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13 Attorneys for *Amicus Curiae* LEGAL MOMENTUM

14 **IN THE UNITED STATES DISTRICT COURT**
15 **FOR THE DISTRICT OF ARIZONA**

16 **FRIENDLY HOUSE *et al.*,**) **No. CV-10-01061-PHX-SRB**
17 **Plaintiffs,**) **AMICUS CURIAE BRIEF OF**
18 **vs.**) **LEGAL MOMENTUM IN**
19 **MICHAEL B. WHITING *et al.*,**) **SUPPORT OF PLAINTIFFS’**
20 **Defendants.**) **MOTION FOR PRELIMINARY**
21) **INJUNCTION [REVISED IN**
22) **ACCORDANCE WITH ORDER**
23) **DATED JULY 1, 2010]**

24 **(Hon. Susan R. Bolton)**

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1 **I. INTRODUCTION**

2 Congress and the Department of Homeland Security (DHS) have repeatedly
3 acknowledged the vulnerabilities of immigrant women and the barriers to assistance for
4 immigrant victims of domestic violence, trafficking, and sexual assault. Women who do
5 not have a stable immigration status are far more likely to be exploited in the workplace,
6 at home, and in accessing services and legal rights.

7 The federal government protects rights as “an essential step in forging a national
8 consensus that our society will not tolerate violence against women.”¹ These laws
9 establish special immigration protections to encourage immigrant women to report and
10 participate in investigating and prosecuting crimes without fear of arrest and removal.²
11 DHS policies also prevent detention of immigrant mothers and caretakers of children.³
12 Federal law guarantees that all persons, regardless of immigration status, may access
13 services necessary to protect life and safety, including shelter, emergency medical
14 services, victim assistance, and soup kitchens.⁴

15 Arizona SB 1070 changes that. It will cause irreparable harm to immigrant
16 women (nearly half of Arizona’s immigrant population) and their children.⁵ Whereas
17 Arizona law enforcement previously helped ensure that immigrant women were not
18 penalized for reporting crimes, SB 1070 requires law enforcement officers involved in
19 any stop or investigation to detain and question upon “reasonable suspicion” that a person
20 allegedly engaged in criminal activity may be undocumented. SB 1070 also makes it
21 unlawful to harbor undocumented immigrants. Many commonplace activities could
22

23 ¹ Senate Judiciary Committee Report accompanying S.B. 103-138 at 41-42.

24 ² Victims of Trafficking and Violence Protection Act of 2000, P.L. No. 106-386 (2000)
25 (“VAWA 2000”) §§ 1501-13. The protections are not limited to women but women are at
26 far greater risk than men of domestic and sexual violence and exploitation.

27 ³ DHS, Mem. re “Prosecutorial and Custody Discretion” (Nov. 7, 2007); DOJ, Mem. re
28 “Exercising Prosecutorial Discretion” (Nov. 17, 2000).

⁴ Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub.
L. No. 104-208, 110 Stat. 3009 (1996); Personal Responsibility and Work Opportunity
Reconciliation Act (“PRWORA”), 8 U.S.C §§ 1611(b)(1)(D), 1621(b)(4); A.G. Order No.
2353-2001, 66 Fed. Reg. 3613 (Jan. 16, 2001).

⁵ Migration Policy Institute, MPI Data Hub, Arizona Fact Sheet (2008), *available at*
<http://www.migrationinformation.org/databub/state.cfm?ID-AZ>.

1 support criminal detention under SB 1070, such as traffic infractions, jaywalking, or even
2 being in the wrong place when law enforcement investigates suspected harboring.

3 Given law enforcement’s wide and subjective discretion to stop and detain, these
4 laws will cause immigrants to refrain from seeking federally established protections and
5 be irreparably harmed. Since passage of the bill and before the law goes into effect,
6 federally funded battered women’s shelters have seen the number of immigrants
7 accessing these essential services plummet because victims fear detention and permanent
8 separation from children if they seek help. Arizona police could be stationed outside a
9 shelter precisely because immigrant women are likely to use federally guaranteed life-
10 saving services. Immigrant women face these fears when taking their children to child
11 care or religious ceremonies, going to work, and seeking health and other services. This
12 law puts immigrant women in fear of detention anytime they leave their homes.

