

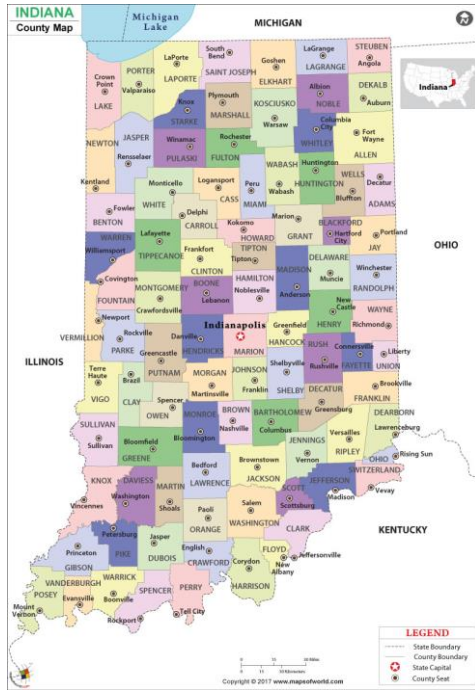


Indiana Coalition  
*Against*  
Domestic Violence

*Prevention • Awareness • Advocacy  
Until the Violence Ends.*

# The Satellite Attorney Project

Indiana Coalition Against Domestic Violence, Inc.



# A Little About US

# The Need

## Domestic Violence by the Numbers



**181%**  
INCREASE IN DOMESTIC VIOLENCE DEATHS THIS YEAR

**73%**  
DOMESTIC VIOLENCE DEATHS BY FIREARMS\*

**24%**  
\*HIGHER THAN THE NATIONAL AVERAGE

**45%**  
RISE IN DOMESTIC CALLS TO 911 IN MARION COUNTY

If you need help, call the Indiana Coalition Against Domestic Violence Hotline at 800-332-7385.

## ICADV'S IMPACT ON

### LEGAL CASE REFERRALS

**↑ 176%** 

Based on 1st quarter cases, ICADV has seen a 176% increase in legal cases from this time last year.

"Our legal team continues to work hard in an effort to ensure we don't have to turn survivors away from the legal services they need the most - when they need them the most."

Kerry Hyatt Bennett, JD  
Chief Legal Counsel



# What Does ICADV's Satellite Attorney Project Do?

## HOLISTIC SERVICES

- Recruits and trains Indiana Lawyers
- To represent survivors of IPV+ in civil and immigration cases
- In emergency situations
- At no cost to those survivors
- In tandem with support from an ICADV program and professional advocacy
- Provides a rewarding “low bono” experience for attorneys while mentoring one on one.



# Clients and Children Served in Last FY

- 241 Survivors served
- 428 children
- Representing 44 counties in Indiana with majority originating from Central Indiana
- 95% of clients identified as female
- 9% identified as Latino/a/ex
- 8.5% Black/African American
- 86% of survivors were between 25-59 years of age
- 76% of children were under 12 years of age
- ICADV partners with ILS, NCLC & CVHR to handle conflict cases when needed.

# Monthly FREE CLE for Participating Attorneys

- Monthly free CLEs for participating attorneys.

Examples:

- January 2022: Lethality Assessment in DV Cases
- February 2022: Divorce 101: What You Need to Know
- March 2022: An Introduction for New SAP Participants-How it All Works
- April 2022: The UCCJEA: Interstate Issues for Survivors of Violence
- May 2022: Immigration Law Primer for SAP Attorneys

# Mentoring, as it should be.

- Pleadings bank for participating satellite attorneys
- Bi-weekly “law school for advocates” webinars for ICADV program members to bridge the knowledge gap.
- SAP Listserv for FAQ’s and needs when working with survivors
- An emphasis on “trauma informed legal representation”, a critical but often overlooked subject.

# Malpractice Insurance

- ICADV now offers Professional Liability Insurance to participating Pro Bono/Judicare Attorneys.
- We now carry a policy with Ritman & Associates that makes it possible for attorneys to accept cases/clients without fear of assuming uncovered liability.
- Our policy extends coverage to pro bono/low bono attorneys and will provide a defense for incidents/claims resulting from legal services performed on behalf of ICADV.
- This policy provides a \$250,000.00 per claim limit in order to protect our attorneys in the event of a Claim.



