

No. 19-35914

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

STATE OF WASHINGTON, et al.,

Plaintiffs-Appellees,

v.

UNITED STATES DEPARTMENT OF HOMELAND SECURITY, et al.,

Defendants-Appellants.

**On Appeal from the United States District Court
for the Eastern District of Washington**

**BRIEF OF AMICI CURIAE NONPROFIT ANTI-DOMESTIC VIOLENCE
AND SEXUAL ASSAULT ORGANIZATIONS IN SUPPORT OF
PLAINTIFFS-APPELLEES**

PACIFICA LAW GROUP LLP
Paul J. Lawrence
Alanna E. Peterson
1191 Second Avenue, Suite 2000
Seattle, Washington 98101-3404
T: (206) 245.1700
F: (206) 245.1750
Paul.Lawrence@pacificalawgroup.com
Alanna.Peterson@pacificalawgroup.com

*Attorneys for Amici Curiae Nonprofit Anti-
Domestic Violence and Sexual Assault
Organizations*

CORPORATE DISCLOSURE STATEMENT

Each of the amici curiae are 501(c)(3) not-for-profit corporations. None of the amici curiae have parent corporations or issue stock.

TABLE OF CONTENTS

I. IDENTITY AND INTEREST OF AMICI	1
II. SUMMARY OF ARGUMENT	3
III. ARGUMENT	4
A. The Rule applies to many victims of gender-based violence.	4
B. The Rule prevents victims from obtaining the public benefits they need to escape and overcome abuse.	7
C. The Rule is already harming victims and their families.	12
D. The Rule disregards the costs it imposes on our communities.	14
IV. CONCLUSION	16

TABLE OF AUTHORITIES

Page(s)

Cases

Michigan v. E.P.A.,
135 S. Ct. 2699, 192 L. Ed. 2d 674 (2015).....14

Statutes

7 U.S.C. §20179
8 U.S.C. § 1154.....5
8 U.S.C. § 1184.....5

Regulations

8 C.F.R. §214.116
Inadmissibility on Public Charge Grounds,
84 Fed. Reg. 41292 (Aug. 14, 2019) passim

Other Authorities

Adrienne Adams, Center for Financial Security, University of Wisconsin-Madison,
Measuring the Effects of Domestic Violence on Women’s Financial Well-Being,
CFS Research Brief 2011-5.6 (2011)7
C. Peterson et al., *Lifetime Economic Burden of Intimate Partner Violence Among
U.S. Adults*, 55 Am. J. of Prev. Med. 4 (2018)10
Cynthia Hess et al., *Dreams Deferred: A Survey on the Impact of Intimate Partner
Violence on Survivors’ Education, Careers, and Economic Security*, IWPR Brief
#C4752 (2018)7
Eleanor Lyon, National Resource Center on Domestic Violence, Pub. 10, *Welfare,
Poverty, and Abused Women: New Research and its Implications* 4 (2000)8
J.L. Postmus et al., *Understanding Economic Abuse in the Lives of Survivors*,
Journal of Interpersonal Violence 27(3) (2012)7

K. M. Anderson et al., *Recovery: Resilience and Growth in the Aftermath of Domestic Violence*, 18 *Violence Against Women* 11 (2012).....11

M.J. Breiding et al., Chronic Disease and Health Risk Behaviors Associated with Intimate Partner Violence-18 U.S. States/Territories, 18 *Ann. Epidemiol.* (2005)9

Michael Runner et al., Family Violence Prevention Fund for the Robert Wood Johnson Foundation, *Intimate Partner Violence in Immigrant and Refugee Communities: Challenges, Promising Practices, and Recommendations* 10 (2009)4

National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, CDC Features, Preventing Sexual Violence (2019), <https://www.cdc.gov/features/sexualviolence/index.html>.4

National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, *National Intimate Partner and Sexual Violence Survey: An Overview of 2010 Findings on Victimization by Sexual Orientation* (2010); S.E. James et al., National Center for Transgender Equality, *The Report of the 2015 U.S. Transgender Survey* (2016).....4

National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, *Preventing Intimate Partner Violence Across the Lifespan: A Technical Package of Programs, Policies, and Practices* (2017)8

National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, Violence Prevention Fast Facts, *What is Intimate Partner Violence?* (2019), <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/fastfact.html>. 9

National Network to End Domestic Violence, *Domestic Violence Counts: 12th Annual Census Report* (2018), <https://nnedv.org/content/domestic-violence-counts-12th-annual-census-report/>8

R. Levin et al., Center for Impact Research, *Pathways to and from Homelessness: Women and Children in Chicago Shelters* (2004)8

S. Goodman, National Resource Center on Domestic Violence, *The Difference Between Surviving and Not Surviving: Public Benefits Programs and Domestic and Sexual Violence Victims’ Economic Security* (2018), <https://vawnet.org/sites/default/files/assets/file>9

Sharon Smith et al., National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, <i>National Intimate Partner and Sexual Violence Survey: 2015 Data Brief – Updated Release 7</i> (2018).	4
U.S. Citizenship and Immigration Services, Check Case Processing Times, egov.uscis.gov/processing-times/	6
World Health Org. et al., <i>Global and regional estimates of violence against women: Prevalence and health effects of intimate partner violence and non-partner sexual violence 2</i> (2013)	5

I. IDENTITY AND INTEREST OF AMICI

Amici Asian Pacific Institute on Gender-Based Violence, ASISTA Immigration Assistance, Battered Women's Justice Project, Casa de Esperanza: National Latin@ Network for Healthy Families and Communities, Futures Without Violence, Legal Momentum: The Women's Legal Defense and Education Fund, National Alliance to End Sexual Violence, National Coalition Against Domestic Violence, National Council of Jewish Women, National Domestic Violence Hotline, National Network to End Domestic Violence, National Resource Center on Domestic Violence, Tahirih Justice Center, Arizona Coalition to End Sexual and Domestic Violence, California Coalition Against Sexual Assault, California Partnership to End Domestic Violence, Violence Free Colorado, Delaware Coalition Against Domestic Violence, Idaho Coalition Against Sexual & Domestic Violence, Illinois Coalition Against Domestic Violence, Illinois Accountability Initiative, Iowa Coalition Against Domestic Violence, Kansas Coalition Against Sexual and Domestic Violence, Kentucky Coalition Against Domestic Violence, Legal Voice, Maine Coalition to End Domestic Violence, Jane Doe Inc., Massachusetts Coalition Against Sexual Assault and Domestic Violence, Montana Coalition Against Domestic and Sexual Violence, National Survivor Network, Nebraska Coalition to End Sexual and Domestic Violence, Nevada Coalition to End Domestic and Sexual Violence, New Jersey Coalition to End Domestic Violence, North Carolina Coalition

