

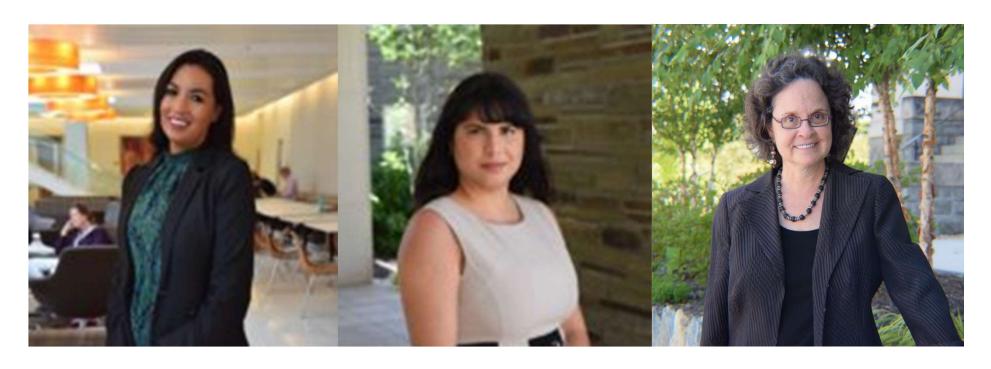


Community of Practice for Family Law Attorney's Representing Immigrant Survivors of Domestic Violence and Sexual Assault

Update on COVID-19 Resources for Immigrant Survivors, Advocates, Attorney and Courts

June 25, 2020





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Next COP Calls

- July 30, 2020 at 1pm EST Continued Discussion: with Nagwa Ibrahim, Legal Director
- August 19, 2020 at 1pm EST





How are you and your office handling new challenges as your state may be reopening?



Importance of Safety Planning with Immigrant Victims of Domestic Violence, Sexual Assault, and Stalking

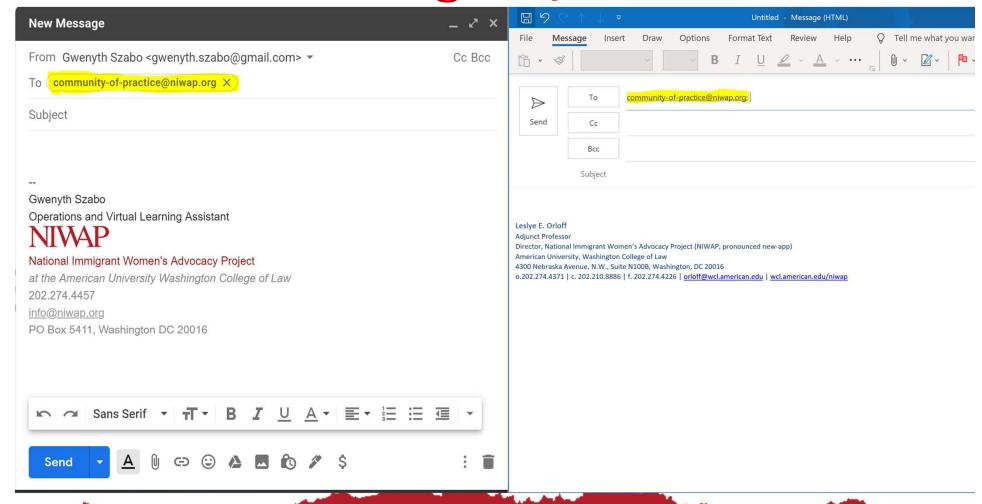


What do you see as the most significant areas of remaining need with regard to increasing survivor safety and offender accountability?

