

**Violence Against Women Act (VAWA) Confidentiality  
Interlineated Statute  
IIRAIRA § 384  
8 USC §1367 Penalties for Disclosure of Information  
Current as of March 31, 2018**

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**Key Code for Statutes:**

IIRAIRA 1996<sup>1</sup> Original Statute

VAWA 2000<sup>2</sup> Changes are in ***Bold Italics***

VAWA 2005<sup>3</sup> Changes are in **SMALL CAPS**

VAWA 2013<sup>4</sup> Changes are in **Bold**

**8 USC (a) §1367**

IN GENERAL.—Except as provided in subsection (b), in no case may the Attorney General, or any other official or employee of the Department of Justice (~~including any bureau or agency of such Department~~) **THE SECRETARY OF HOMELAND SECURITY, THE SECRETARY OF STATE, OR ANY OTHER OFFICIAL OR EMPLOYEE OF THE DEPARTMENT OF HOMELAND SECURITY OF DEPARTMENT OF STATE (INCLUDING ANY BUREAU OR AGENCY OF EITHER SUCH DEPARTMENTS)** =

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

- (A) a spouse or parent who has battered the alien or subjected the alien to extreme cruelty,
- (B) a member of the spouse's or parent's family residing in the same household as the alien who has battered the alien or subjected the alien to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty,
- (C) a spouse or parent who has battered the alien's child or subjected the alien's child to extreme cruelty (with- out the active participation of the alien in the battery or extreme cruelty), or
- (D) a member of the spouse's or parent's family residing in the same household as the alien who has battered the alien's child or subjected the alien's child to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty, unless the alien has been convicted of a crime or crimes listed in section 241(a)(2) of the Immigration and

<sup>1</sup> Title 8, U.S.C., Section 1367, "Penalties for disclosure of information" (originally enacted as Section 384 of the Illegal Immigrant Reform and Immigrant Responsibility Act of 1996 (IIRIRA))

<sup>2</sup> Public Law 106-386, "Victims of Trafficking and Violence Protection Act of 2000. (VAWA 2000)

<sup>3</sup> Public Law 109-162, "Violence Against Women and Department of Justice Reauthorization Act of 2005," Section 817, "VAWA Confidentiality Nondisclosure." (VAWA 2005)

<sup>4</sup> Public Law 113-4, "Violence Against Women Reauthorization Act of 2013," Section 810, "Disclosure of Information for National Security Purposes." (VAWA 2013)

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

(E) in the case of an alien applying for status under section 101(a)(15)(U) of the Immigration and Nationality Act [8 U.S.C.A. § 1101(a)(15)(U)], the perpetrator of the substantial physical or mental abuse and the criminal activity,

(F) IN THE CASE OF AN ALIEN APPLYING FOR STATUS UNDER SECTION 101(A)(15) (T) OF THE IMMIGRATION AND NATIONALITY ACT (8 U.S.C. 1101(A)(15)(T)), UNDER SECTION 7105(B)(1)(E)(I)(II)(BB) OF TITLE 22, UNDER SECTION 244(A)(3) OF THE IMMIGRATION AND NATIONALITY ACT (8 U.S.C. 1254A(A)(3)), AS IN EFFECT PRIOR TO MARCH 31, 1999, OR AS A VAWA SELF-PETITIONER (AS DEFINED IN SECTION 101(A)(51) OF THE IMMIGRATION AND NATIONALITY ACT (8 U.S.C. 1101(A)(51)), [FN2] THE TRAFFICKER OR PERPETRATOR,

(2) permit use by or disclosure to anyone (other than a sworn officer or employee of the Department, or bureau or agency thereof, for legitimate Department, bureau, or agency purposes) of any information which relates to an alien who is the beneficiary of an application for relief under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), **section 216(c)(4)(C)**, or section 244(a)(3) of such Act as an alien (or the parent of a child) who has been battered or subjected to extreme cruelty.

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

(b) EXCEPTIONS.—

(1) The **Secretary of Homeland Security or the** Attorney General may provide, in the **Secretary's or the** Attorney General's discretion, for the disclosure of information in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13, United States Code.

(2) The **Secretary of Homeland Security or the** Attorney General may provide in the discretion of **the Secretary or** the Attorney General for the disclosure of information to law enforcement officials to be used solely for a legitimate law enforcement purpose **in a manner that protects the confidentiality of such information.**

(3) Subsection (a) shall not be construed as preventing disclosure of information in connection with judicial review of a determination in a manner that protects the confidentiality of such information.

(4) Subsection (a)(2) shall not apply if all the battered individuals in the case are adults and they have all waived the restrictions of such subsection.

(5) **The Secretary of Homeland Security and the Attorney General are The Attorney General** ~~is~~ authorized to disclose information, to Federal, State, and local public and private agencies providing benefits, to be used solely in making determinations of eligibility for benefits pursuant to section 1641(c) of this title.