13 SB 1070 creates a sub-class of women and children in perpetual fear, trapped in
14 violent relationships or work environments. It creates an environment in which women
15 who police think “look like immigrants” are never sure whether they may be required to
16 produce papers on demand, and in which immigrant women who are crime victims or in
17 need of food, shelter, or essential medical services will fear seeking redress that
18 Congress set up specifically for their protection. SB 1070 directly conflicts with federal
19 laws and interests, it will cause irreparable harm, and it should be stricken.

20 **II. SB 1070 INTERFERES WITH FEDERAL PROTECTIONS FOR**
21 **IMMIGRANT WOMEN WHO ARE VICTIMS OF CRIME**

22 **A. Immigrant Women Are Uniquely Susceptible to Crime and Abuse.**

23 For reasons related to family, employment, and human trafficking, immigrant
24 women are particularly likely to suffer abuse, violence, and other crimes. Abusers, who
25 often are citizens or lawful permanent residents and control their wives’ and children’s
26 immigration status, use threats of deportation and separation of mothers from children to
27 keep them from seeking help or calling the police.⁶ When a woman seeks legal

28 ⁶ See, e.g., Ammar, N. *et al.*, “Calls to Police and Police Response: A Case Study From the
Latina Immigrant Women,” 7 U.S. J. OF INT’L POLICE SCI. & MGM’T 230, 239 (2005);

1 immigration status based upon a family relationship (as most do), she may languish for
2 years in a long queue for a visa.⁷ If she needs to work, she must do so without status,
3 making her vulnerable to exploitation by unscrupulous employers.

4 Many battered immigrant women report increased abuse after immigrating to the
5 U.S.⁸ 65% report that their spouses threatened deportation and not filing or withdrawing
6 immigration papers as a control tactic.⁹

7 Immigration status significantly affects immigrant women's willingness to seek
8 law enforcement help. Women with permanent immigration status are more than twice as
9 likely as women with temporary immigration status to call police for help in domestic
10 violence cases, and the rate is even lower if the immigrant is undocumented.¹⁰ These
11 reporting rates are much lower than rates for battered women generally in the U.S.¹¹

12 Immigrant women also are specially affected by workplace abuse. They make up
13 most of the workforce in the informal employment sector, as childcare, domestic, farm
14 and factory workers. Because undocumented women may have no other options,
15 employers have a perverse incentive to employ them, and they may be more freely
16 subjected to exploitive or dangerous working conditions. Employers take advantage of
17 such women's lack of immigration status and language proficiency by subjecting them to
18 low wages and unsafe working conditions. Sexual harassment at work is reported by
19 77% of Latina immigrants.¹² Employers threaten reporting to immigration authorities to
20 coerce sexual favors or to discourage reporting of abuse and labor law violations.¹³

22 Jefferys, K., "Characteristics of Family-Sponsored Legal Permanent Residents: 2004,"
23 Office of Immigration Statistics, DHS, Table 1 (Oct. 2005).

24 ⁷ See http://www.travel.state.gov/visa/bulletin/bulletin_4879.html.

25 ⁸ Hogeland, C. & Rosen, K., "Dreams Lost, Dreams Found: Undocumented Women in
26 the Land of Opportunity," Coalition for Immigrant & Refugee Rts. & Servs. (1990).

27 ⁹ *Id.*

28 ¹⁰ Ammar, N. *et al.*, *supra* n.6, at 236.

¹¹ Coulter, M.L. *et al.*, "Police-Reporting Behavior and Victim-Police Interactions as
Described by Women in a Domestic Violence Shelter," 14 J. INTERPERSONAL VIOLENCE
1290, 1293 (Dec. 1999).

¹² "Under Siege: Life for Low Income Latinos in the South" at 28 (Southern Poverty Law
Center, April 2009).

