

## INDIANA STATE IMMIGRATION LEGISLATION

### Tips for Law Enforcement and Advocates Working With Immigrant Crime Victims

Senate Enrolled Act 590, Senate Bill No. 590

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#### Introduction:

The following chart summarizes the status of each provision. For the provisions of the legislation that remain in effect, this chart provides implementation suggestions for law enforcement and safety planning strategies for victim advocates and attorneys working with immigrant victims of domestic violence, sexual assault, human trafficking and other immigrant crime victims. The goal is to identify measures that help ensure that immigrant victims of criminal activity continue to have access to assistance from the justice, health care, and social services systems that are to be open as a matter of federal law<sup>2</sup> and state domestic violence, sexual assault and anti-human trafficking laws to all victims without regard to their immigration status.

#### Status:

Several provisions of state legislations have been overturned and their implementation has been enjoined to an extent based on the Supreme Court Decision in Arizona v. United States, 132 S. Ct. 2492, 2495 (2012) and other preemption grounds. Other provisions of this legislation remain in effect.

<b>PROVISIONS ENJOINED BASED ON PREEMPTION AND/OR DUE PROCESS GROUNDS</b> <i>Buquer et al. v. City of Indianapolis</i> , 797 F. Supp. 2d 905 (S.D. Ind. 2011)		
<b>Provision</b>	<b>Court's Reasoning</b>	<b>Status of Provision</b>
Section 19 → Authorizes state and local law enforcement officers to make a warrantless arrest of a person when there is a removal order issued for the person by an immigration court, or when the U.S. United States Department of Homeland Security (DHS) has issued a detainer for or a notice of action against the immigrant	<i>This provision is substantially similar to Section 6 of the Arizona immigration law which was struck down by the U.S. Supreme Court.</i> This section of the Indiana statute is unconstitutional in its face, since it authorizes warrantless arrests of persons for matters and conduct that are not crimes. Federal Immigration law creates	Enjoined. Section 19 is preempted by federal law. Additionally, it is <i>unconstitutional</i> under Due Process and Fourth Amendment grounds.

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<sup>2</sup> Examples include: The Violence Against Women Act, the Trafficking Victims Protection Act, The Family Violence Protection and Services Act, The Victims of Crime Act, The Elder Justice Act and The Child Abuse Prevention and Treatment Act

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<p>or when the law enforcement has probable cause to believe the immigrant has been indicted for or convicted of one or more aggravated felonies as defined under immigration law. Ind. Code § 35-33-1-1(1) (2011).</p>	<p>a balance between competing regulatory and policy objectives. In order to maintain balance, federal vests DHS with sole authority to exercise its discretion regarding which persons with unlawful status should be arrested.</p>	
<p>Section 18 → Creates a new civil infraction for any person who knowingly or intentionally offers or accepts a consular identification card as valid form of ID for any purpose. Ind. Code § 34-28-8.2 (2011).</p>	<p>This Indiana state law is similar to the provisions in Alabama's S27 which attempted to deem a contract with undocumented persons illegal. Both the Indiana and Alabama provisions are preempted by federal law. This is a law of general application that has affects foreign relations. It targets identification cards issued by foreign governments and regulates identification cards by restricting not just what Indiana state agencies can accept as valid identification. However, since this section controls the type of identification that may be used and accepted for purely private transactions, it has a direct effect on relations with foreign nations and business transactions with foreign nationals which is a field left exclusively to the federal government and is therefore preempted.</p>	<p>Enjoined.</p>
<p><b>STATE LAW PROVISIONS IMLEMENED</b> <a href="http://www.in.gov/legislative/bills/2011/PDF/IN/IN0590.1.pdf">http://www.in.gov/legislative/bills/2011/PDF/IN/IN0590.1.pdf</a></p>		
<p><b>Provisions</b></p>	<p><b>Advice/Tips:</b></p>	

Section 2 (a)(4) → A person deemed a criminal offender shall, within a reasonable time, be evaluated regarding the citizenship or immigration status of the offender by making a reasonable effort to verify the offender's citizenship or immigration status with DHS under 8 U.S.C. 1373(c). Ind. Code § 5-2-18 (2011).

