

Comparing VAWA Haitian Refugee Immigrant Fairness Act of 1998 (“VAWA HRIFA”), VAWA Cuban Adjustment Act 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 the ability to apply for lawful permanent residency.¹ This side-by-side comparison chart compares three different forms of VAWA self-petitions: 1) VAWA Haitian Refugee and Immigrant Fairness Act self-petitions (VAWA HRIFA);² VAWA Cuban Adjustment Act self-petitions;³ and Self-petitions filed by abused spouses, children and parents of U.S. citizens and lawful permanent residents.⁴ Each of these VAWA self-petition applications is filed by the victim with the United States Citizenship and Immigration Service (USCIS) special VAWA Unit that is responsible for adjudicating VAWA self-petitions. 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.⁵ 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-nacara-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.⁶ Since this chart is comparing forms of immigration relief that immigrant victims of domestic violence, child abuse and elder abuse can seek immigrant victims need help accessing these benefits from victim attorneys and advocates with training and expertise serving immigrant victims. NIWAP’s directory will help you identify agencies and programs with this expertise in your state. Access: <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

Chart begin on the next page.

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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 Suspension of Deportation, VAWA Cancellation of Removal, VAWA Nicaraguan and Central American Relief Act (NACARA), and VAWA Self-Petitioning*, NIWAP, (January 28, 2021) <https://niwaplibrary.wcl.american.edu/pubs/suspension-cancellation-nacara-self-petition-chart-4-28-20> (for information on VAWA Suspension of Deportation, VAWA Cancellation of Removal, VAWA Nicaraguan and Central American Relief Act (NACARA), and VAWA Self-Petitioning). 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 HRIFA (VAWA Haitian Refugee Immigration Fairness Act)	VAWA CAA (VAWA Cuban Adjustment Act)	VAWA self-petition⁷
If granted the immigration relief what does the victim receive	Victims whose VAWA Haitian Refugee Immigration Fairness Act (HRIFA) self-petition is granted receives lawful permanent residency from USCIS. ⁸	<p>Victims whose VAWA Cuban Adjustment Act self-petition is granted receives lawful permanent residency from USCIS.⁹</p> <p>VAWA CAA self-petitioners who are granted lawful permanent residency receive full unconditional lawful permanent residency. The conditional residency restrictions do not apply.¹⁰</p> <p>The date of admission for lawful permanent residency of an abused spouse or child's whose VAWA CAA application was approved is the later of the following:</p> <ul style="list-style-type: none"> • The date of their last arrival¹¹ into the U.S. • 30 months prior to the filing of the VAWA CAA application.¹² 	<p>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.</p> <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. <p>VAWA self-petitioners who are granted lawful permanent residency receive full unconditional lawful permanent residency. The conditional residency restrictions do not apply.</p>
Where the application is filed	The victim files for VAWA HRIFA directly with the United States Citizenship and Immigration Services (USCIS) with the Nebraska Service Center ¹³	The victim files an application with the VAWA Unit of USCIS that is responsible for adjudicating all VAWA self-petitions including VAWA CAA applications for adjustment of status to lawful permanent residency ¹⁴ using form I-485 and following the special instructions for VAWA CAA applicants. ¹⁵	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 ¹⁶ on form I-360. ¹⁷ 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

	VAWA HRIFA (VAWA Haitian Refugee Immigration Fairness Act)	VAWA CAA (VAWA Cuban Adjustment Act)	VAWA self-petition⁷
Filing deadlines that apply, where the application can be filed and impact of immigration court proceedings	The victim files for VAWA HRIFA directly with the United States Citizenship and Immigration Services (USCIS) with the Nebraska Service Center. ¹⁹ There are no filing deadlines for VAWA HRIFA self-petitions. Using Form I-485 and I 601 for waivers of inadmissibility. If the applicant is placed in removal proceedings the victim can renew their VAWA HRIFA application before the immigration judge. ²⁰	<p>The victim files for VAWA CAA directly with the United States Citizenship and Immigration Services VAWA Unit.²¹ There are no filing deadlines for VAWA CAA self-petitions.</p> <p>The Cuban Adjustment Act requires all CAA applicants, including VAWA CAA applicants to have been inspected and admitted or inspected²² and paroled into the United States.²³</p> <p>The adjustment of status to lawful permanent residency of an abused spouse or child cannot precede the date on which the abusive CAA eligible spouse or parent was granted adjustment of status to lawful permanent residency. The victim's VAWA CAA application can be granted at the same time²⁴ as or subsequent to the abusive CAA eligible spouse, parent or step-parent's receipt of lawful permanent residency.²⁵</p> <p>The victims with open cases in immigration court and victims with outstanding removal or deportation orders issued against them are all eligible to file VAWA CAA application directly with the immigration judge asking to be granted lawful permanent residency.²⁶ However, in order to qualify they must have been at some point in the past have been inspected²⁷ and admitted or paroled into the United States.</p>	The victim files for VAWA self-petitioning directly with the United States Citizenship and Immigration Services VAWA Unit. ²⁸ 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. ²⁹ 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	The VAWA HRIFA applicant must be a Haitian National. ³⁰	The abused spouse, child, or step-child of an abusive Cuban CAA eligible spouse qualifies for VAWA CAA without regard to the victim's nationality or place of birth. ³¹ The VAWA CAA applicant may or may not be Cuban. ³²	Immigrant victims qualify to file VAWA self-petitions without regard to their nationality or place of birth.
Qualifying Abuse Suffered	Victim filing for VAWA HRIFA 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	Victim filing for VAWA CAA 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. ³⁴	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. ³⁵
Where did the abuse take place	No restriction on where the abuse took place, but the applicant for VAWA HRIFA must have been the spouse, child, or step-child of a Haitian Refugee Immigration Fairness Act (HRIFA) abuser when at least one incident of battering or extreme cruelty took place. ³⁶	No restriction on where the abuse took place, but the applicant for VAWA CAA must have been the spouse or child of a Cuban Adjustment Act (CAA) abuser when at least one incident of battering or extreme cruelty took place. ³⁷	At least one incident of the battering or extreme cruelty must have occurred in the United States. ³⁸ 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. ³⁹

	VAWA HRIFA (VAWA Haitian Refugee Immigration Fairness Act)	VAWA CAA (VAWA Cuban Adjustment Act)	VAWA self-petition ⁷
When the abuse took place	The VAWA HRIFA applicant must have been battered or subjected to extreme cruelty by their HRIFA eligible or HRIFA recipient spouse, parent or step-parent. At least one of the incidents of the battering or extreme cruelty will need to have taken place during the marriage (spouse abuse and step-child abuse cases) or during the parent/child relationship. ⁴⁰	The VAWA CAA applicant must have been battered or subjected to extreme cruelty by a CAA eligible abusive spouse, former spouse, parent or step-parent. At least one of the incidents of the battering or extreme cruelty will need to have taken place during the marriage (spouse abuse and step-child abuse cases) or during the parent/child relationship. ⁴¹ Abuse may have occurred before or after the abusive spouse or parent gained lawful permanent residency ⁴² through CAA or other means. ⁴³	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.
Abuser's Immigration or Citizenship Status	<p>Under the Haitian Refugee Immigrant Fairness Act (HRIFA) the immigrant VAWA HRIFA victim's abusive family member must either have been eligible to apply for HRIFA or must have applied for and adjusted their status to lawful permanent residency under HRIFA.⁴⁷</p> <p>To be HRIFA eligible the abusive spouse, former spouse,⁴⁸ parent, or step-parent must be or have been⁴⁹ a Haitian national⁵⁰ who</p> <ul style="list-style-type: none"> • Filed for asylum before December 31, 1995; • Was paroled into the United States prior to December 31, 1995, after having been identified as having a credible fear of persecution, or paroled for emergent reasons or reasons deemed strictly in the public interest; • At the time of arrival in the United States and on December 31, 1995, was unmarried and under 21 years of age and who: A. Arrived in the United States without parents in the United States and has remained, without parents, in the United States since his or her arrival; • Became orphaned subsequent to arrival in the United States; or • Was abandoned by parents or guardian prior to April 1, 1998, and has remained abandoned since such abandonment. <p>Applications for HRIFA principal applicants were only accepted at USCIC between 6/11/99 and 3/31/00.</p>	<p>The abusive spouse, former spouse, parent or step-parent must have been eligible for adjustment of status to lawful permanent residency under the Cuban Adjustment Act as a Native or citizen of Cuba⁵¹ who⁵²</p> <ul style="list-style-type: none"> • Was inspected⁵³ and admitted or paroled into the United States after January 1, 1959; • Was physically present in the United States for at least 1 year; • Is eligible to receive an immigrant visa;⁵⁴ • Is admissible to the United States for lawful permanent residency, and <ul style="list-style-type: none"> • Applied for or is eligible for, adjustment of status to lawful permanent residency,⁵⁵ or • Has adjusted status to lawful permanent residency, whether under the CAA or another adjustment of status to lawful permanent residency provision of immigration law.⁵⁶ <p>Once the CAA eligible abusive spouse or parent receives lawful permanent residency and their abused VAWA CAA eligible spouse, child or step-child file a VAWA CAA application, abusive CAA spouse's loss of lawful permanent residency will not affect the victim's eligibility for VAWA CAA protections.⁵⁷</p> <p>If the Cuban CAA eligible spouse or parent loses their lawful permanent residency status before a VAWA CAA application has been filed, the abused spouse or child has two years from the date the abusive CAA spouse or parent lost their lawful permanent residency status to file for VAWA CAA and must demonstrate a connection between the loss of status and an incident of domestic violence.⁵⁸</p>	Citizen ⁵⁹ or lawful permanent resident. ⁶⁰

