

Understanding and Participating in State Level Policy Advocacy

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All state legislatures consider and pass legislation that directly impacts safety, legal options and services available to survivors of domestic violence, sexual assault and human trafficking. State legislation, regulations, and policies with regard to each of the following can significantly improve the safety of survivors and their children:

- Family law (custody, protection orders, financial support);
- Domestic violence (access to services, shelter, housing, victim services, criminal court remedies);
- Public benefits (federally funded and state funded access to health care, welfare, food stamps, postsecondary education);
- Employment (family medical leave, leave to participate in court proceedings , unemployment);
- State laws, city ordinances, law enforcement policies, state benefits agency policies regarding immigrants (immigrant access to state funded health care, TANF, food stamps, instate tuition; laws that allow local police to conduct stops and ask immigrants for papers; memoranda of understanding with the U.S. Department of Homeland Security deputizing specific 287(g) local law enforcement to conduct immigration enforcement).

The United States Supreme Court in *United States v. Arizona*¹ confirmed immigration is an area of the law in which federal laws preempt states from passing state immigration legislation and when states do pass immigration laws with very limited exceptions such laws are unconstitutional. However, federal public benefits laws authorize states to offer access to state funded public benefits to immigrants that provide benefits that go beyond what would be available to an immigrant under federal welfare laws. Several states have used this authorization to enact laws that provide state funded health care, welfare assistance, and food stamps to battered immigrants or immigrant crime victims and their children. At least one state, Connecticut, has issued a statewide policy requiring police and prosecution offices to establish U-visa certification polices.

¹ United States v. Arizona, 567 U.S. __ (2012).

The Legislative Process at the State Level

Almost all state legislatures resemble the United States Congress and consist of two bodies in a bicameral structure. State senators and representatives are directly responsible for making new laws. Introduction of a bill by one or more legislators is the first step. The bill is then assigned a number and referred to the appropriate committee based on subject matter (e.g. public health, housing, finance). Although the rules of bill movement differ among state legislatures, usually a bill must be reviewed by the relevant subject matter committees in the state House and Senate chambers.

House and Senate committees may hold hearings on the subject matter of the bill, make amendments, and vote on the bill. If the bill receives a favorable vote by the committee or each of the committees the bill has been assigned to, the bill moves to consideration, amendment and passage by the entire legislative body (House or Senate). If the bill passes this floor vote in one chamber (House or Senate), then it is then sent to the other chamber for consideration by committees and passage in the other legislative body, using a similar process. Once a version of the bill passes the House and the Senate, differences between the House and Senate bills must be reconciled to make one uniform bill that is approved by both houses. Finally, the bill is sent to the governor to be signed into law.

The vast majority of proposed bills never completely make it through the legislative process. Laws, regulations, and policies regarding domestic violence and sexual assault become law in states across the country as a direct result of policy advocacy efforts that generate public support for the legal reforms needed and the relationships advocates develop with policy makers to provide subject matter expertise essential to the lawmaking process. Advocates can promote the implementation of policy in many ways, including but not limited to:

- Developing relationships with legislators and legislative staff;
- Contacting and meeting with their legislators and staff;
- Educating the advocacy community and the public about the policy reforms needed;
- Documenting the need for the policy reform sought by collecting stories illustrating the problem; conducting research documenting the problem; bringing the advocates' experience, expertise and knowledge attained from work with immigrant victims to the policy making process; and engaging other issue experts in the law reform effort;
- Speaking about their issues with the media;
- Testifying at hearings convened by the government agencies you are working with which can include the legislators or state government agencies; and
- Producing policy analysis and legislative materials needed to gain support for the proposed law reform including section by section descriptions of the bill, summaries of the bill, and drafting bill language or amendments to bill language.

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Policy Advocacy Versus Lobbying

Lobbying is regulated by federal and state law, and the activities of nonprofit organizations are subject to restrictions and reporting requirements. The amount of lobbying in which a 501(c)(3) organizations can be involved is regulated by federal tax law. Under the tax code, a public charity may measure its lobbying under either the “insubstantial part” test or the “501(h) expenditure” test. The “insubstantial part” test does not define lobbying, but rather provides only that it must be limited to an insubstantial part of an organization’s overall activity. Organizations that measure their lobbying under the 501(h) expenditure test must be involved in either:

- Communication with a legislator that expresses a view about specific legislation, or
- Communication with the public that expresses a view about specific legislation and includes a call to action.

