

1 (b) FEDERAL COURTS.—~~Sub~~section (d) of section
2 40421 of the Violent Crime Control and Law Enforcement
3 act of 1994 is amended to read as follows:

4 “(d) MODEL PROGRAMS.—The Federal Judicial Cen-
5 ter, in carrying out section 620**b**(3) of title 28, United
6 States Code, shall include in the educational programs it
7 prepares (including the training programs for newly ap-
8 pointed judges), information regarding the topics de-
9 scribed in section 40412 of the Violent Crime Control and
10 Law Enforcement act of 1994 that pertain to issues within
11 the jurisdiction of the Federal courts, and shall prepare
12 materials necessary to implement ~~this~~ subsection.”.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—Para-
14 graph (2) of section 40422 of the Violent Crime Control
15 and Law Enforcement act of 1994 is amended by inserting
16 “\$500,000 for each of fiscal years 1993, 1999, 2000,
17 2001, and 2002” after “1996”.

18 **SEC. 6. PREVENTION OF UNJUST CRIMINAL SANCTIONS.**

19 Section 106(b)(2) of the Child Abuse Prevention and
20 Treatment Act (42 U.S.C. 5106a**b**(2)) is amended—

21 (1) in subparagraph (C), by striking “and” at
22 the end;

23 (2) in subparagraph (D), by striking the period
24 at the end and inserting “: and”: and

25 (3) by adding at the end the following:

1 “(E) an assurance in the form of a certifi-
2 cation by the chief executive officer of the State
3 that the State has in effect and is enforcing a
4 State law that, not later than July 1, 1997,
5 permits the use of an affirmative defense to any
6 criminal custodial interference or parental kid-
7 napping charges in a case where a parent has
8 a good faith belief that failing to comply with
9 a court order regarding the custody or visita-
10 tion of their child is necessary to prevent seri-
11 ous physical or emotional harm to that parent
12 or the child.”.

PROPOSED INSERTION TO VIOLENCE AGAINST WOMEN ACT II

A Bill Protecting Rape Victims From Child Custody Disputes
Brought By The Rapist

A. No State shall compel any victim of a rape that resulted in a birth of a child to comply with any order giving parental or visitation rights to the person convicted of the rape of that victim. No provision of this act shall be interpreted to affect any order obligating such a person to provide child support or other forms of financial restitution to the victim or the child.

B. Such a victim may seek injunctive relief from a federal court of any order providing a person convicted of the rape of that victim with parental or visitation rights inconsistent with Section A.

CRIME VICTIMS' EMPLOYMENT NON-DISCRIMINATION ACT

Sec. 1: Short Title

This bill may be cited as the "Crime Victims' Employment Non-discrimination Act."

Sec. 2: Findings and Purposes

(a). Findings. Congress finds that--

(1) Violent crime has a substantial impact on interstate commerce. This impact is well-documented and includes the following:

(A) According to the National Institute of Justice, crime costs an estimated \$450 billion annually in medical expenses, lost earnings, social service costs, pain, suffering, and reduced quality of life for victims, all of which harm our nation's productivity and drain our nation's resources. Violent crime accounts for \$426 billion of this amount.

(C) Rape exacts the highest costs-per-victim of any criminal offense, at an estimated total of \$127 billion per year. In 1992, an estimated 607,000 rapes and sexual assaults occurred in the United States. Other violent offenses take unacceptably high tolls on the economy as well, including assault (\$93 billion), murder (\$71 billion), drunk driving (excluding fatalities) (\$61 billion), and child abuse (\$56 billion);

(D) Violence is the leading cause of injury to women in the United States, and in the workplace, homicide is the leading cause of death to women; [* will get more figures documenting crime and costs against other groups and its impact on the workplace]

(E) Violent crime results in wage losses equivalent to 1 percent of all American earnings;

(F) Violent crime causes 3 percent of the nation's medical spending and 14

percent of injury-related medical spending;

(F) Employers pay nearly \$5 billion annually to cover the cost of crimes against employees and their families;

(2) In addition to the impact of crime on the economy as a whole, victims and their families suffer from crime and its effects on a daily basis:

(A) Domestic crime against adults accounts for approximately 15 percent of total crime costs in the United States each year;

(B) Between 1987-1990, people and households in the United States faced more than 49 million crime attempts annually, including more than 16 million violent crimes;

(3) American workers who have been victims of crime too often suffer adverse consequences in the workplace as a result of their experiences as crime victims. Crime victims are particularly vulnerable to changes in employment, pay, and benefits as a result of their victimization, and are therefore in need of legal protection:

(A) Nearly 50% of rape victims lose their employment or are forced to quit their jobs following the crime;

(B) One-quarter of battered women surveyed have lost a job due in part to the effects of domestic violence, and over half were harassed by their abusers at work;

[add other studies and cases: from victims' groups]

(4) Only twelve States have enacted statutes forbidding employers from taking adverse action against employees who have been victims of crime and must participate in the criminal justice process during working hours. No state explicitly protects crime victims from other adverse action which may result from their experiences and status as crime victims; and

(5) Existing Federal law does not explicitly protect crime victims from retaliation, discharge, or other penalties in the workplace which may result from their experiences and status as crime victims.

(b) **Purposes.** Pursuant to the affirmative power of Congress to enact this Act under section 5 of the Fourteenth Amendment to the Constitution, as well as under clause 3, section 8 of Article I of the Constitution, the purposes of this Act are--

(1) to promote the national interest in ensuring that crime victims can recover from the effects of crime and participate in the criminal justice process without fear of adverse economic consequences from their employers;

(2) to minimize the negative impact on interstate commerce from dislocations of employees and decreases in productivity that may arise when employees are victimized by crime;

(3) to promote the purposes of the Fourteenth Amendment by protecting the rights of victims of crime and by furthering the right of crime victims to employment free from equal protection and due process violations;

(4) to accomplish the purposes set forth in subsections (1), (2), and (3) of this section in a manner that accommodates the legitimate interests of employers and protects the safety of all of those in the workplace.

Sec. 3: Discrimination

(a) **General rule:** An employer shall not take or threaten to take any adverse job action against any employee who is or has been a victim of crime based upon that

employee's status, experience, or condition as a victim of crime.

(b) Definitions: For the purposes of this Act:

(1) an "employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee, and includes a public agency, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization.

(2) "Employ" includes to suffer or permit to work for wages, benefits, or other compensation.

(3) an "employee" means any person employed by an employer. This term includes full- or part-time persons employed for a fixed time period, temporary or leased basis, independent contractors, and persons participating in work assignments as a condition of receipt of state or federal welfare benefits.

(4) "victim of crime" includes any employee whom an employer knows or has reason to know has been the target of an act or series of acts that would constitute a crime under applicable State or Federal penal law, or that would form the basis for obtaining an Order of Protection under applicable State or local law. This term also includes those employees against whom threats to commit such criminal offenses have been made, provided the employer knows or has reason to know that such threats have occurred. Evidence that such incidents were reported to the employer, by the alleged victim or by any other employee, shall create a presumption that the employer knows that the employee has been a "victim of crime" under this subsection.

(5) "adverse job action" means any action adversely affecting the employment status,

wages, or benefits payable to the victim, including:

- (A) demotion or suspension;
- (B) dismissal from employment;
- (C) refusal to hire;
- (D) involuntary transfers;
- (E) failure to make a reasonable accommodation of the victim's health and safety needs arising from the offense; and

(F) loss of pay or benefits. This provision shall not interfere with lawful employment policies providing for unpaid leave, except where state or federal law or the employer's existing leave policies provide for paid leave or continued benefits, that can lawfully be exercised to attend court proceedings or other activities related to the criminal offense.

(6) "based upon" the employee's status, condition, or experience as a crime victim means any action affecting the terms or conditions of employment, as defined in part (b)(4) of this section, which would not have been made in the absence of the employee's status, condition, or experience as a crime victim, and which does not qualify for the exemptions allowed by Section 6 of this Act.

(7) "reasonable accommodation" may include—

(A) job restructuring, part-time or modified work schedules, or reassignment to a vacant position or to another department or facility with equivalent wages and benefits, if necessary to protect the health or safety of the crime victim,

(B) making adjustments to existing facilities, for example, installing locks or

for the protections of this Act regardless of the location of the crime or threats to commit crime which have been perpetrated against the employee.

(3) No adverse job action for participation in criminal justice or civil proceedings:

It shall be unlawful under this section to take an adverse job action against an employee who has been a victim of crime because that employee was absent from work to testify in a criminal or civil proceeding or to assist in the preparation of a criminal or civil proceeding arising from the offense, and that testimony or preparation could not be made outside the employee's regular working hours. An employee who seeks protection from adverse job actions under this subsection must provide the employer with a minimum of twenty-four (24) hours notice prior to any such absences, and should make all good-faith efforts to provide as much notice as possible.

Sec. 4: Enforcement

(a) Civil action by employees

(1) Liability: Any employer who violates the provisions of this Act shall be liable to any eligible employee affected for--

(A) damages equal to the amount of any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation, and any interest on that amount calculated at the prevailing rate; and

(B) any punitive damages, up to three times the amount of actual damages sustained, as the finder of fact shall deem appropriate; and

(C) equitable relief as the court may deem appropriate, including employment,

alarms, which are necessary to protect the safety of the crime victim and others in the workplace.

(8) "undue hardship" means an action requiring significant difficulty or expense, or any action that would be unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature of operation of the business, when considered in light of the following factors--

(A) the nature and cost of the accommodation needed under this chapter;

(B) the overall financial resources of the employer; the number of persons employed at the facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility; and

(C) the relationship between the seriousness of the crime and injuries suffered by the employee, or threatened to be made against the employee, and the proposed accommodation. In cases where the employee is a victim of domestic violence, the employer shall take into account the fact that incidents of domestic violence frequently escalate in seriousness, and that threats against the employee may result in violence.

(c) Construction.

(1) **No disqualification for failure to prosecute:** An employee who otherwise meets the definition of "crime victim" under part (b)(3) of this section shall not be disqualified from this Act's protections if the crime alleged does not result in criminal prosecution or conviction of the perpetrator, provided the employer's actions otherwise fall within the prohibitions of this Act.

(2) **No limitation to victims of workplace crimes:** A crime victim shall be eligible

if, despite reasonable accommodation by the employer, the employee's experience as a crime victim has left the employee unable to perform the essential functions of the employee's job. For purposes of this chapter, consideration shall be given to the employer's judgment as to what functions of a job are essential.

(c) **Undue hardship:** It may be a defense to liability under this Act if the employer can demonstrate that reasonably accommodating the health and safety of the crime victim would impose an undue hardship on the operation of the business of the employer. To qualify for this exemption, an employer shall make good faith efforts to implement the employee's proposals for such reasonable accommodations.

(d) **Restoration to position.** An employee who is lawfully discharged, transferred, or suspended under subsection (a) of this section shall be entitled to restoration to the employee's former position provided the conditions necessitating the change in employment no longer persist, and provided that restoration does not constitute an undue burden. The employee shall be entitled--

(1) to be restored by the employer to the position of employment held by the employee when the discharge, transfer, or suspension commenced; or

(2) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(c) **Burden of Proof:** Once an employee establishes that an employer took an adverse job action against the employee after it knew or had reason to know that the employee had been a victim of crime, it shall be the employer's burden to prove:

(1) that the adverse job action was not based upon the employee's status,

reinstatement, transfer, promotion, and adoption of policies to prevent future violations.

(b) **Action by Department of Justice:** The Department of Justice may bring a civil action in any court of competent jurisdiction to recover the damages described in subsection (a)(1) of this section.

(c) **Exclusivity of Remedies:** These remedies shall be the exclusive remedies applicable to a claim under this title, unless after such claim arises the claimant voluntarily enters into an agreement to resolve the claim through arbitration or another procedure.

Section 5: Attorney's fees. Section 722 of the Revised Statutes (42 U.S.C. § 1988) is amended in the last sentence--[add language to effect technical amendment]

Sec.6: Defenses

(a) **Extraordinary threats to workplace safety:** It may be a defense to liability under this Act if an adverse job action was necessary to protect the safety of an employee or other persons at the place of employment; provided, to qualify for this exception, an employer must prove:

(1) That the employer took all reasonable steps to protect the safety of the crime victim and others at the workplace which, if successful, would not have required the adverse job action; and

(2) No less detrimental action was reasonably possible without endangering the safety of the employee or others at the workplace.

(b) **Essential job functions impaired:** It may be a defense to liability under this Act

condition, or experience as a victim of crime; or

(2) that the employer's actions fall within the defenses allowed by Section 6 of this Act.