¹³ *Id.*

1 In addition, human trafficking results in 14,500-17,500 women, children, and men
2 trafficked into the U.S. every year, mostly women and girls.¹⁴ Traffickers use force,
3 fraud, or coercion to compel work and often to subject workers to sexual violence.¹⁵
4 Traffickers tell their victims that calling the police or anyone else will result in the
5 victim's deportation.¹⁶

6 **B. Congress Enacted Immigration Protections for Immigrant Victims.**

7 Congress has specifically acted to protect the rights and well-being of immigrant
8 victims.¹⁷ The Violence Against Women Act of 1994 ("VAWA") is the centerpiece of
9 these protections.¹⁸ VAWA encourages immigrant women to report crimes and abuse
10 regardless of immigration status – a strong message that life, health, and safety come
11 first:

12 Domestic battery problems can become terribly exacerbated in marriages
13 where one spouse is not a citizen, and the non-citizen[']s legal status
14 depends on his or her marriage to the abuser. . . . [A] battered spouse may be
15 deterred from taking action to protect himself or herself, such as filing for a
16 civil protection order, filing criminal charges, or calling the police, because
17 of the threat or fear of deportation.¹⁹

18 VAWA 2000 broadened protection by creating two visas for crime victims who
19 cooperate with law enforcement: the "T Visa" for human trafficking victims and the "U
20 Visa" for victims of domestic violence, sexual assault, and other crimes.²⁰ The T and U
21 Visa programs require coordination with local law enforcement and endorsement of the

22 ¹⁴ U.S. Dep't of State, Trafficking in Persons Report at 15, 23 (2004), *available at*
23 <http://www.state.gov/documents/organization/34158.pdf>.

24 ¹⁵ *Id.* at 6, 15.

25 ¹⁶ *Id.* at 12.

26 ¹⁷ Other protections are in the Immigration Act of 1990 § 701, Pub. L. No. 101-649, 104
27 Stat. 6478 (1990); Trafficking Victims Reauthorization Act of 2003, Pub. L. 108-193, 117
28 Stat. 2875 (2003); Trafficking Victims Reauthorization Act of 2005, Pub. L. 109-164, §§
101, 201, 119 Stat. 3558, 3560, 3567 (2005); and William Wilberforce Trafficking
Victims Protection Act, Pub. L. 110-457 (2008).

¹⁸ Violent Crime Control and Law Enforcement Act of 1994, H.R. 3355 (1994).

¹⁹ House Judiciary Committee Report accompanying H.R. Rep. No. 103-395 at 26.

²⁰ VAWA 2000 §§ 1501-13; VAWA 2000 § 1513(a)(1)(B); Immigration and Nationality
Act §§ 101(a)(15)(T), 101(a)(15)(U), 214(o), 214(p), 245(l), 245(m); 67 Fed. Reg. 4784
(Jan. 31, 2002); 72 Fed. Reg. 53014 (Sept. 17, 2007); 73 Fed. Reg. 75540 (Dec. 1, 2008).
In 2005, VAWA was amended again, to further increase protections and ease restrictions
for battered immigrant women and their children. Violence Against Women and
Department of Justice Reauthorization Act of 2005, P.L. 109-162 (2006), §§ 801-34.

1 victims' cooperation in investigations and prosecutions.²¹ The Department of Justice
2 (DOJ) funds anti-trafficking task forces across the country (including in Phoenix) that
3 encourage service providers, law enforcement, and prosecutors to coordinate, because
4 trafficking cannot be prosecuted unless victims have access to services and protection
5 from deportation.²² Congress underscored its intent to protect immigrants in the 1996
6 IIRAIRA, adding battered immigrant women and children to the categories of immigrants
7 qualified to receive welfare benefits that prior legislation took away, recognizing that
8 economic survival is a significant reason victims remain with abusers.²³

9 Congress authorizes organizations funded by the Legal Services Corporation to
10 represent immigrant victims of domestic violence, sexual assault, trafficking, or other
11 crimes in matters related to the victimization, even if immigration status otherwise
12 precludes representation.²⁴ The Federal Victims of Crime Act provided grants to states
13 with eligible victim compensation programs – including Arizona, which places no
14 restrictions on crime victim assistance eligibility due to immigration status.²⁵ SB 1070
15 severely impairs relationships between law enforcement and immigrant crime victims
16 that Congress sought to strengthen.

