



**Family Court Bench Card on Violence Against Women Act (VAWA)
Confidentiality¹**

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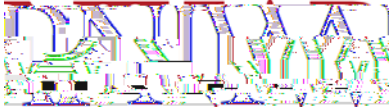
VAWA Confidentiality²

Abusers frequently attempt to exert power and control over their victims by trying to use the immigration system to track and stalk them, to trigger immigration enforcement actions against the victim and to interfere with and attempt to undermine the victims' ability to attain legal immigration status. In response, Congress created federal VAWA confidentiality laws in order to protect battered victims from having information about their VAWA, T visa, and U visa applications for relief disclosed to their abuser or anyone who could provide the information to the abuser.³ Violations of VAWA confidentiality may place immigrants in danger



under limited circumstances. This Bench Card provides an overview of federal immigration VAWA confidentiality laws for state family, civil and criminal court judges.

Three Prongs of VAWA Confidentiality



- can review only closed cases and in a manner that omits personal identifying information and protects victim confidentiality
- vi. Limitation ends when application for relief is denied based on substantive grounds and all opportunities for appeals have been exhausted.

2. Relying on Information ¹¹

- The government cannot seek information from or use information provided solely by a perpetrator or his or her family members to make adverse determinations regarding admissibility/deportability. VAWA confidentiality provisions 8 U.S.C. 1631(a)(1) specifies that the government cannot seek or rely upon information provided by --

“(A)a spouse or parent who has battered the alien or subjected the alien to extreme cruelty,

(B)a member of the spouse’s or parent’s family residing in the same household as the alien who has battered the alien or subjected the alien to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty,

(C)a spouse or parent who has battered the alien’s child or subjected the alien’s child to extreme cruelty (without the active participation of the alien in the battery or extreme cruelty),

(D)a member of the spouse’s or parent’s family residing in the same household as the alien who has battered the alien’s child or subjected the alien’s child to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty,

(E)in the case of an alien applying for status under section 101(a)(15)(U) of the Immigration and Nationality Act [8 U.S.C. [1101\(a\)\(15\)\(U\)](#)], the perpetrator of the substantial physical or mental abuse and the criminal activity,¹¹

(F)in the case of an alien applying for status under section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. [1101\(a\)\(15\)\(T\)](#)), under section [7105\(b\)\(1\)\(E\)\(i\)\(II\)\(bb\)](#) of title [22](#), under section 244(a)(3) of the Immigration and Nationality Act (8 U.S.C. [1254a\(a\)\(3\)](#)), as in effect prior to March 31, 1999, or as a VAWA self-petitioner (as defined in section 101(a)(51) of the Immigration and Nationality Act (8 U.S.C. [1101\(a\)\(51\)](#))¹², the trafficker or perpetrator”

- The victim does not have to have filed the qualifying application to be eligible.
- Need only prove that the individual is a protected immigrant.



- Prohibits enforcement actions at any of the following locations: domestic violence shelter; victim services program; family justice center; supervised visitation