For Advocates:

- Screen crime victims early to determine eligibility for immigration relief.<sup>3</sup>
- Assist immigrant crime victims in applying for VAWA, T or U visa immigration relief.
- If your client has filed for VAWA, T or U visa relief, tell the victim to memorize her case number, and if safe to do so, carry a copy of a form she received from DHS in connection with her case. The victim should call you if she is stopped so that you can provide law enforcement with a evidence of her immigration case along with a copy of the DHS broadcast<sup>4</sup> that you can use to advocate that your client should not be subject to this provision under Indiana law because DHS has no interest in initiating immigration enforcement actions against crime victims and witnesses.
- Some younger victims who arrived in the U.S. as children should also be

<sup>3</sup> Screening tool for law enforcement and victims services <http://niwaplibrary.wcl.american.edu/reference/additional-materials/iwp-training-powerpoints/february-15-2013-collaborating-with-le/Blue-Card-Screening-for-Eligibility.pdf/view> ; Protection from deportation for immigrant survivors who have filed immigration cases <http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/enforcement-detention-and-criminal-justice/government-documents/message-to-DHS-384-COA-Final-12.21.10.pdf/view>

<sup>4</sup> Id.

Section 2(d) → If the department is unable to verify the citizenship or immigration status of an individual deemed criminal offender, the department shall notify the DHS that the citizenship or immigration status of the offender could not be verified. The department shall provide the DHS with any information regarding the committed criminal offender that:

(1) is requested by the DHS; and

(2) is in the department's possession or the department is able to obtain.

Ind. Code § 5-2-18 (2011).

screened for eligibility for Deferred Action for Childhood Arrivals (DACA) which can provide access to legal work authorization while the victims VAWA, T or U case is pending.<sup>5</sup>

- Train local law enforcement on the importance of predominant perpetrator determinations and avoiding dual arrests. Failure to obtain qualified interpreters can lead to dual arrests or arrests of battered immigrants rather than perpetrators.
- Develop relationships with local law enforcement officials to promote language access for your clients if law enforcement is called to the scene of a domestic violence incident.<sup>6</sup>
- Develop a safety plan with your client that involves fleeing abuse, rather than fighting back in self-defense.
- Collaborate with local law enforcement in the development of U visa certification and T visa declaration practices and policies.<sup>7</sup>
- Advocates working with immigrant crime victims detained under this provision should advocate for the victim's release from detention using the information on the DHS detainer form regarding crime victims<sup>8</sup> and DHS crime victim memo<sup>9</sup>

<sup>5</sup> Deferred Action for Childhood Arrivals (DREAMERS),

<http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/deferred-action-for-childhood-arrivals-dreamers-can-also-help-immigrant-survivors>

<sup>6</sup> Natalie Lee et al., *National Survey of Service Providers on Police Response to Immigrant Crime Victims, U Visa Certification and Language Access* (2013), available at,

<http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/u-visa/research-reports-and-data/Police%20Response%20U%20Visas%20Language%20Access%20Report%20NIWAP%20%204%2016%2013%20FINAL-bja.pdf/view>

<sup>7</sup> *Id.* Giselle Hass et al., *U-Visa Legal Advocacy: Overview of Effective Policies and Practice* (2012), available at,

<http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/u-visa/research-reports-and-data/Practice-and-Policy-Brief.doc/view>

<sup>8</sup> DEP'T OF HOMELAND SEC. Immigration Detainer – Notice of Action, available at,

<http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/enforcement-detention-and-criminal-justice/government-documents/immigration-detainer-form%20Dec%202012.pdf/view>