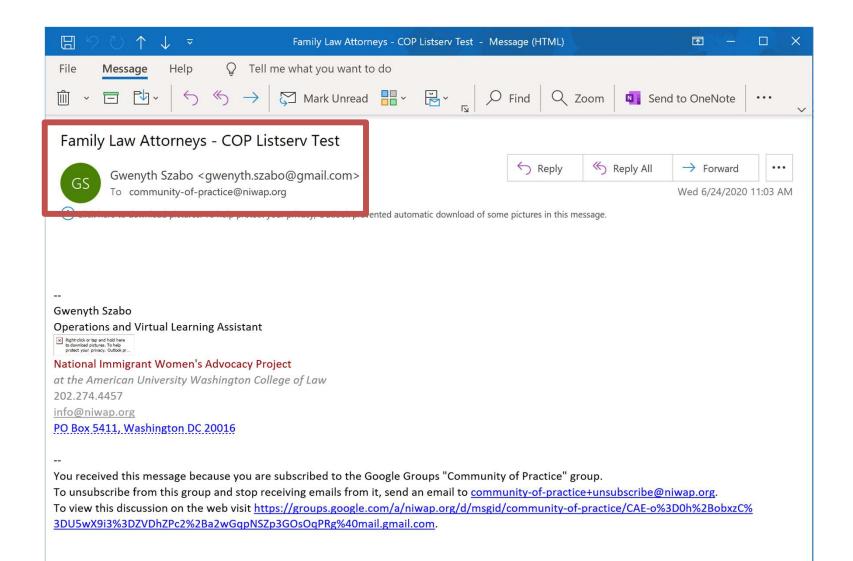


Community of Practice Listserv: Google Groups

Emailing A Question

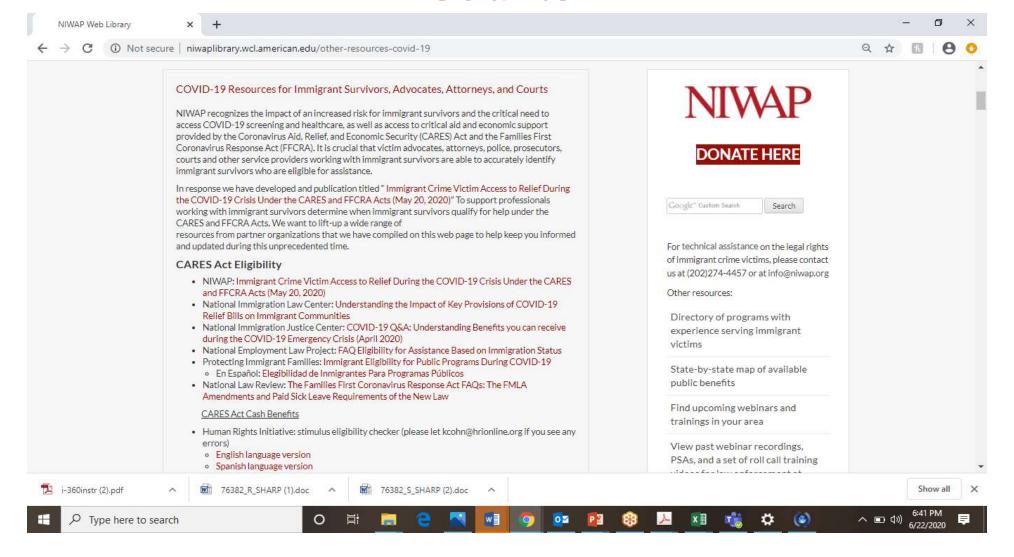








COVID-19 Resources for Immigrant Survivors, Advocates, Attorneys, and Courts:



Immigrant Crime Victim Access to Relief During the COVID-19 Crisis Under the CARES and FFCRA Acts (May 20, 2020)

- Found on NIWAP Weblibary
 http://niwaplibrary.wcl.american.edu/pubs/cares
 -act-unemployment-imm-victims-5-27-2020
- Discusses eligibility of immigrant survivors who are applicants for, or recipients of, various forms of victim based immigration relief for assistance under the CARES and FFCRA legislation

Types of Relief NIWAP's Covid-19 Publication Covers

- Economic Relief for Families
- Unemployment Insurance
- Health Care Access

CARES Act Relief Payment

 Treasury Department and the Internal Revenue Service (IRS) are providing a one time payment relief to individuals in response to the COVID-19 outbreak

Who is Eligible?

- Must have a valid Social Security Number (SSN) and
- Be a U.S. Citizen or qualify as a resident alien" as defined by the IRS
- Individual must have filed 2019 with a valid SSN
 - Valid for employment purposes and issued by SSA before the due date of the applicants 2019 return



Spouses in Mixed Status Families that Filed Jointly in 2019

- For spouses that filed a joint return for 2019 tax year, if:
 - One of the spouses has an ITIN or a non-work SSN, both spouses do not qualify to receive the economic impact payment
 - If spouses file a tax return separately, the spouse who has an SSN may qualify for a Payment; the other spouse without a valid SSN will not qualify to receive the payment



Risks for Domestic Violence Survivors

- Immigrant survivors will face barriers accessing the funds to which they are entitled, when they are issued using the information on a recently filed joint income tax return filed with an abuser
 - Tool from NNEDV that outlines the existing processes that help individuals secure their funds https://nnedv.org/wp-content/uploads/2020/04/Library CTA FINAL CARESAct ReliefPayment.pdf



Tax Returns and Economic Abuse

- Control survivor's tax return by filing jointly without the spouses' consent or may coerce the victim into signing joint tax returns
- Race to claim children or others as dependents on tax returns to prevent or interfere with the survivor's ability to claim them as dependents
- Force victims to hand over tax refunds the victim receives or may steal the victim's refunds
- Abuser may be the only one that has access to bank account



Processes to Secure Funds

- Protection order provisions that order that the perpetrator not take or turn over to the victim's and the children's share of any recover funds the family receives
 - If the payments have already been received that the perpetrator pay to the victim by a date certain an amount of money equal to the victim's and the children's share of the payment
- Tool from NNEDV step by step tool to help you navigate existing IRS processes which include:
 - Setting up an electronic account with the Internal Revenue Service (IRS) through the system that IRS uses to deliver tax refunds



Social Security Number Requirement

- Immigrants who have been issued a work authorized Social Security number (SSN) may claim cash rebate
 - Generally the following can apply for a SSN:
 - US Citizen and Lawful Permanent Resident and
 - foreign nationals who have been granted work authorization from DHS
- Immigrants with non-work social security numbers do not qualify