Against Domestic Violence, Ohio Domestic Violence Network, Rhode Island Coalition Against Domestic Violence, South Carolina Coalition Against Domestic Violence and Sexual Assault, Texas Council on Family Violence, Vermont Network Against Domestic and Sexual Violence, Washington Coalition of Sexual Assault Programs, Washington State Coalition Against Domestic Violence, End Domestic Abuse Wisconsin: The Wisconsin Coalition Against Domestic Violence, API Chaya, and Sexual Violence Law Center (collectively, “Amici”) are state and national nonprofit organizations advocating for and providing direct services to victims of domestic violence, sexual assault, and trafficking.¹ Amici have an interest in ensuring the victims they serve can access the public benefits to which they are entitled under state and federal law and are not penalized for the abuse they have endured. The identities and interests of each of the amici curiae are described in more detail in the addendum to this brief.

¹ All parties consented to the filing of this amicus curiae brief. No counsel for a party authored this brief in whole or in part and no person other than amici, their members, or their counsel contributed money that was intended to fund preparing or submitting this brief. *See* Fed. R. App. P. 29(a)(4)(E).

II. SUMMARY OF ARGUMENT

The Department of Homeland Security’s (“DHS”) dangerous and unprecedented expansion of the infrequently invoked “public charge” grounds for inadmissibility (the “Rule”)² endangers victims of domestic and sexual violence and human trafficking and penalizes them for the abuse they have endured. Isolation and financial dependence are hallmarks of gender-based violence and are exacerbated by the unique and varied obstacles that immigrants face. By preventing victims from securing lawful status if they access public benefits, the Rule makes it all but impossible for them to escape and overcome abuse. The Rule thus forces victims to choose between continued abuse or a semblance of freedom in which they are hungry, homeless, and without access to medical care. The threat of this impossible choice is already impacting how immigrant victims live and parent, exposing them and their children to harm. To add insult to injury, the Rule also penalizes victims by directing U.S. Citizenship and Immigration Services (“USCIS”) to weigh negatively the direct consequences of abuse, such as financial instability, inconsistent work history, and use of public benefits, when making a “public charge” determination. The Rule also disregards the costs it will impose on our communities, including local governments and nonprofit organizations, like

² *Inadmissibility on Public Charge Grounds*, 84 Fed. Reg. 41292 (Aug. 14, 2019).

Amici. Amici thus respectfully request that the Court affirm the district court’s order preliminarily enjoining enforcement of the Rule.

III. ARGUMENT

A. The Rule applies to many victims of gender-based violence.

Gender-based violence is an epidemic that “cuts across all racial, class, and cultural lines.”³ About one in four women in the United States will experience domestic violence during their lives.⁴ And one in three women will experience sexual violence.⁵ Global estimates of the prevalence of domestic violence and sexual violence are even higher.⁶ Worldwide, one in three women will experience domestic or sexual violence in her lifetime.⁷ The risk is further heightened for individuals who identify as lesbian, gay, or bisexual or who are transgender.⁸ A significant

³ Michael Runner et al., Family Violence Prevention Fund for the Robert Wood Johnson Foundation, *Intimate Partner Violence in Immigrant and Refugee Communities: Challenges, Promising Practices, and Recommendations* 10 (2009).

⁴ Sharon Smith et al., National Center for Injury Prevention and Control, Centers for Disease Control and Prevention (“CDC”), *National Intimate Partner and Sexual Violence Survey: 2015 Data Brief – Updated Release* 7 (2018).

⁵ CDC, CDC Features, Preventing Sexual Violence (2019), <https://www.cdc.gov/features/sexualviolence/index.html>.

⁶ See World Health Org. et al., *Global and regional estimates of violence against women: Prevalence and health effects of intimate partner violence and non-partner sexual violence* 2 (2013).

⁷ *Id.*

⁸ See CDC, *National Intimate Partner and Sexual Violence Survey: An Overview of 2010 Findings on Victimization by Sexual Orientation* (2010); S.E. James et al., National Center for Transgender Equality, *The Report of the 2015 U.S. Transgender Survey* (2016).

number of immigrants impacted by the Rule are thus likely to be victims of gender-based violence.

The Rule's limited exceptions for certain victim-specific immigration categories do little to ameliorate that impact.⁹ To start, many victims are ineligible for relief under the Violence Against Women Act ("VAWA"), T-visa, and U-visa programs, which are excepted from the Rule. For example, a victim is ineligible for relief under VAWA if she is not married to her abusive partner or if her abuser is not a citizen or a Permanent Resident, regardless of the extent of abuse she has endured.¹⁰ U-visas are available only to victims who have obtained a signed certification from law enforcement demonstrating that the victim has aided in the investigation or prosecution of a crime that was committed against them.¹¹ If the victim does not or cannot report the abuse, law enforcement declines to certify its investigation or prosecution of the abuse, or the abuse does not constitute a qualifying crime under the U-visa statute, the victim is ineligible for a U-visa. T-visas are available only to those who arrive in the United States as a result of being victims of an "extreme form of trafficking," comply with law enforcement and can demonstrate that they would "suffer extreme hardship involving unusual and severe

⁹ See 84 Fed. Reg. at 41297 (excepting immigrants seeking status under VAWA or the U- or T-visa programs from the Rule).

¹⁰ See 8 U.S.C. § 1154 (a)(1)(A), (B).

¹¹ See 8 U.S.C. § 1184 (p).

harm” if deported.¹² Reporting abuse, which is generally a prerequisite to seeking relief under most of the victim-specific immigration categories excepted from the Rule, is an insurmountable barrier for many victims, particularly where abusers “use immigration status to threaten deportation” if a victim asks for help.¹³

Even if eligible for the VAWA, U-visa, or T-visa programs, many victims choose to pursue other immigration statuses (such as sponsorship by an employer or a family member) because the process of applying for those programs can be expensive and time-consuming, or they fear their applications will be denied.¹⁴ For example, Amicus API Chaya estimates that approximately 20% of the potentially eligible victims it serves choose not to apply for the VAWA, U-visa, or T-visa programs for those reasons. In short, these limited exceptions to the Rule do not apply to victims who are either ineligible or for whom it would be impracticable, to apply for those programs, for reasons entirely unrelated to the nature or severity of the abuse they have endured.

