

Women Immigrants Safe Harbor Act (WISH)

March 26, 2004

The Problem

Like many other immigrants who entered the United States after Aug. 22, 1996, immigrant victims of domestic violence face restrictions to essential safety-net services, including Medicaid, the State Children's Health Insurance Program (SCHIP), food stamps, Temporary Assistance for Needy Families (TANF), and Supplemental Security Income (SSI). These services are critical in assisting these victims escape from family violence. Although current laws make some allowances for these women, gaping holes in eligibility remain.

The Solution

The Women Immigrants' Safe Harbor Act (WISH) would remove the remaining immigrant restrictions faced by battered immigrants.

WISH would:

- ◆ ***Eliminate the five-year bar.*** Under current law, lawfully present domestic violence victims and their children are forced to wait for five years before they are eligible to receive life-saving safety-net services such as Medicaid, food stamps, TANF and SCHIP. The bill also eliminates the restrictions on SSI for domestic violence survivors with disabilities and those over 65 years old.
- ◆ ***Exempt domestic violence, trafficking, and crime victims with "U" visas from the public charge test.*** When an immigrant applies for a green card, the immigration service determines whether the immigrant is likely to become a public charge—i.e., primarily dependent on the government for subsistence. The fear that using benefits may affect immigration status prevents victims from using services that they desperately need. Eliminating the test for this limited category of immigrants would ensure that they receive the services they need to secure safety for themselves and their children.
- ◆ ***Exempt domestic violence victims from deeming.*** Immigrants who applied for a visa after Dec. 19, 1997, to reunite with family in the U.S. are required to have their relative file an affidavit of support, by which the relative promises to maintain the immigrant at 125 percent of the federal poverty level and to repay any means-tested public benefits the immigrant may receive. The income of the sponsor is deemed to be available to the sponsored immigrant in determining income eligibility for certain safety-net services—even if the immigrant receives no support from the sponsor. Often this makes the applicant "over-income" and ineligible. Exempting domestic violence, trafficking, and "U" visa victims from deeming would ensure that their income-related eligibility will be determined based on the resources truly available to them.
- ◆ ***Eliminate enforcement of sponsor liability for reimbursement in cases in which a victim has received benefits because of domestic violence or because they have been a victim of trafficking or sexual assault.*** The danger of becoming the target of further criminal acts and injuries becomes greater when a victim of domestic violence or trafficking takes steps to sever



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her relationship with and/or her economic dependence on her abuser. This is true even when abuse has subsided. If the state seeks to enforce an affidavit of support to collect from an abusive sponsor, the danger to the immigrant victim seeking this benefit can be significant.

- ◆ **Conform immigration law to established state family law protection order statutes.**
- ◆ **Clarify that domestic violence survivors are eligible for housing assistance like other “qualified” immigrants.**

WISH would *eliminate* these restrictions for the following categories of battered immigrants:

- ◆ **Lawful permanent residents, refugees, asylees, and certain other legal immigrants.**
- ◆ **“Self-petitioners” under the Violence Against Women Act (VAWA).** A small number of immigrants are granted lawful permanent resident status to prevent abusive spouses or parents from using the immigration laws to prevent their victims from escaping their situation.
- ◆ **Applicants and holders of “U” visas.** This category includes victims of sexual assault and domestic violence.
- ◆ **Victims of trafficking who have applied and not been denied a “T” visa.**

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Lack of resources poses a significant barrier to escape from domestic violence. Victims are often prevented from leaving their abusers by the knowledge that doing so will expose them and their children to economic hardship. Victims of abuse are often economically and socially isolated. This is particularly true of immigrant victims who often are far from close family and friends and may have a harder time obtaining community support due to language or cultural barriers. A recent study found that more than two-thirds of battered immigrant women still trapped in abusive relationships said that lack of money was the biggest obstacle to leaving.

Children suffer when a victim cannot leave an abuser. Studies reveal that in cases where domestic abuse occurs between intimate partners, children in the household are also physically abused the majority of the time. Children also suffer health and school troubles as a result of witnessing domestic violence in the home. Victims need timely access to these benefits, not only to escape abuse, but to protect their families.

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