

How Comprehensive Immigration Reform Affects Immigrant Survivors of Violence* Talking Points on the Final Senate Bill and the Road Ahead in the House July 25, 2013

On June 27, 2013, the Senate passed a bipartisan immigration reform bill (S.744) that includes a pathway to citizenship for 11 million currently undocumented immigrants as well as enhanced protections for immigrant survivors of violence. This advisory will highlight key victim protections that were enhanced in the Senate bill. **We urge Representatives to support the inclusion of these provisions that will help immigrant survivors of violence in any immigration reform bill in the House:**

The Senate Bill secures/improves access to legal status for survivors by:

- 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, in cases of domestic violence, abused spouses and children can maintain their own legal immigration status and work authorization independent of an abusive spouse or parent.
- Reclassifying spouses and children of Legal Permanent Residents (LPRs) as immediate relatives. Though this is a generally applicable change that will help all such relatives, it will particularly benefit survivors as it will enable abused spouses and children of LPRs to gain their residency without having to wait, often for several years, for a visa to become available.
- Protecting legal immigration status 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 leave an abuser. This provision also provides work authorization and the possibility of eventual permanent residency if the survivor is otherwise eligible.
- 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 who often do not know that they could be eligible for asylum, let alone that there is a time limit to apply.

The Senate bill enhances U visa protections by:

- Increasing the number of U visas available each year for immigrant victims who assist in the investigation or prosecution of designated crimes and violations. (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.

The Senate bill contains provisions that will improve survivors' safety, specifically:

- Enabling applicants with pending VAWA self-petitions, U and T visa applications to receive work authorization no later than 180 days after their application was filed. This addresses lengthy delays in the

* 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, 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.

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 and can force continued economic dependence on an abuser.

- Clarifying immigrant domestic violence survivors' eligibility for public or assisted housing when they qualify for certain VAWA remedies.
- 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.

The Senate bill improves attention to survivors' needs and safety in immigration enforcement operations by:

- 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, 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).
- Providing that officers deployed in border enforcement activities receive training about the identification of vulnerable populations.

We are grateful to champions in the U.S. Senate who fought to ensure that survivors' needs were addressed in immigration reform legislation, including the bipartisan "Gang of 8" who incorporated many of these provisions in their base bill, and other champions who proposed key amendments to enhance survivor safety. We also recognize that other important provisions that protect women immigrants' needs and interests were not addressed, and we will continue to support efforts to enhance the legislation.

We urge the House of Representatives to Take Account of the Needs of Vulnerable Immigrant Survivors in Immigration Reform!

We urge the House to incorporate all of the positive provisions outlined above and also to advance additional critical protections and supports for immigrant survivors of violence, such as:

- Enabling victims of abuse to access life-saving safety net benefits
- Strengthening access to VAWA protections for victims in immigration court proceedings

In addition, we appeal to the House of Representatives to pay careful attention to and guard against potential unintended consequences for survivors that could bar or compromise their access to vital protections under the Violence Against Women Act, the Trafficking Victims Protection Act, our asylum laws, or other humanitarian immigration laws. Provisions of concern include barring, limiting, or penalizing access to safety-net benefits; increased entanglement of local law enforcement with immigration enforcement (since this undermines community policing and drives immigrant victims further into the shadows); increased penalties (both immigration and criminal); increased use of immigration detention; and expanded grounds of ineligibility, inadmissibility, or deportability for domestic violence-related offenses without adequate humanitarian waivers, as they can sweep survivors into their scope and undermine their ability to seek safety.

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