¹² See 8 C.F.R. §214.11(i)(2).

¹³ See *Runner*, *supra*, at 12.

¹⁴ For example, USCIS estimates that it currently takes over four years to process U-visa applications. U.S. Citizenship and Immigration Services, *Check Case Processing Times*, egov.uscis.gov/processing-times/ (last visited Jan. 19, 2020).

B. The Rule prevents victims from obtaining the public benefits they need to escape and overcome abuse.

As advocates for and direct service providers to victims of gender-based violence, Amici are gravely concerned about the devastating impact the Rule will have, and indeed is already having, on the victims they serve. Under the Rule, receipt of many public benefits weighs against admissibility and will preclude an immigrant from receiving an extension of stay or adjustment of status once in the United States.¹⁵ DHS expressly acknowledged that the Rule will cause harm to immigrants, including that it may dissuade them from accessing benefits to which they or their children are entitled under the law, yet declined to change course to avoid or mitigate that harm.¹⁶

Without access to public benefits, escaping abuse can be all but impossible. Abusers notoriously manipulate and trap their victims through isolation and financial dependence. Indeed, 99% of all domestic violence includes economic abuse.¹⁷ Abusers commonly sabotage their victims' efforts to go to school, apply for work

¹⁵ 84 Fed. Reg. at 41296-99, 41302.

¹⁶ *See id.* at 41363 (“DHS understands that certain applicants may be hesitant to receive certain benefits in light of the public charge assessment.”), 41366 (“DHS is aware that individuals may reconsider their receipt of public benefits in light of future immigration consequences.”).

¹⁷ *See, e.g.*, Adrienne Adams, Center for Financial Security, University of Wisconsin-Madison, *Measuring the Effects of Domestic Violence on Women's Financial Well-Being*, CFS Research Brief 2011-5.6 (2011); J.L. Postmus et al., *Understanding Economic Abuse in the Lives of Survivors*, *Journal of Interpersonal Violence*, 27(3), 411–430 (2012).

authorization, or obtain or maintain employment.¹⁸ For example, in one study of women in Wisconsin who had experienced abuse, 57.8% said their abuser's threats had made them afraid to go to work or school, 29.8% reported that they had been fired because of domestic violence, and 33.9% had been beaten so severely they could not work.¹⁹ Abusers also isolate their victims from sources of support, including by preventing them from learning English or communicating with friends and family.²⁰ A path to financial security is thus a critical prerequisite to escaping and overcoming abuse.²¹

By deterring access to public benefits, the Rule will trap victims and their children in abusive situations and perpetuate the harm they are already experiencing. For example, one of the greatest needs identified by victims is access to safe and affordable housing. In a single day, domestic violence programs across the United

¹⁸ See, e.g., Cynthia Hess et al., *Dreams Deferred: A Survey on the Impact of Intimate Partner Violence on Survivors' Education, Careers, and Economic Security*, IWPR Brief #C4752 (2018).

¹⁹ Eleanor Lyon, National Resource Center on Domestic Violence, Pub. 10, *Welfare, Poverty, and Abused Women: New Research and its Implications* 4, (2000) (internal citation omitted).

²⁰ See Runner, *supra*, at 12 (Abusers “frequently rely on foreign-born women’s limited English proficiency skills to control their behavior. For example, perpetrators who possess greater English language skills might silence their victims by serving as the family’s sole communicator in English.”).

²¹ See CDC, *Preventing Intimate Partner Violence Across the Lifespan: A Technical Package of Programs, Policies, and Practices* (2017).

States received but were unable to meet nearly 7,500 requests for housing services.²² Between 22 and 57% of all homeless women report that domestic violence was the immediate cause of their homelessness.²³ Supplemental Nutrition Assistance Program (“SNAP”) food benefits are also vital resources to ensure survivors can escape and overcome abuse.²⁴ Service providers report that approximately 80% of the domestic violence victims and 55% of sexual assault victims they serve use the SNAP program.²⁵ Preventing access to housing and food assistance will prevent many victims from escaping, and leave some with no choice but to return to, abuse. Homelessness and hunger are no antidote to an abusive relationship.

The Rule also deters victims from obtaining the healthcare they need to heal from abuse.²⁶ Many suffer serious health issues as a result of abuse, including acute

²² National Network to End Domestic Violence, *Domestic Violence Counts: 12th Annual Census Report* (2018), <https://nnedv.org/content/domestic-violence-counts-12th-annual-census-report/>.

²³ See R. Levin et al., Center for Impact Research, *Pathways to and from Homelessness: Women and Children in Chicago Shelters* (2004).

²⁴ The inclusion of SNAP benefits in the Rule also contradicts the SNAP statute, which provides that “the value of benefits that may be provided . . . shall not be considered income or resources for any purpose under any Federal, State, or local laws.” See 7 U.S.C. §2017(b).

²⁵ S. Goodman, National Resource Center on Domestic Violence, *The Difference Between Surviving and Not Surviving: Public Benefits Programs and Domestic and Sexual Violence Victims’ Economic Security* (2018), https://vawnet.org/sites/default/files/assets/files/201801/TheDifferenceBetweenSurvivingandNotSurviving_Jan2018.pdf.

²⁶ The Rule excepts only non-emergency Medicaid benefits received by individuals under the age of 21, pregnant women, and women up to 60 days postpartum. See 84 Fed. Reg. at 41313.

injuries, chronic pain, and traumatic brain injuries, and are at an increased risk for suicide, depression, anxiety, posttraumatic stress disorder, and substance abuse.²⁷ Approximately 41% of female domestic violence victims experience physical injury.²⁸ The average lifetime cost of services for female victims of domestic violence is \$103,767, with 59% of that total going to medical costs.²⁹ Health care access is also important because the health care setting is often the first place that victims are asked about abuse and connected with community-based domestic violence and sexual assault services.

