



# VAWA “No Fee” Toolkit



## VAWA “No Fee” Toolkit

The Violence Against Women Act (VAWA) prohibits jurisdictions from charging a victim costs associated with civil and criminal domestic violence, dating violence, sexual assault and stalking cases<sup>1</sup> if they receive funding under the Services \* Training \* Officers\* Prosecutors (STOP) Violence Against Women Formula Grant Program or the Improving Criminal Justice Responses to Sexual Assault, Domestic Violence, Dating Violence and Stalking Grant (ICJR) Grant Program. The prohibition is often referred to as the “no fee” provision.

This toolkit was created for advocates who assist survivors with the issuance, service, and enforcement of their protection orders. The purpose of the toolkit is to assist advocates in facilitating compliance with the “no fee” certification requirements by all jurisdictions. This toolkit contains the following documents:

- Fact sheets for advocates and law enforcement that explain the “no fee” provisions.
- A sample letter for advocates to facilitate service of an order without cost to the victim.
- A “no fee” chart on prohibited costs under the STOP and the ICJR grant certification requirements.

These documents are designed to provide understanding and compliance with the certification requirements so that survivors can access legal relief in the civil and criminal justice systems regardless of their particular financial circumstances.

### **For questions or help contact:**

The National Center on Protection Orders and Full Faith & Credit (NCPOFFC)

Toll-Free: 1-800-903-0111, prompt 2.

Email: [ncffc@bwjp.org](mailto:ncffc@bwjp.org)

Website: [www.fullfaithandcredit.org](http://www.fullfaithandcredit.org)

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<sup>1</sup> See, 34 U.S.C. § 10450; 34 U.S.C. § 10461(c)(1)(D).



## Fact Sheet for Advocates: Understanding the “No Fee” Certification Requirements for Protection Orders and Criminal Charges

### TECHNICAL ASSISTANCE

The National Center on Protection Orders and Full Faith & Credit (NCPOFFC) is available to answer questions, provide training and technical assistance to facilitate compliance with the VAWA “no fee” certification requirements.

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Jurisdictions that apply for or receive funding under the STOP Violence Against Women Formula Grant (STOP) Program must certify that their laws, policies and practices do not require victims of domestic violence, dating violence, sexual assault or stalking bear the costs associated with the filing, issuance, registration, modification, enforcement, dismissal, withdrawal or service of a warrant, petition for a protection order, protection order or witness subpoena.<sup>2</sup> This includes the prohibition on costs associated with the filing of criminal charges against the offender in domestic violence, dating violence, sexual assault and stalking offenses.<sup>3</sup> All states receive STOP funding and have certified compliance; thus victims should not be required to pay such costs in any state.



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*“This provision is designed to ensure that jurisdictions are not forcing victims to bear costs related to criminal and civil domestic violence, dating violence, sexual assault, and stalking cases.”<sup>4</sup>*

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<sup>2</sup> See, 34 U.S.C. §10450 (a)(1).

<sup>3</sup> *Id.* Additionally, applicants of the Improving Criminal Justice Responses to Sexual Assault, Domestic Violence, Dating Violence and Stalking Grant (ICJR) Program have similar certification requirements to STOP with exception of “withdrawal.” The program statute is silent on this issue. See 34 U.S.C. § 10461(c) (1) (D). Note, in 2016, the Grants to Encourage Arrest Policies and Enforcement of Protection Orders (Arrest) Program was renamed the ICJR Program to better reflect the program’s scope. See, *Important Notice to OVW Grantees, Applicants and Stakeholders: Title Change to the Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program*, U.S. DEP’T OF JUSTICE, <https://www.justice.gov/ovw/blog/important-notice-ovw-grantees-applicants-and-stakeholders-title-change-grants-encourage> (last visited Apr. 26, 2017).

<sup>4</sup> U.S. DEP’T OF JUSTICE, FREQUENTLY ASKED QUESTIONS (FAQS) ABOUT STOP FORMULA GRANTS 37 (2016), available at <https://www.justice.gov/ovw/file/827531/download> (Question 21).

## Facilitating Service of a Foreign Protection Order Free of Charge

The NCPOFFC has created a Sample Letter available by request from NCPOFFC to facilitate service of a foreign protection order without fees. The letter explains why protection orders issued to protect victims of domestic violence, dating violence, sexual assault and stalking must be served free of charge. Advocates can use the sample letter in conjunction with the Law Enforcement Fact Sheet to provide information to law enforcement agencies on complying with the “no fee” provision.