	VAWA HRIFA (VAWA Haitian Refugee Immigration Fairness Act)	VAWA CAA (VAWA Cuban Adjustment Act)	VAWA self-petition ⁷
Relationship to the Abuser and abusers citizenship or immigration status	<p>Abuser must be the VAWA HRIFA applicant victim's HRIFA eligible or recipient abusive family member who received of lawful permanent residency through HRIFA⁶¹</p> <ul style="list-style-type: none"> • Spouse⁶² • Former spouse⁶³ • Parent⁶⁴ • Step-parent⁶⁵ <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 or have been the VAWA CAA applicant immigrant victim's CAA eligible⁶⁷ family member who obtained or is in the process of applying for adjustment of status to lawful permanent residency⁶⁸ and is or was a⁶⁹</p> <ul style="list-style-type: none"> • Spouse⁷⁰ • Former spouse⁷¹ • Parent⁷² • Step-parent⁷³ <p>Proof of the spousal relationship, the step-parent/step-child relationship or parent/child relationship must be submitted.⁷⁴</p>	<p>Abuser must be the victim's citizen⁷⁵</p> <ul style="list-style-type: none"> • Spouse⁷⁶ • Intended spouse⁷⁷ • Former spouse⁷⁸ • Parent⁷⁹ • Step-parent⁸⁰ • Over 21 year old son or daughter⁸¹ <p>Or</p> <p>Abuser must be the victim's lawful permanent resident⁸²</p> <ul style="list-style-type: none"> • Spouse⁸³ • Intended spouse⁸⁴ • Former spouse⁸⁵ • Parent⁸⁶ • Step-parent⁸⁷ <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' citizen⁸⁸ or lawful permanent resident⁸⁹</p> <ul style="list-style-type: none"> • Spouse⁹⁰ • Intended spouse⁹¹ • Former spouse⁹² <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.⁹³</p>
In addition to proof of legal marriage what if anything is required?	<p>Requires proof that the VAWA HRIFA applicant was legally married to the abusive HRIFA eligible or HRIFA recipient abusive spouse.⁹⁴</p>	<p>Requires proof of the VAWA CAA applicant victim's spousal relationship to the CAA eligible spouse that was a valid marriage at its inception,⁹⁵ evidence that the marriage was not entered into solely to convey immigration benefits,⁹⁶ and that the VAWA CAA applicant spouse lived with the abusive CAA spouse at some point in the marriage.⁹⁷</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.⁹⁸ • Was entered into in good faith.⁹⁹ • 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.¹⁰⁰ • Some period of residence with abuser required.¹⁰¹

	VAWA HRIFA (VAWA Haitian Refugee Immigration Fairness Act)	VAWA CAA (VAWA Cuban Adjustment Act)	VAWA self-petition ⁷
Effect of Divorce, Remarriage and Death	To file for VAWA HRIFA the applicant must have been battered or subjected to extreme cruelty by their HRIFA eligible or HRIFA recipient abusive spouse or parent, but the victim need not remain married to the abusive HRIFA eligible or recipient spouse to file a VAWA HRIFA case. ¹⁰² There is no deadline following termination of the marriage by which the VAWA HRIFA application must be filed. ¹⁰³	<ul style="list-style-type: none"> The abused spouse or abused child of a CAA eligible abuser has up to two years of termination of the marriage,¹⁰⁴ including by divorce, to file the VAWA CAA self-petition but must demonstrate a connection between the termination of the marriage and domestic violence¹⁰⁵ and that they lived for some time period with the abusive CAA eligible spouse.¹⁰⁶ Once the VAWA CAA self-petition is filed, divorce will have no impact on adjudication of the self-petition¹⁰⁷ However, remarriage prior to the VAWA CAA application's approval could impact approval of the VAWA CAA self-petition.¹⁰⁸ An abused spouse of a CAA eligible abusive spouse must file their VAWA CAA self-petition within two years of the death, provided the applicant lived with the abusive CAA eligible spouse at some point during the marital relationship.¹⁰⁹ Once the VAWA CAA abused spouse, child, or step-child¹¹⁰ has filed their VAWA ACC application the death of the abusive CAA eligible spouse, parent, or step-parent will not end the victim's eligibility or impact the victim's case.¹¹¹ 	<ul style="list-style-type: none"> Once the self-petition is filed, divorce will have no impact on adjudication of the self-petition¹¹² 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.¹¹³ Remarriage will not revoke an approved self-petition.¹¹⁴ If the victim's citizen spouse dies the victim has to file the self-petition within two years of the death.¹¹⁵
Protections for Family Members	<p>VAWA HRIFA applicants cannot include any of their family members in their VAWA HRIFA application.¹¹⁶</p> <p>When an abusive HRIFA eligible or HRIFA recipient family member (e.g., spouse, parent) abuses both their spouse and their child, the abused spouse and abused child can each separately file for VAWA HRIFA.¹¹⁷</p> <p>Once a victim obtains lawful permanent residency through VAWA HRIFA, they and file family based visa petitions for their children whom they could not include in the VAWA HRIFA application.¹¹⁸</p>	<p>VAWA CAA applicants cannot include any of their family members in their VAWA CAA application.¹¹⁹</p> <p>When an abusive CAA eligible family member (e.g., spouse, parent) abuses both their spouse and their child, the abused spouse and abused child can each separately file for VAWA CAA.¹²⁰</p> <p>Once a victim obtains lawful permanent residency through VAWA CAA, they and file family based visa petitions for their children whom they could not include in the VAWA CAA application.¹²¹</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.¹²² 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.¹²³</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.¹²⁴</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 of 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.¹²⁵</p>

	VAWA HRIFA (VAWA Haitian Refugee Immigration Fairness Act)	VAWA CAA (VAWA Cuban Adjustment Act)	VAWA self-petition ⁷
Residence with the abuser required?	No	Yes, the VAWA CAA self-petitioning spouse or child applying for VAWA CAA are required to demonstrate residence at some point during their relationship with the abusive CAA eligible spouse or parent, but does not have to demonstrate current residency with the CAA eligible abusive spouse or parent. ¹²⁶	Yes. The self-petitioner must reside or have resided with ¹²⁷ the <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.¹²⁸ Residence could have been inside or outside of the U.S.¹²⁹
Is Residence in the U.S. required to file for the immigration relief?	Yes, must be physically present in the United States on the date the VAWA HRIFA application is filed. ¹³⁰	To qualify for VAWA CAA the abused immigrant spouse or child or a CAA eligible abusive spouse or parent must have been physically present in the United States for at least one year. ¹³¹	The self-petitioner must prove that they are either: ¹³² <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	No continuous present requirement applies to VAWA HRIFA applications.	VAWA CAA applicants must have at least one year physical presence in the United States. ¹³³ In calculating the one year physical presence for purposes of VAWA CAA the calculation is based on aggregate physical presence and temporary absences can be excused. ¹³⁴	No continuous presence requirement applies to VAWA self-petitions.
Requirement that applicant faces extreme hardship if returning to home country	There is no requirement that the victim prove extreme hardship in VAWA HRIFA cases.	There is no requirement that the victim prove extreme hardship in VAWA CAA cases. ¹³⁵	There is no requirement that the victim prove extreme hardship in VAWA self-petitioning cases. ¹³⁶
Is proof of good moral character required?	There is no requirement that the victim prove good moral character in VAWA HRIFA cases. ¹³⁷	There is no requirement that the victim prove good moral character in VAWA CAA cases. ¹³⁸	Proof of good moral character is for the three years immediately preceding the filing of the VAWA self-petition required. ¹³⁹ Waivers available for crimes or other inadmissibility factors connected to the battering or extreme cruelty. ¹⁴⁰ A finding of good moral character may be made if ¹⁴¹ <ul style="list-style-type: none"> The act of conviction is waivable for purposes of determining inadmissibility or deportability,¹⁴² and The act or conviction was connected to the immigrant having been battered to subjected to extreme cruelty¹⁴³

	VAWA HRIFA (VAWA Haitian Refugee Immigration Fairness Act)	VAWA CAA (VAWA Cuban Adjustment Act)	VAWA self-petition ⁷
Inadmissibility grounds exclusions that will not impact approval of case for victims	<p>Excluded from inadmissibility for</p> <ul style="list-style-type: none"> Public charge¹⁴⁴ Labor certifications and labor qualifications¹⁴⁵ Unlawful entry, immigrants present without admission or parole¹⁴⁶ Immigrants inadmissible for lack of valid unexpired visa, passport, or immigration documentation¹⁴⁷ <p>Exception for self-petitioners¹⁴⁸ from</p> <ul style="list-style-type: none"> The 3 and 10 year bars for unlawful presence in the U.S.¹⁴⁹ 	<p>Excluded from inadmissibility for VAWA CAA victims¹⁵⁰</p> <ul style="list-style-type: none"> Public charge¹⁵¹ Labor certification and labor qualification inadmissibility¹⁵² Immigrants who are not in possession of valid immigration documents, who are not in compliance with the terms of their visa, or who are not in possession of a passport for a minimum of 6 months before expiration.¹⁵³ Unlawful entry, immigrants present without being admitted or paroled and arriving at a place that is not a port of entry¹⁵⁴ <p>Exception for self-petitioners¹⁵⁵ from</p> <ul style="list-style-type: none"> The 3 and 10 year bars for unlawful presence in the U.S.¹⁵⁶ 	<p>VAWA Self-petitioners are excluded from inadmissibility for:</p> <ul style="list-style-type: none"> Public charge¹⁵⁷ <p>Exception for self-petitioners from:</p> <ul style="list-style-type: none"> The 3 and 10 year bars for unlawful presence in the U.S.¹⁵⁸ Unlawful entry, immigrants present without admission or parole¹⁵⁹
Inadmissibility Waivers Available So That The Victim Can Receive Lawful Permanent Residency	<p>Inadmissibility waivers available to VAWA cancellation of removal applicants:</p> <ul style="list-style-type: none"> Health related grounds relating to communicable diseases and vaccinations¹⁶⁰ Unlawful presence after previous immigration violations waiver¹⁶¹ Immigrants previously removed¹⁶² Crimes involving moral turpitude¹⁶³ Multiple criminal convictions¹⁶⁴ Engaging in prostitution within the past 10 years¹⁶⁵ Immigrants who committed a serious criminal offense who claimed immunity from prosecution¹⁶⁶ Controlled substance violation relating to a single offence for possession of 30 grams or less of marijuana¹⁶⁷ Unlawfully present in the U.S. after past immigration violations¹⁶⁸ Smuggling people into the United States¹⁶⁹ 	<p>Inadmissibility waivers available to VAWA CAA applicants:¹⁷⁰</p> <ul style="list-style-type: none"> Crimes involving moral turpitude¹⁷¹ Multiple criminal convictions¹⁷² Engaging in prostitution within the past 10 years¹⁷³ Immigrants who committed a serious criminal offense who claimed immunity from prosecution¹⁷⁴ Controlled substance violation relating to a single offence for possession of 30 grams or less of marijuana¹⁷⁵ Health related grounds relating to communicable diseases and vaccinations¹⁷⁶ Unlawfully present in the U.S. after past immigration violations¹⁷⁷ Smuggling people into the United States¹⁷⁸ 	<p>The adjudication of a VAWA self-petition requires proof of good moral character¹⁷⁹ and obtaining lawful permanent residency once a VAWA self-petition is approved requires victims to be admissible¹⁸⁰ or seek waivers of inadmissibility.¹⁸¹</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 for¹⁸²:</p> <ul style="list-style-type: none"> Crimes involving moral turpitude¹⁸³ Multiple criminal convictions¹⁸⁴ Engaging in prostitution within the past 10 years¹⁸⁵ Immigrants who committed a serious criminal offense who claimed immunity from prosecution¹⁸⁶ Controlled substance violation relating to a single offence for possession of 30 grams or less of marijuana¹⁸⁷ Not in possession of valid immigration documentation¹⁸⁸ Unlawfully present in the U.S. after past immigration violations¹⁸⁹ Health related grounds relating to communicable diseases and vaccinations¹⁹⁰ Giving false testimony¹⁹¹ for the purpose of obtaining and immigration benefit¹⁹² Smuggling people into the United States¹⁹³ Subject to a civil penalty for document fraud¹⁹⁴ <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.¹⁹⁵</p>

