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Photo by Doug Beasley

# LATINA PORTRAIT:

The Reauthorization of the Violence Against Women Act and Latinas



## **ACKNOWLEDGEMENT**

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## INTRODUCTION

The Violence Against Women Act (VAWA) is one of the most important and effective pieces of federal legislation protecting victims of domestic violence, dating violence, sexual assault and stalking. VAWA-funded programs have resulted in significant improvements in the national response towards these crimes. More victims are coming forward and receiving lifesaving services to help them move from crisis to stability, and the criminal justice system has improved its ability to keep victims safe and hold perpetrators accountable.

Since VAWA's passage in 1994, reporting of domestic violence has increased as much as 51%.<sup>1</sup> Studies show that incidents of domestic violence have been reduced by 53%<sup>2</sup> and the homicide rate for intimate partner violence has declined by 34% for women and 57% for men.<sup>3</sup> In addition to saving lives, VAWA also saves money. VAWA was shown to have saved \$12.6 billion in its first 6 years alone.<sup>4</sup> Nonetheless, domestic violence and sexual assault continue to be a significant problem with widespread negative impact on women, children, families and communities. Many victims, particularly those in marginalized communities, continue to experience many barriers in seeking safety and obtaining appropriate services and access to justice. VAWA expired in 2011 and efforts to reauthorize and make improvements in the legislation have encountered significant roadblocks in Congress that must be overcome in order to continue to advance the nation's commitment to eliminating domestic violence, sexual assault, dating violence and stalking.

This publication will provide an overview of the original VAWA legislation and its subsequent reauthorizations in 2000 and 2005, with a particular emphasis on how it relates to domestic violence and sexual assault experienced by Latina and immigrant women. Additionally, it will provide an assessment of the current status of VAWA reauthorization efforts and make recommendations for moving forward. This analysis and the subsequent recommendations are based on a literature review, interviews with legal experts and recipients of VAWA benefits, and the decades of experience of Mujeres Latinas en Acción and Casa de Esperanza.

## VAWA HISTORY

The Violence Against Women Act (VAWA) was enacted in 1994 after several years of comprehensive hearings on the subject. The majority staff of the Senate Judiciary Committee, along with Vice President Joe Biden, then a Senator from Delaware, led a three-year investigation into the causes and effects of violence against women. *Violence Against Women - Response to Rape: Detours on the Road to Equal Justice*, the report from the investigation published in 1993, revealed how prejudice against rape victims in society, law enforcement, and the justice system resulted in a failure to hold perpetrators accountable and to protect victims. This violence could only end, stated Senator Biden, when “we achieve a national consensus that it deserves our profound public outrage.”<sup>5</sup> The investigation highlighted the need for a comprehensive federal approach to violence against women. The original Violence Against Women Act, introduced by Senator Biden in 1990, provided a solution.

The Violence Against Women Act garnered strong support from both Republicans and Democrats in the Senate. In a presentation of the initial VAWA bill in 1990, Senator Biden emphasized the need for a law that would protect women from violence:

The Violence Against Women Act takes a strong moral stand against the antiwomen hate crime that is underway in this country...This legislation is...a declaration that gender-based crimes against women violate their civil rights...As the committee report concludes, this act says for the first time that crimes motivated by gender are important enough to deserve Federal civil rights protection.<sup>7</sup>

When VAWA arrived in the House of Representatives, the bill (known as H.R.1133) received strong support from both parties. Representative Constance Morella, a Republican from Maryland, encouraged Congress to pass the legislation in 1993:

It is time for this Congress to act. It is time to pass the Violence Against Women Act...Provide grants for rape prevention and more effective law enforcement strategies and for training our judges about rape and domestic violence. Grant permission for battered immigrant women, the spouses of U.S. citizens of legal residents, to self-petition for legal status for themselves and their children...For too long we have tolerated increasing levels of violence against women and girls. For too long we have tolerated the twin evils of violence and sexism in our society. Now, we say we have had enough. It is time, Mr. Speaker, to pass the Violence Against Women Act.<sup>8</sup>

She was joined by Republican Representative Jack Quinn from New York who denounced violence against women and called for prosecution of criminals:

It is shameful that so many women fear for their personal safety. I am sad to say, Mr. President, that no community is safe. H.R.1133 would provide invaluable assistance and protection to women who have been the victim of sexual assault and other physical violence both in the street or on the domestic front... I am proud to support this effort. The perpetrators of rape and other violent acts against women are committing heinous crimes. We must get tough on crime and let criminals know that we will not tolerate their actions.<sup>9</sup>

As a result of strong bipartisan support, Congress passed VAWA in 1994, combining support for increased services for victims with enhanced training and resources for the prosecution of offenders. The VAWA law increased resources for victims of violence, combining organization at a national level with funding for state programs and local organizations that primarily work to end violence against women. The title of the law focuses on violence against women, since women are disproportionately impacted by the crimes of domestic violence and sexual assault;<sup>10</sup> nonetheless, the law itself is gender neutral and is intended to protect all victims of these crimes. The STOP formula grants (Services, Training, Officers and Prosecutors) provide resources to the states that encourage a coordinated community response, joining members of law enforcement, the court system, and victim advocates to create a more multidisciplinary and comprehensive approach to domestic and sexual violence.<sup>11</sup> Additionally, from the outset Congress included protections for immigrant victims of domestic violence, recognizing that a victim's immigration status should not be used as a tool of abuse.

VAWA is reexamined and reauthorized every five to six years, allowing legislators to improve upon prior legislation in order to address gaps and add new provisions that promote the development of a more comprehensive response to violence against women. While VAWA legislation in 1994 focused almost entirely on improving the legal and law enforcement responses to issues of domestic violence and sexual assault, it has evolved during the last two reauthorizations, based on input from those working in the field, to expand its focus to better meet the needs of all victims. VAWA legislation also created what is now known as the Office on Violence Against Women (OVW) in the U.S. Department of Justice, which funds 21 programs that target the different aspects of violence against women. Some special programs include transitional housing, assistance to victims in isolated rural areas, legal assistance for victims, funds for tribal areas, and programs to help children exposed to violence.

VAWA was reauthorized in 2000 and 2005, and is currently undergoing the process in 2012. In 2000, during the Clinton Administration, new provisions were added that focused on victims of stalking and dating violence and included training and resources for elderly and disabled victims of violence. It also added the U visa for victims of certain designated crimes, including domestic violence and sexual assault, and the T visa for trafficking victims.

The version of VAWA reauthorized in 2005 under the Bush Administration (and signed into law on January 5, 2006) further expanded VAWA's reach. During the 2005 reauthorization, VAWA expanded its reach by adding a new section dedicated to improving services for Native American women in Indian country. It also continued to improve protections for immigrant victims, and included for the first time the provisions known as the International Marriage Broker and Regulation Act (IMBRA) to help protect women brought to the United States from foreign countries on fiancée visas. It included several critical new programs specifically funding services for sexual assault victims, increasing transitional housing support for victims of domestic violence, enhancing prevention efforts by engaging men and boys, and addressing the needs of teens and youth who are victims of dating violence. Additionally, prior VAWA recommendations favoring state enactment of "mandatory arrest" policies were changed in 2005 to support "pro arrest" policies of the primary aggressor and protocols to reduce dual arrests.<sup>12</sup> The 2005 reauthorization also made a historic shift in service provision by broadening core services and expanding eligible entities to include more culturally and linguistically specific community-based organizations, with the goal of enhancing access to services, innovative programming, and capacity building in Communities of Color.

VAWA expired in 2011. Congress has been deadlocked with different versions of VAWA that passed the House and the Senate in 2012 and has failed to secure the passage of a final VAWA bill that protects all victims. This publication will explore further the critical importance of VAWA, particularly the provisions to protect immigrant victims, as well as the current status of reauthorization efforts and recommendations for moving forward.




Photo by Doug Beasley

## VAWA TIMELINE

The following timeline highlights some of the significant milestones in the United States, American Indian nations, and the international community that reflect the growing commitment over the last several decades to ending domestic violence and sexual assault:

**1967:** The first shelter for victims of domestic violence is opened in Maine.<sup>13</sup>

**1976:** Pennsylvania establishes the first state coalition against domestic violence and becomes the first state to pass legislation providing for orders of protection for battered women.

The National Organization for Women organizes a task force to examine domestic violence.<sup>14</sup>

La Casa de las Madres opens in the Bay Area. It is the first domestic violence shelter in California and the first national shelter founded by women of color.<sup>15</sup>

**1977:** The White Buffalo Calf Woman Society, a tribal women's advocacy organization on the Rosebud Sioux Indian reservation, establishes the first Native women's shelter on an American Indian reservation.

