

February 4, 2013

Dear Majority Leader Reid and Senators:

The undersigned groups that serve and advocate on behalf of victims of domestic violence, sexual assault, dating violence, and stalking, urge you to reject amendments to the reauthorization of VAWA (S. 47) that actually threaten to harm those victims:

These provisions to which we object are:

- (1) **Amendment _____**, which creates a new “aggravated felony” for any domestic violence conviction, resulting in deportation with no possible waiver; and
- (2) **Amendment _____** which allows hearsay information untested in a criminal court to be presented as evidence to establish deportability in immigration court proceedings.

1. Amendment X is harmful to victims

The amendment makes even misdemeanor convictions for domestic violence-related offenses, including those with no actual violence involved, “aggravated felonies.” An aggravated felony means deportation with no possible waiver. There are no exceptions from deportation for aggravated felonies, even in cases where the individual convicted was not the primary aggressor and acted in self-defense, or is a long-term legal resident whose spouse or children do not want him/her deported.

This Amendment Will Discourage Victims from Seeking Help from Law Enforcement

This amendment creates a chilling effect on seeking help from the legal system by discouraging victims from contacting law enforcement for help with domestic violence if they know the abuser will be deported with no possible waiver. This decrease in crime reporting will lead to communities that are less safe and in which victims are more isolated.

Victims and their Children will Lose Access to Financial Support

Many US citizens are married to immigrant spouses. By automatically deporting those immigrant spouses without looking at the specific circumstances, this sweeping amendment will also punish the US citizen spouses and their children. This amendment will mean loss of child support and spousal support, increasing the burden on public assistance and human service programs.

This Amendment Will Result in Victims Being Deported

Unfortunately, it is not uncommon for immigrant victims of domestic violence to be arrested along with or instead of the real abuser, when the police respond to a domestic violence incident and cannot sort out who was the primary aggressor and who was acting in self-defense, or when the abuser lies to accuse the victim. Language and cultural barriers, fear of

the abuser and the authorities, confusion, intimidation, a lack of awareness of rights, and a lack of access to advocates and other resources, all may prevent an immigrant victim from being able to communicate what really happened to law enforcement, resulting in the abuser obtaining the victim's arrest and prosecution. Once in custody and/or facing trial, and desperate to be released and reunited with their children, these same factors – combined with poor legal counsel, particularly about the immigration consequences of criminal pleas and convictions – will likely lead to deportation of wrongly accused victims who may have pled to or been unfairly convicted of domestic violence charges.

2. Amendment _____violates due process, adversely affects domestic abuse survivors, and will create serious backlogs in both criminal and immigration courts. .

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.

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 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 cannot know in advance the 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.

As a diverse coalition of organizations serving and advocating on behalf of victims of domestic violence, sexual assault, dating violence, and stalking, many of whom are immigrants, we urge you to reject these immigration amendments, which threaten to harm domestic violence victims. Please do not hesitate to contact Grace Huang of the Washington State Coalition Against

Domestic Violence (206) 389-2515 x 209, or grace@wscadv.org for further information regarding these or related concerns.

Sincerely,

Advocates for Basic Legal Equality
Acorn Outreach
African Services Committee
Alaska Institute for Justice
American Immigration Lawyers Association
American Jewish Committee
Andrea Ramos, Southwestern Law School, Immigration Law Clinic
Annunciation House Inc.
Apna Ghar
Arizona Coalition Against Domestic Violence
Artemis Justice Center
Asian Pacific Islander Institute on Domestic Violence
ASISTA Immigration Assistance
Barbara Hines, Immigration Clinic, University of Texas School of Law
Barrier Free Living Family of Companies
Breakthrough
California Partnership to End Domestic Violence
Casa de Esperanza: National Latin@ Network for Healthy Families and Communities
Casa De Proyecto Libertad
Catholic Charities of Baltimore
Catholic Charities of Fort Worth
Catholic Charities of the Archdiocese of Chicago
Catholic Charities of the Archdiocese of Newark (New Jersey)
Center Against Domestic Violence
Center for Community Change
Center for Gender and Refugee Studies, Hastings College of the Law
Center for Pan Asian Community Services, Inc.
Clinical Law Office University of Maryland Carey School of Law
Colorado Coalition Against Sexual Assault
Community Legal Center
Community Legal Services in East Palo Alto
Connecticut Legal Services
Domestic Abuse Intervention Program
DREAM Activist Virginia
East Bay Sanctuary Covenant
Florence Immigrant & Refugee Rights Project
Florida Coastal Immigrant Rights Clinic
Futures Without Violence

