



# Legislative and Policy Updates: Celebrating and Mobilizing



Presented by  
Sonia Parras Konrad, *ASISTA*  
Cecelia Friedman Levin, *ASISTA*  
Rosie Hidalgo, *Casa de Esperanza*

# Why Engage in Policy Advocacy?

A close-up photograph of a hand holding a small, translucent globe of the Earth. The hand is positioned in the upper right corner of the slide, with fingers gently cradling the globe. The background is a soft, out-of-focus light blue.

- Allow experiences on the ground providing direct services to influence development of effective public policies
- Help bring the voices and lived realities of our communities to bear on policy decisions
- Improve policies that are responsive to the needs and realities of survivors as well as their children and families
- Encourage movement beyond “One-size fits all” approach

# VAWA 2013-Advocacy



- Policy informed by problems identified by the field.
  - Where are there problems/gaps in the system for survivors and their families?
  - Who are those affected?
  - What is the scope of the problem?
  - What is the impact of the problem on survivors of violence?
  - Are the same problems occurring in other places?
  - What are the individuals stories that best illustrate the problem?

# Can Nonprofits Engage in Policy Advocacy?

A close-up photograph of a hand holding a small, translucent globe of the Earth. The hand is positioned in the upper right corner of the slide, with fingers gently cradling the globe. The background is a soft, out-of-focus light blue.

- Non-profit organizations are well positioned to educate and inform public policy makers
- Non-profits provide valuable perspectives in representing constituencies that have a limited voice in the policy process
- Congress has stated that influencing legislation is an **appropriate** and **legitimate** activity for nonprofit 501(c)(3) orgs within limits for activities considered “lobbying”

# Are Grantees of Federal Funds Allowed to Lobby?



- Non-profit organizations cannot use *federal* funds to support, oppose, or seek to change pending legislation
- However, grantees of federal funding can participate in these lobbying activities with *unrestricted, non-federal* sources of funding within the generous limits for 501(c)(3) organizations
- For more information, visit

<http://nationallatinonetwork.org/learn-more/policy-101/non-profits-a-lobbying>

# Influencing Policy Development

A hand holding a globe, symbolizing global impact or policy influence.

- Write letters/emails and make calls to legislators
- Invite legislator to visit your program/event
- Visit legislative offices; share stories
- Write letters to the editor in local media
- Send action alerts
- Participate in policy committees in state DV/SA coalitions and culturally specific organizations
- Ensure adequate State Planning Process to address needs of marginalized communities in allocation of resources

# VAWA 2013-Advocacy



- Organizing Effectively
  - National Task Force to End Sexual and Domestic Violence
    - Committees on Various Issues
    - 4VAWA.org and use of regular media and social media
  - Working collaboratively and in solidarity
  - Partnering with other national, state, and local organizations for mobilization, collecting stories and other advocacy efforts

# VAWA Reauthorization 2013



- VAWA originally enacted in 1994 and reauthorized in 2000 and 2005 in a bipartisan manner
- Bipartisan Senate VAWA bill (S. 1925) was introduced last term and passed in April, 2012 by vote of 68-31
- House of Representatives introduced a different version (HR4970); passed in May, 2012 by vote of 222-205
- These bills expired at the end of the Congressional term
- Senate reintroduced and passed inclusive, bipartisan VAWA bill in Jan. 2013 (S.47); House of representatives introduced a different version that did not pass (166-257); House then passed same bipartisan Senate version by vote of 286-138
- VAWA bill included Trafficking Victims Protection Act (TVPRA)
- Pres. Obama signed new VAWA legislation March 7, 2013



# Preventing Rollbacks in VAWA Protections for Immigrants



- Original House VAWA bill (HR 4970) as introduced and passed by House Judiciary Committee contained significant changes to VAWA self-petition and U visa that would have been very harmful for immigrant victims; Managers Amendment still had rollbacks
- Additional challenges of harmful immigration Senate amendments (e.g. DUI AgFel)
- Rebutting allegations of fraud and educating members of Congress and staffers was critical; as well as broad support from many other organizations



# Overview of VAWA 2013 Enhancements

# VAWA 2013- Advocacy



## Example: “U visa Age-Out”

- U visa derivatives could not gain U visa status if they turn 21 while the parent’s application is pending, if they turn 21 after approval, or if they turned 21 before they entered the country.
- Cause tremendous problems as derivatives could not obtain work authorization, accrue continuous presence to be able to get their green card, or even enter U.S. if they were over 21

# VAWA 2013-Immigration Updates



## U visa Age-Out Fix

- Section 805 of VAWA 2013 states that derivative U visa applicants who were under 21 at the time of the principal's filing shall be classified as children even if they turn 21 while the parent's U visa application (or their own application) is pending. **This provision applies *retroactively for derivatives back to the creation of the U visa in 2000* .**
- This section also provides that a principal U visa applicant who was under 21 at the time of filing shall continue to be treated as a child applicant even if s/he turns 21 while the application is pending, and thus preserving her own derivatives' (parents and siblings under 18) ability to receive status.