<sup>9</sup> John Morton, U.S. Immigration and Customs Enforcement, *Prosecutorial Discretion: Certain Victims, Witnesses and Plaintiff Memo* (2011), available at,

<http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/enforcement-detention-and-criminal-justice/government-documents/Morton-CertainVictimsWitnessesandPlaintiffs-Memo-06-17-2011.pdf/view>

SECTION 1 Sec. 17(d) → Requires that the Office of Management and Budget to calculate the total costs of illegal aliens, including incarceration, education, health care, and public assistance, to Indiana and make a written request to Congress to reimburse the state for those costs  
Ind. Code § 4-3-22-17 (2011).

For Advocates:

- Advocates can play a role in educating Indiana's OMB that immigrant victims who have filed VAWA, T, or U visa applications become lawfully present and should not be counted as undocumented immigrants under this Indiana state law.

SECTION 2 Sec. 4. → Prohibits a governmental body from limiting or restricting the enforcement of federal immigration laws to less than the full extent permitted by federal law Ind. Code § 5-2-18.2 (2011).

SECTION 3 Sec. 3. → Requires law enforcement agencies and officers to verify the citizenship or immigration status of a person from federal immigration authorities in certain situations, except if the individual is a witness to or victim of a crime; or reporting a crime Ind. Code § 5-2-20 (2011).

SECTION 21 Sec. 4(b)(9) → Requires a judicial officer in setting bail to consider that the defendant is a foreign national who has not been lawfully admitted to the United States under federal immigration law as relevant to the risk of nonappearance Ind. Code § 35-33-8-4 (2011).

SECTION 2 Sec. 3. → Prohibits governmental bodies from limiting or restricting certain actions by other governmental bodies, including a law enforcement officer, a state or local official, or a state or local government employee, from taking the following actions with regard to information of the citizenship or immigration status, lawful or unlawful, of an individual:

- (1) Communicating or cooperating with federal officials.
- (2) Sending to or receiving information from the U.S. Department of Homeland Security.
- (3) Maintaining information.
- (4) Exchanging information with another federal, state, or local government entity.

Ind. Code § 5-2-18.2 (2011).

<sup>10</sup> Useful tools for screening crime victims for immigration relief can be found at

<http://niwaplibrary.wcl.american.edu/reference/additional-materials/iwp-training-powerpoints/february-15-2013-collaborating-with-le/Blue-Card-Screening-for-Eligibility.pdf/view> and <http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/immigration-status-options-comparison-and-screening-tools/immigration-options-for-victims-of-crime>

<sup>11</sup> <http://niwaplibrary.wcl.american.edu/reference/service-providers-directory>

<sup>12</sup> For an overview of DHS enforcement priorities and victim protection memos go to: <http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/enforcement-tools/DHS%20Enforcement%20Priorities%20Memos.pdf/view> and <http://niwaplibrary.wcl.american.edu/reference/additional-materials/materials-for-adjudicators-and-judges/tools-for-courts-on-immigration-relief-for-immigrant-crime-victims-and-other-immigrants/DHS%20Enforcement%20Priorities%20Information%20for%20State%20Courts%20Judges%207-29-11%20FINAL.pdf/view>

<sup>13</sup> For information on cooperation with DHS in identifying immigrant crime victims see <http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/enforcement-tools/DHS%20Enforcement%20Priorities%20Information%20for%20State%20Courts%20Judges%207-29-11%20FINAL.pdf/view>

<sup>14</sup> Screening tool for law enforcement and victims services <http://niwaplibrary.wcl.american.edu/reference/additional-materials/iwp-training-powerpoints/february-15-2013-collaborating-with-le/Blue-Card-Screening-for-Eligibility.pdf/view> for immigrant survivors who have filed immigration cases <http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/enforcement-detention-and-criminal-justice/government-documents/immigration-detainer-form%20Dec%202012.pdf/view>

For Law Enforcement:

- Learn to screen immigrants for VAWA, T or U visa crime victim immigration relief eligibility using tools developed by DHS or funded by BJA<sup>10</sup> and provide victims information about immigration options that may be eligible for along with referrals to local agencies who can assist them.<sup>11</sup>
- Become knowledgeable about and cooperate with DHS in implementing policies designed to promote safety and prevent immigration enforcement against immigrant crime victims, who are potential witnesses.<sup>12</sup>
- Cooperate with DHS in notifying them when an immigrant detained by local law enforcement is a crime victim or witness so that an immigration detainer will not be issued for that victim<sup>13</sup>

For Advocates:

- Screen crime victims early to determine eligibility for immigration relief.<sup>14</sup>
- Assist immigrant crime victims in applying for VAWA, T or U visa immigration relief.
- File early applications for VAWA, T or U visa immigration protections so the victim will receive earlier access to legal work authorization and a driver's license
- If your client has filed for VAWA, T or U visa relief tell the victim to memorize her case number A. number and if safe to do so carry a copy of a form she received from DHS in connection with her case. The detainer should not be stopped so that you can provide law enforcement with a evidence of her immigration case along with a copy of the DHS detainer. Justice government use to advocate that your client should not be subject to this PROVISION.

Advise clients not to get involved in illegal activities, to stay away from situations in which someone is committing illegal acts, and to offer help to police as a witness.

- Develop a safety plan with your client that involves fleeing abuse



SECTION 8 Sec. 2(a)(4) → A person deemed a criminal offender shall, within a reasonable time, be evaluated regarding the citizenship or immigration status of the offender by making a reasonable effort to verify the offender's citizenship or immigration status with DHS under 8 U.S.C. 1373(c).

Ind. Code § 11-10-1-2 (2011).

SECTION 8 Sec. 2(d) → If the department is unable to verify the citizenship or immigration status of an individual deemed criminal offender, the department shall notify the DHS that the citizenship or immigration status of the offender could not be verified. The department shall provide the DHS with any information regarding the committed criminal offender that:

(1) is requested by the DHS; and

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- Some younger victims who arrived in the U.S. as children should also be screened for eligibility for Deferred Action for Childhood Arrivals (DACA) which can provide access to legal work authorization while the victim's VAWA, T or U case is pending.<sup>18</sup>
- Train local law enforcement on the importance of predominant perpetrator determinations and avoiding dual arrests. Failure to obtain qualified interpreters can lead to dual arrests or arrests of battered immigrants rather than perpetrators.
- Develop relationships with local law enforcement officials to promote language access for your clients if law enforcement is called to the scene of a domestic violence incident.<sup>19</sup>

<sup>15</sup> Id.

<sup>16</sup> Screening tool for law enforcement and victims services <http://niwaplibrary.wcl.american.edu/reference/additional-materials/iwp-training-powerpoints/february-15-2013-collaborating-with-le/Blue-Card-Screening-for-Eligibility.pdf/view> ; Protection from deportation for immigrant survivors who have filed immigration cases <http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/enforcement-detention-and-criminal-justice/government-documents/message-to-DHS-384-COA-Final-12.21.10.pdf/view>

<sup>17</sup> Id.

<sup>18</sup> Deferred Action for Childhood Arrivals (DREAMERS), <http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/deferred-action-for-childhood-arrivals-dreamers-can-also-help-immigrant-survivors>

<sup>19</sup> Natalie Lee et al., *National Survey of Service Providers on Police Response to Immigrant Crime Victims, U Visa Certification and Language Access* (2013), available at,