These limits only apply to the money that an organization spends, and there are no limits on volunteer efforts.²

However, many policy advocacy activities are not lobbying. For example, an advocate can:³

- Meet with legislators and inform them about the advocate’s work;
- Give legislators a tour of the advocate’s office;
- Track and monitor the status of bills;
- Analyze policies by sharing facts rather than expressing opinions;
- Provide information to his or her coalition or organization’s members regarding legislation relevant to the organization;
- Give information in response to a policymaker’s request for testimony or materials; and
- Communicate about an action that might affect the organization’s existence.

For organizations that do engage in lobbying activities (some state Coalitions directly organize or participate in a statewide Lobby Day), here are some effective tips for meeting with policymakers:⁴

² Alliance for Justice, “What Is Lobbying?” February 2007 (<http://www.afj.org/assets/resources/nap/lobbying-defs.pdf>); Alliance for Justice, “Lobbying Rules for Public Foundations,” December 2005 (<http://www.afj.org/assets/resources/nap/Lobbying-rules-for-public-foundations.pdf>).

³ Examples provided by the New York State Coalition Against Sexual Assault, “Sexual Assault Policy Advocacy: A Guide for Advocates in New York State.”

⁴ Tips provided by the Georgia Coalition Against Domestic Violence.

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- Research and find as much information as possible about the legislator.
- Involve a working group that collaborates to secure passage of law reforms you are seeking. This group is most effective if it involves individuals that are diverse in a number of ways including:
 - Race
 - Ethnicity
 - Class
 - Immigration status/history
 - Professional-educational background
 - Advocates who can bring the experiences of survivors into the discussion and measure from experience working with survivors whether proposals being discussed will work for immigrant, refugee and women of color survivors.
- Prepare talking points about your issue.
- Be involved in developing and be knowledgeable about the position you, your coalition and your organization and collaboratively promoting.
- Provide assistance to policy makers by anticipating questions that may be raised about the policy being proposed, identifying potential arguments against it, and expressing willingness to work with policy makers to respond to opposition.
- Express appreciation for the legislator's previous support to your organization or cause.
- Attend meetings with legislative and policy staff in groups of two or more. This will enable you to compare impressions, track details of the meeting for other allies, and to take turns talking and taking notes on responses and keeping lists of promised next steps.
- Present a positive and professional image.
- Stay on the topic of your meeting and be respectful of the policy makers time, be succinct, refrain from becoming angry or flustered no matter what is said, and follow up on promised materials and next steps.
- Be timely in your response. Do not put form over substance. Public policy action windows open and close swiftly. Spending an inordinate amount of time perfecting a submission that results in sending materials when they are too late to make a difference helps no one.
- Be on call and willing and able to respond quickly, sometimes within less than 24 hours.
- Ask for advice on how to reach other officials with your message.

Examples of State Coalitions Engaged in Legislative Work Benefiting Survivors

- In 2007, the Arkansas Coalition Against Domestic (ACADV) contacted state legislators about the problem of dual arrests in the state to encourage law enforcement to determine the primary aggressor during incidents of domestic violence rather than apprehending all parties involved, including crime victims. An Act was later passed that provided guidelines for officers to use in determining the predominant aggressor. ACADV has also been involved in supporting legislation that elevated the crime of strangulation from a misdemeanor to a class D felony.
- The Wisconsin Coalition Against Domestic Violence (WCADV) was part of an alliance of organizations that during the 2011-2012 legislative session, successfully opposed and defeated Wisconsin Assembly Bill 173, state immigration legislation based upon Arizona's HB 1070 that was recently overturned in large part by the U.S. Supreme Court.⁵ WCADV opposed the bill and spoke against the chilling effect it would have had on immigrant victims of domestic violence. WCADV had also advocated for the passing of the state's human trafficking legislation in the 2007-08 session. The bill resulted in the first significant human trafficking law in Wisconsin history. WCADV continues to work to expand legislation that benefits and does not harm immigrant victims.
- Since 2007, the Pennsylvania Coalition Against Domestic Violence (PCADV) has been fighting against proposed public benefits legislation that would require individuals to show government-issued ID in order to receive public assistance. By illustrating how the legislation discriminates against and harms battered women, who flee abusers while the abusers retain control over the victim's government-issued identification, PCADV has been successful in preventing passage of this legislation and has secured an exception for crime victims, should the bill become law. PCADV has also been involved in opposing the state's voter ID bill because it would keep battered women who lack identification from voting.