Emerge, the first counseling program for men who batter, is founded in Boston, Massachusetts, at the request of women working in shelters.<sup>17</sup>

**1978:** The U.S. Commission on Civil Rights reviews *Battered Women: Issues of Public Policy*, a document created by activists that compiles 700 pages of written and oral testimony. The document examines the need for a Federal role in approaching domestic violence.<sup>18</sup>

**1979:** The first Alaska Native village-based shelter, the Emmonak Women's Shelter, is founded in Yukon Delta Region of Alaska. National Coalition Against Domestic Violence is founded to provide advocacy and resources for victims of domestic violence.<sup>19</sup>

**1981:** The first annual Domestic Violence Awareness Week is celebrated.

**1984:** The Family Violence Prevention and Services Act (FVPSA) authorizes federal funding for the first time to help victims of domestic violence and their dependent children by providing support for shelters and related assistance. These funds are administered by the U.S. Department of Health and Human Services.

The U.S. Attorney General launches a task force to examine the scale and causes of family violence. Testimony from nearly 300 witnesses highlights the need for improvement in the criminal justice system and increased awareness and prevention.<sup>20</sup>

**1985:** U.S. Surgeon General C. Everett Koop identifies domestic violence as a public health issue that cannot be dealt with by the police alone.



**1986:** New York Women Against Rape, the first rape crisis center established by women of color, holds its first conference about issues of violence for U.S. Communities of Color.<sup>21</sup>

**1987:** National Coalition Against Domestic Violence designates October as Domestic Violence Awareness Month.<sup>22</sup>

**1988:** Congress amends the Victims of Crime Act (VOCA), requiring state victim compensation programs to make awards to victims of domestic violence.

**1990:** Senator Biden introduces the first version of the Violence Against Women Act to the Senate.

**1993:** The United Nations General Assembly adopted the Declaration on the Elimination of Violence against Women.<sup>23</sup>

Institute on Domestic Violence in the African American Community (IDVAAC) was formed.

**1994:** The Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women was adopted during a Special Session of the General Assembly of the Organization of American States (OAS) on June 9th, 1994. To date, it has been ratified by 34 countries in the Americas.<sup>24</sup>

The Violence Against Women Act is introduced again in Congress and is passed with bipartisan support as part of the Violent Crime Control and Law Enforcement Act. VAWA is signed into law on September 13th by President Clinton.

**1995:** The Department of Justice creates the Violence Against Women Grants Office to implement VAWA grant programs and the Violence Against Women Policy Office.<sup>25</sup>

United Nations 4<sup>th</sup> World Conference on Women, held in Beijing, China. The Beijing Declaration included the goal to “Prevent and eliminate all forms of violence against women and girls” and stated that “Violence against women is an obstacle to the achievement of the objectives of equality, development and peace.”<sup>26</sup>

**1996:** The National Domestic Violence Hotline begins operating with funding from VAWA.<sup>27</sup>

**1997:** The National Symposium on La Violencia Domestica: An Emerging Dialogue Among Latinos takes place in Washington, D.C. with the participation of Latino activists, lawyers, and survivors of domestic violence from the U.S. and Puerto Rico. The Symposium provides the basis for the formation of the National Latino Alliance for the Elimination of Domestic Violence.<sup>28</sup>

**1998:** The Asian and Pacific Islander Institute on Domestic Violence holds its first national forum in Chicago. The Institute is formally established in 2000.<sup>29</sup>

**1999:** The Violence Against Women Grants Office joins with the Violence Against Women Policy office to create the Violence Against Women Office in the U.S. Department of Justice.

**2000:** Congress reauthorizes the Violence Against Women Act in a bipartisan manner and signed into law by President Clinton. VAWA 2000 includes expanded definitions of domestic violence and increases resources to assist victims of violence. It created the U visa for immigrant victims of crime and the T visa for victims of Trafficking and the first federal funding stream for Tribal Domestic Violence and Sexual Assault Coalitions.

**2003:** The National Congress of American Indians establishes a national task force on violence against Native women.

**2005:** The Violence Against Women Act is once again reauthorized in a bipartisan manner by Congress. It was signed into law by President Bush on January 5, 2006.<sup>30</sup> Improvements included the addition of the Sexual Assault Services Program, the Culturally and Linguistically Specific Services Program, Title IX on Safety for Indian Women, and the International Marriage Broker Regulation Act.

**2007:** The National Teen Dating Abuse Helpline is founded. Teens and young adults can call, text, or chat online with peer advocates.<sup>31</sup>

**2009:** President Obama declares April as Sexual Assault Awareness Month.

The Office on Violence Against Women makes its first grant awards for the Culturally and Linguistically Specific Services for Victims Program and its first Sexual Assault Services Program grant awards.<sup>32</sup>

**2010:** The National Latin@ Network for Healthy Families and Communities was launched by Casa de Esperanza to enhance national training & technical assistance, research, and policy advocacy to improve domestic violence prevention and intervention in Latina communities.

The National Indigenous Women’s Resource Center is founded, and subsequently was designated by DHHS in 2011 to serve as the National Indian Resource Center to end violence against Native women pursuant to the Family Violence Prevention and Services Act.

# LATINAS AND DOMESTIC VIOLENCE

## Latino Communities

Latino<sup>33</sup> families have changed and will continue to change the demographic, economic and social landscapes in the United States. The 2010 U.S. Census revealed that there are 50.5 million Latinos living in the United States, comprising 16.3% of the U.S. population. In the last decade the Latino population accounted for 43% of the nation's 56% growth overall.<sup>34</sup> In fact, even ten years ago, a list of the top 10 surnames in the United States revealed that Garcia and Rodriguez were in 8<sup>th</sup> and 9<sup>th</sup> place.<sup>35</sup>

Latino communities are significant contributors to the U.S. economy. In 2007, there were 2.3 million Hispanic-owned businesses generating more than \$350 billion in receipts.<sup>36</sup> Studies show that the purchasing power of Latinos exceeded \$1 trillion in 2010.<sup>37</sup> As a result, Latino markets are highly coveted consumer bases for businesses large and small.

At the same time, high poverty rates (especially among households headed by single Latina mothers, and Latino families with an unemployed parent) reflect that Latino families continue to struggle in this recession:

Prior to the Great Recession, more white children lived in poverty than Hispanic children. However, since 2007, that pattern has reversed. Between 2007 and 2010, an additional 1.6 million Hispanic children lived in poverty, an increase of 36.3%. By contrast, even though the number of white and black children living in poverty also grew, their numbers grew more slowly—up 17.6% and 11.7% respectively.<sup>38</sup>

The remarkable diversity within Latino communities reflects important contextual elements that influence how families live and work.

- 63% of people of Hispanic-origin in the U.S.A. are of Mexican background, 9.2% are of Puerto Rican background, 3.5% Cuban, 3.3% Salvadoran, and 2.8% Dominican;<sup>39</sup>
- 62.2% of Hispanics ages 25 and older have at least a high school education;<sup>40</sup>
- 2.4 million Hispanics ages 25 and older have Bachelor's degrees;<sup>41</sup> and 1.1 million Hispanics ages 25 and older have advanced degrees;<sup>42</sup>
- 1.2 million Latinos ages 18 and older are veterans of the U.S. armed forces.<sup>43</sup>

Most Latinos were born in the United States, and nearly three in four Latinos (74%) are U.S. citizens. As of 2009, 62.7% of all Latinos are native-born Americans and 37.3% are foreign-born. Nearly 11% of Latinos are naturalized U.S. citizens. Hispanic children under age 18 are also more likely to have been born in the U.S., with 93% being U.S. citizens.<sup>44</sup>

The diverse perspectives and experiences of Latinas overall are also reflected in the variety of ways that Latinas experience violence and the impact that violence has on each individual person.

## Latino Families and Domestic Violence

Domestic violence occurs across all communities, including any and all ethnic, economic, religious and racial classifications. Domestic violence is an abusive, systemic pattern of learned behavior reinforced by complex cultural realities, norms, and values.<sup>45</sup> It often involves the use of coercive, controlling behaviors that can include physical abuse, emotional or psychological abuse, sexual abuse or financial abuse. Domestic violence is not just an issue for women; men can also experience domestic violence. However, as previously stated, women are disproportionately affected by domestic violence and sexual assault and experience higher rates of serious injury and lethality. Children are negatively impacted by both witnessing and/or experiencing violence in the home.<sup>46</sup>

The issue of domestic violence crosses lines of race and ethnicity, and women across all cultural groups in the United States and around the world experience high rates of violence within intimate relationships, which has resulted in elevating the issue to a human rights concern internationally. (See VAWA timeline which includes important international treaties and conventions focused on eliminating violence against women).