	VAWA HRIFA (VAWA Haitian Refugee Immigration Fairness Act)	VAWA CAA (VAWA Cuban Adjustment Act)	VAWA self-petition ⁷
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>There are no statutory bars to Haitian Refugee Immigration Fairness Act relief, including VAWA HRIFA relief.¹⁹⁶</p> <p>However, The following immigrants are ineligible to self-petition and are not able to attain lawful permanent residency through the VAWA HRIFA self-petitioning process:</p> <ul style="list-style-type: none"> • Someone DHS knows or has reason to believe is, or has been an illicit trafficker in any controlled substance¹⁹⁷ • Foreign government officials who have committed particularly severe violations of religious freedom.¹⁹⁸ • Significant traffickers in persons¹⁹⁹ • Money laundering²⁰⁰ • Security and related grounds²⁰¹ • Stowaways²⁰² • Practicing polygamists²⁰³ • Guardian required to accompany a helpless immigrant²⁰⁴ • International child abduction²⁰⁵ • Unlawful voters²⁰⁶ • Former citizens who renounced citizenship to avoid taxation²⁰⁷ 	<p>There are no statutory bars to Cuban Adjustment Act relief, including VAWA CAA relief.²⁰⁸</p> <p>However, The following immigrants are ineligible to self-petition and are not able to attain lawful permanent residency through the VAWA CAA self-petitioning process:</p> <ul style="list-style-type: none"> • Someone DHS knows or has reason to believe is, or has been an illicit trafficker in any controlled substance²⁰⁹ • Foreign government officials who have committed particularly severe violations of religious freedom.²¹⁰ • Significant traffickers in persons²¹¹ • Money laundering²¹² • Security and related grounds²¹³ • Stowaways²¹⁴ • Practicing polygamists²¹⁵ • Guardian required to accompany a helpless immigrant²¹⁶ • International child abduction²¹⁷ • Unlawful voters²¹⁸ • Former citizens who renounced citizenship to avoid taxation²¹⁹ 	<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 felony²²⁰ • Is or was a habitual drunkard;²²¹ • Certain persons previously removed from the United States²²² • DHS knows or has reason to believe the applicant is, or has been an illicit trafficker in any controlled substance²²³ • Someone whose present income is derived principally from illegal gambling or convicted of 2 or more gambling offenses²²⁴ • Was incarcerated for an aggregate period of 180 days or more as a result of conviction²²⁵ • Foreign government officials who have committed particularly severe violations of religious freedom.²²⁶ • Significant traffickers in persons²²⁷ • Money laundering²²⁸ • Security and related grounds²²⁹ • Stowaways²³⁰ • Practicing polygamists²³¹ • Guardian required to accompany a helpless immigrant²³² • International child abduction²³³ • Unlawful voters²³⁴ • Former citizens who renounced citizenship to avoid taxation²³⁵ <p>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 President²³⁶</p>
Reinstatement of Removal Protections for Victims Available	<p>HRIFA and VAWA HRIFA applicants are exempt from reinstatement of removal.²³⁷ Haitians who are eligible to apply for VAWA HRIFA to adjust their status to lawful permanent residency under HRIFA are not subject to reinstatement of removal.²³⁸ DHS also has the discretion not to apply reinstatement of removal to VAWA HRIFA cases.²³⁹</p>	<p>Since VAWA CAA 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 CAA applicants.²⁴⁰</p>	<p>DHS has the discretion not to apply reinstatement of removal to VAWA self-petition cases.²⁴¹</p>

	VAWA HRIFA (VAWA Haitian Refugee Immigration Fairness Act)	VAWA CAA (VAWA Cuban Adjustment Act)	VAWA self-petition⁷
Motions to Reopen Rules	<p>Immigrants eligible for HRIFA and VAWA HRIFA are statutorily able to apply for HRIFA relief despite outstanding orders of removal, deportation or exclusion and cannot be required to file motions to reopen. Approval of a HRIFA or VAWA HRIFA application for adjustment of status to lawful permanent residency cancels by operation of law all prior orders.²⁴²</p> <p>HRIFA and VAWA HRIFA applicants should request a stay of any of removal, deportation or exclusion orders while their HRIFA case is pending adjudication²⁴³ and cannot be ordered removed, deported or excluded.²⁴⁴</p> <p>Absent evidence of statutory ineligibility or significant negative discretionary factors, the stay should be approved. (8 C.F.R. §§245.15(g)(3)(ii), 1245.15(g)(3)(ii). If the person is in deportation or exclusion proceedings, or has a pending motion to reopen or reconsider the proceedings before June 11, 1999, then the request must be filed with the immigration court. (8 C.F.R. §§245.15(g)(2) and (p), 1245.15(g)(2) and (p).</p> <p>Absent evidence of statutory ineligibility or significant negative discretionary factors, the stay should be approved. (8 C.F.R. §§245.15(g)(3)(ii), 1245.15(g)(3)(ii). If the person is in deportation or exclusion proceedings, or has a pending motion to reopen or reconsider the proceedings before June 11, 1999, then the request must be filed with the immigration court. (8 C.F.R. §§245.15(g)(2) and (p), 1245.15(g)(2) and (p).</p>	<p>Motions to reopen removal and deportation proceedings involving VAWA CAA eligible applicants would follow the same rules as apply to these motions filed by VAWA self-petitioners.²⁴⁵ These rules include obtaining a stay of removal when the application for VAWA CAA sets forth a prima facie case.²⁴⁶ The victims with open cases in immigration court and victims with outstanding removal or deportation orders issued against them are all eligible to file VAWA CAA application directly with the immigration judge asking to be granted lawful permanent residency.²⁴⁷</p>	<p>The time limit for filing motions to reopen in deportation,²⁴⁸ exclusion²⁴⁹ and removal²⁵⁰ 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.²⁵¹ 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.²⁵² 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.²⁵³</p>
Applicable Evidence Rules	USCIS must apply VAWA’s any credible evidence rules to the adjudication of VAWA HRIFA case. ²⁵⁴	USCIS and any immigration judge hearing a VAWA CAA case must apply VAWA’s any credible evidence rules. ²⁵⁵	USCIS must apply VAWA’s any credible evidence rules to VAWA self-petition adjudications. ²⁵⁶
Does an annual cap apply	There is no annual cap on the numbers of HRIFA and VAWA HRIFA cases that can be granted.	There is no annual cap on the numbers of CAA and VAWA CAA cases that can be granted.	There is no annual cap applied to VAWA self-petition cases.

	VAWA HRIFA (VAWA Haitian Refugee Immigration Fairness Act)	VAWA CAA (VAWA Cuban Adjustment Act)	VAWA self-petition⁷
How and When Does the applicant receive employment authorization	Immigrants with pending applications for VAWA HRIFA are eligible for work authorization. ²⁵⁷	Immigrants with properly filed applications for VAWA CAA applications with the immigration judge are eligible to file for work authorization. ²⁵⁸	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. 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.²⁵⁹
How and when will the applicant receive some limited protection against deportation?²⁶⁰	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. ²⁶¹ 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 HRIFA case is pending. ²⁶² Once the victim is granted VAWA HRIFA all pending removal, deportation or exclusion cases against the victim are statutorily closed and the victim is granted lawful permanent residency. ²⁶³	Upon filing for VAWA CAA 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. ²⁶⁴ 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 CAA case is pending. ²⁶⁵ Once the victim is granted VAWA CAA the victim is granted adjustment of status to lawful permanent residency the victim the victim has full protection from deportation.	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. ²⁶⁶ 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. ²⁶⁷ Once the VAWA self-petition case is approved the victim receives deferred action ²⁶⁸ 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	The applicant files the VAWA HRIFA application using Form I-485 at the Nebraska Service Center of USCIS. ²⁶⁹	The applicant files the VAWA CAA application using Form I-485 at the VAWA Unit of Vermont Service Center of USCIS. ²⁷⁰	The applicant files the VAWA self-petition (Form I-360) at the VAWA Unit of Vermont Service Center of USCIS. ²⁷¹
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.

	VAWA HRIFA (VAWA Haitian Refugee Immigration Fairness Act)	VAWA CAA (VAWA Cuban Adjustment Act)	VAWA self-petition ⁷
Public Benefits	<p>VAWA HRIFA applicants do not become eligible for state or federal public benefits until their VAWA HRIFA application is approved and they are granted lawful permanent residency. While their application is pending they can access the same range of services and assistance that are legally available to all immigrant victims.²⁷² Once VAWA HRIFA victims gain lawful permanent residency they are <i>qualified immigrants</i> eligible to receive state and federal public benefits. Which benefits the VAWA HRIFA 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>Statutory Bars: The HRIFA statute places statutory bars on access to supplemental security income benefits and medical assistance benefits for HRIFA recipients including VAWA HRIFA recipients.²⁷³ For all other benefits programs the benefits VAWA HRIFA recipients with lawful permanent residency receive will be similar to what VAWA self-petitioners receive.²⁷⁴ To look up what immigrant victims can access in your state go to: http://map.niwap.org/²⁷⁵</p>	<p>VAWA CAA applicants do not become eligible for state or federal public benefits until their VAWA CAA application is approved and they are granted lawful permanent residency. While their application is pending they can access the same range of services and assistance that are legally available to all immigrant victims.²⁷⁶ Once VAWA CAA victims gain lawful permanent residency they are <i>qualified immigrants</i> eligible to receive state and federal public benefits. Which benefits the VAWA CAA 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; • The victim’s state of residence; and • Whether they also meet the definition of a Cuban entrant under public benefits laws²⁷⁷ <p>The benefits VAWA CAA recipients with lawful permanent residency receive will be similar to what VAWA self-petitioners receive.²⁷⁸ 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 benefits²⁷⁹ as well as the range of services that immigrant victims who have not filed for VAWA immigration protections are eligible to receive.²⁸⁰ 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. <p>To see which benefits immigrant victims can access in your state go to: http://map.niwap.org/</p>

¹ 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).

² Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact> (last visited Apr 14, 2020).

³ Leslye E Orloff, CUBAN ADJUSTMENT ACT WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-adjustment-act>.

⁴ EVANGELINE ABRIEL & SALLY KINOSHITA, THE VAWA MANUAL IMMIGRATION RELIEF FOR ABUSED IMMIGRANTS (7th ed. 2017).

⁵ 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. See generally, Confidentiality Under Violence Against Women Act (VAWA), NIWAP, <http://niwaplibrary.wcl.american.edu/pubs/conf-vawa-bro-3prongsofconfidentiality>.

⁶ An individual may apply for more than one form of relief if eligible.

⁷ 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> (for 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)

⁸ Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902(d)(1) *See* Orloff, *supra* note 2.

⁹ USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(m) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html#0-0-0-445>.

¹⁰ Policy Memorandum from the Office of the Director, USCIS to USCIS Officers 4 (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis> (The restrictions of INA Section 216 do not apply to the spouses and children under the CAA and do not apply to VAWA CAA applications).

¹¹ USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(b)(3) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html#0-0-0-445>. (Discussion laws governing calculation of “last arrival”)

¹²Policy Memorandum from the Office of the Director, USCIS (USCIS) to USCIS Officers (July 29, 2016), 2 (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(m)(2) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html#0-0-0-445> (There could be some cases of abused VAWA CAA recipient spouses and children where these rollback protections could result in a victim will be assigned a date on which they become a lawful permanent resident that pre-dates the date on which they married or became the step-child of their abusive Cuban CAA eligible spouse or step-parent).

¹³ Instructions for form I-485, Supplement C, HRIFA, USCIS 2 (Oct. 31, 2017), <http://niwaplibrary.wcl.american.edu/pubs/i-485-supp-c-hrifa-instructions> (where to file); *See* also USCIS, GREEN CARD FOR A HAITIAN REFUGEE (2017), <https://www.uscis.gov/greencard/haitian-refugee>. (To apply for a Green Card, you will need to file Form I-485, Application to Register Permanent Residence or Adjust Status. You will need to use the HRIFA Supplement to Form I-485 Instructions, I-485 Supplement C, to help you complete the application.)

¹⁴ Policy Memorandum from the Office of the Director, USCIS (USCIS) to USCIS Officers (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>; *See* USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11 Cuban Adjustment Act Cases, (i)* in ADJUDICATOR'S FIELD MANUAL, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html> As with VAWA self- petitions the VAWA Unit will be responsible for making the adjudicative determination about the existence of battering or extreme cruelty in the case. Once the VAWA Unit has made the abuse determination and findings about the existence of battering or extreme cruelty, the VAWA Unit may decide to relocate the case to a field office for the final decision on the adjustment of status application. When this occurs the officer adjudicating adjustment of status cannot re-adjudicate the abuse finding as with all other VAWA self-petition cases. *See* USDOJ INS, MEMORANDUM: “Revocation of VAWA-Based Self-Petitions I-360” (Aug. 2, 2002), <http://niwaplibrary.wcl.american.edu/pubs/memo-on-revocation-of-vawa-self-petitions-august-5-2002>; and DHS USCIS, Revocation of VAWA-Based Petitions (Forms-360); AFM Update AD10-49; PM-602-0022, (Dec. 15, 2010), <http://niwaplibrary.wcl.american.edu/pubs/uscis-policy-memo-on-centralization-of-revocation-of-self-petitions>.

¹⁵ Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 10, 14, 36-37 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions>; Policy Memorandum from the Office of the Director, USCIS (USCIS) to USCIS Officers, 6-8 (July 29, 2016), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis> (The VAWA CAA applicant uses Form I-485 to file for VAWA CAA and is not required to also file a form I-360 VAWA self-petition. It can be useful however for VAWA CAA victims to provide along with their application the types of evidence proving battering or extreme cruelty that victims file in I-360 VAWA self-petitioning cases); 8 C.F.R. 204.1(g)(3)(vi); Self-Petitioning Battered or Abused Spouses and Children, 61 Fed. Reg. 13061, 13065-6 (Mar. 26, 1996); *See* USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(j)(3) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html> (A discussion about how VAWA CAA and VAWA self-petition (Form I-360) adjudicators will treat cases in which there has been a prior self-petition filed by the victim or the victim has pending applications for both VAWA CAA and a VAWA self-petition).

¹⁶ *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>

¹⁷ I-360 Form, Petition for Amerasian, Widow(er), DHS USCIS, <https://www.uscis.gov/i-360>

¹⁸ The lawful permanent residency application Form I-485 is filed with the VAWA Unit at the Vermont Service Center. The VAWA Unit will be responsible for making the adjudicative determination about the existence of battering or extreme cruelty which is part of the approval of the VAWA self-petition. Once the VAWA Unit has made the abuse determination and findings about the existence of battering or extreme cruelty and other factors adjudicated as part of the VAWA self-petition, when VAWA Unit sends the case to a field office for the final decision on the lawful permanent residency adjustment of status application, the field the officer adjudicating adjustment of status cannot re-adjudicate the findings the VAWA Unit already made in adjudicating the self-petition. *See* USDOJ INS, MEMORANDUM: “Revocation of VAWA-Based Self-Petitions I-360” (Aug. 2,

2002), <http://niwaplibrary.wcl.american.edu/pubs/memo-on-revocation-of-va-wa-self-petitions-august-5-2002>; and DHS USCIS, Revocation of VAWA-Based Petitions (Forms-360); AFM Update AD10-49; PM-602-0022, (Dec. 15, 2010), <http://niwaplibrary.wcl.american.edu/pubs/uscis-policy-memo-on-centralization-of-revocation-of-self-petitions>.

¹⁹ Instructions for I-485, Supplement C, HRIFA, DHS USCIS, 2 (Oct. 31, 2017), <http://niwaplibrary.wcl.american.edu/pubs/i-485-supp-c-hrifa-instructions> (See where to file); See also USCIS, GREEN CARD FOR A HAITIAN REFUGEE (2017), <https://www.uscis.gov/greencard/haitian-refugee> (To apply for a Green Card, you will need to file Form I-485, Application to Register Permanent Residence or Adjust Status. You will need to use the HRIFA Supplement to Form I-485 Instructions, I-485 Supplement C, to help you complete the application.”)

²⁰ IRA J. KURZBAN, IMMIGRATION LAW SOURCEBOOK, 816–818 (16th ed. 2018).

²¹ Policy Memorandum from the Office of the Director, USCIS (USCIS) to USCIS Officers (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>

²² USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(b)(2) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html> (“Any inspection and admission or parole, regardless of the classification of admission or the purpose of parole, meets this requirement, See generally Matter of Alvarez-Riera , 12 I. & N. Dec. 112 (BIA 1967) ; Matter of Rodriguez, 12 I. & N. Dec. 549 (R.C. 1967); Matter of Martinez-Monteagudo , 12 I. & N. Dec. 688 (R.C. 1968)”)

²³ Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 36 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions> (abused spouses and children who are present in the U.S. without inspection are not eligible for VAWA CAA adjustment of status to lawful permanent residency unless they first present themselves to DHS and Seek parole from DHS under INA section 212(d)(5)(a).); USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(h) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>.

²⁴ See DEP’T OF HOMELAND SECURITY, INSTRUCTION NUMBER: 002-02-001, IMPLEMENTATION OF SECTION 1367 INFORMATION PROVISIONS, 4 (Nov. 7, 2013), <http://niwaplibrary.wcl.american.edu/pubs/implementation-of-section-1367-all-dhs-instruction-002-02-001/> (For an important note that VAWA’s confidentiality laws 8 U.S.C. 1367 apply to VAWA CAA cases); As a result there will be cases in which the abusive CAA eligible spouse files for lawful permanent residency through the CAA and does not include applications for their abused spouse, child and/or step-child in their application. The abused spouse, child and/or step-child could file their own VAWA CAA application and that application would have VAWA confidentiality protection and would preclude the perpetrator from learning about the existence of the application, about the outcome of the application, and will protect from discovery in both civil and criminal cases the information contained in that application. See Limayli Huguet et al., *Quick Reference Guide for Judges: VAWA Confidentiality and Discovery Related Case Law*, NIWAP (2019), <http://niwaplibrary.wcl.american.edu/pubs/judges-va-wa-confidentiality-cases-and-discovery>. When a VAWA CAA applicant files such a confidential applicant it could be possible for the victims to receive approval of their VAWA CAA applications on the same date as the abusive spouse or parent’s CAA application is approved. 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-va-wa-confidentiality-protections_3-29-19/; Confidentiality Under Violence Against Women Act (VAWA), NIWAP, <http://niwaplibrary.wcl.american.edu/pubs/conf-va-wa-bro-3prongsofconfidentiality>.

²⁵ Policy Memorandum from the Office of the Director, USCIS (USCIS) to USCIS Officers, 3, 10 (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(e)(1) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html#0-0-0-445> (the qualifying spousal or parent-child relationship with the abusive CAA eligible spouse may have been created before or after the CAA eligible abusive spouse’s receipt of lawful permanent residency through adjustment of status. Matter of Milian, 13 I. & N. 480 (A.R.C. 1970). Further when the abusive CAA eligible spouse was granted adjustment of status to lawful permanent residency under another provision of the immigration laws, not CAA, the abused spouse will be eligible for VAWA CAA.)

²⁶ USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(n) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html#0-0-0-445>.

