



**National Task Force  
to End Sexual and  
Domestic Violence Against Women**

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## **PROPOSED AMENDMENT**

### **Amending Crime of Violence Definition in VAWA Will Hurt Immigrant Crime Victims**

#### **· What Role has VAWA Played in Protecting Immigrant Crime Victims?**

Since its inception, the Violence Against Women Act (VAWA) has incorporated provisions to protect battered immigrants whose noncitizen status can make them particularly vulnerable to crimes of domestic violence, sexual assault, dating violence, stalking, and trafficking.

Any proposals to change the Immigration and Nationality Act (INA) that are irrelevant to VAWA's focus on *helping* victims of domestic violence, sexual assault, dating violence, stalking and human trafficking should be kept out of VAWA. Furthermore, the section of the INA that is the focus of this amendment has never been addressed through VAWA previously and is more appropriately considered in broader immigration legislation dealing with enforcement issues and procedures regarding grounds of removal (deportation). Most importantly, although it may intend to help immigrant victims, it in fact threatens to jeopardize their safe access to the criminal justice system.

#### **· This Amendment Will Result in Victims Being Deported**

Domestic abuse survivors, in particular those who are limited English-speaking or face barriers to accessing advocacy services, are sometimes arrested and convicted of minor offenses for defending themselves in domestic violence cases. This amendment makes it more likely they will be deported for fighting back or because they agree to plead to a domestic violence offense, which often happens either because defense counsel is unaware of the immigration consequences of such pleas, or because immigrant women are more likely to face bias at trial.

#### **· This Amendment Will Increase Trauma for Many Victims**

In addition, this amendment will create additional hurdles for domestic abuse survivors in state criminal court proceedings. Currently most criminal domestic violence cases are settled via plea bargains, thus sparing victims from having to testify against their abusers in open criminal court and leading to faster dispositions of cases. This enables victims to have psychological closure and can also give them practical support. If alleged perpetrators (including those with Legal Permanent Residency status, known as "green card" holders) cannot know in advance the

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*This update was compiled by the Immigration Committee of the National Task Force to End Sexual and Domestic Violence, which includes members that are leading national experts on VAWA protections for immigrant survivors such as: ASISTA Immigration Assistance, Casa de Esperanza: National Latin@ Network for Healthy Families and Communities, National Immigrant Justice Center, National Immigration Project of the National Lawyers' Guild, Tahirih Justice Center and the Washington State Coalition Against Domestic Violence.*

immigration consequences of a plea bargain, because their deportability could hinge on evidence well beyond whatever they plea to, many more will proceed to trial to take a shot at an acquittal. Domestic violence victims, many of whom are today spared further trauma through guilty pleas, will either be compelled to testify against their abusers or risk having the criminal cases dismissed. If the abuser is deported, the victim will be denied the opportunity for child or spousal support.

· **This Amendment Violates Fundamental Due Process**

A long line of U.S. Supreme Court cases during the past century have held that due process requires that deportability must not be based on evidence beyond an official record of criminal conviction. This amendment allows an individual to be made deportable based on evidence beyond an official record of criminal conviction. It will have sweeping effect, potentially affecting cases where the offenses are relatively minor and otherwise would not even warrant jail time for the abuser. Additionally, it would mostly impact individuals with legal immigration status, such as Legal Permanent Residents, who do not yet have citizenship status. It could also establish harmful precedence that will impact other areas of immigration law.

· **Why Is This Amendment Unnecessary?**

This amendment is not targeted to serious violent offenders, and is not needed to reach them or to hold them accountable. Cases affected by this proposal involve ones that do not rise to the level of a felony offense (since those would come under a different basis for deportability); many are minor offenses which otherwise might not warrant jail time for the abuser.

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