⁵ United States v. Arizona, 567 U.S. ____ (2012).

Examples of State Coalitions Engaged in Public Policy Advocacy and Implementation Collaborations With State Administrative Agencies

Advocate collaboration with state government agencies is important for a number of reasons:

- Once a law is passed by the legislature, survivors can have difficulty accessing the help provided under that law until the state government agency responsible for implementing the law reform issues regulations or policy directives.
 - Advocates can provide state based policy makers with unsolicited information containing data, scenarios and recommendations that can help government staff writing regulations and policy memoranda.
- Advocates may identify problems that immigrant and women of color survivors encounter when seeking help, which the state government agency can remedy by issuing a regulation or policy and training its staff to use the next policy in a way that helps survivors.
- By meeting with state agency staff, advocates may learn that there are policies in place to help immigrant or women of color survivors that they are unable to access because the lawyers and advocates helping these survivors do not know that such relief exists.
 - Advocates can collaborate with the state government agency to train advocates, attorneys and other helping professionals on the existence of the benefit or assistance and can how clients can access this help.
- Advocates, through their ongoing work with immigrant and women of color survivors, can monitor implementation of laws, regulations and policies and bring gaps and problems with implementation to the attention of government agency officials. This can include engaging state government agency staff in collaborating and consulting with advocates to develop a solution to the problem.

Examples of work state coalitions have done to help survivors working with state agencies include:

- The Vermont Network Against Domestic and Sexual Violence has collaborated with the Department of Corrections, the Department of Children and Families, and the Vermont Council on Domestic Violence to revise Standards for Domestic Abuse Intervention first issued by the Department of Corrections in 1996. As a result, updated Standards were adopted in 2005 and again in 2010. The Network has also partnered with the Department of Corrections to administer the Prison Rape Elimination Act by creating opportunities for advocates to work with victims in prisons.

- The Pennsylvania Coalition Against Domestic Violence has a direct funding contract with the Department of Public Welfare to provide domestic violence services throughout the state and works with the Department to develop and implement policies that affect recipients of public benefits. The Coalition is also a member of a human trafficking advisory committee established by the Joint State Government Commission that evaluates state policy and publishes trafficking reports with statutory recommendations.
- After Colorado joined the Secure Communities Program in 2011, the Colorado Coalition Against Domestic Violence advocated against its implementation due to its harmful consequences for battered immigrant women. Secure Communities does not exclude domestic violence arrestees, including falsely arrested victims, from deportation until conviction. When the Department of Homeland Security (DHS) required all states to implement the program, the Coalition has worked with the governor's office to participate in a national effort to convince DHS that it should encourage local law enforcement to screen criminal detainees for crime victimization and to inform DHS that an individual is a crime victim and should not be placed on a DHS detainer. DHS ultimately adopted this approach, and the Colorado governor's office discourages the reporting of domestic violence victim arrestees to immigration enforcement officials.

Examples of State Coalition Work with Police and Other State Services

- The Arkansas Coalition Against Domestic Violence (ACADV) has assisted its state victim services programs in establishing and implementing policy reforms. ACADV works with advocates in certified shelters across the state in formulating programs and physical standards that create flexibility in shelter rules so they can adapt to the needs of diverse populations of survivors, particularly survivors from underserved communities. This work has included allowing immigrant victims who have filed for immigration relief, but have to wait for a significant period of time before they can obtain work authorization, to extend their shelter stays. In 2000, the Coalition began the process of creating the Domestic Peace Fund to establish the first continuous source of funding for the state's domestic violence shelters.
- In many states, Coalitions have very strong relationships with police departments and prosecutors. In many states, domestic violence victim advocates are invited to train prosecutors on domestic violence issues and prosecutors cross-train victim advocates on how prosecutors work with survivors and the help prosecutors' offices can provide victims, including for immigrant victims' U-visa certifications. Meanwhile, in other

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states, advocates at the Coalitions and programs that serve survivors engage in top-level advocacy with the police department. For example, heads of victim services programs meet with police department leadership. These ongoing working relationships surrounding a range of issues that help survivors of domestic violence, sexual assault and human trafficking, serve as extremely important precursors to securing U-visa certification, T-visa endorsement, and collaboration on a range of issues of particular importance to survivors, including immigrant, refugee and women of color survivors.⁶

