal does not apply to VAWA suspension of deportation or VAWA cancellation of removal cases. ³⁰⁶	The annual cap on suspension of deportation and cancellation of removal does not apply to VAWA suspension of deportation or VAWA cancellation of removal cases. ³⁰⁷	The annual cap on suspension of deportation and cancellation of removal cases does not apply to NACARA cases.	There is no annual cap applied to VAWA self-petition cases.

	VAWA Suspension of Deportation ⁵	VAWA Cancellation of Removal	VAWA NACARA	VAWA self-petition ⁶
How and When Does the applicant receive employment authorization	Immigrants with properly filed applications for VAWA suspension of deportation with the immigration judge are eligible to file for work authorization. ³⁰⁸	Immigrants with properly filed applications for VAWA cancellation of removal with the immigration judge are eligible to file for work authorization. ³⁰⁹	Immigrants with properly filed applications for VAWA NACARA applications with the immigration judge are eligible to file for work authorization. ³¹⁰	Abused family members of citizens: <ul style="list-style-type: none"> When the VAWA self-petitioner's abuser is their U.S. citizen spouse, former spouse, parent, step-parent or over 21 year old son or daughter the victim may file their application for lawful permanent residency together with their VAWA self-petition. Once the application for lawful permanent residency filed along with the VAWA self-petition is pending, the victim is eligible for work authorization.³¹¹ Abused spouses and children of lawful permanent residents <ul style="list-style-type: none"> When the VAWA self-petitioner's abuser is their lawful permanent resident spouse, former spouse, parent or step-parent the victim does not receive work authorization until their VAWA self-petition has been approved and the victim receives deferred action.³¹²
How and when will the applicant receive some limited protection against deportation? ³¹³	Upon filing for VAWA suspension of deportation the applicant's case will be flagged as "384" in DHS' system which signifies the applicant has pending or approved VAWA confidentiality protected case. ³¹⁴ The VAWA confidentiality statute stops DHS from seeking or receiving and using perpetrator provided information against the victim which helps to stop the victim's deportation or removal while the VAWA suspension of deportation case is pending. ³¹⁵ Once the victim is granted VAWA suspension of deportation all pending removal actions against the victim are closed and the victim is granted lawful permanent residency. ³¹⁶	Upon filing for VAWA cancellation of removal the applicant's case will be flagged as "384" in DHS' system which signifies the applicant has pending or approved VAWA confidentiality-protected case. ³¹⁷ The VAWA confidentiality statute stops DHS from seeking or receiving and using perpetrator provided information against the victim which helps to stop the victim's deportation or removal while the VAWA cancellation for removal case is pending. ³¹⁸ Once the victim is granted VAWA cancellation of removal all pending removal actions against the victim are closed and the victim is granted lawful permanent residency. ³¹⁹	Upon filing for VAWA NACARA application the victim is a VAWA self-petitioner and the applicant's case will be flagged as "384" in DHS' system which signifies the applicant has pending or approved VAWA confidentiality protected case. ³²⁰ The VAWA confidentiality statute stops DHS from seeking or receiving and using perpetrator provided information against the victim which helps to stop the victim's deportation or removal while the VAWA NACARA case is pending. ³²¹ Once the victim is granted VAWA NACARA the victim is granted suspension of deportation and lawful permanent residency and all pending deportation and removal actions against the victim are closed. ³²²	Upon filing for VAWA self-petition the applicant's case will be flagged as "384" in DHS' system which signifies the applicant has pending or approved VAWA confidentiality-protected case. ³²³ The VAWA confidentiality statute stops DHS from seeking or receiving and using perpetrator provided information against the victim which helps to stop the victim's deportation or removal while the VAWA self-petition case is pending. ³²⁴ Once the VAWA self-petition case is approved the victim receives deferred action ³²⁵ which provides more formal protection against deportation and removal for the victim until the can file for and be granted lawful permanent residency as a VAWA self-petitioner.
Process	Victims in deportation or exclusion proceedings file the VAWA suspension deportation application and supporting documentation with the immigration judge. ³²⁶	Victims in removal proceedings file the VAWA cancellation of removal application and supporting documentation with the immigration judge. ³²⁷	Victims in deportation, exclusion, or removal proceedings file the VAWA NACARA application and supporting documentation with the immigration judge. ³²⁸	The applicant files the VAWA self-petition (Form I-360) at the VAWA Unit of Vermont Service Center of USCIS. ³²⁹
Requirement of applicant's cooperation with law enforcement	No requirement that helpfulness, assistance or cooperation be offered to police, prosecutors, courts or any other government agency.	No requirement that helpfulness, assistance or cooperation be offered to police, prosecutors, courts or any other government agency.	No requirement that helpfulness, assistance or cooperation be offered to police, prosecutors, courts or any other government agency.	No requirement that helpfulness, assistance or cooperation be offered to police, prosecutors, courts or any other government agency.

	VAWA Suspension of Deportations	VAWA Cancellation of Removal	VAWA NACARA	VAWA self-petition ⁶
Public Benefits	<p>VAWA suspension of deportation applicants can file motions for “prima facie” determinations in immigration court.³³⁰ With a prima facie determination or an approval of the victim’s VAWA suspension of deportation case the victim is a <i>qualified immigrant</i> eligible to receive greater access to state and federal public benefits and services than immigrant victims who have not filed for VAWA immigration protections.³³¹ Which benefits VAWA suspension of deportation applicant or recipient receives as a qualified immigrant depends on</p> <ul style="list-style-type: none"> • When the victim first entered the United States • Which state or federal public benefits the victim needs; and • The victim’s state of residence. To see which benefits immigrant victims can access in your state go to: http://map.niwap.org/ 	<p>VAWA cancellation of removal applicants can file motions for “prima facie” determinations in immigration court.³³² With a prima facie determination or an approval of the victim’s VAWA cancellation of removal case the victim is a <i>qualified immigrant</i> eligible to receive greater access to state and federal public benefits and services than immigrant victims who have not filed for VAWA immigration protections.³³³ Which benefits VAWA cancellation of removal applicant or recipient receives as a qualified immigrant depends on</p> <ul style="list-style-type: none"> • When the victim first entered the United States • Which state or federal public benefits the victim needs; and • The victim’s state of residence. <p>To see which benefits immigrant victims can access in your state go to: http://map.niwap.org/</p>	<p>VAWA NACARA applicants do not become qualified immigrants under public benefits laws until their VAWA NACARA application is approved and they are granted lawful permanent residency. At that point they are <i>qualified immigrants</i> eligible to receive state and federal public benefits. Which benefits the VAWA NACARA recipient receives as a lawful permanent resident will depend on</p> <ul style="list-style-type: none"> • When the victim first entered the United States • Which state or federal public benefits the victim needs; and • The victim’s state of residence. <p>The benefits VAWA NACARA recipients with lawful permanent residency receive will be similar to what VAWA self-petitioners receive.³³⁴ To look up what immigrant victims can access in your state go to: http://map.niwap.org/</p>	<p>VAWA self-petitioners who receive a prima facie notice from USCIS are <i>qualified immigrants</i> eligible to receive greater access to state and federal public benefits³³⁵ as well as the range of services that immigrant victims who have not filed for VAWA immigration protections are eligible to receive.³³⁶ Which benefits VAWA self-petitioners and victims with approved VAWA self-petitioners receive as qualified immigrants depends on</p> <ul style="list-style-type: none"> • When the victim first entered the United States • Which state or federal public benefits the victim needs; and • The victim’s state of residence. • To see which benefits immigrant victims can access in your state go to: http://map.niwap.org/

¹ The Nicaraguan Adjustment and Central American Relief Act (NACARA) was a 1997 law which allowed immigrants from El Salvador, Guatemalans, and nationals of former Soviet Union countries who applied for asylum and who have been in the United States since December 1, 1995 to apply for lawful permanent residency. NACARA had two sections that provided relief to immigrants from different countries. This chart discusses NACARA Section 203 which is the NACARA program that has no application deadline. Since the ability to apply for VAWA NACARA 202 closed in October 2000, this chart discusses only the form of VAWA NACARA protections that remain open to abused spouses and children VAWA NACARA 203. For background, Section 202 of NACARA offered the ability to apply for lawful permanent residency to certain Nicaraguans and Cubans. To qualify eligible Nicaraguans and Cubans were required to file for NACARA by April 1, 2000. Under VAWA 2005’s amendments to NACARA 202, immigrant spouses and children who had suffered battering or extreme cruelty perpetrated by a NACARA eligible spouse or parent were given until June 5, 2007 to apply for lawful permanent residency through VAWA NACARA 202.

² See Katrina Castillo, Alexandra Spratt, Catherine Longville and Leslye E. Orloff, Legislative History of VAWA (94, 00, 05), T and U-Visas, Battered Spouse Waiver, and VAWA Confidentiality, NIWAP, June 17, 2015 http://niwaplibrary.wcl.american.edu/pubs/vawa_leg-history_final-6-17-15-sji (For the legislative history of VAWA self-petitioning).

³ See generally Confidentiality Under Violence Against Women Act (VAWA), NIWAP, <http://niwaplibrary.wcl.american.edu/pubs/conf-vawa-bro-3prongsofconfidentiality>. All self-petitions receive VAWA confidentiality protection which ensures that the perpetrator cannot obtain information about the existence, decisions made in or the contents of a self-petition case file and the Department of Homeland Security (DHS) officials cannot use, seek or obtain information provided by the abuser in adjudicating a victims self-petition case.

⁴ An individual may apply for more than one form of relief if eligible.

⁵ See INA Section 244(a)(3)(as in effect on March 31, 1996); VAWA 1994 §40703(b), 8 U.S.C. § 1254 repealed by Pub. L. No. 104-208, Div. C, Title III, §308(b)(7), 110 Stat. 3009-615(1997) (amending and renumbering INA §244, 8 U.S.C. 1254a) (Although suspension of deportation was repealed in 1997, VAWA suspension of deportation continues to be a form of relief available to battered immigrants. Each VAWA reauthorization has continued to make amendments offering new legal protections for VAWA suspension of deportation eligible victims.). See VAWA 2000 §§1504(a)(2)(B)–(C), 1504(b)–(c), 1506(b)(3)–(4), 1506(c)(2), 1508, 1510(b), 1513(a), 8 U.S.C. §§1229b, 1101, 1229a, 1641; see also Violence Against Women Act of 2005, Pub. L. No. 109-162, §§812, 813(b)(2), 817, 825(a)(2)(C), 119 Stat. 2960, 3057-64 (2005) (codified at scattered sections of the U.S.C.) (hereinafter VAWA2005). It is important to note that the correct citation for VAWA suspension of deportation is “INA§244(a)(3)(as in effect on March 31,1997).” The current INA§244(a)(3), as of April 1, 1997 is the citation for temporary protected status. For additional information on VAWA suspension of deportation see: download this document: <https://www.justice.gov/sites/default/files/pages/attachments/2015/07/24/eoir40.pdf> and load it into the web library and the link to the landing page for the upload you created.

⁶ See Moira Fisher Preda, Cecilia Olavarria, Janice Kaguyutan, and Alicia (Lacy) Carra, *Preparing the VAWA Self-Petition and Applying for Residence*, NIWAP, <http://niwaplibrary.wcl.american.edu/pubs/ch3-3-selfpetitionprep> (containing information on VAWA self-petitioning). See *Additional Remedies Under VAWA: Battered Spouse Waiver*, NIWAP, <http://niwaplibrary.wcl.american.edu/pubs/ch3-5-battered-spouse-waiver> (containing information on battered spouse waiver applications).

⁷ See generally, INA Section 244(a)(3)(as in effect on March 31, 1997), <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title8-section1254a&num=0&edition=prelim>

⁸ See generally, INA Section 240A(b)(2), <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title8-section1229b&num=0&edition=prelim>

- 9 See generally, Section 309(c)(5)(C)(VII)(aa) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)(Public Law 104-208; division C; 110 Stat. 3009-627) <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>
- 10 8 U.S.C. 1186(a)
- 11 The Application for Suspension of Deportation, U.S. DEP'T OF JUST., <https://www.justice.gov/sites/default/files/pages/attachments/2015/07/24/eoir40.pdf>
- 12 The Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents, U.S. DEP'T OF JUST., <http://niwaplibrary.wcl.american.edu/pubs/eoir-42b>.
- 13 VAWA Application for Suspension of Deportation, EOIR-40 Form, USDOJ Executive Office for Immigration Review, <http://niwaplibrary.wcl.american.edu/pubs/eoir-40-form>.
- 14 See Battered Spouse and Children, USCIS, <https://www.uscis.gov/humanitarian/battered-spouse-children-and-parents>; see also, Moira Fisher Preda, Cecilia Olavarria, Janice Kaguyutan, and Alicia (Lacy) Carra, *Preparing the VAWA Self-Petition and Applying for Residence*, NIWAP, <http://niwaplibrary.wcl.american.edu/pubs/ch3-3-selfpetitionprep>
- 15 I-360 Form, Petition for Amerasian, Widow(er), DHS USCIS, <https://www.uscis.gov/i-360>.
- 16 Application for Suspension of Deportation, U.S. DEP'T OF JUST., pg. 1 <https://www.justice.gov/sites/default/files/pages/attachments/2015/07/24/eoir40.pdf>.
- 17 8 C.F.R 240.65 (d)
- 18 The Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents, U.S. DEP'T OF JUST., <http://niwaplibrary.wcl.american.edu/pubs/eoir-42b>.
- 19 Rebecca Story, Cecilia Olavarria and Moira Fisher Preda. VAWA Cancellation of Removal, NIWAP, <http://niwaplibrary.wcl.american.edu/pubs/ch9-vaawa-cancellation-of-removal>.
- 20 I-881 Form Instructions, Instructions for Application for Suspension of Deportation or Special Rule Cancellation of Removal, DHS USCIS, pg. 3, <http://niwaplibrary.wcl.american.edu/pubs/vawanacara-form-instructions-i-881>. See section of this chart “Abuser’s Immigration or Citizenship Status” for the deadlines that apply whether the victim’s El Salvadoran, Guatemalan or Eastern European abuser was NACARA eligible.
- 21 I-881 Form Instructions, Instructions for Application for Suspension of Deportation or Special Rule Cancellation of Removal, DHS USCIS, pg. 2, <http://niwaplibrary.wcl.american.edu/pubs/vawanacara-form-instructions-i-881>.
- 22 I-881 Form Instructions, Instructions for Application for Suspension of Deportation or Special Rule Cancellation of Removal, DHS USCIS, pg. 3, <http://niwaplibrary.wcl.american.edu/pubs/vawanacara-form-instructions-i-881>.
- 23 I-360 Form Instructions, Instructions for Petition for Amerasian, Widow(er), DHS USCIS, <http://niwaplibrary.wcl.american.edu/pubs/i-360>.
- 24 Once the VAWA self-petition is approved if the self-petitioner’s abuser is a U.S. citizen the victim can seek adjustment of status to lawful permanent residency from the immigration judge. VAWA self-petitioners whose abusers are lawful permanent residents will have to wait until their priority date becomes current to seek adjustment of status to lawful permanent residency either from the immigration judge or from USCIS.
- 25 See generally INA Section 244(a)(3)(as in effect on March 31, 1997); see also Leslye E. Orloff and Faiza Chappell, Violence Against Women Act (VAWA) Suspension Of Deportation As Created in 1994 With VAWA 2000, And 2005 Amendments, VAWA Suspension Of Deportation, NIWAP, April 2, 2020, <http://niwaplibrary.wcl.american.edu/pubs/vawa-suspension-of-deportationinterliniated-statute>.
- 26 See generally INA Section 240A(b)(2).
- 27 Section 309(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) (There are no requirements as to the nationality or place of birth of VAWA NACARA victims).
- 28 See generally, Section 309(c)(5)(C)(VII)(aa) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>. See section of this chart “Abuser’s Immigration or Citizenship Status” for the requirements regarding the victim’s abuser’s required nationalities.
- 29 See generally VAWA Self-Petitioning Regulations, 13066 Fed. Reg. 61, 59 (March 26, 1996) <http://niwaplibrary.wcl.american.edu/pubs/vawa-rule>.
- 30 See INA Section 244(a)(3) (as in effect on March 31, 1997). See 8 C.F.R.§204.2(c)(1) (for the definition of battering or extreme cruelty). See also, Leslye E. Orloff, Brittnay Roberts and Stefanie Gitler, “Battering or Extreme Cruelty” *Drawing Examples from Civil Protection Order and Family Law Cases*, NIWAP, <http://niwaplibrary.wcl.american.edu/pubs/extreme-cruelty-examplesprotection-order-2> (for more detailed information on the definition of battering or extreme cruelty).
- 31 See INA Section 240A(b)(2)(B). See 8 C.F.R.§204.2(c)(1) (For the definition of battering or extreme cruelty); See also, Leslye E. Orloff, Brittnay Roberts and Stefanie Gitler, “Battering or Extreme Cruelty” *Drawing Examples from Civil Protection Order and Family Law Cases*, NIWAP, <http://niwaplibrary.wcl.american.edu/pubs/extreme-cruelty-examples-protection-order-2> (for more detailed information on the definition of battering or extreme cruelty).
- 32 See NACARA Section 203(a); IIRIRA Section 309(c)(5)(C)(VI); 8 C.F.R.240.65(d)(1); See Leslye E. Orloff, Brittnay Roberts and Stefanie Gitler, “Battering or Extreme Cruelty” *Drawing Examples from Civil Protection Order and Family Law Cases*, NIWAP, <http://niwaplibrary.wcl.american.edu/pubs/extreme-cruelty-examples-protection-order-2> (for more detailed information on the definition of battering or extreme cruelty). See also I-881 Form Instructions, Instructions for Application for Suspension of Deportation or Special Rule Cancellation of Removal, DHS USCIS, pg. 3, <http://niwaplibrary.wcl.american.edu/pubs/vawa-nacara-form-instructions-i-881>.
- 33 INA Section 204(a)(1)(A)(iii)(I)(bb) or INA Section 204(a)(1)(B)(ii)(I)(bb); 8 C.F.R.240.65(d)(1). See Leslye E. Orloff, Brittnay Roberts and Stefanie Gitler, “Battering or Extreme Cruelty” *Drawing Examples from Civil Protection Order and Family Law Cases*, NIWAP, <http://niwaplibrary.wcl.american.edu/pubs/extreme-cruelty-examples-protection-order-2> (for more detailed information on the definition of battering or extreme cruelty).
- 34 See INA Section 244(a)(3) (as in effect on March 31, 1997); see also 8 C.F.R.240.65(d)(2).
- 35 The Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents, U.S. DEP'T OF JUST., pg. 1, <http://niwaplibrary.wcl.american.edu/pubs/eoir-42b>.
- 36 Section 309(c)(5)(C)(VII)(aa) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627)