105TH CONGRESS
1ST SESSION

H. R. 851

To amend the Family and Medical Leave Act of 1993 to allow leave to address domestic violence and its effects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 1997

Ms. ROYBAL-ALLARD (for herself, Mr. TORRES, Mrs. MORELLA, Mr. FROST, Mr. GUTIERREZ, Ms. SLAUGHTER, Ms. LOFGREN, Ms. NORTON, Mrs. MALONEY of New York, Ms. PELOSI, Mr. ACKERMAN, Mr. JACKSON of Illinois, Mr. CONYERS, Mr. LEWIS of Georgia, and Mr. BALDACCI) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Government Reform and Oversight, and House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Family and Medical Leave Act of 1993 to allow leave to address domestic violence and its effects, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND REFERENCE.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Battered Women’s Employment Protection Act ”.

1 (b) REFERENCE.—Whenever in this Act an amend-
2 ment or repeal is expressed in terms of an amendment
3 to, or repeal of, a section or other provision, the reference
4 shall be considered to be made to a section or other provi-
5 sion of the Family and Medical Leave Act of 1993.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) violence against women is the leading cause
9 of physical injury to women, and the Department of
10 Justice estimates that intimate partners commit
11 more than one million violent crimes against women
12 every year;

13 (2) approximately 95 percent of the victims of
14 domestic violence are women;

15 (3) in the United States, a woman is more like-
16 ly to be assaulted, injured, raped, or killed by a male
17 partner than by any other type of assailant;

18 (4) the Bureau of Labor Statistics predicts that
19 women will account for two-thirds of all new en-
20 trants into the work force between now and the year
21 2000;

22 (5) violence against women dramatically affects
23 women's work force participation, insofar as one-
24 quarter of battered women surveyed had lost a job

1 due at least in part to the effects of domestic vio-
2 lence, and over half had been harassed by their
3 abuser at work;

4 (6) a study by Domestic Violence Intervention
5 Services, Inc. found that 96 percent of employed do-
6 mestic violence victims had some type of problem in
7 the workplace as a direct result of their abuse or
8 abuser;

9 (7) the availability of economic support is a
10 critical factor in women's ability to leave abusive sit-
11 uations that threaten them and their children, and
12 over half of battered women surveyed stayed with
13 their batterers because they lacked resources to sup-
14 port themselves and their children;

15 (8) a report by the New York City Victims
16 Services Agency found that abusive spouses and
17 lovers harass 74 percent of battered women at work,
18 54 percent of battering victims miss at least 3 days
19 of work per month, 56 percent are late for work at
20 least 5 times per month, and a University of Min-
21 nesota study found that 24 percent of women in
22 support groups for battered women had lost a job
23 partly because of being abused;

24 (9) a survey of State unemployment insurance
25 agency directors by the Federal Advisory Council on

1 Unemployment Compensation found that in 31
2 States battered women who leave work as a result
3 of domestic violence do not qualify for unemploy-
4 ment benefits, in 9 States the determination often
5 varies depending on the facts and circumstances,
6 and in only 13 States are they usually considered
7 qualified for unemployment benefits;

8 (10) a study by the New York State Depart-
9 ment of Labor found that, when filing for unemploy-
10 ment insurance benefits, domestic violence victims
11 frequently hide their victimization and do not dis-
12 close the domestic violence as a reason for their
13 problems with the job or need to separate from em-
14 ployment;

15 (11) 49 percent of senior executives recently
16 surveyed said domestic violence has a harmful effect
17 on their company's productivity, 47 percent said do-
18 mestic violence negatively affects attendance, and 44
19 percent said domestic violence increases health care
20 costs, and the Bureau of National Affairs estimates
21 that domestic violence costs employers between 3
22 and 5 billion dollars per year; and

23 (12) existing Federal and State legislation does
24 not expressly authorize battered women to take leave
25 from work to seek legal assistance and redress,

1 counseling, or assistance with safety planning and
2 activities.

3 (b) PURPOSES.—Pursuant to the affirmative power
4 of Congress to enact this Act under section 5 of the Four-
5 teenth Amendment to the Constitution, as well as under
6 clause 1 of section 8 of Article I of the Constitution and
7 clause 3 of section 8 of Article I of the Constitution, the
8 purposes of this Act are—

9 (1) to promote the national interest in reducing
10 domestic violence by enabling victims of domestic vi-
11 olence to maintain the financial independence nec-
12 essary to leave abusive situations, to achieve safety
13 and minimize the physical and emotional injuries
14 from domestic violence, and to reduce the devastat-
15 ing economic consequences of domestic violence to
16 employers and employees, by—

17 (A) providing unemployment insurance for
18 victims of domestic violence who are forced to
19 leave their employment as a result of domestic
20 violence; and

21 (B) entitling employed victims of domestic
22 violence to take reasonable leave under the
23 Family and Medical Leave Act of 1993 to seek
24 medical help, legal assistance, counseling, and

1 safety planning and assistance without penalty
2 from their employer;

3 (2) to promote the purposes of the Fourteenth
4 Amendment by protecting the civil and economic
5 rights of victims of domestic violence and by further-
6 ing the equal opportunity of women to employment
7 and economic self-sufficiency;

8 (3) to minimize the negative impact on inter-
9 state commerce from dislocations of employees and
10 harmful effects on productivity, health care costs,
11 and employer costs from domestic violence; and

12 (4) to accomplish the purposes described in
13 paragraphs (1) , (2) and (3) in a manner that ac-
14 commodates the legitimate interests of employers.

15 **SEC. 3. UNEMPLOYMENT COMPENSATION.**

16 (a) UNEMPLOYMENT COMPENSATION.—Section
17 3304(a) of the Internal Revenue Code of 1986 is amend-
18 ed—

19 (1) by striking “and” at the end of paragraph
20 (18),

21 (2) by striking the period at the end of para-
22 graph (19) and inserting “; and”,

23 (3) by adding after paragraph (19) the follow-
24 ing:

1 “(20) compensation is to be provided where an
2 individual is separated from employment due to cir-
3 cumstances directly resulting from the individual’s
4 experience of domestic violence.”,

5 (4) by redesignating subsections (b) through (f)
6 as subsections (c) through (g), respectively, and

7 (5) by adding after subsection (a) the following:

8 “(b) CONSTRUCTION.—

9 “(1) For the purpose of determining, under
10 subsection (a)(20), whether an employee’s separation
11 from employment is ‘directly resulting’ from the in-
12 dividual’s experience of domestic violence, it shall be
13 sufficient if the separation from employment re-
14 sulted from—

15 “(A) the employee’s reasonable fear of fu-
16 ture domestic violence at or en route to or from
17 her place of employment;

18 “(B) the employee’s wish to relocate to an-
19 other geographic area in order to avoid future
20 domestic violence against the employee or the
21 employee’s family;

22 “(C) the employee’s need to recover from
23 traumatic stress resulting from the employee’s
24 experience of domestic violence;

1 “(D) the employer’s denial of the employ-
2 ee’s request for the temporary leave from em-
3 ployment to address domestic violence and its
4 effects authorized by section 102 of the Family
5 and Medical Leave Act of 1993; or

6 “(E) any other respect in which domestic
7 violence causes the employee to reasonably be-
8 lieve that termination of employment is nec-
9 essary for the future safety of the employee or
10 the employee’s family.

11 “(2) For purposes of subsection (a)(20), where
12 State law requires the employee to have made rea-
13 sonable efforts to retain employment as a condition
14 for receiving unemployment compensation, it shall be
15 sufficient that the employee—

16 “(A) sought protection from or assistance
17 in responding to domestic violence, including
18 calling the police or seeking legal, social work,
19 medical, clergy, or other assistance;

20 “(B) sought safety, including refuge in a
21 shelter or temporary or permanent relocation,
22 whether or not the employee actually obtained
23 such refuge or accomplished such relocation; or

1 “(C) reasonably believed that options such
2 as a leave, transfer, or alternative work sched-
3 ule would not be sufficient to guarantee the em-
4 ployee or the employee’s family’s safety.

5 “(3) For purposes of subsection (a)(20), where
6 State law requires the employee to actively search
7 for employment after separation from employment
8 as a condition for receiving unemployment com-
9 pensation, such requirement shall be deemed to be
10 met where the employee is temporarily unable to ac-
11 tively search for employment because the employee is
12 engaged in seeking safety or relief for the employee
13 or the employee’s family from domestic violence, in-
14 cluding—

15 “(A) going into hiding or relocating or at-
16 tempting to do so, including activities associ-
17 ated with such relocation or hiding, such as
18 seeking to obtain sufficient shelter, food, school-
19 ing for children, or other necessities of life for
20 the employee or the employee’s family;

21 “(B) actively pursuing legal protection or
22 remedies, including meeting with the police,
23 going to court to make inquiries or file papers,
24 meeting with attorneys, or attending court pro-
25 ceedings; or

1 “(C) participating in psychological, social,
2 or religious counseling or support activities to
3 assist the employee in ending domestic violence.

4 “(4) In determining if an employee meets the
5 requirements of paragraphs (1), (2), and (3), the
6 employer of an employee may require the employee
7 to provide—

8 “(A) documentation of the domestic vio-
9 lence, such as police or court records, or docu-
10 mentation of the domestic violence from a shel-
11 ter worker, attorney, clergy, or medical or other
12 professional from whom the employee has
13 sought assistance in addressing domestic vio-
14 lence and its effects; or

15 “(B) other corroborating evidence, such as
16 a statement from any other individual with
17 knowledge of the circumstances which provide
18 the basis for the claim, or physical evidence of
19 domestic violence, such as photographs, torn or
20 bloody clothes, etc.”.

21 All evidence of domestic violence experienced by an
22 employee, including an employee’s statement, any
23 corroborating evidence, and the fact that an em-
24 ployee has applied for or inquired about unemploy-
25 ment compensation available under section

1 3304(a)(20) shall be retained in the strictest con-
2 fidence of the employer, except to the extent con-
3 sented to by the employee where disclosure is nec-
4 essary to protect the employee's safety.”.

5 (b) SOCIAL SECURITY PERSONNEL TRAINING.—Sec-
6 tion 303(a) of the Social Security Act (42 U.S.C.
7 503(a)(4)) is amended by redesignating paragraphs (4)
8 through (10) as paragraphs (5) through (11), respectively,
9 and by adding after paragraph (3) the following:

10 “(4) Such methods of administration as will en-
11 sure that claims reviewers and hearing personnel are
12 adequately trained in the nature and dynamics of
13 domestic violence and in methods of ascertaining
14 and keeping confidential information about possible
15 experiences of domestic violence, so that employment
16 separations stemming from domestic violence are re-
17 liably screened, identified, and adjudicated and full
18 confidentiality is provided for the employee's claim
19 and submitted evidence.”.

20 (c) DEFINITIONS.—Section 3306 of the Internal Rev-
21 enue Code of 1986 is amended by adding at the end the
22 following:

23 “(u) DOMESTIC VIOLENCE.—The term ‘domestic vio-
24 lence’ includes abuse committed against an employee or
25 a family member of the employee by—

1 “(1) a current or former spouse of the em-
2 ployee;

3 “(2) a person with whom the employee shares
4 a child in common;

5 “(3) a person who is cohabitating with or has
6 cohabitated with the employee as a romantic or inti-
7 mate partner; or

8 “(4) a person from whom the employee would
9 be eligible for protection under the domestic vio-
10 lence, protection order, or family laws of the juris-
11 diction in which the employee resides or the em-
12 ployer is located.

13 “(v) ABUSE.—The term ‘abuse’ includes—

14 “(1) physical acts resulting in, or threatening to
15 result in, physical injury;

16 “(2) sexual abuse, sexual activity involving a
17 dependent child, or threats of or attempts at sexual
18 abuse;

19 “(3) mental abuse, including threats, intimidat-
20 ion, acts designed to induce terror, or restraints on
21 liberty; and

22 “(4) deprivation of medical care, housing, food
23 or other necessities of life.”.

1 SEC. 4. ENTITLEMENT TO LEAVE FOR DOMESTIC VIO-
2 LENCE.

3 (a) AUTHORITY FOR LEAVE.—Section 102(a)(1) (29
4 U.S.C. 2612(a)(1)) is amended by adding at the end the
5 following:

6 “(E) In order to care for the child or par-
7 ent of the employee, if such child or parent is
8 addressing domestic violence and its effects.

9 “(F) Because the employee is addressing
10 domestic violence and its effects, the employee
11 is unable to perform any of the functions of the
12 position of such employee.”.

