



PUBLIC LAW 115–237—SEPT. 4, 2018

132 STAT. 2447

Public Law 115–237
115th Congress

An Act

To promote pro bono legal services as a critical way in which to empower survivors of domestic violence.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Pro bono Work to Empower and Represent Act of 2018” or the “POWER Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Extremely high rates of domestic violence, dating violence, sexual assault, and stalking exist at the local, State, tribal, and national levels and such violence or behavior harms the most vulnerable members of our society.

(2) According to a study commissioned by the Department of Justice, nearly 25 percent of women suffer from domestic violence during their lifetime.

(3) Proactive efforts should be made available in all forums to provide pro bono legal services and eliminate the violence that destroys lives and shatters families.

(4) A variety of factors cause domestic violence, dating violence, sexual assault, and stalking, and a variety of solutions at the local, State, and national levels are necessary to combat such violence or behavior.

(5) According to the National Network to End Domestic Violence, which conducted a census including almost 1,700 assistance programs, over the course of 1 day in September 2014, more than 10,000 requests for services, including legal representation, were not met.

(6) Pro bono assistance can help fill this need by providing not only legal representation, but also access to emergency shelter, transportation, and childcare.

(7) Research and studies have demonstrated that the provision of legal assistance to victims of domestic violence, dating violence, sexual assault, and stalking reduces the probability of such violence or behavior reoccurring in the future and can help survivors move forward.

(8) Legal representation increases the possibility of successfully obtaining a protective order against an attacker, which prevents further mental and physical injury to a victim and his or her family, as demonstrated by a study that found that 83 percent of victims represented by an attorney were

able to obtain a protective order, whereas only 32 percent of victims without an attorney were able to do so.

(9) The American Bar Association Model Rules include commentary stating that “every lawyer, regardless of professional prominence or professional workload, has a responsibility to provide legal services to those unable to pay, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer”.

(10) As leaders in their legal communities, judges in district courts should encourage lawyers to provide pro bono resources in an effort to help victims of such violence or behavior escape the cycle of abuse.

(11) A dedicated army of pro bono attorneys focused on this mission will inspire others to devote efforts to this cause and will raise awareness of the scourge of domestic violence, dating violence, sexual assault, and stalking throughout the country.

(12) Communities, by providing awareness of pro bono legal services and assistance to survivors of domestic violence, dating violence, sexual assault, and stalking, will empower those survivors to move forward with their lives.

SEC. 3. DISTRICT COURTS TO PROMOTE EMPOWERMENT EVENTS.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, and annually thereafter for a period of 4 years, the chief judge, or his or her designee, for each judicial district shall lead not less than one public event, in partnership with a State, local, tribal, or territorial domestic violence service provider or coalition and a State or local volunteer lawyer project, promoting pro bono legal services as a critical way in which to empower survivors of domestic violence, dating violence, sexual assault, and stalking and engage citizens in assisting those survivors.

(b) **DISTRICTS CONTAINING INDIAN TRIBES AND TRIBAL ORGANIZATIONS.**—During each 2-year period, the chief judge, or his or her designee, for a judicial district that contains an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)) shall lead not less than one public event promoting pro bono legal services under subsection (a) of this section in partnership with an Indian tribe or tribal organization with the intent of increasing the provision of pro bono legal services for Indian or Alaska Native victims of domestic violence, dating violence, sexual assault, and stalking.

(c) **REQUIREMENTS.**—Each chief judge shall—

(1) have discretion as to the design, organization, and implementation of the public events required under subsection (a); and

(2) in conducting a public event under subsection (a), seek to maximize the local impact of the event and the provision of access to high-quality pro bono legal services by survivors of domestic violence, dating violence, sexual assault, and stalking.

SEC. 4. REPORTING REQUIREMENTS.

(a) **REPORT TO THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.**—Not later than October 30 of each year, each chief judge shall submit to the

132 STAT. 2448

PUBLIC LAW 115–237—SEPT. 4, 2018

Director of the Administrative Office of the United States Courts a report detailing each public event conducted under section 3 during the previous fiscal year.

(b) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than January 1 of each year, the Director of the Administrative Office of the United States Courts shall submit to Congress a compilation and summary of each report received under subsection (a) for the previous fiscal year.