	<ul style="list-style-type: none"> <li>• Develop a safety plan with your client that involves fleeing abuse, rather than fighting back in self-defense.</li> <li>• Collaborate with local law enforcement in the development of U visa certification and T visa declaration practices and policies.<sup>20</sup></li> <li>• Advocates working with immigrant crime victims detained under this provision should advocate for the victim's release from detention using the information on the DHS detainer form regarding crime victims<sup>21</sup> and DHS crime victim memo.<sup>22</sup></li> </ul>
<p>SECTION 13 Sec. 3(b) → Prohibits a person who is not lawfully in the US from being eligible for or receiving any postsecondary education award or a resident tuition rate Ind. Code § 12-32 (2011).</p>	<p>For Advocates:</p> <ul style="list-style-type: none"> <li>• VAWA victims with prima facie determinations and their children are eligible under federal law for post secondary education grants and loans.<sup>23</sup></li> <li>• Continued presence and T visa victims have access to post secondary education grants and loans.<sup>24</sup></li> <li>• Therefore, it is important to screen and help victims apply early.</li> </ul>
<p>SECTION 13 Sec. 7 → Makes it a Class D felony for someone who knowingly or intentionally makes a false, fictitious, or fraudulent statement or representation in a situation where verification is required Ind. Code § 12-32 (2011).</p>	<p>For Advocates:</p> <ul style="list-style-type: none"> <li>• Inform immigrant crime victims not to buy or use false identification documents which can preclude or complicate access to victim related immigration protections.</li> <li>• Applying early for VAWA related immigration relief will bring earlier</li> </ul>

<http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/u-visa/research-reports-and-data/Police%20Response%20U%20Visas%20Language%20Access%20Report%20NIWAP%20%204%2016%2013%20FINAL-bja.pdf/view>

<sup>20</sup> *Id.* Giselle Hass et al., *U-Visa Legal Advocacy: Overview of Effective Policies and Practice* (2012), available at,

<http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/u-visa/research-reports-and-data/Practice-and-Policy-Brief.doc/view>

<sup>21</sup> DEP'T OF HOMELAND SEC. Immigration Detainer – Notice of Action, available at,

<http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/enforcement-detention-and-criminal-justice/government-documents/immigration-detainer-form%20Dec%202012.pdf/view>

<sup>22</sup> John Morton, U.S. Immigration and Customs Enforcement, *Prosecutorial Discretion: Certain Victims, Witnesses and Plaintiff Memo* (2011), available at,

<http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/enforcement-detention-and-criminal-justice/government-documents/Morton-CertainVictimsWitnessesandPlaintiffs-Memo-06-17-2011.pdf/view>

<sup>23</sup> Daniel T. Madzellan, U.S. Department of Education, Office of Postsecondary Education, *Eligibility for Title IV Aid for "Battered Immigrants-Qualified Aliens" as provided for in the Violence Against Women Act* (2010), available at:

<http://niwaplibrary.wcl.american.edu/reference/additional-materials/public-benefits/education-financial-aid/DOE--VAWA-Self-petitioners-Grants-and-Loans-2010.pdf/view>

<sup>24</sup> Thersa S. Shaw and James Manning, U.S. Department of Education, Federal Student Aid, Office of Postsecondary Education, *Eligibility for Title IV Program Assistance for Victims of Human Trafficking* (2006) available at: <http://ifap.ed.gov/dpclatters/GEN0609.html>