<http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>; See also I-881 Form Instructions, Instructions for Application for Suspension of Deportation or Special Rule Cancellation of Removal, DHS USCIS, pg. 3, <http://niwaplibrary.wcl.american.edu/pubs/vawa-nacara-form-instructions-i-881> (Since VAWA NACARA requires 3 years continuous presence in the United States and eligibility is based on having been married or the child of a NACARA eligible immigrant, most victims who are eligible for VAWA NACARA are likely to have experienced abuse in the United States, although U.S. based abuse is not required by the statute).

37 INA Section 204(a)(1)(A)(v)(I)(cc) and 204(a)(1)(B)(iv)(cc).

38 INA Section 204(a)(1)(A)(v)(I)(aa) and (bb); INA Section 204(a)(1)(B)(iv)(I)(aa) and (bb).

39 INA Section 244(a)(3)(as in effect on March 31, 1997; 8 C.F.R. 240.65(d)(2).

40 INA Section 244(g) (as in effect on March 31, 1996). These any credible evidence rules were imposed on VAWA suspension of deportation cases as part of VAW 1994.

41 See INA Section 240A(b)(2)(A)(i); see also The Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents, U.S. DEP'T OF JUST., <http://niwaplibrary.wcl.american.edu/pubs/eoir-42b> (Since VAWA cancellation of removal became law in 1996 no regulations have been issued implementing the VAWA cancellation provisions. The EOIR-42B Form does provide some guidance on VAWA cancellation of removal.).

42 INA Section 240A(b)(2)(D) (requiring that VAWA's any credible evidence rules be used in adjudicating cases of VAWA cancellation of removal). 43See I-881 Form Instructions, Instructions for Application for Suspension of Deportation or Special Rule Cancellation of Removal, DHS USCIS, pg. 3, <http://niwaplibrary.wcl.american.edu/pubs/vawa-nacara-form-instructions-i-881>.

44 INA Section 204(a)(1)(A)(iii)(I)(bb); INA Section 204(a)(1)(B)(ii)(I)(bb); 8 C.F.R. 204.2(c)(i)(E).

45 8 C.F.R. 204.2(c)(i)(E).

46 VAWA Self-Petitioning Regulations - Preamble, 13066 Fed. Reg. 61, 59 (March 26, 1996) <http://niwaplibrary.wcl.american.edu/pubs/vawa-rule> (“A self-petitioner is not precluded from submitting documentary proof of non-qualifying abuse with the self-petition; however that evidence can only be used to established a pattern of abuse and violence and to bolster claims that qualifying abuse also occurred”).

47 INA Section 244(a)(3)(as in effect on March 31, 1997).

48 INA Section 240A(b)(2)(A)(i)(I).

49 INA Section 240A(b)(2)(A)(i)(II).

50 Section 309(c)(5)(C)(i)(I)(aa) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>.

51 American Baptist Churches v. Thornburgh (ABC) Settlement Agreement, USCIS, <https://www.uscis.gov/laws/legal-settlement-notice/american-baptist-churches-v-thornburgh-abc-settlement-agreement>. (ABC Settlement Agreement in 1985 involved a group of religious organizations and refugee advocacy organizations filed a class action lawsuit in federal court against the Immigration and Naturalization Service (INS) (now USCIS), the Executive Office for Immigration Review (EOIR) and the United States Department of State (DOS). The lawsuit is known as *American Baptist Churches v. Thornburgh*, 760 F. Supp. 796 (N.D. Cal. 1991) is commonly referred to as the ABC lawsuit. A federal judge subsequently certified a class of Guatemalan and Salvadoran nationals as plaintiffs in the lawsuit. The plaintiffs alleged, among other things, that the INS (now USCIS), EOIR and DOS engaged in discriminatory treatment of asylum claims made by Guatemalans and Salvadorans. In 1990, the government and attorneys representing the certified class settled the class action lawsuit. The ABC settlement agreement provides that an eligible class member who registers for benefits and applies for asylum by the agreed-upon dates (these deadlines were initially defined in the settlement agreement, but the asylum filing deadlines were later extended by agreement of the parties) is entitled to an initial or de novo asylum interview and adjudication under the asylum regulations published July 27, 1990, which became effective October 1, 1990, and special provisions of the settlement agreement. The settlement agreement also contains special provisions regarding employment authorization and detention of eligible class members.).

52 Section 309(c)(5)(C)(i)(I)(bb) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>. 53 INA Section 204(a)(1)(A)(iii), (iv), (v).

54 INA Section 204(a)(1)(B)(ii), (iii).

55 INA Section 244(a)(3) (as in effect on March 31, 1997); 8 C.F.R.240.65(d)(2).

56 INA Section 244(a)(3) (as in effect on March 31, 1997); *United States v. Windsor*, 12-307 WL 3196928; <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscis-doma> (the Windsor decision on DOMA and USCIS policy deem same-sex married couples are “spouses” for immigration purposes.).

57 Victims continue to be eligible to apply for VAWA suspension of deportation without any time limitation following termination of the marriage. VAWA suspension of deportation is a legal option that remains available for abused immigrant spouses for whom that time limitations have passed to apply for a VAWA self-petition.

58 INA Section 244(a)(3)(as in effect on March 31, 1997); INA Section 101(b)(1) (defined children to include step-children).

59 Step-child victims continue to be eligible to apply for VAWA suspension of deportation without any time limitation following termination of the marriage between the step-child victim’s natural parent and their abusive citizen step-parent. VAWA suspension of deportation is a legal option that remains available for abused immigrant step-children who did not file their VAWA self-petitions prior to a divorce between their natural parent and their abusive citizen step-parent became final.

60 See INA Section 244(a)(3) (as in effect on March 31, 1997); see also 8 C.F.R.240.65(d)(2).

61 INA Section 244(a)(3) (as in effect on March 31, 1997); *United States v. Windsor*, 12-307 WL 3196928; <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscis-doma> (the Windsor decision on DOMA and USCIS policy deem same-sex married couples are “spouses” for immigration purposes.).

62 Victims continue to be eligible to apply for VAWA suspension of deportation without any time limitation following termination of the marriage. VAWA suspension of deportation is a legal option that remains available for abused immigrant spouses for whom that time limitations have passed to apply for a VAWA self-petition. 63 See INA Section 244(a)(3)(as in effect on March 31, 1997); see also (INA Section 101(b)(1) defined children to include step-children).

64 Step-child victims continue to be eligible to apply for VAWA suspension of deportation without any time limitation following termination of the marriage between the step-child victim's natural parent and their abusive lawful permanent resident step-parent. VAWA suspension of deportation is a legal option that remains available for abused immigrant step-children who did not file their VAWA self-petitions prior to a divorce between their natural parent and their abusive lawful permanent resident step-parent became final.

65 INA Section 244(a)(3) (as in effect on March 31, 1997); 8 C.F.R.240.65(d)(2).

66 Rebecca Story, Cecilia Olavarria and Moira Fisher Preda. VAWA Cancellation of Removal, NIWAP, pg. 5 <http://niwaplibrary.wcl.american.edu/pubs/ch9-ava-cancellation-of-removal>.

67 INA Section 240A(b)(2)(A)(i).

68 INA Section 244(a)(3) (as in effect on March 31, 1997); United States v. Windsor, 12-307 WL 3196928; <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscis-doma> (the Windsor decision on DOMA and USCIS policy deem same-sex married couples are "spouses" for immigration purposes.). 69 INA Section 240A(b)(2)(A)(i)(III).

70 Victims continue to be eligible to apply for VAWA cancellation of removal without any time limitation following termination of the marriage. VAWA cancellation of removal is a legal option available for abused immigrant spouses and for whom that time limitations have passed to apply for a VAWA self-petition.

71 See INA Section 240A(b)(2)(1); see also (INA Section 101(b)(1) defined children to include step-children).

72 Step-child victims continue to be eligible to apply for VAWA cancellation of removal without any time limitation following termination of the marriage between the step-child victim's natural parent and their abusive citizen step-parent. VAWA cancellation of removal is a legal option that remains available for abused immigrant step-children who did not file their VAWA self-petitions prior to a divorce between their natural parent and their abusive citizen step-parent became final.

73 INA Section 240A(b)(2)(A)(i).

74 INA Section 240A(b)(2)(A)(i)(II); United States v. Windsor, 12-307 WL 3196928 (The Windsor decision on DOMA and USCIS policy deem same-sex married couples are "spouses" for immigration purposes) <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscis-doma>.

75 INA Section 240A(b)(2)(A)(i)(III).

76 Victims continue to be eligible to apply for VAWA cancellation of removal without any time limitation following termination of the marriage. VAWA cancellation of removal is a legal option that remains available for abused immigrant spouses for whom that time limitations have passed to apply for a VAWA self-petition. 77 INA Section 240A(b)(2)(2); (INA Section 101(b)(1) defined children to include step-children).

78 Step-child victims continue to be eligible to apply for VAWA cancellation of removal without any time limitation following termination of the marriage between the step-child victim's natural parent and their abusive lawful permanent resident step-parent. VAWA cancellation of removal is a legal option that remains available for abused immigrant step-children who did not file their VAWA self-petitions prior to a divorce between their natural parent and their abusive lawful permanent resident step-parent became final.

79 INA Section 240A(b)(2)(A)(i).

80 VAWA Cancellation of Removal, ASSISTA, <https://asistahelp.org/resource-library/vawa-resources/>.

81 Section 309(c)(5)(C)(i)(VII) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>.

82 Section 309(c)(5)(C)(i)(VII) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>.

83 Section 309(c)(5)(C)(i)(VII)(bb) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) explicitly allows immigrant parents whose children were abused by their NACARA eligible spouse to file for immigration relief under VAWA NACARA ("the spouse, child or child of the spouse has been battered or subjected to extreme cruelty by the alien described in subclause (I), (II), or(V)" (this is the NACARA eligible spouse); the step-child who was abused would also have the right to independently file for VAWA NACARA while they were the step-child of the NACARA eligible abuser.) <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>.

84 Section 309(c)(5)(C)(i)(VII)(aa)(DD) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>.

85 See Section 309(c)(5)(C)(i)(VII)(aa)(AA) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>; see also I-881 Form Instructions, Instructions for Application for Suspension of Deportation or Special Rule Cancellation of Removal, DHS USCIS, pg. 3, <http://niwaplibrary.wcl.american.edu/pubs/vawa-nacara-form-instructions-i-881>.

86 Asylum Officer Training Lesson Suspension of Deportation and Special Rule Cancellation of Removal under NACARA, AILA, pg. 20, <https://www.aila.org/File/Related/19111215a.pdf>.

87 See Section 309(c)(5)(C)(i)(VII)(aa)(BB) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>; see also I-881 Form Instructions, Instructions for Application for Suspension of Deportation or Special Rule Cancellation of Removal, DHS USCIS, pg. 2, <http://niwaplibrary.wcl.american.edu/pubs/vawa-nacara-form-instructions-i-881>.

88 See Section 309(c)(5)(C)(i)(VII)(aa)(CC) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>; see also I-881 Form Instructions, Instructions for Application for Suspension of Deportation or Special Rule Cancellation of Removal, DHS USCIS, pg. 2, <http://niwaplibrary.wcl.american.edu/pubs/vawa-nacara-form-instructions-i-881>.

89 See Section 309(c)(5)(C)(i)(VII)(aa)(CC) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>; see also I-881 Form Instructions, Instructions for Application for Suspension of Deportation or Special Rule Cancellation of Removal, DHS USCIS, pg. 2, <http://niwaplibrary.wcl.american.edu/pubs/vawa-nacara-form-instructions-i-881>.

90 See Section 309(c)(5)(C)(i)(VII)(aa)(CC) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>; see also I-881 Form Instructions, Instructions for Application for Suspension of Deportation or Special Rule

⁹² INA Section 204(a)(1)(A).

⁹³ See INA Section 204(a)(1)(A)(iii)(II)(aa)(AA); see also *United States v. Windsor*, 12-307 WL 3196928 (The Windsor decision on DOMA and USCIS policy deem same-sex married couples are “spouses” for immigration purposes) <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscis-doma>.⁹⁴

INA Section 204(a)(1)(A)(iii)(II)(aa)(BB).

⁹⁵ See INA Section 204(a)(1)(A)(iii)(II)(aa)(CC) (Abused immigrant spouse must file the VAWA self-petition within 2 years of the citizen spouse’s death, loss or renunciation of citizenship related to the domestic violence, or termination of the marriage where there was a connection between the termination of the marriage and the battering or extreme cruelty.).

