

IMMIGRATION AND NATURALIZATION ACT OF 1994 WITH VIOLENCE AGAINST WOMEN ACT 1994, 2000, AND 2005 AMENDMENTS

VAWA 1994 changes are ***bold and italics***; ~~with deletions~~

VAWA 2000 changes are *underlined and italics*; ~~with deletions~~

VAWA 2005 changes are **underlined and bold**; ~~with deletions~~

SUSPENSION OF DEPORTATION; VOLUNTARY DEPARTURE

Sec.244. [8 U.S.C. 1254] (a) As hereinafter prescribed in this section, the Attorney General may, in his discretion, suspend deportation and adjust the statue to that of an alien lawfully admitted for permanent residence, in the case of an alien (other than an alien described in section 241(a)(4)(D))) who applies to the Attorney General for suspension of deportation and—

(3) ¹ is deportable under any law of the United State except section 241(a)(1)(G) and the provisions specified in paragraph (2); has been physically present in the United States for a continuous period of not less than 3 years immediately preceding the date of such application; has been battered or subjected to extreme cruelty in the United States by a spouse of parent who is a United States citizen or lawful permanent resident (or is the parent of a child of a United States citizen or lawful permanent resident and the child has been battered or subjected to extreme cruelty in the United States by such citizen or permanent resident parent); and proves that during all of such time in the United States the alien was and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or the alien's parent or child. ***In acting on applications under subsection (a)(3), the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.***

VAWA 2000:

(B) PHYSICAL PRESENCE: An alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence if the alien demonstrates a connection between the absence and the battering or extreme cruelty perpetrated against the alien. No absence or portion of an absence connected to the battering or extreme cruelty shall count

¹(“164a” footnote in INA 1994): Paragraph (3) was inserted by §40703(a)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, 208 Stat. 1955, Sept. 13, 1994). Website location of INA 1994: http://congressional.proquest.com.proxy.wcl.american.edu/congressional/result/pqpresultpage.gispdfhitspanel.pdf?link=http%3A%2F%2Fprod.cosmo.sdc4.bowker-dmz.com%2Fapp-bin%2Fgis-pubentry%2Ffe%2F7%2F7%2F5%2Ffcmp-1995-hjh-0005_from_1_to_658.pdf?entitlementkeys=1234

toward the 90-day or 180-day limits established in subsection (d)(2). If any absence or aggregate absences exceed 180 days, the absences or portions of the absences will not be considered to break the period of continuous presence. Any such period of time excluded from the 180-day limit shall be excluded in computing the time during which the alien has been physically present for purposes of the 3-year requirement set forth in section 240A(b)(2)(B) and section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).

(C) GOOD MORAL CHARACTER—Notwithstanding section 101(f), an act or conviction that does not bar the Attorney General from granting relief under this paragraph by reason of sub-paragraph (A)(iv) shall not bar the Attorney General from finding the alien to be of good moral character under subparagraph (A)(i)(III) or section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), if the Attorney General finds that the act or conviction was connected to the alien’s having been battered or subjected to extreme cruelty and determines that a waiver is otherwise warranted.

(4) CHILDREN OF BATTERED ALIENS AND PARENTS OF BATTERED ALIEN CHILDREN—

(A) IN GENERAL.—the Attorney General shall grant parole under section 212(d)(5) to any alien who is a—

(i) child of an alien granted relief under section 240A(b)(2) or 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996); or

(ii) parent of a child alien granted relief under section 240A(b)(2) or 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).

(B) DURATION OF PAROLE.—The grant of parole shall extend from the time of the grant of relief under section 240A(b)(2) or section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) to the time the application for adjustment of status filed by aliens covered under this paragraph has been finally adjudicated. Applications for adjustment of status filed by aliens covered under this paragraph shall be treated as if they were applications filed under section 204(a)(1)(A)(iii), (A)(iv), (B)(ii), or (B)(iii) for purposes of section 245(a) and (c). Failure by the alien granted relief under section 240A(b)(2) or section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) to exercise due diligence in filing a visa petition on behalf of an alien described in clause (i) or (ii) may result in revocation of parole.

(C) Effective Date.—Any individual who becomes eligible for relief by reason of the enactment of the amendments made by subsections (a) and (b), shall be eligible to file a motion to reopen pursuant to section 240(c)(6)(C)(iv). The amendments made by subsections (a) and (b) shall take effect as is included in subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1984 (Public Law 103-322; 108 Stat. 1953 et seq.)

Sec. 1505. OFFERING EQUAL ACCESS TO IMMIRATION PROTECTION OF THE VIOLENCE AGAINST WOMEN ACT OF 1994 FOR ALL QUALIFIED BATTERED IMMIGRANT SELF-PETITIONERS

(a)Battered Immigrant Waiver.—Section 212(a)(9)(C)(ii) of the Immigration and Nationality Act