private matter, and the time when a woman has to suffer in silence because the criminal who is victimizing her happens to be her husband or boyfriend has past. Together—at the federal and state levels—we are steadily moving forward, step by step, along the road to ending this violence once and for all. But there is more that we can do, and more that we must do.

The Biden-Hatch Violence Against Women Act of 2000 accomplishes two basic things:

First, it reauthorizes through Fiscal Year 2005 the key programs included in the original Violence Against Women Act, such as the STOP, Pro-Arrest, Rural Domestic Violence and Child Abuse Enforcement, and campus security funding for battered women’s shelters; the National Domestic Violence Hotline; rape prevention and education grant programs; and three victims of child abuse programs, including the court-appointed special advocate program (CASA).

Second, the Violence Against Women Act of 2000 makes some targeted improvements that our experience with the original Act has shown to be necessary, such as—

(1) Authorizing grants for legal assistance for victims of domestic violence, stalking, and sexual assault;
(2) Providing funding for transitional housing assistance;
(3) Prohibiting full faith and credit enforcement and computerized tracking of protection orders;
(4) Strengthening and refining the protections for battered immigrant women;
(5) Authorizing grants for supervised visitation and safe visitation exchange of children between parents in situations involving domestic violence, child abuse, sexual assault, or stalking; and
(6) Expanding several of the key grant programs to include violence that arises in dating relationships.

Although this Act does not extend the Violent Crime Reduction Trust Fund, it is the managers of that trust fund that the Trust Fund is extended beyond Fiscal Year 2000, funds for the programs authorized or reauthorized in the Violence Against Women Act of 2000 would be appropriated from this dedicated funding source.

Several points regarding the provisions of Title V: Battered Immigrant Women Protection Act of 2000, bear special mention. Title V continues the work of the Violence Against Women Act of 1994 ("VAWA") in responding to the battered immigrants who have been victimized by our immigration laws: that many hinder or prevent battered immigrants from fleeing domestic violence safely and prosecuting their abusers. Title V also provides an asylum or lawful permanent resident to blacken the abused spouse through threats related to the abused spouse’s immigration status. We would also need to elaborate on the rationale for several of these new provisions and how that rationale should inform their proper interpretation and administration.

First, this legislation allows battered immigrants who unknowingly marry bigamists to avail themselves of VAWA’s self-petition procedures. This provision is also intended to facilitate the filling of a self-petition by a battered immigrant married to a citizen or lawful permanent resident with whom the battered immigrant believes he or she had contracted a valid marriage and who represented himself or herself to be divorced. To qualify, a marriage ceremony, either in the United States or abroad, must have been performed. We would anticipate that evidence of such a battered immigrant’s legal marriage to the abuser through a marriage certificate or marriage certificate supplement could be used as proof that the immigrant is eligible to petition for classification as a spouse without the submission of divorce decrees from each of the abusive citizen’s or lawful permanent resident’s former marriages. For an abused spouse to obtain sufficient detailed information about each of the abuser’s former marriages and the date and place of each divorce, as INS currently requires, can be a daunting, difficult and time-consuming task. We are under the control of the abuser and the abuser’s family members. Section 1503 should provide the battered immigrant of that burden in the ordinary case.

Second, section 1503 also makes VAWA relief available to abused spouses and children of battered permanent resident members of the uniformed services or government employees living abroad, as well as to abused spouses and children of battered permanent resident whose status as a citizen or lawful permanent resident spouse or parent in the United States. We would expect that INS will take advantage of the expertise the Vermont Service Center has in developing in deciding self-petitions and assign it responsibility for adjudicating these petitions even though they may be filed at U.S. embassies abroad.

Third, while VAWA self-petitioners cannot include in their children applications, VAWA self-petitioners who will not be adults cannot. Because there is a backlog for applications for minor children of lawful permanent residents, the grant of permanent residency is of the theoretical available of derivative status to the child at that time does not solve this problem. Although in the ordinary cancellation case the INS would not seek to deport such a child, an abused spouse may try to bring about that result in order to exert power and control over the abused spouse. Section 1504 directs the INS to provide such children, thereby enabling them to remain with the victim and out of the abuser’s control. This directive should be understood to include a battered immigrant’s children whether or not they currently reside in the United States, and therefore to include the use of his or her parole power to admit them if necessary. The protection offered by section 1504 to children abused by their U.S. citizen or lawful permanent resident parents is available to the abused child even though the courts may have terminated the parental rights of the abuser.