⁹⁶ See INA Section 204(a)(1)(A)(iv) (INA §101(b)(1) defines children to include step-children); see also INA Section 204(a)(1)(D)(5) (extends the time abused immigrant children and step-children have to file their self-petitions. Children and step-children who are subjected to battering or extreme cruelty when they are under age 21 have up to the date they turn 25 years old to file their VAWA self-petitions. This time may be reduced by step children if there is a divorce between their natural parent and their abusive step-parent.).

⁹⁷ INA Section 204(a)(1)(A)(iv) (Since INA Section 101(b) defines child to include step-children, an immigrant child abused by their step-parent is eligible to self-petition during the time that the step-parent/step-child relationship continues to exist. Since INA Section 101(b) defines child to include step-children, an immigrant child abused by their step-parent is eligible to self-petition during the time that the step-parent/step-child relationship continues to exist. However, under INA Section 101(b)(1)(B) a step-parent/step-child relationship must be formed before the child turned age 18 to be recognized under U.S. immigration laws. Abused immigrant step-children must file their VAWA HRIFA self-petition before any divorce between the child’s natural parent and their step-parent has been finalized. The date that the termination of the marriage is final is governed by state family laws and generally includes the period of time following a divorce in which the parties have an opportunity to file an appeal and if an appeal is filed the date on which the decision in the appeal becomes final. Abused immigrant stepchildren must file their self-petition before any divorce between the child’s natural parent and their step-parent has been finalized. The date that the termination of the marriage is final is governed by state family laws and generally includes the period of time following a divorce in which the parties have an opportunity to file an appeal and if an appeal is filed the date on which the decision in the appeal becomes final.).⁹⁸ INA Section 204(a)(1)(A)(vii).

⁹⁹ INA Section 204(a)(1)(B).

¹⁰⁰ See INA Section 204(a)(1)(B)(ii)(II)(aa)(AA); see also *United States v. Windsor*, 12-307 WL 3196928 (The Windsor decision on DOMA and USCIS policy deem same-sex married couples are “spouses” for immigration purposes) <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscis-doma>.¹⁰¹

INA Section 204(a)(1)(B)(ii)(II)(aa)(BB).

¹⁰² INA Section 204(a)(1)(B)(ii)(II)(aa)(CC) (Abused immigrant spouse must file the VAWA self-petition within 2 years of the lawful permanent resident spouse’s loss of lawful permanent residency related to the domestic violence, or termination of the marriage where there was a connection between the termination of the marriage and the battering or extreme cruelty.).

¹⁰³ See INA Section 204(a)(1)(B)(iii) (INA §101(b)(1) defined children to include step-children); see also INA Section 204(a)(1)(D)(5) (extends the time abused immigrant children and step-children have to file their self-petitions. Children and step-children who are subjected to battering or extreme cruelty when they are under age 21 have up to the date they turn 25 years old to file their VAWA self-petitions. This time may be reduced by step children if there is a divorce between their natural parent and their abusive step-parent.).

¹⁰⁴ See INA Section 204(a)(1)(B)(iii) (Since INA Section 101(b) defines child to include step-children, an immigrant child abused by their step-parent is eligible to self-petition during the time that the step-parent/step-child relationship continues to exist. Abused immigrant step-children must file their self-petition before any divorce between the child’s natural parent and their step-parent has been finalized. The date that the termination of the marriage is final is governed by state family laws and generally includes the period of time following a divorce in which the parties have an opportunity to file an appeal and if an appeal is filed the date on which the decision in the appeal becomes final.).¹⁰⁵ INA Section 204(a)(1)(A)(iii)(I)(bb).

¹⁰⁶ INA Section 204(a)(1)(B)(ii)(I)(bb).

¹⁰⁷ See INA Section 204(a)(1)(A)(iii)(II)(aa)(AA); see INA Section 204(a)(1)(B)(ii)(II)(aa)(AA); see also *United States v. Windsor*, 12-307 WL 3196928 (The Windsor decision on DOMA and USCIS policy deem same-sex married couples are “spouses” for immigration purposes) <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscis-doma>.

¹⁰⁸ INA Section 204(a)(1)(A)(iii)(II)(aa)(BB) | INA Section 204(a)(1)(B)(ii)(II)(aa)(BB).

¹⁰⁹ See INA Section 204(a)(1)(A)(iii)(II)(aa)(CC); see also INA Section 204(a)(1)(B)(ii)(II)(aa)(CC) (Abused immigrant spouse must file the VAWA self-petition within 2 years of the citizen spouse’s death, loss or renunciation of citizenship related to the domestic violence, or termination of the marriage where there was a connection between the termination of the marriage and the battering or extreme cruelty.).

¹¹⁰ See 13062-4 Fed. Reg. 61, 59 (March 25, 1996); see also 8 C.F.R. 204.2(c)(1)(ii) (marital relationship and abused spouse); see also 8 C.F.R. 204.2(e)(2)(ii) (parent/child relationship).

¹¹¹ INA Section 244(a)(3)(as in effect on March 31, 1997); 241(a)(1)(G) (marriage fraud violating INA 212(a)(6)(C)(i), willfully misrepresenting a material fact to obtain immigration relief).

¹¹² INA Section 240A(b)(2)(A)(iv); 237(a)(1)(G)(marriage fraud violating INA 212(a)(6)(C)(i) willfully misrepresenting a material fact to obtain immigration relief).

¹¹³ INA Section 240A(b)(2)(A)(i)(III); USDOJ, Eligibility to Self-Petition as an Intended Spouse as an Abusive U.S. Citizen or Lawful Permanent Resident, Memo from Johnny M. Williams, Aug. 21, 2002, <http://niwaplibrary.wcl.american.edu/pubs/uscis-memo-on-eligibility-to-sp-as-intended-spouse-bigamy-memo> (For more information on intended spouses and abusive spouses who are bigamists).

¹¹⁴ See also I-881 Form Instructions, Instructions for Application for Suspension of Deportation or Special Rule Cancellation of Removal, DHS USCIS, pg. 8, <http://niwaplibrary.wcl.american.edu/pubs/vawa-nacara-form-instructions-i-881>. Good-faith marriage standard is used.

¹¹⁵ Includes common law marriages where such marriages are valid under state law, they are valid under immigration law. ¹¹⁶ Includes common law marriages where such marriages are valid under state law, they are valid under immigration law.

117 See INA Section 204(a)(1)(A)(iii)(I)(aa); see INA Section 204(a)(1)(B)(ii)(I)(aa). See Leslye E. Orloff and Brittany Roberts, Good Faith Marriage and VAWA Self-Petition, NIWAP, Feb. 17, 2013, <http://niwaplibrary.wcl.american.edu/pubs/good-faith-marriage-vaawa> (For more information on good faith marriage in VAWA self-petitioning cases); see also Documents in Support of Good Faith Marriage, NIWAP & CALCASA, <http://niwaplibrary.wcl.american.edu/pubs/evidence-good-faith-marriage>.

118 See INA Section 204(a)(1)(A)(iii)(II)(aa)(BB); INA Section 204(a)(1)(A)(iii)(II)(cc); INA Section 204(a)(1)(B)(II)(aa)(BB); INA Section 204(a)(1)(B)(II)(cc). See also USDOJ, Eligibility to Self-Petition as an Intended Spouse as an Abusive U.S. Citizen or Lawful Permanent Resident, Memo from Johnny M. Williams, Aug. 21, 2002, <http://niwaplibrary.wcl.american.edu/pubs/uscis-memoon-eligibility-to-sp-as-intended-spouse-bigamy-memo> (For more information on intended spouses and abusive spouses who are bigamists).

120 INA Section 244(a)(3) (as in effect on March 31, 1996).

121 VAWA Pro Bono Manual, NIJC, <https://immigrantjustice.org/for-attorneys/legal-resources/file/nijc-pro-bono-manual-representation-vaawa-petitions>.

122 VAWA Pro Bono Manual, NIJC, <https://immigrantjustice.org/for-attorneys/legal-resources/file/nijc-pro-bono-manual-representation-vaawa-petitions>.

123 INA Section 240A(b)(2)(A)(i).

124 Questions and Answers: Battered Spouses, Children, and Parents Under the Violence Against Women Act (VAWA), USCIS, <https://www.uscis.gov/humanitarian/battered-spouse-childrenparents/questions-and-answers-battered-spouses-children-and-parents-under-violence-against-women-act-vaawa>.

125 Questions and Answers: Battered Spouses, Children, and Parents Under the Violence Against Women Act (VAWA), USCIS, <https://www.uscis.gov/humanitarian/battered-spouse-childrenparents/questions-and-answers-battered-spouses-children-and-parents-under-violence-against-women-act-vaawa>.

126 Section 309(c)(5)(C)(VII)(aa)(AA)-(DD) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>; see also I-881 Form Instructions, Instructions for Application for Suspension of Deportation or Special Rule Cancellation of Removal, DHS USCIS, 6.A-E pg. 2, <http://niwaplibrary.wcl.american.edu/pubs/vawa-nacara-form-instructions-i-881>.

127 Section 309(c)(5)(C)(iv) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>. 127 INA §204(a)(1)(A)(vi) [spouse of USC]; INA §204(a)(1)(B)(v)(I) [spouse of LPR].

128 INA §204(a)(1)(A)(iii)(II)(aa)(CC)(ccc) [spouse of USC]; see INA §204(a)(1)(B)(ii)(II)(aa)(CC)(ccc) [spouse of LPR] (This rule applies to cases pending on or filed after October 28, 2000. Cases denied prior to this date solely due to divorce may file a motion to reopen if the self-petitioner can show the divorce occurred on or after October 28, 1998.). Anderson, Executive Associate Commissioner, Office of Policy and Planning, Jan. 2, 2002, “Eligibility to Self-Petition as a Battered Spouse of a U.S. Citizen or Lawful Permanent Resident Within Two Years of Divorce.” <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-dojmemoeligibilityselfpetition-01-02-02>.

129 INA §204(a)(1)(h).

130 INA §204(a)(1)(A)(iii)(II)(aa)(CC)(aaa) (These protections are not available to spouses of lawful permanent residents.).

131 INA Section 240A(b)(4)(B) (applies to VAWA suspension of deportation and VAWA cancellation of removal.).

132 INA Section 240A(b)(4)(B) 8 U.S.C. 1229(b)(4) (applies to VAWA suspension of deportation and VAWA cancellation of removal.).

133 Section 309(c)(5)(C)(i)(III) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>.

134 Section 309(c)(5)(C)(IV) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>. 135 INA §204(a)(1)(A)(iii), INA §204(a)(1)(B)(ii).

136 INA §204(a)(1)(A)(iii), INA §204(a)(1)(B)(ii) (The statute allows a self-petitioner to petition for themselves and to include any of their children in the victim’s self-petition. Also, INA Section 101(b)(1)(B) defines child for immigration purposed to include stepchildren. The abused self-petitioning parent can include their child from a prior relationship as a dependent family member in their VAWA self-petition application. If the self-petitioners child was abused by their citizen or lawful permanent resident step-parent while the non-abusive parent is married to the citizen or lawful permanent resident abusive parent, the step-child can also file their own self-petition. However, if there is a divorce before the abused step-child files their self-petition, the abused mother can include their child who was abused by the child’s former step-parent in the mother’s self-petition.). 137 INA §204(a)(1)(A)(iii)(I)(bb) and INA §204(a)(1)(B)(ii)(1)(bb).

138 INA Section 204(I)(2)(F).

139 Section 309(c)(5)(C)(iv) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>.

140 See INA Section 204(a)(1)(A)(iii)(II)(dd); INA Section 204(a)(1)(A)(iv); INA Section 204(a)(1)(A)(vii)(IV); INA Section 204(a)(1)(B)(ii)(II)(dd); INA Section 204(a)(1)(B)(iii).

141 U.S. DEP’T OF JUSTICE, IMMIGRATION & NATURALIZATION SERV. MEMORANDUM HQADN/70/8, ELIGIBILITY TO SELF-PETITION AS A BATTERED SPOUSE OF A U.S. CITIZEN OR LAWFUL PERMANENT RESIDENT WITHIN TWO YEARS OF DIVORCE (2002), available at http://www.uscis.gov/files/pressrelease/VAWA82102_pub.pdf.

142 INA §204(a)(1)(A)(iii)(II)(dd) [spouse of USC]; INA §204(a)(1)(A)(iv) [children of USC]; INA §204(a)(1)(B)(ii)(II)(dd) [spouse of LPR]; INA §204(a)(1)(B)(iii) [children of LPR]. INA §204(a)(1)(A)(iii)(II)(aa)(CC) and INA §204(a)(1)(B)(ii)(II)(aa)(CC).

143 INA Section 244(a)(3) (as in effect on March 31, 1997).

144 INA Section 240A(b)(2)(A)(ii) and (B).

145 See also I-881 Form Instructions, Instructions for Application for Suspension of Deportation or Special Rule Cancellation of Removal, DHS USCIS, pg. 3, <http://niwaplibrary.wcl.american.edu/pubs/vawa-nacara-form-instructions-i-881>.

