VAWA Prohibition on Fees for Service of Protection Orders: Implications for Law Enforcement Agencies

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Law enforcement plays an important role in the domestic violence, sexual assault, stalking protection order process. Serving the respondent notice of the protection order is a necessary step in the legal process required by courts before a “final” or “permanent” protection order can be granted to the petitioner. To enhance victim safety and reduce barriers to access, law enforcement must meet the Violence Against Women Act (VAWA) service requirements discussed in this article.

VAWA requires law enforcement agencies to serve protection orders on respondents without payment of fees by the victim. 42 U.S.C. §§ 3796gg-5, 3796hh(c)(4) (2000). This prohibition on fees is based on compliance requirements of the STOP Violence Against Women Formula Grants (STOP grants) and the Community Defined Solutions to Violence Against Women (CDS grants) (formerly entitled Grants to Encourage Arrest Policies and Enforcement of Protection Orders) of VAWA. This prohibition is often referred to as the “no fee” provision. Currently, all states, territories, and some tribes receive STOP. Many communities and tribes receive CDS funds.

Fees for service may not be charged by either the issuing or enforcing states, tribes, or territories. Jurisdictions must certify that their laws and the practices of their courts and law enforcement agencies do not make the victim pay costs associated with the “filing of criminal charges against the offender, or costs associated with the filing, issuance, registration, or service of a warrant, protection order, petition for a protection order, or witness subpoena.” 42 U.S.C. §§ 3796gg-5, 3796hh(c)(4) (2000). This means that all domestic violence, sexual assault, stalking protection orders must be served without cost to the petitioner regardless of the jurisdiction.

A majority of states have enacted laws that mirror VAWA’s “no fee” provision. Agencies that charge for service of protection orders may be noncompliant with their own state laws and policies, and may also jeopardize their federal grant funding. The federal requirement is applicable whether or not the state has a similar mandate. Examples of noncompliance with the federal prohibition include:

- Charging the victim for service of a protection order either within the issuing jurisdiction or another jurisdiction.
- Requiring the victim to pay the fees for private service of process, if there is no other fee free option for service.
- Charging victim an upfront fee for service of an order with a provision for reimbursement at a later date.
- Requiring victim to pay for the service of subpoenas or warrants.
Penalties for violations of laws and polices will vary in each jurisdiction. Those found to be noncompliant with the federal prohibition risk funds being denied, withheld, or reallocated to other states, tribes, and territories.

**Frequently Asked Questions about the VAWA “No Fee” Provisions**

*Which protection orders are covered by this statute?*
Domestic violence, stalking and sexual assault protection orders are covered by this statute. You may not charge fees for protection orders or injunctions preventing these acts.

*May we charge for other jurisdictions’ orders?*
The STOP and CDS grants prohibit charging the petitioner fees related to filing, issuance, registration or service of a protection order, regardless of the issuing jurisdiction. If you charge fees to petitioners seeking to file, register, or serve orders from outside jurisdictions, you put your state VAWA federal grant funds in jeopardy.

*What if an out-of-jurisdiction sheriff’s office has charged our agency fees?*
Issuance and service of these types of orders are to be free of charge. While there is nothing prohibiting charging fees to the issuing jurisdiction’s courts or law enforcement agencies, this action is not within the spirit of the law. The purpose of the law is clear: victims should not encounter barriers when accessing justice. To that end, each law enforcement entity should serve their orders, and other jurisdictions’ orders, free of charge.

*What if we contract with a private process server, can they charge the petitioner fees?*
No. The private process server may not charge the victim for service of the order.

*From a service standpoint, how can our agency avoid liability?*
Make sure that all petitioners have access to the justice system by serving all protection orders at no cost and in a timely fashion.

*Are there any other service methods that our agency can utilize, especially if the respondent is evading service?*
Using alternative means of service can be a cost and time efficient way to serve orders for many sheriffs’ offices and police departments. Alternative means may include service by mail, through publication, at the respondent’s place of business or on a household member. Communicate with the issuing court to determine if service can be affected through alternative means.

The National Center on Protection Orders and Full Faith & Credit’s (NCPOFFC) mission is to promote and facilitate inter-jurisdictional enforcement of protection orders in state, U.S. territorial, and tribal jurisdictions. NCPOFFC is available to provide technical assistance, training and answer any questions concerning compliance with the statutory prohibition referred to in this article.
For questions or help on compliance with these provisions contact:

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1 Ms. Henry and Ms. Player are attorneys for the National Center on Protection Orders and Full Faith & Credit (NCPOFFC). A project of the Battered Women’s Justice Project (BWJP), the mission of the NCPOFFC is to promote and facilitate nationwide implementation of the full faith and credit provision of the Violence Against Women Act (VAWA) and enforcement of federal and state firearm prohibitions as they relate to domestic violence.