



CENTER FOR SURVIVOR  
AGENCY & JUSTICE

6/17/2020

Property of CSAJ. Please contact for  
permissions: [info@csaj.org](mailto:info@csaj.org)



# Unemployment Insurance & COVID-19:

## What Domestic/Sexual Violence Attorneys & Advocates Should Know

June 17, 2020

---

This project is supported all or in part by Grant No. 2017-TA-AX-K065 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in the publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

# Before we begin...

---

## Housekeeping!

# Consumer Rights Initiative 2019-2022

---

## Build communities of practice

In survivor centered consumer advocacy

## Embrace the complexity

Consumer legal strategies that center needs of the marginalized

## Crack the coerced debt “nut”

## Foster organizational change

- ☐ Listening sessions
- ☐ Peer Exchange calls
- ☐ Coerced Debt Working Group & Handbook
- ☐ Newsletters, webinars, other resources
- ☐ Individualized technical assistance

# Welcome & as we get started ...

---

Please let us know in the chat:

- Where you're from
- What your role is
- Who you're serving, e.g. domestic violence, sexual assault survivors, or both. Immigrant survivors, survivors with disabilities, LGBT survivors.
- What your community is like: rural/urban/suburban, college/university town, diverse, aging, etc.

# Faculty Today

## Judy Conti

Government Affairs Director  
National Employment Law Project

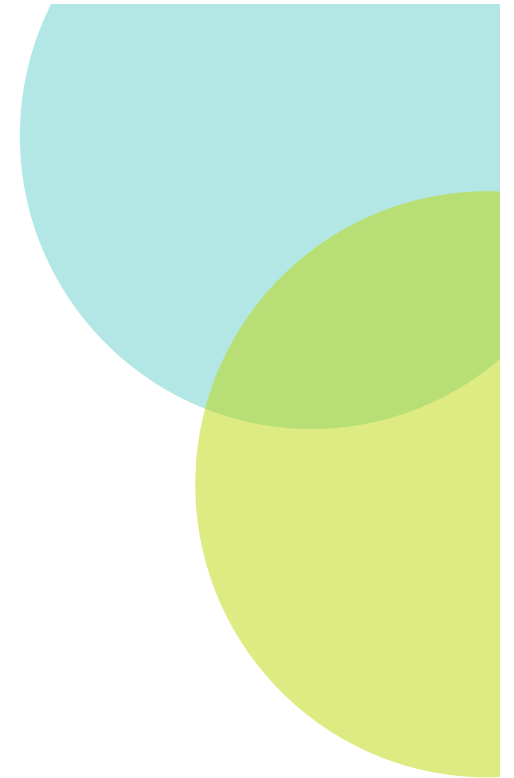
## Krista Del Gallo

Public Policy Manager  
Texas Council on Family Violence

## Lisalyn R. Jacobs

CSAJ Legal Advisor  
& Just Solutions

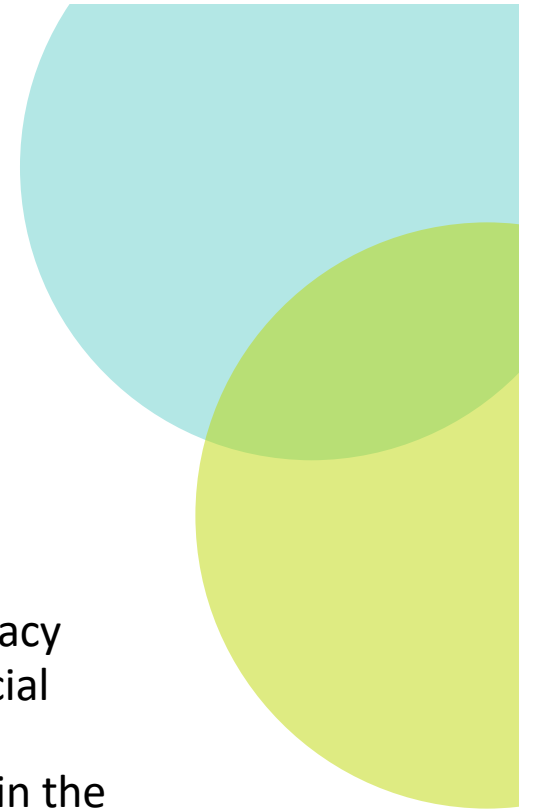
\*Hosted by CSAJ

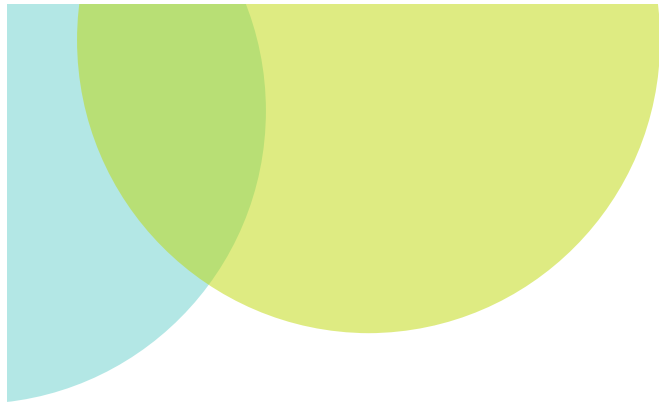


# Objectives

After today's training, attendees should have:

- ☐ A better understanding of UI options and broad advocacy strategies to increase survivor access to needed financial support/assistance/relief;
- ☐ Attorneys will gain an understanding of client options in the context of family law, other areas of the law and in partnership with advocates;
- ☐ Program leaders will gain a better idea of the UI landscape and ways to enlist new, or strengthen current partnerships to expand resources.