²⁷ USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(b)(2) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html#0-0-0-445> (“Any inspection and admission or parole, regardless of the classification of admission or the purpose of parole, meets this requirement, See generally Matter of Alvarez-Riera , 12 I. & N. Dec. 112 (BIA 1967) ; Matter of Rodriguez , 12 I. & N. Dec. 549 (R.C. 1967); Matter of Martinez-Monteagudo , 12 I. & N. Dec. 688 (R.C. 1968)”)

²⁸ I-360 Form, Petition for Amerasian, Widow(er), DHS USCIS, (April 12, 2018) <https://www.uscis.gov/i-360>

²⁹ 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.

³⁰ Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902(d)(1); *See* Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact> (last visited Apr 14, 2020); Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 37 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.13 Adjustment of Status under the Haitian Refugee Immigration Fairness Act, Pub. L. 105-277 (HRIFA)*, in ADJUDICATOR’S FIELD MANUAL, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10689.html>.

³¹ USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(e)(1) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html#0-0-0-445>.

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³³ Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902(d)(1)(B)(ii); Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact> (last visited Apr 14, 2020); Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 10, 14, 38-39 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions>; *See* 8 C.F.R. §204.2(c)(1) (For the definition of battering or extreme cruelty); *See also* Leslye E Orloff, Brittnay Roberts & Stefanie Glitler, “*Battering or Extreme Cruelty*” *Drawing Examples from Civil Protection Order and Family Law Cases*, NIWAP (2015), <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 8 C.F.R.240.65(d)(1) (The definition of battery or extreme cruelty to be applied to VAWA CAA cases is the same definition used in all VAWA self-petitioning cases). Leslye E Orloff, Brittnay Roberts & Stefanie Glitler, “*Battering or Extreme Cruelty*” *Drawing Examples from Civil Protection Order and Family Law Cases*, NIWAP, 6 (2015), <http://niwaplibrary.wcl.american.edu/pubs/extreme-cruelty-examples-protection-order-2> (For more detailed information on the definition of battering or extreme cruelty); USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(h) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

³⁵ 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 & Stefanie Glitler, “*Battering or Extreme Cruelty*” *Drawing Examples from Civil Protection Order and Family Law Cases*, NIWAP, 6 (2015), <http://niwaplibrary.wcl.american.edu/pubs/extreme-cruelty-examples-protection-order-2> (For more detailed information on the definition of battering or extreme cruelty).

³⁶Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902(d)(1)(B)(ii); Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact> (last visited Apr 14, 2020); Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 38-39 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions> (The battering or extreme cruelty could have taken place anywhere. Abuse occurring in the United States is not required by the statute.)

³⁷ Leslye E Orloff, CUBAN ADJUSTMENT ACT WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS 4 (2020), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-adjustment-act>. (“A spouse or child must demonstrate by providing any credible evidence that he or she was the subject of abuse or extreme cruelty by the qualifying Cuban principal, during the relationship, to qualify for the VAWA eligibility provisions for adjustment of status under the CAA.”); USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(a) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html> (The battering or extreme cruelty could have taken place anywhere. Abuse occurring in the United States is not required by the statute.)

³⁸ INA Section 204(a)(1)(A)(v)(I)(cc) and 204(a)(1)(B)(iv)(cc).

³⁹ INA Section 204(a)(1)(A)(v)(I)(aa) and (bb); INA Section 204(a)(1)(B)(iv)(I)(aa) and (bb).

⁴⁰ Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902(d)(1)(B)(ii) Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact> (last visited Apr 14, 2020); Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 10, 38-39 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions>

- ⁴¹ Leslye E Orloff, CUBAN ADJUSTMENT ACT WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS 4 (2020), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-adjustment-act>. (“A spouse or child must demonstrate by providing any credible evidence that he or she was the subject of abuse or extreme cruelty by the qualifying Cuban principal, during the relationship, to qualify for the VAWA eligibility provisions for adjustment of status under the CAA.”)
- ⁴² Leslye E Orloff, CUBAN ADJUSTMENT ACT WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS 4 (2020), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-adjustment-act>. The qualifying spousal or parent-child relationship may have been created before or after the abusive CAA eligible spouse or parent’s receipt of lawful permanent residency. Matter of Milian, 13 I. & N. 480 (A.R.C. 1970). USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(e)(1) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>
- ⁴³ Leslye E Orloff, CUBAN ADJUSTMENT ACT WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS 4 (2020), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-adjustment-act>. (“While the principal applicant must have adjusted to lawful permanent resident (LPR) status in order for the non-Cuban spouse or child to qualify under the CAA, it is not necessary for the principal applicant to have adjusted under the CAA itself. Adjustment of a Cuban native or citizen to LPR status under any other adjustment provision will also make it possible for the non-Cuban spouse or child to *Seek* adjustment under the CAA.”)
- 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 Self-Petitioning Battered or Abused Spouses and Children, 61 Fed. Reg. 13061, 13066 (Mar. 26. 1996) Regulations (“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 Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 38 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions>
- ⁴⁸ Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902(d)(1)(B)(ii) (Victims who were abused by the HRIFA eligible spouses should remain eligible for HRIFA if the marriage between the abusive HRIFA eligible spouse and the immigrant spouse victim has been terminated. The statute uses the terms “is or was” in section 902(d)(1)(B)(ii). This interpretation is consistent with the approach VAWA took in all other types of VAWA self-petitions ensuring that divorce would not cut off abused immigrant spouses and children from VAWA protections). Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>
- ⁴⁹ Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 38 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions><http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions>; Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902(a) and (b); *See* Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>.
- ⁵⁰ 8 C.F.R. 245.14(c); Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902(b); Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact> (last visited Apr 14, 2020).
- ⁵¹ USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(b) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html> (Defines who is considered a native or citizen of Cuba for purposes of establishing CAA eligibility of the abusive spouse)
- ⁵² Leslye E Orloff, CUBAN ADJUSTMENT ACT WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS 4 (2020), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-adjustment-act>;
- ⁵³ USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(b)(2) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html> (“Any inspection and admission or parole, regardless of the classification of admission or the purpose of parole, meets this requirement, *See* generally Matter of Alvarez-Riera, 12 I. & N. Dec. 112 (BIA 1967); Matter of Rodriguez, 12 I. & N. Dec. 549 (R.C. 1967); Matter of Martinez-Monteagudo, 12 I. & N. Dec. 688 (R.C. 1968)”)
- ⁵⁴ USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(d) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html> (The bars to adjustment of status to lawful permanent residency listed in INA Section 245(c) do not apply to CAA and VAWA CAA applicants. Thus the following immigrants are eligible to apply: crewmen, transit passengers without visas, immigrants who over stayed their visas, immigrants who worked without authorization, and immigrants who were admitted to the U.S. through the visa waiver program)

⁵⁵ <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis> pp 2, 5; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(e)(2) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

⁵⁶ The abused spouse or child does not need to provide a copy of the abusive CAA eligible spouse or parent's CAA application for adjustment of status to lawful permanent residency. It is useful however, to provide in the VAWA CAA application sufficient information to enable USCIS to locate the abusive spouse or parent's CAA application. See <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis> p7 and USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(e)(2) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html> (For a list of suggested information that is useful to provide).

⁵⁷ Policy Memorandum from the Office of the Director, USCIS to USCIS Officers 5 (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis> p 5; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(e)(2) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

⁵⁸ Policy Memorandum from the Office of the Director, USCIS to USCIS Officers 5 (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(e)(2) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

⁵⁹ INA Section 204(a)(1)(A)(iii), (iv), (v)

⁶⁰ INA Section 204(a)(1)(B)(ii), (iii)

⁶¹ Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 38 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions>

⁶² Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 38 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions>; Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902(d)(1)(B); See Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>

⁶³ Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902(d)(1)(B)(ii) (Victims who were abused by the HRIFA eligible spouses should remain eligible for HRIFA if the marriage between the abusive HRIFA eligible spouse and the immigrant spouse victim has been terminated. The statute uses the terms “is or was” in section 902(d)(1)(B)(ii). This interpretation is consistent with the approach VAWA took in all other types of VAWA self-petitions ensuring that divorce would not cut off abused immigrant spouses and children from VAWA protections). See Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>

⁶⁴ Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 38 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions>; Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902(d)(1)(B); See Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>; (INA Section 101(b)(1) definition of child applies to VAWA HRIFA cases. To be considered a child under HRIFA the child must be under the age of 21 when the VAWA HRIFA case is decided. If a VAWA HRIFA eligible child is approaching age 21 when they apply for VAWA HRIFA they should request that their case be expedited. See USCIS, GREEN CARD FOR A HAITIAN REFUGEE (2017), <https://www.uscis.gov/greencard/haitian-refugee>

⁶⁵ Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 38 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions>; Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902(d)(1)(B); See Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>; 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.

⁶⁶ USCIS, GREEN CARD FOR A HAITIAN REFUGEE (2017), <https://www.uscis.gov/greencard/haitian-refugee>

⁶⁷ Policy Memorandum from the Office of the Director, USCIS to USCIS Officers 2-3 (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis> (The abuser must have been a “qualifying Cuban principal”); USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(b)(1), (2), and (3) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>.

⁶⁸ USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(e)(1) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html> (The abusive CAA eligible spouse, former spouse, parent or step-parent must be currently applying for lawful permanent residency or must have obtained lawful permanent residency status. The means by which the abuser obtained lawful permanent residency status need not have been through CAA).

⁶⁹ Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 36 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions>

⁷⁰ Eligibility is based on the spousal relationship between the battered spouse VAWA CAA applicant and the abusive spouse who qualifies for CAA adjustment of status to lawful permanent residency. Section 1 of the Cuban Adjustment Act; Policy Memorandum from the Office of the Director, USCIS to USCIS Officers 2, 7 (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(h) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

⁷¹ Section 1 Cuban Adjustment Act; Policy Memorandum from the Office of the Director, USCIS to USCIS Officers 2-6 (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(e)(2) and (h) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

⁷² Eligibility is based on the parent-child relationship between the abused child VAWA CAA applicant and the abusive parent who qualifies for CAA adjustment of status to lawful permanent residency. Section 1 of the Cuban Adjustment Act; Policy Memorandum from the Office of the Director, USCIS to USCIS Officers 2, 7 (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(h) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>.

⁷³ Any child who meets the definition of “child” under INA Section 101(b)(1) if they were battered or subjected to extreme cruelty by their Cuban CAA eligible parent would be eligible for VAWA CAA. This definition includes children born in wedlock, step children, legitimated children, and adopted children. 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 step-children of CAA eligible abusive step parents must apply for VAWA CAA before the marriage between their abusive CAA eligible step-parent and their natural parent is terminated. Section 1 of the Cuban Adjustment Act only provide the filing within 2 years of divorce option to abused spouses and not abused children. *See* USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(e)(2) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>. (Discussing divorce with regard to abused spouses).