The Rule also penalizes victims for receiving short-term financial assistance through the Temporary Assistance for Needy Families (“TANF”) and state cash assistance programs (also known as welfare).³⁰ “Abused women’s access to independent economic resources, including welfare, is central to their decision-making and safety planning.”³¹ In a 2017 study of service providers, approximately

²⁷ See M.J. Breiding et al., Chronic Disease and Health Risk Behaviors Associated with Intimate Partner Violence-18 U.S. States/Territories, 18 Ann. Epidemiol., 538-44 (2005).

²⁸ CDC, Violence Prevention Fast Facts, *What is Intimate Partner Violence?* (2019), <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/fastfact.html>.

²⁹ C. Peterson et al., *Lifetime Economic Burden of Intimate Partner Violence Among U.S. Adults*, 55 Am. J. of Prev. Med. 4, 433-444 (2018).

³⁰ Although cash assistance was previously considered under the “public charge” rule, under the new Rule receipt of such assistance (along with receipt of other public benefits) will now “weigh heavily in favor of a finding that an alien is likely at any time in the future to become a public charge.” 84 Fed. Reg. at 41303

³¹ Lyon, *supra*, at 1.

85% responded that TANF is a critical resource for a significant number of the victims they serve.³² The TANF program helps victims overcome the financial insecurity that abuse causes and is often an important factor in a victims' decision-making regarding when, how, and if they can escape abuse. The inclusion of the TANF program in the Rule is particularly unreasonable, as DHS expressly acknowledges that TANF "is intended to foster self-sufficiency," on the one hand, yet concludes that "considering TANF in the rule . . . is important in ensuring that aliens are self-sufficient," on the other.³³

The impossible "choice" that the Rule presents to victims is compounded by the fact that inadmissibility will also prevent them from sponsoring supportive family members, who can serve as critical sources of emotional and financial support. A strong support system is vital to help a victim escape and heal from abuse.³⁴

The Rule will also penalize victims for other direct consequences of the abuse they have endured. The Rule outlines a list of factors that USCIS must weigh negatively in determining whether an immigrant is likely to become a public charge, including inconsistent work history, lack of English language skills, and lack of

³² Goodman, *supra*, at 13-14.

³³ See 84 Fed. Reg. at 41373.

³⁴ See K. M. Anderson et al., *Recovery: Resilience and Growth in the Aftermath of Domestic Violence*, 18 *Violence Against Women* 11, 1279-1299 (2012).

education.³⁵ As described above, economic abuse, including sabotaging a victim's education and employment, is emblematic of domestic violence. Although DHS acknowledged that these negative factors could penalize victims for the abuse they have endured, it took no action to mitigate or address those impacts and instead responded vaguely that "USCIS will consider the totality of the alien's circumstances, including any and all factors and considerations set forth by the alien" in making an inadmissibility determination.³⁶ But the Rule includes no assurances that USCIS will treat differently (much less explicitly except consideration of) negative factors that are caused by or related to abuse.

C. The Rule is already harming victims and their families.

Although the Rule is not yet in effect, the chilling effect of the Rule is so powerful that it is already impacting the victims that Amici serve. As just one example, an attorney with amicus Tahirih Justice Center reported that every caller she spoke with during the month the proposed Rule was published expressed concern about renewing public benefits. Even immigrant victims not subject to the Rule expressed this fear, due in large part to the fact that abusers often lie to victims about, restrict access to information and relevant documents regarding, and threaten to

³⁵ 84 Fed. Reg. at 41299.

³⁶ *Id.* at 41437.

sabotage victims' immigration status.³⁷ The fears expressed by victims foreshadow the grave harm the Rule will cause to them and their families.

Victims are already foregoing critical housing, food, and healthcare assistance out of fear that it will jeopardize their immigration status. For example, amicus Tahirih Justice Center reports that one client fled with her children to a shelter and declined to obtain public housing (which was available via her U.S. citizen children) because she did not want to jeopardize her immigration status. She is now homeless, and her children are now living with her abusive partner. Amicus Sexual Violence Law Center reports that a client who had been raped refused a Sexual Assault Nurse Examiner ("SANE") exam, through which rape survivors receive emergency medical treatment and trained providers collect and preserve forensic evidence, because she feared that doing so would jeopardize her immigration status. As a result, the client's injuries, including severe internal genital trauma and pelvic fractures, remain untreated.

Fear of the Rule is so great that it is also impacting victims to whom it does not apply. Another amicus, Iowa Coalition Against Domestic Violence, reports that a victim recently chose to stay in an abusive relationship because she was afraid using a Section 8 housing voucher would jeopardize her pending U-visa petition and she had no other options for safe, affordable housing. Similarly, a victim of sex

³⁷ See Runner, *supra*, at 4, 12.

trafficking by her husband was finally able to escape to a shelter with her children but, when offered housing assistance, declined out of fear that accepting that assistance would jeopardize her VAWA and T-visa petitions. The client was willing to become homeless with her two children, and potentially return to sex slavery, to avoid risking deportation. Her advocates were ultimately able to convince her that she was exempt from the Rule and that accepting housing assistance would not impact her immigration case.

D. The Rule disregards the costs it imposes on our communities.

Finally, the Rule fails to weigh the costs to our communities, including local governments and private organizations like Amici, as the Administrative Procedure Act (“APA”) requires. The Rule describes the money saved by reducing public benefits available to immigrants and the direct cost of compliance with the Rule, but ignores the broader impacts to our communities as a result of unmitigated trauma to victims and their families.³⁸ In weighing the costs and benefits, and thus the reasonableness, of a regulation, the APA directs that “‘cost’ includes more than the expense of complying with regulations”³⁹ The Rule gives short shrift to that directive.

³⁸ See 84 Fed. Reg. at 41310-32.

³⁹ *Michigan v. E.P.A.*, 135 S. Ct. 2699, 2707, 192 L. Ed. 2d 674 (2015).