146 INA §204(a)(1)(A)(v) [spouse of USC]; INA §204(a)(1)(B)(iv) [spouse of LPR].

147 INA Section 244(b)(2)(as in effect March 31, 1997).

- 148 INA Section 240A(b)(2)(B) (applies to both VAWA suspension of deportation and VAWA cancellation of removal); Leslye E. Orloff and Faiza Chappell, Violence Against Women Act (VAWA) Suspension Of Deportation As Created in 1994 With VAWA 2000, And 2005 Amendments, VAWA Suspension Of Deportation, NIWAP, April 2, 2020, <http://niwaplibrary.wcl.american.edu/pubs/vawa-suspension-of-deportation-interliniated-statute>.
- 149 INA section 240A(b)(2)(A)(ii)
- 150 INA section 240A(b)(2)(A)(ii)
- 151 INA Section 240A(b)(2)(B)(applies to both VAWA suspension of deportation and VAWA cancellation of removal); Leslye E. Orloff and Faiza Chappell, Violence Against Women Act (VAWA) Suspension Of Deportation As Created in 1994 With VAWA 2000, And 2005 Amendments, VAWA Suspension Of Deportation, NIWAP, April 2, 2020, <http://niwaplibrary.wcl.american.edu/pubs/vawa-suspension-of-deportation-interliniated-statute>.
- 152 See I-881 Form Instructions, Instructions for Application for Suspension of Deportation or Special Rule Cancellation of Removal, DHS USCIS, pg. 3, <http://niwaplibrary.wcl.american.edu/pubs/vawa-nacara-form-instructions-i-881>; see also Section 309(c)(5)(C)(i) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>; (VAWA NACARA is not subject to the rules that calculate breaks in continued presence contained in INA Section 240A(d)(2) and the rules for termination of continued presence described in INA Section 240A(d)(1)).
- 153 See 309(c)(5)(C)(i) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) (This is the same treatment that all NACARA applicants receive.).
- 154 See Leslye E. Orloff and Brittnay Roberts, Extreme Hardship in VAWA Cancellation of Removal and VAWA Suspension of Deportation Cases, NIWAP, Nov. 26, 2012, <http://niwaplibrary.wcl.american.edu/pubs/hardship-vawa-cancellation-removal-suspension> (For a discussion of extreme hardship in VAWA suspension of deportation and cancellation of removal cases); see also 8 C.F.R. §§ 1240.20(c) and 1240.58(c). See INS Memorandum from Paul Virtue, INS General Counsel, Extreme Hardship and Documentary Requirements Involving Battered Spouses and Children (October 16, 1998) (discussing VAWA self-petitioning cases adjudicated between 1994 and 2000 and the required proof of extreme hardship. This factor was removed from VAWA self-petitioning cases in VAWA 2000); see also Rebecca Story, Cecilia Olavarria and Moira Fisher Preda, *VAWA Cancellation of Removal*, NIWAP, <http://niwaplibrary.wcl.american.edu/pubs/ch9-vawa-cancellation-of-removal>.
- 155 See 8 C.F.R. 1240.64; 8 C.F.R. 1240.58; see also Leslye E. Orloff and Brittnay Roberts, Extreme Hardship in VAWA Cancellation of Removal and VAWA Suspension of Deportation Cases, NIWAP, Nov. 26, 2012, <http://niwaplibrary.wcl.american.edu/pubs/hardship-vawa-cancellation-removal-suspension>.
- 156 INA Section 240A(b)(2)(v); see Leslye E. Orloff and Brittnay Roberts, Extreme Hardship in VAWA Cancellation of Removal and VAWA Suspension of Deportation Cases, NIWAP, Nov. 26, 2012, <http://niwaplibrary.wcl.american.edu/pubs/hardship-vawa-cancellation-removal-suspension> (For a discussion of extreme hardship in VAWA suspension of deportation and cancellation of removal cases); see also 8 C.F.R. §§ 1240.20(c) and 1240.58(c). See INS Memorandum from Paul Virtue, INS General Counsel, Extreme Hardship and Documentary Requirements Involving Battered Spouses and Children (October 16, 1998) (discussing VAWA self-petitioning cases adjudicated between 1994 and 2000 and the required proof of extreme hardship. This factor was removed from VAWA self-petitioning cases in VAWA 2000); see also Rebecca Story, Cecilia Olavarria and Moira Fisher Preda, *VAWA Cancellation of Removal*, NIWAP, <http://niwaplibrary.wcl.american.edu/pubs/ch9-vawa-cancellation-of-removal>.
- 157 8 C.F.R. 1240.64; 8 C.F.R. 1240.58; Leslye E. Orloff and Brittnay Roberts, Extreme Hardship in VAWA Cancellation of Removal and VAWA Suspension of Deportation Cases, NIWAP, Nov. 26, 2012, <http://niwaplibrary.wcl.american.edu/pubs/hardship-vawa-cancellation-removal-suspension>.
- 158 See I-881 Form Instructions, Instructions for Application for Suspension of Deportation or Special Rule Cancellation of Removal, DHS USCIS, pg. 3, <http://niwaplibrary.wcl.american.edu/pubs/vawa-nacara-form-instructions-i-881>.
- 159 8 C.F.R. 1240.64; 8 C.F.R. 1240.58; see Leslye E. Orloff and Brittnay Roberts, Extreme Hardship in VAWA Cancellation of Removal and VAWA Suspension of Deportation Cases, NIWAP, Nov. 26, 2012, <http://niwaplibrary.wcl.american.edu/pubs/hardship-vawa-cancellation-removal-suspension>.
- 160 8 C.F.R.1240.61; 8 C.F.R.1240.64(d).
- 161 This requirement was included in the original VAWA self-petitioning statute in 1994 but was deleted as a requirement in VAWA 2000 in the rewriting of INA Section 204(a)(1)(A) and 204(a)(1)(B) by section 1503(b) and(c) of VAWA 2000.
- 162 See INA § 101(f); see also 8 U.S.C. § 1101(f) (this does not precisely define good moral character, but does not preclude a finding of good moral character if the immigrant has certain listed criminal convictions or actions. The immigration judge may be permitted to find good moral character even if there is an act or conviction that would otherwise bar such a finding 1) if a waiver exists for the act or conviction or 2) if there is a connection between the act or conviction and the battering or extreme cruelty.). See INA § 240A(b)(2)(C); see also 8 U.S.C. § 1229b (b)(2)(C) (Exception applies to crimes and actions connected to the battering or extreme cruelty and for acts of convictions which a waiver of inadmissibility is also permitted under the immigration laws. Factors that preclude a finding of good moral character which are and are not waivable.). USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05> (For waiver availability and requirements in VAWA self-petition, VAWA suspension of deportation and VAWA cancellation of removal cases):
- One or more crimes involving moral turpitude include (waivable):
 - Crimes against a person involve moral turpitude when the offense contains criminal intent or recklessness or when the crime is defined as morally reprehensible by state statute (waivable)
 - Crime against property which involves fraud, whether it entails fraud against the government or against an individual (may include theft, forgery, robbery)(waivable);
 - Sexual and family crimes which may include domestic violence and child abuse (waivable findings or convictions that an immigrant has committed domestic violence, stalking or being found to have violated a protection order may be waived for victims who are immigrants and who show that they are the primary victim of abuse in the relationship and that they did not perpetrate substantial bodily harm (See INA section 237(a)(7));
 - Crimes against the authority of government that involve fraud (waivable);

- Exception for one petty offense in which the possible sentence was less than 365 days and sentence imposed was 6 months or less (waivable);
- Convictions for two or more offenses (other than purely political offenses) with an aggregate sentences to confinement of 5 years or more (waivable); • Conviction for an aggravated felony after 11/20/90 (not waivable)
- Controlled substance violations committed or conviction (not waivable) with an exception for simple possess of less than 30g of marijuana (waivable);
- Convicted or DHS knows or has reason to believe is an illicit trafficker in any controlled substance (not waivable);
- Incarceration for 180 days of more (not waivable);
- Someone who has given false testimony that was material of the purpose of obtaining any immigration benefits (not waivable, however the bar only applies when the victim applicant has ever given “false testimony” and if such testimony was “material”);
- Immigrants previously removed from the United States (not-waivable requires motion to reopen prior removal action);
- Engaged in prostitution, attempted or procured to import prostitution, or received proceeds from prostitution (waivable);
- Involved in smuggling – someone who has ever, knowingly encouraged, induced, assisted or abided another immigrant to enter or try to enter the U.S. in violation of the law (waivable); • Practiced or practicing polygamy;
- Someone whose present income is derived principally from illegal gambling activities or who has been convicted of two or more gambling offenses during the 3 years prior to filing a VAWA suspension or cancellation (not-waivable);
- Habitual drunkard (Not waivable)

Other discretionary factors that immigration judges and adjudicators consider as indications that a person is not of good moral character

- Willful failure or refusal to support dependents, unless extenuating circumstances are established;
- Adultery - Extramarital affair tending to destroy existing marriage, unless extenuating circumstances are established; or • Unlawful act that adversely reflect upon GMC, unless extenuating circumstances are established. Examples include:
 - False claims of citizenship conviction
 - Failure to file tax returns and pay taxes

See, USCIS Policy Manual Volume 12, Citizenship and Naturalization Part F, Good Moral Character Chapter 5, Conditional Bars for Acts in Statutory Period, USCIS, April 19, 2019

<https://www.aila.org/File/Related/19041930a.pdf>; see also VAWA Pro Bono Manual, NIJC, <https://immigrantjustice.org/for-attorneys/legal-resources/file/nijc-pro-bono-manual-representation-vawapetitions>; Eligibility for Relief, ILRC, https://www.ilrc.org/sites/default/files/resources/waivers_under_212h_dec_2019-final.pdf; Non-LPR Cancellation of Removal, ILRC, https://www.ilrc.org/sites/default/files/resources/non_lpr_cancel_remov-20180606.pdf;

Pro Bono Attorney Manual on Legal Immigration Protections for Immigrant Survivors of Domestic Violence, NIJC, Nov. 2013,

<https://www.immigrantjustice.org/sites/immigrantjustice.org/files/VAWA%20Pro%20Bono%20Manual%202013%2012%2003.pdf>.

¹⁶³ See USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>

(In determining whether for purposes of good moral character the disqualifying act or conviction was connected to the battering or extreme cruelty the adjudicator must consider the full history of the domestic violence in the case including the victim’s need to escape the abusive relationship, the perpetrators role in compelling or coercing the victim to commit the act or crime and the circumstances surrounding the act or conviction including the abusive relationship.).

¹⁶⁴ INA Section 240A(b)(2)(A)(iii).

¹⁶⁵ See INA Section 240A(b)(2)(A)(iii); see also INA Section 240A(b)(2)(C) (A conviction that does not bar the Attorney General from granting relief to a victim through VAWA cancellation of removal will not bar a good moral character finding in a VAWA cancellation of removal case. In determining whether for purposes of good moral character the disqualifying act or conviction was connected to the battering or extreme cruelty the adjudicator must consider the full history of the domestic violence in the case including the victim’s need to escape the abusive relationship, the perpetrators role in compelling or coercing the victim to commit the act or crime and the circumstances surrounding the act or conviction including the abusive relationship.). See USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05> (There are certain act or criminal convictions that make the victim inadmissible or deportable for which no waivers are available in a VAWA cancellation of removal case. For example victim with convictions for aggravated felonies as defined in INA Section 101(f) are not eligible for VAWA cancellation of removal.). See also INA Section 240A(b)(2)(A)(iv).). See the section of this chart that discusses waivers of inadmissibility and deportability available to VAWA cancellation of removal applicants and the section of this chart on bars to relief for more detail.

¹⁶⁶ I-881 Form Instructions, Instructions for Application for Suspension of Deportation or Special Rule Cancellation of Removal, DHS USCIS, pg. 3,

<http://niwaplibrary.wcl.american.edu/pubs/vawanacara-form-instructions-i-881>.

¹⁶⁷ VAWA Self-Petitioning Regulations, 13066 Fed. Reg. 61, 59 (March 26, 1996) <http://niwaplibrary.wcl.american.edu/pubs/vawa-rule>; 8 C.F.R. 204.2 (e)(2)(v); INA Section 204(a)(1)(A)(iii)(II)(bb); NA Section 204(a)(1)(A)(iv); INA Section 204(a)(1)(B)(vii)(II); INA Section 204(a)(1)(B)(ii)(II)(bb); NA Section 204(a)(1)(B)(iii); NA Section 204(a)(1)(C).

¹⁶⁸ See USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>

(In determining whether for purposes of good moral character the disqualifying act or conviction was connected to the battering or extreme cruelty the adjudicator must consider the full history of the domestic violence in the case including the victim’s need to escape the abusive relationship, the perpetrators role in compelling or coercing the victim to commit the act or crime and the circumstances surrounding the act or conviction including the abusive relationship.).

¹⁶⁹ See USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, pg. 2, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter->

- 170 See USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, pg. 3, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05> (This does not require a finding that the waiver would be granted to the victim, only whether under the statute a waiver request could be filed along with the victim's visa application or application for lawful permanent residency.).
- 171 See USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-1905>.
- 172 See VAWA 2013 Section 804; *see also* INA 212(a)(4)(E).
- 173 See VAWA 2005 Section 812; *see also* INA Section 240B(d)(2) (applies to both VAWA suspension of deportation and VAWA cancellation of removal) 174 See VAWA 2013 Section 804; *see also* INA 212(a)(4)(E).
- 175 See INA Section 101(a)(51) (VAWA NACARA victims are considered VAWA self-petitioners under. Many of the waivers and exceptions to good moral character and inadmissibility apply to all VAWA self-petitioners including VAWA NACARA applicants.).
- 176 See VAWA 2013 Section 804; *see also* INA 212(a)(4)(E).
- 177 INA 212(a)(9)(B)(iii)(IV); INA 212(a)(6)(A)(ii) (provides an exception to inadmissibility for a VAWA self-petitioner as defined by INA Section 101(a)(51) who can demonstrate a connection between the abused immigrant's unlawful entry and the battering or extreme cruelty.). USCIS, Adjustment of Status for VAWA Self-Petitioner Who is Present Without Inspection, Memo from Michael L. Aytes, April 11, 2008, <http://niwaplibrary.wcl.american.edu/pubs/adjust-status-present-without-inspection> (for DHS guidance); Fact Sheet: USCIS Issues Guidance for Approved Violence Against Women Act (VAWA) Self-Petitioners, USCIS, April 21, 2008, <http://niwaplibrary.wcl.american.edu/pubs/uscisguidancevawafactsheet>.
- 178 See VAWA 2013 Section 804; *see also* INA 212(a)(4)(E).
- 179 See I-601 Form Instructions, Instruction for Application for Waiver of Grounds of Inadmissibility, DHS USCIS, pg. 2, <http://niwaplibrary.wcl.american.edu/pubs/i-601instr-inadmissibility-waiversvawa-nacara-hrifa>. INA Section 212(a)(6)(A)(i) the unlawful presence may be for unlawful entry at a place other than a port of entry or for being present in the U.S. without being admitted or paroled; INA Section 212(a)(6)(A)(ii) (provides a VAWA self-petitioner waiver for each of these grounds that applies to all VAWA self-petitioners described in INA Section 101(a)(51)). INA Section 212(a)(9)(B)(ii) (the unlawful presence also includes visa overstays and immigrants who remain in the U.S. after violating the terms of their visas for more than 180 days which results in a 3 year bar to admissibility to the U.S. (INA Section 212(a)(9)(B)(i)(I) or more than a year which creates a 10 year bar to admissibility to the U.S. (INA Section 212(a)(9)(B)(i)(II) as well as immigrants who are unlawfully present as defined by INA Section 212(a)(6)(A)(i).). INA Section 212(a)(9)(B)(iii) (provides exceptions to the 3 and 10 year bars imposed by INA Section 212(a)(9)(B)(i) for: minors INA Section 212(a)(9)(B)(iii)(I) (the time a minor spends in the U.S. under the age of 18 does not count toward unlawful presence); Asylees INA Section 212(a)(9)(B)(iii)(II) (the time that an asylum applicant has a bona fide application for asylum pending does not count toward the bars unless the asylum applicant works without authorization); Family unity INA Section 212(a)(9)(B)(iii)(III) time as beneficiaries of family unity is not counted); Battered Immigrants INA Section 212(a)(9)(B)(iii)(IV) (exempted from unlawful presence where connected to the battering or extreme cruelty). USCIS, Adjustment of Status for VAWA Self-Petitioner Who is Present Without Inspection, Memo from Michael L. Aytes, April 11, 2008, <http://niwaplibrary.wcl.american.edu/pubs/adjust-statuspresent-without-inspection> (for DHS guidance); Fact Sheet: USCIS Issues Guidance for Approved Violence Against Women Act (VAWA) Self-Petitioners, USCIS, April 21, 2008, <http://niwaplibrary.wcl.american.edu/pubs/uscisguidancevawafactsheet>; INA Section 212(a)(9)(B)(iii)(V) (victims of severe forms of human trafficking, who demonstrate that the human trafficking was at least one central reason for the unlawful presence).
- 180 See INA Section 212(a)(6)(A) (waiver included in the exemption from the 3 and 10 year bars for battered immigrants.). See I-601 Form Instructions, Instruction for Application for Waiver of Grounds of Inadmissibility, DHS USCIS, pg. 2, <http://niwaplibrary.wcl.american.edu/pubs/i-601instr-inadmissibility-waivers-vawa-nacara-hrifa>; INA Section 212(a)(6)(A)(i) (The unlawful presence may be for unlawful entry at a place other than a port of entry or for being present in the U.S. without being admitted or paroled.). INA Section 212(a)(6)(A)(ii) (provides a VAWA self-petitioner waiver for each of these grounds that applies to all VAWA self-petitioners described in INA Section 101(a)(51).). INA Section 212(a)(9)(B)(ii) (the unlawful presence also includes visa overstays and immigrants who remain in the U.S. after violating the terms of their visas for more than 180 days which results in a 3 year bar to admissibility to the U.S. (INA Section 212(a)(9)(B)(i)(I) or more than a year which creates a 10 year bar to admissibility to the U.S. (INA Section 212(a)(9)(B)(i)(II) as well as immigrants who are unlawfully present as defined by INA Section 212(a)(6)(A)(i).). INA Section 212(a)(9)(B)(iii) provides exceptions to the 3 and 10 year bars imposed by INA Section 212(a)(9)(B)(i) for: Battered Immigrants INA Section 212(a)(9)(B)(iii)(IV) (exempted from unlawful presence where connected to the battering or extreme cruelty). USCIS, Adjustment of Status for VAWA Self-Petitioner Who is Present Without Inspection, Memo from Michael L. Aytes, April 11, 2008, <http://niwaplibrary.wcl.american.edu/pubs/adjust-status-present-without-inspection> (for DHS guidance); Fact Sheet: USCIS Issues Guidance for Approved Violence Against Women Act (VAWA) Self-Petitioners, USCIS, April 21, 2008, <http://niwaplibrary.wcl.american.edu/pubs/uscisguidancevawafactsheet>; INA Section 212(a)(9)(B)(iii)(V) (victims of severe forms of human trafficking, who demonstrate that the human trafficking was at least one central reason for the unlawful presence).
- 181 USCIS Policy Manual, Chapter 1 Purpose and Background, USCIS, FN 4, <https://www.uscis.gov/policy-manual/volume-9-part-b-chapter-1> (VAWA cancellation of removal applicants can apply for a waiver based on extreme hardship to themselves, or their US citizen or lawful permanent resident children or in the case of a child VAWA cancellation of removal applicant their US citizen or lawful permanent resident parent.).
- 182 INA section 212(d)(11) for INA 203(a) [listed relatives].
- 183 INA § 237(a)(2)(E)(i), 8 U.S.C. § 1227(a)(2)(E)(i).
- 184 INA Section 212(h)(1)(B).
- 185 USCIS Policy Manual, Chapter 1: Purpose and Background, USCIS, FN 4, <https://www.uscis.gov/policy-manual/volume-9-part-b-chapter-1> (VAWA cancellation of removal applicants can apply for a waiver based on extreme hardship to themselves, or their US citizen or lawful permanent resident children or in the case of a child VAWA cancellation of removal applicant their US citizen or lawful permanent resident parent.).
- 186 INA section 212(d)(11) for INA 203(a) [listed relatives] 187INA § 237(a)(2)(E)(i), 8 U.S.C. § 1227(a)(2)(E)(i).