Existing research reveals how much we still have to learn about the context in which Latinas experience domestic violence. For example, the National Crime Victimization Survey, a leading source of data on domestic violence in the United States, concluded that nearly 1 in 4 Latinas will experience domestic violence during their lifetime, which is a similar rate to the national average overall.<sup>47</sup> However, the context in which domestic violence is experienced must be factored into any analysis of the prevalence and impact of violence—especially within historically marginalized communities.

The vast diversity in the experiences and realities of Latino families relates directly to the vast diversity of Latinas' experiences with domestic violence. Additionally, it is important to address domestic violence in Latino communities at the intersections, taking into consideration the needs of Latina victims who have disabilities, are elderly, live in rural communities, are LGBT (Lesbian, Gay, Bisexual, Transgender) individuals, are deaf or hard of hearing, face challenges with their immigration status, or face other additional barriers when seeking services and assistance. While each individual must be treated as such, there are several overarching trends that help highlight the ways that the Violence Against Women Act can help support Latinas experiencing violence.

### **Latinas Experience Barriers to Accessing Services**

Often, immigrant Latinas are unaware that domestic violence is a crime in the United States and that there are resources that exist to help them.<sup>48</sup> Latinas are only half as likely to report abuse to authorities as survivors from other ethnic/racial groups.<sup>49</sup> In particular, immigrant Latinas with lower levels of acculturation (both abused and non-abused) are less likely to seek and use social services than their more acculturated counterparts.<sup>50</sup>

One of the most significant barriers facing non-citizen victims is the fear of immigration-related consequences should they report the abuse or seek help. Often, abusers purposely misinform them of the consequences of reporting abuse and threaten them with deportation and loss of custody of their children should they seek help. Abusers are often able to use immigration status as an effective tool of power and control.<sup>51</sup> Many immigrant victims fear calling the police or getting involved with the justice system due to fears of deportation, although many undocumented immigrant victims may qualify for immigration status pursuant to VAWA.<sup>52</sup>

Recent studies and articles have begun to highlight the difficult climate faced by immigrant Latinas in light of recent increases in immigration enforcement policies that result in greater entanglement between local law enforcement and federal immigration enforcement efforts.<sup>53</sup> In a recent study conducted at the National Domestic Violence Hotline, 35% of foreign-born Latinas who called the Hotline reported a fear of calling the police during a domestic violence situation.<sup>54</sup> The trend of not calling the police for fear of deportation is being documented across the U.S. among immigrant subpopulations making immigration status a powerful coercion tool by perpetrators now more than ever before.<sup>55</sup>

Latinas are more likely to seek support from family members, female friends, or neighbors than from service providers for domestic violence issues.<sup>56</sup> When Latinas do reach out for help to address domestic violence, there are often barriers that they encounter.

- Language barriers and inadequate interpretation services continue to be a major barrier for accessing police, court, and domestic violence services for individuals with limited English proficiency.<sup>57</sup>
- The increasing entanglement between local law enforcement and federal immigration enforcement increases the risk of a non-citizen immigrant victim being arrested and put in detention.<sup>58</sup> Even where a victim has legal immigration status, she may not want to risk getting involved with the criminal justice system.
- Domestic violence service programs are responding to increasing requests for support from battered women at the same time that many of these programs are receiving less funding than in the past; shelter residents are often staying longer because they cannot find jobs, making it harder for women to access shelter services.<sup>59</sup> A national survey of domestic violence programs revealed that in one day, more than 10,000 requests to domestic violence programs for help (including shelter, child care, legal representation and others) were not met because the programs did not have the resources to meet the needs.<sup>60</sup>
- Many culturally and linguistically specific community-based programs in Latino communities lack access to the resources and training to develop or strengthen programs to address domestic violence and sexual assault.
- In community-based domestic violence programs, services for children are highly requested by Latinas, but need to be strengthened.<sup>61</sup>

### Latinas Want Options

The Family Violence Prevention and Services Act along with the Violence Against Women Act and a multitude of state laws make up a framework of programs, regulations and enforcement for individuals who experience violence and for individuals who perpetrate violence. These laws and the agencies, policies and protocols that have been developed across the country provide critical lifesaving supports to women and their children who experience violence, including shelter, protection by law enforcement and the judicial system, health and mental health services, and much more. However, as the movement against domestic violence has evolved, the paradigm that prevails is that for a person to be safe from domestic violence, the relationship must end and the couple must separate. In other words, success equals separation.

This paradigm creates tension for many women who experience violence. There are many reasons that a person experiencing domestic violence may not want to go to shelter and/or call the police. We hear from Latinas all over the country who say that they do not want to have to leave their relationship; they just want the violence to stop. While there are a few culturally and linguistically relevant batterers' intervention services programs to work with perpetrators in a comprehensive and effective manner, much more remains to be done to improve the availability and effectiveness of these programs.

The complexities surrounding ending an abusive relationship are heightened when children, immigration status and other considerations are present in a relationship. For many Latinas, some of these complexities include:

- Increased Lethality – Research has revealed that battered women who separate from an abusive partner are at much greater risk for injury and death.<sup>62</sup>
- Unresolved Immigration Status - Latina immigrant survivors report that immigration status is often used as a control mechanism to ensure that they do not leave the abusive situation out of fear of being deported or losing custody of their children.<sup>63</sup>
- Children - Threatening Latina survivors to take away their children if they leave their partners is an especially powerful strategy by abusers against victims of domestic violence, and especially against undocumented women or women with limited English proficiency.<sup>64</sup>

- Economic Vulnerability - Poverty among single Latina mothers is much higher than among married Latinas and many victims of violence fear homelessness since there are very limited affordable housing options.<sup>65</sup>
- Cultural/Religious Norms and Expectations – Family and community are the core of many Latinas’ worldview and the mother is seen as the person responsible for the well-being and cohesiveness of the family. Many times guilt and shame prevent victims from seeking help when in an abusive relationship<sup>66</sup>

### **Latinas are Resistant and Resourceful**

While victims of domestic violence may encounter numerous barriers, experience has shown that the most effective services for Latinas are those offered from a strengths-based approach. While acknowledging the many challenges they face, it is also important to recognize the tremendous resiliency and resourcefulness of victims as they transition to survivors who are striving for a better life for themselves and their children. Important resources include social and familial support networks, support from faith-based communities or spiritual traditions, an entrepreneurial spirit, and the importance of services and programs ready to assist her in exploring different options on her path to safety and well-being.

The Violence Against Women Act alone will not end domestic violence and sexual assault. It requires mobilizing all members of our communities to play a role in helping to eliminate it. Nonetheless, VAWA has played a key role in helping change social norms by strengthening our national commitment not to look the other way and consider it a private family matter, as had been the traditional approach for centuries. VAWA also provides key supports and remedies that can help Latinas experiencing violence find support where they live, decrease barriers to accessing services, and increase options for economic stability and personal safety.



Photo by Doug Beasley

## VAWA IMMIGRATION PROVISIONS

Provisions for immigrant victims of domestic and sexual violence have been included in VAWA since its passage in 1994, and each reauthorization has only further strengthened and improved protections. VAWA legislation recognizes that the abusers of immigrant victims often use their victims' lack of immigration status as a tool of abuse, leaving the victim afraid to seek services or report the abuse to law enforcement. Under the family-based petition process, a U.S. citizen or lawful permanent resident spouse or qualified relative files a petition with the U.S. Citizenship and Immigration Services (USCIS) in order for their spouse or family member to seek lawful permanent residence. Unfortunately, this process allows abusers to use their spouse's lack of immigration status as a tool of abuse by refusing or threatening to withhold petitions for legal immigration status or intimidating their victims with deportation.

In 1990, Congress addressed this problem for those victims of abuse who had "conditional legal permanent residence" through their marriage to a U.S. citizen or Lawful Permanent Resident (LPR) by creating the battered spouse waiver. This waiver bypassed the need for victims of abuse to file a joint petition with their spouse at the end of a two-year period to lift the conditional status of their residency.<sup>67</sup> New provisions to help undocumented battered immigrants married to U.S. citizen or LPR spouses were created in VAWA in 1994 through the "self-petitioning process," which allows a victim to file a family preference visa petition on his or her own behalf, without the abuser participating or even being aware. This emphasis on confidentiality allows the victim to receive legal status safely in order to be able to take the crucial steps of reducing dependency on the abuser. An abused child of a U.S. citizen or LPR parent can also petition under VAWA, as can a non-abused spouse whose child has been abused by a U.S. citizen or LPR spouse.