# What We Will Cover:

- ☐ Unemployment insurance basics
- ☐ Background & history of UI access for survivors of domestic, sexual violence, and stalking

- 
- ☐ Texas: responding to and supporting survivors whose employment is impacted by IPV
  - ☐ Applying for Pandemic Unemployment Assistance (and other pandemic variations)

# Unemployment Insurance – Who's Covered?

- **Employees (people who get W-2s) who lose their jobs through no fault of their own. Some states allow for partial and part-time UI.**
- **Must have sufficient earnings in the past 18 months to qualify. Varies state by state.**
- **Replaces an average of 40% of your income, but could be higher or lower depending on the states where you are eligible.**
- **If you are at all eligible for UI, this is what you will receive even if the greater portion of your earnings are from self-employment**
- **Usually 26 weeks of benefits.**



# Common UI Questions

- **I've worked in multiple states? Where should I apply?** In the state with the highest benefit level.
- **What information and documentation must I have?** Check the state website for all info.
- **Must I be looking for work to receive UI, even now?** Yes, you must be “able and available” for “suitable work” and be engaged in “active work search.” But states are allowed to relax this to some degree given the current circumstances.
- **What if I am not a citizen of the United States?** As long as you are authorized to work in the U.S., you can collect UI.
- **What if I get severance or any payout for sick leave or vacation? Will this impact my UI benefit or timing?** It will vary state by state.

# Costs of Domestic/Sexual Violence

## ▶ **\$4.9 billion direct costs**

- **Medical – 70%**
- **Lost productivity – 15%**
- **Lost lifetime earnings – 15%**
- **95% of incidents occur in households with incomes below \$75,000**

▶ Source: <http://fortune.com/2016/04/07/violence-against-women-cost/>

# Incidence of Workplace Violence

- ▶ 27% of women have experienced intimate partner violence at least once.
- ▶ For men, about 16% have experienced intimate partner violence.

# Perpetrators and the Workplace

## Performance

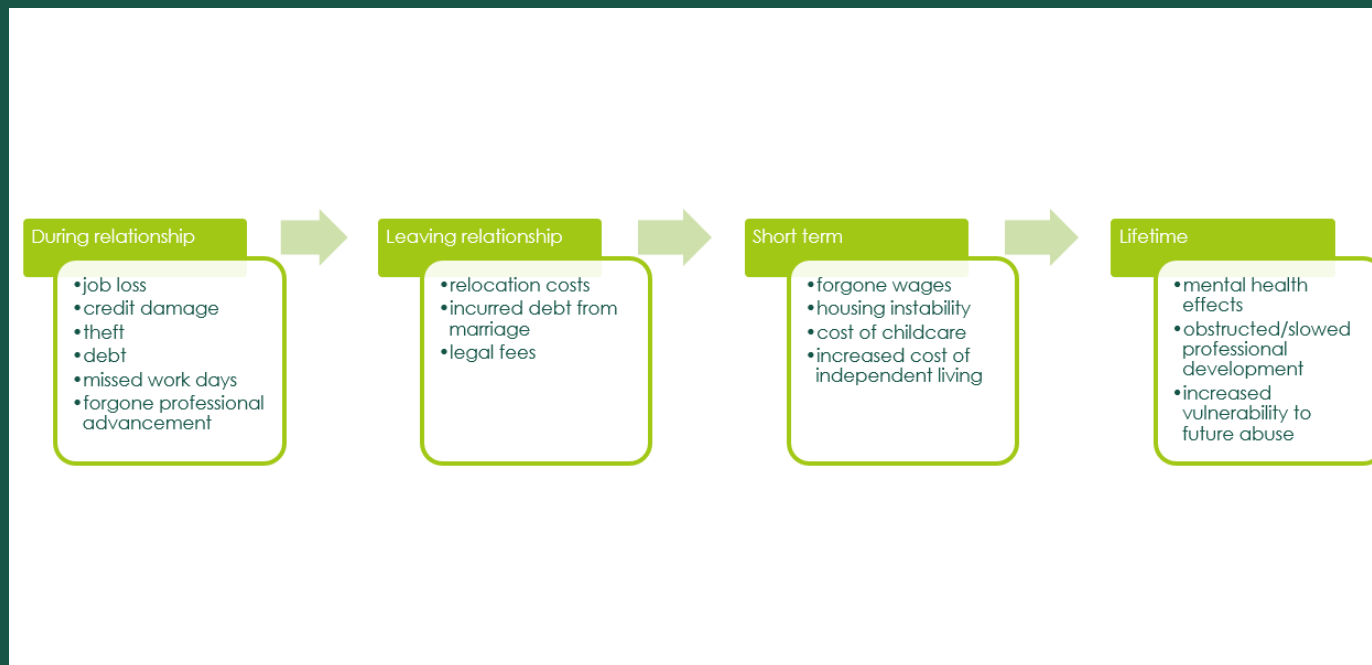
- ❑ 80% of perpetrators said their own job performance was negatively affected by their perpetration of domestic violence.
- ❑ 19% caused or almost caused an accident at work.
- ❑ In many cases supervisors were aware of the perpetrator's behavior but failed to confront or admonish the employee about it.

