

Legal Voice Interim Report
Barbara McDowell and Gerald S. Hartman Foundation
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Legal Voice thanks the Foundation for its generous support and the opportunity to provide an interim grant report.

The Foundation's grant has provided essential support over the past six months for Legal Voice's efforts to continue its preparation for litigation to challenge the failure of states to comply with a provision of the federal Violence Against Women Act (VAWA). This provision prohibits states from making publicly available on the Internet any information regarding the filing of a domestic violence protection order (as well as similar orders protecting survivors of sexual assault or stalking) if such publication would be likely to publicly reveal the identity or location of the person protected by the order.

The failure of states to comply with this provision of VAWA seriously compromises the safety and privacy of survivors of domestic violence, sexual violence, and stalking. It also leads to discrimination against survivors in housing and employment, which in turn endangers the ability of survivors to achieve the economic security needed to get safe and to stay safe. When these court records are made publicly available online, they readily reveal to potential landlords and employers that an applicant is a survivor of domestic violence, sexual violence, and/or stalking. Many landlords and employers refuse or remain reluctant to rent to or hire survivors, for a variety of reasons.

Over the past six months, Legal Voice has been researching and developing the factual information and legal framework necessary for this challenge. We have conducted research and outreach regarding compliance with the law on a state-by-state basis. While we have determined that some states are complying with the law, other states remain out of compliance.

In particular, we have focused on non-compliance in the state of Washington and the state's purported justification for failure to comply with the law. Our research to date indicates that the state's failure to comply is due to a flawed and incorrect interpretation of VAWA – one that is contradicted by interpretations of the law in a number of other states.

This case concerns a provision of VAWA that has not previously been subject to litigation and that has not been interpreted in any published court decisions, despite having been on the books since the 2005 reauthorization of VAWA. As a result, our research has included an examination of legislative history and policy considerations, as well as legal analysis of issues related to standing, proper parties to litigation, statutory interpretation, legal remedies, and anticipated defenses. Because our case would be the first of its kind in the

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country, we are necessarily devoting a considerable amount of time to pre-litigation preparation.

In the next six months, we expect to complete our pre-litigation research, identify one or more potential plaintiffs (most likely with the assistance of local allies), and draft a complaint. Before filing a complaint, we would expect to seek a non-judicial resolution of this matter with defendants, based on our pre-litigation research and our draft complaint.

If attempts to reach such a resolution do not succeed, we will be immediately prepared to file and pursue litigation. We also believe that the results of our work supported by the Foundation's grant will provide invaluable assistance to support similar efforts in other states that are not in compliance with the law.

Legal Voice pursues its litigation efforts with the assistance of pro bono cooperating counsel from private law firms. We are pleased to report that we have secured the assistance of pro bono counsel at Fenwick & West LLP in this matter.

The Legal Voice attorney working on this matter is David Ward (dward@legalvoice.org).