- 188 INA Section 212(h)(1)(B).
- 189 See INA Section 101(a)(51)VAWA NACARA (victims are considered VAWA self-petitioners under. Many of the waivers and exceptions to good moral character and inadmissibility apply to all VAWA self-petitioners including VAWA NACARA applicants.).
- 190 See INA Section 101(f)(3); see also INA Section 212(a)(2)(A)(i)(I) (grounds of inadmissibility-convicted of, or has admitted to, committing acts of moral turpitude, other than (1) purely political crimes or (2) petty offenses or crimes committed both when the alien was under 18 years of age and more than five years before applying for a visa for admission); INA Section 212(h)(1)(C) (waiver available for battered spouse or child self-petitioner with DHS agreement to a favorable exercise of discretion). See USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>.
- 191 INA Section 101(f)(3); INA Section 212(a)(2)(B) (grounds of inadmissibility for someone who was convicted of 2 or more offenses (other than purely political offenses), regardless of whether they arose out of a single scheme or the conviction was in a single trial, for which the aggregate sentences to confinement were 5 years or more); INA Section 212(h)(1)(C)(waiver available for battered spouse or child self-petitioner with DHS agreement to a favorable exercise of discretion). See USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>.
- 192 INA Section 101(f)(3); INA Section 212(a)(2)(D) (ground of inadmissibility prostitution within the last 10 years before filing the VAAW self-petition); INA Section 212(h)(1)(C)(waiver available for battered spouse or child self-petitioner with DHS agreement to a favorable exercise of discretion). See USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>.
- 193 INA Section 212(a)(1)(E) (renders immigrants inadmissible who have committed serious criminal offenses in the U.S., who claimed immunity from prosecution and left the United States who have not submitted fully to the jurisdiction of a court in the United States. Serious criminal offenses is defined in Section 101(h) to include any felony, reckless driving or driving while intoxicated or under the influence if the crime involved injury to another person, and any crime of violence defined in 18 U.S.C. Section 16 as an offense that has as an element the use, attempted use or threatened use of physical force against a person or property of another, or any other offense that is a felony that by its nature involves a substantial risk of physical force against the person of a property of another may be used in the course of committing the offense.). See also INA Section 212(h)(1)(C) (Waiver authorized for VAWA self-petitioners.).
- 194 INA Section 101(f)(3); INA Section 212(a)(2)(A)(i)(II) (grounds of inadmissibility convicted or admitted to violating controlled substance laws); INA Section 212(h)(1)(C) (waiver available for battered spouse or child self-petitioner for a single offense of simple possession of 30 grams or less of marijuana with DHS agreement to a favorable exercise of discretion); see USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>.
- 195 INA 212(a)(9)(C); see INA Section 212(a)(9)(C)(iii) (Waiver available under for VAWA self-petitioners where there is a connection between the battering or extreme cruelty and the self-petitioner's removal, departure, reentry, reentries, or attempted reentry into the United States.).
- 196 See INA Section 212(g)(1)(C) (makes waivers available to VAWA self-petitioners of the health related grounds of inadmissibility related to communicable diseases in INA Section 212(a)(1)(A)(i)); see also INA Section 212(g)(2) (Also waivers are available for health related grounds for required vaccinations to immigrants who receive vaccination against preventable diseases.).
- 197 See USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05> (For more detail on false testimony and good moral character in self-petitioner cases.).
- 198 INA Section 101(f)(6); see INA Section 212(a)(6)(C)(i); INA Section 212(i) (Waivers available and good moral character may be found for VAWA self-petitioners who demonstrate extreme hardship to themselves or their citizen, lawful permanent resident or qualified immigrant parent or child. Qualified immigrant is defined to include the immigrants listed in 8 U.S.C. 1641. This allows DHS to find the self-petitioner h); INA Section 237(a)(1)(H)(ii) (waiver available for immigration related misrepresentation which will operate to waive removal and operates to waive deportation grounds of inadmissibility resulting from the fraud or misrepresentation). USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>.
- 199 VAWA Self-Petitioning Regulations, 13066 Fed. Reg. 61, 59 (March 26, 1996) <http://niwaplibrary.wcl.american.edu/pubs/vawa-rule>; 8 C.F.R. 204.2 (e)(2)(v); INA Section 204(a)(1)(A)(iii)(II)(bb); NA Section 204(a)(1)(A)(iv); INA Section 204(a)(1)(B)(vii)(II); INA Section 204(a)(1)(B)(ii)(II)(bb); NA Section 204(a)(1)(B)(iii); NA Section 204(a)(1)(C).
- 200 See I-601 Form Instructions, Instruction for Application for Waiver of Grounds of Inadmissibility, DHS USCIS, <http://niwaplibrary.wcl.american.edu/pubs/i-601instr-inadmissibility-waivers-vawanacara-hrifa>.
- 201 INA Section 101(f)(3); INA Section 212(a)(2)(A)(i)(I) (grounds of inadmissibility-convicted of, or has admitted to, committing acts of moral turpitude, other than (1) purely political crimes or (2) petty offenses or crimes committed both when the alien was under 18 years of age and more than five years before applying for a visa for admission) ; INA Section 212(h)(1)(C)(waiver available for battered spouse or child self-petitioner with DHS agreement to a favorable exercise of discretion.). USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>.
- 202 See INA Section 101(f)(3); INA Section 212(a)(2)(B) (grounds of inadmissibility for someone who was convicted of 2 or more offenses (other than purely political offenses), regardless of whether they arose out of a single scheme or the conviction was in a single trial, for which the aggregate sentences to confinement were 5 years or more); see also INA Section 212(h)(1)(C) (waiver available for battered spouse or child self-petitioner with DHS agreement to a favorable exercise of discretion). USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>.
- 203 See INA Section 101(f)(3); see also INA Section 212(a)(2)(D) (ground of inadmissibility prostitution within the last 10 years before filing the VAAW self-petition); INA Section 212(h)(1)(C)(waiver available for battered spouse or child self-petitioner with DHS agreement to a favorable exercise of discretion). USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>.
- 204 See INA Section 212(a)(1)(E) (renders immigrants inadmissible who have committed serious criminal offenses in the U.S. , who claimed immunity from prosecution and left the United States who have not submitted fully to the jurisdiction of a court in the United States. Serious criminal offenses is defined in Section 101(h) to include any felony, reckless driving or driving while intoxicated

or under the influence if the crime involved injury to another person, and any crime of violence defined in 18 U.S.C. Section 16 as an offense that has as an element the use, attempted use or threatened use of physical force against a person or property of another, or any other offense that is a felony that by its nature involves a substantial risk of physical force against the person of a property of another may be used in the course of committing the offense.). *See also* INA Section 212(h)(1)(C) (Waiver authorized for VAWA self-petitioners.).

205 *See* INA Section 101(f)(3); INA Section 212(a)(2)(A)(i)(II) (grounds of inadmissibility convicted or admitted to violating controlled substance laws); INA Section 212(h)(1)(C) (waiver available for battered spouse or child self-petitioner for a single offense of simple possession of 30 grams or less of marijuana with DHS agreement to a favorable exercise of discretion). USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>.

206 INA 212(a)(9)(C); *see* I-601 Form Instructions, Instruction for Application for Waiver of Grounds of Inadmissibility, DHS USCIS, pg. 2, <http://niwaplibrary.wcl.american.edu/pubs/i-601instrinadmissibility-waivers-vawa-nacara-hrifa>; INA Section 212(a)(9)(C)(iii) (Waiver available under for VAWA self-petitioners where there is a connection between the battering or extreme cruelty and the self-petitioner's removal, departure, reentry, reentries, or attempted reentry into the United States.).

207 *See* INA Section 212(g)(1)(C) (makes waivers available to VAWA self-petitioners of the health-related grounds of inadmissibility related to communicable diseases in INA Section 212(a)(1)(A)(i). Also waivers are available for health related grounds for required vaccinations to immigrants who receive vaccination against preventable diseases.). INA Section 212(g)(2).

208 For more detail on false testimony and good moral character in self-petitioner cases see USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>.

209 INA Section 101(f)(6); *see* INA Section 212(a)(6)(C)(i); INA Section 212(i); (Waivers available and good moral character may be found for VAWA self-petitioners who demonstrate extreme hardship to themselves or their citizen, lawful permanent resident or qualified immigrant parent or child. Qualified immigrant is defined to include the immigrants listed in 8 U.S.C. 1641.); *see also* INA Section 237(a)(1)(H)(ii) (waiver available for immigration related misrepresentation which will operate to waive removal and operates to waive deportation grounds of inadmissibility resulting from the fraud or misrepresentation). USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>.

210 INA Section 101(f)(3); INA Section 212(a)(6)(E) (ground of inadmissibility); INA Section 212(d)(11) (waiver available for immigrants seeking lawful permanent residency as a family member of a U.S. citizen (spouse, child, unmarried son or daughter, married son or daughter, brother or sister) or lawful permanent resident (spouse, child, unmarried son or daughter) under INA § 203(a) may qualify for a waiver only if the immigrant encouraged, induced, assisted, abetted, or aided only an individual who at the time of such action was the immigrant's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law. USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>.

211 INA Section 244(f)(1) (as in effect on March 31, 1997).

212 INA Section 244(f)(2) (as in effect on March 31, 1997). 213 INA Section 244(f)(3) (as in effect on March 31, 1997).

214 INA Section 244(a)(3) (as in effect on March 31, 1997) (citing 241(a)(1)(G) (as in effect on March 31, 1997)).

215 INA Section 241(a)(2) (as in effect on March 31, 1997).

216 INA Section 241(a)(4) (as in effect on March 31, 1997).

217 INA Section 241(a)(1)(G) (as in effect on March 31, 1997).

218 INA Section 241(a)(2) (as in effect on March 31, 1997).

219 INA Section 241(a)(3) (as in effect on March 31, 1997).

220 INA Section 241(a)(4) (as in effect on March 31, 1997).

221 INA Section 241(a)(2)(A)(iii) (as in effect on March 31, 1997).

222 INA section 212(a)(2)(C) (No waivers inadmissibility or deportability available).

223 INA Section 212(a)(2)(G) (No waivers inadmissibility or deportability available).

224 INA Section 212(a)(2)(H) (No waivers inadmissibility or deportability available Except when beneficiaries of trafficking were children at the time). INA Section 212(a)(2)(H)(iii).

225 INA Section 212(a)(2)(I) (No waivers inadmissibility or deportability available).

226 INA Section 212(a)(3) (No waivers of inadmissibility or deportability available, unless the following exceptions apply: INA Section 212(a)(3)(B)(ii), INA Section 212(a)(3)(C)(ii) or (iii), INA Section 212(a)(3)(D), (ii), (iii), or (iv)).

227 INA Section 212(a)(6)(D) (No waivers inadmissibility or deportability available).

228 INA Section 212(a)(10)(A) (No waivers inadmissibility or deportability available).

229 INA Section 212(a)(10)(B) (No waivers inadmissibility or deportability available).

230 INA Section 212(a)(10)(C) (No waivers of inadmissibility or deportability available, unless the following exceptions apply: INA Section 212(a)(10)(C)(iii)).

231 INA Section 212(a)(10)(D) (No waivers inadmissibility or deportability available).

232 INA Section 212(a)(10)(E) (No waivers inadmissibility or deportability available).

233 Leslye E. Orloff and Faiza Chappell, Violence Against Women Act (VAWA) Suspension Of Deportation As Created in 1994 With VAWA 2000, And 2005 Amendments, VAWA Suspension Of Deportation, NIWAP, April 2, 2020, <http://niwaplibrary.wcl.american.edu/pubs/vawa-suspension-of-deportation-interliniated-statute>.