17 C. SB 1070 Undermines Immigrant Crime Victim Protections.

18 SB 1070 will irreparably harm immigrant women's ability to flee ongoing family
19 and workplace violence. Because women will be afraid to report crimes and abuse,
20 crimes and abuse will continue, and women and children will live in danger and fear

21 ²¹ VAWA 2000 §§ 1501-13.

22 ²² Bureau of Justice Assistance Anti-Human Trafficking Task Force Initiative, *available at*
<http://www.ojp.usdoj.gov/BJA/grant/httf.html>;
<http://www.ojp.usdoj.gov/BJA/grant/40HTTF.pdf>.

23 ²³ Pub. L. No. 104-208, 110 Stat. 3009 (1996). PRWORA had cut off access to public
benefits for many immigrant non-citizens.

24 ²⁴ Legal Services Corporation Appropriations Act of 1997, Pub. L. No. 104-208 § 504
(a)(11), 110 Stat. 3009 (1997). VAWA 2005 expanded these protections. *See* Legal
Services Corporation Program Letter 06-02 (Feb. 21, 2006); 45 C.F.R. § 1626.4; 22
U.S.C. § 7105; VAWA 2005 § 104.

25 ²⁵ 42 U.S.C. § 10602; Ariz. Rev. Stat. § 41-2407. Numerous federal benefits are available
without regard to immigration status.
26 [http://www.govbenefits.gov/govbenefits_en.portal?_nfpb=true&gb_en_](http://www.govbenefits.gov/govbenefits_en.portal?_nfpb=true&gb_en_questionnaire_actionOverride=%2FQuestionnairePageFlow%2FValidateAnswersMoreQuestions&_windowLabel=gb_en_questionnaire&_pageLabel=gbcc_page_questionnaire)
27 [questionnaire_actionOverride=%2FQuestionnairePageFlow%2FValidateAnswersMoreQu](http://www.govbenefits.gov/govbenefits_en.portal?_nfpb=true&gb_en_questionnaire_actionOverride=%2FQuestionnairePageFlow%2FValidateAnswersMoreQuestions&_windowLabel=gb_en_questionnaire&_pageLabel=gbcc_page_questionnaire)
28 [estions&_windowLabel=gb_en_questionnaire&_pageLabel=gbcc_page_questionnaire.](http://www.govbenefits.gov/govbenefits_en.portal?_nfpb=true&gb_en_questionnaire_actionOverride=%2FQuestionnairePageFlow%2FValidateAnswersMoreQuestions&_windowLabel=gb_en_questionnaire&_pageLabel=gbcc_page_questionnaire)

1 while the perpetrator escapes punishment. Under SB 1070, an immigrant crime victim
2 will be afraid to reach out to law enforcement or federally guaranteed social services in
3 Arizona, for fear of detention, separation from her children, and removal. A T or U Visa-
4 eligible victim will not seek help from law enforcement to cooperate in investigating or
5 prosecuting crimes committed in Arizona. This harm cannot be undone.

6 In contrast to SB 1070, federal guidelines are clear that not every immigrant who
7 may be undocumented should be subject to immigration enforcement. Federal
8 immigration officials may not rely upon information provided by abusers or traffickers to
9 pursue enforcement actions against undocumented immigrant crime victims,²⁶ and are
10 strongly cautioned against arresting immigrants at “sensitive locations,” such as rape
11 crisis centers or domestic abuse shelters, because immigrants there likely qualify for
12 victim-based immigration benefits.²⁷ Nursing mothers and others with health conditions
13 should not be detained.²⁸ DOJ and DHS use factors to exercise prosecutorial discretion
14 not to initiate immigration enforcement, including humanitarian concerns, eligibility for
15 immigration relief, and cooperation with law enforcement.²⁹

16 Another consequence of SB 1070 is that many immigrants lawfully in the U.S.
17 will be subject to detention when Arizona law enforcement personnel are unfamiliar with
18 a given immigration status or documentation. Complex federal immigration law,
19 multiple types of legal immigration status, and the range of federally acceptable evidence
20 of status make it virtually impossible for Arizona law enforcement to implement SB 1070
21 in an informed manner consistent with federal law. For example, the Attorney General
22 has issued guidance of nine pages, in small font, of the various documentation acceptable
23 to establish citizenship, lawful permanent residency, and other qualified status.³⁰

24 ²⁶ 8 U.S.C. § 1367(a), (b); *see also* “Department of Justice Appropriations Authorization
25 Act, Fiscal Years 2006 through 2009: Report of the Committee on the Judiciary, House of
26 Representatives, to accompany H.R. 3402,” H.R. Rep. No. 109-233, at 122 (2005); 151
27 Cong. Rec. E2606-07 (2005) (statement of Rep. Conyers).