Important to Note

 To qualify for recovery rebates the immigrant who has an SSN based on being granted legal work authorization is eligible for recovery rebates even when the immigrant has not been granted formal legal immigration status in the U.S



Table A:

List of Common Types of Victim-Based Immigration Status on Page 5

- Survivors with legal immigration status, work authorization, and SSNs
 - e.g. VAWA self-petitioners now LPRs, U and T holders
- Survivors granted legal work authorization and work authorized SSNs
 - e.g. approved VAWA Self-Petitioners, or those who filed at the same time for LPR status, U visa waitlisted, T visa with bonafide determination
- Survivors with other forms of immigration status, work authorization and SSNs
 - E.g. LPRs and Conditional LPRs , H visa holders
- Immigrant victims with immigration protections that include legal work authorization and SSNs
 - E.g. Deferred Action, DACA



Important to Apply for Work Authorization for the Whole Family

- Timeline of when to apply for work authorization for Victim and Children even though child is underage
 - VAWA Self-Petitioners= upon approval of VAWA SP or if filing for lawful permanent residency at the same time
 - U visa= upon waitlist approval (can be applied for at the time of filing)
 - T visa = granted at approval
 - SIJS = granted upon approval
- Children with SSNs based on work authorization received from DHS can then be included in their eligible parent's application for recovery payments



Deadline July 15, 2020

- In order to receive the economic impact payment and filing the 2019 federal income tax return, a valid social security must be issued by SSA before July 15, 2020, or
 - Request the extension of time to file your return, until October 15, 2020
- Survivors who are granted work authorization should apply and include their children as soon as possible



IRS Determination of "Resident Alien"

Green Card Test • If the person was LPRs or conditional permanent residents at any time during the calendar year

Substantial Presence Test • Must have been physically present in the United States for a designated minimum threshold period over the past three years. See page 5



Summary of who is Eligible to Receive Recovery Payments

 Citizen, lawful permanent resident, and "resident alien" children who have work authorized SSNs, who are of age to work in their state, who are working and paying taxes, and who can meet the substantial presence test



Will receiving a recovery payment under the CARES Act make an immigrant a "public charge"?



Recovery Payment will Not Make Someone Especially Survivor Subject to Public Charge

- The CARES Act stimulus payment is a tax credit
- Under the public charge regulations, tax credits are NOT taken into account for the purposes of a public charge determination.
- Exempt from public charge
 - VAWA self-petitioners, U visa applicants and recipients, T visa applicants and recipients, and qualified battered immigrants



CARES Act: Unemployment Insurance (UI)

- General eligibility and benefit description on page 8
- Immigrants are eligible for UI if they are authorized to work at each of the following times:
 - When they performed UI qualifying work;
 - At the time they apply for unemployment benefits, and
 - During the entire period for which they receive unemployment benefits
- Must be:
 - "able and available" to work
 - "permanently residing under color of law" ("PRUCOL") during the "base period" used to calculate the unemployment benefit amount



Recipients of Unemployment Insurance in Pre CARES Act

- Must have been PURCOL
 - Generally means work-authorized
 - Definition varies among states
- Anyone with a:
 - valid work permit, or whose status allows them to work, and
 - who was authorized to work during the base period



CARES Act: Unemployment Insurance

- CARES Act UI provisions provide federally funded UI, it is not clear as of May 2020 what will full eligibility list
- CARES Act Pandemic Unemployment
 Assistance was made available to people who
 are "not eligible for regular compensation or
 extended benefits under State or Federal law"
 - might not be limited to qualified immigrants under 8 U.S.C. § 1611,
 - provision of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)



Table B:

Immigrant Eligibility for CARES Act Expansion of Unemployment Insurance Page 9

- Describes which work authorized immigrant victims would be eligible for federal UI under the CARES Act if:
 - 1st column: the definition were to be restricted to qualified immigrants
 - 2nd column: work authorized immigrants who may be able to qualify for the expanded CARES Act federal UI assistance if the narrower PRWORA definition (8 U.S.C. § 1641) is not imposed



Raise your hand if your state is creating state-level unemployment insurance programs, establishing relief funds, enacting or expanding their state Earned Income Tax Credit programs.?



HealthCare for Immigrant Crime Victims and Their Families



Available Healthcare to Immigrant Crime Victims

 Healthcare Available to Immigrant Crime Victims During the COVID-19 Pandemic:

http://niwaplibrary.wcl.american.edu/healthcare-available-to-immigrant-crime-victims-during-the-covid-19-pandemic

Eligibility for Healthcare

- Community and Migrant Health Centers regardless of immigration status
- The Families First Act provides additional funding to pay for coronavirus testing for anyone who is uninsured
- Eligibility for Emergency Medicaid, Medicaid, the Children's Health Insurance Program (CHIP), and the Affordable Care Act (ACA) marketplaces has not changed due to COVID-19
 - Eligibility to benefits expand as survivors apply for immigration status



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