

The “SAFE” Act Would Make Immigrant Survivors of Domestic Violence *Less Safe* Harsh Immigration Enforcement Measures Will Undermine Access to Safety and Justice

HR 2278 – the Strengthen and Fortify Enforcement Act (“SAFE” Act) – will have the effect of pushing immigrant survivors into the shadows and into danger. The bill’s approach to immigration enforcement will strengthen the hand of perpetrators, helping them silence their victims by curtailing their access to police protection; undermining access to services and support networks; and prosecuting and detaining more survivors even for immigration violations resulting from the violence they suffered.ⁱ Overall, the bill will result in many survivors being deported before they can obtain protections that Congress created for them under the Violence Against Women Act and other federal laws.

❖ ***By effectively compelling police to act as immigration officers, HR 2278 will harm survivors and compromise community safety.*** HR 2278 would significantly expand state and local authority to enforce immigration laws, and to detain individuals whom they believe have violated immigration laws. **HR 2278 raises serious concerns for advocates for immigrant survivors, including:**

- ***HR 2278’s multi-pronged attempts to conscript or enlist state and local police to enforce federal immigration laws will have a severe “chilling effect” on immigrant crime victims – making them afraid to report crimes, and thus jeopardizing public safety overall.*** A recent research report found that 44% of Latinos overall and 70% of undocumented Latinos, are less likely to contact the police to report they have been the victim of a crime if they fear it will lead to inquiries about immigration status.ⁱⁱ Other research shows that immigrant victims of domestic violence without legal status can be half as likely to call police as those with stable legal status.ⁱⁱⁱ Local police cooperation with immigration enforcement will heighten a victim’s fears that a call to 911 could lead to her deportation.
- ***By creating a climate of fear in immigrant communities, HR 2278 will deter immigrant domestic violence survivors not only from reporting crimes, but also from seeking help for themselves and their children - depriving them not only of the police’s protection, but also of other critical resources and support in their communities.*** In jurisdictions where local police enforce immigration laws, undocumented immigrants are afraid to drive, go to community organizations or churches, or even seek medical help for their children. In such jurisdictions, many survivors of domestic violence remain in the shadows—afraid to call the police or even reach out to organizations for help.
- ***HR 2278 will destroy the trust of immigrant communities that they can safely turn to the police, and will undermine almost 20 years of work by Congress to create protections for immigrant victims.*** Since 1994, the Violence Against Women Act and related federal laws have established and expanded humanitarian provisions (including “self-petitions” for abused spouses, Trafficking and “U” crime-victim visas) to ensure that victims can escape violence without facing deportation. These provisions offer important tools for local law enforcement to help them fight violent crime and hold perpetrators accountable – but SAFE would dull and diminish these tools and undermine prevention efforts by making immigrant victims more vulnerable to abuse and exploitation.
- ***HR 2278 does not require any training or supervision by federal immigration authorities before police are authorized to enforce immigration law.*** Currently, state and local police that participate in special cooperation agreements with federal immigration authorities are required to complete 4 weeks of training (still only a fraction of what ICE officers themselves receive) and receive ongoing guidance and supervision. State and local police that proceed without this foundation and framework may make irreparable mistakes that will harm victims and again, contribute to the perception that victims cannot safely turn to the police

for help. Unfortunately, immigrant victims may already have reason to fear harsh consequences if they call the police, as there have been reports of immigrants being placed in deportation proceedings who were victims or witnesses of violent crimes.^{iv}

- ***Survivors will be put in danger of detention and deportation.*** HR 2278 does not prohibit asking about the immigration status of victims and witnesses – and it implicitly urges police to inquire into the immigration status of everyone they encounter. HR 2278 also requires the detention of all undocumented immigrants apprehended by police and transferred to DHS custody – meaning that an abused immigrant woman could be held in jail or other detention facilities located far from legal services agencies or pro bono counsel, and isolated from her children as well as from other family and critical support networks that could help defend against her deportation.
- ❖ **By sharply increasing immigration enforcement activities and penalties, HR 2278 will also have several other harsh consequences for immigrant survivors. Among other serious concerns, advocates are alarmed because:**
 - ***HR 2278 expands the immigration consequences for domestic violence-related criminal offenses, but omits adequate waivers for compelling humanitarian circumstances, which will actually result in more survivors being deported.*** When police respond to a domestic violence call, both parties may be arrested, or a survivor who acted in self-defense may be wrongly accused.^v If the abuser speaks English better than the survivor, or if other language or cultural barriers (or fear of retaliation from the abuser) prevent the survivor from fully disclosing what happened, a survivor can be faced with charges and then face tremendous pressure to plead guilty (without being advised about the long-term consequences) in order to be released from jail and reunited with her children.
 - ***HR 2278 expands harsh penalties that could subject even “Good Samaritans,” compassionate neighbors or church members, and domestic violence shelters to criminal penalties (fines and up to 5 years’ imprisonment) for “harboring” undocumented immigrant victims.*** Current law prohibits harboring immigrants who enter or remain in the United States “in violation of law”, but HR 2278 goes further, narrowly defining who has “lawful authority” to be in the U.S. HR 2278 could thus bar assistance even to immigrants with pending applications for status that have not yet been approved. For anyone who might gain financially from the harboring (e.g., employers or landlords), HR 2278 doubles the penalties (from 10 to 20 years’ imprisonment), making it more difficult for an immigrant victim to find anywhere to live or any work to support herself – and making it more likely that she will be forced to return to an abuser.

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ⁱ For example, the SAFE Act as amended in committee would criminalize anyone who is knowingly here without lawful immigration status, or who overstays a visa, even for one day and regardless of how compelling the reason (e.g., as indicated in note iv, because an abuser blocked or withheld a victim’s access to legal status).

ⁱⁱ See Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement* (University of Illinois at Chicago (May 2013), available at http://www.uic.edu/cuppa/gci/documents/1213/Insecure_Communities_Report_FINAL.pdf.

ⁱⁱⁱ Leslye Orloff, Mary Ann Dutton, Giselle Aguilar Hass, & Nawal Ammar, *Battered Immigrant Women’s Willingness to Call for Help and Police Response*, 13 UCLA Women’s L. J. 43, 60 (2003). Tragically, many abused immigrants do not have legal immigration status precisely because their abusive spouses have deliberately blocked or withheld that status as a tool of abuse.

^{iv} See, e.g., <http://latino.foxnews.com/latino/politics/2012/05/24/colorado-undocumented-woman-turned-over-to-immigration-after-making-domestic/>; http://www.huffingtonpost.com/2011/02/16/honduran-immigrant-faces-deportation_n_823962.html.

^v See John Morton, ICE Director, *Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs* 1 (June 17, 2011), available at <http://www.ice.gov/doclib/secure-communities/pdf/domestic-violence.pdf>.