(Schmidt & Barnett, 2012)

# Impact on Victims' Employment (Pre-COVID-19)

- ❑ Absences
  - legal proceedings
  - obtaining medical care or psychological counseling
  - safety planning
  - relocation
- ❑ Unscheduled or unexplained absences
- ❑ Chronic tardiness
- ❑ Safety

# The Ripple Effect: Collateral Costs



Sussman, E. & Shoener, S. 2013. The Economic Ripple Effect of IPV: Building Partnerships for Systemic Change. Domestic Violence Report.

# Job Insecurity Impacts Economic Well-Being Over Time



Adams, Tolman,, Bybee, Sullivan, & Kennedy. (2012). The impact of intimate partner violence on low-income women's economic well-being: The mediating role of job stability. *Violence Against Women*, 18:1345.

# Lifetime: Pathways of Economic Disadvantage



## Consumer Impacts

- 81% report “trouble with credit rating”
- 76% state financial hardship due to abusive partner
- Collateral consequences on employment/housing



## Opportunity Cost

- Only 1 in 5 able to retain full-time employment
- Employment instability last up to 3 years
- Constrained career growth (\$350 less starting salary, slower growth)
- Reduced educational attainment (1/2 year)
- Negative impact of work history



## Health & Quality of Life

- Utilize healthcare up to 4x as much with higher costs
- Increased health costs last up to 15 years after abuse
- Impact on physical, mental, social, and spiritual wellness



# Perpetrators and the Workplace

## **Missed Work:**

Between 42% and 51.8% of perpetrators of domestic violence were either late or missed work entirely because of their abusive behavior.

## **Use of Company Resources:**

More than three-quarters of perpetrators used workplace resources at least once to express remorse or anger, check up on, pressure, or threaten the victim. (Lim, et al, 2004)

# Impact on Victims' Employment

- ❑ Changes in work performance
- ❑ On the job harassment and violence
- ❑ Unexplained bruises or injuries
- ❑ Employment resignation
- ❑ Employment termination

# Workplace Policy & Laws: History

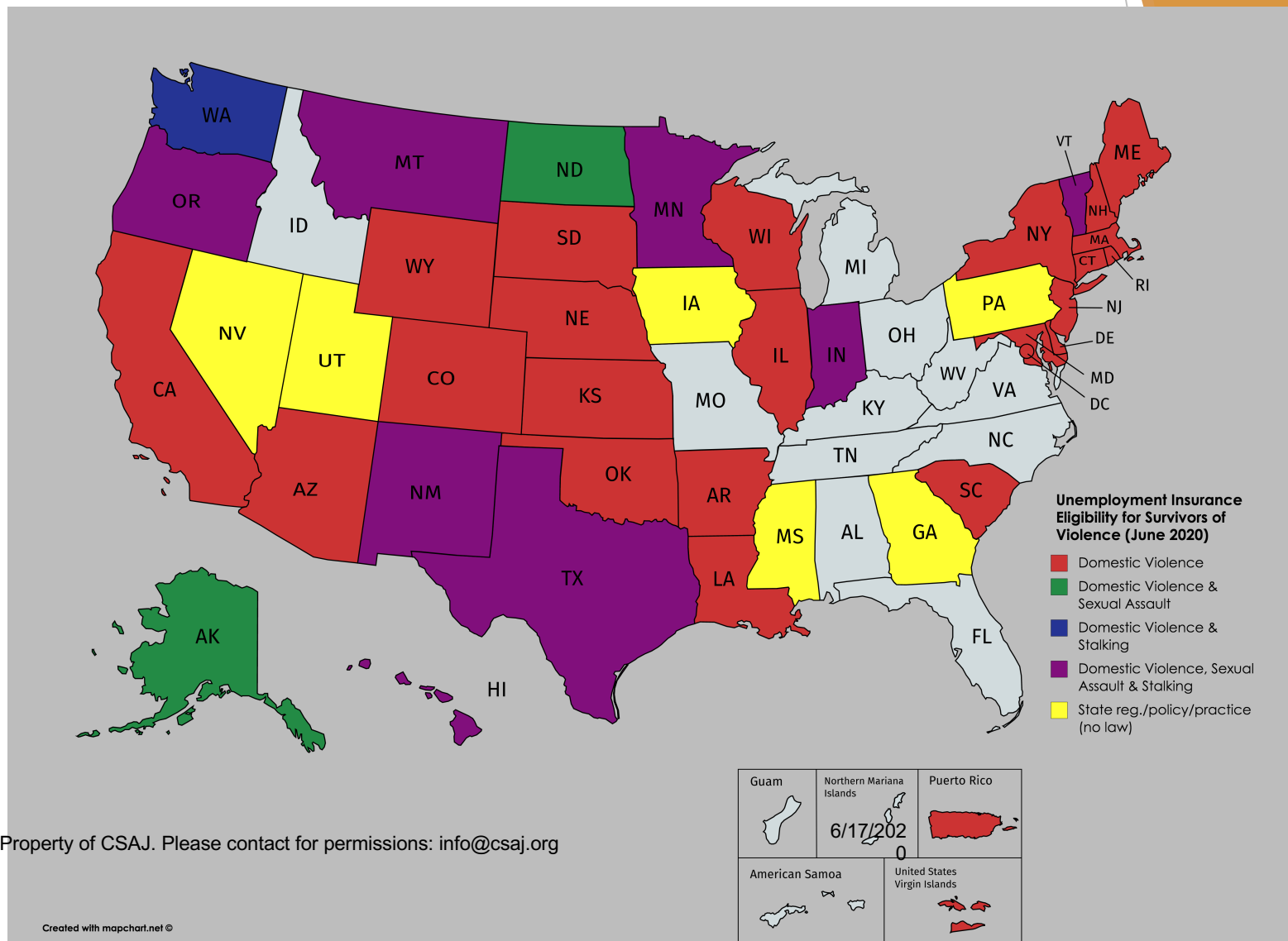
- ▶ Workplace (domestic/sexual) violence laws were first enacted in the early 90's;
- ▶ Victims' Economic Security and Safety Act enacted in IL by then Senator Obama in 1993;
- ▶ Each version of the Violence Against Women Act ('94, '00, '05 and '13) have included economic justice proposals.
  - ▶ Only VAWA 2005 contained a new economic justice program: the creation of the National Resource Center on Workplace Responses  
[www.workplacesrespond.org](http://www.workplacesrespond.org);
- ▶ Obama Administration put forward 3 policies: 1) in 2012, an Executive Order creating federal agency workplace policies for federal employee survivors; 2) in 2015, an Exec. Order requiring federal contractors to allow their employees to accrue sick and safe leave days; 3) a Question and Answer document re: the interplay of Title VII and sexual and domestic violence published by the Equal Employment Opportunity Commission.
- ▶ Laws: Key Components
  - ▶ Anti-discrimination
  - ▶ (Un)paid leave
  - ▶ Unemployment insurance

