

Legal Voice Year-End Report
Barbara McDowell and Gerald S. Hartman Foundation
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Legal Voice is grateful to the Foundation for its support. Our year-end report is below.

With the Foundation's support, we have been able to make enormous progress in our work to challenge the failure of Washington State – as well as other states – to comply with a provision of the federal Violence Against Women Act (VAWA). This is an issue that we have sought to address for many years, and we have only been able to move forward on this matter as a result of the Foundation's generous funding.

We are challenging the failure of Washington State to comply with a provision of VAWA that 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 reveal the identity or location of the person protected by the order.

All evidence we have obtained indicates that this provision of VAWA was intended to protect the safety and privacy of survivors of domestic violence, sexual assault, and stalking by preventing such information from being available online. Making protection order information available online not only compromises the privacy of survivors. It also results in discrimination against survivors in obtaining employment and housing, which in turn impacts their ability to achieve independence and successfully escape abusive relationships. This is because many employers and landlords do not wish to have survivors as employees or tenants – and publishing this information about protection orders online makes it easy for employers or landlords to determine if a prospective employee or tenant is a survivor of domestic violence, sexual assault, or stalking.

For example, some have the misperception that hiring or renting to survivors will compromise the safety of other employees or tenants by supposedly “bringing domestic violence” into a workplace or a renting housing building. These are not theoretical concerns. During this grant year, we successfully advocated on behalf of a domestic violence survivor in Seattle who was suspended without pay from work for nearly a month after she informed her employer that she had received a call from her abuser while on the job. The employer specifically cited concerns that the survivor's presence in the workplace would endanger other employees as its basis for refusing to allow her to return to work for nearly a month. In the meantime, the survivor was unable to pay her bills or adequately support her family.



907 Pine Street
Suite 500
Seattle, WA 98101

T 206-682-9552
F 206-682-9556

legalvoice.org

As of our year-end report, we have not yet filed a lawsuit on this matter. However, we are now prepared to do so if alternative dispute resolution options do not result in the policy changes that we are seeking in order to ensure Washington State's compliance with this provision of VAWA.

With the Foundation's support, we have been able to conduct a comprehensive survey of how different states have addressed and interpreted this provision of VAWA. In conducting this research, we learned that no one has previously compiled this information on a state-by-state basis. As a result, we are confident that our research and legal analysis will not only benefit our advocacy in Washington State, but will be a valuable resource to advocates across the country seeking to enforce compliance with this provision of VAWA.

We have also been able to complete substantial legal research to address issues that may arise in litigation. This includes research to demonstrate that this provision of VAWA should be enforceable through a private right of action; which claims may be brought to enforce compliance; research regarding the standing of potential plaintiffs and who should be named as defendants should litigation be the only avenue to address this matter; and a review of the legislative history and policies underlying this provision of VAWA.

Because this case involves interpretation of a statutory provision that has not been subject to prior litigation, we are advancing this matter methodically and carefully. While we have not yet filed a lawsuit, the Foundation's support has enabled us to be in a strong position to move forward to help ensure the safety and privacy of survivors.

We thank the Foundation for its commitment to this project and we will keep the Foundation informed of the results as we continue our work on this issue.