Many states have enacted statutes similar to the federal “no fee” certification requirement. However, the federal requirement is applicable whether or not a jurisdiction has a similar statute. The [“No Fee” Matrix](#) contains state laws that prohibit fees for victims in protection order cases.

## Frequently Asked Questions

**Q: What fees are prohibited for victims of domestic violence, dating violence, sexual assault, and stalking under the certification requirements?**

**A:** The NCPOFFC has created the [“No Fee” Prohibition in Connection with Protection Orders and Criminal Charges](#) chart that lists the type of fees prohibited under the certification requirements.

**Q: Who is defined as a victim under this provision?**

**A:** The statutory language specifically refers to victims of domestic violence, dating violence, sexual assault, and stalking. Whether a person is eligible to file for relief as a victim of domestic violence, dating violence, sexual assault, or stalking is determined by the issuing jurisdiction’s statute. This also includes persons who apply for general orders such as “anti-harassment” or “repeat violence” orders where the person applying is a victim of one of these crimes.

**Q: What types of protection orders are covered by the requirement?**

**A:** “The requirement specifically applies to an order ‘to protect a victim of domestic violence, dating violence, sexual assault, or stalking.’ This includes any civil order of any type or duration so long as it was issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person. This also includes orders issued by criminal courts, and pendente lite orders in other proceedings, as described in 18 U.S.C. § 2266.”<sup>5</sup>

**Q: Can fees be charged for general protection orders such as “anti-harassment” or “repeat violence” orders?**

**A:** “If the person applying for the order is a victim of domestic violence, dating violence, sexual assault, or stalking and is applying to get an order because of that crime, then the order would constitute an order ‘to protect a victim of domestic violence, dating violence, sexual assault, or stalking.’ Jurisdictions may charge for general protection orders when the applicant is not a victim of these crimes.”<sup>6</sup> **TIP:** Advocates can help facilitate service of a general protection order by making sure it is clearly denoted that the

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<sup>5</sup> *Id.*, at 39 (Question 27).

<sup>6</sup> *Id.* (Question 28).

order was issued to “protect a victim of domestic violence, dating violence, sexual assault or stalking” as specified in the issuing jurisdiction's statute.

**Q: Can fees be charged if the petitioner fails to appear at the hearing?**

**A:** The petitioner can only be charged if the court makes a finding that the petitioner is not a victim of domestic violence, dating violence, sexual assault or stalking. **TIP:** There are many extenuating circumstances in which a victim may fail to appear at a final protection order hearing including intimidation by the respondent. Advocates should work to educate the court on reasons why a victim may fail to appear.

**Q: Can fees be charged if the victim requests a dismissal of a protection order?**

**A:** No. The statute expressly prohibits charging a victim for dismissing a protection order. **TIP:** Advocates should educate the court on survivor safety and autonomy and the many circumstances in which a survivor may seek a dismissal.

**Q: What if a victim of domestic violence, dating violence, sexual assault, or stalking returns to court to request a modification of a protection order?**

**A:** “ ‘Modification’ of orders is expressly covered by the certification, so the victim cannot pay for this.”<sup>7</sup>

**Q: Can a victim be charged to file an extension of a protection order?**

**A:** No, a victim cannot be charged. This would be considered a cost associated with the modification of the terms of an order which is expressly covered by the certification.

**Q: If the court denies a petition for an order, can the petitioner then be charged fees?**

**A:** “Possibly, depending on the specific circumstances of the case. It is possible that a court may deny a protection order even though the petitioner is a victim of domestic violence, dating violence, sexual assault, or stalking. For example, if the state law requires physical abuse to have occurred within a certain time period, a victim could be denied an order because there was not a recent enough incident of physical abuse. The petitioner may be charged fees if the court makes a finding that the petitioner is not a victim of the domestic violence, dating violence, sexual assault, or stalking and denies the order based on that finding.”<sup>8</sup>

**Q: Can a jurisdiction charge a fee if the victim files a petition for contempt for violation of the protection order?**

**A:** No. The victim could not be charged for the petition because it would constitute a fee associated with the enforcement of the order and should be free of charge.

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<sup>7</sup> *Id.* (Question 29).

