

# Housing Protections for Survivors of DV (VAWA)

1. LL/Housing Authority cannot deny a client admission to subsidized housing, terminate assistance or evict them because of domestic violence incident or victim status
2. HOWEVER, eviction can happen if there is an actual and imminent threat to other employees or tenants
3. Victims can request an emergency transfer to another unit (to the extent that one is available)
4. If abuser is on the lease too, then LL/HA may evict the abuser/tenant without evicting the victim
5. Victim can "prove" DV to the LL/HA with following:
  - a. A sworn statement by the victim
  - b. Police, court or administrative record (DSS)
  - c. Statement from third party, e.g. victim service provider, medical/mental health provider, attorney

## Expunctions and DV

*Our unit assists our DV clients in getting records expunged (criminal records erased) when issue comes up in one of our DV cases*

1. An arrest in North Carolina can bar access to housing, employment, and educational resources that are essential for a survivor's ability to maintain their safety and independence from an abusive partner, and to provide for their children.
2. Domestic violence regularly contributes to victims being charged with crimes for:
  - a. Directly resulting from domestic violence incident:
    - i. Cross-warrants
    - ii. Mischarged/Self-defense
    - iii. Citizen-initiated charges
  - b. Crimes resulting from power and control/collateral consequences of domestic violence:
    - i. Prostitution
    - ii. Drugs/Alcohol/DWIs
    - iii. Worthless checks
    - iv. Larceny



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**LEGAL AID**  
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**Charlotte**  
**Domestic Violence**  
**& Family Law Unit**



## 50B/Domestic Violence Protective Order Hearings

1. Personal relationship required
2. Defined Act of Domestic Violence
  - a. Attempted to or intentionally caused bodily injury to victim; OR
  - b. Placed victim in fear of imminent serious bodily injury; OR
  - c. Placed victim in fear of continued harassment to such a level as to inflict substantial emotional distress (\*Harassment for this purpose means knowing conduct directed to a specific person that torments, terrorizes, or terrifies that person and serves no legitimate purpose\*) OR
  - d. Committed a defined sexual offense against victim.
3. When 50B is at issue, we assist with 1 year return hearings, motions to renew, & renewal hearings.
4. Remedies can include: safety provisions, possession of residence, temporary child custody, custody visitation schedules, removal of firearms, child support, and abuser treatment programs.

## 50C/No-Contact Orders

1. Civil No-Contact Order
  - a. Non-Consensual Sexual Conduct, OR
  - b. Stalking
    - i. On more than 1 occasion, following or otherwise harassing an individual without legal purpose with the intent to cause fear, or to cause substantial emotional distress that in fact causes substantial emotional distress
2. Distinguished from 50B in that the personal relationship requirement is not present.
3. Enforcement looks different (only enforceable by contempt powers of the Court)
4. NOTE: For both 50Bs and 50Cs, Complaints must state the date of the offenses and specifically what happened. In order to testify about past acts, the Complaint must also include those.

## 50D/Permanent Civil No-Contact Orders (Against Sex Offender on Behalf of Crime Victim)

1. Who Qualifies: Any person who the victim of a sex offense and:
  - a. The defendant was convicted of a sex offense against that person, and they are subject to electronic monitoring as a result;
  - b. That person did not seek a criminal permanent no contact order under N.C.G.S. 15A-1340
  - c. Reasonable Grounds exist for the survivor to fear future contact with the defendant.
2. Remedy: The court may order the defendant to: not threaten, visit, assault, molest, or interfere with the plaintiff; not follow, harass, injure or abuse the plaintiff; have no contact with the plaintiff; not visit specified locations.
3. Violation: Class A1 misdemeanor
4. Duration: The lifetime of the plaintiff

## Child Custody

We assist with child custody matters for survivors of domestic violence on a limited basis.

### Ancillary Family Law Matters

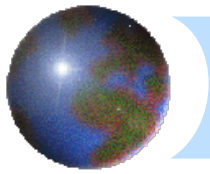
As capacity allows, once approved by Managing Attorney and Project Manager

### Housing Protections for Survivors of DV (NC Law):

*Our unit assists when these issues arise in our DV cases*

1. Applies to private and subsidized housing
2. A landlord cannot refuse to enter a lease, terminate a lease, fail to renew a lease, or otherwise retaliate against a tenant for being a DV survivor.
3. DV survivors can end the lease early without penalty. Survivor must provide:
  - a. 30 day written notice with the date victim wants the lease to end
  - b. Court order (one-year DVPO, 50C, pretrial release order, criminal court order)
  - c. Safety Plan by DV/SA program recommending relocation
  - d. Survivor will owe no additional fees or rent past the termination date
4. Changing Locks
  - a. If perpetrator does not live with victim, landlord must change the locks within 48 hours of victim giving oral or written notice, or give victim permission to change the locks
  - b. If perpetrator is a tenant in the same residence as victim, landlord must change locks within 72 hours of victim giving oral or written notice and a copy of a court order that requires abuser to stay away from the home





# *Legal Aid of NC's Battered Immigrant Project*

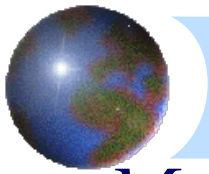
The BIP provides immigration assistance to immigrant victims of domestic violence, sexual assault and human trafficking throughout the state of North Carolina.

## **Intake:**

1 866 204-7612

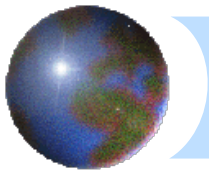
Tuesdays 3:30 pm–7:30 pm

Thursdays 9 am–1 pm



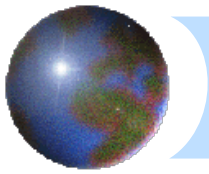
## *Most Common Immigration Remedies for Immigrant Victims of Domestic Violence and Sexual Assault*

- ❖ **U Visa** for victims of qualifying crimes (such as domestic violence and sexual assault) who have been helpful in the investigation and/or prosecution of the crime committed against them
- ❖ **Self-petition/Petition to Remove Conditions** for spouses of US citizens and lawful permanent residents who married their spouse in good faith and were subsequently subjected to physical battering or extreme cruelty



## *Most Common Immigration Remedy for Immigrant Victims of Human Trafficking*

- **T Visa** for victims of commercial sex or labor trafficking, as defined by federal law, who cooperate with law enforcement or are under the age of 18



## *Advice for Potential BIP Clients*

- Report crime to law enforcement
- Cooperate with law enforcement
  - Update contact information as it changes
- Go to court for criminal case
  - Let DA know you are there
  - Obtain form from judge's clerk that shows that you were present in court
- Get DVPO if advised to do so
- Call BIP intake line