The National Network to End Violence Against Immigrant Women took a lead on drafting and lobbying for the immigration protections, illustrating the problems facing immigrants and joining allies to the cause. From its start, the Network included a national and diverse body of lawyers and advocates providing direct services to immigrant survivors and bringing the stories of immigrant survivors into the national public policy arena. Several state coalitions worked hand in hand with the Network providing the grassroots support at the state level confirming that protections for immigrant victims were a vital priority for the domestic violence advocacy communities in VAWA 1994, 2000 and 2005. These included but were not limited to the domestic violence and/or sexual assault state coalitions in Wyoming, Florida, Ohio, Texas, Michigan, and Pennsylvania<sup>68</sup>. These groups worked closely with members of Congress to include the immigration provisions in VAWA, eventually placing them in the House version of VAWA introduced by Representative Patricia Schroeder (D-Colorado) in 1993<sup>69</sup>. These provisions ended up in the Violent Crime Control and Law Enforcement Act of 1994 sponsored by Representative Jack Brooks (R-Texas)<sup>70</sup>. Representative Nancy Pelosi (D-California) urged the House to support VAWA and the immigrant provisions:

The final crime bill must protect battered immigrant women. The House version of the crime bill includes provisions to prevent abusive spouses from using immigration law to control and continue abusing their undocumented spouses. Presently, abused immigrant spouses often cannot escape a violent household because leaving it would result in their deportation. Mr. Speaker, we must correct a system which allows a perpetrator of domestic violence the power to continue abusing because of immigration technicalities.<sup>71</sup>

Ultimately, VAWA, including the immigration provisions, was incorporated into the final version of the Crime Bill that passed in the House and Senate in 1994.

The U visa was added to VAWA during the 2000 reauthorization as a law enforcement tool to reach undocumented victims of crime. In creating the U visa, Congress stated the purpose was to “strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking of aliens,” and other such crimes, “while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States.” To be eligible for a U visa, an immigrant must have been a victim of a particular crime and must demonstrate that he or she is helping, has helped, or will help law enforcement in investigating or prosecuting a crime. The visa gives nonimmigrant status to victims for four years, but they can apply for permanent resident status after three years. The U visa allows immigrants to cooperate with the police without fearing deportation. Only 10,000 U visas are allotted by Congress per year. Although the U visa includes various types of crimes, it has a heavy emphasis on victims of domestic violence and sexual crimes. Under the original VAWA, only immigrant victims who were married to an abusive U.S. citizen or legal permanent resident could receive legal status through the VAWA self-petition. With the addition of U visa provisions in 2000, immigrant victims of rape, sexual assault or domestic violence could now apply for legal immigrant status regardless of their marital status or the immigration status of the perpetrator if they assisted with the investigation or prosecution of a crime. The U visas also allow families to stay together by allowing family members of the victim to apply as well. The T visa, also created by VAWA 2000, provides non-immigrant status for victims of human trafficking who help law enforcement officials investigate or prosecute crimes related to human trafficking.<sup>72</sup>

While VAWA has always included protections for vulnerable immigrant victims, and each subsequent reauthorization has sought to strengthen those protections, unfortunately the reauthorization of VAWA in 2012 has been stalled partly because of disagreements regarding protections for immigrant victims. The version of VAWA that passed in the House, H.R.4970, would erode protections for the first time and put in place provisions that endanger the safety of immigrant victims. Efforts to pass a VAWA that protects all victims and does not roll back critical protections for immigrant victims will be discussed in the section on the current status of VAWA reauthorization.



Photo by Doug Beasley

## VAWA 1994

### VAWA Self-Petition:

Immigrants who have suffered abuse from their U.S. citizen (USC) or lawful permanent resident (LPR) spouse or parent can self-petition for lawful permanent residence without the participation of the abuser.

Established grounds for suspension of deportation/cancellation of removal for abused immigrant spouses or children of abusive USC or LPR.

# VAWA PROTECTIONS FOR IMMIGRANT VICTIMS

## VAWA 2000

### U Visas:

Provides up to 10,000 visas per year to immigrants who have been victims of a qualifying crime<sup>73</sup> and assist law enforcement with investigation or prosecution of the crime (law enforcement or investigative agency must certify as to cooperation).

### T Visas:

Provides up to 5,000 visas per year to victims of sex trafficking or labor trafficking.

### Other Provisions impacting VAWA Self-Petition:

Petitioners no longer needed to show that their deportation would cause “extreme hardship.”

Petitioners no longer needed to go abroad to receive a visa, they could attain lawful permanent resident status in the U.S.

Extended coverage to immigrant spouses and children of U.S. citizens and LPRs who had either died or lost their citizenship status because of domestic violence within the previous two years. Extended coverage if divorced within previous two years, if abused spouse could demonstrate a connection between legal termination of their marriages and battery or extreme cruelty.

Extended coverage for children of petitioners who could now receive legal status through their abused parent after they had turned 21 years old if the parent’s self-petition was filed when the child was a minor.



## VAWA 2005

### **Work Permission:**

Approved VAWA self-petitioners and T visa recipients eligible for work authorization.

### **Deportation exemptions:**

Relief for victims of sexual violence that are in the process of being deported; exemption from sanctions for failing to leave the U.S. voluntarily.

### **Expansion of self-petition system:**

Children who were the victims of incest and violence can self-petition up to the age of 25.

Expands VAWA self-petitioning to elder abuse victims battered or subjected to extreme cruelty by their adult U.S. citizen son or daughter.

### **Other:**

Included provisions to reduce immigration fraud by prohibiting a VAWA self-petitioner or a U visa foreign national from later petitioning for immigrant status or admission on behalf of their abuser.

Strengthened VAWA confidentiality protections and enforcement.

### **Keeping families together:**

Families of T visa recipients can now petition for visas without showing extreme hardship.

### **IMBRA - increased regulations for International Marriage Broker agencies and U.S. citizens filing K-petitions (fiancée visa):**

Citizens must disclose criminal history. Foreign fiancées given information on domestic abuse. Placed reasonable limits on how many and how often fiancé(e) visa petitions could be filed by a single petitioner.

## Proposed VAWA 2012

### **Senate Proposal:**

#### **Expands eligibility for U Visas:**

Adds “stalking” to list of eligible crimes.

Up to 5,000 unused U Visas from previous years made available annually for next five years.

#### **Protects Children:**

Protects children of U visa applicants from aging out for derivative status once they turn 21 if petition was filed before age 21.

Extends the “widow-fix” to allow abused widowed victims of domestic violence to include children in VAWA self-petition.

#### **Protections for foreign fiancées:**

Requires the Attorney General to designate a particular office to be responsible for bringing civil and criminal enforcement actions against Intl Marriage Brokers that violate IMBRA.

Makes technical corrections and closes gaps to strengthen existing protections for foreign fiancé(e)s and spouses of U.S. citizens.

#### **Other:**

Extends hardship waiver when underlying marriage to USC or LPR was invalid because of bigamy, unbeknownst to victim spouse.

Clarifies that victims should not be charged as inadmissible for LPR status based on “public charge.”

## CASE STUDIES

These stories illustrate the struggles faced by immigrant victims of sexual abuse and domestic violence and how the VAWA protections have helped them find safety.

### Mary

Mary began to suffer the verbal and physical abuse of her husband, Mark, during her pregnancy. After Mary gave birth to their first son, Mark was overjoyed. The physical abuse stopped, but Mark began to sexually abuse Mary. Mary would tell Mark that she wanted to work; she did not want to have to continuously depend on him. Mark agreed and Mary began to work at a temp agency. Mark would literally count the minutes that it took Mary to make her way to and from work. Mark began to accuse Mary of infidelity at her work place because occasionally she worked longer hours. Mary felt forced to quit her job. Mark began to physically abuse Mary. Their son began school and Mary became very involved in her child's education in an attempt to distract herself from the family's problems.