<sup>8</sup> *Id.* (Question 30)

**Q: Can fees be charged for a protection order filed within a divorce or custody proceeding to protect a victim of domestic violence, dating violence, sexual assault or stalking?**

**A:** If a victim of domestic violence, dating violence, sexual assault or stalking files for a protection order within a custody or divorce case, the petitioner cannot be charged fees associated with the protection order. However, the provision does not limit the ability of a jurisdiction to charge fees for the divorce or custody case.

**Q: Can a victim be charged for service or registration of a foreign protection order?**

**A:** The statute refers to orders “whether issued inside or outside the State, tribal, or local jurisdiction.” Jurisdictions must not charge a victim for registration of a foreign protection order, service of the order, or fees or copies bearing proof of registration or filing of the order.

**Q: In our jurisdiction, law enforcement contract with a private process server to serve all orders. Can the private process server charge the victim for service of the protection order?**

**A:** A private process server contracted by a jurisdiction to serve petitions and protection orders may not charge a victim of domestic violence, dating violence, sexual assault, or stalking if there is no fee free method offered by the jurisdiction to serve an order. **NOTE:** In jurisdictions where anyone can serve the order the free option is that the victim identifies an appropriate individual to serve the order. Advocates should discuss with the survivor safety precautions that should be taken when having an order served by someone other than a law enforcement officer.

**Q: Can the respondent or defendant be charged fees in connection with protection orders or criminal cases?**

**A:** There is nothing in the program statutes that prevent jurisdictions from charging the respondents or defendants.<sup>9</sup> Advocates should check their laws, policies, and practices to determine if this is permitted in their jurisdiction.

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<sup>9</sup> *Id.*, at 38 (Question 23).



## Law Enforcement Fact Sheet: Complying with the “No Fee” Certification Requirements for Protection Orders and Criminal Charges

### TECHNICAL ASSISTANCE

The National Center on Protection Orders and Full Faith & Credit (NCPOFFC) is available to answer questions, provide training and technical assistance to facilitate compliance with the VAWA “no fee” certification requirements.

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Law enforcement agencies who serve protection orders, petitions for protection orders, warrants, and witness subpoenas issued in civil and criminal domestic violence, dating violence, sexual assault or stalking cases must do so free of charge. This prohibition on fees for service is based on the STOP Violence Against Women Formula Grant (STOP) Program and the Improving Criminal Justice Responses to Sexual Assault, Domestic Violence, Dating Violence And Stalking Grant (ICJR) Program certification requirements. Jurisdictions that apply for or receive STOP funding must certify that their laws, policies and practices do not require victims to bear “...the costs associated with the filing of criminal charges against the offender or the costs associated with the filing, issuance, registration, modification, enforcement, dismissal, withdrawal or service of a warrant, petition for a protection order, protection order or witness subpoena...”<sup>10</sup> All states receive STOP funding and have certified compliance; thus victims cannot be required to pay such costs in any state. Note: Jurisdictions that apply for or receive ICJR funding have similar certification requirements to STOP with the exception of “withdrawal.”<sup>11</sup> The statute is silent on this issue.



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*“This provision is designed to ensure that jurisdictions are not forcing victims to bear the costs related to criminal and civil domestic violence, dating violence, sexual assault, and stalking cases.”<sup>12</sup>*

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Many states have enacted statutes similar to the federal “no fee” certification requirement. However, the federal requirement is applicable whether or not a jurisdiction has a similar statute. [The “No Fee” Prohibition](#)

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<sup>10</sup> See 34 U.S.C. §10450

<sup>11</sup> See 34 U.S.C. § 10461 (c) (1) (D). Note, in 2016, the Grants to Encourage Arrest Policies and Enforcement of Protection Orders (“Arrest”) program was renamed the ICJR Program to better reflect the programs scope. See, *Important Notice to OVW Grantees, Applicants and Stakeholders: Title Change to the Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program*, U.S. DEP’T OF JUSTICE, <https://www.justice.gov/ovw/blog/important-notice-ovw-grantees-applicants-and-stakeholders-title-change-grants-encourage> (last visited Apr. 26, 2017).

<sup>12</sup> U.S. DEP’T OF JUSTICE, FREQUENTLY ASKED QUESTIONS (FAQS) ABOUT STOP FORMULA GRANTS 37 (2016), available at <https://www.justice.gov/ovw/file/827531/download> (Question 21).

[in Connection with Protection Orders and Criminal Charges](#) chart contains state laws that prohibit fees for victims in protection order cases.