	<p>access to work authorization and documentation of deferred action or legal immigration status. Immigrant crime victims gain access to legal work authorization and legal identification documents through VAWA, T or U visa immigration relief.</p>
<p>SECTION 14 Sec. 9(c) → Requires the department of workforce development to verify the status of a person as a qualified alien through the Systematic Alien Verification for Entitlements program to determine the individual's eligibility for unemployment compensation benefits Ind. Code § 22-4-14-9 (2011).</p> <p>SECTION 15 Sec. 3 → Allows the department to file a civil action in the county in order to get reimbursement for unemployment insurance benefits from an employer that has knowingly hired an unauthorized alien Ind. Code § 22-4-39.5 (2011).</p>	<p>For Advocates:</p> <ul style="list-style-type: none"> <li>• Immigrant crime victims gain access to legal work authorization and legal identification documents through VAWA, T or U visa immigration relief. Applying early will bring earlier access to lawful work authorization which can take up to a year or 18 months following application.</li> <li>• Some younger victims who arrived in the U.S. as children should also be screened for eligibility for Deferred Action for Childhood Arrivals (DACA) which can provide access to legal work authorization while the victims VAWA, T or U case is pending.<sup>25</sup></li> </ul>
<p>SECTION 16 Sec. 10(a) → Requires state agencies, political subdivisions, contractors with public contracts for services with a state or political subdivision, and certain business entities to use E-Verify and meet other requirements Ind. Code § 22-5-1.7 (2011).</p> <p>SECTION 16 Sec. 13(a) → Allows a state agency or political subdivision to terminate a public contract for services with a contractor for breach of the public contract for services if the contractor knowingly employs an unauthorized alien Ind. Code § 22-5-1.7 (2011).</p> <p>SECTION 17 Sec. 3 → Prohibits individuals who is at least 18 years old from commencing day labor without completing an attestation required under federal law Ind. Code § 22-5-6 (2011).</p>	<p>For Advocates:</p> <ul style="list-style-type: none"> <li>• This provision of Indiana law will make it more difficult for immigrant victims to survive economically apart from their abusive partners or employers.</li> <li>• Screen victims for eligibility for VAWA, T or U visa relief and help them file applications as early as possible. Once the victim's VAWA, T or U visa case has been approved they will receive legal work authorization.</li> <li>• Immigrant crime victims gain access to legal work authorization and legal identification documents through VAWA, T or U visa immigration relief. Applying early will bring earlier access to lawful work authorization which can take up to a year or 18 months following application.</li> <li>• Some younger victims who arrived in the U.S. as children should also be screened for eligibility for Deferred Action for Childhood Arrivals (DACA) which can provide access to legal work</li> </ul>

<sup>25</sup> Deferred Action for Childhood Arrivals (DREAMERS), <http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/deferred-action-for-childhood-arrivals-dreamers-can-also-help-immigrant-survivors>

	<p>authorization while the victims VAWA, T or U case is pending.<sup>26</sup></p>
<p>SECTION 24 Sec. 3(a), 4(a) → Makes it a Class A misdemeanor for a person who knowingly or intentionally transports or moves an alien; or conceals, harbors, or shields from detection an alien. If it involves more than nine aliens, then it is a Class D felony Ind. Code § 35-44-5 (2011).</p>	<p>For Advocates:</p> <ul style="list-style-type: none"> <li>• Screen immigrant crime victim clients early for eligibility for VAWA, T or U visa relief.</li> <li>• Applying early for relief will bring earlier access to these important documents. Immigrant crime victims gain access to legal work authorization and legal identification documents through VAWA, T or U visa immigration relief.</li> <li>• Inform immigrant crime victims not to buy or use false identification documents which can preclude or complicate access to immigration protections.</li> </ul>
<p>SECTION 24 Sec. 7 → Requires law enforcement officers to impound motor vehicles that was used to transport, conceal, harbor, or shield from detection an unauthorized alien Ind. Code § 35-44-5 (2011).</p>	<p>To Law Enforcement:</p> <ul style="list-style-type: none"> <li>• Law enforcement officials charged with implementing this provision should be trained on VAWA, T and U visa immigration protections and the priorities DHS has set out for identifying immigrant crime victims and referring them to services who can assist them in filing for VAWA, T or U visa relief.</li> <li>• Train state and local law enforcement on victim protections under immigration law using DHS roll call videos and other DHS and DOJ funded training materials<sup>27</sup></li> <li>• By becoming familiar with DHS policies and procedures regarding crime victims.<sup>28</sup></li> <li>• Implementing U visa certification and T visa declarations<sup>29</sup> policies can help ensure that this provision of Arizona law</li> </ul>

<sup>26</sup> Deferred Action for Childhood Arrivals (DREAMERS), <http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/deferred-action-for-childhood-arrivals-dreamers-can-also-help-immigrant-survivors>