One day Mary attended a school workshop on domestic violence and recognized her own relationship in the warning signs of abuse that were explained in the presentation. After the presentation, she took a pamphlet. That night Mary and Mark began to argue and once again Mark was physically abusive. Mary called a 24-hour Crisis Hotline on the pamphlet and explained that she had spent eight years of abuse in her marriage and was desperate for help. Mary was provided with emotional support and her feelings were validated. The hotline volunteer explained to her that she had rights to protect herself, and offered Mary the option of coming to the organization.

The next time that Mark was physically abusive to Mary, she called the police. She had decided it was the right thing to do because she had noticed that her son's behavior was affected by the abuse. The police arrived at her home and arrested Mark because Mary had a bruised eye. A police report was made and she was told to go to criminal court to obtain an order of protection. Mary obtained a protective order and went to an emergency shelter. She enrolled in individual counseling and was provided a referral to look into legal remedies available to victims of violence. Mary disclosed how she had feared to seek help because her husband had threatened to have her deported if she went forward with any legal action. Although he had legal immigration status, he had failed to petition for Mary to adjust her immigration status as his spouse, thus leaving her very vulnerable in undocumented status. She was provided with information about self-petitioning under the Violence Against Women Act, and was referred to a non-profit legal organization.

Mary received her work permit through her approved VAWA self-petition and moved out of the emergency shelter into her own apartment. She enrolled in additional programs and trainings to enhance her life skills. Mary is currently taking ESL courses; she is working to support her child and herself; and would like to pursue higher education to increase her employment opportunities. She has signed up as a volunteer at the domestic violence organization that helped her in order to give back to her community and society.<sup>74</sup>

### Victoria

Victoria was a 27-year-old married mother of four when she was assaulted by two strangers who had broken into her home one night when she was home alone. They were looking for money but found none and both sexually assaulted her. Victoria assisted the police in their investigation and the men were arrested and convicted for aggravated sexual assault. Victoria experienced a lot of nightmares, anxiety and flashbacks. Through the help of a community-based organization for victims of sexual assault, Victoria received counseling services and participated in ongoing support and educational groups. She was able to obtain a U Visa for crime victims as a result of her cooperation in the investigation and prosecution of the crime. She is currently working and her children are doing well in school. Victoria is currently attending classes with the goal of obtaining her GED.<sup>75</sup>



Photo by Doug Beasley

## Veronica

Veronica met John at church when she was 15, fell in love with the man she believed to be her soul mate, and got pregnant. Her church congregation and parents told her that she needed to marry John, and if she didn't, they would no longer be welcomed at the church. Veronica married John and soon discovered that he was extremely violent, controlling, jealous and very possessive. He forbade Veronica to go to church, to play sports, to go out with friends, and even to attend school. Although John was a U.S. citizen, he failed to petition for Veronica. John frequently threatened her with deportation and with never seeing her daughter again. Veronica, who had lived in the U.S. since she was six years old, was terrified. With help, she finally left John and was granted a lifetime Order of Protection due to the extreme danger he posed. After she left, John found Veronica at her parent's house, put a knife to her throat, and threatened to have her and her family deported. He also tried to kidnap their daughter from daycare. John was sent to jail for three years.

Veronica was able to successfully self-petition under VAWA and graduated from high school at the top of her class. She is studying to be a nurse and works as a crisis interventionist and a paralegal. On a daily basis, she draws on her personal experience of what she has been through to help other victims of domestic violence feel safe and understand their rights, regardless of their immigration status.<sup>76</sup>

## CURRENT STATUS OF VAWA REAUTHORIZATION

As previously stated, the Violence Against Women Act (VAWA), which was first passed in 1994 and was subsequently reauthorized in 2000 and 2005, has always received strong bipartisan support. VAWA has provided truly life-saving assistance to hundreds of thousands of children, women and men since it was first passed in 1994. However, despite its proven success, efforts to reauthorize VAWA in 2012 ran into considerable political challenges. Ultimately, two different versions of VAWA reauthorization bills were passed in the Senate and in the House, resulting in an impasse that is extremely detrimental to our nation's commitment to move forward in our efforts to protect all victims of domestic violence, sexual assault, dating violence, and stalking and create stronger and healthier families and communities. Furthermore, the House bill leaves out important improvements that were included in the Senate bill to protect vulnerable victims and proposes changes that, for the first time in VAWA's history, would erode rather than strengthen protections for immigrant survivors of domestic violence and sexual assault.

### Gathering input from the field in preparation for VAWA Reauthorization

In developing recommendations for legislation to reauthorize VAWA, members of the National Task Force to End Sexual and Domestic Violence<sup>77</sup> began the process in 2009 by holding a series of national meetings and national conference calls with over 22 different committees to gather the input of more than 2,000 law enforcement, court, prosecution, legal services, victim services and health services professionals from around the country and from advocates working with a wide range of different communities.<sup>78</sup> These efforts were undertaken to determine what was working well and to identify gaps and unmet needs in order to continue to improve VAWA and further the nation's commitment to ending domestic violence and sexual assault. Similarly, each prior reauthorization of VAWA has taken into account recommendations from the field to improve the legislation in order to develop a more comprehensive and effective approach.

The general consensus from efforts to gather input from the field in 2009-2010 was that current programs should continue and that VAWA should be reauthorized and amended to better reach more marginalized communities, those who often remain isolated or for whom traditional services don't meet their needs, and to address gaps that had been identified in current legislation. There were also suggestions to consolidate some programs in order to foster more efficient administration of VAWA funds. Suggestions for enhancing VAWA legislation to better serve all victims of domestic violence, sexual assault, stalking and dating violence were shared with the leadership of the Judiciary Committees in both the U.S. Senate and House of Representatives.



## Congressional Action to Reauthorize VAWA in 2012

### Senate Action

A bipartisan VAWA reauthorization bill was introduced on November 30, 2011 in the U.S. Senate (S.1925) by Senator Leahy (D-VT) and Senator Crapo (R-ID), which eventually included a total of 61 co-sponsors. The bill, as amended, passed in the Senate on April 26, 2012 by a vote of 68-31, including the support of 15 Republican Senators.

While the final bill did not reflect all of the recommendations and priorities of the National Task Force to End Sexual and Domestic Violence,<sup>79</sup> it is a significant advancement that furthers the goal of VAWA to enhance prevention and intervention services for all victims. Some of the main improvements in the Senate reauthorization bill include the following:<sup>80</sup>

- **Provisions to protect Native women from repeat abuse and hold perpetrators accountable.** There is a significant jurisdictional problem in Indian country that currently results in increased vulnerability and higher rates of domestic violence against Native women since non-Indian perpetrators cannot be held accountable in tribal criminal courts. The Senate version of VAWA will permit concurrent tribal criminal jurisdiction over all persons who commit crimes of dating violence, domestic violence, or violations of protection orders in Indian country so that all perpetrators can be held accountable.
- **Expansions that will provide crucial new protections for victims of sexual violence.**<sup>81</sup> New provisions will improve the criminal justice response to sexual assault, including support for specialized medical care and response teams and increased efforts to reduce the rape kit backlog. It also includes much-needed protections for victims of sexual assault in public housing.
- **Language that explicitly authorizes States to protect LGBTQ victims by providing appropriate services.** New provisions explicitly protect victims from discrimination on the basis of sexual orientation or sexual identity—and it explicitly authorizes the states to provide appropriate services to LGBTQ victims, responding to the needs identified in the national consultations undertaken to address gaps in services and safety.
- **Improvements of protections already in place for immigrant victims of domestic violence, dating violence, sexual assault, and stalking.** Provisions allow for a moderate increase in the number of U visas available annually (raising the annual cap to 15,000 visas), by recapturing previously authorized but never-issued U visas, for victims who cooperate with law enforcement in the investigation or prosecution of a designated crime.<sup>82</sup> Other provisions strengthen protections for immigrant victims and their families, such as by adding “stalking” to the list of designated crimes for a U visa and providing protections for derivative children who age-out of the process when their mother has applied for protection.<sup>83</sup> (See Resources section for more detailed information about the provisions included in both the House and Senate versions of the VAWA reauthorization bills).
- **Better protections through the International Marriage Broker Regulation Act (IMBRA).** Technical corrections are necessary to close gaps in IMBRA in order to strengthen and better implement Congress’ protective intent in enacting the law in VAWA 2005.<sup>84</sup>
- **Enhanced efforts to strengthen access to culturally and linguistically specific services for Communities of Color.** Language is included to strengthen the program created by Congress in 2005, with the goal of building capacity and furthering the development of innovative programs in racial and ethnic minority communities to help victims in marginalized communities who face additional barriers in accessing services.
- **Improvements in the Underserved grant program.** This program will allocate funding to enhance community collaborations in order to improve prevention and intervention services for a broad range of underserved communities.
- **Protections for victims of dating and sexual violence at colleges and universities, who often lack access to the justice system simply because these crimes occur on campus.** A new provision will require institutions of higher learning to report annual statistics on domestic violence, dating violence and stalking reported on campus, to develop

and publicize clear procedures for handling these cases, and to provide support for campus prevention programs teaching all students, male and female, how to help prevent sexual violence and dating violence, including bystander education.