# Trauma. It Matters.

So, let's begin with

**Trauma is Real.**

**Trauma is  
Physiological**

**What we WANT from a client/witness is very  
often what they are INCAPABLE of giving/doing.**

# What we want

- Evidence
- Consistent Stories
- Strong Witnesses
- Vulnerability
- “Sobriety”
- Emotional stability
- Coping Skills
- Credibility

# Trauma Informed Legal Practice

- **Identifying Trauma**
- **Adjusting the Attny-Client Relationship**
- **Adapting Litigation Strategy**
- **Preventing Vicarious Trauma**

A TRAUMA INFORMED LEGAL RESPONSE  
CONNECTS A PERSON'S BEHAVIOR TO  
THEIR TRAUMA RESPONSE RATHER THAN  
ISOLATING THEIR ACTIONS TO THE CURRENT  
CIRCUMSTANCES AND ASSUMING A  
CHARACTER FLAW.

# DV101

What You Need to Know

SAP 2022



# Domestic Violence Defined

- The misuse of power in a relationship in order to coerce, control, intimidate or dominate another person.
- It can be understood as a pattern of behaviors used to control or exert power over another person in the context of an intimate relationship, regardless of the length or depth of the relationship.

# ○ Coercive Controlling Violence

VS

# ○ Situational Couple Violence

Chronic pattern of power/control

Major form of violence: severe injury more likely

Focus is on women; initiation more often by men.

Misogynistic attitudes

Escalates over time

Continues/worse after separation

- Men & Women initiate equally
- Misogyny is not an issue
- Neither partner fears the others
- Minor forms of violence-pushing, shoving, grabbing
- Less health probs, less missed work
- Less likely to escalate
- Likely to stop after separation



## Why is DV still relevant if the relationship is ending/over?

- Because abuse does not end with separation.
- Because children's continued exposure to unhealthy relationships reinforces that behavior.
- Because the abuse not only continues through litigation, but it often gets worse.
- Because the abuse can be the litigation itself.

## Domestic Violence & Parenting

- Children from violent homes are **1500X** more likely to grow up to be either abusers or victims of intimate partner violence
- **We teach our children how to treat the people we love.**

# Protection Orders in Indiana

IC 34-26-5

# IC 34-26-5: Indiana Civil Protection Order Act

- Its all about Family/Partner  
Violence/Sexual Assault & Harassment
- Structured after the Model Code of Family  
Violence
- Economic Relief is a Critical Component

# Legislative Intent

## § 34-26-5-1. Construction

This chapter shall be construed to promote the:

- (1) protection and safety of all victims of domestic or family violence in a fair, prompt, and effective manner; and
- (2) protection and safety of all victims of harassment in a fair, prompt, and effective manner; and
- (3) prevention of future domestic violence and family violence and harassment

# **A Judicial Mandate**

## **34-26-5-9(f)**

**Upon a showing of domestic or family violence by a preponderance of the evidence, the court shall grant relief necessary to bring about a cessation of the violence or the threat of violence**

# Why obtaining a PO matters

- Economic Justice
- Indiana AG's Address Confidentiality Program
- Driver's License exception to above
- Tenancy relief for victims of DV (32-31-9)
  - Work
  - Housing
  - Resources
- Employment Protections: 2015 (22-5-7-2)
- Pet Protections/Phone Bill bifurcation

# The Petitioner: Who is Getting the Order

- 1. A person who is or has been a victim of “domestic or family violence” .
- 2. A person who is or has been a victim of “sexual assault” .
- 3. A person who is or has been a victim of “stalking” .
- 4. 2019: Victim of “harassment”



# Definition: IC 34-6-2-34.5 Domestic or Family Violence

1

**Attempting to cause, threatening to cause, or causing physical harm to another family or household member.**

2

**Placing a family or household member in fear of physical harm.**

3

**Causing a family or household member to involuntarily engage in sexual activity by force, threat of force, or duress**

4

**Beating, torturing or killing a vertebrate animal with the intent to terrorize, threaten, harass, intimidate.**

**Definition: IC  
34-6-2-51.5  
Harassment:  
2019**

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**means conduct directed toward a victim that includes, but is not limited to, repeated or continuing impermissible contact:**