# VAWA 2013-Immigration Updates



What does this mean in practice?

- This age-out fix *should* apply to those children who are currently in deferred action status because they aged out while their parent's principal application was pending, or who have no status because they turned 21 before USCIS approved the parent's application.
- This age-out fix should also apply to derivatives who turned 21 before they entered the U.S., allowing families to be reunited.

# VAWA 2013-Immigration Updates



## Stalking

- Section 801 of VAWA adds stalking to one of the U visa qualifying crimes.
- This principally addresses stalking cases that do not fall under the domestic violence category (i.e. stranger/acquaintance stalking). Stalking behaviors are related to harassment and intimidation and may include following the victim in person or monitoring them.

# VAWA 2013-Immigration Updates



- Fraud in Foreign Labor Contracting as U visa qualifying crime (Section 1222 of VAWA)
- “Fraud in foreign labor contracting” requires a showing that a contractor “knowingly” and “with intent to defraud” recruited, solicited, or hired a person outside the United States under “materially false or fraudulent” terms. This may include hiring for purposes in the United States, employment on a U.S. government contract outside the United States, or on U.S. military installations.

# VAWA 2013-Immigration Updates



## What does this mean?

- Akin to trafficking but where may not have coercion or other elements as defined by trafficking law
- Includes cases where employers provided false representations on the terms and conditions of employment, housing, fees to labor brokers, food and transportation, a person's ability to work at other places of employment, and other material aspects of the work arrangement. It may cover cases where brokers have brought workers to the United States and violated the terms of agreement, even where labor was not obtained under coercive situations necessary for other trafficking offenses.
- For more information, [National Employment Law Project](#)



# VAWA 2013-Immigration Updates



## Additional derivatives for T visa holders (Section 1221 of VAWA 2013)

- T-visa derivatives can now include “any adult or minor children of a derivative beneficiary.”
- This means for example that minor principal T-applicants can apply for their siblings under 21 and parents and these derivative’s children can also qualify for T-status. Or, for example, an adult T-visa applicant can bring her derivative child who is also now eligible to bring her own child.

# VAWA 2013-Immigration Updates



- Why it's important
- To preserve family unity for trafficking victims. A derivative no longer has to choose between coming to the US with a parent or staying in the home country because they have a child.

# Other Immigration Improvements



- Extending hardship waiver in cases of bigamy
- Public Charge Exemption for battered immigrants when adjusting to LPR status
- “Widow fix” in VAWA self-petition extended to derivative children
- Expansion of Prison Rape Elimination Act to include detention facilities operated by DHS and HHS facilities that house unaccompanied immigrant youth
- Improvements in protections and enforcement mechanisms in International Marriage Brokers Regulation Act (IMBRA)

# Other Significant VAWA Improvements



- LGBT Protections and Inclusion in STOP and Underserved definition
- Tribal criminal Jurisdiction recognized and affirmed over non-Indian abusers of Native American victims
- Improved definition of Underserved and creation of Underserved grant program
- Improved definition of Culturally Specific
- Expansion of Housing Protections for victims
- Campus: Amended Clery Act to add domestic violence, dating violence and stalking (SA already included)

# VAWA 2013 - Sexual Assault



- Improved “sexual assault” and new “rape crisis center” definitions
- Housing protections extended to SA victims
- Justice system grants (“STOP” & “GTEAP”)
  - Purpose areas and grant requirements include all 4 VAWA crimes: domestic violence, dating violence, sexual assault & stalking
  - Allow funding for SARTs, SA prosecution and prison response, and rape kit backlog reduction
  - 20-25% set-aside for sexual assault programming
  - Requires forensic rape exams to be free to victims; bars reimbursement

# Trafficking in VAWA



- Adds “sex trafficking” definition, whether or not the conduct occurs in interstate or foreign commerce
- Tribal provisions and youth programs include sex trafficking as a purpose area
- Clarifies that victim services and legal assistance may be provided to victims of human trafficking who are also victims of domestic violence, dating violence, sexual assault or stalking