(2) REQUIREMENT.—Each comprehensive report submitted under paragraph (1) shall include an analysis of how each public event meets the goals set forth in this Act, as well as suggestions on how to improve future public events.

SEC. 5. FUNDING.

The Administrative Office of the United States Courts shall use existing funds to carry out the requirements of this Act.

Approved September 4, 2018.

LEGISLATIVE HISTORY—S. 717:

CONGRESSIONAL RECORD:

Vol. 163 (2017): Aug. 1, considered and passed Senate.

Vol. 164 (2018): July 17, considered and passed House, amended.

Aug. 15, Senate concurred in House amendment.

Domestic & Sexual Violence and Pro Bono



FACTS ABOUT GENDER-BASED VIOLENCE

What is Domestic Violence?

Domestic violence is a pattern of coercive behaviors used by a person to maintain control over an intimate partner. Coercive behaviors can include isolation, psychological abuse, sexual violence, economic control, manipulation of children, stalking, threats, intimidation, and physical assaults.

National Domestic Violence Statistics

Domestic Violence Dynamics:

National Coalition Against DV, [Dynamics of Abuse](#)

National DV Hotline, [What Is Domestic Violence?](#)

National Resource Center on DV, [About Domestic Violence](#)

What is Sexual Violence?

Sexual violence is any type of unwanted sexual contact, including words and actions of a sexual nature against a person's will and without their consent. A person may use force, threats, manipulation, or coercion to commit sexual violence.

National Sexual Violence Statistics

Sexual Violence Dynamics:

National Sexual Violence Resource Center, [About Sexual Assault](#)

Rape, Abuse, & Incest National Network, [Types of Sexual Violence](#)

What is Stalking Violence?

Stalking is a pattern of behavior directed at a specific person that would cause a reasonable person to feel fear.

National Stalking Violence Statistics

Stalking Violence Dynamics:

Stalking Prevention, Awareness, and Resource Center, [Definition & FAQs](#)

SPARC, [Stalking & Intimate Partner Violence](#)

National Intimate Partner & Sexual Violence Survey
Centers for Disease Control & Prevention (Full Report)

WHY IS LEGAL ASSISTANCE FOR VICTIMS IMPORTANT?

I asked my client why she was crying ... She smiled and said that hers were tears of joy from having so many advocates, after feeling powerless for so long. More than the legal victory we won, her feeling of empowerment was an important measure of success. Her husband was a wealthy man and now she, too, had resources—the experience gave her strength, in addition to justice.

Similar resources are ready and waiting throughout the United States to help those in need. Well-meaning attorneys and publicly minded law firms are eager to take on pro bono cases and help others access justice. Regretfully, too few nonprofit organizations maximize their engagement.

Layli Miller-Muro, Founder of Tahirih Justice Center^[1]

Skilled legal representation is critical to successful intervention and accountability.

- Legal services are second only to medical services as the most-requested need of victims. However, of all women who reported needing legal services, 64 percent received NO assistance from an attorney. ^[2]
- LSC-funded programs are the nation's primary source of legal assistance for victims of domestic violence. ^[3]
- According to one study, 83 percent of victims represented by an attorney successfully obtained a protective order, as compared to just 32 percent of victims without an attorney. ^[4]
- In 86 percent of cases where a victim received a protection order, the abuse stopped or was greatly reduced. ^[5]
- “[T]he provision of legal services significantly lowers the incidence of domestic violence...Because legal services help women with practical matters such as protective orders, custody, and child support they appear to actually present women with real, long-term alternatives to their relationships.” ^[6]

FREQUENTLY ASKED QUESTIONS ABOUT PRO BONO

California Bar Association: Pro Bono FAQ

CTLawHelp: Frequently Asked Questions About Taking Pro Bono Cases

Michigan State Bar: Common Questions About Pro Bono

ABA Model Rule 6.1 encourages attorneys to provide **50 hours** of legal services annually to those who cannot pay.

Pro bono cases can be taken directly by an attorney or attorneys may receive case referrals through organizations that support pro bono work. These organizations typically screen cases beforehand for merit and financial eligibility before referring cases to pro bono attorneys. Most organizations will provide malpractice insurance to volunteers.