(6) SUBSECTION (A) OF THIS SECTION MAY NOT BE CONSTRUED TO PREVENT THE ATTORNEY GENERAL AND THE SECRETARY OF HOMELAND SECURITY FROM DISCLOSING TO THE CHAIRMEN AND RANKING MEMBERS OF THE COMMITTEE ON THE JUDICIARY OF THE SENATE OR THE COMMITTEE ON THE JUDICIARY OF THE HOUSE OF REPRESENTATIVES, FOR THE EXERCISE OF CONGRESSIONAL OVERSIGHT AUTHORITY, INFORMATION ON CLOSED CASES UNDER THIS SECTION IN A MANNER THAT PROTECTS THE CONFIDENTIALITY OF SUCH INFORMATION AND THAT OMITTS PERSONALLY IDENTIFYING INFORMATION (INCLUDING LOCATIONAL INFORMATION ABOUT INDIVIDUALS).

(7) GOVERNMENT ENTITIES ADJUDICATING APPLICATIONS FOR RELIEF UNDER SUBSECTION (A)(2) OF THIS SECTION, AND GOVERNMENT PERSONNEL CARRYING OUT MANDATED DUTIES UNDER SECTION 101(I)(1) OF THE IMMIGRATION AND NATIONALITY ACT [8 U.S.C.A. § 1101(I)(1)], MAY, WITH THE PRIOR WRITTEN CONSENT OF THE ALIEN INVOLVED, COMMUNICATE WITH NONPROFIT, NONGOVERNMENTAL VICTIMS' SERVICE PROVIDERS FOR THE SOLE PURPOSE OF ASSISTING VICTIMS IN

OBTAINING VICTIM SERVICES FROM PROGRAMS WITH EXPERTISE WORKING WITH IMMIGRANT VICTIMS. AGENCIES RECEIVING REFERRALS ARE BOUND BY THE PROVISIONS OF THIS SECTION. NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED AS AFFECTING THE ABILITY OF AN APPLICANT TO DESIGNATE A SAFE ORGANIZATION THROUGH WHOM GOVERNMENTAL AGENCIES MAY COMMUNICATE WITH THE APPLICANT.

**(8) Notwithstanding subsection (a)(2), the Secretary of Homeland Security, the Secretary of State, or the Attorney General may provide in the discretion of either such Secretary or the Attorney General for the disclosure of information to national security officials to be used solely for a national security purpose in a manner that protects the confidentiality of such information.**

(c) PENALTIES FOR VIOLATIONS.—Anyone who willfully uses, publishes, or permits information to be disclosed in violation of this section OR WHO KNOWINGLY MAKES A FALSE CERTIFICATION UNDER SECTION 239(E) OF THE IMMIGRATION AND NATIONALITY ACT shall be subject to appropriate disciplinary action and subject to a civil money penalty of not more than \$5,000 for each such violation.

(D) GUIDANCE

THE ATTORNEY GENERAL, Secretary of State, AND THE SECRETARY OF HOMELAND SECURITY SHALL PROVIDE GUIDANCE TO OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF JUSTICE, Department of State, OR THE DEPARTMENT OF HOMELAND SECURITY WHO HAVE ACCESS TO INFORMATION COVERED BY THIS SECTION REGARDING THE PROVISIONS OF THIS SECTION, INCLUDING THE PROVISIONS TO PROTECT VICTIMS OF DOMESTIC VIOLENCE AND SEVERE FORMS OF TRAFFICKING IN PERSONS OR CRIMINAL ACTIVITY LISTED IN SECTION 1101(A)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U) of this title FROM HARM THAT COULD RESULT FROM THE INAPPROPRIATE DISCLOSURE OF COVERED INFORMATION.

## **8 USC §1229(e) – Immigration and Nationality Act**

### **(E) CERTIFICATION OF COMPLIANCE WITH RESTRICTIONS ON DISCLOSURE**

#### **(1) IN GENERAL**

IN CASES WHERE AN ENFORCEMENT ACTION LEADING TO A REMOVAL PROCEEDING WAS TAKEN AGAINST AN ALIEN AT ANY OF THE LOCATIONS SPECIFIED IN PARAGRAPH (2), THE NOTICE TO APPEAR SHALL INCLUDE A STATEMENT THAT THE PROVISIONS OF SECTION 1367 OF THIS TITLE HAVE BEEN COMPLIED WITH.

#### **(2) LOCATIONS** THE LOCATIONS SPECIFIED IN THIS PARAGRAPH ARE AS FOLLOWS:

**(A)** AT A DOMESTIC VIOLENCE SHELTER, A RAPE CRISIS CENTER, SUPERVISED VISITATION CENTER, FAMILY JUSTICE CENTER, A VICTIM SERVICES, OR VICTIM SERVICES PROVIDER, OR A COMMUNITY-BASED ORGANIZATION.

**(B)** AT A COURTHOUSE (OR IN CONNECTION WITH THAT APPEARANCE OF THE ALIEN AT A COURTHOUSE) IF THE ALIEN IS APPEARING IN CONNECTION WITH A PROTECTION ORDER CASE, CHILD CUSTODY CASE, OR OTHER CIVIL OR CRIMINAL CASE RELATING TO DOMESTIC VIOLENCE, SEXUAL ASSAULT, TRAFFICKING, OR STALKING IN WHICH THE ALIEN HAS BEEN BATTERED OR SUBJECT TO EXTREME CRUELTY OR IF THE ALIEN IS DESCRIBED IN SUBPARAGRAPH (T) OR (U) OF SECTION 1101(A)(15) OF THIS TITLE.