- **Improved housing protections for victims of domestic violence, dating violence, sexual assault, and stalking.** Victims of these crimes frequently need emergency transfers to new housing, in order to remain safe from the actions of an abuser. New provisions will require providing victims who receive federal housing assistance with adequate notice of their rights, so that they know they have the right not to be evicted based on the actions of their perpetrators or as a result of violence/assault.
- **Valuable new prevention programs that can reduce the likelihood of domestic violence, dating violence, sexual assault, or stalking from occurring in the future.** Violence is learned. The new prevention programs represent a forward-thinking, cost-effective approach to working with children and youth to teach them alternatives to violence and help reduce the levels of violence that often get passed down from generation to generation.
- **Provisions that would require the Office on Violence Against Women to provide adequate training and notice to grantees to ensure they do not inadvertently use common accounting techniques not approved by federal grantors.** Many grantees are confused by the wide range of requirements from many different funding sources, and may inadvertently use the wrong accounting system. These provisions seek to proactively educate grantees about financial requirements, in order to help them to keep the best possible records regarding grant expenditures.

Grant program consolidations and repeals that will guarantee that more funding goes directly to services, rather than bureaucracy. These provisions include thoughtful consolidations and repeals of existing law that would make it easier for grantees to apply for funding to do comprehensive work, as well as cut down on program administration costs. This ensures that more money is targeted to direct services, rather than to administrative overhead.

## House Action

Following the passage of the Senate Reauthorization bill (S.1925) on April 26th, a different VAWA reauthorization bill (H.R. 4970) was introduced in the House of Representatives by Sandy Adams (R-FL) on April 27, 2012. Unlike the Senate bill, this one was not introduced in a bipartisan manner. Additionally, while there were some improvements included in the House VAWA bill from the Senate version, the starkest omissions included the elimination of protections for Native American Indians, LGBTQ victims, and some of the improvements for immigrant victims that had been included in S. 1925, along with the elimination of improved protections on college campuses. Furthermore, there was great alarm to see the inclusion of amendments that sought to completely gut current protections for immigrant victims and included changes that would endanger the lives of immigrant victims.<sup>85</sup> There was great concern that these provisions, put forth under the guise of wanting to prevent fraud, were written without a victim safety analysis and without consulting with professionals in the field who could have explained the serious and dangerous consequences of these amendments.

On May 8, 2012 the House Judiciary Committee held markups and passed the bill by a vote of 17-15.<sup>86</sup>

There was an immediate outpouring of public outcries from hundreds of organizations and individuals across the country who signed letters and made calls to members of Congress opposing these provisions, as well as numerous media articles and editorials highlighting how these provisions were harmful for immigrant victims,<sup>87</sup> and the actions of countless individuals who called or wrote their Congressperson denouncing these changes that endangered the lives of immigrant victims. This resulted in a Managers Amendment shortly before H.R. 4970 went to the floor of the House for a final vote. While the Managers Amendment removed some extremely harmful provisions from the House VAWA bill, unfortunately H.R. 4970 omitted the moderate U visa increase in the Senate version, as well as the stalking protections, and continued to include a number of provisions that roll back important protections for immigrants and undermine victim safety.<sup>88</sup>

For immigrant victims who are eligible for the VAWA self-petition, changes in the current House bill would include requiring an interview with the local USCIS office at the outset of the application, which is duplicative (since applicants already must

to an interview to adjust their immigration status), would involve unspecialized adjudicators who are not trained in domestic violence and sexual assault, and would result in lengthy delays for victims who are already most at risk when they are trying to leave an abusive relationship. Additionally, other detrimental provisions would weaken confidentiality protections and suspend the adjudication of VAWA self-petitions while criminal charges are pending against the abuser. Furthermore, proposed changes to the U visa would narrow the eligibility criteria and, most significantly, would deny access to Lawful Permanent Resident (LPR) status to most victims who obtain the U visa.

The proposed House bill also continued to leave out the important protections for Native American victims and LGBTQ victims that were included in the Senate version and the improvements for the college campus dating violence and sexual assault programs, among other things. For this reason, the National Task Force to End Sexual and Domestic Violence recommended that Members of Congress in the House of Representatives vote against the House VAWA reauthorization bill. Nonetheless, on May 16, 2012, H.R. 4970 passed in the House by a vote of 222-205.

Proponents for the changes that endangered immigrant victims cited unsubstantiated and seemingly isolated accounts of alleged fraud to support their position. However, they did not cite any studies or reports validating any assertions of fraud nor did they provide evidence of any systemic problems.<sup>89</sup> In fact, a recent government report by the Congressional Research Services (CRS) found empirical evidence for these assertions of fraud lacking.<sup>90</sup> The CRS report also highlighted how the current system of adjudication for the VAWA self-petitions and U visa applications was designed to both protect victim safety and ferret out fraud. As stated in a report by the Department of Homeland Security, “Consolidation of VAWA petition adjudications in the Vermont Service Center was intended, among other things, to prevent fraud by assigning adjudication of specialists in domestic violence cases who could efficiently discern fraudulent petitions, fairly adjudicate legitimate petitions, and protect victims from accidental violations of confidentiality.”<sup>91</sup>

In fact, many experienced advocates express concerns that the current requirements and process are already so difficult that they can deter battered immigrants who would qualify for VAWA protections from applying in the first place, and prevent some with legitimate cases from having their applications approved.<sup>92</sup> Currently, 25% of VAWA self-petitions on average are denied each year,<sup>93</sup> as are 22% of U visa applications.<sup>94</sup> Additionally, under the current system many victims already must wait over a year to obtain an approval of their petition. Increasing barriers, adding significant delays, weakening confidentiality protection, and narrowing eligibility criteria will jeopardize immigrant victims and their children and empower abusers to block victims’ access to safety and justice.

Sadly, it has been demonstrated that some proponents of these changes have a vested interest in denying access to safety and justice for immigrant victims. In particular, one organization that actively and publicly lobbied for these changes, under the guise of wanting to reduce fraud, has been shown to be linked to an international marriage broker company found by the courts to have engaged in abusive practices that undermined the safety of immigrant victims.<sup>95</sup> It is also worth noting that while the Senate VAWA bill includes provisions that strengthen existing protections in the International Marriage Broker Regulation Act (IMBRA), the House version omits some of the more important amendments intended to close gaps and ensure full implementation and enforcement of the 2005 law.<sup>96</sup>

Many law enforcement officials have spoken out about the importance of VAWA protections for immigrant victims. In a published statement written jointly by the Attorney General of Utah (a Republican) and the Attorney General of Maryland (a Democrat) on September 11, 2012 they stated:

All women who have lived through violence and abuse should have the certainty that the law will protect them – no matter their race, creed, color, religion or immigration status. Unfortunately, Congress is now considering proposals that would erode this certainty – and its failure to act is already causing harm.... We need every available tool to fight these serious crimes, so we fully support reauthorization of the Violence Against Women Act – but not in a dangerously altered form that would harm vulnerable immigrant women.<sup>97</sup>

## Next Steps

Since the passage of VAWA in 1994, each reauthorization has improved upon and strengthened victim services and protections, demonstrating our nation's resolve to continue advancing in our commitment to ending domestic violence, sexual assault, dating violence and stalking for all victims. The next step is for Congress to avoid further delays and agree on a final version of VAWA that continues to advance VAWA protections for all victims and does not roll back any current protections for immigrant victims.<sup>98</sup>

## RECOMMENDATIONS

### VAWA Reauthorization 2012 and Beyond

For this reauthorization and future reauthorizations, it is important that VAWA remain a bipartisan effort to enhance the safety and stability of families, provide avenues for holding individuals who use violence accountable, and strengthen our nation's commitment to ending domestic violence, sexual assault, dating violence and stalking. The goal of preventing and eliminating violence against women and girls is a paramount human rights issue and requires a commitment to developing a comprehensive approach.