13 (b) DEFINITION.—Section 101 (29 U.S.C. 2611) is
14 amended by adding at the end the following:

15 “(14) ADDRESSING DOMESTIC VIOLENCE AND
16 ITS EFFECTS.—The term ‘addressing domestic vio-
17 lence and its effects’ means—

18 “(A) experiencing domestic violence,

19 “(B) seeking medical attention for or re-
20 covering from injuries caused by domestic vio-
21 lence,

22 “(C) seeking legal assistance or remedies,
23 including communicating with the police or an
24 attorney, or participating in any legal proceed-
25 ing related to domestic violence,

1 “(D) attending support groups for victims
2 of domestic violence,

3 “(E) obtaining psychological counseling re-
4 lated to experiences of domestic violence,

5 “(F) participating in safety planning and
6 other actions to increase safety from future do-
7 mestic violence, including temporary or perma-
8 nent relocation and

9 “(G) any other activity necessitated by do-
10 mestic violence which must be undertaken dur-
11 ing hours of employment.”.

12 (c) INTERMITTENT OR REDUCED LEAVE.—Section
13 102(b) (29 U.S.C. 2612(b)) is amended by adding at the
14 end the following:

15 “(3) DOMESTIC VIOLENCE.—Leave under sub-
16 paragraph (E) or (F) of subsection (a)(1) may be
17 taken by an employee intermittently or on a reduced
18 leave schedule. The taking of leave intermittently or
19 on a reduced leave schedule pursuant to this para-
20 graph shall not result in a reduction in the total
21 amount of leave to which the employee is entitled
22 under subsection (a) beyond the amount of leave ac-
23 tually taken.”.

1 (d) PAID LEAVE.—Section 102(d)(2) (29 U.S.C.
2 2612(d)) is amended by striking “(C) or (D)” and insert-
3 ing “(C), (D), (E), or (F)”.

4 (e) CERTIFICATION.—Section 103 (29 U.S.C. 2613)
5 is amended by redesignating subsection (e) as subsection
6 (f) and by inserting after subsection (d) the following:

7 “(e) DOMESTIC VIOLENCE.—In determining if an
8 employee meets the requirements of subparagraph (E) or
9 (F) of section 102(a)(1), the employer of an employee may
10 require the employee to provide—

11 “(1) documentation of the domestic violence,
12 such as police or court records, or documentation of
13 the domestic violence from a shelter worker, attor-
14 ney, clergy, or medical or other professional from
15 whom the employee has sought assistance in ad-
16 dressing domestic violence and its effects; or

17 “(2) other corroborating evidence, such as a
18 statement from any other individual with knowledge
19 of the circumstances which provide the basis for the
20 claim, or physical evidence of domestic violence, such
21 as photographs, torn or bloody clothes, etc.”.

22 (f) CONFIDENTIALITY.—Section 103 (29 U.S.C.
23 2613), as amended by subsection (e), is amended—

24 (1) in the title by adding before the period the
25 following: “; **CONFIDENTIALITY**”, and

1 (2) by adding at the end the following:

2 “(g) CONFIDENTIALITY.—All evidence of domestic vi-
3 olence experienced by an employee or the employee’s child
4 or parent, including an employee’s statement, any corrobo-
5 rating evidence, and the fact that an employee has re-
6 quested leave for the purpose of addressing domestic vio-
7 lence and its effects, shall be retained in the strictest con-
8 fidence by the employer, except to the extent consented
9 to by the employee where disclosure is necessary to protect
10 the employee’s safety.”.

11 **SEC. 5. ENTITLEMENT TO LEAVE FOR FEDERAL EMPLOY-**
12 **EES FOR DOMESTIC VIOLENCE.**

13 (a) **AUTHORITY FOR LEAVE.**—Section 6382 of title
14 5, United States Code is amended by adding at the end
15 the following:

16 “(E) In order to care for the child or parent of
17 the employee, if such child or parent is addressing
18 domestic violence and its effects.

19 “(F) Because the employee is addressing do-
20 mestic violence and its effects, the employee is un-
21 able to perform any of the functions of the position
22 of such employee.”.

23 (b) **DEFINITION.**—Section 6381 of title 5, United
24 States Code is amended by striking “and” at the end of

1 paragraph (5), by striking the period at the end of para-
2 graph (6) and inserting “; and” and by adding at the end
3 the following:

4 “(7) the term ‘addressing domestic violence and
5 its effects’ means—

6 “(A) experiencing domestic violence,

7 “(B) seeking medical attention for or re-
8 covering from injuries caused by domestic vio-
9 lence,

10 “(C) seeking legal assistance or remedies,
11 including communicating with the police or an
12 attorney, or participating in any legal proceed-
13 ing related to domestic violence,

14 “(D) attending support groups for victims
15 of domestic violence,

16 “(E) obtaining psychological counseling re-
17 lated to experiences of domestic violence,

18 “(F) participating in safety planning and
19 other actions to increase safety from future do-
20 mestic violence, including temporary or perma-
21 nent relocation and

22 “(G) any other activity necessitated by do-
23 mestic violence which must be undertaken dur-
24 ing hours of employment.”.

1 (c) INTERMITTENT OR REDUCED LEAVE.—Section
2 6382(b) of title 5, United States Code, is amended by add-
3 ing at the end the following:

4 “(3) Leave under subparagraph (E) or (F) of
5 subsection (a)(1) may be taken by an employee
6 intermittently or on a reduced leave schedule. The
7 taking of leave intermittently or on a reduced leave
8 schedule pursuant to this paragraph shall not result
9 in a reduction in the total amount of leave to which
10 the employee is entitled under subsection (a) beyond
11 the amount of leave actually taken.”.

12 (d) OTHER LEAVE.—Section 6382(d) of title 5, Unit-
13 ed States Code, is amended by striking “(C) or (D)” and
14 inserting “(C), (D), (E), or (F)”.

15 (e) CERTIFICATION.—Section 6383 of title 5, United
16 States Code, is amended by redesignating subsection (e)
17 as subsection (f) and by inserting after subsection (d) the
18 following:

19 “(e) DOMESTIC VIOLENCE.—In determining if an
20 employee meets the requirements of subparagraph (E) or
21 (F) of section 6382(a)(1), the employer of an employee
22 may require the employee to provide—

23 “(1) documentation of the domestic violence,
24 such as police or court records, or documentation of

1 the domestic violence from a shelter worker, attor-
2 ney, clergy, or medical or other professional from
3 whom the employee has sought assistance in ad-
4 dressing domestic violence and its effects; or

5 “(2) other corroborating evidence, such as a
6 statement from any other individual with knowledge
7 of the circumstances which provide the basis for the
8 claim, or physical evidence of domestic violence, such
9 as photographs, torn or bloody clothes, etc.”.

10 (f) CONFIDENTIALITY.—Section 6383 of title 5,
11 United States Code, as amended by subsection (e), is
12 amended—

13 (1) in the title by adding before the period the
14 following: “; **Confidentiality**”, and

15 (2) by adding at the end the following:

16 “(g) CONFIDENTIALITY.—All evidence of domestic vi-
17 olence experienced by an employee or the employee’s child
18 or parent, including an employee’s statement, any corrobo-
19 rating evidence, and the fact that an employee has re-
20 quested leave for the purpose of addressing domestic vio-
21 lence and its effects, shall be retained in the strictest con-
22 fidence by the employer, except to the extent consented
23 to by the employee where disclosure is necessary to protect
24 the employee’s safety.”.

1 **SEC. 6. EFFECT ON OTHER LAWS AND EMPLOYMENT BENE-**
2 **FITS.**

3 (1) **MORE PROTECTIVE.**—Nothing in this Act
4 or the amendments made by this Act shall be con-
5 strued to supersede any provision of any Federal,
6 State or local law, collective bargaining agreement,
7 or other employment benefit program which provides
8 greater unemployment compensation or leave bene-
9 fits for employed victims of domestic violence than
10 the rights established under this Act or such amend-
11 ments.

12 (2) **LESS PROTECTIVE.**—The rights established
13 for employees under this Act or the amendments
14 made by this Act shall not be diminished by any col-
15 lective bargaining agreement, any employment bene-
16 fit program or plan, or any State or local law.

17 **SEC. 7. EFFECTIVE DATE.**

18 (a) **GENERAL RULE.**—Except as provided in sub-
19 section (b), this Act and the amendments made by this
20 Act shall take effect upon the expiration of 180 days from
21 the date of the enactment of this Act.

22 (b) **UNEMPLOYMENT COMPENSATION.**—

23 (1) **IN GENERAL.**—Except as provided in para-
24 graph (2), the amendments made by section 3 shall

1 apply in the case of compensation paid for weeks be-
2 ginning on or after the expiration of 180 days from
3 the date of the enactment of this Act.

4 (2) MEETING OF STATE LEGISLATURE.—In the
5 case of a State with respect to which the Secretary
6 of Labor has determined that the State legislature
7 is required in order to comply with the amendments
8 made by section 3, the amendments made by section
9 3 shall apply in the case of compensation paid for
10 weeks which begin on or after the expiration of 180
11 days from the date of the enactment of this Act and
12 after the end of the first session of the State legisla-
13 ture which begins after the date of the enactment of
14 this Act or which began prior to the date of the en-
15 actment of this Act and remained in session for at
16 least 25 calendar days after such date of enactment.
17 For purposes of the preceding sentence, the term
18 “session” means a regular, special, budget, or other
19 session of a State legislature.

○

MEMORANDUM

TO: TOM FREEDMAN, MARY L. SMITH

FROM: DREW HANSEN

RE: CRIME VICTIMS ASSISTANCE ACT

DATE: AUGUST 21, 1997

A series of protections for victims of crime set out in the attached bill, proposed by Leahy and Kennedy:

- Right to be notified of detention hearing and right to be heard on the issue of detention.
- Enhanced right to order of restitution.
- Right to be notified of escape or release from prison.
- Right to be notified of plea agreement and to be heard on merits of the plea agreement.
- Rights of notification and allocution at a probation revocation hearing.
- Enhanced right to be present at trial.
- Compliance assured by Attorney General review and by pilot programs to establish ombudsman programs for crime victims.
- Increased victim-assistance personnel, increased training for criminal justice officials to respond to the needs of victims.
- Other amendments to Victims of Crime Act of 1994.

105TH CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. LEAHY (for himself and Mr. KENNEDY) introduced the following bill;
which was read twice and referred to the Committee on _____

A BILL

To enhance rights and protections for victims of crime.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Crime Victims Assistance Act”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—VICTIM RIGHTS

Subtitle A—Amendments to Title 18, United States Code

Sec. 101. Right to be notified of detention hearing and right to be heard on
the issue of detention.

Sloan, Melanie

From: DEdwards[SMTP:DEdwards@news.mintz.com]
Sent: Monday, July 14, 1997 3:48 PM
To: Sloan, Melanie
Subject: more military stuff

Here's something I forgot to include that had been wiped off of my disk

—
amend Title 10, Chapter 55, Section 1076(e)(1) as follows:

Any abused dependent of a former member of a uniformed service described in paragraph (4) shall for the full period of transitional compensation be furnished with medical or dental care for the treatment of illness or injuries in facilities of the uniformed services with the same benefits as were in place for the dependent during the period of active service of the former member of the uniformed service.

1 **TITLE I—VICTIM RIGHTS**
2 **Subtitle A—Amendments to Title**
3 **18, United States Code**

4 **SEC. 101. RIGHT TO BE NOTIFIED OF DETENTION HEARING**
5 **AND RIGHT TO BE HEARD ON THE ISSUE OF**
6 **DETENTION.**

7 Section 3142 of title 18, United States Code, is
8 amended by adding at the end the following:

9 “(k) NOTIFICATION OF RIGHT TO BE HEARD.—

10 “(1) IN GENERAL.—In any case involving a de-
11 fendant who is arrested for a felony offense involving
12 death or serious bodily injury to any person, or a
13 threat of death or serious bodily injury to any per-
14 son, in which a detention hearing is scheduled pur-
15 suant to subsection (f)—

16 “(A) the Government shall make a reason-
17 able effort to notify the victim of the hearing,
18 and of the right of the victim to be heard on
19 the issue of detention; and

20 “(B) at the hearing under subsection (f),
21 the court shall inquire of the Government as to
22 whether the efforts at notification of the victim
23 under subparagraph (A) were successful and, if
24 so, whether the victim wishes to be heard on

1 (3) the term "Indian tribe" has the same mean-
2 ing as in section 4(e) of the Indian Self-Determina-
3 tion and Education Assistance Act (25 U.S.C.
4 450b(e));

5 (4) the term "Judicial Conference" means the
6 Judicial Conference of the United States established
7 under section 331 of title 28, United States Code;

8 (5) the term "law enforcement officer" means
9 an individual authorized by law to engage in or su-
10 pervise the prevention, detection, investigation, or
11 prosecution of any violation of law, and includes cor-
12 rections, probation, parole, and judicial officers;

13 (6) the term "Office of Victims of Crime"
14 means the Office of Victims of Crime of the Depart-
15 ment of Justice;

16 (7) the term "State" means each of the several
17 States of the United States, the District of Colum-
18 bia, the Commonwealth of Puerto Rico, the Virgin
19 Islands, Guam, American Samoa, and the Common-
20 wealth of the Northern Mariana Islands;

21 (8) the term "unit of local government" means
22 any—

23 (A) city, county, township, town, borough,
24 parish, village, or other general purpose politi-
25 cal subdivision of a State; or

1 **SEC. 103. ENHANCED RIGHT TO ORDER OF RESTITUTION.**

2 Section 3664(d)(2)(A)(iv) of title 18, United States
3 Code, is amended by inserting “, and the right of the vic-
4 tim (or the family of a victim who is deceased or incapaci-
5 tated) to attend the sentencing hearing and to make a
6 statement to the court at the sentencing hearing” before
7 the semicolon.