# Unemployment Insurance for Survivors

- ❑ When leaving work is necessary to protect themselves (or family) from domestic violence, sexual assault or stalking
- ❑ 39+ states by statute, or practice
  - Some states include only domestic violence
  - Others domestic violence and stalking
  - Some domestic and sexual violence and stalking

# Unemployment Insurance Eligibility

For domestic violence, stalking, and sexual assault victims



# POLL 1

**What's your experience with unemployment insurance and survivors?**

- ▶ 1) I helped a client apply before the pandemic
- ▶ 2) I have helped a client apply during the pandemic
- ▶ 3) I have clients who I hope to help apply during the pandemic, but have not done so yet.
- ▶ 4) I have not assisted clients with UI needs before, but my state provides UI
- ▶ 5) I have not assisted clients with UI needs before and my state does not provide it

# Connection Between SA/DV and the Workplace

National benchmark survey of employed adults,  
findings:

- ▣ **64% of victims** of domestic violence indicated that their **ability to work was affected by the violence.**
- ▣ **30%-53%** of employed victims of domestic violence **lost their jobs** due at least in part to the domestic violence;
- ▣ **25% of rape victims lost their jobs** within a year of the assault.

# Connection Between SA/DV and the Workplace

The survey also found:

- ▣ 47% reported being assaulted before work;
- ▣ **67% said the perpetrator came to the workplace;**
- ▣ 96-98% of employed domestic violence victims experienced problems at work related to the violence