In order to accomplish this, input from the field is critical to ensuring the development of legislation with a victim-centered analysis that moves our society further toward the elimination of domestic violence and sexual assault. Efforts to gather input from the field for the current VAWA reauthorization began more than a year before any legislation was proposed and the diverse committees sought to include as many voices as possible. Maintaining and increasing the involvement of Latina advocates and survivors in this process will help to inform the legislative process to make the resulting legislation helpful and relevant for Latinas and responsive to the realities of Latino communities.

We must maintain our efforts to elevate the issue of domestic violence within public discourse and make sure that policy makers are responsive to the needs of communities. Thousands of individuals and organizations have mobilized to speak out and take action during the reauthorization process of 2012 to advocate for a VAWA reauthorization that improves protections for all victims of domestic violence and sexual assault, including Native American women, LGBTQ victims, immigrant survivors, Communities of Color, and other underserved groups. Clear communication, strong networks, and diverse stakeholders helped demonstrate that there are many people invested in this legislation. We must continue to build, strengthen and deepen the conversation within our Latino communities about this issue and ensure that our representatives hear our concerns and know that we want them to improve VAWA and enhance protections for all victims.

Additionally, it is important to convey to policy makers that provisions that undermine and weaken VAWA's historical bipartisan commitment to protecting immigrant victims of domestic violence and sexual assault are not acceptable. Likewise, VAWA should not be used as a vehicle to address immigration issues that are not relevant to domestic violence, sexual assault, dating violence, stalking and trafficking.

Provisions introduced into future VAWA drafts should provide the most inclusive, proactive and supportive responses possible for all victims and families experiencing violence. How will we know which provisions to include? We must continue to ask. Survivors, advocates, attorneys who represent battered women, medical professionals, law enforcement officials, judges, community leaders, family members and many others all have key insights and experiences that help illustrate the intersections at which laws work and do not work for victims of abuse.

### For Service Providers, Advocates and Community-Based Organizations

Organizations providing support and services to families experiencing violence and to victims of sexual assault have the opportunity to make a tremendous positive impact for families. The intent of VAWA throughout its evolution has been to support victims by providing immediate, culturally relevant and accessible services and to enhance outcomes for survivors and their children. We can all continue to work together to bring the vision of VAWA into reality by:



- Continuing to build capacity to support and serve immigrant survivors and culturally-specific groups, particularly racial and ethnic minority groups;
- Developing and deepening connections with culturally-specific, community-based organizations. By seeking to address domestic violence as it intersects with issues of health, education, child development, mental health, job readiness, and more, this will increase pathways for victims of domestic violence to obtain accessible services to help them find safety and opportunities;
- Enhancing access to language-specific services. Non-profit organizations and state agencies that receive federal funding are required to take reasonable steps to ensure meaningful access to individuals with limited English proficiency, pursuant to Title VI of the Civil Rights Act. Shelters, domestic violence and sexual assault programs, and legal assistance providers, should develop and implement language access plans in compliance with the Civil Rights Act;
- Complying with regulations that ensure access to services critical for life or safety for all individuals, regardless of immigration status, including domestic violence shelters and transitional housing programs;
- Increasing access to legal services representation and trained advocates to assist immigrant survivors who are eligible for VAWA immigration remedies;
- Moving beyond a “one-size fits all approach,” which requires listening to Latinas who are seeking services and working comprehensively to respond to their concerns and goals.
- Strengthening the commitment not only to provide social services, but to be part of a social change movement that seeks to vigorously protect the human rights of all individuals to live free from violence, regardless of immigration status, language ability, race, class, religion, sexual orientation, age, or disability, and that also seeks to address multiple layers of oppression and;

#### **For Law Enforcement, Courts, DHS/ICE, USCIS**

Law enforcement strategies and the increasing entanglement between local law enforcement and federal immigration enforcement entities have a tremendous impact on Latino families experiencing violence. Efforts should be strengthened to ensure that immigration status cannot be used as a tool of abuse and that immigrant victims are not too afraid to come out of the shadows to seek safety and assist law enforcement in holding all perpetrators accountable by:

- Expanding the “Coordinated Community Response” to make sure it includes important issues of ensuring meaningful language access for individuals with limited English proficiency with the police, prosecutors, the courts, and ICE officials to comply with Title VI of the Civil Rights Act;
- Establishing protocols that make it impermissible for the police to rely on children or the abusers or their family members to provide interpretation for victims with limited English proficiency;
- Improving training with law enforcement to prevent dual arrests or the arrest of the victim, particularly when immigrant victims do not have adequate language access;
- Reviewing Department of Homeland Security policies to ensure that collaborations between ICE and local law enforcement focus on serious criminal offenders and do not undermine community policing and access to safety for victims;
- Improving coordination between local law enforcement and local ICE officials to establish protocols to implement the ICE prosecutorial discretion memo for immigrant victims and witnesses and coordinating efforts with domestic violence and sexual assault service providers to assist in screening and providing assistance for victims;

- Improving protocols and trainings to protect the confidentiality of immigrant victims and ensure that abusers are not able to use the immigration status of a victim as a tool of abuse;
- Improving coordination with Child Protective Services to ensure that immigrant parents who are detained by ICE and have their children placed into foster care, receive adequate services and protection of their parental rights;
- Improving training and protocols for law enforcement agencies to better understand their role in providing certification for U visa applicants when immigrant victims have been helpful in the investigation or prosecution of a crime; provide a method whereby victims who have assisted in the investigation or prosecution of a crime can provide evidence to that effect when applying to USCIS for a U visa in jurisdictions where law enforcement does not provide certifications for U visas; and
- Taking measures to expedite the adjudication of immigration relief under VAWA at the USCIS specialized VAWA Unit and ensure that eligible survivors can access work authorization in a more timely manner.

### **For State Administrators, Foundations and Philanthropy**

Entities that provide funding for prevention, intervention and support services can play a key role in supporting culturally-relevant approaches that enhance outcomes for Latino families by:

- Expanding funding to include non-traditional, culturally-grounded, community-based prevention and intervention approaches that further develop the capacity and leadership in Communities of Color to work to end domestic violence;
- Enhancing the application processes for funding to critically evaluate the capacity of all service providers to provide meaningful access to their services for individuals with limited English proficiency, in compliance with Title VI of the Civil Rights Act;
- Strengthening the state planning process to ensure that underserved communities, including racial and ethnic minority groups, have an opportunity to provide input in efforts to develop a comprehensive state plan for the allocation of VAWA funds and other resources;
- Requiring compliance with regulations that ensure access to services critical for life or safety for all individuals, regardless of immigration status, including domestic violence shelters and transitional housing programs;
- Ensuring funding equity that reflects demographic changes and projections, increased diversity, and contributions of Latino communities; and
- Funding independent research and evaluation projects to study and enhance culturally and linguistically specific service models that employ a diversity of approaches in efforts to enhance prevention and intervention strategies.

### **For Family Members, Friends and Neighbors**

The power to end domestic violence exists in our communities. Violence is a learned behavior that can be unlearned. We can all work to end domestic violence and sexual assault every day in big and small ways by:

- Educating ourselves on the realities of domestic violence, sexual assault, dating violence, and stalking;
- Learning how to respond to domestic violence and sexual assault when we see it, or hear about it and how to be supportive to victims of domestic violence or sexual assault, as well as children impacted by violence in the home;
- Elevating the issue of domestic violence in public conversations;

- Teaching our children to reject violence within relationships, including teen dating relationships;
- Rejecting the idea that violence against women and girls is funny, entertaining, or acceptable, and speaking out when violence against women and girls is used as entertainment;
- Modeling healthy communication and conflict resolution;
- Including domestic violence concerns and considerations in policy-making at many levels in our local communities (city council, school boards and schools, in the workplace, churches, etc.); and
- Reaching out to our representatives at the state and national level to encourage them to support VAWA and other legislation that seeks to enhance prevention and intervention efforts for all victims and to provide adequate funding levels to accomplish these goals.