The absence of a meaningful cost analysis is particularly conspicuous since DHS elsewhere acknowledges the “potential nexus” between the Rule and “food insecurity, housing scarcity, public health . . . and increased costs to states and localities”⁴⁰ As Amici explained in their comments on the proposed Rule, these impacts would be widespread and significant. Because the Rule prevents victims from getting the support they need to escape and overcome abuse, they will likely be subjected to further trauma and injury, resulting in physical, mental, and financial consequences. This will result in heightened demand for social services, such as emergency food banks and domestic violence shelters, and increased uncompensated health care costs from overutilization of emergency rooms for medical care. Private nonprofit organizations will be forced to absorb the costs associated with increased and prolonged utilization of victim support programs, such as emergency shelter programs, for which only limited funding is available. These costs far outweigh any perceived benefit of the Rule, and should be meaningfully weighed, measured, and mitigated in the development of any regulation impacting victims of gender-based violence. That the Rule’s costs outweigh its perceived savings demonstrates that the Rule’s purpose is not to minimize the economic impact of immigration, but instead to dissuade immigrants and their families, including victims, from trying to immigrate or lawfully remain in the United States.

⁴⁰ 84 Fed. Reg. at 41313.

IV. CONCLUSION

The Rule will have, and indeed is already having, a devastating impact on victims of gender-based violence and their families. DHS ignored, if not knowingly disregarded, those impacts and the costs they would impose on our communities in developing the Rule. Amici respectfully request that the Court affirm the district court's order preliminarily enjoining enforcement of the Rule.

Dated: January 23, 2020

Respectfully submitted,

PACIFICA LAW GROUP LLP

By: s/Alanna E. Peterson

Paul J. Lawrence

Alanna E. Peterson

1191 Second Ave, Ste. 2000

Seattle, WA 98101

(206) 245-1700 (telephone)

(206) 245-1750 (facsimile)

paul.lawrence@pacificallawgroup.com

alanna.peterson@pacificallawgroup.com

*Attorneys for Amici Curiae Nonprofit
Anti-Domestic Violence and Sexual
Assault Organizations*

CERTIFICATE OF COMPLIANCE

This brief complies with type-volume limits because, excluding the parts of the document exempted by Fed. R. App. R. 32(f) (cover page, disclosure statement, table of contents, table of citations, statement regarding oral argument, signature block, certificates of counsel, addendum, attachments) this brief contains 3,562 words. This brief complies with the typeface and type style requirements because it has been prepared in Microsoft Word 2016 in Times New Roman 14-point font.

Dated: January 23, 2020

/s/ Alanna E. Peterson

ADDENDUM: Identities and Interests of Amici Curiae

The **Asian Pacific Institute on Gender-Based Violence** (the “Institute”) is a national resource center on domestic violence, sexual assault, human trafficking, and other forms of gender-based violence in Asian and Pacific Islander and in immigrant communities. The Institute serves a national network of advocates and community-based service programs that work with Asian and Pacific Islander and immigrant and refugee survivors of domestic violence, sexual assault, and human trafficking, and provides analysis and consultation on critical issues facing victims of gender-based violence in the Asian and Pacific Islander and in immigrant and refugee communities, including training and technical assistance on implementation of the Violence Against Women Act and protections for immigrant and refugee survivors. The Institute leads by promoting culturally relevant intervention and prevention, expert consultation, technical assistance and training; conducting and disseminating critical research; and informing public policy.

ASISTA Immigration Assistance (“ASISTA”) worked with Congress to create and expand routes to secure immigration status for survivors of domestic violence, sexual assault, and other crimes. ASISTA serves as liaison for the field with Department of Homeland Security personnel charged with implementing the resulting laws. ASISTA also trains and provides technical support to local law-

enforcement officials, judges, domestic violence and sexual assault advocates, and attorneys working with immigrant crime survivors.

The **Battered Women's Justice Project** is a national technical assistance center that provides training and resources for advocates, battered women, legal system personnel, policymakers, and others engaged in the justice system response to intimate partner violence (IPV). The BWJP promotes systemic change within the civil and criminal justice systems to ensure an effective and just response to victims and perpetrators of IPV, and the children exposed to this violence. The BWJP is an affiliated member of the Domestic Violence Resource Network, a group of national resource centers funded by the Department of Health and Human Services and other support since 1993. The BWJP also serves as a designated technical assistance provider for the Office on Violence Against Women of the U.S. Department of Justice. In an effort to promote more safe and just results for women and their children, the BWJP works at state, national and international levels to engage court systems in methods of accurately assessing the effects of IPV on women and children and to fashion safe outcomes that hold batterers accountable.

Casa de Esperanza was founded in 1982 in Minnesota to provide emergency shelter and support services for women and children experiencing domestic violence, with a primary focus on mobilizing Latinas and Latino communities to end domestic violence. Over the past three decades, Casa de Esperanza has expanded to

offer critical and comprehensive services and support, ranging from family advocacy and shelter services to leadership development and community engagement initiatives. In 2009 Casa de Esperanza launched the National Latin@ Network for Healthy Families and Communities (NLN), which is a national resource center that provides training & technical assistance, research, and national policy advocacy focused on addressing and preventing domestic violence and sexual assault. Casa de Esperanza also serves on the Steering Committee of the National Task Force to End Sexual and Domestic Violence.

Futures Without Violence (“FUTURES”), is a national nonprofit organization that has worked for over thirty years to prevent and end violence against women and children around the world. FUTURES mobilizes concerned individuals; children's, women's, and civil rights groups; allied professionals; and other social justice organizations to end violence through public education and prevention campaigns, public policy reform, training and technical assistance, and programming designed to support better outcomes for women and children experiencing or exposed to violence. FUTURES join with the other amici because it has a long-standing commitment to supporting the rights and interests of women and children who are victims of violence regardless of their immigration, citizenship, or residency status. FUTURES co-founded and co-chaired the National Network to End Violence Against Immigrant Women working to help service providers,

survivors, law enforcement, and judges understand how best to work collaboratively to bring justice and safety to immigrant victims of violence. Using this knowledge, FUTURES helped draft legislative recommendations that were ultimately included in the Violence Against Women Act and the Trafficking Victims Protection Act to assist immigrant victims of violence. FUTURES co-chairs the Coalition to End Violence Against Women and Girls Globally, partnering with other national organizations to reduce sexual and domestic violence against women and children.

Legal Momentum, the Women's Legal Defense and Education Fund, is a leading national non-profit civil rights organization, which for nearly 50 years has used the power of the law to define and defend the rights of women and girls. As one of the leading advocates for the Violence Against Women Act and its subsequent reauthorizations, Legal Momentum has long advocated for and secured legal protections for victims of domestic violence, sexual assault, and human trafficking. Legal Momentum has worked for decades to ensure that all women are treated fairly on issues of economic opportunity, regardless of their gender or socioeconomic status, and it has pioneered critical programs to tackle gender-based poverty and to advance the rights of immigrant women.