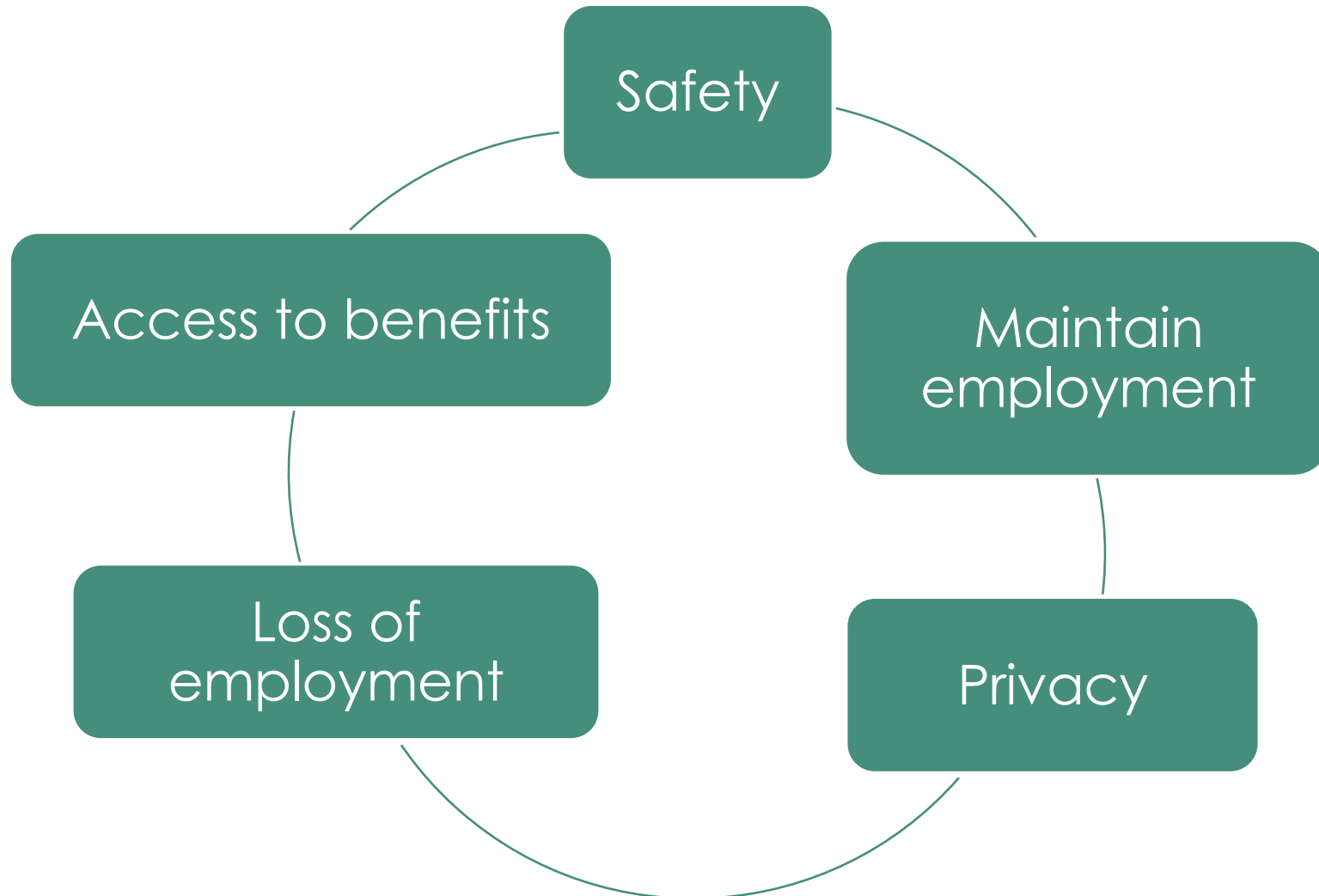
## Connection Between SA/DV and the Workplace

- According to the CDC, 8 million work days are lost annually, the equivalent of 32,000 full-time jobs, due to rapes/sexual assaults annually.
- 25% of rape victims lose their jobs within one year of the assault.
- In 2014 dollars, the estimated lifetime cost of a rape is \$122,461 per victim, and the total population economic burden is \$3.1 trillion.

# Connection Between SA/DV and the Workplace

- If the perpetrator is someone the survivor was in a relationship with, they may know where the survivor works, may stalk her at work, and she may need to obtain a protective order and have it enforced at work.
- The survivor may need time off from work to heal from injuries caused by the sexual assault and participate in a criminal or civil court matter, but she is afraid she will be fired.

# Determine Employment Needs



# State Employment Rights of DV & SA Victims

- Job Protected Leave
- Protected Leave (paid leave or unpaid)  
from work to go to court or to heal from  
injuries.
- Anti-discrimination and harassment laws
  - Unemployment Compensation

*\*Texas Labor Code Sec. 204.022*

**Texas has no explicit job-protected leave for survivors of family violence or sexual assault and no required sick leave.**

# Crime Victim Leave

## TX CCP Article 56.02(a)(10)

### Crime Victim Rights

- The right to have the attorney for the state notify the employer of the victim, if requested, of the necessity of the victim's cooperation and testimony in a proceeding that may necessitate the absence of the victim from work for good cause...

# Employer Prohibition

## ■ TX Labor Code Section 52.051

### PENALIZING EMPLOYEE FOR COMPLIANCE WITH SUBPOENA

- (a) An employer may not discharge, discipline, or penalize in any manner an employee because the employee complies with a valid subpoena to appear in a civil, criminal, legislative, or administrative proceeding.

# Unemployment Insurance

- Survivors who must leave their job to protect themselves from family violence, sexual assault or stalking may be eligible for unemployment compensation.

Texas Labor Code § 204.022 (11)



# Unemployment Insurance

**Survivors, may be eligible for unemployment compensation if they show:**

- ▣ An active or recently issued Protective Order
- ▣ A police record documenting
- ▣ A physician's statement or other medical documentation
- ▣ Written documentation from a family violence center or rape crisis center describing the family violence or sexual assault.

# Unemployment Insurance

- ▣ Individuals may apply for unemployment insurance through the Texas Workforce by going to [www.twc.state.tx.us](http://www.twc.state.tx.us) or by calling (800)939-6631 / 1-800-735-2989 (TDD).