## RESOURCES

### VAWA Reauthorization Resources:

For more information about VAWA reauthorization efforts and to access additional fact sheets, advocacy toolkits, and other information visit [www.4VAWA.org](http://www.4VAWA.org)

For more information about VAWA policy issues and advocacy efforts, visit the National Latin@ Network for Healthy Families and Communities at <http://www.nationallatinonetwork.org/policy-and-action/action-alerts/vawa>

To view or download a copy of the fact sheet developed by the Immigration Committee of the National Task Force to End Sexual and Domestic Violence “Reauthorization of VAWA: The Current State of Provisions Related to Immigrant Survivors (S.1925 and H.R.4970)” go to <http://4vawa.org/pages/vawa-fact-sheets>

To view the VAWA reauthorization legislation, go to the Library of Congress website at <http://thomas.loc.gov> and search by bill number (S.1925 for the Senate bill and H.R.4970 for the House bill)

### Resources on the VAWA immigration remedies for victims:

Immigration Relief for Victims of Abuse and Domestic Violence: Practitioner’s Guide to Serving Non-Citizens, July 2012 by Penn State Law’s Center for Immigrants’ Rights. Can be downloaded at: [http://law.psu.edu/immigration\\_remedies/materials](http://law.psu.edu/immigration_remedies/materials)

Resources on the legal rights of immigrant victims of domestic violence, sexual assault, trafficking, and other crimes, are available at the web library of Legal Momentum’s Immigrant Women Program at <http://iwp.legalmomentum.org>

National Immigrant Justice Center, Pro Bono Manuals on U Visas and VAWA Self-Petitions available at: <http://www.immigrantjustice.org/useful-documents-attorneys-representing-immigrant-victims-violence>

ASISTA – clearinghouse of information and technical assistance provider for advocates and attorneys to assist immigrant victims – [www.asistahelp.org](http://www.asistahelp.org)

National Immigrant Women Advocacy Project – [www.niwap.org](http://www.niwap.org)

### Resources on Domestic Violence Advocacy for Latino Communities;

Casa de Esperanza: National Latin@ Network for Healthy Families and Communities – [www.casadeesperanza.org](http://www.casadeesperanza.org) and [www.nationallatinonetwork.org](http://www.nationallatinonetwork.org) – national Latin@ domestic violence resource center with policy, research, and training & technical assistance resources. Sign up to participate in free monthly webinars available in both English and Spanish on a wide range of topics.

Mujeres Latinas en Acción: – <http://www.mujereslatinasenaccion.org/> Mujeres— offers services in the Chicago area that support all programs, which include general intake, volunteer training and childcare. Childcare is provided for clients while they are receiving services.

## About Casa de Esperanza and Mujeres Latinas en Acción

**Casa de Esperanza's** mission is to mobilize Latinas and Latin@ communities to end domestic violence. The organization's National Latin@ Network for Healthy Families and Communities serves as the national Latin@ domestic violence resource center and incorporates training and technical assistance, a public policy initiative in Washington, D.C., and a research center in Atlanta, GA, in an effort to advance effective responses to eliminate violence and promote healthy relationships. Headquartered in St. Paul, MN, **Casa de Esperanza** has 30 years of experience working within communities by providing advocacy, emergency shelter, a 24-hour bilingual crisis line, and opportunities for peer education. For more information, please visit [www.casadeesperanza.org](http://www.casadeesperanza.org) and [www.nationallatinonetwork.org](http://www.nationallatinonetwork.org).

**Mujeres Latinas en Acción (Mujeres)**, a bilingual/bicultural agency, empowers Latinas by providing services which reflect their values and culture and being and advocate on the issues that make a difference in their lives. Since its founding in 1973, **Mujeres** has developed a comprehensive array of social services and advocacy initiatives that promote non-violence, reproductive health and leadership development. Based in Chicago with an office in North Riverside, **Mujeres** offers services that support all programs, which include general intake, volunteer training, and childcare. In 2013, **Mujeres** will celebrate its 40th Anniversary, making it the longest standing incorporated Latina organization in the nation. For more information, please visit <http://www.mujereslatinasenaccion.org>.

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- 33 "Throughout this document, the use of the word "Latino" is used to represent groups of mixed gender and is not intended to exclude or minimize the contribution of women and girls in our communities. We recognize that there are significant limitations to the use of Latino, Hispanic, and other terms that have been imposed upon individuals in the U.S. whose country of origin, ethnic heritage, or family history are connected to Mexico, Spain, or countries in Central America and South America. In fact, any label that attempts to generalize the pan-ethnic experiences and identities of individuals from these communities implies uniformity and common experience that simply do not exist. In the absence of an adequate term in English or Spanish that represents authentic inclusion and creates an environment that is affirming of all gender identities, countries of origin, ethnic identities and cultural expressions, we have chosen to use the term Latino, but we are doing so in the most inclusive and affirming spirit.
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- 79 The workgroups developed to inform this process were: Abuse in Later life/Older Adults, Americans Overseas, Children and Youth, Communities of Color, Economic Security/Workplace, Faith-based, Health, Housing, Immigrants, International, Justice System, LGBTQ, Military, Offenders, Prevention, Privacy and Technology, Research, Services, Sexual Assault, Territories, Tribal, Underserved Communities, and Women with Disabilities.
- 80 For example, advocates had originally sought to include a provision that would have allowed U visa applicants the opportunity to provide secondary evidence of how they had been helpful in the investigation or prosecution of a crime in order to allow victims to apply for a U visa in those jurisdictions where it is not possible to obtain law enforcement certification of cooperation. While this was included in the bill that was originally introduced in the Senate, it was not included in the version that went to the Judiciary Committee for markup.
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was an amendment offered by Sen. Grassley (R-IA) that requires mandatory minimums in sentencing for sexual assault convictions. This is unnecessary since federal sentencing guidelines are already in effect and there is no evidence that they are not working. Additionally, it is problematic since mandatory minimum sentencing has a disproportionate impact on Communities of Color and can deter victims from wanting to prosecute, particularly where the perpetrator is a family member. The House VAWA bill contains even longer mandatory minimum sentencing provisions for sexual assault.

83 Currently the U visa cap of 10,000 visas annually has been met before the end of the fiscal year for the past three years. However, prior to that the U visa cap was not reached for many years since the federal regulations for the U visa did not go into effect until 2007. The U visa cap increase was supported by the Department of Homeland Security and many law enforcement organizations that recognize the U visa as an important law enforcement tool.

84 Another provision that was included in S.1925 during the Judiciary Committee markups, without support of the National Task Force, was an amendment put forth by Sen. Grassley (R-IA) that expands the definition of aggravated felony for DUI offenders for the purposes of mandatory deportation. This provision, Section 1008 of S. 1925, is widely opposed by national immigration and domestic violence organizations since VAWA should not be used as a vehicle to include provisions regarding immigration matters that are not germane to protecting victims of domestic violence, sexual assault, stalking or trafficking.

Immigration Committee of the National Task Force to End Sexual and Domestic Violence. (2012). Oppose Grassley Amendment (MDM 12037) to the Violence Against Women Act Reauthorization (S.1925) Regarding Removal of Drunk Drivers. [Fact Sheet.]

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See IMBRA fact sheet states: "Today, over 400 international marriage brokers (IMBs) operating in the United States market women from every corner of the globe. An estimated one-third to one-half of all foreign fiancé(e)s admitted to the United States each year (about 10,000-15,000 women, based on 2010 immigration statistics), and many thousand more of the foreign spouses who are admitted each year, may have met their American husbands through IMBs. Despite these growing numbers, and repeated reports of IMBRA violations, in the 6 years since IMBRA's enactment, no IMB has been prosecuted for violating the law, enabling industry regulations to be flouted with impunity and exposing women using IMBs' services to continuing risk of abuse and exploitation."

86 For example, Section 801 of HR4970 would have changed the adjudication of VAWA self-petitions by removing them from the specially trained VAWA unit of USCIS at the Vermont Service Center and requiring instead that victims file their applications and be interviewed at local USCIS offices by adjudicators untrained in the dynamics of domestic violence and sexual assault. Additionally, this provision would have allowed the local USCIS adjudicator to notify and interview the abusive spouse as well. Furthermore, if the adjudicator subsequently determined that the petitioner had made a "material misrepresentation", the applicant would be permanently barred from immigration benefits and would be referred to the FBI for criminal prosecution and would be removed on an "expedited basis." Although this amendment passed in the House Judiciary Committee, it was subsequently changed in the Managers Amendment before going to the floor of the House of Representatives for a final vote.

87 The only Republican member of the House Judiciary Committee to vote against HR 4970 at the committee markups was Congressman Ted Poe (R-TX). As a former judge and as chair of the Victims Rights Caucus in the House, he recognized that this bill would undermine victim safety for immigrant victims.

Ted Poe crosses party lines on Violence Against Women Act, sides with Democrats. (2012, May 10). Houston Chronicle. Retrieved from <http://blog.chron.com/txpo-tomac/2012/05/ted-poe-crosses-party-lines-on-violence-against-women-act-sides-with-democrats/>

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# LATINA PORTRAIT



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