The **National Alliance to End Sexual Violence** is the voice in Washington for the 56 state and territorial sexual assault coalitions and over 1500 rape crisis centers working in their communities to address and end sexual violence. The

programs in our network see the widespread and devastating impacts of sexual violence on survivors every day, especially those who are more vulnerable like immigrant survivors. We oppose efforts to make it more difficult for immigrant survivors to seek safety and justice.

The **National Coalition Against Domestic Violence** (“NCADV”) provides a voice to victims and survivors of domestic violence. It strives to foster a society in which there is zero tolerance for domestic violence by influencing public policy, increasing public awareness of the impact of domestic violence, and providing programs and education that drive that change.

The **National Council of Jewish Women** (“NCJW”) is a grassroots organization of 90,000 volunteers and advocates who turn progressive ideals into action. Inspired by Jewish values, NCJW strives for social justice by improving the quality of life for women, children, and families and by safeguarding individual rights and freedoms. NCJW's Resolutions state that NCJW resolves to work for laws, policies, programs and services that protect every woman from all forms of abuse, exploitation, harassment, discrimination and violence, as well as comprehensive, humane, and equitable immigration, refugee, asylum, and naturalization laws, policies, and practices that facilitate and expedite legal status and a path to citizenship for more individuals.

The **National Domestic Violence Hotline** (“NDVH”) was established in 1996 as part of the Violence Against Women Act. It operates a free, anonymous and confidential, 24/7 hotline available via phone, text, and chat services to offer victims of domestic violence compassionate support, crisis intervention, safety planning, and referral services to enable them to find safety and live lives free of abuse. A substantial number of victims NDVH serves are immigrants or those who request help related to immigration-related issues. From May 2015 through March 2017, for example, over 10,000 victims contacted NDVH identifying as immigrants, and over 6,500 of them sought help related to immigration concerns.

The **National Network to End Domestic Violence** (“NNEDV”) is a not-for-profit organization incorporated in the District of Columbia in 1994 to end domestic violence. As a network of the 56 state and territorial domestic violence and dual domestic violence and sexual assault coalitions and their over 2,000 member programs, NNEDV serves as the national voice for millions of women, children, and men victimized by domestic violence. NNEDV works with federal, state and local policy makers and domestic violence advocates to secure and implement increased protections in the Violence Against Women Act and related federal legislation. NNEDV supports legislation that protects immigrant domestic and sexual violence survivors and provides pathways for survivors to obtain immigration status. NNEDV

is deeply concerned with survivor safety, including the vital role that access to resources plays in their ability to escape and rebuild their lives after abuse.

The **National Resource Center on Domestic Violence** (“NRCDV”) was established in 1993 as a federally funded resource center to provide comprehensive technical assistance, training, and resource development related to domestic violence intervention and prevention, community education and organizing, and public policy and systems advocacy. The NRCDV has significant expertise in strengthening survivors' access to economic resources and social safety net benefits. Immigrant survivors are some of the most vulnerable to economic instability and rely on social safety net programs to survive.

The **National Survivor Network** (“NSN”) is project of the Coalition Against Slavery and Trafficking, and is a national network of human trafficking survivors with various backgrounds and origins spanning 40 states and 24 countries. The NSN is deeply concerned about the impact of the public charge rule due to the importance of public assistance programs for human trafficking survivors as they transition from trafficking situations and into naturalized citizenship. NSN supports public assistance programs being fully accessible to immigrants as they are a live-saving valuable resource.

The **Tahirih Justice Center** is the largest multi-city direct services and policy advocacy organization specializing in assisting immigrant women and girls who

survive gender-based violence. In five cities across the country, Tahirih offers legal and social services to women and girls fleeing all forms of gender-based violence, including human trafficking, forced labor, domestic violence, rape and sexual assault, and female genital cutting/mutilation. Since its beginning in 1997, Tahirih has provided free legal assistance to more than 25,000 individuals, many of whom have experienced the significant psychological and neurobiological effects of that trauma. Through direct legal and social services, policy advocacy, and training and education, Tahirih protects immigrant women and girls and promotes a world where they can live in safety and dignity. Tahirih amicus briefs have been accepted in numerous federal courts across the country.

The **Arizona Coalition to End Sexual and Domestic Violence** (“ACESDV”) is the federally-designated state Coalition addressing sexual and domestic violence in Arizona. Our mission is to end sexual and domestic violence in Arizona by dismantling oppression and promoting equity among all people. ACESDV supports survivors as they access safety and healing by working in partnership with its membership of sexual and domestic violence service providers in the Arizona. The public charge rule will directly impact ACESDV’s work and that of its’ membership.

The **California Coalition Against Sexual Assault** (“CALCASA”) provides leadership, vision and resources to rape crisis centers, individuals and other entities committed to ending sexual violence across California and the nation. Originally

founded in 1980 as the California State Coalition of Rape Crisis Centers, CALCASA was created by rape crisis centers from across the state interested in creating a unified voice to advocate on behalf of the statewide needs of survivors, system's change, funding needs and policy advocacy. CALCASA is committed to ending sexual violence through a multifaceted approach of prevention, intervention, education, research, advocacy and public policy.

The **California Partnership to End Domestic Violence** (the "Partnership") is California's recognized domestic violence coalition, representing over 1,000 advocates, organizations and allied groups. As an advocate for social change, the Partnership advances its mission by shaping public policy, increasing community awareness, and strengthening its members' capacity to work toward the common goal of advancing the safety and healing of victims, survivors and their families.

Founded in 1977, **Violence Free Colorado** is Colorado's domestic violence coalition, working with hundreds of organizations and individuals in local communities across the state of Colorado to prevent and end relationship violence, and support those affected by relationship abuse. Violence Free Colorado works to build the capacity of a diverse network of domestic violence and other community-based programs across Colorado to help them effectively assist all survivors of relationship violence and their families, including immigrant survivors. Violence Free Colorado's goal is to improve individual and community health and well-being

through statewide visionary advocacy and social change efforts, supporting our members, and informing the public.