The step-child who was abused would also have the right to independently file for VAWA CAA while they were the step-child of the CAA eligible abuser.

⁷⁴ Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 10-11 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions>

⁷⁵ INA Section 204(a)(1)(A)

⁷⁶ INA Section 204(a)(1)(A)(iii)(II)(aa)(AA); *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.).

⁷⁷ INA Section 204(a)(1)(A)(iii)(II)(aa)(BB)

⁷⁸ 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).

⁷⁹ INA Section 204(a)(1)(A)(iv) (INA Section 101(b)(1) defined children to include step-children); 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).

⁸⁰ 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 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.

⁸¹ INA Section 204(a)(1)(A)(vii)

⁸² INA Section 204(a)(1)(B)

⁸³ INA Section 204(a)(1)(B)(ii)(II)(aa)(AA); 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.).

⁸⁴ INA Section 204(a)(1)(B)(ii)(II)(aa)(BB)

⁸⁵ 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).

⁸⁶ INA Section 204(a)(1)(B)(iii) (INA Section 101(b)(1) defined children to include step-children). 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).

⁸⁷ 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.

⁸⁸ INA Section 204(a)(1)(A)(iii)(I)(bb).

⁸⁹ INA Section 204(a)(1)(B)(ii)(I)(bb).

⁹⁰ INA Section 204(a)(1)(A)(iii)(II)(aa)(AA); INA Section 204(a)(1)(B)(ii)(II)(aa)(AA); 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.).

⁹¹ INA Section 204(a)(1)(A)(iii)(II)(aa)(BB) | INA Section 204(a)(1)(B)(ii)(II)(aa)(BB)

⁹² INA Section 204(a)(1)(A)(iii)(II)(aa)(CC); 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).

⁹³ Self-Petitioning Battered or Abused Spouses and Children, 61 Fed. Reg. 13061, 13062-4 (Mar. 26, 1996); 8 C.F.R. 204.2(c)(1)(ii)(marital relationship abused spouse); 8 C.F.R. 204.2(e)(2)(ii)(parent/child relationship)

⁹⁴ This generally requires that the applicant "submit a photocopy of your marriage certificate issued by the appropriate civil authority where the marriage took place. See Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 10-11 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485->

instructions (If either spouse was previously married the applicant must also submit proof of the legal termination of any prior marriages which generally includes a divorce certificate or a death certificate).

⁹⁵ Although non-abused spouses and children of CAA eligible spouses and parents must show current residence together and prove the viability of the marriage, this standard does not apply to VAWA CAA applicants. VAWA CAA applicants may apply without the requirement of continuing to live with their abusive CAA eligible spouse or parent and abused spouses may apply after termination of the marriage or death of the abuser. Section 1 Cuban Adjustment Act; Policy Memorandum from the Office of the Director, USCIS to USCIS Officers 4 (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children),

<http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>; See USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(e)(1)&(2) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

⁹⁶ See USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(h) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

⁹⁷ Policy Memorandum from the Office of the Director, USCIS to USCIS Officers 5,7 (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(e)(2)&(h) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

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⁹⁹ INA Section 204(a)(1)(A)(iii)(I)(aa) and INA Section 204(a)(1)(B)(ii)(I)(aa). For more information on good faith marriage in VAWA self-petitioning cases See <http://niwaplibrary.wcl.american.edu/pubs/good-faith-marriage-vawa> and <http://niwaplibrary.wcl.american.edu/pubs/evidence-good-faith-marriage>

¹⁰⁰ 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). For more information on intended spouses and abusive spouses who are bigamists See <http://niwaplibrary.wcl.american.edu/pubs/uscis-memo-on-eligibility-to-sp-as-intended-spouse-bigamy-memo>

¹⁰¹ 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).

¹⁰² INA Section §240A(b)(2)(A)(i).

¹⁰³ Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902(d)(1)(B)(ii) (Victims who were abused by the HRIFA eligible spouses should remain eligible for HRIFA if the marriage between the abusive HRIFA eligible spouse and the immigrant spouse victim has been terminated. The statute uses the terms “is or was” in section 902(d)(1)(B)(ii). This interpretation is consistent with the approach VAWA took in all other types of VAWA self-petitions ensuring that divorce would not cut off abused immigrant spouses and children from VAWA protections). See Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>

¹⁰⁴ Termination of the marriage includes by divorce or by annulment. It is important to note that particularly in domestic violence cases there will be instances in which the abuser will *Seek* annulment instead of divorce in a marriage when termination of the marriage would typically handled in a family court divorce action. Examples include longer marriages and marriages in which the parties have children. Abusers will *Seek* annulment in an effort to obtain a ruling that they can later use to try to convince immigration and/or justice department attorneys to initiate a marriage fraud action against their abused spouse. When divorce would be the standard remedy family law attorneys and judges should proceed with a divorce action rather than with the annulment action requested by the perpetrator.

¹⁰⁵ Section 1 Cuban Adjustment Act; Policy Memorandum from the Office of the Director, USCIS to USCIS Officers 2-6 (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(e)(2)&(h) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

¹⁰⁶ Section 1 Cuban Adjustment Act; Policy Memorandum from the Office of the Director, USCIS to USCIS Officers 2-6 (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(e)(2)&(h) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

¹⁰⁷ INA 204(a)(1)(A)(vi) [spouse of USC]; INA §204(a)(1)(B)(v)(I) [spouse of LPR]. INA §204(a)(1)(h)(applies to self-petitions); For VAWA self-petitions the statute contains language that remarriage will not cause an approved self-petition to be revoked. There is strong legislative history language clarifying that remarriage after filing was intended to have no effect on the self-petition. The official Section by Section in the Congressional Record for the Senate of VAWA 2000 states that Section 1507 of VAWA 2000 “Clarifies

that remarriage has no effect on pending VAWA immigration petition.” 146 Cong. Rec. S10196 (2000) in http://niwaplibrary.wcl.american.edu/pubs/vawa_leg-history_final-6-17-15-sji

¹⁰⁸ INA §204(a)(1)(h)(Specifically applies to self-petitions based on abuse by a U.S. citizen or lawful permanent resident spouse. Thus, VAWA CAA applicants should wait until their VAWA CAA application is approved to remarry to minimize the risk that remarriage may lead to denial of the victim’s VAWA CAA application.

¹⁰⁹Policy Memorandum from the Office of the Director, USCIS to USCIS Officers 6-7 (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(a) & (e)(2) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

¹¹⁰ INA §204(b)(1)(B) defines child for immigration purposed to include step-children. Thus, an abused step-child of a CAA eligible step-parent would have 2 years from the death of the abusive CAA eligible step-parent to apply for VAWA CAA.

¹¹¹ Policy Memorandum from the Office of the Director, USCIS to USCIS Officers 6 (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(e)(2) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

¹¹² INA §204(a)(1)(A)(vi) [spouse of USC]; INA §204(a)(1)(B)(v)(I) [spouse of LPR].

¹¹³ INA §204(a)(1)(A)(iii)(II)(aa)(CC)(ccc) [spouse of USC]; INA §204(a)(1)(B)(ii)(II)(aa)(CC)(ccc) [spouse of LPR]. The above 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, INS Mem/HQADN/70/8, January 2, 2002, “Eligibility to Self-Petition as a Battered Spouse of a U.S. Citizen or Lawful Permanent Resident Within Two Years of Divorce.”

¹¹⁴ INA §204(a)(1)(h).

¹¹⁵ INA §204(a)(1)(A)(iii)(II)(aa)(CC)(aaa). These protections are not available to spouses of lawful permanent residents.

¹¹⁶ Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 38 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions>

¹¹⁷ Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 38 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions>

¹¹⁸ Form I-130, Instructions for Form I-130, Petition for Alien Relative, and Form I-130A, Supplemental Information for Spouse Beneficiary, DHS USCIS, 1 (Feb. 13, 2019) <https://www.uscis.gov/i-130>

¹¹⁹ Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 36 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions>

¹²⁰ Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 36 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions>

¹²¹ Form I-130, Instructions for Form I-130, Petition for Alien Relative, and Form I-130A, Supplemental Information for Spouse Beneficiary, DHS USCIS, 1 (Feb. 13, 2019) <https://www.uscis.gov/i-130>

¹²² INA §204(a)(1)(A)(iii), INA §204(a)(1)(B)(ii).

¹²³ 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 step-children). 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-petitioner’s 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.

¹²⁴ INA §204(a)(1)(A)(iii)(I)(bb) and INA §204(a)(1)(B)(ii)(1)(bb).

¹²⁵ INA Section 204(l)(2)(F)

¹²⁶Cuban Adjustment Act Section 1; Policy Memorandum from the Office of the Director, USCIS to USCIS Officers 2, 4 (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(e)(2) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

¹²⁷ 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).
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¹²⁹ 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).

¹³⁰ Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902(d)(1)(C); *See* Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>

¹³¹ Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 36 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(b)(3) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html> (Discussing calculation of at least one year aggregate physical presence); Policy Memorandum from the Office of the Director, USCIS to USCIS Officers 2, 3, 7 (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>;

¹³² INA §204(a)(1)(A)(v) [spouse of USC]; INA §204(a)(1)(B)(iv) [spouse of LPR].

¹³³ USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(b)(3) & (h) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

¹³⁴ USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(b)(3) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html> (Outlines how aggregate physical presence is calculated, describes what types of absences can be disregarded, and the factors USCIS will look at in its adjudication)

¹³⁵ Section 1 Cuban Adjustment Act; *See* Policy Memorandum from the Office of the Director, USCIS to USCIS Officers (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(b)(3) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

¹³⁶ 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 s 204(a)(1)(A) and 204(a)(1)(B) by section 1503(b) and(c) of VAWA 2000.

¹³⁷ In HRIFA cases the continuous presence requirements only apply to the abusive HRIFA eligible spouse’s application for adjustment of status to lawful permanent residency Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902 (b)(2) and (d)(2)and to over 21 year old sons and daughters of HRIFA recipient parents. Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902 (d)(1)(B)(i) and (d)(2) *See* Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>

¹³⁸ Section 1 Cuban Adjustment Act; *See* Policy Memorandum from the Office of the Director, USCIS to USCIS Officers 2-6 (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11 Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

¹³⁹ 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).