Gangashakti.org

Good Shepherd Services

HAVEN

Hawaii State Coalition Against Domestic Violence

HIAS Pennsylvania

Human Rights Initiative of North Texas

Idaho Coalition Against Sexual & Domestic Violence

Illinois Coalition for Immigrant and Refugee Rights

Immigrant Defense Project

Immigrant Legal Resource Center

Immigration Center for Women and Children

inMotion, Inc.

Iowa Coalition Against Domestic Violence

Iowa Coalition Against Sexual Assault

Justice For Our Neighbors - Nebraska

Kansas Coalition Against Sexual and Domestic Violence

Kentucky Domestic Violence Association

Latin American Association, Inc.

Laura F. Bachman, Boesche Legal Clinic, University of Tulsa College of Law

Legal Aid Service of Collier County

Legal Momentum

Lutheran Immigration and Refugee Service

Lutheran Social Services of New England

Michigan Coalition for Immigrant and Refugee Rights

Mil Mujeres

Missouri Coalition Against Domestic and Sexual Violence

Moloka'i Community Service Council

Mujeres Latinas en Acción

Nassau County Coalition Against Domestic Violence

National Advocacy Center of the Sisters of the Good Shepherd

National Alliance to End Sexual Violence

National Center for Transgender Equality

National Center on Domestic Violence, Trauma & Mental Health

National Coalition Against Domestic Violence

National Coalition for LGBT Health

National Coalition of Anti-Violence Programs

National Congress of American Indians

National Council of Jewish Women

National Council of Jewish Women

National Domestic Workers Alliance

National Immigrant Justice Center

National Immigration Project of the National Lawyers Guild

National Latina Institute for Reproductive Health
National Network to End Domestic Violence
National Organization for Women
National Resource Center on Domestic Violence
Neighborhood Legal Services, Inc.
New Mexico Asian Family Center
Northwest Immigrant Rights Project
Ohio Domestic Violence Network
OneAmerica
Oregon Coalition Against Domestic & Sexual Violence
Political Asylum/Immigration Representation Project
Progressive Leadership Alliance of Nevada
Public Justice Center
Refugio del Rio Grande
SEPA Mujer Inc
Sex Workers Project at the Urban Justice Center
Sierra County Victim Assistance Unit
SIROW–University of Arizona, Immigrant Social Services Coord. & Advocate
South Carolina Victim Assistance Network
Student Action with Farmworkers
Tahirih Justice Center
The Coalition to Abolish Slavery & Trafficking
The Reformed Church of Highland Park, NJ
Unid@s, The National Latin@ LGBT Human Rights Organization
Urban Resource Institute
Vermont Immigration and Asylum Advocates
Violence Intervention Program
Virgil Wiebe, Director of Immigration Law Clinic, University of St. Thomas School of Law
Virginia Poverty Law Center
Virginia Sexual and Domestic Violence Action Alliance
Voces Latinas
Washington State Coalition Against Domestic Violence
Who Is My Neighbor? Inc.
Wisconsin Coalition Against Domestic Violence
Wisconsin Coalition Against Sexual Assault
Women Helping Women
Women of Color Network
Women's Advocate
Women's Law Center of Maryland
Worker Justice Center of New York
YWCA USA