28 ²⁷ Immigration & Nationality Act, 8 U.S.C. 1229(e); DHS, Mem. re “Interim Guidance
29 Relating to Officer Procedure Following Enactment of VAWA 2005” at 5 (Jan. 22, 2007).

²⁸ Nov. 7, 2007 Mem., *supra* n.3.

²⁹ *See* Nov. 17, 2000 Mem., *supra* n.3, at 7-8; Jan. 22, 2007 Mem., *supra* n.27.

³⁰ 62 Fed. Reg. 61344, 61363-371.

1 SB 1070 will lead to detention and potential removal of immigrant women in the
2 process of obtaining legal immigration status under VAWA and the Trafficking Victims
3 Protection Act (which may involve months or even years of processing³¹), because they
4 receive documentation in the form of “*prima facie* determinations” or “deferred action
5 status,” but do not receive an ID card or formal order. Federal policies advise that stays
6 of removal be granted for persons with pending U Visa applications who demonstrate
7 *prima facie* eligibility, including consideration of “humanitarian factors.”³² Moreover,
8 due to VAWA’s confidentiality provisions, even federal immigration authorities may be
9 unaware of an immigrant’s pending application for relief unless the Victims and
10 Trafficking Unit of the Vermont Service Center – the centralized processing unit in
11 which VAWA, T Visa and U Visa petitions are processed – is specifically contacted.³³

12 **III. SB 1070 CUTS IMMIGRANT WOMEN OFF FROM FEDERAL BENEFITS**

13 Congress has also ensured that federally funded benefits necessary to life and
14 safety are available to *all persons who need them* – regardless of immigration status.
15 PRWORA cut off most federally funded benefits for immigrants, but Congress reserved
16 the Attorney General’s right to designate that certain services necessary to protect life
17 and safety to be open to all without regard to immigration status, and she did so.³⁴

18 Nearly half of Arizona’s immigrant population are women, and substantial
19 numbers report that they head their households and are primarily responsible for their
20 children’s health care and schooling.³⁵ Because anti-immigrant policies create a climate

21 ³¹ Gorman, A., “U-visa program for crime victims falters,” L.A. Times (Jan. 26, 2009).

22 ³² U.S. Immigration and Customs Enforcement, Memorandum re “Guidance: Adjudicating
23 Stay Requests Filed by U Nonimmigrant Status (U-visa) Applicants (Sept. 24, 2009),
24 *available at* [http://www.ice.gov/doclib/foia/dro_policy_memos/11005_1-hd-
25 stay_requests_files_by_u_vis_a_applicants.pdf](http://www.ice.gov/doclib/foia/dro_policy_memos/11005_1-hd-stay_requests_files_by_u_vis_a_applicants.pdf).

26 ³³ *See* Jan. 22, 2007 Mem., *supra* n.27; DOJ Mem., “Revocation of VAWA-Based Self-
27 Petitions” (Aug. 5, 2002); DHS Mem., “Centralization of Interim Relief for U
28 Nonimmigrant Status Applicants” (Oct. 8, 2003); DOJ, Mem. re “Supp. Guid. on Battered
Alien Self-Petitioning Process & Rel. Issues” (May 6, 1997); House Rpt., *supra* n.26.

³⁴ A.G. Order 2353-2001, *supra* n.4, Preamble.

