



## **Oppose the DeSantis Amendment to the Department of Homeland Security (DHS) Appropriations Bill:**

1. **The DeSantis Amendment Harms Domestic Violence (DV) Victims:** it deters reporting of domestic violence by the victims, and will lead to the deportation of victims wrongly convicted due to cultural and language barriers.
2. **The Amendment is Redundant and Unnecessary:** The enforcement priorities in the DeSantis amendment **are already** top enforcement priorities in the President's November 20, 2014 executive guidance (see table below).
3. **Victim advocates oppose the amendment:** The National Task Force against Sexual & Domestic Violence and numerous local and state coalitions oppose the DeSantis amendment (see NTF letter [here](#)).
4. **The DeSantis amendment prohibits consideration of a person's past victimization as a mitigating factor and will force ICE to deport survivors of domestic violence:** By contrast, the November 20, 2014 DHS memorandum--which the DeSantis amendment seeks to block--allows for consideration of past victimization, which will allow ICE to consider the past experience of sexual and domestic violence victims when determining whether to deport them (see table below).
5. **The DeSantis amendment will discourage victims from seeking help:** Immigrant victims are themselves frequently convicted of domestic violence due to language and cultural barriers. Victims who are arrested may plead to a domestic violence offense to obtain release from jail to be reunited with children or other dependents (see Marta's story and ICE Memo reference below).
6. **The DeSantis amendment undermines the bi-partisan Violence Against Women Act (VAWA):** Having recently marked its 20th anniversary, VAWA promotes safer communities by encouraging victims to report crimes and seek law enforcement protection. The DeSantis amendment turns the shield of protection into a sword against victims and would more likely silence them. This occurs because victims of domestic violence are attached to the perpetrator and/or depend financially on him. Knowing that the perpetrator will be deported could very well become the reason why they do not report abuse.
7. **The DeSantis amendment will jeopardize public safety:** the amendment strips federal law enforcement agencies of the authority to establish priorities for immigration enforcement based on identified threats to public safety and national security, including terrorism. It is important to give discretion to those who work on the field, and are trained to identify threats to our country.

### **Why Marta and DV Organizations ask you to vote against the DeSantis amendment:**

*Marta<sup>1</sup> was living with her partner with whom she had 4 daughters. Her adult stepson from her partner's prior marriage, who spoke both English and Spanish, came to live with Marta and her girls. Marta could only speak Spanish. Marta's stepson was abusive to her and her 4 daughters. He threatened Marta's daughters by putting their hands against the kitchen counter and holding knives as if to cut their hands. One night when Marta's stepson assaulted her, she called the police. When the police arrived at her door her stepson provided a report, resulting in Marta's arrest. Despite her efforts*

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<sup>1</sup> Names have been changed for confidentiality purposes  
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to explain what had happened in Spanish, she was taken into custody, and ICE placed an immigration detainer on her.<sup>2</sup> She was placed in deportation proceedings following her arrest.

**Immigration Customs Enforcement (ICE) recognizes that the arrest of immigrant victims of domestic violence is common:**

*"ICE regularly hears concerns that in some instances a state or local law enforcement officer may arrest and book multiple people at the scene of alleged domestic violence."<sup>3</sup>*

Morton Memo, June 17, 2011. Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs.

**Summary of the DeSantis Amendment**

Packaged cleverly as a victim protection measure, the amendment would prohibit funding for DHS to carry out any immigration enforcement policy that does not treat as the "highest civil enforcement priorities" people who are convicted of any offense involving domestic violence, child exploitation or molestation, or sexual abuse. Specifically, the amendment would prevent DHS from implementing the memorandum of November 20, 2014 regarding "Policies for the Apprehension, Detention and Removal of Undocumented Immigrants," as well as prior memoranda setting enforcement priorities.

**The DeSantis Amendment Compared to Current Administrative Policy**

The DHS November 20, 2014 memorandum already counts all the crimes named in the DeSantis amendment as priorities for enforcement and deportation. Importantly, current DHS policy also considers the realities that immigrant victims of domestic violence face and helps ensure their protection.

<b>DeSantis Priorities</b>	<b>Priorities Memo from November 20, 2014</b>
Child molestation	Currently falls in the highest priority category: included in the Aggravated Felony definition in INA Sec. 101(a)(43)(A)
Child exploitation	Currently falls in the highest priority category: included in the Aggravated Felony definition in INA Sec. 101(a)(43)(A), or (K)(i) or (iii)
Sexual abuse	Currently falls in the highest priority category, included in the Aggravated Felony definition INA Sec. 101(a)(43)(A), or (F)
Domestic violence	Felony convictions fall in the highest priority category, under the Aggravated Felony definition at INA Sec. 101(a)(43)(F), or, fall under the second highest priority for enforcement in misdemeanor cases.
No "mitigating factor" for victims of domestic violence	Includes guidance instructing that "in evaluating whether the offense is a significant misdemeanor involving ...domestic violence, careful consideration should be given to whether the convicted alien was also the <u>victim</u> of domestic violence; if so, this should be a mitigating factor."

<sup>2</sup> Secure Communities Program. <http://www.ice.gov/secure-communities>. By preventing the implementation of the Executive Action on Immigration, the amendments introduced on H.R. 240 seeks to reinstate the Secure Communities Program.

<sup>3</sup> <http://www.ice.gov/doclib/secure-communities/pdf/domestic-violence.pdf>