Organizations may provide training to attorneys on substantive areas of law in return for the attorney agreeing to take on a matter, especially in high need areas of practice, such as family law and domestic violence. These organizations should also provide ongoing assistance and oversight to pro bono volunteers, especially those who are working on a case outside of their typical practice area.

[1] Layli Miller-Muro, *The Power of Many*, 2011 Stan. Social Innovation Rev. 25.

[2] Michele C. Black et al., Ctrs. For Disease Control & Prevention, *Intimate Partner Violence in the United States - 2010*, at 56 (2014), available at https://www.cdc.gov/violenceprevention/pdf/cdc_nisvs_ipv_report_2013_v17_single_a.pdf.

[3] Legal Services Corp., *LSC 2016 Annual Report 5* (2017), available at <https://lsc-live.app.box.com/s/2z769d3pkv6o9qx5hb1njuz3w11yq7gl>; Legal Services Corp., *2017 By the Numbers: The Data Underlying Legal Aid Programs 41* (2018), available at <https://lsc-live.app.box.com/s/z0war4502dbngggwyd8h22ati36c8smr>

[4] Jennifer S. Rosenberg & Denise A. Grab, Inst. for Pol'y Integrity, N.Y.U. Sch. Of L., *Supporting Survivors: The Economic Benefits of Providing Civil Legal Assistance to Survivors of Domestic Violence 1, 9* (2015).

[5] Meda Chesney-Lind, *James Ptacek, Battered Women in the Courtroom: The Power of Judicial Response*, 35 Crime, L. & Soc. Change 363 (2001) (reviewing James Ptacek, *Battered Women in the Courtroom: The Power of Judicial Response* (1999)).

[6] Amy Farmer & Jill Tiefenthaler, *Explaining the Recent Decline in Domestic Violence*, 21 Contemp. Econ. Pol'y 158 (2003).

WHAT CAN VOLUNTEERS DO IN GENDER-BASED VIOLENCE CASES? (AND WHAT IF THEY DON'T WANT TO LITIGATE?)

Types of Volunteers:

- Litigators
- Transactional attorneys
- Policy attorneys
- Research attorneys
- Retired/inactive attorneys
- New attorneys
- Experienced attorneys
- Non-attorneys, including paralegals, administrative staff, and civilians

Types of cases:

- Civil Protection Order
- Divorce & Property Division
- Child Custody & Support
- Child Welfare/Juv. Justice
- GAL/Child's Attorney
- Immigration
- Disability
- Income Maintenance
- Consumer Debt
- Employment
- Expungement/Vacatur
- Housing
- Education
- Health Care
- Privacy
- Tribal law
- Military law
- Torts/Insurance
- Criminal law



Types of legal opportunities:

- Advice and counsel clinics & hotlines
- Legal information at self-help centers
- Brief or extended representation
(*e.g. from protection orders to immigration to complex family*)
- Impact litigation or policy advocacy
(*e.g. appeals, legislation/lobbying*)
- Litigation support (*e.g. depositions, experts, stenographers, transcripts*)
- Community education & outreach
(*e.g. Know Your Rights*)
- Transactional or other legal assistance to nonprofit organizations (*e.g. subpoena defense, general counsel*)
- Mentoring other volunteers



Types of nonlegal opportunities:

- Public awareness (*e.g. op-eds, articles, brochures, websites, social media...*)
- Outreach (*e.g. staffing info booths, campaign drives, fundraising, etc.*)
- Training support (*e.g. donating space, registration system, nametags, photocopying, lunch...*)



Types of time commitment:

There are widely varying levels of time commitments and opportunities for limited scope representation.

TOOLS FOR ATTORNEYS REPRESENTING VICTIMS

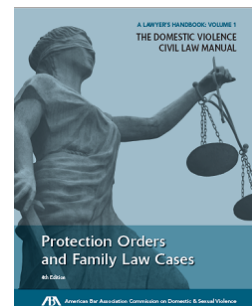
A Lawyer's Handbook, Vol. 1

Civil Law Manual: Protection Orders and Family Law Cases (4th Ed.)

[Order Copies](#)

[FMI click here](#)

This long-awaited update of the popular resource manual is designed to guide the victim's attorney through the process of representing domestic violence victims in either protection order or family law cases. The Fourth Edition includes updated references and sample documents, an expanded discussion of assessing client needs to promote safe and effective legal outcomes, and re-designed layout and chapter division.