<sup>27</sup> DHS roll call videos are available at [http://niwaplibrary.wcl.american.edu/reference/additional-materials/iwp-training-powerpoints/building-capacity/copy\\_of\\_dhs-roll-call-videos](http://niwaplibrary.wcl.american.edu/reference/additional-materials/iwp-training-powerpoints/building-capacity/copy_of_dhs-roll-call-videos) ; DHS and DOJ produced and funded U and T visa training materials are available at <http://niwaplibrary.wcl.american.edu/reference/additional-materials/iwp-training-powerpoints/building-capacity>

<sup>28</sup> John Morton, *Prosecutorial Discretion in Immigration Enforcement* (June 17, 2011), <http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/enforcement-detention-and-criminal-justice/government-documents/Morton-CertainVictimsWitnessesandPlaintiffs-Memo-06-17-2011.pdf/view>

<sup>29</sup> DEP'T OF HOMELAND SEC. U Visa Law Enforcement Certification Enforcement Guide (2012), available at, [http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/u-visa/government-memoranda-and-factsheets/dhs\\_u visa certification\\_guide.pdf/view](http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/u-visa/government-memoranda-and-factsheets/dhs_u visa certification_guide.pdf/view) and [http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/u-visa/government-memoranda-and-factsheets/TU\\_OAforLawEnforcement.pdf/view](http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/u-visa/government-memoranda-and-factsheets/TU_OAforLawEnforcement.pdf/view)

	<p>is implemented in a manner that does not impede law enforcement agencies' ability to prosecute crime perpetrators and the ability of immigrant crime victims to access justice system help, health care and victim assistance.</p> <ul style="list-style-type: none"> <li>• To recognize immigrant victims of domestic violence, sexual assault, human trafficking. Make sure that they are not immigrant victims of a crime who either qualify or have submitted a petition for a U, T, or VAWA. This would save resources and protect victims of crimes according to John Morton's prosecutorial discretion memo.<sup>30</sup></li> </ul>
<p>SECTION 25 → Urges the legislative council to form a committee to study the enforcement of immigration laws by state and local law enforcement and the feasibility of entering into a memorandum of agreement with DHS for the enforcement of immigration laws</p>	<p>For Advocates:</p> <ul style="list-style-type: none"> <li>• Train local law enforcement on the importance of predominant perpetrator determinations and avoiding dual arrests. Failure to obtain qualified interpreters can lead to dual arrests or arrests of battered immigrants rather than perpetrators.</li> <li>• Develop relationships with local law enforcement officials to promote language access for your clients if law enforcement is called to the scene of a domestic violence incident<sup>31</sup></li> <li>• Develop a safety plan with your client that involves fleeing abuse, rather than fighting back in self-defense</li> <li>• Collaborate with local law enforcement in the development of U visa certification and T visa declaration practices and policies<sup>32</sup></li> </ul>

<sup>30</sup> John Morton, *Prosecutorial Discretion in Immigration Enforcement* (June 17, 2011), <http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/enforcement-detention-and-criminal-justice/government-documents/Morton-CertainVictimsWitnessesandPlaintiffs-Memo-06-17-2011.pdf/view>

<sup>31</sup> Natalie Lee et al., *National Survey of Service Providers on Police Response to Immigrant Crime Victims, U Visa Certification and Language Access* (2013), available at, <http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/u-visa/research-reports-and-data/Police%20Response%20U%20Visas%20Language%20Access%20Report%20NIWAP%20%204%2016%2013%20FINAL-bja.pdf/view>

<sup>32</sup> Giselle Hass et al., *U-Visa Legal Advocacy: Overview of Effective Policies and Practice* (2012), available at, <http://niwaplibrary.wcl.american.edu/reference/additional-materials/immigration/u-visa/research-reports-and-data/Practice-and-Policy-Brief.doc/view>