The **Delaware Coalition Against Domestic Violence** (“DCADV”) is a statewide, nonprofit organization and coalition of organizations, groups and individuals that strive to promote conditions that prevent and eliminate domestic violence by educating its members and community partners; providing informational resources to the community; and advocating as a strong, unified voice for victims/survivors of domestic violence, children who are affected, domestic violence programs and victim service providers. DCADV is deeply concerned about the safety of all victims of intimate partner violence, including immigrants, and the proposed changes to the Public Charge rule jeopardize the safety of domestic violence victims.

The **Idaho Coalition Against Sexual & Domestic Violence** is a non-profit organization that seeks to create a world free of violence; one with social equity and liberation for all human beings where we see our own and each other's full humanity. We seek a world where everyone is valued, everyone is safe, and everyone can thrive.

The **Illinois Accountability Initiative** (“IL-AI”) strives to support LGBTQ people in their self-determined efforts to create and sustain accountability practices in local communities, among individuals, and within systems and institutions. IL-AI

believes that community accountability practices can increase safety and reduce harm in the lives of LGBTQ people, transforming communities and directly challenging social conditions that support oppression and violence. IL-AI is concerned that the public charge rule changes to admissibility that makes it harder for survivors of violence and their families to find safety and stay in the United States.

The **Illinois Coalition Against Domestic Violence** (“ILCADV”) is a membership organization representing the interest of 50 domestic violence agencies statewide. Many of those organizations serve immigrant populations and those survivors affected by the rule change. ILCADV's policy committee is deeply committed to addressing issues relating to immigrant survivors.

The **Iowa Coalition Against Domestic Violence** (“ICADV”) is a state-wide, nonprofit organization based in Des Moines, Iowa. We represent 25 local agencies providing direct services to victims of domestic and sexual violence and provide civil legal services to survivors statewide. ICADV programs and member agencies served 41,000 victims of violence in 2018. Iowa's victim service delivery network is recognized for our success in increasing access to services that improve economic stability and effectively meet the long-term needs of survivors, which is critical, as financial abuse remains one of the most powerful methods of keeping a survivor

trapped in a violent relationship and deeply diminishes the victim's ability to stay safe after leaving.

The **Kansas Coalition Against Sexual and Domestic Violence** (“KCSDV”) has been Kansas' leading voice for domestic violence and sexual assault victims and survivors for 35 years. KCSDV works statewide with partners for the organization's mission of preventing and eliminating domestic violence and sexual assault. The purpose of KCSDV is the prevention and elimination of sexual and domestic violence through a statewide network of programs providing support and safety for all victims of sexual and domestic violence and stalking, with primary focus on women and their children; direct services; public awareness and education; advocacy for victims; comprehensive prevention; and, social change efforts. KCSDV has, for more than 15 years, served victims of domestic and sexual violence with immigration issues. This change in policy will impact many victims served by KCSDV and its 26 member programs across the state that also provide direct services to immigrant victims.

The **Kentucky Coalition Against Domestic Violence** (“KCADV”) provides a strong, statewide voice on behalf of survivors, their children, and its 15 member programs in Kentucky. KCADV advocates on domestic violence-related issues at the state and federal levels, mobilizing and supporting its member programs and allies to end intimate partner violence. KCADV works with all survivors of domestic

violence, including immigrant survivors: in particular, by supporting survivors in accessing housing. KCADV is concerned about the impacts that economic deficits and poverty have on the lives of survivors, and that immigrant survivors who fear obtaining or using public assistance, including rent subsidies that KCADV provides, will dramatically hamper their ability to become self-sufficient.

Legal Voice is a nonprofit public interest organization in the Pacific Northwest that works to advance the legal rights of women, girls, and LGBTQ people through litigation, legislative advocacy, and public education. Since its founding in 1978 as the Northwest Women's Law Center, Legal Voice has long advocated on behalf of all survivors of domestic violence, sexual assault, and other forms of gender-based violence to ensure equal access to protections and services. Legal Voice has participated as counsel and amicus curiae in numerous cases throughout the Northwest and the country and serves as a regional expert and advocate in the area of gender-based violence.

The **Maine Coalition to End Domestic Violence** (“MCEDV”) mobilizes collaborative community action with and on behalf of a statewide network of Domestic Violence Resource Centers to ensure that all people affected by domestic abuse and violence without regard to immigration status are restored to safety and that perpetrators are held accountable. MCEDV works to ensure that all individuals in Maine who need assistance to be safe from harm are able to obtain it.

Access to essential services to meet basic life needs is essential for persons, regardless of immigration status, to be free from interpersonal violence.

The mission of **Jane Doe Inc., The Massachusetts Coalition Against Sexual Assault and Domestic Violence** (“JDI”), is to bring an end to sexual and domestic violence through social change by addressing the systemic root causes of violence. These changes to the public charge rule are in direct opposition to JDI's mission as this new rule furthers the oppression of immigrant communities and significantly harms immigrant survivors of sexual and domestic violence seeking admissibility by punishing them for utilizing services as they seek safety and healing.

Incorporated in 1986, the **Montana Coalition Against Domestic & Sexual Violence** (“MCADSV”) is a statewide coalition of individuals and organizations working together to end domestic and sexual violence through advocacy, public education, public policy, and program development. MCADSV's mission is to support and facilitate networking among member organizations while advocating for social change in Montana. MCADSV represents over 50 programs across Montana that provide direct services to victims and survivors of domestic and sexual violence and their children. In addition, MCADSV's membership includes nonprofit and government organizations and individuals interested in addressing domestic and sexual violence in a way that holds offenders accountable and provides support for

the people they victimize. MCADSV is committed to the safety, growth, and empowerment of all survivors and their families.

The **Nebraska Coalition to End Sexual and Domestic Violence** (the “Coalition”) is a non-profit organization whose membership consists of 20 domestic violence and sexual assault programs across Nebraska. The Coalition's mission is to enhance safety and justice by changing the beliefs that perpetuate domestic violence and sexual assault. The Coalition has provided legal services to survivors of domestic and sexual violence since 2003 and assisted immigrant victims since 2006.

The **Nevada Coalition to End Domestic and Sexual Violence** (“NCEDSV”) provides statewide advocacy, education and support of the frontline organizations in Nevada that help those impacted by domestic violence and sexual assault. NCEDSV supports its member organizations by providing resources, assisting them in finding financial resources to maintain their operations, and providing educational opportunities for their staff, board members, and volunteers, ensuring they have access to best practices. NCEDSV's purpose is to advocate for change, educate our communities, and support organizations. NCEDSV is concerned how public charge will negatively and very drastically effect survivors of domestic violence and sexual assault.

