

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

The image shows a screenshot of an email client interface. On the left, a 'New Message' window is open, showing the 'To' field with the email address 'community-of-practice@niwap.org' highlighted in yellow. The 'From' field shows 'Gwenyth Szabo <gwenyth.szabo@gmail.com>'. The 'Subject' field is empty. Below the fields, the email body text is visible, starting with '--' and followed by the name 'Gwenyth Szabo', her title 'Operations and Virtual Learning Assistant', the 'NIWAP' logo, and her contact information: 'National Immigrant Women's Advocacy Project at the American University Washington College of Law, 202.274.4457, info@niwap.org, PO Box 5411, Washington DC 20016'. A rich text editor toolbar is visible at the bottom of the window, including a 'Send' button and various formatting options.


On the right, a preview of an email is shown. The sender is 'Leslye E. Orloff, Adjunct Professor, Director, National Immigrant Women's Advocacy Project (NIWAP, pronounced new-app), American University, Washington College of Law, 4300 Nebraska Avenue, N.W., Suite N100B, Washington, DC 20016, o.202.274.4371 | c. 202.210.8886 | f. 202.274.4226 | orloff@wcl.american.edu | wcl.american.edu/niwap'.

Family Law Attorneys - COP Listserv Test - Message (HTML)

File Message Help Tell me what you want to do

Mark Unread Find Zoom Send to OneNote

Family Law Attorneys - COP Listserv Test

 Gwenyth Szabo <gwenyth.szabo@gmail.com>
To: community-of-practice@niwap.org


Reply Reply All Forward

Wed 6/24/2020 11:03 AM

Right-click or tap and hold here to download pictures. To help protect your privacy, Outlook prevented automatic download of some pictures in this message.

--

Gwenyth Szabo
Operations and Virtual Learning Assistant

 Right-click or tap and hold here to download pictures. To help protect your privacy, Outlook prevented automatic download of some pictures in this message.

National Immigrant Women's Advocacy Project
at the American University Washington College of Law
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info@niwap.org
[PO Box 5411, Washington DC 20016](#)

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You received this message because you are subscribed to the Google Groups "Community of Practice" group.
To unsubscribe from this group and stop receiving emails from it, send an email to community-of-practice+unsubscribe@niwap.org.
To view this discussion on the web visit <https://groups.google.com/a/niwap.org/d/msgid/community-of-practice/CAE-o%3D0h%2B0bxzC%3DU5wX9i3%3DZVDhZPc2%2Ba2wGqpNSZp3GOsOqPRg%40mail.gmail.com>.

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

The screenshot shows a web browser window with the address bar displaying "niwaplibrary.wcl.american.edu/other-resources-covid-19". The page content is as follows:

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

NIWAP recognizes the impact of an increased risk for immigrant survivors and the critical need to access COVID-19 screening and healthcare, as well as access to critical aid and economic support provided by the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Families First Coronavirus Response Act (FFCRA). It is crucial that victim advocates, attorneys, police, prosecutors, courts and other service providers working with immigrant survivors are able to accurately identify immigrant survivors who are eligible for assistance.

In response we have developed and publication titled "Immigrant Crime Victim Access to Relief During the COVID-19 Crisis Under the CARES and FFCRA Acts (May 20, 2020)" To support professionals working with immigrant survivors determine when immigrant survivors qualify for help under the CARES and FFCRA Acts. We want to lift-up a wide range of resources from partner organizations that we have compiled on this web page to help keep you informed and updated during this unprecedented time.

CARES Act Eligibility

- NIWAP: Immigrant Crime Victim Access to Relief During the COVID-19 Crisis Under the CARES and FFCRA Acts (May 20, 2020)
- National Immigration Law Center: Understanding the Impact of Key Provisions of COVID-19 Relief Bills on Immigrant Communities
- National Immigration Justice Center: COVID-19 Q&A: Understanding Benefits you can receive during the COVID-19 Emergency Crisis (April 2020)
- National Employment Law Project: FAQ Eligibility for Assistance Based on Immigration Status
- Protecting Immigrant Families: Immigrant Eligibility for Public Programs During COVID-19
 - En Español: Elegibilidad de Inmigrantes Para Programas Públicos
- National Law Review: The Families First Coronavirus Response Act FAQs: The FMLA Amendments and Paid Sick Leave Requirements of the New Law

CARES Act Cash Benefits

- Human Rights Initiative: stimulus eligibility checker (please let kcohn@hronline.org if you see any errors)
 - English language version
 - Spanish language version

On the right side of the page, there is a large "NIWAP" logo, a red "DONATE HERE" button, a Google Custom Search box, and several resource links including "Directory of programs with experience serving immigrant victims", "State-by-state map of available public benefits", "Find upcoming webinars and trainings in your area", and "View past webinar recordings, PSAs, and a set of roll call training videos for law enforcement".

The Windows taskbar at the bottom shows the search bar with "Type here to search", several application icons (including Word, Chrome, and Outlook), and the system tray with the date and time "6:41 PM 6/22/2020".

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

- Found on NIWAP Weblibrary
<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](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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