State Benefits Available for Immigrant Victims

The 1996 welfare and immigration reforms cut off access to public benefits for many immigrants lawfully residing in the United States, preserving access to federal and state benefits for only limited categories of qualified immigrants. Since 1996, lawfully present immigrants have been provided some access to prenatal, child and maternal health care, and child immigrants have been restored access to food stamps. The 1996 law reforms, however, authorized states to provide access to state funded public benefits to at least some immigrants who are not eligible for federally funded benefits.⁷ Over half of states offer some forms of state funded assistance to immigrants.⁸ The categories of immigrants who can receive some state funded benefits often include immigrant victims of domestic violence, sexual assault, human trafficking and other crimes. Many immigrant survivors have access to these state funded safety net benefits as a result of work by coalitions and advocates. These programs include:

- **State-Funded TANF Replacement Programs:**⁹
These programs provide cash assistance to qualified immigrants who are subject to a 5-year bar on access to the federal public Temporary Aid for Needy Families (TANF) benefits; to lawfully present immigrants; and to persons residing under color of law. These categories include battered immigrant VAWA self-petitioners, U-visa applicants (domestic violence, sexual assault and other crime victims), and T-visa applicants (trafficking victims). Immigrant victims can also receive immigration protections for their children they included in their application for immigration relief. State funded cash assistance is available to lawfully present immigrants in California, Connecticut, Illinois, Iowa, Maine, Maryland, Minnesota, Nebraska, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Tennessee, Utah, Washington, Wisconsin, and Wyoming.

⁶ Giselle Hass, Karen Monahan, Edna Yang and Leslye E. Orloff, U-Visa Legal Advocacy: Overview of Effective Policies and Practices, February 25, 2011.

⁷ Tanya Broder and John Blazer, Overview of Immigrant Eligibility for Federal Programs, National Immigration Law Center (May 2009) available at <http://www.nilc.org/document.html?id=107>.

⁸ Id.

⁹ National Immigration Law Center, 2011 (http://www.nilc.org/guide_tanf.html).

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- **State-Funded Food Assistance Programs:**¹⁰
Children who are included in their immigrant mother's self-petition are eligible to receive federally funded food stamps once they become qualified immigrants. This usually occurs about 3 months after filing a VAWA-self-petition. However, VAWA self-petitioners are subject to a 5-year bar, and U-visa victims and their children are not eligible for food stamps at all. Advocates in the following states were successful in obtaining state funded food stamps for some additional immigrants: California (qualified immigrants including VAWA self-petitioners, U- and T-visa applicants and other lawful temporary residents), Connecticut (immigrants ineligible for federal food stamps due to 1996 federal welfare law and must meet 6-month residency requirement), Maine (persons residing under color of law (PRUCOL) including VAWA, T- and U-visa applicant crime victims), Minnesota (lawfully residing immigrants who receive TANF or are over 50 including VAWA, T- and U-visa applicant crime victims), and Washington (qualified immigrants, PRUCOLs, lawfully residing immigrants including VAWA, T- and U-visa applicants).
- **State-Funded SSI Replacement Programs:**¹¹
These programs provide cash assistance to certain immigrants who are not eligible for coverage under the federal Supplemental Security Income (SSI) program. They are available in California (qualified immigrants including VAWA and T-visa victims and PROCOLS including U-visa victims), Hawaii (qualified immigrant seniors or disabled – VAWAs and T-visas), Illinois (qualified immigrants including VAW and T-Visa victims), Maine (qualified immigrants including VAWA and T-visa victims and PROCOLS including U-visa victims), Nebraska (qualified immigrant including VAWA and T-visa victims) and New Hampshire (qualified immigrant including VAWA and T-visa victims, provided they have had qualified immigrant status for 5 years) .

Advocacy by Organizations and Individuals

Advocacy is active support for a cause. Individuals and organizations can take part in advocacy on behalf of a certain issue, group, or person. Advocates and organizations can collaborate with government agency staff to promote the development and dissemination of information about policies and practices helpful to immigrant, refugee, and women of color survivors. The work of domestic violence and sexual assault organizations usually promotes reforms of laws, policies and practices that help to promote safety for survivors, including

¹⁰ National Immigration Law Center, 2011 (http://www.nilc.org/state_food.html).