³⁵ Migration Policy Institute, MPI Data Hub, Arizona Fact Sheet (2008), *available at*
<http://www.migrationinformation.org/databub/state.cfm?ID-AZ>; Women Immigrants:
Stewards of the 21st Century Family at 26 (New Am. Media Feb. 2009); “Women, Work,
and Family Health: A Balancing Act,” Issue Brief: An Update on Women’s Health Policy,
The Henry J. Kaiser Family Fdtn. (April 2003), *available at*

1 of fear,³⁶ SB 1070 will significantly harm immigrant women by impeding access to
2 federally guaranteed benefits such as emergency Medicaid,³⁷ federally qualified
3 community health clinics, emergency shelters,³⁸ soup kitchens, treatment for mental
4 illness, and crisis intervention.³⁹ Federally funded clinics offer pre-natal and child health
5 care, as well as care for uniquely female illnesses such as cervical cancer, which is
6 prevalent among Latina women.⁴⁰ Impeding access to pre-natal care leads to more low
7 birthweight births and more serious disabilities.⁴¹ Federal money also supports critical
8 post-assault services. SB 1070 will deter immigrant women and their children from
9 obtaining critical life-saving assistance, undermining Congress's intent to maintain
10 healthy, safe communities. Every woman who needs such services and does not seek
11 them for herself or her child will be irreparably harmed.

12 **IV. SB 1070 WILL SEPARATE MOTHERS AND CHILDREN.**

13 SB 1070 exacerbates the likelihood that children will be separated from their
14 immigrant parents. Sole and primary caretaker immigrant mothers will be deterred from
15 undertaking day-to-day activities crucial to their children's healthy development.

16
17
18 <http://www.kff.org/womenshealth/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=14293>.

19 ³⁶ Bauer, T. *et al.*, "Challenges Obtaining Well-Baby Care Among Latina Mothers in New
20 York & California" at 3, N.Y. Forum for Child Health *et al.* (Oct. 2003), available at
21 <http://www.nyam.org/initiatives/docs/NYCHChallenges2.pdf>.

22 ³⁷ Arizona provides emergency Medicaid (including coverage for childbirth) to
23 undocumented immigrants who meet the other eligibility requirements. Ariz. Rev. Stat. §
24 36-2903.03; 42 U.S.C. § 1395dd.

25 ³⁸ Ltr. from Sec'y, U.S. Dep't HUD to HUD Funds Recipient (Jan. 19, 2001), available at
26 <http://www.legalmomentum.org/site/DocServer/appendixb-2.pdf?docID=222>.

27 ³⁹ A.G. Order No. 2353-2001, *supra* n.4.

28 ⁴⁰ A.G. Order No. 2353-2001, *supra* n.4, § 3(e); Center for Disease Control, U.S.
Preventive Services Task Force, Screening for Cervical Cancer, AHRQ Pub. No. 03-515A
January 2003 at 1; American Cancer Society, Cancer Facts and Figures for
Hispanics/Latinos 2003-2005, Table 1 at 1 (2003).

⁴¹ See Arizona Health Status and Vital Statistics, Distribution of Low-Birthweight (LBW)
Births and LBW Risk by Number of Prenatal Visits and County Of Residence, Arizona,
2008, available at <http://www.azdhs.gov/plan/report/ahs/ahs2008/pdf/5b21.pdf>; The
Future of Children, Low Birth Weight and Infant Mortality and Later Morbidity Vol. 5
No. 1 Low Birth Weight (Spring 1995), available at
<http://futureofchildren.org/futureofchildren/publications/journals/article/index.xml?journalid=60&articleid=370§ionid=2479>.

1 Immigrant children will be harmed if every time an immigrant mother leaves her home,
2 she risks arrest, detention, and separation from her children.

3 In Arizona, 84.5% of children with at least one immigrant parent are U.S.
4 citizens.⁴² The increase in local police involvement in immigration enforcement that SB
5 1070 mandates will cause far more parental separations than do federal immigration
6 enforcement actions.⁴³ Forced separations, whatever the duration, will irreparably harm
7 children and violate immigrant mothers' constitutional rights to care for children and
8 make decisions about children's health, welfare, and development. Detention of an
9 abused mother often results in children being turned over to the abusive spouse.⁴⁴

10 The damage to the mother-child relationship and to children led federal
11 immigration authorities to implement "humanitarian guidelines" that attempt to promptly
12 identify sole caregivers of children, to coordinate with social services agencies, and to
13 consider alternatives to detention of immigrant parents, usually mothers.⁴⁵ DHS instructs
14 that nursing mothers not be detained.⁴⁶ Federal policies encourage prosecutorial
15 discretion to not initiate immigration enforcement against persons who ultimately will
16 obtain lawful status.⁴⁷ SB 1070 contains no such protections or considerations.