8 **SEC. 104. RIGHT TO BE NOTIFIED OF ESCAPE OR RELEASE**
9 **FROM PRISON.**

10 (a) **IN GENERAL.**—Chapter 315 of title 18, United
11 States Code, is amended by adding at the end the follow-
12 ing:

13 **“§ 4286. Right of victims of crime to be notified of re-**
14 **lease or escape of defendant**

15 “(a) **IN GENERAL.**—In any case involving a defend-
16 ant who is incarcerated in a Federal prison facility pursu-
17 ant to a judgment of conviction for a felony offense involv-
18 ing death or serious bodily injury to any person, or a
19 threat of death or serious bodily injury to any person, the
20 Bureau of Prisons shall make a reasonable effort to notify
21 the victim of the impending release from custody of the
22 defendant, or, if applicable, the escape from custody of
23 the defendant.

24 **“(b) TIMING AND CONTENTS OF NOTIFICATIONS.**—
25 In carrying out this section, the Bureau of Prisons shall
26 ensure that—

1 (1) in subsection (a)—

2 (A) in paragraph (1), by striking “as pro-
3 vided in paragraph (2)” and inserting “as pro-
4 vided in paragraph (3)”;

5 (B) by redesignating paragraph (2) as
6 paragraph (3);

7 (C) by inserting after paragraph (1) the
8 following:

9 “(2) Whoever uses physical force or the threat
10 of physical force, or attempts to do so, with intent
11 to—

12 “(A) influence, delay, or prevent the testi-
13 mony of any person in an official proceeding;

14 “(B) cause or induce any person to—

15 “(i) withhold testimony, or withhold a
16 record, document, or other object, from an
17 official proceeding;

18 “(ii) alter, destroy, mutilate, or con-
19 ceal an object with intent to impair the ob-
20 ject’s integrity or availability for use in an
21 official proceeding;

22 “(iii) evade legal process summoning
23 that person to appear as a witness, or to
24 produce a record, document, or other ob-
25 ject, in an official proceeding; and

1 **Subtitle B—Amendments to Fed-**
2 **eral Rules of Criminal Proce-**
3 **dure**

4 **SEC. 121. RIGHT TO BE NOTIFIED OF PLEA AGREEMENT**
5 **AND TO BE HEARD ON MERITS OF THE PLEA**
6 **AGREEMENT.**

7 (a) **IN GENERAL.**—Rule 11 of the Federal Rules of
8 Criminal Procedure is amended by adding at the end the
9 following:

10 “(i) **RIGHTS OF VICTIMS.**—

11 “(1) **IN GENERAL.**—In any case involving a de-
12 fendant who is charged with a felony offense involv-
13 ing death or serious bodily injury to any person, or
14 a threat of death or serious bodily injury to any per-
15 son—

16 “(A) the Government, prior to a hearing at
17 which a plea of guilty or nolo contendere is en-
18 tered, shall make a reasonable effort to notify
19 the victim of—

20 “(i) the date and time of the hearing;
21 and

22 “(ii) the right of the victim to attend
23 the hearing and to address the court; and

24 “(B) if the victim attends a hearing de-
25 scribed in subparagraph (A), the court, before

1 Congress a report containing recommendations
2 for amending the Federal Rules of Criminal
3 Procedure to provide enhanced opportunities for
4 victims of felony offenses involving death or se-
5 rious bodily injury to any person, or the threat
6 of death or serious bodily injury to any person,
7 to be heard on the issue of whether or not the
8 court should accept a plea of guilty or nolo
9 contendere.

10 (B) INAPPLICABILITY OF OTHER LAW.—
11 Chapter 131 of title 28, United States Code,
12 does not apply to any recommendation made by
13 the Judicial Conference under this paragraph.

14 (3) CONGRESSIONAL ACTION.—Except as other-
15 wise provided by law, if the Judicial Conference—

16 (A) submits a report in accordance with
17 paragraph (2) containing recommendations de-
18 scribed in that paragraph, and those rec-
19 ommendations are the same as the amendment
20 made by subsection (a), then the amendment
21 made by subsection (a) shall become effective
22 30 days after the date on which the rec-
23 ommendations are submitted to Congress under
24 paragraph (2);

1 (1) in subsection (b)—

2 (A) in paragraph (4), by striking subpara-
3 graph (D) and inserting the following:

4 “(D) a victim impact statement, identify-
5 ing, to the maximum extent practicable—

6 “(i) each victim of the offense;

7 “(ii) an itemized account of any eco-
8 nomic loss suffered by each victim as a re-
9 sult of the offense;

10 “(iii) any physical injury suffered by
11 each victim as a result of the offense,
12 along with its seriousness and permanence;

13 “(iv) a description of any change in
14 the personal welfare or familial relation-
15 ships of each victim as a result of the of-
16 fense; and

17 “(v) a description of the impact of the
18 offense upon each victim.”; and

19 (B) by adding at the end the following:

20 “(7) VICTIM IMPACT STATEMENTS.—

21 “(A) IN GENERAL.—Any probation officer
22 preparing a presentence report shall—

23 “(i) make a reasonable effort to notify
24 each victim of the offense that such a re-

1 heard under subdivision (c)(1), and” before “the
2 right of allocution”.

3 (b) EFFECTIVE DATE.—

4 (1) IN GENERAL.—The amendments made by
5 subsection (a) shall become effective as provided in
6 paragraph (3).

7 (2) ACTION BY JUDICIAL CONFERENCE.—

8 (A) RECOMMENDATIONS.—Not later than
9 180 days after the date of enactment of this
10 Act, the Judicial Conference shall submit to
11 Congress a report containing recommendations
12 for amending the Federal Rules of Criminal
13 Procedure to provide enhanced opportunities for
14 victims of felony offenses involving death or se-
15 rious bodily injury to any person, or the threat
16 of death or serious bodily injury to any person,
17 to participate during the presentencing phase of
18 the criminal process.

19 (B) INAPPLICABILITY OF OTHER LAW.—

20 Chapter 131 of title 28, United States Code,
21 does not apply to any recommendation made by
22 the Judicial Conference under this paragraph.

23 (3) CONGRESSIONAL ACTION.—Except as other-
24 wise provided by law, if the Judicial Conference—

1 (4) APPLICATION.—Any amendment made pur-
2 suant to this section (including any amendment
3 made pursuant to the recommendations of the Unit-
4 ed States Sentencing Commission under paragraph
5 (2)) shall apply in any proceeding commenced on or
6 after the effective date of the amendment.

7 **SEC. 123. RIGHTS OF NOTIFICATION AND ALLOCUTION AT A**
8 **PROBATION REVOCATION HEARING.**

9 (a) IN GENERAL.—Rule 32.1 of the Federal Rules
10 of Criminal Procedure is amended by adding at the end
11 the following:

12 “(d) RIGHTS OF VICTIMS.—

13 “(1) IN GENERAL.—At any hearing pursuant to
14 subsection (a)(2) involving one or more persons who
15 have been convicted of a felony offense involving
16 death or serious bodily injury to any person, or a
17 threat of death or serious bodily injury to any per-
18 son, the Government shall make reasonable effort to
19 notify the victim of the offense of—

20 “(A) the date and time of the hearing; and

21 “(B) the right of the victim to attend the
22 hearing and to address the court regarding
23 whether the terms or conditions of probation or
24 supervised release should be modified.

1 (b) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendment made by
3 subsection (a) shall become effective as provided in
4 paragraph (3).

5 (2) ACTION BY JUDICIAL CONFERENCE.—

6 (A) RECOMMENDATIONS.—Not later than
7 180 days after the date of enactment of this
8 Act, the Judicial Conference shall submit to
9 Congress a report containing recommendations
10 for amending the Federal Rules of Criminal
11 Procedure to ensure that reasonable efforts are
12 made to notify victims of felony offenses involv-
13 ing death or serious bodily injury to any person,
14 or the threat of death or serious bodily injury
15 to any person, of any revocation hearing held
16 pursuant to rule 32.1(a)(2) of the Federal
17 Rules of Criminal Procedure.

18 (B) INAPPLICABILITY OF OTHER LAW.—
19 Chapter 131 of title 28, United States Code,
20 does not apply to any recommendation made by
21 the Judicial Conference under this paragraph.

22 (3) CONGRESSIONAL ACTION.—Except as other-
23 wise provided by law, if the Judicial Conference—

24 (A) submits a report in accordance with
25 paragraph (2) containing recommendations de-

1 ed States Sentencing Commission under paragraph
2 (2)) shall apply in any proceeding commenced on or
3 after the effective date of the amendment.

4 **Subtitle C—Amendment to Federal** 5 **Rules of Evidence**

6 **SEC. 131. ENHANCED RIGHT TO BE PRESENT AT TRIAL.**

7 (a) IN GENERAL.—Rule 615 of the Federal Rules of
8 Evidence is amended—

9 (1) by striking “At the request” and inserting
10 the following:

11 “(a) IN GENERAL.—Except as provided in subsection
12 (b), at the request”;

13 (2) by striking “This rule” and inserting the
14 following:

15 “(b) EXCEPTIONS.—Subsection (a)”;

16 (3) by striking “exclusion of (1) a party” and
17 inserting the following: “exclusion of—

18 “(1) a party”;

19 (4) by striking “person, or (2) an officer” and
20 inserting the following: “person;

21 “(2) an officer”;

22 (5) by striking “attorney, or (3) a person” and
23 inserting the following: “attorney;

24 “(3) a person”;

1 necessary to maintain order during a court proceed-
2 ing; or

3 “(2) to limit or otherwise affect the ability of
4 a witness to be present during court proceedings
5 pursuant to section 3510 of title 18, United States
6 Code.”.

7 (b) EFFECTIVE DATE.—

8 (1) IN GENERAL.—The amendments made by
9 subsection (a) shall become effective as provided in
10 paragraph (3).

11 (2) ACTION BY JUDICIAL CONFERENCE.—

12 (A) RECOMMENDATIONS.—Not later than
13 180 days after the date of enactment of this
14 Act, the Judicial Conference shall submit to
15 Congress a report containing recommendations
16 for amending the Federal Rules of Evidence to
17 provide enhanced opportunities for victims of
18 felony offenses involving death or serious bodily
19 injury to any person, or the threat of death or
20 serious bodily injury to any person, to attend
21 judicial proceedings, even if they may testify as
22 a witness at the proceeding.

23 (B) INAPPLICABILITY OF OTHER LAW.—

24 Chapter 131 of title 28, United States Code,

1 (C) fails to comply with paragraph (2), the
2 amendments made by subsection (a) shall be-
3 come effective 360 days after the date of enact-
4 ment of this Act.

5 (4) APPLICATION.—Any amendment made pur-
6 suant to this section (including any amendment
7 made pursuant to the recommendations of the Unit-
8 ed States Sentencing Commission under paragraph
9 (2)) shall apply in any proceeding commenced on or
10 after the effective date of the amendment.

11 **Subtitle D—Remedies for** 12 **Noncompliance**

13 **SEC. 141. REMEDIES FOR NONCOMPLIANCE.**

14 (a) GENERAL LIMITATION.—Any failure to comply
15 with any amendment made by this Act shall not give rise
16 to a claim for damages, or any other action against the
17 United States, or any employee of the United States, any
18 court official or officer of the court, or an entity contract-
19 ing with the United States, or any action seeking a rehear-
20 ing or other reconsideration of action taken in connection
21 with a defendant.

22 (b) REGULATIONS TO ENSURE COMPLIANCE.—

23 (1) IN GENERAL.—Notwithstanding subsection
24 (a), not later than 1 year after the date of enact-
25 ment of this Act, the Attorney General and the

1 ultimate arbiter of the complaint, and there
2 shall be no judicial review of the final decision
3 of the Attorney General by a complainant.