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**(1) that would cause a reasonable person to suffer emotional distress;  
and**

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**(2) that actually causes the victim to suffer emotional distress.**

# Definition: IC 35-45-10-3

## Impermissible Contact

Following or pursuing	Following or pursuing the victim.
Communicating	Communicating with the victim in person, in writing, by telephone, by telegraph, or through electronic means.
Posting	Posting on social media, if the post: <ul style="list-style-type: none"><li>• is directed to the victim; or</li><li>• refers to the victim, directly or indirectly.</li></ul>

## Harassment POs-SideBar

- **Burden the same: Preponderance**
- **NO Ex Parte Orders.**
- **Court MUST set it for hearing w/in 30 days**
- **Harassment PO may be granted after hearing whether or not the Respondent appears.**
- **Relief may include allowing the parties to occupy the same location if legitimate or necessary.**

# Indiana Code 34-26-5

**Cost**

**Jurisdictional Requirements**

- Personal (who)
- Subject Matter (issue)

**Length of Protection Order**

**Mandatory Forms**

**No Fees to Register Foreign POs**

**BIP Option for violations**

# How it Works

- **First Step: Filing for PO**
  - **The County Clerk's Responsibility**
  - **NOT Unauthorized Practice of Law**
- **Efiling now ONLINE**
  - <https://www.in.gov/judiciary/tutorials/efile-po-efsp/#/>
- **Forms on the Internet**
  - <https://www.in.gov/judiciary/ios/2645.htm>
- **Ex Parte Order Procedure**

# Relief Available: Ex Parte Order

- Separation: the right to be left alone
- Removal and exclusion of respondent from residence and/or assistance in removing necessary personal affects.
- Including Pets (2017)/Cell Phone
- Possession of automobile
- Regardless of the ownership

There MUST  
be a hearing  
within 30 days  
when:

- The Ex Parte Order issues an eviction
  - The Ex Parte Order rules on an immediate possession/use issue:
    - A residence they both share
    - A car or other motor vehicle
    - Other necessary personal items
    - REGARDLESS OF OWNERSHIP OF THESE ITEMS
- (IC 34-26-5-9)
- NEW in 2017: pet protections and possession



# Relief Available: Post Hearing PO

All relief under Ex Parte Order

Parenting time including denial of parenting time by Respondent

Economic Justice/relief

- **child support/maintenance**
- **expenses resulting from abuse**
  - **medical, shelter, counseling, damages**
- **ATTORNEY FEES of Petitioner**

**FIREARMS**

# What Relief is Missing From This List?

## Custody

Although the proposed statute contained language allowing a judge to make a custody decision as part of a PO case, the legislature removed that language.

# Indiana PO Law and Firearms:



**“A finding that domestic/family violence has occurred sufficient to justify the issuance of a PO means that Respondent represents a credible threat to the safety of Petitioner/member of Petitioner's household. Upon a showing of domestic/family violence by a preponderance of the evidence, the court shall grant relief necessary to bring about a cessation of the violence/threat of violence. The relief may include an order directing Respondent to surrender to a law enforcement officer/agency all firearms, ammunition, and deadly weapons in the control, ownership, or possession of Respondent/another person on behalf of Respondent for the duration of PO unless another date is ordered by the court.” (emphasis added)**

# Federal Gun Laws not discretionary



## ✓ 18 USC 922(g)(8), 924(a)(2)

- ✓ Notice and Opportunity to be Heard
- ✓ Intimate Partners
- ✓ Indicates finding of “credible threat” .

# Handout Alert: Bench Card

## PROTECTION ORDERS AND FEDERAL FIREARMS PROHIBITIONS

Persons subject to a qualifying protection order under federal law are generally prohibited from possessing any firearm or ammunition in or affecting commerce (or shipping or transporting any firearm or ammunition in interstate or foreign commerce, or receiving any such firearm or ammunition). Violation of this prohibition while the order remains in effect is a federal offense punishable by up to ten years imprisonment. Title 18 U.S.C. §§ 922(g)(8), 924(a)(2).

