



HOW COMPREHENSIVE IMMIGRATION REFORM AFFECTS IMMIGRANT SURVIVORS

As Congress considers how to meaningfully reform the nation's immigration laws and system, it is crucial to safeguard and enhance protections for immigrant survivors of domestic violence, sexual assault, human trafficking and other abuses. Indeed, many immigrant women are particularly vulnerable to abusive or exploitative situations in their homes and workplaces due to their lack of immigration status. Abusive partners, opportunistic predators, and manipulative employers often exploit a victim's lack of immigration status, or dependent immigration status, as a way to maintain power and control and to keep victims silent. Unfortunately, despite current humanitarian provisions of US immigration law intended to reduce these vulnerabilitiesⁱ, many obstacles to immigrant survivors' access to safety and justice still remain.

This advisory, prepared by leading national experts and advocates for immigrant survivorsⁱⁱ, highlights provisions included in the bipartisan Senate immigration bill (S. 744) which specifically enhance protections for immigrant survivors. We urge Senators to support these important protections as the legislation proceeds to the full Senate, and we urge Representatives to support the inclusion of these provisions in any immigration reform bill in the House of Representatives:

- **Creating a legalization program** to provide immigration status and eventual permanent residency and citizenship to undocumented immigrants in the U.S. who meet eligibility criteria, bringing them out of the shadows and removing major vulnerabilities to abuse and exploitation.
 - **Creating provisions that ensure that abused spouses and children can maintain their own legal immigration status and work authorization** independent of an abusive spouse or parent in cases of domestic violence.
- **Increasing the number of U visas available each year** for immigrant victims who assist in the investigation or prosecution of designated crimes. (S.744 includes an increase in the annual cap from 10,000 to 18,000 U visas, with no more than 3,000 available for the new civil workplace violations listed below.)
- **Making U visas available for a broader range of violations** for immigrants who have suffered serious civil workplace violations such as workplace abuse, exploitation, retaliation, or violation of whistleblower protections and who assist in the investigation, prosecution, or adjudication of covered violations.
- **Adding child abuse and elder abuse** as qualifying U visa crimes.
- **Eliminating the one-year filing deadline for asylum cases**, which bars many otherwise eligible asylum-seekers from protection and particularly impacts women fleeing gender-based persecution (like female genital cutting, forced marriage, or "honor" violence) who often do not know that they could be eligible for asylum, let alone that there is a time limit to apply.
- **Enabling applicants with pending VAWA self-petition, U and T visa applications to receive work authorization no later than 180 days after their application was filed**, to address lengthy delays in the adjudication of these petitions (in some cases, wait times are over a year and a half) that undermine survivors' access to safety and economic security.
- **Clarifying immigrant domestic violence survivors' eligibility for public or assisted housing** when they qualify for certain VAWA remedies.
- **Protecting legal immigration status and providing work authorization for abused spouses and children of temporary visa-holders (those with work or education visas)**, releasing them from economic dependence on an abuser and removing the threat of deportation if they left an abuser.

- **Limiting immigration enforcement at sensitive locations** by restricting Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP) from engaging in enforcement actions at designated “sensitive locations,” unless there are “exigent circumstances” or prior approval has been obtained. “Sensitive locations” include schools, daycares, hospitals and clinics, churches, and crime victim services, among others.
- **Ensuring screening of unaccompanied immigrant children at the border to identify victims of persecution or trafficking, and improving their treatment** while in the custody of U.S. Customs and Border Protection; requiring female officers to escort female detainees during transport (to help prevent sexual assault).
- **Bolstering protections for workers who are recruited abroad by foreign labor contractors**, to prevent workers from falling victim to worker exploitation, abuse or human trafficking.

In addition to supporting the above provisions in S. 744 that specifically enhance protections for immigrant survivors, **we urge Congress not to support or include provisions that could have detrimental unintended consequences for immigrant survivors**, including the following:

- **Provisions Related to Immigrants with Criminal Convictions** that expand the domestic violence-related grounds of ineligibility for legal status, inadmissibility, or deportability, or **that eliminate the possibility of humanitarian waivers that can take into account survivors’ needs and circumstances**. Current immigration laws already provide consequences for domestic violence-related convictions and efforts to increase the consequences and eliminate adequate waivers can sweep survivors (e.g., those who are wrongly accused or acted in self-defense) into their scope.
- **Provisions Limiting Immigrant Access to Safety Net Benefits**, including those that prevent access, or those that classify immigrants who have accessed public benefits or who are eligible for benefits, due to their low income, as ineligible for future immigration status. Such provisions will have the effect of preventing abused immigrants from accessing public benefits they need to escape or recover from abuse, or penalize them for doing so.
- **Provisions Increasing Barriers to Immigrant Victims’ Help-Seeking and Crime-Reporting**, such as proposals to engage state and local police in immigration enforcement as part of their routine duties, which discourage immigrant victims from reporting crimes and undermine public safety.

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ⁱ The **VAWA self-petition** allows abused spouses of U.S. Citizens or legal permanent residents (LPRs) to apply for legal status independent of their abusers; the **U Visa** offers the possibility of legal status to certain victims of violent crimes enumerated by statute (including domestic violence and sexual assault) who are willing to cooperate with law enforcement investigations and prosecutions; the **T visa** is for victims of a “severe form of trafficking in persons.” For more information on protections under the Violence Against Women Act and the Trafficking Victims Protection Act, please see the brochure, “Immigration Options for Victims of Crimes,” available at: <http://www.uscis.gov>.

ⁱⁱ The national committee of leading experts on existing protections – and protection gaps – in US laws affecting immigrant women survivors of domestic violence, sexual assault, and other gender-based human rights abuses that prepared this document includes Americans for Immigrant Justice, ASISTA Immigration Assistance, Casa de Esperanza: National Latin@ Network for Healthy Families and Communities, Center for Gender and Refugee Studies, Immigration Center for Women and Children, Minnesota Coalition for Battered Women, National Employment Law Project, National Immigrant Justice Center, Tahirih Justice Center, and the Washington State Coalition Against Domestic Violence.