# Efforts to Pass Comprehensive Immigration Reform (CIR)

# President Obama's Draft Immigration Reform Bill (NILC)



- Title I: Border Security, Detention, and Deportation
  - It calls for increased technology at the U.S.-Mexico border.
  - Addressing human rights violations at the border
  - It narrows definitions of “aggravated felony” (a ground of removability under immigration law), “conviction,” and “sentence.” Narrowing these categories will result in fewer people facing removal from the U.S. However, other grounds of removability, including deportation for possession of a minor quantity of drugs, are not addressed.
  - Proposed language allows people facing deportation to be better able to defend themselves in court.
    - Although the title establishes that certain individuals should receive access to counsel, much more should be done to protect judicial fairness and due process.
    - The title also makes it less likely that immigrants will be subject to detention



# Title II: Legalization (NILC)



- This title outlines the structure of the road to U.S. citizenship for many of those currently living in the U.S. without proper documentation. The title also lists the restrictions to applying for citizenship.
  - The draft language broadens the road to U.S. citizenship.
    - For example, a U.S. citizen wife and her undocumented husband will now be able to apply for citizenship without being subject to bars keeping spouses outside the U.S. for up to 10 years.
  - The proposed legislation calls for a 6 to 8–year waiting period before immigrants can apply to become lawful permanent residents. This temporary period is referred to as “lawful prospective immigrant” status, or LPI.
    - Immigrants who arrived in the U.S. as children, have graduated from high school, and are college students or enlisted in the military would not be subject to the same waiting period.
    - During this period, immigrants would not be eligible for health care under the Affordable Care Act, but these immigrants could be subject to the mandate to purchase private insurance, forcing immigrants to choose between costly health care or being fined for failure to purchase insurance. *This glaring contradiction should be remedied.*
    - Furthermore, immigrants may be excluded for up to 11 years from the social insurance programs they help support by paying taxes. This hole in our social safety net should be fixed.
- Immigrants who wish to adjust their status to lawful permanent resident (LPR or “green card”) status would have to pay a fine as well as back taxes.
  - Having paid back taxes should be required only for the adjustment-to-LPR stage rather than for eligibility for the preliminary LPI status. If the cost of the penalty is too high, the road to U.S. citizenship may not be affordable to many low-income immigrants.

# Title III: Immigration Issues at the Workplace



- It increases interior worksite enforcement by imposing strict new rules upon employers, including a mandate that all employers use an electronic employment eligibility verification system (EEVS; the current federal system is called E 'Verify). This will affect *all* workers in the U.S. — U.S.-born and immigrant alike — for decades to come.
- This title also addresses the myriad issues affecting immigrants in the workplace and restores employer accountability for labor and immigration law violations.
  - The title finally removes the perverse incentive for abusive employers to undercut labor law and exploit immigration law to maximize their profits.
  - The title calls for expansion of U (or crime victim) visas to include victims of labor law violations. This would allow workers to stand up for their labor and civil rights free from fear of deportation.
- This title also specifies that, if an employer is found to have violated a worker's workplace rights, neither back pay nor any other remedy (except any reinstatement remedy prohibited under federal law) available under the law may be denied to the worker based on his or her immigration status.

# SENATOR'S FOUR BASIC LEGISLATIVE PILLARS OF CIR



1. Create a tough but fair path to citizenship **for** unauthorized immigrants currently living in the United States that is contingent upon securing U.S. borders and tracking whether legal immigrants have left the country when required;
2. Reform the U.S. legal immigration system to better recognize the importance of characteristics that will help build the American economy and strengthen American families;
3. Create an effective employment verification system that will prevent identity theft and end the hiring of future unauthorized workers; and
4. Establish an improved process **for** admitting future workers to serve our nation's workforce needs while simultaneously protecting all workers.

# PRIORITY RECOMMENDATIONS BY LEADING NATIONAL EXPERTS TO ADDRESS VIOLENCE AGAINST WOMEN IN CIR



- Critical to prevent vulnerability to abuse
- PRIORITIES
  1. Ensure that any path to legalization also includes protections in case of abuse
  2. Issue EAD to VAWA/U/T while case is pending
  3. Improve access to public benefits
  4. Strengthen U visa by raising the cap
  5. Include crimes of child abuse and elderly abuse as qualifying crimes

# Continuation



## 6. Gender Asylum cases

1. Remove legal obstacles posed to gender-based claims
2. Eliminate filing deadlines
3. Include derivative asylum of a child under 18

# WORKING WITH SURVIVORS



- ADVISALS

- Not to travel
- Get ITIN and pay your taxes
- Do not use docs belonging to a USC
- Get criminal records now (FBI)
- ESL classes
- Proof of continuous presence
- Consult with an immigration expert
- Beware of notario fraud

# RESOURCES



- [www.asistahelp.org](http://www.asistahelp.org)
- [www.casadeesperanza.org](http://www.casadeesperanza.org)

THANK YOU FOR YOUR PARTICIPATION!