17 Detained mothers face many barriers to reuniting with their children. Some state
18 child welfare agencies actively impede immigrants' access to children and ability to
19 participate in parental rights proceedings. *See* Nebraska Supreme Court decision in *In re*
20 *Angelica L.*, 767 N.W. 2d 74 (Neb. 2009). Systemic barriers in family court proceedings

21 _____
22 ⁴² Passel, J.S. & Cohn, D., A Portrait of Undocumented Immigrants in the United States ii
23 (Pew Hispanic Ctr. Apr. 14, 2009), available at
24 <http://pewhispanic.org/files/reports/107.pdf>; Migration Policy Institute, MPI Data Hub,
25 Arizona Fact Sheet (2008), available at
26 <http://www.migrationinformation.org/databub/state.cfm?ID-AZ>.

27 ⁴³ Chaudry, A. *et al.*, Facing our Future, Children in the Aftermath of Immigration
28 Enforcement, The Urban Institute at 26 (February 2010).

29 ⁴⁴ Unseen Prisoners: A Report on Women in Immigration Detention Facilities in Arizona
30 (U. Ariz. Jan. 2009) at 44, available at <http://sirow.arizona.edu/files/UnseenPrisoners.pdf>.

31 ⁴⁵ *See* Cervantes, W. & Lincroft Y., MBA, "The Impact of Immigration Enforcement on
32 Child Welfare," at 3 (First Focus *et al.* March 2010), available at
33 <http://www.firstfocus.net/Download/Enforcement4.7.pdf>; Nov. 17, 2000 Mem., *supra* n.3.

34 ⁴⁶ Nov. 7, 2007 Mem., *supra* n.3.

35 ⁴⁷ Nov. 7, 2007 Mem., *supra* n.3; Nov. 17, 2000 Mem., *supra* n.3, at 7-8.

1 that impede immigrant mothers' ability to maintain custody of their children include
2 language barriers; judges who base custody decisions on immigration status rather than
3 parenting ability and the children's best interests as required by state law; and
4 requirements imposed by child welfare authorities that make reunification virtually
5 impossibility for many immigrant mothers.⁴⁸

6 Separations when mothers are detained pose serious risks to children's safety,
7 economic security, and long-term development, causing anxiety, withdrawal, and
8 aggression.⁴⁹ Because of this trauma, mothers clearly eligible for immigration relief
9 abandon challenges to removal so that they can be released and reunited with their
10 children. An Arizona lawyer working with immigrant women reported that their "needs
11 are so different from men. All they want is their children. So it's very hard to work with
12 them because they don't want to . . . hear 'you have to be here four months fighting your
13 case.' They just say, 'You know, I don't care about my case; I care about my kids.'"⁵⁰

14 **V. CONCLUSION**

15 SB 1070 unravels years of federal immigration protections for women, chills the
16 exercise of legal rights, stops pursuit of justice system remedies, and cuts off immigrant
17 women and their children from federally funded services that protect life and safety.

18 Dated: July 7, 2010

Respectfully submitted,

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26 ⁴⁸ Cervantes & Lincroft, *supra* n.45, at 4-6.

27 ⁴⁹ Chaudry, *supra* n.43; Capps, R. *et al.*, "Paying the Price: The Impact of Immigration
Raids on America's Children," at 50-53 (2007),
http://www.urban.org/UploadedPDF/411566_immigration_raids.pdf.

28 ⁵⁰ Capps, *supra* n.49, at 45.

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on July 7, 2010, I electronically transmitted the attached
3 document to the Clerk's Office using the CM/ECF System for filing, and transmittal of a
4 Notice of Electronic Filing to the following ECF registrants:

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6 Lucas Guttentag
7 Tanaz Moghadam
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