A qualifying court order may be issued by a criminal court or a civil court, such as divorce court, family court, magistrate or general jurisdiction court. The following list enumerates the elements that define a qualifying protection order under the Federal firearms prohibition. ***Generally, a defendant/respondent subject to a protection order that includes one element (indicated by a diamond) from each section listed below is covered by the Federal firearms prohibition.***

# When a Protective Order is Violated

- **Civil remedy available:**
  - **Civil Contempt**
- **Criminal remedy available:**
  - **Invasion of Privacy**

# Resources For Protection Order Info

- **Protection Order E-filing Service:** [public.courts.in.gov/porefsp#/](https://public.courts.in.gov/porefsp#/)
- <https://www.in.gov/courts/iocs/publications/po-forms/>
  - PO FORMS in PDF and Word. Downloadable. A variety offered.
  - Includes NCO, WVRO and DCS POs.
  - Also link to PO Deskbook. A wonderful resource if you are in this dance space a lot.
- Search for Pos (Respondent only)
  - <https://mycourts.in.gov/porp>

# Domestic Violence in Family Law Cases

Why It Matters



## ○ MANDATORY CUSTODY CONSIDERATIONS

### ○ IC 31-17-2-8 Custody order

○ **Sec. 8.** The court *shall* determine custody and enter a custody order in accordance with the best interests of the child. In determining the best interests of the child, there is no presumption favoring either parent. The court *shall* consider all relevant factors, including the following:

○ ---

○ **(7) Evidence of a pattern of domestic or family violence by either parent.**

# DV and Parenting Time in Indiana

## The Scope of Indiana's Parenting Time Guidelines:

1. Generally. These Guidelines are applicable to all child custody situations, including paternity cases and cases involving joint legal custody where one person has primary physical custody. *However, they are not applicable to situations involving family violence, substance abuse, risk of flight with a child, or any other circumstances the court reasonably believes endanger the child's physical health or safety, or significantly impair the child's emotional development.*

# DV and Parenting Time in Indiana

**IC 31-17-2-8.3**

**Conviction of DV crime  
with a child present  
creates a presumption  
of supervised  
parenting time in DR  
and Paternity cases.**

## Mediating Domestic Violence Cases

**In the year 2000, the American Bar Association made the following resolution:**

RESOLVED, That the American Bar Association recommends that court-mandated mediation include an opt-out prerogative in any action in which one party has perpetrated domestic violence upon the other party.

## Considerations:

- Mandatory mediation can be ineffective in the context of domestic violence because it assumes that parties are equally able to negotiate.
- In fact, survivors often agree to the terms of mediation out of fear or coercion, and mediators often fail to recognize the tactics abusers use to exert control over their victims during the mediation process.

# Indiana: Mediation in DV Cases

## ○ Protective Orders: IC 34-26-5-15

Sec. 15. A court may not:

- (1) order parties into mediation; or
  - (2) refer parties to mediation;
- for resolution of the issues in a petition for an order for protection regarding family or domestic violence.

# ADR RULE 2. MEDIATION

- **2.7A(6) advise a party who self-identifies or who the mediator identifies as a victim after screening for domestic or family violence, also known as intimate partner violence or abuse, or coercive control (hereinafter, “domestic violence”) that the party will only be required to be present at mediation sessions in accordance with Rule 2.7(B)(1) below.**

# ADR RULE 2. MEDIATION

- **2.7B(1). A party who self-identifies or who the mediator identifies as a victim after screening for domestic violence shall be permitted to have a support person present at all mediation sessions. The mediator may terminate the mediation at any time when a participant becomes disruptive to the mediation process.**



# ADR RULE 2. MEDIATION

- **2.7B(5).** The mediator may meet jointly or separately with the parties and may express an evaluation of the case to one or more of the parties or their representatives. The mediator shall advise the parties that the mediator's evaluation is not legal advice.