234 INA Section 212(a)(2); INA Section 240A(b)(2)(A)(iv).

235 INA Section 212(a)(3); INA Section 240A(b)(2)(A)(iv).

236 INA Section 237(a)(1)(G); INA Section 240A(b)(2)(A)(iv).

237 INA Section 237(a)(2); INA Section 240A(b)(2)(A)(iv).
238 INA Section 237(a)(3); INA Section 240A(b)(2)(A)(iv).
239 INA Section 237(a)(4); INA Section 240A(b)(2)(A)(iv).
240 INA Section 240A(b)(2)(A)(iv).
241 INA section 212(a)(2)(C) (No waivers inadmissibility or deportability available).
242 INA Section 212(a)(2)(G) No waivers inadmissibility or deportability available).
243 INA Section 212(a)(2)(H) (No waivers inadmissibility or deportability available Except when beneficiaries of trafficking were children at the time). INA Section 212(a)(2)(H)(iii).
244 INA Section 212(a)(2)(I) (No waivers inadmissibility or deportability available).
245 INA Section 212(a)(3) (No waivers of inadmissibility or deportability available, unless the following exceptions apply: INA Section 212(a)(3)(B)(ii), INA Section 212(a)(3)(C)(ii) or (iii), INA Section 212(a)(3)(D), (ii), (iii), or (iv)).
246 INA Section 212(a)(6)(D) (No waivers inadmissibility or deportability available).
247 INA Section 212(a)(10)(A) (No waivers inadmissibility or deportability available).
248 INA Section 212(a)(10)(B) (No waivers inadmissibility or deportability available).
249 INA Section 212(a)(10)(C) (No waivers of inadmissibility or deportability available, unless the following exceptions apply: INA Section 212(a)(10)(C)(iii). 250 INA Section 212(a)(10)(D) (No waivers inadmissibility or deportability available).
251 INA Section 212(a)(10)(E) (No waivers inadmissibility or deportability available).
252 8 C.F.R. 240.61(b).
253 INA Section 241(b)(3)(B)(i).
254 INA section 212(a)(2)(C) (No waivers inadmissibility or deportability available).
255 INA Section 212(a)(2)(G) (No waivers inadmissibility or deportability available).
256 INA Section 212(a)(2)(H) (No waivers inadmissibility or deportability available except when beneficiaries of trafficking were children at the time). INA Section 212(a)(2)(H)(iii).
257 INA Section 212(a)(2)(I) (No waivers inadmissibility or deportability available).
258 INA Section 212(a)(3) (No waivers of inadmissibility or deportability available, unless the following exceptions apply: INA Section 212(a)(3)(B)(ii), INA Section 212(a)(3)(C)(ii) or (iii), INA Section 212(a)(3)(D), (ii), (iii), or (iv)).
259 INA Section 212(a)(6)(D) (No waivers inadmissibility or deportability available).
260 INA Section 212(a)(10)(A) (No waivers inadmissibility or deportability available).
261 INA Section 212(a)(10)(B) (No waivers inadmissibility or deportability available).
262 INA Section 212(a)(10)(C) (No waivers of inadmissibility or deportability available, unless the following exceptions apply: INA Section 212(a)(10)(C)(iii)). 263 INA Section 212(a)(10)(D) (No waivers inadmissibility or deportability available).
264 INA Section 212(a)(10)(E) (No waivers inadmissibility or deportability available).
265 If the victim has been convicted of an aggravated felony, as defined in INA § 101(a)(43), if the conviction was entered on or after November 29, 1990. Murder convictions are bars to good moral character findings regardless of the date of conviction. USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, Jan. 19, 2015, pg. 3, <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>.
266 INA Section 101(f)(1). No waivers inadmissibility or deportability available so this is a bar to a good moral character determination.
267 INA Section 101(f)(3); INA Section 212(a)(9)(A) (No waiver inadmissibility or deportability waiver available, so this is a bar to a good moral character determination).
268 INA Section 101(f)(3); INA section 212(a)(2)(C) (No waiver inadmissibility or deportability waiver available, so this is a bar to a good moral character determination).
269 INA Section 101(f)(4) (income primarily from illegal gambling); INA Section 101(f)(5) (convicted of two or more gambling offenses during the three-year period for which good moral character is assessed). No waivers inadmissibility or deportability available, so this is a bar to a good moral character determination.
270 INA Section 101(a)(7) (Such incarceration is a bar to a finding of good moral character).
271 INA Section 212(a)(2)(G) (No waivers inadmissibility or deportability available).
272 INA Section 212(a)(2)(H) (No waivers inadmissibility or deportability available. Except when beneficiaries of trafficking were children at the time). INA Section 212(a)(2)(H)(iii).
273 INA Section 212(a)(2)(I) (No waivers inadmissibility or deportability available).
274 INA Section 212(a)(3) (No waivers of inadmissibility or deportability available, unless the following exceptions apply: INA Section 212(a)(3)(B)(ii), INA Section 212(a)(3)(C)(ii) or (iii), INA Section 212(a)(3)(D), (ii), (iii), or (iv)).
275 INA Section 212(a)(6)(D) (No waivers inadmissibility or deportability available).
276 INA Section 212(a)(10)(A) (No waivers inadmissibility or deportability available).
277 INA Section 212(a)(10)(B) (No waivers inadmissibility or deportability available).
278 INA Section 212(a)(10)(C) (No waivers of inadmissibility or deportability available, unless the exceptions in INA Section 212(a)(10)(C)(iii) apply). 279 INA Section 212(a)(10)(D) (No waivers inadmissibility or deportability available).
280 INA Section 212(a)(10)(E) (No waivers inadmissibility or deportability available).
281 VAWA 2005 Section 813(b)(2) (Listing VAWA suspension of deportation).

282 VAWA 2005 Section 813(b)(2) (Listing VAWA cancellation of removal).

283 INA Section 241(a)(5); LIFE Act Amendments of 2000, § 1505(c); 8 C.F.R. § 241.8(d).

284 VAWA 2005 Section 813(b)(2). The language “cases under the Violence Against Women Act of 1994” should cover all VAWA self-petitioners including VAWA NACARA, however since VAWA NACARA was created in 1996 it may take advocacy to ensure that all VAWA self-petitioners defined in INA Section 101(a)(51) are treated in the same way in terms of the getting DHS to exercise its discretion to not reinstate removal in cases of all VAWA self-petitioners including VAWA NACARA applicants.

285 VAWA 2005 Section 813(b)(2) (“Cases under the Violence Against Women Act of 1994” are VAWA self-petitioners”).

286 Section 1506(c)(2) of the Violence Against Women Act of 2000 as amended by Section 825(b) of VAWA 2005. There is no INA citation for these statutory amendments because VAWA 2000 and VAWA 2005 amended VAWA suspension of deportation laws as they were as INA Section 244(a)(3) as in effect on March 31, 1997. On April 1, 1997 Section 244 of the INA became Temporary Protected Status and the prior INA section 224 was repealed. However, despite the repeal of the statute INA Section 244(a)(3) as in effect on March 31, 1997, VAWA suspension of deportation as a form of immigration relief is still an available remedy for battered immigrants who had been placed in deportation or exclusion proceedings before April 1, 1997. According to VAWA 2000 Section 1506(c)(2)(A)(1)(II) the motions to reopen allowed by this section are in addition to the motions to reopen available under INA Section 240(c)(7)(C)(iv). Leslye E. Orloff and Faiza Chappell,
Violence Against Women Act (VAWA) Suspension Of Deportation As Created in 1994 With VAWA 2000, And 2005 Amendments, VAWA Suspension Of Deportation, NIWAP, April 2, 2020, <http://niwaplibrary.wcl.american.edu/pubs/vawa-suspension-of-deportation-interliniated-statute>.

287 VAWA 2000 Section 1506(c)(2)(A)(i)(bb).

288 USDOJ, MEMORANDUM: Operating Policy and Procedure Memorandum 97-9: Motions for Prima Facie Determination and Verification Requests for Battered Spouses and Children, <http://niwaplibrary.wcl.american.edu/pubs/prima-facie-verification-requests>.

289 VAWA 2000 Section 1506(c)(2)(A)(ii) (The prima facie determination in a VAWA cancellation of removal case makes the victim a qualified immigrant for both stay of removal and public benefits purposes. Qualified immigrant is defined in 8 U.S.C. 1641).

290 INA Section 240(c)(7)(A); INA Section 240(c)(7)(C)(iv).

291 INA Section 240(c)(7)(C)(iv)(II).

292 USDOJ, MEMORANDUM: Operating Policy and Procedure Memorandum 97-9: Motions for Prima Facie Determination and Verification Requests for Battered Spouses and Children, <http://niwaplibrary.wcl.american.edu/pubs/prima-facie-verification-requests>.

293 INA Section 240(c)(7)(C)(iv) (The prima facie determination in a VAWA cancellation of removal case makes the victim a qualified immigrant for both stay of removal and public benefits purposes. Qualified immigrant is defined in 8 U.S.C. 1641).

294 8 U.S.C. § 1255 note; Nicaraguan Adjustment and Central American Relief Act, Pub. L. No. 105-100 § 202(d)(3), 111 Stat. 2195 (1997) (codified at 8 U.S.C. § 1101). Section 309(g)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627).

295 8 U.S.C. § 1255 note; Nicaraguan Adjustment and Central American Relief Act, Pub. L. No. 105-100 § 202(d)(3), 111 Stat. 2195 (1997) (codified at 8 U.S.C. § 1101). Section 309(g)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627) See the column on this chart that describes the handing of motions to reopen deportation, exclusion, and removal proceedings in cases of VAWA self-petitioners.)

296 Section 1506(c)(2) of the Violence Against Women Act of 2000 as amended by Section 825(b) of VAWA 2005. There is no INA citation for these statutory amendments because VAWA 2000 and VAWA 2005 amended VAWA suspension of deportation laws as they were as INA Section 244(a)(3) as in effect on March 31, 1997. On April 1, 1997 Section 244 of the INA became Temporary Protected Status and the prior INA section 224 was repealed. However, despite the repeal of the statute INA Section 244(a)(3) as in effect on March 31, 1997, VAWA suspension of deportation as a form of immigration relief is still an available remedy for battered immigrants who had been placed in deportation or exclusion proceedings before April 1, 1997. According to VAWA 2000 Section 1506(c)(2)(A)(1)(II) the motions to reopen allowed by this section are in addition to the motions to reopen available under INA Section 240(c)(7)(C)(iv). Leslye E. Orloff and Faiza Chappell,
Violence Against Women Act (VAWA) Suspension Of Deportation As Created in 1994 With VAWA 2000, And 2005 Amendments, VAWA Suspension Of Deportation, NIWAP, April 2, 2020, <http://niwaplibrary.wcl.american.edu/pubs/vawa-suspension-of-deportation-interliniated-statute>.

297 Section 1506(c)(2) of the Violence Against Women Act of 2000 as amended by Section 825(b) of VAWA 2005. There is no INA citation for these statutory amendments because VAWA 2000 and VAWA 2005 amended VAWA suspension of deportation laws as they were as INA Section 244(a)(3) as in effect on March 31, 1997. On April 1, 1997 Section 244 of the INA became Temporary Protected Status and the prior INA section 224 was repealed. However, despite the repeal of the statute INA Section 244(a)(3) as in effect on March 31, 1997, VAWA suspension of deportation as a form of immigration relief is still an available remedy for battered immigrants who had been placed in deportation or exclusion proceedings before April 1, 1997. According to VAWA 2000 Section 1506(c)(2)(A)(1)(II) the motions to reopen allowed by this section are in addition to the motions to reopen available under INA Section 240(c)(7)(C)(iv). Leslye E. Orloff and Faiza Chappell,
Violence Against Women Act (VAWA) Suspension Of Deportation As Created in 1994 With VAWA 2000, And 2005 Amendments, VAWA Suspension Of Deportation, NIWAP, April 2, 2020, <http://niwaplibrary.wcl.american.edu/pubs/vawa-suspension-of-deportation-interliniated-statute>.

298 INA Section 240(c)(7)(A); INA Section 240(c)(7)(C)(iv).

299 INA Section 240(c)(7)(A); INA Section 240(c)(7)(C)(iv).

300 INA Section 240(c)(7)(C)(iv)(II); VAWA 2000 Section 1506(c)(2)(A)(i)(bb).

301 INA Section 240(c)(7)(C)(iv) (The prima facie determination in a VAWA cancellation of removal case makes the victim a qualified immigrant for both stay of removal and public benefits purposes. Qualified immigrant is defined in 8 U.S.C. 1641). USDOJ, MEMORANDUM: Operating Policy and Procedure Memorandum 97-9: Motions for Prima Facie Determination and Verification Requests for Battered Spouses and Children, <http://niwaplibrary.wcl.american.edu/pubs/prima-facie-verification-requests>.

302 INA Section 244(g); See VAWA 1994 §40703(b), 8 U.S.C. § 1254 (adding the “any credible evidence” standard to the Attorney General’s requirements in considering petitions to suspend deportation). See USDOJ INS, MEMORANDUM: “Extreme Hardship” and Documentary Requirements Involving Battered Spouses and Children, Oct. 16, 1998, <http://niwaplibrary.wcl.american.edu/pubs/virtue-memo-on-any-credible-evidence-memo>; see also Leslye Orloff, *Mandatory U-Visa Certification Unnecessarily Undermines the Purpose of the Violence Against Women Act’s Immigration Protections and it’s “Any Credible Evidence Rules” – A Call for Consistency*, GEO. J. GENDER & L., (2010) <http://niwaplibrary.wcl.american.edu/pubs/call-for-consistency-mandatory-undermines-vaaw> (article contains the full legislative and regulatory history of VAWA’s any credible evidence rules). 303

INA § 240A(b)(2) (In acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General).

303 VAWA cancellation of removal was created by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub.L.No. 104-208,110 Stat.3009 (1996) (codified as amended at scattered sections of 8 U.S.C.). See USDOJ INS, MEMORANDUM: “Extreme Hardship” and Documentary Requirements Involving Battered Spouses and Children, Oct. 16, 1998, <http://niwaplibrary.wcl.american.edu/pubs/virtue-memo-on-any-credible-evidence-memo>; see also Leslye Orloff, *Mandatory U-Visa Certification Unnecessarily Undermines the Purpose of the Violence Against Women Act’s Immigration Protections and it’s “Any Credible Evidence Rules” – A Call for Consistency*, GEO. J. GENDER & L., (2010) <http://niwaplibrary.wcl.american.edu/pubs/call-for-consistency-mandatory-undermines-vaaw> (article contains the full legislative and regulatory history of VAWA’s any credible evidence rules).

304 8 U.S.C. § 1255 note; Nicaraguan Adjustment and Central American Relief Act, Pub. L. No. 105-100 § 202(d)(3), 111 Stat. 2195 (1997) (codified at 8 U.S.C. § 1101). Section 309(c)(5)(C)(iii) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Public Law 104-208; division C; 110 Stat. 3009-627); *Nicaragua Adjustment and Central American Relief Act with Violence Against Women Act 2000 and 2005 Amendment*, LEGAL MOMENTUM, <http://niwaplibrary.wcl.american.edu/pubs/nicaraguan-central-american-adjustment>. See USDOJ INS, MEMORANDUM: “Extreme Hardship” and Documentary Requirements Involving Battered Spouses and Children, Oct. 16, 1998, <http://niwaplibrary.wcl.american.edu/pubs/virtue-memo-on-anycredible-evidence-memo>; see also Leslye Orloff, *Mandatory U-Visa Certification Unnecessarily Undermines the Purpose of the Violence Against Women Act’s Immigration Protections and it’s “Any Credible Evidence Rules” – A Call for Consistency*, GEO. J. GENDER & L., (2010) <http://niwaplibrary.wcl.american.edu/pubs/call-for-consistency-mandatory-undermines-vaaw> (article contains the full legislative and regulatory history of VAWA’s any credible evidence rules).

305 INA § 202(a)(1)(J), 8 U.S.C. § 1154; See USDOJ INS, MEMORANDUM: “Extreme Hardship” and Documentary Requirements Involving Battered Spouses and Children, Oct. 16, 1998, <http://niwaplibrary.wcl.american.edu/pubs/virtue-memo-on-any-credible-evidence-memo>; see also Leslye Orloff, *Mandatory U-Visa Certification Unnecessarily Undermines the Purpose of the Violence Against Women Act’s Immigration Protections and it’s “Any Credible Evidence Rules” – A Call for Consistency*, GEO. J. GENDER & L., (2010) <http://niwaplibrary.wcl.american.edu/pubs/call-for-consistency-mandatory-undermines-vaaw> (article contains the full legislative and regulatory history of VAWA’s any credible evidence rules). 306

INA §240A(e)(3), 8 U.S.C. 1229b(e)(3).

307 INA §240A(e)(3), 8 U.S.C. 1229b(e)(3).

308 See 8 CFR 274a.12(c)(10). 309 See 8 CFR 274a.12(c)(10).

310 See 8 CFR 274a.12(c)(10); see also I-881 Form Instructions, Instructions for Application for Suspension of Deportation or Special Rule Cancellation of Removal, DHS USCIS, pg. 10, <http://niwaplibrary.wcl.american.edu/pubs/vawa-nacara-form-instructions-i-881>.

311 VAWA Manual, Chapter 1, §1 (March 2017), https://www.ilrc.org/sites/default/files/sample-pdf/vawa-7th-2017-ch_01.pdf (Once the lawful permanent residency application is pending the applicant receives work authorization 8 CFR 274a.12(c)(9)).

312 8 CFR 274a.12(c)(11).

313 Only citizens are fully protected from deportation. Non-citizens including those with visas and lawful permanent residency can be deported if they are convicted of committing crimes. Additionally, some immigrants who have received deferred action (agreement by DHS that their removal is a low priority) may still become subject to enforcement actions. Thus, the protections against deportation listed here may not provide full protection for immigrant victims.