# CARES Act COVID-19 Unemployment Benefits

May 2020

# Pandemic Unemployment Assistance (CARES Act)

- Covers workers not eligible for UI (including self-employed) who are partially or fully unemployed for specific COVID-19-related reasons (next page).
- 39 weeks (retroactive to January 27<sup>th</sup> through 2020)
- PUA weekly benefit is the same as the state's UI, but with a minimum of half the state's weekly average UI benefit.
- Does not cover those who can telework with pay or are receiving paid sick or paid leave benefits \*\* BUT.

# **\*\*DOL Clarifies Telework for Survivors**

- The U.S. Department of Labor issued a Question & Answer document on April 27, 2020
- “If domestic violence, sexual violence or stalking prevents an individual from teleworking and the individual is not eligible for regular [unemployment assistance], the individual may be qualified to receive PUA if they are unemployed, partially unemployed, unable or unavailable for one of the COVID-19 reasons listed in section 2102 section (a)(3)(A)(ii)(I) of the CARES Act.” (Q. 3, p. 1-2)

**Section 2102 section (a)(3)(A)(ii)(I) of the CARES Act applies to those unavailable, etc. for work for any of these reasons:**

- (i) have been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and are seeking a medical diagnosis;
- (ii) have a member of his/her household who have been diagnosed with COVID-19;
- (iii) are providing care for a family member or household member who has been diagnosed with COVID-19;
- (iv) are the primary caregiver for a child or other person in the household who is unable to attend school or another facility that has been closed as a direct result of COVID-19 and such school or facility care is required for the individual to work; or
- (v) place of employment is closed as a direct result of COVID-19.

# Additional Programs

## Pandemic Unemployment Compensation (PUC):

- **-\$600 increase in weekly benefits for all those on state UI and Pandemic Unemployment Assistance (through the week ending July 26<sup>th</sup>, unless extended)**

## Pandemic Emergency Unemployment Compensation (PEUC):

- **13 weeks more for workers who exhaust state UI**
- **Available through 2020**
- **If you've already run out of state UI, reopen your claim to get PEUC. If you run out in the future, it should sequence automatically**

# Covered Conditions

- They are diagnosed with or seeking diagnosis of COVID-19 or caring for someone with it;
- They are caring for a child or household member who can't attend school or work;
- They are quarantined or have been advised to self-quarantine;
- They can't start or reach a job or their place of employment is closed as a direct result of COVID-19;
- They had to quit their job as a direct result of COVID-19. (Not just because of generalized fear for your health).



# The PUA Application Process

- Must first be declared ineligible for UI
- State will then direct you what more it needs for PUA. Some states will require an additional application, others (like NYS) will process you based on what they already have from your UI application.
- You will be able to self-certify your income if it's not already in the system to get your PUA up and running.
- You will then need to provide documentation to substantiate your income to continue receiving benefits. Timelines will vary by state.

# Common Questions

- **How do I substantiate my income for PUA?**

Documents such as 1099s, tax returns, bank statements showing deposits, and even affidavits may be used.

- **What if I've only lost part of my income but not all of it?** Many states will provide partial UI but if yours doesn't, PUA will likely cover you for your partially lost income. Rates will vary by state.

- **What about my immigration status?** Generally speaking, if you're work authorized and not here on a visa tied to a specific employer, you should be able to receive PUA. Please go to [www.unemployedworkers.org](http://www.unemployedworkers.org) and read the fact sheet in Immigrant Worker Eligibility for Unemployment.

# National Employment Law Project

90 Broad Street, Suite 1100

New York, NY 10004

[www.nelp.org](http://www.nelp.org)

[www.unemployedworkers.org](http://www.unemployedworkers.org)



©2019 National Employment Law Project. This presentation is covered by the  
Creative Commons Attribution-NonCommercial-NoDerivatives" license fee.  
Property of CSAJ. Please contact for  
permissions: info@csaj.org

# Q&A

---

6/17/2020

Property of CSAJ. Please contact for  
permissions: [info@csaj.org](mailto:info@csaj.org)

## POLL 2

---

What issues have your clients been raising most frequently during the pandemic?

# Strategies

## Individual Advocacy:

- ☐ Because of issues with UI application websites or other platforms, attorneys & advocates alike may need to help survivors navigate the application process more than usual. Familiarize yourself / train staff / partner
- ☐ Use Covid as a window of opportunity to Train local organizations to recognize & respond to DV
- ☐ In advocacy w Employers: Consider the link between un/paid leave and UI - are there openings to expand accommodation and workplace protection policies with major employers?