# Housing Issues and DV

# The Federal Violence Against Women's Act

Domestic Violence and Housing

## **VAWA covers people who are subject to:**

- **Domestic violence:** Any felony or misdemeanor crimes of violence committed by a current or former spouse, intimate partner, person with whom the victim shares a child, person who is or has cohabitated with the victim
- **Dating violence:** Violence committed by a person who is/was in a social relationship of intimate nature with victim as determined by considering three factors.
- **Sexual assault:** Any nonconsensual sexual act prohibited by law
- **Stalking:** Any conduct directed toward a specific person that would cause a reasonable person to fear for safety or suffer substantial distress

# Access

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PHAs, landlords and owners may not deny an applicant housing **on the basis or as a direct result of** an applicant having been a survivor of domestic violence, dating violence, sexual assault, or stalking.

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Adverse factors resulting from the abuse (e.g. poor credit history or criminal history)

# Evictions

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**PHAs, landlords and owners may not evict a tenant on the basis or as a direct result of their status as a survivor.**

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Crimes against a survivor directly relating to the abuse are not grounds for evicting the survivor or terminating their rental subsidy.

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An incident of actual or threatened abuse does not constitute a “serious or repeated lease violation” or “good cause” for evicting the survivor or terminating their rental subsidy.

# Few Things:

## ○ Lease Bifurcation:

- Landlord can bifurcate a lease to evict an abuser while allowing survivor to stay.
- Applies only to tenants-not residents.

## ○ Emergency Transfers:

- Must be granted (12-2016)
- Proving Abuse-
  - Self certification
  - Court docs
  - Forms
  - HUD must provide VAWA rights to all.

# Housing Issues and DV

## Indiana Law: IC 32-31-9

Domestic Violence and Private Housing

# Private Housing in Indiana

## Lease Protections for DV Victims

### ○ IC 32-31-9: Access

- A person who has a civil PO or criminal NCO
- Landlord may not terminate a lease, refuse to renew a lease, refuse to enter a lease, or retaliate against a tenant solely because the tenant is victim of DV.



# Lock Changes for Survivors

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If the abuser lives at the same premises as protected person, the landlord **SHALL** change the locks no later than 24 hours from written notice and give key to new locks to protected person.

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If the perpetrator who is restrained is NOT a tenant of the same dwelling unit, the landlord **SHALL change the locks** upon written request of the tenant no later than 48 hours after giving them a copy of the court order

# Lock Changes for Survivors

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IF the landlord fails to timely change the locks, **the tenant** may change the locks without landlord's permission and landlord **shall** reimburse the tenant for actual expenses incurred. Tenant needs to give a key of new lock to landlord.

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Unless the court order allows the abuser to return to the dwelling to retrieve his/her possession, **the landlord may not** by any act provide access to the dwelling unit.

# Lease Termination for Survivors

**Tenant may terminate lease with 30 days written notice to landlord. Must include**

- **copy of PO/NCO**
- **copy of a safety plan from an accredited DV agency that recommends relocation**

**Lists what expenses they are liable for in terminating lease. Tenant is entitled to have deposit returned.**

# Starting July 1, 2022

- The sealing of evictions under IC 32-31-11-3
- Eviction records sealed to ALL except for law enforcement
- Mandatory order if the eviction action is
  - Dismissed
  - Overturned
  - Tenant Wins
- Pleadings available at [www.indianalegalhelp.org](http://www.indianalegalhelp.org)

# Immigration Law & DV

VAWA 2005

# Barriers / Factors

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-Immigration Status / Fear of Deportation

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-Language Barrier

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-Lack of familiarity with U.S. social system

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-Patriarchal Culture

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-Familial Roles

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-Religion and Faith

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-Uninformed/unaware of Legal Rights

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-Social Isolation

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-Disparities in Economic and Social Resources

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-Victim Blaming

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-Trauma

# Immigration Relief for Survivors

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The 4 most common ways for victims of abuse and domestic violence to get immigration help are:

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Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant. Aka VAWA petition, a self-petition or an abused spouse petition.

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Form I-751, Petition to Remove Conditions on Residence. Aka I-751 waiver petition.

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Form I-918, petition for U Nonimmigrant Status. Aka U visa or U status petition.

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Form I-589, application for Asylum and Withholding of Removal.

# U Visa

- Immigrant victims of certain crimes who have been helpful in a criminal investigation or prosecution may qualify for a visa that can lead to a green card



# VAWA Self Petitions

- VAWA allows an abused spouse or child of a U.S. Citizen or Lawful Permanent Resident or an abused parent of a U.S. Citizen to self-petition for lawful status in the United States, receive employment authorization, and access public benefits.