¹¹ National Immigration Law Center, 2011 (<http://www.nilc.org/guideupdate.html>).

survivors from underserved communities. Engaging advocates who are immigrants, refugees and women of color in this advocacy work enhances the effectiveness of these efforts. Advocates who are immigrants and women of color bring to the policy table both their own experiences *and* the expertise advocates have gained from engaging in direct contact with victims, hearing their stories, and knowing survivors’ problems. Advocates from diverse backgrounds and countries of origin are experienced in helping survivors overcome or find ways to help immigrant victims despite the barriers that exist in the justice, social services, benefits and health care systems that hinder access for underserved survivors.

Survivors’ stories put personal faces on statistics, data, and research findings and bring significant persuasive power to advocacy. They help illustrate the need for reforms and can motivate police and other professionals to work with advocates to solve problems that victims face. Story collection also allows advocates to document and assess the extent of victims’ problems and can give rise to creative, culturally competent ideas for changes in policies that will improve the lives of victims. Stories that revealed the real-life experiences of immigrant women compelled Congress to include protections for victims in the Violence Against Women Acts (VAWA) of 1994,¹² 2000,¹³ and 2005.¹⁴

The following organizations may have clients whose stories will help advocates in supporting advocacy initiatives:

- Domestic violence programs
- Sexual assault programs
- Statewide coalitions
- Victim services organizations
- Immigrant community based organizations
- Faith based organizations
- Legal service providers
- Programs offering social services or counseling
- Health care programs
- Law school clinics
- Pro bono law firm attorneys

¹² Robin L. Campo, Leni Marin, “Cases Documenting Abuse by U.S. Citizens and Lawful Residents of Immigrant Spouses”

(<http://iwp.legalmomentum.org/reference/additional-materials/research-reports-and-data/immigrant-victims-stories/Untold%20Stories%20VAWA%201994.pdf>).

¹³ Leslye Orloff, Jessica Cundari, Erika Esterbrook, “New Dangers for Battered Immigrants: Untold Effects When Immigrant Victims Have to Leave the U.S. to Obtain Lawful Permanent Residency as VAWA Self-Petitioners” (<http://iwp.legalmomentum.org/reference/additional-materials/research-reports-and-data/immigrant-victims-stories/New%20Dangers%20245i%20LPRStatus%20Abroad%202011.pdf>).

¹⁴ Abby Sun, Eileen Lohmann, and Leslye Orloff, “Collecting Stories to Illustrate the Need for Proposed Reforms to Aid Immigrant Victims” (http://iwp.legalmomentum.org/reference/additional-materials/research-reports-and-data/immigrant-victims-stories/Story%20Collection%20Tool.pdf/at_download/file).

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The Importance of Developing Relationships

Good relationships allow advocates, coalitions, community based organizations, law enforcement, government agency personnel, and other groups to work collaboratively to solve problems crime survivors encounter in their communities. Once advocates identify the policy reforms that are needed, the next step is to identify the range of potential allies that can be engaged in crafting public policy solutions. These potential allies include professionals, direct service providers, legislative staff, government agency staff, and people directly involved in the lawmaking or policy implementation process who can become engaged in the law reform effort.

These relationships with organizations and agencies have significant benefits. Meeting with allies to implement a plan to solve a problem will lead to the building of trust between advocates, government agency staff and other professionals. In addition, building alliances gives advocates an opportunity to educate state officials and police who come in contact with victims about the special needs and legal rights of survivors of domestic violence and sexual assault. Furthermore, many professionals who could play a role in helping immigrant survivors are not fully aware of the full range of laws that protect and help immigrant and refugee victims. Those who want to help can be hindered by cultural and language barriers, because agencies have not planned sufficiently to be able to provide language access to their programs' services. Immigrant and women of color advocates play an important role in assuring that state and local policies and practices are developed that are accessible to immigrant and women of color survivors. Involving other groups and individuals in advocacy efforts increases the effectiveness of policy strategies for all victims, including those from underserved populations.

The organizations, government entities, and professionals that advocacy efforts to benefit immigrant survivors should include are:

- Legislators
- Governor's office
- Judges
- Police departments
- Prosecutors
- Department of corrections
- Department of public health/welfare
- Secretary of state
- Attorney general
- Legislative committees
- Government commission
- Task forces
- Advocacy organizations

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- Immigrant rights organizations
- Women's rights organizations
- Welfare rights organizations
- Lawyers
- Public schools
- Local/state newspapers
- Charities
- Civil rights organizations
- Other coalitions

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