4 **SEC. 142. PILOT PROGRAMS TO ESTABLISH OMBUDSMAN**
5 **PROGRAMS FOR CRIME VICTIMS.**

6 (a) **DEFINITIONS.**—In this section:

7 (1) **DIRECTOR.**—The term “Director” means
8 the Director of the Office of Victims of Crime.

9 (2) **OFFICE.**—The term “Office” means the Of-
10 fice of Victims of Crime.

11 (3) **QUALIFIED PRIVATE ENTITY.**—The term
12 “qualified private entity” means a private entity
13 that meets such requirements as the Attorney Gen-
14 eral, acting through the Director, may establish.

15 (4) **QUALIFIED UNIT OF STATE OR LOCAL GOV-**
16 **ERNMENT.**—The term “qualified unit of State or
17 local government” means a unit or a State or local
18 government that meets such requirements as the At-
19 torney General, acting through the Director, may es-
20 tablish.

21 (5) **VOICE CENTERS.**—The term “VOICE Cen-
22 ters” means the Victim Ombudsman Information
23 Centers established under the program under sub-
24 section (b).

25 (b) **PILOT PROGRAMS.**—

1 (B) CONTENTS OF AGREEMENT.—The
2 agreement referred to in subparagraph (A)
3 shall specify that—

4 (i) the VOICE Center shall be estab-
5 lished in accordance with this section; and

6 (ii) except with respect to meeting ap-
7 plicable requirements of this section con-
8 cerning carrying out the duties of a
9 VOICE Center under this section (includ-
10 ing the applicable reporting duties under
11 subsection (c) and the terms of the agree-
12 ment) each VOICE Center shall operate
13 independently of the Office; and

14 (C) the Office shall have no supervisory or
15 decisionmaking authority over the day-to-day
16 operations of a VOICE Center.

17 (c) OBJECTIVES.—

18 (1) MISSION.—The mission of each VOICE
19 Center established under a pilot program under this
20 section shall be to assist a victim of a Federal or
21 State crime to ensure that the victim—

22 (A) is fully apprised of the rights of that
23 victim under applicable Federal or State law;
24 and

1 fairness, dignity, and compassion throughout
2 the criminal justice process.

3 (d) OVERSIGHT.—

4 (1) TECHNICAL ASSISTANCE.—The Office may
5 provide technical assistance to each VOICE Center.

6 (2) ANNUAL REPORT.—Each qualified private
7 entity or qualified unit of State or local government
8 that carries out a pilot program to establish and op-
9 erate a VOICE Center under this section shall pre-
10 pare and submit to the Director, not later than 1
11 year after the VOICE Center is established, and an-
12 nually thereafter, a report that—

13 (A) describes in detail the activities of the
14 VOICE Center during the preceding year; and

15 (B) outlines a strategic plan for the year
16 following the year covered under subparagraph
17 (A).

18 (e) REVIEW OF PROGRAM EFFECTIVENESS.—

19 (1) GAO STUDY.—Not later than 2 years after
20 the date on which each VOICE Center established
21 under a pilot program under this section is fully
22 operational, the Comptroller General of the United
23 States shall conduct a review of each pilot program
24 carried out under this section to determine the effec-
25 tiveness of the VOICE Center that is the subject of

1 the amounts collected pursuant to sections 3729 through
2 3731 of title 31, United States Code (commonly known
3 as the "False Claims Act"), may be used by the Director
4 to make grants under subsection (b).

5 **TITLE II—VICTIM ASSISTANCE** 6 **INITIATIVES**

7 **SEC. 201. INCREASE IN VICTIM ASSISTANCE PERSONNEL.**

8 There are authorized to be appropriated such sums
9 as may be necessary to enable the Attorney General to—

10 (1) hire 50 full-time or full-time equivalent em-
11 ployees to serve victim-witness advocates to provide
12 assistance to victims of any criminal offense inves-
13 tigated by any department or agency of the Federal
14 Government; and

15 (2) provide grants through the Office of Victims
16 of Crime to qualified private entities to fund 50 vic-
17 tim-witness advocate positions within those organiza-
18 tions.

19 **SEC. 202. INCREASED TRAINING FOR STATE AND LOCAL** 20 **LAW ENFORCEMENT, STATE COURT PERSON-** 21 **NEL, AND OFFICERS OF THE COURT TO RE-** 22 **SPOND EFFECTIVELY TO THE NEEDS OF VIC-** 23 **TIMS OF CRIME.**

24 Notwithstanding any other provision of law, amounts
25 collected pursuant to sections 3729 through 3731 of title

1 fices, State courts, county jails, State correctional institu-
2 tions, and qualified private entities, to develop and imple-
3 ment state-of-the-art systems for notifying victims of
4 crime of important dates and developments relating to the
5 criminal proceedings at issue.

6 “(b) FALSE CLAIMS ACT.—Notwithstanding any
7 other provision of law, amounts collected pursuant to sec-
8 tions 3729 through 3731 of title 31, United States Code
9 (commonly known as the ‘False Claims Act’), may be used
10 for grants under this section.”.

11 (b) VIOLENT CRIME REDUCTION TRUST FUND.—
12 Section 310004(d) of the Violent Crime Control and Law
13 Enforcement Act of 1994 (42 U.S.C. 14214(d)) is amend-
14 ed—

15 (1) in the first paragraph designated as para-
16 graph (15) (relating to the definition of the term
17 “Federal law enforcement program”), by striking
18 “and” at the end;

19 (2) in the first paragraph designated as para-
20 graph (16) (relating to the definition of the term
21 “Federal law enforcement program”), by striking
22 the period at the end and inserting “; and”; and

23 (3) by inserting after the first paragraph des-
24 ignated as paragraph (16) (relating to the definition

1 (A) the need for and the potential impact
2 of all legislation introduced in either the House
3 of Representatives or the Senate for amending
4 the Constitution of the United States to estab-
5 lish rights for victims of crime, which shall in-
6 clude an examination of, among other issues—

7 (i) the means of enforcing those con-
8 stitutional rights;

9 (ii) the financial cost to the States of
10 establishing and enforcing those constitu-
11 tional rights, including any cost to prosecu-
12 tors, law enforcement officials, corrections
13 officials, and the criminal and civil justice
14 system;

15 (iii) the likely effects of a constitu-
16 tional amendment on the administration of
17 justice at the Federal, State, and local lev-
18 els, including any effect on prosecutorial
19 and judicial functions and any effect on
20 the rights of the accused;

21 (iv) whether alternative means to an
22 amendment to the Constitution, such as
23 legislation, regulation, Executive order, or
24 action by State or local government, could
25 achieve the same goal of providing en-

1 ensure the passage of victims' rights legis-
2 lation;

3 (iv) the implementation problems, if
4 any, that have resulted from the passage of
5 State constitutional amendments or the en-
6 actment of State laws establishing en-
7 hanced rights and protections for victims
8 of crime; and

9 (v) the extent to which the Constitu-
10 tion of the United States has served as a
11 barrier to the exercise of rights established
12 by State constitutional amendments or
13 laws establishing enhanced rights and pro-
14 tectons for victims of crime.

15 (2) REPORT.—

16 (A) IN GENERAL.—Not later than 2 years
17 after the date on which the seventh initial mem-
18 ber is appointed to the Commission in accord-
19 ance with this section, the Commission shall
20 submit to Congress a report describing the find-
21 ings of the Commission with respect to the
22 study conducted under paragraph (1).

23 (B) RECOMMENDATIONS.—The report sub-
24 mitted to Congress under this paragraph shall
25 include recommendations of the Commission for

1 (i) IN GENERAL.—Subject to clause
2 (ii), each member of the Commission who
3 is an officer or employee of the Federal
4 Government shall serve without additional
5 compensation for the service of that mem-
6 ber as an officer or employee of the United
7 States, but shall be reimbursed for travel,
8 subsistence, and other necessary expenses
9 incurred in the performance of duties vest-
10 ed in the Commission.

11 (ii) LIMITATION.—A member referred
12 to in clause (i) may not receive reimburse-
13 ment for expenses in amounts in excess of
14 the maximum amounts authorized under
15 section 456 of title 28, United States
16 Code.

17 (B) PRIVATE MEMBERS.—

18 (i) IN GENERAL.—Subject to clause
19 (ii), members of the Commission who are
20 not officers or employees of the Federal
21 Government shall receive—

22 (I) a per diem of \$200 for each
23 day (including travel time) during
24 which the member is engaged in the

1 Code, governing appointments in the competi-
2 tive service or the provisions of chapter 51 and
3 subchapter III of chapter 53 of such title relat-
4 ing to classification and General Schedule pay
5 rates.

6 (B) COMPENSATION.—Compensation of
7 personnel appointed under this subsection shall
8 not exceed the annual maximum rate of base
9 pay for a position above GS-15 of the General
10 Schedule under section 5108 of title 5, United
11 States Code.

12 (8) EXPERTS AND CONSULTANTS.—The execu-
13 tive director appointed under paragraph (6) may
14 procure personal services of experts and consultants
15 as authorized by section 3109 of title 5, United
16 States Code, at rates not to exceed the highest level
17 payable under the General Schedule pay rates under
18 section 5332 of title 5, United States Code.

19 (9) SERVICES.—The Administrative Office of
20 the United States Courts shall provide administra-
21 tive services, including financial and budgeting serv-
22 ices, for the Commission on a reimbursable basis.
23 The Federal Judicial Center shall provide necessary
24 research services to the Commission on a reimburs-
25 able basis.

1 (f) TERMINATION.—The Commission shall terminate
2 on the date which is 90 days after the date on which a
3 report is submitted to Congress under subsection (b)(2).

4 (g) CONGRESSIONAL CONSIDERATION.—Not later
5 than 60 days after the date on which the Commission sub-
6 mits a report to Congress under subsection (b)(2), the
7 Committee on the Judiciary of the Senate and the Com-
8 mittee on the Judiciary of the House of Representatives
9 shall conduct a joint hearing to assess the report.

10 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
11 authorized to be appropriated to the Commission, to re-
12 main available until expended, \$2,000,000 to carry out
13 this section.

14 **SEC. 205. AMENDMENTS TO VICTIMS OF CRIME ACT OF**
15 **1994.**

16 (a) CRIME VICTIMS FUND.—Section 1402 of the Vic-
17 tims of Crime Act of 1994 (42 U.S.C. 10601) is amend-
18 ed—

19 (1) in subsection (b)—

20 (A) in paragraph (3), by striking “and” at
21 the end;

22 (B) in paragraph (4), by striking the pe-
23 riod at the end and inserting “; and”; and

24 (C) by adding at the end the following:

1 (A) in each of paragraphs (1) and (2), by
2 striking "40" and inserting "60"; and

3 (B) in paragraph (3), by inserting "and
4 evaluation" after "administration"; and

5 (2) in subsection (b)(7), by inserting "because
6 the identity of the offender was not determined be-
7 yond a reasonable doubt in a criminal trial, because
8 criminal charges were not brought against the of-
9 fender, or" after "deny compensation to any victim".

10 (c) CRIME VICTIM ASSISTANCE.—Section 1404 of the
11 Victims of Crime Act of 1994 (42 U.S.C. 10603) is
12 amended—

13 (1) in subsection (c)—

14 (A) in paragraph (1)—

15 (i) by striking the comma after "Di-
16 rector";

17 (ii) by inserting "or enter into cooper-
18 ative agreements" after "make grants";

19 (iii) by striking subparagraph (A) and
20 inserting the following:

21 "(A) for demonstration projects, evalua-
22 tion, training, and technical assistance services
23 to eligible organizations;"

1 (2) in subsection (d)—

2 (A) by striking paragraph (1) and insert-
3 ing the following:

4 “(1) the term ‘State’ includes—

5 “(A) the District of Columbia, the Com-
6 monwealth of Puerto Rico, the United States
7 Virgin Islands, and any other territory or pos-
8 session of the United States; and

9 “(B) for purposes of a subgrant under
10 subsection (a)(1) or a grant or cooperative
11 agreement under subsection (c)(1), the United
12 States Virgin Islands and any agency of the
13 government of the District of Columbia or the
14 Federal Government performing law enforce-
15 ment functions in and on behalf of the District
16 of Columbia.”;

17 (B) in paragraph (2)—

18 (i) in subparagraph (C), by striking

19 “and” at the end; and

20 (ii) by adding at the end the follow-
21 ing:

22 “(E) public awareness and education and
23 crime prevention activities that promote, and
24 are conducted in conjunction with, the provision
25 of victim assistance; and

1 “(C) tribal organization;

2 “(D) organization—

3 “(i) described in section 501(c) of the
4 Internal Revenue Code of 1986; and

5 “(ii) exempt from taxation under sec-
6 tion 501(a) of such Code; or

7 “(E) other entity that the Director deter-
8 mines to be appropriate.”.