# T Visa

- Human trafficking survivors may be eligible for lawful status, employment authorization, and a potential path to permanent residency, but they are a unique population with diverse and resource-intensive needs

# ICADV Staff Attorney

## Jocelyn Alday: [jalday@icadvinc.org](mailto:jalday@icadvinc.org)

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Indiana Legal Services - <https://www.indianalegalservices.org/>

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Neighborhood Christian Legal Clinic- <https://www.nclegalclinic.org/>

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Indianapolis Legal Aid Society- <https://www.indylas.org/>

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Heartland Pro Bono Council- <http://www.heartlandprobono.com/>

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Coalition for Our Immigrant Neighbors (COIN) - <https://www.coalitionforourimmigrantneighbors.org/>

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National Immigrant Justice Center- <https://immigrantjustice.org/>

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Immigrant Welcome Center- <https://www.immigrantwelcomecenter.org/>

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Archdiocese of Indianapolis- <https://archindy.org/>

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Catholic Accompaniment and Reflection Experience (CARE) Program

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Exodus Refugee Immigration- <https://www.exodusrefugee.org/>

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Proteus Inc. - <http://www.proteusinc.net/>

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La Plaza - <https://www.laplazaindy.org/>

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Center for Victims and Human Rights - <https://www.cvhr.org/>

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ACLU Indiana - <https://www.aclu-in.org/en>

# Billing

Aka “How to Get Paid”

**Kelly Grey**  
**Operations Manager**  
**317-917-3685 ext. 100**  
**[kgrey@icadvinc.org](mailto:kgrey@icadvinc.org)**

- [www.bill.com](http://www.bill.com)
- Simple invoices with time tracking
- Required pro bono contribution
- \$75.00 per hour

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_



# The SUCCESS

I want to thank you for all you do for us and victims. One of the most rewarding things is calling a client who is barely holding on financially and in every other aspect and telling them they were assigned an attorney. I just had to tell you how thankful I am for you and everyone else on your team as I'm sitting on my couch crying after hanging up with that client to update her on the attorney. She immediately held back tears. Deep in my feels now as you can tell! Thank you again so much!

Thank you to everyone who worked on this for me. You all are lifesavers I mean that wholeheartedly

I will be so thankful to hear me and you feel about my pain!! I won't never forget your support!  
Hopefully, I will live the peace with my daughter, and praying for the justice and fairness 🙏  
Take care and May GOD bless you

We must continue this work to give more survivors the opportunity to achieve their dreams and show their children that these unseemly barriers can be overcome. The system can do better for victims of domestic violence. We must stop victim blaming and instead support those who have been traumatized from intimate partner violence. A special thanks to the amazing attorney advocate Kerry Hyatt Bennett for making this possible.

# From the Attorneys

As an ICADV Satellite Attorney, I recently represented a mother in a protective order action in a rural county in Indiana. Unfortunately, this is not the first protective order she filed against father. This time, I was able to get father's parenting time restricted to supervised only, get child support ordered and modify custody of the children all through the PO action. Dad is now in treatment (and mom continues hers). Dad and mom were able to come to an agreement to increase dad's supervised time and the family seems to be doing well. The ICADV advocate also was able to help mom and the children secure new housing, along with new employment for mom. This would not have happened without the work and dedication of ICADV in securing a Satellite Attorney. Mom was completely unable to pay for counsel, and the legal aid resources were lacking in this rural county.

## From the Programs:

Jami Schnurpel, Director of Programs  
and Survivor Services, The Julian  
Center

“Because of a key funding loss at a time when our program has never been busier, we have made as many referrals to ICADV’s Satellite Attorney Project in the last three months (12/2021 through present) as we did in the full calendar year prior.”

“At the rate we’ve been sending referrals, we will surpass the last three years of ICADV referrals *combined* sometime this summer. “

“Without the support of the SAP program, three survivors (one is an immigrant, another is a veteran, the last lives with a cognitive disability) would be going to PO court alone over the next **eight days.**”





# Questions? PLEASE ASK

Kerry Hyatt Bennett, JD

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