314 Implementation of Section 1367 Information Provisions, DHS, pg. 4, <http://niwaplibrary.wcl.american.edu/pubs/implementation-of-section-1367-all-dhs-instruction-002-02-001>; DHS Broadcast Message on New 384 Class of Admission Code, DHS, <http://niwaplibrary.wcl.american.edu/pubs/dhs-broadcast-class-admission-code>. 315 Alina Husain and Leslye Orloff, *VAWA Confidentiality: Statutes, Legislative History, and Implementing Policy*, NIWAP, Feb. 22, 2017, <http://niwaplibrary.wcl.american.edu/pubs/vawa-confidentiality-statutes-leg-history>; Zachary B. Perez, Alina Husain, and Leslye E. Orloff, Quick Reference: VAWA Confidentiality Protections: Quoting Statutes, Regulations and Department of Homeland Security Policies, NIWAP, Mar. 29, 2019, http://niwaplibrary.wcl.american.edu/pubs/federal-law-quotes-vawa-confidentiality-protections_3-29-19; Confidentiality Under Violence Against Women Act (VAWA), NIWAP, <http://niwaplibrary.wcl.american.edu/pubs/conf-vawa-bro-3prongsofconfidentiality>.

316 INA Section 244 (as in effect on March 31, 1997).

317 Implementation of Section 1367 Information Provisions, DHS, pg. 4, <http://niwaplibrary.wcl.american.edu/pubs/implementation-of-section-1367-all-dhs-instruction-002-02-001>; DHS Broadcast Message on New 384 Class of Admission Code, DHS, <http://niwaplibrary.wcl.american.edu/pubs/dhs-broadcast-class-admission-code>.

318 Alina Husain and Leslye Orloff, *VAWA Confidentiality: Statutes, Legislative History, and Implementing Policy*, NIWAP, Feb. 22, 2017, <http://niwaplibrary.wcl.american.edu/pubs/vawa-confidentiality-statutes-leg-history>; Zachary B. Perez, Alina Husain, and Leslye E. Orloff, Quick Reference: VAWA Confidentiality Protections: Quoting Statutes, Regulations and Department of Homeland Security Policies, NIWAP, Mar. 29, 2019, http://niwaplibrary.wcl.american.edu/pubs/federal-law-quotes-vawa-confidentiality-protections_3-29-19; Confidentiality Under Violence Against Women Act (VAWA), NIWAP, <http://niwaplibrary.wcl.american.edu/pubs/conf-vawa-bro-3prongsofconfidentiality>.

319 INA Section 240A(b)(2) and (3).

320 Implementation of Section 1367 Information Provisions, DHS, pg. 4, <http://niwaplibrary.wcl.american.edu/pubs/implementation-of-section-1367-all-dhs-instruction-002-02-001>; DHS Broadcast Message on New 384 Class of Admission Code, DHS, <http://niwaplibrary.wcl.american.edu/pubs/dhs-broadcast-class-admission-code>.³²¹ Alina Husain and Leslye Orloff, *VAWA Confidentiality: Statutes, Legislative History, and Implementing Policy*, NIWAP, Feb. 22, 2017, <http://niwaplibrary.wcl.american.edu/pubs/vawa-confidentiality-statutes-leg-history>; Zachary B. Perez, Alina Husain, and Leslye E. Orloff, Quick Reference: VAWA Confidentiality Protections: Quoting Statutes, Regulations and Department of Homeland Security Policies, NIWAP, Mar. 29, 2019, http://niwaplibrary.wcl.american.edu/pubs/federal-law-quotes-vawa-confidentiality-protections_3-29-19; Confidentiality Under Violence Against Women Act (VAWA), NIWAP, <http://niwaplibrary.wcl.american.edu/pubs/conf-vawa-bro-3prongsofconfidentiality>.

322 Section 309(f) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)(Public Law 104-208; division C; 110 Stat. 3009-627)

323 Implementation of Section 1367 Information Provisions, DHS, pg. 4, <http://niwaplibrary.wcl.american.edu/pubs/implementation-of-section-1367-all-dhs-instruction-002-02-001>; DHS Broadcast Message on New 384 Class of Admission Code, DHS, <http://niwaplibrary.wcl.american.edu/pubs/dhs-broadcast-class-admission-code>.³²⁴ Alina Husain and Leslye Orloff, *VAWA Confidentiality: Statutes, Legislative History, and Implementing Policy*, NIWAP, Feb. 22, 2017, <http://niwaplibrary.wcl.american.edu/pubs/vawa-confidentiality-statutes-leg-history>; Zachary B. Perez, Alina Husain, and Leslye E. Orloff, Quick Reference: VAWA Confidentiality Protections: Quoting Statutes, Regulations and Department of Homeland Security Policies, NIWAP, Mar. 29, 2019, http://niwaplibrary.wcl.american.edu/pubs/federal-law-quotes-vawa-confidentiality-protections_3-29-19; Confidentiality Under Violence Against Women Act (VAWA), NIWAP, <http://niwaplibrary.wcl.american.edu/pubs/conf-vawa-bro-3prongsofconfidentiality>.

325 Deferred Action Basics, NATIONAL IMMIGRATION FORUM, April 15, 2016, <https://immigrationforum.org/article/deferred-action-basics/>.

326 VAWA Application for Suspension of Deportation, EOIR-40 Form, USDOJ Executive Office for Immigration Review, pg. 1,3, <http://niwaplibrary.wcl.american.edu/pubs/eoir-40-form>.

327 The Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents, U.S. DEP'T OF JUST., <http://niwaplibrary.wcl.american.edu/pubs/eoir-42b>.

328 See also I-881 Form Instructions, Instructions for Application for Suspension of Deportation or Special Rule Cancellation of Removal, DHS USCIS, pg. 3, <http://niwaplibrary.wcl.american.edu/pubs/vawa-nacara-form-instructions-i-881>.

329 I-360 Form Instructions, Instructions for Petition for Amerasian, Widow(er), DHS USCIS, <http://niwaplibrary.wcl.american.edu/pubs/i-360>.

330 USDOJ, MEMORANDUM: Operating Policy and Procedure Memorandum 97-9: Motions for Prima Facie Determination and Verification Requests for Battered Spouses and Children, <http://niwaplibrary.wcl.american.edu/pubs/prima-facie-verification-requests>.

331 Catherine Longville and Leslye E. Orloff, *Programs Open to Immigrant Victims and All Immigrants Without Regard to Immigration Status*, NIWAP, May 22, 2014, <http://niwaplibrary.wcl.american.edu/pubs/programs-open-to-all-immigrants>; Government Policies: Emergency Shelter Transitional Housing for Immigrant Victims, NIWAP, Feb. 22, 2017, <http://niwaplibrary.wcl.american.edu/pubs/gov-docs-sheltertransitionalhousing>.

332 USDOJ, MEMORANDUM: Operating Policy and Procedure Memorandum 97-9: Motions for Prima Facie Determination and Verification Requests for Battered Spouses and Children, <http://niwaplibrary.wcl.american.edu/pubs/prima-facie-verification-requests>.

333 Catherine Longville and Leslye E. Orloff, *Programs Open to Immigrant Victims and All Immigrants Without Regard to Immigration Status*, NIWAP, May 22, 2014, <http://niwaplibrary.wcl.american.edu/pubs/programs-open-to-all-immigrants>; Government Policies: Emergency Shelter Transitional Housing for Immigrant Victims, NIWAP, Feb. 22, 2017, <http://niwaplibrary.wcl.american.edu/pubs/gov-docs-sheltertransitionalhousing>.

334 Although VAWA self-petitioners will receive access to some state and federal public benefits earlier in the process than VAWA NACARA recipients who are lawful permanent residents the benefits laws that apply to VAWA NACARA recipients in most states will be similar to what self-petitioners receive. If you are seeking assistance determining what your immigrant victim client is eligible for with regard to benefits and services in your state contact NIWAP for technical assistance at (202) 274-4457 or info@niwap.org.

335 Cecilia Olavarria, Amanda Baran, Leslye Orloff, and Grace Huang, Public Benefits Access for Battered Immigrant Women and Children, NIWAP, <http://niwaplibrary.wcl.american.edu/pubs/ch42-public-bens-access-battered-immigrants>.

336 Catherine Longville and Leslye E. Orloff, *Programs Open to Immigrant Victims and All Immigrants Without Regard to Immigration Status*, NIWAP, May 22, 2014, <http://niwaplibrary.wcl.american.edu/pubs/programs-open-to-all-immigrants>; Government Policies: Emergency Shelter Transitional Housing for Immigrant Victims, NIWAP, Feb. 22, 2017, <http://niwaplibrary.wcl.american.edu/pubs/gov-docs-sheltertransitionalhousing>; Cecilia Olavarria, Amanda Baran, Leslye Orloff, and Grace Huang, Access To Programs And Services That Can Help Battered Immigrants, NIWAP, <http://niwaplibrary.wcl.american.edu/pubs/ch4-1-access-to-services-helpbatteredimm>.

ⁱ Self-Petitioning Battered or Abused Spouses and Children, 61 Fed. Reg. 13061, 13066-7 (Mar. 26, 1996); 8 C.F.R. 204.2 (e)(2)(v); INA Section 204(a)(1)(A)(iii)(II)(bb); NA Section 204(a)(1)(A)(iv); INA Section 204(a)(1)(B)(vii)(II); INA Section 204(a)(1)(B)(ii)(II)(bb); NA Section 204(a)(1)(B)(iii); NA Section 204(a)(1)(C).

ⁱⁱ USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, 3-4 (Jan. 19, 2015), <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05> (In determining whether for purposes of good moral character the disqualifying act or conviction was connected to the battering or extreme cruelty the adjudicator must consider the full history of the domestic violence in the case including the victim's need to escape the abusive relationship, the perpetrators role in compelling or coercing the victim to commit the act or crime and the circumstances surrounding the act or conviction including the abusive relationship.)

ⁱⁱⁱ USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, 2 (Jan. 19, 2015), <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>.

^{iv} This does not require a finding that the waiver would be granted to the victim, only whether under the statute a waiver request could be filed along with the victim's visa application or application for lawful permanent residency. http://niwaplibrary.wcl.american.edu/pubs/uscis-good-moral-character-memo-1-19-05_page_3

^v USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, 3-4 (Jan. 19, 2015), <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>

^{vi} INA § 212(a)(4)(E); Public Charge: Inadmissibility on Public Charge Grounds, 84 Fed. Reg. 157 (Aug. 14, 2019) (to be codified at 8 C.F.R. pt. 103, 212, 213, 214, 245, and 248) (“this rule does not create any penalty or disincentive for past, current, or future receipt of public benefits by U.S. citizens or aliens whom Congress has exempted from the public charge ground of inadmissibility. This rule does not apply to U.S. citizens, even if the U.S. citizen is related to an alien subject to the public charge ground of inadmissibility. The rule also does not apply to aliens whom Congress exempted from the public charge ground of inadmissibility (such as asylees, refugees, or other vulnerable populations listed as exempt in this final rule). Nor does this rule apply to aliens for whom DHS has statutory discretion to waive this ground of inadmissibility, if DHS has exercised such discretion”).

^{vii} See I-601 Form Instructions, Instruction for Application for Waiver of Grounds of Inadmissibility, DHS USCIS 2, <https://www.uscis.gov/i-601>. Under INA Section 212(a)(6)(A)(i), the unlawful presence may be for unlawful entry at a place other than a port of entry or for being present in the U.S. without being admitted or paroled. INA Section 212(a)(6)(A)(ii) provides a VAWA self-petitioner waiver for each of these grounds that applies to all VAWA self-petitioners described in INA Section 101(a)(51). Under INA Section 212(a)(9)(B)(ii) the unlawful presence also includes visa overstays and immigrants who remain in the U.S. after violating the terms of their visas for more than 180 days which results in a 3 year bar to admissibility to the U.S. (INA Section 212(a)(9)(B)(i)(I) or more than a year which creates a 10 year bar to admissibility to the U.S. (INA Section 212(a)(9)(B)(i)(II)) as well as immigrants who are unlawfully present as defined by INA Section 212(a)(6)(A)(i). INA Section 212(a)(9)(B)(iii) provides exceptions to the 3 and 10 year bars imposed by INA Section 212(a)(9)(B)(i) for: minors INA Section 212(a)(9)(B)(iii)(I)(the time a minor spends in the U.S. under the age of 18 does not count toward unlawful presence); Asylees INA Section 212(a)(9)(B)(iii)(II)(the time that an asylum applicant has a bona fide application for asylum pending does not count toward the bars unless the asylum applicant works without authorization; Family unity INA Section 212(a)(9)(B)(iii)(III) time as beneficiaries of family unity is not counted). See Battered Immigrants INA Section 212(a)(9)(B)(iii)(IV) (discussing exemption from unlawful presence where connected to the battering or extreme cruelty). See USCIS, Adjustment of Status for VAWA Self-Petitioner Who is Present Without Inspection, Memo from Michael L. Aytes, April 11, 2008, <http://niwaplibrary.wcl.american.edu/pubs/adjust-status-present-without-inspection> (for DHS guidance on the matter); Fact Sheet: USCIS Issues Guidance for Approved Violence Against Women Act (VAWA) Self-Petitioners, USCIS, April 21, 2008, <http://niwaplibrary.wcl.american.edu/pubs/uscisguidancevawafactsheet>; Victims of severe forms of human trafficking, INA Section 212(a)(9)(B)(iii)(V) (who demonstrate that the human trafficking was at least one central reason for the unlawful presence).

^{viii} INA Section 212(a)(6)(A) waiver included in the exemption from the 3 and 10 year bars for battered immigrants. ^{viii} See I-601 Form Instructions, Instruction for Application for Waiver of Grounds of Inadmissibility, DHS USCIS 2, <https://www.uscis.gov/i-601>; Under INA Section 212(a)(6)(A)(i) The unlawful presence may be for unlawful entry at a place other than a port of entry or for being present in the U.S. without being admitted or paroled. INA Section 212(a)(6)(A)(ii) provides a VAWA self-petitioner waiver for each of these grounds that applies to all VAWA self-petitioners described in INA Section 101(a)(51). Under INA Section 212(a)(9)(B)(ii) the unlawful presence also includes visa overstays and immigrants who remain in the U.S. after violating the terms of their visas for more than 180 days which results in a 3 year bar to admissibility to the U.S. (INA Section 212(a)(9)(B)(i)(I) or more than a year which creates a 10 year bar to admissibility to the U.S. (INA Section 212(a)(9)(B)(i)(II)) as well as immigrants who are unlawfully present as defined by INA Section 212(a)(6)(A)(i). INA Section 212(a)(9)(B)(iii) provides exceptions to the 3 and 10 year bars imposed by INA Section 212(a)(9)(B)(i) for: Battered Immigrants INA Section 212(a)(9)(B)(iii)(IV) exempted from unlawful presence where connected to the battering or extreme cruelty; See USCIS, Adjustment of Status for VAWA Self-Petitioner Who is Present Without Inspection, Memo from Michael L. Aytes, April 11, 2008, <http://niwaplibrary.wcl.american.edu/pubs/adjust-status-present-without-inspection>; Fact Sheet: USCIS Issues Guidance for Approved Violence Against Women Act (VAWA) Self-Petitioners, USCIS, April 21, 2008, <http://niwaplibrary.wcl.american.edu/pubs/uscisguidancevawafactsheet>.