## Frequently Asked Questions

### **Q: What types of protection orders are covered by the requirements?**

**A:** “The requirement specifically applies to an order ‘to protect a victim of domestic violence, dating violence, sexual assault, or stalking.’ This includes any civil order of any type or duration so long as it was issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person. This also includes orders issued by criminal courts, and pendente lite orders in other proceedings, as described in 18 U.S.C. § 2266.”<sup>13</sup>

### **Q: Can fees be charged for general protection orders such as “anti-harassment” or “repeat violence” orders?**

**A:** “If the person applying for the order is a victim of domestic violence, dating violence, sexual assault, or stalking and is applying to get an order because of that crime, then the order would constitute an order ‘to protect a victim of domestic violence, dating violence, sexual assault, or stalking.’ Jurisdictions may charge for general protection orders when the applicant is not a victim of these crimes.”<sup>14</sup>

### **Q: Our law enforcement department does not directly receive STOP funding; must we comply with the prohibition on fees?**

**A:** All states receive STOP grant funds and have certified that their laws, policies and practices are compliant. This means law enforcement should follow their jurisdiction’s laws, policies and practices that prohibit charging victims for service of a warrant, petition for a protection order, protection order, or witness subpoena. Additionally, note, applicants of the ICJR Program have similar certification requirements to STOP with the exception of “withdrawal.” The program statute is silent on this issue.

### **Q: Are we required to serve supporting documents issued as part of a petition and protection order?**

**A:** Victims cannot bear the costs associated with the issuance of a petition for a protection order or protection order. If the document is related to the issuance, enforcement or service of the order, then it must be served free of charge. For example, a jurisdiction may require a notice of hearing and information about the protection order process to be issued as part of the petition and order as a packet of information required for the respondent. These documents must be served free of charge.

### **Q: In our jurisdiction, law enforcement contract with a private process server to serve all orders. Can the contracted private process server charge the victim for service of the protection order?**

**A:** A private process server contracted by a jurisdiction to serve petitions and protection orders may not charge a victim of domestic violence, dating violence, sexual assault, or stalking if there is no fee free method offered by the jurisdiction to serve an order.

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<sup>13</sup> *Id.*, at 39 (Question 27).

<sup>14</sup> *Id.* (Question 28).



**Q: Can the respondent or defendant be charged fees in connection with protection orders or criminal cases?**

**A:** There is nothing in the program statutes that prevent jurisdictions from charging the respondents or defendants.<sup>15</sup>

**Q: If the respondent, defendant, or subject of a protection order, warrant or witness subpoena lives out- of- state, who should pay the cost of service in each case?**

**A:** “The statute specifies that the requirement applies whether the warrant, protection order, petition for a protection order, or witness subpoena is ‘issued inside or outside the state, tribal, or local jurisdiction.’ This makes clear that victims cannot be charged in such cases. However, the statute does not specify which jurisdiction is required to cover the fees in such a case.”<sup>16</sup>

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<sup>15</sup> *Id.*, at 38 (Question 23).

<sup>16</sup> *Id.*, at 39 (Question 26).

## VAWA Prohibition on “Fees” in Connection with Protection Orders and Criminal Charges

The following chart identifies fees prohibited under the grant certification requirements of the Services \* Training \* Officers\* Prosecutors (STOP) Violence Against Women Formula Grant Program and the Improving Criminal Justice Responses to Victims of Sexual Assault, Domestic Violence, Dating Violence and Stalking (ICJR) Grant Program.

Types of fees victims must not pay in domestic violence, dating violence, sexual assault, and stalking protection order and criminal cases.	STOP grant applicants must certify their laws, policies and practices do not require victims to bear the following costs marked below. See 34 U.S.C. §10450	ICJR grant applicants must certify that their laws, policies and practices do not require victims to bear the costs marked below. See 34 U.S.C §10461 (c) (1)(D)
Costs associated with filing of criminal charges against the offender (in connection with the prosecution of any misdemeanor or felony domestic violence, dating violence, sexual assault or stalking offense), or	X	X
Costs associated with the filing,	X	X
Issuance,	X	X
Registration,	X	X
Modification,	X	X
Enforcement,	X	X
Dismissal,	X	X
Withdrawal, or	X	Note: The statute is silent on this cost.
Service	X	X

for a warrant, protection order, petition for a protection order or witness subpoena in the civil and criminal justice systems.

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