¹⁴⁰ 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.).

¹⁴¹ 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>.

¹⁴² 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

¹⁴³ USDOJ, *Determinations of Good Moral Character*, Memo by Paul E. Novak, 3-4 (Jan. 19, 2015), <http://niwaplibrary.wcl.american.edu/pubs/imm-gov-uscis-memo-yates-good-moral-character-01-19-05>

¹⁴⁴ Cite section of VAWA 2013 Section 804; INA 212(a)(4)(E); Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902 (d)(1)(D); See Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.13(c)(2)(D) Adjustment of Status under the Haitian Refugee Immigration Fairness Act, Pub. L. 105-277 (HRIFA)*, in ADJUDICATOR'S FIELD MANUAL, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10689.html>.

¹⁴⁵ INA Section 212(A)(5) Labor certifications and labor qualifications inadmissibility grounds to do not apply; Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902 (d)(1)(D); See Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.13(c)(2)(D) Adjustment of Status under the Haitian Refugee Immigration Fairness Act, Pub. L. 105-277 (HRIFA)*, in ADJUDICATOR'S FIELD MANUAL, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10689.html>.

¹⁴⁶ INA Section 212(a)(6)(A) Immigrants present without admission or parole does not apply. Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902 (d)(1)(D); See Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.13(c)(2)(D) Adjustment of Status under the Haitian Refugee Immigration Fairness Act, Pub. L. 105-277 (HRIFA)*, in ADJUDICATOR'S FIELD MANUAL, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10689.html>.

¹⁴⁷ INA Section 212(a)(7)(A) Immigrants inadmissible for lack of valid unexpired visa, passport, or immigration documentation does not apply. Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902 (d)(1)(D); See Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.13(c)(2)(D) Adjustment of Status under the Haitian Refugee Immigration Fairness Act, Pub. L. 105-277 (HRIFA)*, in ADJUDICATOR'S FIELD MANUAL, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10689.html>.

¹⁴⁸ VAWA HRIFA applicants are VAWA self-petitioners I o waivers inadmissibility or deportability available.

¹⁴⁸ INA Section 212(a)(10)

NA Section 101(a)(51)(E)

¹⁴⁹ All HRIFA applicants including VAWA HRIFA applicants are exempt from the 3 and 10 year bars to admission to the United States due to unlawful presence. INA Section 212(a)(9)(B). USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.13(c)(2)(D) Adjustment of Status under the Haitian Refugee Immigration Fairness Act, Pub. L. 105-277 (HRIFA)*, in ADJUDICATOR'S FIELD MANUAL, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10689.html>.

¹⁵⁰ VAWA CAA victims are considered VAWA self-petitioners under INA Section 101(a)(51). Many of the waivers and exceptions to good moral character and inadmissibility apply to all VAWA self-petitioners including VAWA CAA applicants.

¹⁵¹ USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(f) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

¹⁵² USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(f) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

¹⁵³ USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(f) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

¹⁵⁴ CAA applicants are exempt from § 212(a)(6)(A)(i) ground of inadmissibility for having arrived at a place that is not at a port of entry. USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(f) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

¹⁵⁵ VAWA CAA applicants are VAWA self-petitioners INA Section 101(a)(51)(D)

¹⁵⁶ 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); 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>; 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).

¹⁵⁷ 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”).

¹⁵⁸ *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).

¹⁵⁹ INA Section 212(a)(6)(A) waiver included in the exemption from the 3 and 10 year bars for battered immigrants. ¹⁵⁹ *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>.

¹⁶⁰ 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).

¹⁶¹ INA Section 212(a)(9)(C) may file for a waiver for being unlawfully present after previous immigration violations. *See* I-601 Form Instructions, Instruction for Application for Waiver of Grounds of Inadmissibility, DHS USCIS 2, <https://www.uscis.gov/i-601>. Also qualify for this waiver as VAWA self-petitioners who have a separate exception from this inadmissibility ground *See* INA 212(a)(9)(B)(iii)(IV). VAWA HRIFA are VAWA self-petitioners as defined in INA Section 101(a)(51)(E).

¹⁶² INA Section 212(a)(9)(A) may file for a waiver for immigrants previously removed from the United States. *See* I-601 Form Instructions, Instruction for Application for Waiver of Grounds of Inadmissibility, DHS USCIS 2, <https://www.uscis.gov/i-601>. Also qualify for this waiver as VAWA self-petitioners who have a separate exception from this inadmissibility ground *See* INA 212(a)(9)(B)(iii)(IV). VAWA HRIFA are VAWA self-petitioners as defined in INA Section 101(a)(51)(E).

¹⁶³INA 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 VAWA self-petitioner with DHS agreement to a favorable exercise of discretion); Under INA Section 212(a)(51)(E) VAWA HRIFA applicants are VAWA self-petitioners with access to this waiver.

¹⁶⁴ 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); Under INA Section 212(a)(51)(E) VAWA HRIFA applicants are VAWA self-petitioners with access to this waiver.

¹⁶⁵ 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); Under INA Section 212(a)(51)(E) VAWA HRIFA applicants are VAWA self-petitioners with access to this waiver.

¹⁶⁶ 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. Under INA Section 212(a)(51)(E) VAWA HRIFA applicants are VAWA self-petitioners with access to this waiver.

¹⁶⁷ 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); Under INA Section 212(a)(51)(E) VAWA HRIFA applicants are VAWA self-petitioners with access to this waiver.

¹⁶⁸ 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. Under INA Section 212(a)(51)(E) VAWA HRIFA applicants are VAWA self-petitioners with access to this waiver.

¹⁶⁹ INA Section 212(a)(6)(E)(ground of inadmissibility); INA Section 212(d)(11)(waiver available for immigrant 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 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.

¹⁷⁰ VAWA CAA victims are considered VAWA self-petitioners under INA Section 101(a)(51). Many of the waivers and exceptions to good moral character and inadmissibility apply to all VAWA self-petitioners including VAWA CAA applicants.

¹⁷¹ 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); USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(f) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

¹⁷² 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 USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(f) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

¹⁷³ 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) USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(f) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

¹⁷⁴ 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. USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(f) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

¹⁷⁵ 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); USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(f) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

¹⁷⁶ 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). *See* USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(1) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

¹⁷⁷ INA 212(a)(9)(C); 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. *See* I-601 Form Instructions, Instruction for Application for Waiver of Grounds of Inadmissibility, DHS USCIS 2, <https://www.uscis.gov/i-601>

¹⁷⁸ 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.

¹⁷⁹ 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)

¹⁸⁰ 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.)

¹⁸¹ *See* I-601 Form Instructions, Instruction for Application for Waiver of Grounds of Inadmissibility, DHS USCIS 2, <https://www.uscis.gov/i-601>.

¹⁸² *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 (tit

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.

¹⁸³ 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>.

¹⁸⁴ 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>.

¹⁸⁵ 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>.

¹⁸⁶ 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.

¹⁸⁷ 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).)

¹⁸⁸ 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.

¹⁸⁹ 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.

¹⁹⁰ 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).

¹⁹¹ 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).

¹⁹² 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>

¹⁹³ 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-uscismemovatesgoodmoralcharacter-01-19-05>.

¹⁹⁴ 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.)

¹⁹⁵Section 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.

¹⁹⁶ *See generally* Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. *See* Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>;

¹⁹⁷ INA section 212(a)(2)(C) (No waivers inadmissibility or deportability available).

¹⁹⁸ INA Section 212(a)(2)(G) (No waivers inadmissibility or deportability available).

¹⁹⁹ 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).

²⁰⁰ INA Section 212(a)(2)(I) (No waivers inadmissibility or deportability available).

²⁰¹ INA Section 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 Section 212(a)(3)(D), (ii), (iii), or (iv) apply).

²⁰² INA Section 212(a)(6)(D) (No waivers inadmissibility or deportability available).

²⁰³ INA Section 212(a)(10)(A) (No waivers inadmissibility or deportability available).

²⁰⁴ INA Section 212(a)(10)(B) (No waivers inadmissibility or deportability available).

²⁰⁵ 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).

²⁰⁶ INA Section 212(a)(10)(D) (No waivers inadmissibility or deportability available).

²⁰⁷ INA Section 212(a)(10)(E) (No waivers inadmissibility or deportability available).

²⁰⁸ *See generally* USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11 Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

²⁰⁹ INA section 212(a)(2)(C) (No waivers inadmissibility or deportability available)

²¹⁰ INA Section 212(a)(2)(G) (No waivers inadmissibility or deportability available).

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- ²¹¹ 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).
- ²¹² INA Section 212(a)(2)(I) (No waivers inadmissibility or deportability available)
- ²¹³ INA Section 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 Section 212(a)(3)(D), (ii), (iii), or (iv) apply).
- ²¹⁴ INA Section 212(a)(6)(D) (No waivers inadmissibility or deportability available).
- ²¹⁵ INA Section 212(a)(10)(A) (No waivers inadmissibility or deportability available).
- ²¹⁶ INA Section 212(a)(10)(B) (No waivers inadmissibility or deportability available).
- ²¹⁷ 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).
- ²¹⁸ INA Section 212(a)(10)(D) (No waivers inadmissibility or deportability available).
- ²¹⁹ INA Section 212(a)(10)(E) (No waivers inadmissibility or deportability available).
- ²²⁰ 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.)
- ²²¹ INA Section 101(f)(1); (No waivers inadmissibility or deportability available) so this is a bar to a good moral character determination).
- ²²² 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).
- ²²³ 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).
- ²²⁴ 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).
- ²²⁵ INA § 101(a)(7) (Such incarceration is a bar to a finding of good moral character)
- ²²⁶ INA § 212(a)(2)(G) (No waivers inadmissibility or deportability available)
- ²²⁷ 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).
- ²²⁸ INA §212(a)(2)(I) (No waivers inadmissibility or deportability available)
- ²²⁹ 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).
- ²³⁰ INA § 212(a)(6)(D) (No waivers inadmissibility or deportability available).
- ²³¹ INA § 212(a)(10)(A) (No waivers inadmissibility or deportability available).
- ²³² INA § 212(a)(10)(B) (No waivers inadmissibility or deportability available).
- ²³³ INA § 212(a)(10)(C) (No waivers of inadmissibility or deportability available, unless the exceptions in INA Section 212(a)(10)(C)(iii) apply).
- ²³⁴ INA § 212(a)(10)(D) (No waivers inadmissibility or deportability available).
- ²³⁵ INA § 212(a)(10)(E) (No waivers inadmissibility or deportability available).
- ²³⁶ 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).
- ²³⁷ INA Section 241(a)(5); LIFE Act Amendments of 2000, § 1505(b)(1) (amending HRIFA § 902(a)(2)); 8 C.F.R. § 241.8(d).
- ²³⁸ Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902(c)(1) and (2); *See* Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>; Alison Siskin, Alien Removals and Returns: Overview and Trends, Congressional Research Service 7-5700, p 10. *See* also Ruth Ellen Wasem, Immigration: Haitian Relief Issues and Legislation, Congressional Research Service Report 98-270; Ruth Ellen Wasem, Central American Asylum Seekers: Impact of 1996 Immigration Law, Congressional Research Service Report 97-810.
- ²³⁹ VAWA 2005 Section 813(b)(2)(Discussing cases under the Violence Against Women Act protections which should cover all VAWA self-petitioners including VAWA HRIFA. INA 101(a)(51)(E).
- ²⁴⁰ 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 CAA, however since VAWA CAA 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 CAA applicants.
- ²⁴¹ VAWA 2005 Section 813(b)(2)(“Cases under the Violence Against Women Act of 1994” are VAWA self-petitioners”)

²⁴² Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902 (a)(2); *See* Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact> (“Relationship of application to certain orders.--An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition on submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General makes a final decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.”)