Fourth, in an effort to strengthen the hand of victims of domestic abuse, in 1996 Congress added two sex crimes of violence and stalking to the list of crimes that render an individual deportable. This change in law has had unintended negative consequences for abuse victims because despite recommended procedures to the contrary, in domestic violence cases many officers still make arrests instead of determining the primary perpetrator of the violence. A battered immigrant may not well be in control of his or her life to seek sufficient course before accepting a charge that varies little or no jail time without understanding its immigration consequences. The abusive spouse, on the other hand, may understand those consequences well and may proceed to turn the abuse victim in to the INS.

To resolve this problem, section 1506(b) of this legislation provides the Attorney General with discretion to grant a waiver of deportability to a person with a conviction for a crime of domestic violence or stalking that did not result in serious bodily injury or death. That waiver may be granted by a battered immigrant who was not the primary perpetrator of abuse in a relationship. In determining whether such a waiver is warranted, the Attorney General should consider the full history of domestic violence in the case, the effect of the domestic violence on any children, and the crimes that are being committed against the battered immigrant. Similarly, the Attorney General is to take the same types of evidence into account in determining whether the law enforced by 1506(a) whether a battered immigrant has proven that he or she is a person of good moral character and whether otherwise disposed to conform to the laws of the United States. Similar to that finding because it is connected to the domestic violence, including the need to relocate in order to escape violence, this legislation also clarifies that the VAWA evidentiary standard will be used, even if the battered immigrant is self-petitioning and cancellation of removal proceeding. The evidence that the battered immigrant has to prove abuse continues to apply to all aspects of self-petitions and VAWA cancellation of removal proceedings as a whole, including to the various domestic violence discretionary waivers in this legislation and to determinations concerning U-visas.

Section 1505 makes section 212(i) waivers available to battered immigrants on a showing of extreme hardship to, among others, a "qualified alien" parent or child. The definition of a qualified alien from the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, found at 8 U.S.C. 1101(a)(27)(A).

Sixth, section 1506 of this legislation extends the deadline for a battered immigrant to file a motion to reopen proceedings, now set at 90 days after the entry of an order of removal, to one year after final adjudication of such an order. It also allows the Attorney General to extend the one year deadline on the basis of extraordinary circumstances or hardship to the alien’s child. Such extraordinary circumstances may not be limited to an atmosphere of deception, violence, and fear that make it difficult for a victim of domestic abuse to do steps to defend against or reopen an order of removal in the first instance. They also include failure to defend against removal or file a motion to reopen within the deadline on account of a child’s lack of capacity due to age. Extraordinary circumstances may also include violence or cruelty of such nature that is when the circumstances surrounding the issue of domestic violence and the consequences of the abuse are considered, not allowed the battered immigrant to file the removal proceeding would thwart justice or be contrary to the humanitarian purpose of this legislation. Finally, they include the battered immigrant’s inability to file this legislation for relief from removal not available to the immigrant before that time.

Seventh, section 1507 helps battered immigrants more successfully protect themselves from ongoing domestic violence by allowing battered immigrants with approved self-petitions to remarry. Such remarriage cannot serve as the basis for revocation of an approved self-petition or rescission of adjustment of status.

There is one final issue that has been raised, recently, which we would like to take this opportunity to address, and that is the eligibility of men to receive benefits and services under the original Violence Against Women Act and under this reauthorizing legislation. The original Act was enacted in 1994 specifically to address the problem of violence against women. A voluminous legislative record compiled after four years of congressional hearings document the conviction that women face a range of violent crimes, such as domestic violence and sexual assault, disproportionately affect women, both in terms of the sheer number of as perpetrators and of victims who are so afflicted. Accordingly, the Act, through several complementary grant programs, made it...