## Partnership Building & Systems Change:

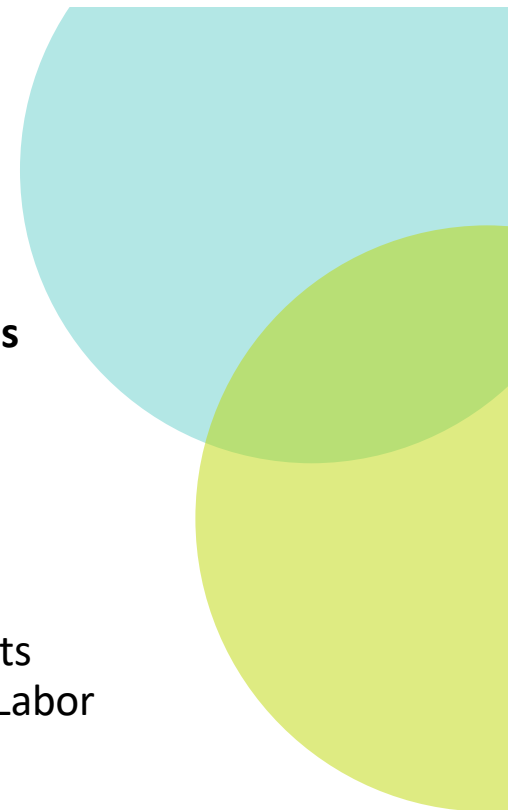
- ☐ Build partnerships between employment attorneys and domestic violence advocates/programs
- ☐ Create and maintain contacts with State Departments of Labor (who control/manage this benefit). Partner to include sample workplace policies and unemployment insurance for survivors
- ☐ 501c3's have lobbying limits, but they can EDUCATE officials; consider educating local officials
- ☐ Apply for violence prevention grants that allow for systems change work

## Resources:

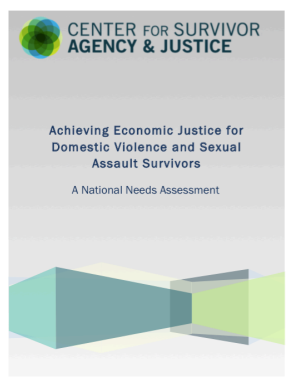
[Cornell Law School](#)  
[Workplaces Respond](#)

6/17/2020

Property of CSAJ. Please contact for  
permissions: [info@csaj.org](mailto:info@csaj.org)



# Resources



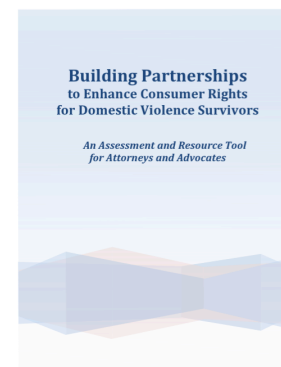
[CSAJ's National Needs Assessment Report](#)



[Economic Ripple Effect DV Report Article](#)



[CSAJ's Pilot Site Report](#)



[CSAJ's Assessment Tool for Attorneys & Advocates](#)

- [CSAJ's Resource Library](#)
- Past [webinars](#) on consumer issues

6/17/2020

Property of CSAJ. Please contact for permissions: [info@csaj.org](mailto:info@csaj.org)

# CSAJ's Guidebook

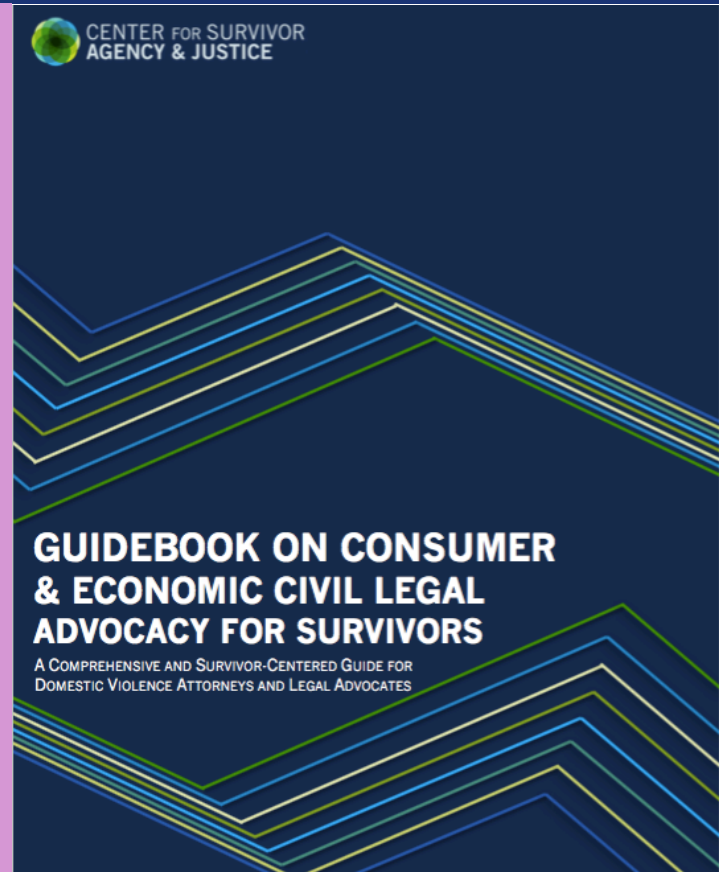
## **Guidebook on Consumer & Economic Civil Legal Advocacy for Survivors**

A comprehensive and survivor-centered guide for  
domestic violence advocates and attorneys