9 (d) COMPENSATION AND ASSISTANCE TO VICTIMS OF
10 TERRORISM OF MASS VIOLENCE.—Section 1404B of the
11 Victims of Crime Act of 1994 (42 U.S.C. 10603b) is
12 amended—

13 (1) in subsection (a), by striking “1404(a)” and
14 inserting “1402(d)(4)(B)”; and

15 (2) in subsection (b), by striking
16 “1404(d)(4)(B)” and inserting “1402(d)(4)(B)”.

17 **SEC. 206. TECHNICAL CORRECTION.**

18 Section 233(d) of the Antiterrorism and Effective
19 Death Penalty Act of 1996 (110 Stat. 1245) is amended
20 by striking “1 year after the date of enactment of this
21 Act” and inserting “October 1, 1999”.

22 **SEC. 207. SERVICES FOR VICTIMS OF CRIME AND DOMES-**
23 **TIC VIOLENCE.**

24 Section 504 of Public Law 104–134 (110 Stat. 1321–
25 132 et seq.) shall not be construed to prohibit a recipient

1 tice system and related criminal justice agencies to im-
2 prove the capacity of the system and agencies to—

3 (A) protect the community served by the
4 system and agencies; and

5 (B) ensure accountability of the offender
6 and the system.

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CHAPTER __ - LAW ENFORCEMENT AND CAMPUS GRANTS TO REDUCE VIOLENT CRIMES AGAINST WOMEN ON CAMPUS

SEC. _____. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN ON CAMPUSES

(a) **IN GENERAL.** – Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 32101(a) is amended –

- (1) by redesignating part U as part V;
- (2) by redesignating section 2101 as section 2201; and
- (3) by inserting after part V the following new part:

PART U – GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN ON CAMPUSES

SEC. 2101. PURPOSE OF THE PROGRAM AND GRANTS

(a) **GENERAL PROGRAM PURPOSE.** – The purpose of this part is to assist campus administrators and local law enforcement develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women on campuses, and to develop and strengthen victim services in cases involving violent crimes against women on campuses.

(b) **PURPOSES FOR WHICH GRANTS MAY BE USED.** – Grants under this part shall provide personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women on campuses, and specifically, for the purposes of –

- (1) training law enforcement officers and campus administrators to more effectively identify and respond to violent crimes against women on campus, including the crimes of sexual assault and domestic violence;
- (2) developing, training, or expanding units of law enforcement officers and campus administrators specifically targeting violent crimes against women on campus, including the crimes of sexual assault and domestic violence;
- (3) developing and implementing more effective police and campus security policies, protocols, orders and services specifically devoted to preventing, identifying and responding to violent crimes against women on campus, including the crimes of sexual assault and domestic violence;
- (4) developing, installing, or expanding data collection and communications systems, including computerized systems, linking

police and campus security for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women on campus, including the crimes of domestic violence and sexual assault;

(5) developing, enlarging, or strengthening victim services programs for local campuses, including sexual assault and domestic violence programs, developing or improving delivery of victim services on campuses, and increasing reporting and reducing attrition rates for cases involving violent crimes against women on campuses, including crimes of sexual assault and domestic violence; and

(6) developing, enlarging, or strengthening programs addressing stalking on campuses.

SEC. 2102. GRANTS

(a) **GENERAL GRANTS.** – The Department of Education may make grants for use by campus administrators, law enforcement, and nonprofit nongovernmental victim services programs for the purposes described in section 2101(b)

(b) **AMOUNTS.** – Of the amounts appropriated for the purposes of this part –

(1) \$500,000 should be available for grants to applicants in each state; and

(2) the remaining funds shall be available to applicants in each State in an amount that bears the same ratio to the amount of remaining funds as the number of enrolled students in the State bears to the number of enrolled students of all of the States that results from a distribution among the States on the basis of the number of enrolled students in each State in relation to the number of enrolled students in all States.

(c) **QUALIFICATION.** – Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that –

(1) the funds shall be used for any of the purposes described in section 2101(b);

(2) grantees and subgrantees shall develop a plan for implementation and shall consult and coordinate with nonprofit, nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following 3 areas: campus administrators, law enforcement and victim services; and

(4) any Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle.

(d) **APPLICATION REQUIREMENTS.** – The application requirements provided in section 513 shall apply under this part. In addition, each application should include the certifications of qualification required by subsection (e), including

documentation from nonprofit, nongovernmental victim services programs, describing their participation in developing the plan required by subsection (c)(2). An application shall include --

- (1) documentation from the campus administrators, law enforcement and victim services programs to be assisted, demonstrating --
 - (A) need for the grant funds;
 - (B) intended use of the grant funds;
 - (C) expected results from the use of the grants funds;
 - (D) characteristics of the population being served, including number of students and type of campus
- (2) proof of compliance with the requirements for posting local law enforcement and victim services phone numbers on campuses and disclosure of legal options to victims provided in section ____; and
- (3) proof of collaboration with at least one grantee from each of the other two grantee categories.

(e) DISBURSEMENT. --

- (1) **IN GENERAL.** -- Not later than 60 days after the receipt of an application under this part, the Attorney General shall--
 - (A) disburse the appropriate sums provided for under this part; or
 - (B) inform the applicant why the application does not conform to the terms of section 513 or to the requirements of this section.
- (2) **REGULATIONS.** -- In disbursing monies under this part, the Attorney General shall issue regulations to ensure that States will--
 - (A) give priority to areas of varying geographic size with with the greatest showing of need based on the availability of existing domestic violence and sexual assault programs on the campuses to be served in relation to the availability of such programs on other such campuses;
 - (B) determine the amount of subgrants based on the number of students to be served;
 - (C) equitably distribute monies on a geographic basis including nonurban and rural areas of various geographic sizes; and
 - (D) recognize and address the needs of underserved populations.

(f) FEDERAL SHARE. -- The Federal share of a grant made under this subtitle may not exceed 75 percent of the total cost of the projects described in the application submitted.

SEC. 2103. DEFINITIONS

In this part --

- (1) the term "domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or

family violence laws of the jurisdiction receiving grant monies, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies;

(2) the term "law enforcement" means a public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs);

(3) the term "sexual assault" means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison and includes both assaults committed by offenders who are known or related by blood or marriage to the victim;

(4) the term "victim services" means a nonprofit, nongovernmental organization that assists domestic violence or sexual assault victims, including rape crisis centers, battered women's shelters, and other sexual assault or domestic violence programs, including nonprofit nongovernmental organizations assisting domestic violence or sexual assault victims through the legal process;

(5) the term "campus" means (1) any building or property owned or controlled by a student organization recognized by the

SEC. 2104. GENERAL TERMS AND CONDITIONS.

(a) **NONMONETARY ASSISTANCE.** – In addition to the assistance provided under this part, the Attorney General may request any Federal agency to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities and managerial, technical and advisory services) in support of campus, law enforcement and victim service efforts.

(b) **REPORTING.** – Not later than 180 days after the end of each fiscal year for which grants are made under this part, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that includes, for each State-

(1) the number of grants and funds distributed under this part;

(2) a summary of the purposes for which these grants were provided and an evaluation of their progress;

(3) a statistical summary of the persons served, detailing the nature of victimization, and providing data on age, sex, relationship to offender, geographic distribution, race, ethnicity, language, disability, and type of campus; and

(4) an evaluation of the effectiveness of programs funded under this part.

(c) **REGULATIONS OR GUIDELINES.** – Not later than 120 days after the date of enactment of this part, the Attorney General shall publish proposed regulations or guidelines implementing this part. Not later than 180 days after the date of enactment the Attorney General shall publish final regulations or guidelines implementing this part.

National Baseline Study on University Campus Procedures in case of a Report of Sexual Assault.

(a) Study.--The Secretary of Education, in consultation with the Department of Education, shall provide for a national baseline study to examine College and University's procedures upon receiving the report of a sexual assault.

(b) Report.-- The study required by subsection (a) should include the analysis of--

(1) the existence and publication of institution's and local authority's (state law) definition of sexual assault;

(2) the existence and publication of the institution's formal policy for campus sexual assaults;

(3) to whom reports are stated most often;

(a) how these "authorities" are trained to deal with the reports;

(b) the extent to which they are trained;

(4) the reporting options which are articulated to the victim or victims of the crime;

(a) on campus reporting and procedure options;

(b) off campus (state) reporting and procedure options;

(5) the resources available for victim's safety, support, medical health, and confidentiality;

(a) how well these resources are articulated both specifically to the victim of a sexual assault and generally to the campus at large;

(b) the security of these resources in terms of confidentiality and/or reputation.

(6) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local criminal authorities, or that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

(7) policies and practices found successful in aiding the report and any ensuing prosecution of a campus sexual assault;

(8) the on campus procedures for prosecuting the perpetrator;

(a) the format for collecting evidence;

(b) the format of the prosecution itself;

(i) the faculty responsible for running the prosecution

(ii) the persons allowed to attend the prosecution

(9) types of punishment for offenders

(a) whether case directed outside to further punishment

(b) how individual institutions punish perpetrators

(c) Submission of Report.--The report required by subsection (b) shall be submitted to Congress no later than September 1, 1998

(d) Definition.-- For purposes of this section, "campus sexual assaults" includes sexual assaults occurring at institutions of post-secondary education and sexual assaults committed against or by students or employees of such institutions.

(e) Authorization of Appropriations.--

105TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. CONYERS introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend title 18, United States Code, to impose a penalty
upon States that do not give full faith and credit to
the protective orders of other States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 **SECTION 1. FULL FAITH AND CREDIT GIVEN TO PROTEC-**
4 **TIVE ORDERS.**

5 Section 2265 of title 18, United States Code, is
6 amended by adding at the end the following:

7 “(d) FORMULA GRANT REDUCTION FOR NONCOMPLI-
8 ANCE.—

1 “(1) REDUCTION.—The Attorney General shall
2 reduce by 10 percent (for redistribution to other
3 participating States that comply with subsections (a)
4 and (b)) the amount a State would receive under
5 subpart 1 of part E of title I of the Omnibus Crime
6 Control and Safe Streets Act of 1968 if such State
7 fails to comply with the requirements of subsections
8 (a) and (b).

9 “(2) EFFECTIVE DATE.—The Attorney General
10 may begin to reduce funds described in paragraph
11 (1) on the first day of each fiscal year succeeding
12 the first fiscal year beginning after the date of the
13 enactment of this subsection.”.

14 SEC. 2. GRANT PROGRAM.

15 (a) IN GENERAL.—The Attorney General may pro-
16 vide grants to assist States, Indian tribal governments,
17 and units of local government to develop and strengthen
18 effective law enforcement and recordkeeping strategies to
19 assist States, Indian tribal governments, and units of local
20 government to enforce protective orders issued by other
21 States, Indian tribal governments, or units of local govern-
22 ment.

23 (b) USES OF FUNDS.—

1 (1) IN GENERAL.—Grants under this section
2 shall provide technical assistance, computer assist-
3 ance, and equipment to enforce protective orders.

4 (2) USES OF FUNDS.—Funds received under
5 this section may be used to develop, install, or ex-
6 pand data collection and communication systems, in-
7 cluding computerized systems, linking police, pros-
8 ecutors, and courts for the purpose of identifying
9 and tracking protective orders and violations of pro-
10 tective orders.

11 (c) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to carry out this section, \$1,000,000 for
13 each of fiscal years 1997, 1998, and 1999.

105TH CONGRESS
1ST SESSION

H. R. 871

To provide rental assistance under section 8 of the United States Housing Act of 1937 for victims of domestic violence to enable such victims to relocate.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 1997

Mr. FRANK of Massachusetts (for himself, Mr. LIPINSKI, Ms. JACKSON-LEE of Texas, Mr. CONYERS, Ms. NORTON, Mr. LAFALCE, Mr. OBERSTAR, Ms. BROWN of Florida, Mr. JEFFERSON, Mr. FROST, Ms. PELOSI, Mr. DEFazio, and Ms. SLAUGHTER) introduced the following bill; which was referred to the Committee on Banking and Financial Services

A BILL

To provide rental assistance under section 8 of the United States Housing Act of 1937 for victims of domestic violence to enable such victims to relocate.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Domestic Violence Vic-
5 tims Housing Act".

6 **SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

7 The budget authority under section 5(c) of the
8 United States Housing Act of 1937 for assistance under

1 subsections (b) and (o) of section 8 of such Act is author-
2 ized to be increased by \$50,000,000 on or after October
3 1, 1997 and by such sums as may be necessary on or after
4 October 1, 1998.