Incorporated in 1979, the **New Jersey Coalition to End Domestic Violence** (“NJCEDV”) has provided training, technical assistance, and advocacy around

issues involving domestic violence. With a membership of thirty-one domestic violence providers across the state, NJCEDV is the collective voice and advocate for domestic violence survivors, leading collaborative community and systemic responses to domestic violence in the State of New Jersey.

The **North Carolina Coalition Against Domestic Violence** (“NCCADV”) is the only statewide agency in North Carolina whose mission is to end domestic violence. NCCADV works to combat violence and oppression against all survivors, is committed to serving all survivors in the state, including immigrant survivors. Through a combination of training, technical assistance, legislative and policy work, and systems advocacy, NCCADV provides survivors and member agencies with the tools they need to do their work and make North Carolina a safe place for all.

The **Ohio Domestic Violence Network** (“ODVN”) is a statewide coalition domestic violence in the state of Ohio. ODVN advances the principles that all people have the right to an oppression and violence free life; fosters changes in economic, social and political systems; and brings leadership, expertise and best practices to community programs.

The **Rhode Island Coalition Against Domestic Violence** (“RICADV”) works to eliminate domestic violence in Rhode Island. RICADV's mission is to support and enhance the work of its member agencies and to provide leadership on the issue of domestic violence. In order to achieve its vision, RICADV focuses on

enhanced services for survivors, prevention, survivor activism, communications, systems change and training. Every year in Rhode Island, between 8,000-10,000 individual victims of domestic violence receive services from RICADV member agencies, including: Emergency shelter and transitional housing; 24-hour crisis hotline support; Counseling; Support groups; Court advocacy; and law enforcement advocacy. RICADV has grave concerns regarding the immense harm that the public charge rule will have on immigrant survivors of domestic violence and sexual assault.

The South Carolina Coalition Against Domestic Violence and Sexual Assault (“SCCADVASA”), is the statewide coalition of organizations providing intervention services to victims and survivors of domestic violence and sexual assault and Primary Prevention programs to students and communities across South Carolina. SCCADVASA works towards ending domestic and sexual violence in South Carolina and beyond through engaging individuals and communities in advocacy, collaboration and education. SCCADVASA and its 22 member organizations directly serve immigrant survivors of domestic violence, sexual assault, and human trafficking. SCCADVASA is deeply concerned about the fact that this new public charge rule creates substantial barriers for victims in their efforts to access the medical and other supportive services needed to fully recover from the

immediate effects of their victimization, reduce their vulnerability to further victimization and ensure meaningful access to justice.

The **Texas Council on Family Violence** (“TCFV”) is the statewide coalition in Texas of family violence service providers and allied programs working to promote safe and healthy relationships by supporting service providers, facilitating strategic prevention efforts, and creating opportunities for freedom from family violence. TCFV is a membership organization with over 1300 members comprised of family violence programs, supportive organizations, survivors of family violence, businesses and professionals, communities of faith and other concerned citizens. In promoting safe and healthy relationships, TCFV advocates for the well-being of all Texans and recognizes the increased vulnerability and need for specific attention and protections for those from historically marginalized populations, including immigrant survivors of violence and abuse. As the statewide advocacy voice standing with and for survivors of family violence, we support survivors of abuse at the hands of family members and intimate partners and the vital pathways to relief and healing.

The **Vermont Network Against Domestic and Sexual Violence** (the “Network”) is the leading voice on ending domestic and sexual violence in Vermont. The Network is a statewide non-profit 501(c)(3) membership organization that was founded in 1986. The Network's members are 15 independent non-profit which

provide domestic and sexual violence advocacy to survivors of violence in Vermont. The Network supports its member organizations and their work with survivors of domestic and sexual violence through policy change, training and social change efforts to change the narrative of violence in Vermont. The Network's purpose is to uproot the causes of violence and to build a world free of oppression where actions, beliefs and systems support all people to thrive.

The **Washington Coalition of Sexual Assault Programs** (“WCSAP”) is a non-profit organization that strives to unite agencies across Washington State engaged in the elimination of sexual violence. WCSAP provides information, training and expertise to program and individual members who support victims, family and friends, the general public, and all those whose lives have been affected by sexual assault.

The **Washington State Coalition Against Domestic Violence** (“WSCADV”) is the federally-recognized membership organization of non-profit domestic violence programs in Washington State. Founded by domestic violence survivors and their allies in 1990, WSCADV's mission is to mobilize and support member programs and allies to end domestic violence through advocacy and action for social change. WSCADV has long advocated for laws, policies, and practices that promote safety and justice for all domestic violence survivors.

End Domestic Abuse WI is the statewide coalition against domestic violence and statewide voice for all domestic violence victims in Wisconsin. End Domestic Abuse WI advocates for the safety and protection of all victims, including immigrant victims of domestic and sexual violence. End Domestic Abuse WI educates and provides technical assistance to advocates on strategies to serve and support immigrant victims of domestic violence. End Domestic Abuse WI also operates a law center which provides legal representation to approximately 700 immigrant victims each year, utilizing the applicable laws and remedies that are available for immigrant victims of crime.

API Chaya is a non-profit organization in Seattle which empowers survivors of gender-based violence and human trafficking in the Pacific Northwest to gain safety, connection, and wellness. API Chaya builds power by educating and mobilizing South Asian, Asian, Pacific Islander, and all immigrant communities to end exploitation, and works to create a world where all people can heal and thrive.

The **Sexual Violence Law Center** (“SVLC”) is a non-profit legal services organization that protects the privacy, safety, and civil rights of survivors of sexual violence through trauma informed, holistic, survivor-centered legal advocacy. Where 1 in 3 women and 1 in 6 men will experience sexual violence in their lifetime, SVLC responds to the legal needs of sexual assault victims of Washington State who do not qualify for DV (intimate partner violence) services. SVLC attorneys provide

legal representation and assistance on a full range of legal issues as a result of a sexual assault, including protection orders, housing, employment, public benefits and immigration. On average, SVLC will represent a victim in 4-6 legal areas. SVLS is deeply interested as amicus curiae as nearly all of the victims the program serves are low-income and nearly one third are receiving representation in immigration matters, including asylum, U-visas, T-visa and VAWA petitions.