A Lawyer's Handbook, Vol. 2

The Impact of Domestic Violence on Your Legal Practice (3rd Ed.)

[Order Copies](#)

This updated and expanded edition aids attorneys in every field of practice to represent clients responsibly by helping them recognize domestic violence and how a legal matter may be affected by domestic violence. More than 25 authors contributed to this comprehensive reference, making it a valuable tool in assisting attorneys with the intersection of domestic violence and the law.

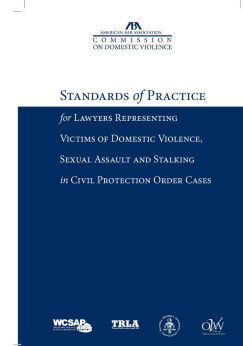


Standards of Practice

[Download a Copy](#)

[Order Copies](#)

With "black letter" adopted by the ABA House of Delegates, these Standards of Practice are intended to improve the quality of legal representation of victims of domestic violence, sexual assault and stalking.

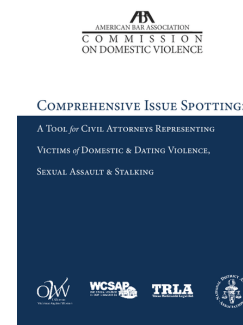


Comprehensive Issue Spotting

[Download a Copy](#)

[Order Copies](#)

This screening and referral tool for civil attorneys--a companion to the Standards of Practice--is designed to facilitate effective and holistic client-centered representation. The tabbed booklet encourages attorneys and clients to identify areas beyond civil protective orders in which clients may need legal assistance, and provide them with information to make informed decisions regarding additional resources.



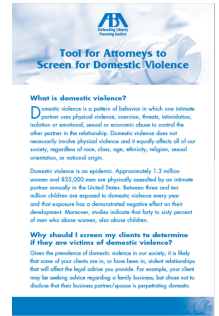
The ABA Commission on Domestic & Sexual Violence offers best practice resources for gender-based violence attorneys at low- or no cost.

TOOLS FOR ATTORNEYS REPRESENTING VICTIMS

Tool for Attorneys to Screen for Domestic Violence

[Download a Copy](#) [Order Copies](#)

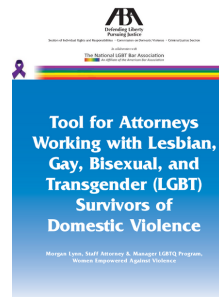
It is important for all attorneys representing individuals to screen their clients to determine if they are victims of domestic violence so that they may most effectively, ethically, and safely represent them. The Screening Tool provides clear, effective ways to properly screen a client for domestic violence in an easily accessible format.



Tool for Attorneys Working with LGBT Survivors of Domestic Violence

[Download a Copy](#) [Order Copies](#)

It is likely that some of your clients are LGBT, whether or not they are "out" to you. Domestic violence committed in LGBT relationships is similar to DV committed in heterosexual relationships, but it is also different in some important ways. This tool provides an understanding of these differences in order to foster ethical and effective representation to LGBT survivors.



Litigating for Deaf Clients

[Download a Copy](#) [Order Copies](#)

Representing victims who are d/Deaf in domestic violence cases requires more than hiring an American Sign Language interpreter at your expense or passing notes as a means of communication. This publication details practical skills and steps to take to develop an integrated language access plan for work with victims who are d/Deaf. This includes steps to take for emergency, or "unscheduled" court dates, issues of confidentiality for victims who are d/Deaf, and the importance of linguistic accuracy for positive litigation outcomes.

Use of Electronic Evidence in Domestic Violence Litigation

[Download a Copy](#) [Order Copies](#)

Technology seemingly pervades every aspect of modern interaction and communication. In domestic violence cases, it is no different, as abusers have adapted to exert coercive control over their partners using technology and the Internet. Preserving and entering this evidence at trial is playing an increasingly critical role in domestic violence litigation. This publication details a four-step framework and sample direct examination questions that will assist attorneys in analyzing the utility and practicality of introducing electronic evidence into domestic violence litigation.



AMERICAN **BAR** ASSOCIATION™