5 **SEC. 3. USE OF AMOUNTS FOR HOUSING ASSISTANCE FOR**
6 **VICTIMS OF DOMESTIC VIOLENCE.**

7 (a) **IN GENERAL.**—Amounts available pursuant to
8 section 2 shall be made available by the Secretary of Hous-
9 ing and Urban Development only to public housing agen-
10 cies and qualified nonprofit organizations only for use for
11 providing tenant-based rental assistance on behalf of fami-
12 lies victimized by domestic violence (as such term is de-
13 fined in section 4 of this Act) who have left or are leaving
14 a residence as a result of the domestic violence.

15 (b) **DETERMINATION.**—For purposes of subsection
16 (a), a family victimized by domestic violence shall be con-
17 sidered to have left or to be leaving a residence as a result
18 of domestic violence if the public housing agency or quali-
19 fied nonprofit organization providing rental assistance
20 under this Act determines that the member of the family
21 who was subject to the domestic violence reasonably be-
22 lieves that relocation from such residence will assist in
23 avoiding future domestic violence against such member or
24 another member of the family.

1 (c) **ALLOCATION.**—Amounts made available pursuant
2 to section 2 shall be allocated by the Secretary on the basis
3 of a national competition to the public housing agencies
4 and qualified nonprofit organizations that submit applica-
5 tions to the Secretary that best demonstrate a need for
6 such assistance and the ability to undertake and carry out
7 a program under this Act, as the Secretary shall deter-
8 mine.

9 **SEC. 4. DEFINITIONS RELATING TO DOMESTIC VIOLENCE.**

10 For purposes of this Act, the following definitions
11 shall apply:

12 (1) **ABUSE.**—The term “abuse” includes any
13 act that constitutes or causes, any attempt to com-
14 mit, or any threat to commit—

15 (A) any bodily injury or physical illness,
16 including placing, by physical menace, another
17 in fear of imminent serious bodily injury;

18 (B) any rape, sexual assault, or involun-
19 tary sexual activity, or any sexual activity with
20 a dependent child;

21 (C) the infliction of false imprisonment or
22 other nonconsensual restraints on liberty of
23 movement;

24 (D) deprivation of medical care, housing,
25 food, or other necessities of life; or

1 (E) mental or psychological abuse, includ-
2 ing repeated or severe humiliation, intimidation,
3 criticism, acts designed to induce terror, or
4 verbal abuse.

5 (2) DOMESTIC VIOLENCE.—The term “domestic
6 violence” means abuse that is committed against an
7 individual by—

8 (A) a spouse or former spouse of the indi-
9 vidual;

10 (B) an individual who is the biological par-
11 ent or stepparent of a child of the individual
12 subject to the abuse, who adopted such child, or
13 who is a legal guardian to such a child;

14 (C) an individual with whom the individual
15 subject to the abuse is or was cohabiting;

16 (D) a current or former romantic, inti-
17 mate, or sexual partner of the individual; or

18 (E) an individual from whom the individ-
19 ual subject to the abuse would be eligible for
20 protection under the domestic violence, protec-
21 tion order, or family laws of the applicable ju-
22 risdiction.

23 (3) FAMILY VICTIMIZED BY DOMESTIC VIO-
24 LENCE.—

1 (A) IN GENERAL.—The term “family vic-
2 timized by domestic violence” means a family or
3 household that includes an individual who has
4 been determined under subparagraph (B) to
5 have been subject to domestic violence, but does
6 not include any individual described in para-
7 graph (3) who committed the domestic violence.
8 The term includes any such family or household
9 in which only a minor or minors are the individ-
10 ual or individuals who was or were subject to
11 domestic violence only if such family or house-
12 hold also includes a parent, stepparent, legal
13 guardian, or other responsible caretaker for the
14 child.

15 (B) DETERMINATION THAT FAMILY OR IN-
16 DIVIDUAL WAS SUBJECT TO DOMESTIC VIO-
17 LENCE.—For purposes of subparagraph (A), a
18 determination under this subparagraph is a de-
19 termination that domestic violence has been
20 committed, which is made by any agency or of-
21 ficial of a State or unit of general local govern-
22 ment (including a public housing agency) based
23 upon—

1 (i) information provided by any medi-
2 cal, legal, counseling, or other clinic, shel-
3 ter, or other program or entity licensed,
4 recognized, or authorized by the State or
5 unit of general local government to provide
6 services to victims of domestic violence;

7 (ii) information provided by any agen-
8 cy of the State or unit of general local gov-
9 ernment that provides or administrates the
10 provision of social, medical, legal, or health
11 services;

12 (iii) information provided by any cler-
13 gy;

14 (iv) information provided by any hos-
15 pital, clinic, medical facility, or doctor li-
16 censed or authorized by the State or unit
17 of general local government to provide
18 medical services;

19 (v) a petition or complaint filed in a
20 court or law or documents or records of ac-
21 tion of any court or law enforcement agen-
22 cy, including any record of any protection
23 order, injunction, or temporary or final
24 order issued by civil or criminal courts or
25 any police report; or

1 (vi) any other reliable evidence that
2 domestic violence has occurred.

3 **SEC. 5. OTHER DEFINITIONS.**

4 For purposes of this Act, the following definitions
5 shall apply:

6 (1) **PUBLIC HOUSING AGENCY.**—The term
7 “public housing agency” has the meaning given the
8 term in section 3(b) of the United States Housing
9 Act of 1937 (42 U.S.C. 1437a(b)).

10 (2) **QUALIFIED NONPROFIT ORGANIZATION.**—
11 The term “qualified nonprofit organization” means
12 a private organization that—

13 (A) is organized, or has as one of its pri-
14 mary purposes, to provide shelter or transi-
15 tional housing for victims of domestic violence;

16 (B) is organized under State or local laws;

17 (C) has no part of its net earnings inuring
18 to the benefit of any member, shareholder,
19 founder, contributor, or individual; and

20 (D) is approved by the Secretary as to fi-
21 nancial responsibility.

22 (3) **SECRETARY.**—The term “Secretary” means
23 the Secretary of Housing and Urban Development.

1 (4) STATE.—The term “State” means the
2 States of the United States, the District of Colum-
3 bia, the Commonwealth of Puerto Rico, the Com-
4 monwealth of the Northern Mariana Islands, Guam,
5 the Virgin Islands, American Samoa, and any other
6 territory or possession of the United States.

7 (5) UNIT OF GENERAL LOCAL GOVERNMENT.—
8 The term “unit of general local government” has the
9 meaning given the term in section 102(a) of the
10 Housing and Community Development Act of 1974
11 (42 U.S.C. 5302(a)).

○

105TH CONGRESS
1ST SESSION

H. R. 1076

To amend the Legal Services Corporation Act to prescribe an income rule for determining if a client who is a victim of domestic violence is eligible for assistance.

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 1997

Mr. PELOSI (for herself, Mr. BALDACCIO, Mr. BARRETT of Wisconsin, Mr. BE-REUTER, Mr. BOUCHER, Ms. BROWN of Florida, Mr. CONYERS, Mr. DEFazio, Ms. DEGETTE, Ms. ESHOO, Mr. EVANS, Mr. FARR of California, Mr. FOGLIETTA, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GEPHARDT, Mr. GREEN, Mr. HASTINGS of Florida, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Mrs. JOHNSON of Connecticut, Mrs. KENNELLY of Connecticut, Mr. LAFALCE, Mr. LEWIS of Georgia, Ms. LOFGREN, Mr. McDERMOTT, Mrs. MALONEY of New York, Mr. MARKEY, Mr. MARTINEZ, Mrs. MEEK of Florida, Ms. MOLINARI, Mrs. MORELLA, Ms. NORTON, Mr. OLVER, Mr. OWENS, Mr. PAYNE, Mr. ROMERO-BARCELÓ, Mr. ROTHMAN, Mr. SABO, Mr. SANDERS, Ms. SLAUGHTER, Mr. STARK, Mr. TORRES, Ms. WATERS, Ms. WOOLSEY, Mr. YATES, Ms. ROYBAL-ALLARD, Mr. FALCONE, and Mrs. LOWEY) introduced the following bill; which was referred to the Committee on Judiciary.

A BILL

To amend the Legal Services Corporation Act to prescribe an income rule for determining if a client who is a victim of domestic violence is eligible for assistance.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "Domestic Violence
3 Legal Services Eligibility Act".

4 **SEC. 2. INCOME RULE FOR VICTIMS OF DOMESTIC VIO-**
5 **LENCE.**

6 Section 1007(a) of the Legal Services Corporation
7 Act (42 U.S.C. 2996f(a)) is amended by inserting after
8 and below paragraph (10) the following: "In establishing
9 income levels under paragraph (2)(A) to determine if a
10 client is eligible for assistance, the Corporation, in the case
11 of a client who is the victim of domestic violence, shall
12 prescribe that only the income of such a client will be con-
13 sidered in making such determination. For purposes of the
14 preceding sentence, the term 'domestic violence' has the
15 meaning given such term by section 2003(1) of the Omni-
16 bus Crime Control and Safe Streets Act of 1988 (42
17 U.S.C. 3796gg-2(1)).".

○

105TH CONGRESS
1ST SESSION

H. R. 1117

To prevent discrimination against victims of abuse in all lines of insurance.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 1997

Mr. SANDERS (for himself, Mrs. MORELLA, Mr. DeFAZIO, Mr. SCHUMER, Mr. ACKERMAN, Mr. BALDACCI, Mr. BARRETT of Wisconsin, Mr. BISHOP, Mr. BLUMENAUER, Mr. DAVIS of Illinois, Ms. DEGETTE, Mr. DELLUMS, Mr. EVANS, Mr. FALCONE, Mr. FILNER, Mr. FLAKE, Mr. GEJDENSON, Mr. GREEN, Mr. HINCHY, Mr. HOLDEN, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Mr. LAFALCE, Ms. LOFGREN, Mr. MANTON, Mr. McDERMOTT, Mr. McHUGH, Mr. MEEHAN, Mrs. MINK of Hawaii, Mr. NADLER, Mr. OWENS, Ms. ROYBAL-ALLARD, Ms. SLAUGHTER, Mr. STARK, and Ms. WATERS) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prevent discrimination against victims of abuse in all lines of insurance.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Victims of Abuse In-
5 surance Protection Act".

1 **SEC. 2. DEFINITIONS.**

2 As used in this Act:

3 (1) The term "abuse" means the occurrence of
4 one or more of the following acts by a current or
5 former household or family member, intimate part-
6 ner, or caretaker:

7 (A) Attempting to cause or causing an-
8 other person bodily injury, physical harm, sub-
9 stantial emotional distress, psychological trau-
10 ma, rape, sexual assault, or involuntary sexual
11 intercourse.

12 (B) Engaging in a course of conduct or re-
13 peatedly committing acts toward another per-
14 son, including following the person without
15 proper authority and under circumstances that
16 place the person in reasonable fear of bodily in-
17 jury or physical harm.

18 (C) Subjecting another person to false im-
19 prisonment or kidnapping.

20 (D) Attempting to cause or causing dam-
21 age to property so as to intimidate or attempt
22 to control the behavior of another person.

23 (2) The term "abuse-related medical condition"
24 means a medical condition which arises in whole or
25 in part out of an action or pattern of abuse.

1 (3) The term “abuse status” means the fact or
2 perception that a person is, has been, or may be a
3 subject of abuse, irrespective of whether the person
4 has sustained abuse-related medical conditions or
5 has incurred abuse-related claims.

6 (4) The term “health benefit plan” means any
7 public or private entity or program that provides for
8 payments for health care, including—

9 (A) a group health plan (as defined in sec-
10 tion 607 of the Employee Retirement Income
11 Security Act of 1974) or a multiple employer
12 welfare arrangement (as defined in section
13 3(40) of such Act) that provides health bene-
14 fits;

15 (B) any other health insurance arrange-
16 ment, including any arrangement consisting of
17 a hospital or medical expense incurred policy or
18 certificate, hospital or medical service plan con-
19 tract, or health maintenance organization sub-
20 scriber contract;

21 (C) workers’ compensation or similar in-
22 surance to the extent that it relates to workers’
23 compensation medical benefits (as defined by
24 the Federal Trade Commission); and

1 (D) automobile medical insurance to the
2 extent that it relates to medical benefits (as de-
3 fined by the Federal Trade Commission).

4 (5) The term "health carrier" means a person
5 that contracts or offers to contract on a risk-assum-
6 ing basis to provide, deliver, arrange for, pay for or
7 reimburse any of the cost of health care services, in-
8 cluding a sickness and accident insurance company,
9 a health maintenance organization, a nonprofit hos-
10 pital and health service corporation or any other en-
11 tity providing a plan of health insurance, health ben-
12 efits or health services.