### ***Chapters Include:***

- Credit reporting and repair
- Debt collections and defense
- Bankruptcy and foreclosure
- Federal tax advocacy
- Economic relief in civil protection orders
- Economic issues in family law
- Barriers in civil court
- Rights and protections: housing and employment

<https://csaj.org/Guidebook>





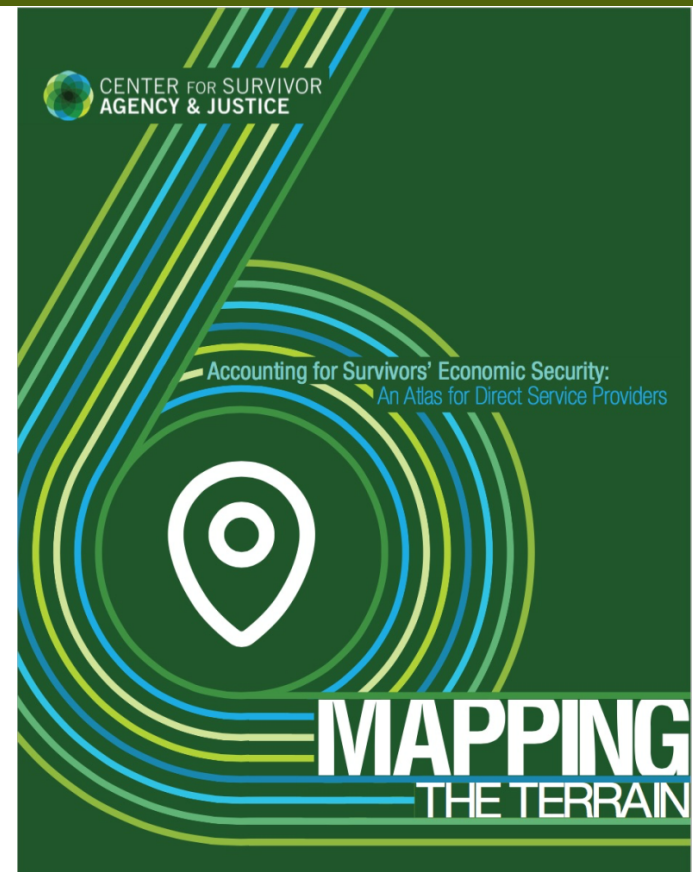
# Accounting for Economic Security

An Atlas for Direct Service Providers

## ***Mapping the Terrain***

1. Economic hardship and poverty constrain survivors' options for safety
2. The economic impact of violence ripples throughout survivors' lives
3. Systemic barriers impede survivors' access to economic stability
4. Social inequality restricts survivors' options for economic security and safety

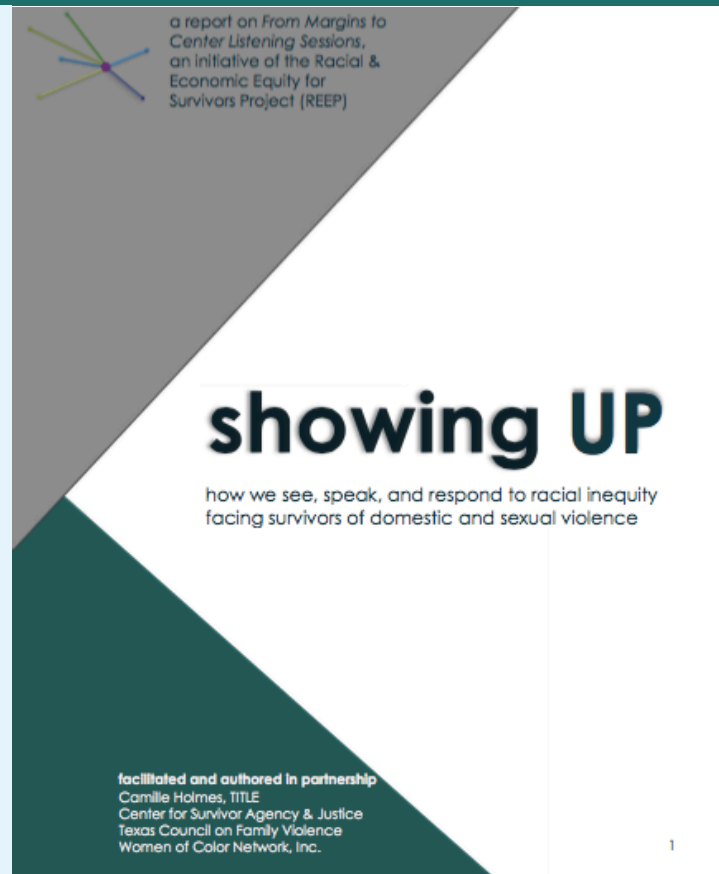
[Download](#)



# Listening Sessions & Report

***Purpose is to dialogue-back with Listening Session conversations in order to aid self-reflection, challenge dominant narratives, support improved data collection and analysis, and to begin, continue, or advance conversations and work toward racial equity for domestic and sexual violence survivors and for all of us.***

**[DOWNLOAD](#)**



# THANK YOU!!

- This project is supported all or in part by Grant No. 2017-TA-AX-K065 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in the publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.