^{ix} Self-Petitioning Battered or Abused Spouses and Children, 61 Fed. Reg. 13061, 13066-7 (Mar. 26, 1996); 8 C.F.R. 204.2 (e)(2)(v); INA Section 204(a)(1)(A)(iii)(II)(bb); NA Section 204(a)(1)(A)(iv); INA Section 204(a)(1)(B)(vii)(II); INA Section 204(a)(1)(B)(ii)(II)(bb); NA Section 204(a)(1)(B)(iii); NA Section 204(a)(1)(C)

^x Since VAWA self-petitioners are seeking legal immigration status as abused spouses, children or parents of U.S. citizens or abused spouses or children of lawful permanent residents there are certain grounds of inadmissibility for which self-petitioners would not need a waiver because the grounds of inadmissibility would not apply in VAWA self-petition cases. These are:

- INA § 212(a)(5)(A) (Labor certification violations. This inadmissibility ground applies only to members of professions holding advanced degrees, immigrants of exceptional ability, skilled workers, professionals, or unskilled or temporary workers performing work for which qualified workers are not available in the U.S.);
- INA § 212(a)(5)(B) (Unqualified physicians. This inadmissibility ground applies only to members of professions holding advanced degrees, immigrants of exceptional ability, skilled workers, professionals, or unskilled or temporary workers performing work for which qualified workers are not available in the U.S.);
- INA § 212(a)(5)(C) (Uncertified foreign health-care workers. This inadmissibility ground only applies to immigrants who enter the U.S. for the purpose of performing labor as a health-care worker of physician. VAWA self-petitioners are seeking lawful permanent residency based on their spousal or parent child relationship to a U.S. citizen or lawful permanent resident who subjected them to battering or extreme cruelty);
- INA § 212(a)(6)(G) (Student (F) visa holders who violated the terms of their (F) student visa by receiving public elementary school education or receiving public secondary education for more than an aggregate period of time of one year and failed to repay the secondary school for the full unsubsidized cost of their education.)

^{xi} See I-601 Form Instructions, Instruction for Application for Waiver of Grounds of Inadmissibility, DHS USCIS 2, <https://www.uscis.gov/i-601>.

^{xii} See INA § 212(a)(9)(C). In the case that a victim leaves the U.S., or was removed and had an *in absentia* order, there is no specific waiver for VAWA self-petitioners. Additionally, upon reentry the victim would be subject to reinstatement under the removal order and trigger the permanent bar in INA § 212(a)(9)(C). See also INA § 212(a)(9)(C)(iii) (For VAWA self-petitioners, the permanent bar may demonstrate that they qualify for the exception to the permanent bar by filing a VAWA-specific waiver on Form I-601), it is important to note that when such a waiver is granted, the victim would still be subject to the reinstatement of a removal order. However, filing the Form I-601 waiver application coupled with a Form I-212 Application for Permission to Reapply for Permission to Reenter the United States after Removal or Deportation may allow VAWA self-petitioners to overcome the reinstatement of an old removal order. The I-601 waiver will pardon the permanent bar, while a nunc pro tunc I-212 application for advance permission to reapply for admission may “cure” the unlawful reentry, thus removing one of the requirements for reinstatement. In requesting permission to reenter on Form I-212, it can be useful to note in the application that Congress in Section 813(b) Violence Against Women and Department of Justice Reauthorization Act of 2005 (title IX of Public Law 109–162; 119 Stat. 3080)(Violence Against Women Act of 2005) included the following “Sense of Congress” encouraging the Department of Homeland Security to grant this permission to reenter after removal or deportation for VAWA self-petitioners, VAWA cancellation of removal and suspension of deportation applicants, and for U and T visa applicants. The text of Section 813(b) of the Violence Against Women Act of 2005 states:

(b) DISCRETION TO CONSENT TO AN ALIEN’S REAPPLICATION FOR ADMISSION.—

(1) IN GENERAL.—The Secretary of Homeland Security, the Attorney General, and the Secretary of State shall continue to have discretion to consent to an alien’s reapplication for admission after a previous order of removal, deportation, or exclusion.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the officials described in paragraph (1) should particularly consider exercising this authority in cases under the Violence Against Women Act of 1994, cases involving nonimmigrants described in subparagraph (T) or (U) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), and relief under section 240A(b)(2) or 244(a)(3) of such Act (as in effect on March 31, 1997) pursuant to regulations under section 212.2 of title 8, Code of Federal Regulations.

The regulations regarding applying for and the process for adjudicating requests for consent to reapply after deportation or removal are described in detail in 8 C.F.R. 212.2.

^{xiii} INA Section 101(f)(3); INA Section 212(a)(2)(A)(i)(I) (grounds of inadmissibility—convicted of, or has admitted to, committing acts of moral turpitude, other than (1) purely political crimes or (2) petty offenses or crimes committed both when the alien was under 18 years of age and more than five years before applying for a visa for admission) ; INA Section 212(h)(1)(C)(waiver available for battered spouse or child self-petitioner with DHS agreement to a favorable exercise of discretion); See USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak (Jan. 19, 2015), <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>.

^{xiv} INA Section 101(f)(3); INA Section 212(a)(2)(B) (grounds of inadmissibility for someone who was convicted of 2 or more offenses (other than purely political offenses), regardless of whether they arose out of a single scheme or the conviction was in a single trial, for which the aggregate sentences to confinement were 5 years or more); INA Section 212(h)(1)(C)(waiver available for battered spouse or child self-petitioner with DHS agreement to a favorable exercise of discretion); See USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak (Jan. 19, 2015), <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>.

^{xv} INA Section 101(f)(3); INA Section 212(a)(2)(D) (ground of inadmissibility prostitution within the last 10 years before filing the VAWA self-petition); INA Section 212(h)(1)(C)(waiver available for battered spouse or child self-petitioner with DHS agreement to a favorable exercise of discretion); See USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak (Jan. 19, 2015), <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>.

^{xvi} INA Section 212(a)(1)(E) renders immigrants inadmissible who have committed serious criminal offenses in the U.S., who claimed immunity from prosecution and left the United States who have not submitted fully to the jurisdiction of a court in the United States. Serious criminal offenses is defined in Section 101(h) to include any felony, reckless driving or driving while intoxicated or under the influence if the crime involved injury to another person, and any crime of violence defined in 18 U.S.C. Section 16 as an offense that has as an element the use, attempted use or threatened use of physical force against a person or property of another, or any other offense that is a felony that by its nature involves a substantial risk of physical force against the person of a property of another may be used in the course of committing the offense. Waiver authorized by INA Section 212(h)(1)(C) for VAWA self-petitioners.

^{xvii} INA Section 101(f)(3); INA Section 212(a)(2)(A)(i)(II)(grounds of inadmissibility convicted or admitted to violating controlled substance laws); INA Section 212(h)(1)(C)(waiver available for battered spouse or child self-petitioner for a single offense of simple possession of 30 grams or less of marijuana with DHS agreement to a favorable exercise of discretion); See USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, 3 (Jan. 19, 2015), <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>. See also, [INA § 212\(a\)\(2\)\(A\)\(i\)\(II\) \(Violation of any other laws or regulations related to controlled substances makes the VAWA self-petitioner inadmissible. A conviction is not required. See INA § 212\(a\)\(2\)\(A\)\(ii\) for limited exceptions for certain under 18 year old offenders and for cases in which the maximum penalty possible for the crime did not exceed imprisonment for one year and if there was a conviction the sentence did not exceed 6 months \(regardless of the extent to which the sentence was ultimately executed\).](#)

^{xviii} INA § 212(a)(7)(A) and (B); See Waiver by Joint Action of Consular and Immigration Officers of Passport and Visa Requirements, 22 C.F.R. § 41.3 (2014) (in determining whether VAWA self-petitioners qualify for the 212(d)(4)(A) waiver for unforeseen emergency in individual cases of 212(a)(7)'s inadmissibility grounds applicable to any immigrant or nonimmigrant without a valid passport, nonimmigrant visa, or border crossing ID at the time of application for admission to the United States, a self-petitioner will only qualify if they meet the emergent circumstances specifically listed in 22 C.F.R. § 41.3). Most VAWA self-petitioners will not meet the limited exceptions in this regulation and thus typically seek admissions through the victim’s application for adjustment of status to lawful permanent residency and address inadmissibility waivers and exceptions they are eligible for in the context of adjudication of that application.

^{xix} INA 212(a)(9)(C); See I-601 Form Instructions, Instruction for Application for Waiver of Grounds of Inadmissibility, DHS USCIS 2, <https://www.uscis.gov/i-601>; Waiver available under INA Section 212(a)(9)(C)(iii) for VAWA self-petitioners where there is a connection between the battering or extreme cruelty and the self-petitioner’s removal, departure, reentry, reentries, or attempted reentry into the United States.

^{xx} INA Section 212(g)(1)(C) makes waivers available to VAWA self-petitioners of the health related grounds of inadmissibility related to communicable diseases in INA Section 212(a)(1)(A)(i). Also, waivers are available for health related grounds for required vaccinations to immigrants who receive vaccination against preventable diseases. INA Section 212(g)(2).

^{xxi} See USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, 3 (Jan. 19, 2015), <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05> (For more detail on false testimony and good moral character in self-petitioner cases).

^{xxii} INA Section 101(f)(6); INA Section 212(a)(6)(C)(i); INA Section 212(i); (Waivers available and good moral character may be found for VAWA self-petitioners who demonstrate extreme hardship to themselves or their citizen, lawful permanent resident or qualified immigrant parent or child. Qualified immigrant is defined to include the immigrants listed in 8 U.S.C. 1641.); INA Section 237(a)(1)(H)(ii) (waiver available for immigration related misrepresentation which will operate to waive removal and operates to waive deportation grounds of inadmissibility resulting from the fraud or misrepresentation). <http://niwaplibrary.wcl.american.edu/pubs/uscis-good-moral-character-memo-1-19-05.0>

^{xxiii} INA Section 101(f)(3)INA Section 212(a)(6)(E)(ground of inadmissibility); INA Section 212(d)(11)(waiver available for immigrants seeking lawful permanent residency as a family member of a U.S. citizen (spouse, child, unmarried son or daughter, married son or daughter, brother or sister) or lawful permanent resident (spouse, child, unmarried son or daughter) under INA § 203(a) may qualify for a waiver only if the immigrant encouraged, induced, assisted, abetted, or aided only an individual who at the time of such action was the immigrant’s spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law); See USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, 3 (Jan. 19, 2015), <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05>.

^{xxiv} INA § 212(a)(6)(E); INA § 274(C); 212(d)(12)(VAWA self-petitioners would be eligible for the 212(d)(12) exception as spouses and children of lawful permanent residents or as spouses, children or parents of U.S. citizens.)

^{xxxv}Section 813(b) of the Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, § 813(b), 119 Stat. 2960 (Jan. 5, 2006); INA §212(a)(9)(A)(iii); 8 C.F.R. 212.2 (Obtaining consent prevents or halts reinstatement of removal for VAWA self-petitioners, VAWA cancellation of removal, VAWA suspension of deportation, T visa, and U visa eligible victims). It is important to note that best practices in such cases would be for victims to apply for VAWA self-petition as soon as possible and then advocate for discretion. The other option in this case would be to file Form I-601 waiver application coupled with a Form I-212 Application for Permission to Reapply for Permission to Reenter the United States after Removal or Deportation may allow VAWA self-petitioners to overcome the reinstatement of an old removal order. The I-601 waiver will pardon the permanent bar, while a nunc pro tunc I-212 application for advance permission to reapply for admission may “cure” the unlawful reentry, thus removing one of the requirements for reinstatement. *See also* Memorandum from Michael Aytes, USCIS Acting Deputy Director, to USCIS Leadership, *Adjudicating Forms I-212 for Aliens Inadmissible Under Section 212(a)(9)(C) or Subject to Reinstatement Under Section 241 (a)(5) of the Immigration and Nationality Act in light of Gonzalez v. DHS, 508 F.3d. 1227 (9th Cir. 2007)*, (May 19, 2009) at p. 6 n.5 <https://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoadjudicatingformsi212-05-19-09>. In requesting the I-212 request for permission to reenter it can be useful to note in the application that Congress in Section 813(b) Violence Against Women and Department of Justice Reauthorization Act of 2005 (title IX of Public Law 109–162; 119 Stat. 3080)(Violence Against Women Act of 2005) included the follow Sense of Congress encouraging the Department of Homeland Security to grant this permission to reenter after removal or deportation for VAWA self-petitioners, VAWA cancellation of removal and suspension of deportation applicants, and for U and T visa applicants. The test of Section 813(b) of the Violence Against Women Act of 2005 states:

(b) DISCRETION TO CONSENT TO AN ALIEN’S REAPPLICATION FOR ADMISSION.—

(1) IN GENERAL.—The Secretary of Homeland Security, the Attorney General, and the Secretary of State shall continue to have discretion to consent to an alien’s reapplication for admission after a previous order of removal, deportation, or exclusion.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the officials described in paragraph (1) should particularly consider exercising this authority in cases under the Violence Against Women Act of 1994, cases involving nonimmigrants described in subparagraph (T) or (U) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), and relief under section 240A(b)(2) or 244(a)(3) of such Act (as in effect on March 31, 1997) pursuant to regulations under section 212.2 of title 8, Code of Federal Regulations.

^{xxxvi} If the victim has been convicted of an aggravated felony, as defined in INA § 101(a)(43), if the conviction was entered on or after November 29, 1990. *See* USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, 3 (Jan. 19, 2015), <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscismemoyatesgoodmoralcharacter-01-19-05> (Murder convictions are bars to good moral character findings regardless of the date of conviction.)

^{xxxvii} INA Section 101(f)(1); (No waivers inadmissibility or deportability available) so this is a bar to a good moral character determination).

^{xxxviii} INA Section 101(f)(3) (INA Section 212(a)(9)(A) No waiver inadmissibility or deportability waiver available, so this is a bar to a good moral character determination).

^{xxxix} INA Section 101(f)(3) (INA section 212(a)(2)(C). There is a waiver available for a single offense of simple possession of 30 grams or less of marijuana. A conviction is not required. No waiver inadmissibility or deportability waiver available, so this is a bar to a good moral character determination).

^{xxx} INA Section 101(f)(4)(income primarily from illegal gambling); INA Section 101(f)(5)(convicted of two or more gambling offenses during the three year period for which good moral character is assessed. (No waivers inadmissibility or deportability available, so this is a bar to a good moral character determination).

^{xxxxi} INA § 101(a)(7) (Such incarceration is a bar to a finding of good moral character)

^{xxxii} INA § 212(a)(2)(G) (No waivers inadmissibility or deportability available)

^{xxxiii} INA § 212(a)(2)(H) (No waivers inadmissibility or deportability available). Except when beneficiaries of trafficking were children at the time. INA Section 212(a)(2)(H)(iii).

^{xxxiv} INA §212(a)(2)(I) (No waivers inadmissibility or deportability available)

^{xxxv} INA § 212(a)(3) (No waivers of inadmissibility or deportability available, unless the exceptions in INA Section 212(a)(3)(B)(ii), INA Section 212(a)(3)(C)(ii) or (iii), INA § 212(a)(3)(D), (ii), (iii), or (iv) apply).

^{xxxvi} INA § 212(a)(6)(D) (No waivers inadmissibility or deportability available).

^{xxxvii} INA § 212(a)(10)(A) (No waivers inadmissibility or deportability available).

^{xxxviii} INA § 212(a)(10)(B) (No waivers inadmissibility or deportability available).

^{xxxix} INA § 212(a)(10)(C) (No waivers of inadmissibility or deportability available, unless the exceptions in INA Section 212(a)(10)(C)(iii) apply).

^{xl} INA § 212(a)(10)(D) (No waivers inadmissibility or deportability available).

^{xli} INA § 212(a)(10)(E) (No waivers inadmissibility or deportability available).

^{xlii} INA § 212(a)(8). Persons ineligible for citizenship are: INA § 313 (Persons opposed to the government or in favor of totalitarian forms of government are prohibited from naturalization); INA § 314 (Deserters from the armed forces are prohibited naturalization); INA § 315 (Immigrants relieved from service in the armed forces are ineligible for naturalization).