²⁴³ Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902 (c)(1); *See* Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>.

²⁴⁴ Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902 (c)(2); *See* Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact> (Removal, exclusion or deportation is only allowed if a final determination is made to deny the HRIFA application).

²⁴⁵ Section 825(b) VAWA 2005 removed the time limits for filing motions to reopen in VAWA self-petition, VAWA suspension of deportation and VAWA cancellation of removal cases, including when the basis for the motion is to apply for VAWA related relief including VAWA CAA and VAWA HRIFA.

²⁴⁶ VAWA 2000 Section 1506(c)(2)(A)(i) and (B)

²⁴⁷ USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(n) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

²⁴⁸ 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).

²⁴⁹ 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).

²⁵⁰ INA Section 240(c)(7)(A); INA Section 240(c)(7)(C)(iv)

²⁵¹ INA Section 240(c)(7)(A); INA Section 240(c)(7)(C)(iv)

²⁵² INA Section 240(c)(7)(C)(iv)(II); VAWA 2000 Section 1506(c)(2)(A)(i)(bb).

²⁵³ INA Section 240(c)(7)(C)(iv); 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> (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).

²⁵⁴ Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902 (d)(1)(B)(ii); *See* Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>; *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-vaawa> (article contains the full legislative and regulatory history of VAWA’s any credible evidence rules)

²⁵⁵ Section 1 of the Cuban Adjustment Act; Policy Memorandum from the Office of the Director, USCIS to USCIS Officers 3, 4, 7 (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(a) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

See also, 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-vawa> (article contains the full legislative and regulatory history of VAWA’s any credible evidence rules)

²⁵⁶ INA§ 202(a)(1)(J), 8 U.S.C. § 1154; Cite and link INS memo on any credible evidence <http://niwaplibrary.wcl.american.edu/pubs/virtue-memo-on-any-credible-evidence-memo> (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-vawa> (article contains the full legislative and regulatory history of VAWA’s any credible evidence rules)

²⁵⁷ Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902 (c)(3); See Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>.

²⁵⁸ VAWA CAA applications are considered applications for adjustment of status to lawful permanent residency and are eligible to apply for work authorization. 8 CFR 274a.12(c)(9)

²⁵⁹ 8 CFR 274a.12(c)(11)

²⁶⁰ 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.

²⁶¹ Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 38 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions>; DEP’T OF HOMELAND SECURITY, INSTRUCTION NUMBER: 002-02-001, IMPLEMENTATION OF SECTION 1367 INFORMATION PROVISIONS 4 (Nov. 7, 2013), <http://niwaplibrary.wcl.american.edu/pubs/implementation-of-section-1367-all-dhs-instruction-002-02-001/>; Dep’t of Homeland Security, *Broadcast Message on New 384 Class of Admission Code*, in NAT’L IMMIGRANT WOMEN’S ADVOCACY PROJECT (Dec. 21, 2010), <http://niwaplibrary.wcl.american.edu/pubs/dhs-broadcast-class-admission-code/>; VAWA HRIFA applicants are VAWA self-petitioners under IINA Section 101(a)(51)(E) entitled to VAWA confidentiality protections.

²⁶² 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>. Removal of VAWA HRIFA applicants is statutorily barred while the victims HRIFA application is pending. Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902 (c)(1) and (2); See Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>.

²⁶³ Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902 (c)(2); See Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>

²⁶⁴ Policy Memorandum from the Office of the Director, USCIS (USCIS) to USCIS Officers (July 29, 2016), 3, 7-9 (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>; Form I-485, Instructions for Application to Register Permanent Residence or Adjust Status, DHS USCIS, 36 (Oct. 31, 2021), <http://niwaplibrary.wcl.american.edu/pubs/i-485-instructions>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(h), (j)(2), (k) Cuban Adjustment Act Cases*, in ADJUDICATOR’S FIELD MANUAL ,

<https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>; <http://niwaplibrary.wcl.american.edu/pubs/implementation-of-section-1367-all-dhs-instruction-002-02-001> p.4 and <http://niwaplibrary.wcl.american.edu/pubs/dhs-broadcast-class-admission-code> VAWA HRIFA applicants are VAWA self-petitioners under IINA Section 101(a)(51)(D) entitled to VAWA confidentiality protections.

²⁶⁵ 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>.

²⁶⁶ DEP'T OF HOMELAND SECURITY, INSTRUCTION NUMBER: 002-02-001, IMPLEMENTATION OF SECTION 1367 INFORMATION PROVISIONS 4 (Nov. 7, 2013), <http://niwaplibrary.wcl.american.edu/pubs/implementation-of-section-1367-all-dhs-instruction-002-02-001/>; Dep't of Homeland Security, *Broadcast Message on New 384 Class of Admission Code*, in NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT (Dec. 21, 2010), <http://niwaplibrary.wcl.american.edu/pubs/dhs-broadcast-class-admission-code/>.

²⁶⁷ 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>.

²⁶⁸ Deferred Action Basics, NATIONAL IMMIGRATION FORUM, April 15, 2016, <https://immigrationforum.org/article/deferred-action-basics/>. Instructions for form I-485, Supplement C, HRIFA, USCIS 2 (Oct. 31, 2017), <http://niwaplibrary.wcl.american.edu/pubs/i-485-supp-c-hrifa-instructions> (for where to file); See also USCIS, GREEN CARD FOR A HAITIAN REFUGEE (2017), <https://www.uscis.gov/greencard/haitian-refugee> (“To apply for a Green Card, you will need to file Form I-485, Application to Register Permanent Residence or Adjust Status. You will need to use the HRIFA Supplement to Form I-485 Instructions, I-485 Supplement C, to help you complete the application.”)

²⁷⁰ Policy Memorandum from the Office of the Director, USCIS to USCIS Officers 8 (July 29, 2016) (regarding the VAWA amendments to the Cuban Adjustment Act: Continued Eligibility for Abused Spouses and Children), <http://niwaplibrary.wcl.american.edu/pubs/vawa-cuban-aa-policy-uscis>; USCIS, *Chapter 23 Adjustment of Status to Lawful Permanent Resident/ 23.11(i) Cuban Adjustment Act Cases*, in ADJUDICATOR'S FIELD MANUAL , <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-8624/0-0-0-10170.html>

²⁷¹ I-360 Form Instructions, Instructions for Petition for Amerasian, Widow(er), DHS USCIS, <http://niwaplibrary.wcl.american.edu/pubs/i-360>.

²⁷² 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>

²⁷³ Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)— [PL 105-277, div. A, title IX; 112 Stat. 2681-538 to 542]. Section 902 (i); See Leslye E Orloff, HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998 WITH VIOLENCE AGAINST WOMEN ACT 2000 AND 2005 AMENDMENTS (2020), <http://niwaplibrary.wcl.american.edu/pubs/haitian-imm-fairnessact>.

²⁷⁴ Although VAWA self-petitioners will receive access to some state and federal public benefits earlier in the process than VAWA CAA recipients because there is no established prima facie determination process for VAWA CAA cases, some VAWA CAA applicants will have an avenue to attain state and federal public benefits that is separate from and in addition to VAWA CAA. In order to qualify for VAWA CAA the immigrant victim would have had to be admitted or paroled into the United States. Victims who have received humanitarian parole may qualify as Cuban Entrants which provides access to state and federal public benefits; See Eligibility for ORR Benefits and Services – Cuban/Haitian Entrants, HHS https://www.acf.hhs.gov/sites/default/files/orr/orr_fact_sheet_cuban_haitian_entrant.pdf (Cuban Entrants may for some benefits programs have greater access to state or federal public benefits than VAWA self-petitioners.) 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.

²⁷⁵ With regard to access to healthcare for VAWA HRIFA recipients contact NIWAP for technical assistance by calling (202) 274-4457 or emailing info@niwap.org

²⁷⁶ 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>

²⁷⁷ Eligibility for ORR Benefits and Services – Cuban/Haitian Entrants, HHS https://www.acf.hhs.gov/sites/default/files/orr/orr_fact_sheet_cuban_haitian_entrant.pdf

²⁷⁸ Although VAWA self-petitioners will receive access to some state and federal public benefits earlier in the process than VAWA CAA recipients because there is no established prima facie determination process for VAWA CAA cases, some VAWA CAA applicants will have an avenue to attain state and federal public benefits that is separate from and in addition to VAWA CAA. In order to qualify for VAWA CAA the immigrant victim would have had to be admitted or paroled into the United States. Victims who have received humanitarian parole may qualify as Cuban Entrants which provides access to state and federal public benefits; Eligibility for ORR Benefits and Services – Cuban/Haitian Entrants, HHS https://www.acf.hhs.gov/sites/default/files/orr/orr_fact_sheet_cuban_haitian_entrant.pdf (Cuban Entrants may for some benefits programs have greater access to state or federal public benefits than VAWA self-petitioners). 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.

²⁷⁹ 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/ch4-2-public-bens-access-battered-immigrants>

²⁸⁰ 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>