

NEW MEXICO IMMIGRATION LAWYER BLOG

PUBLISHED BY
COLLINS & COLLINS, P.C.
ATTORNEYS AT LAW

December 18, 2009

Protection of Immigrant Victims of Domestic Violence in New Mexico: An Option that Does Not Result In Removal/Deportation of the Abuser

Domestic violence in the immigrant population presents very serious problems. Many organizations assisting immigrants and immigrant detainees find that a high percentage of the women and children served are victims of domestic violence. This is true in New Mexico as it is in other states across the nation.

Domestic violence presents problems for immigrants that are not found in the typical domestic violence case. Most domestic violence protections, whether in the criminal courts or family court domestic violence divisions, are geared toward protecting the victim. In criminal courts, the necessary means for this is criminal prosecution. In the family law courts, the mechanism is an Order of Protection from Domestic Violence. In either the criminal or family law courts, a finding of domestic violence can result in removal proceedings and deportation of the domestic violence abuser.

Thus, the victim is presented with what may appear to be a Catch 22 situation where she must choose between enduring abuse and removal/deportation of the abuser that often leads to certain financial disaster. This need not be the case.

In the New Mexico family court domestic violence divisions, there is an alternative to a finding of domestic violence. An Order of Protection may be issued without such a finding through a Stipulated Order of Protection from Domestic Violence with no finding of domestic violence. This Stipulated Order of Protection from Domestic Violence affords the victim the same level of protection as an Order issued upon a hearing and finding of domestic violence. All the same protections and prohibitions against contact with the victim and the children, if appropriate, will apply. Violations of the Order will result in an immediate arrest warrant of the abuser/respondent.

There is no need to place an immigrant victim of domestic violence and her children in a situation where they must choose between physical and emotional safety, and financial ruin. Unfortunately, many immigrant victims of domestic violence are not aware of this option and either tragically accept emotional and physical abuse of them and their children, or once it becomes unbearable, go blindly through the legal proceedings that will ultimately result in financial ruin for them and their children.

Sometimes the abuse may be so extreme that there is no other option but criminal prosecution for domestic violence. However, if the case is in a family law court domestic violence division, then it generally has not reached this level. In these cases, it is almost inexcusable for an attorney to encourage a victim to seek a finding of domestic violence. It is quite certainly a case of legal malpractice for failing to explain the options to the victim prior to such a hearing, a subsequent finding of domestic violence and the eventual deportation of what is often the sole provider of the family.

Main Office:
400 Gold Ave. SW
Suite 500
Albuquerque, NM 87102
(505) 242-5958

<http://www.newmexicoimmigrationlawyerblog.com/>