13 (6) The term "insured" means a party named
14 on a policy, certificate, or health benefit plan, in-
15 cluding an individual, corporation, partnership, asso-
16 ciation, unincorporated organization or any similar
17 entity, as the person with legal rights to the benefits
18 provided by the policy, certificate, or health benefit
19 plan. For group insurance, such term includes a per-
20 son who is a beneficiary covered by a group policy,
21 certificate, or health benefit plan. For life insurance,
22 the term refers to the person whose life is covered
23 under an insurance policy.

24 (7) The term "insurer" means any person, re-
25 ciprocal exchange, interinsurer, Lloyds insurer, fra-

1 ternal benefit society, or other legal entity engaged
2 in the business of insurance, including agents, bro-
3 kers, adjusters, and third party administrators. The
4 term also includes health carriers, health benefit
5 plans, and life, disability, and property and casualty
6 insurers.

7 (8) The term "policy" means a contract of in-
8 surance, certificate, indemnity, suretyship, or annu-
9 ity issued, proposed for issuance or intended for is-
10 suance by an insurer, including endorsements or rid-
11 ers to an insurance policy or contract.

12 (9) The term "subject of abuse" means a per-
13 son against whom an act of abuse has been directed,
14 a person who has prior or current injuries, illnesses,
15 or disorders that resulted from abuse, or a person
16 who seeks, may have sought, or had reason to seek
17 medical or psychological treatment for abuse, protec-
18 tion, court-ordered protection, or shelter from abuse.

19 **SEC. 3. DISCRIMINATORY ACTS PROHIBITED.**

20 (a) IN GENERAL.—No insurer or health carrier may,
21 directly or indirectly, engage in any of the following acts
22 or practices on the basis that the applicant or insured,
23 or any person employed by the applicant or insured or
24 with whom the applicant or insured is known to have a

1 relationship or association, is, has been, or may be the
2 subject of abuse:

3 (1) Denying, refusing to issue, renew or reissue,
4 or canceling or otherwise terminating an insurance
5 policy or health benefit plan.

6 (2) Restricting, excluding, or limiting insurance
7 or health benefit plan coverage for losses incurred as
8 a result of abuse or denying a claim incurred by an
9 insured as a result of abuse, except as otherwise per-
10 mitted or required by State laws relating to life in-
11 surance beneficiaries.

12 (3) Adding a premium differential to any insur-
13 ance policy or health benefit plan.

14 (4) Terminating health coverage for a subject
15 of abuse because coverage was originally issued in
16 the name of the abuser and the abuser has divorced,
17 separated from, or lost custody of the subject of
18 abuse or the abuser's coverage has terminated volun-
19 tarily or involuntarily and the subject of abuse does
20 not qualify for extension of coverage under part 6 of
21 subtitle B of title I or the Employee Retirement In-
22 come Security Act of 1974 (29 U.S.C. 1161 et seq.)
23 or 4980B of the Internal Revenue Code of 1986.
24 Nothing in this paragraph prohibits the insurer from
25 requiring the subject of abuse to pay the full pre-

1 mium for the subject's coverage under the health
2 plan if the requirements are applied to all insureds
3 of the health carrier. The insurer may terminate
4 group coverage after the continuation coverage re-
5 quired by this paragraph has been in force for 18
6 months if it offers conversion to an equivalent indi-
7 vidual plan. The continuation of health coverage re-
8 quired by this paragraph shall be satisfied by any
9 extension of coverage under part 6 of subtitle B of
10 title I or the Employee Retirement Income Security
11 Act of 1974 (29 U.S.C. 1161 et seq.) or 4980B of
12 the Internal Revenue Code of 1986 provided to a
13 subject of abuse and is not intended to be in addi-
14 tion to any extension of coverage provided under
15 part 6 of subtitle B of title I or the Employee Re-
16 tirement Income Security Act of 1974 (29 U.S.C.
17 1161 et seq.) or 4980B of the Internal Revenue
18 Code of 1986.

19 (b) USE OF INFORMATION.—

20 (1) IN GENERAL.—No person employed by or
21 contracting with an insurer or health benefit plan
22 may use, disclose, or transfer information relating to
23 an applicant's or insured's abuse status or abuse-re-
24 lated medical condition or the applicant's or
25 insured's status as a family member, employer, or

1 associate, person in a relationship with a subject of
2 abuse for any purpose unrelated to the direct provi-
3 sion of health care services unless such use, disclo-
4 sure, or transfer is required by an order of an entity
5 with authority to regulate insurance or an order of
6 a court of competent jurisdiction. In addition, such
7 a person may not disclose or transfer information re-
8 lating to an applicant's or insured's location or tele-
9 phone number. Nothing in this paragraph shall be
10 construed as limiting or precluding a subject of
11 abuse from obtaining the subject's own insurance
12 records from an insurer.

13 (2) **AUTHORITY OF SUBJECT OF ABUSE.**—A
14 subject of abuse, at the absolute discretion of the
15 subject of abuse, may provide evidence of abuse to
16 an insurer for the limited purpose of facilitating
17 treatment of an abuse-related condition or dem-
18 onstrating that a condition is abuse-related. Nothing
19 in this paragraph shall be construed as authorizing
20 an insurer or health carrier to disregard such pro-
21 vided evidence.

22 **SEC. 4. INSURANCE PROTOCOLS FOR SUBJECTS OF ABUSE.**

23 Insurers shall develop and adhere to written policies
24 specifying procedures to be followed by employees, con-
25 tractors, producers, agents and brokers for the purpose

1 of protecting the safety and privacy of a subject of abuse
2 and otherwise implementing the provisions of this Act
3 when taking an application, investigating a claim, or tak-
4 ing any other action relating to a policy or claim involving
5 a subject of abuse.

6 **SEC. 5. REASONS FOR ADVERSE ACTIONS.**

7 An insurer that takes an action that adversely affects
8 a subject of abuse, shall advise the subject of abuse appli-
9 cant or insured of the specific reasons for the action in
10 writing. Reference to general underwriting practices or
11 guidelines does not constitute a specific reason.

12 **SEC. 6. LIFE INSURANCE.**

13 Nothing in this Act shall be construed to prohibit a
14 life insurer from declining to issue a life insurance policy
15 if the applicant or prospective owner of the policy is or
16 would be designated as a beneficiary of the policy, and
17 if—

18 (1) the applicant or prospective owner of the
19 policy lacks an insurable interest in the insured; or

20 (2) the applicant or prospective owner of the
21 policy is known, on the basis of police or court
22 records, to have committed an act of abuse against
23 the proposed insured.

1 **SEC. 7. SUBROGATION WITHOUT CONSENT PROHIBITED.**

2 Subrogation of claims resulting from abuse is prohib-
3 ited without the informed consent of the subject of abuse.

4 **SEC. 8. ENFORCEMENT.**

5 (a) **FEDERAL TRADE COMMISSION.**—The Federal
6 Trade Commission shall have the power to examine and
7 investigate any insurer to determine whether such insurer
8 has been or is engaged in any act or practice prohibited
9 by this Act. If the Federal Trade Commission determines
10 an insurer has been or is engaged in any act or practice
11 prohibited by this Act, the Commission may take action
12 against such insurer by the issuance of a cease and desist
13 order as if the insurer was in violation of section 5 of the
14 Federal Trade Commission Act. Such cease and desist
15 order may include any individual relief warranted under
16 the circumstances, including temporary, preliminary, and
17 permanent injunctive and compensatory relief.

18 (b) **PRIVATE CAUSE OF ACTION.**—An applicant or in-
19 sured who believes that the applicant or insured has been
20 adversely affected by an act or practice of an insurer in
21 violation of this Act may maintain an action against the
22 insurer in a Federal or State court of original jurisdiction.
23 Upon proof of such conduct by a preponderance of the
24 evidence, the court may award appropriate relief, includ-
25 ing temporary, preliminary, and permanent injunctive re-
26 lief and compensatory and punitive damages, as well as

1 the costs of suit and reasonable fees for the aggrieved indi-
2 vidual's attorneys and expert witnesses. With respect to
3 compensatory damages, the aggrieved individual may
4 elect, at any time prior to the rendering of final judgment,
5 to recover in lieu of actual damages, an award of statutory
6 damages in the amount of \$5,000 for each violation.

7 **SEC. 9. EFFECTIVE DATE.**

8 This Act shall apply with respect to any action taken
9 on or after the date of the enactment of this Act, except
10 that section 4 shall only apply to actions taken after the
11 expiration of 60 days after such date.

○

105TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Ms. FURSE introduced the following bill; which was referred to the Committee
on _____

A BILL

To amend the Family Violence Prevention and Services Act
to reauthorize grants for community initiatives.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DEMONSTRATION GRANTS FOR COMMUNITY**
4 **INITIATIVES.**

5 Section 318(h) of the Family Violence Prevention and
6 Services Act (42 U.S.C. 10418(h)) is amended to read as
7 follows:

8 “(h) **AUTHORIZATION OF APPROPRIATIONS.**—There
9 are authorized to be appropriated to carry out this section

- 1 \$12,000,000 for each of the fiscal years 1998, 1999, 2000,
- 2 2001, and 2002.”.

VIRWA

DRAFT 3-06-99

Provision	Administration Bill	Conyers - H.R. 357	Biden - S. 51	Hatch - S. 245
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Expanded Definition of DV		yes	yes		
STOP Grants	yes; reauth for 5 years (S301)(188.75, such sums)	yes -- reauth for 5 years	yes - reauth only for 3 years (184, 185, 186M)	yes -reauth only for 3 years	
Role of the Courts: courts as eligible STOP Grantees	yes (S302)		yes (S102)		
National Domestic Violence Hotline	yes (S307)	yes -reauth for 5 years	yes -reauth only for 3 years	yes -reauth only for 3 years	
Battered Women's Shelters		yes -reauth for 5 years	yes-reauth only for 3 years	yes-reauth only for 3 years	
Grants for Community Initiatives		yes -reauth for 5 years	yes -reauth only for 3 years	yes -reauth only for 3 years	
Education & Training for Judges		yes	yes -reauth only for 3 years		
Grants to Encourage Arrests	yes (S303); reauth for 5 years (25M, such sums)	yes	yes -reauth only for 3 years(64, 65, 66M)	yes - reauth only for 3 years	
Rural DV & Child Abuse	yes (S304); reauth for 5 years (25M, such sums)	yes	yes (S108) -reauth only for 3 years (34, 35, 36M)	yes -reauth only for 3 years	

DRAFT 3-06-99

Provision	Administration Bill	Conyers - H.R. 357	Biden - S. 51	Hatch - S. 245
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National Stalker & DV Reduction		yes	yes -reauth only for 3 years	yes -reauth only for 3 years	
Federal Victims' Counselors		yes	yes -reauth only for 3 years	yes -reauth only for 3 years	
Runaway & Homeless Youth		yes	yes -reauth only for 3 years	yes- reauth only for 3 years	
Victims of Child Abuse Programs		yes	yes -reauth only for 3 years	yes -reauth only for 3 years	
Safe Havens for Children		yes	yes -reauth only for 3 years		
Date Rape Drug Rescheduling		yes	yes -more limited version		
should try to add: Access to Safety and Advocacy for Victims of Sexual Assault (Legal services): makes grants available to enhance safety and justice for victims of sexual violence through access to the justice system and improved legal advocacy and representation (Title III, Subtitle G)	yes (S305) Civil Legal Assistance: AG makes grants to address civil legal assistance needs	yes (similar to Civil Legal Assistance Grant in Admin bill & Biden bill)	yes-same as Admin bill) S201		

DRAFT 3-06-99

Provision	Administration Bill	Conyers - H.R. 357	Biden - S. 51	Hatch - S. 245
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VAW Prevention in Schools: grants to school systems to develop, modify, and implement policies and programs in elementary, middle, and secondary schools which address domestic violence, sexual assault, and stalking (Title II, Subtitle B)	yes (S306): similar program under the Higher Education Act -- grants to reduce violent crimes against women on campus	yes	yes -more limited version/lower funding; only thru 2002		
should try to add: Family Safety: amends the criminal component of the Parental Kidnapping Prevention Act (PKPA) to provide defenses in domestic violence and child sexual assault cases; amends the civil full faith and credit provisions of PKPA to include domestic violence, child sexual assault and stalking as factors in determining what state has jurisdiction of a custody case (Title II, Subtitle C)		yes	yes - more limited version		

DRAFT 3-06-99

Provision	Administration Bill	Conyers - H.R. 357	Biden - S. 51	Hatch - S. 245
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Battered Immigrant Women: allows for adjustment of status for VAWA self-petitioners; prevents changes in abuser's status from undermining victim's petitions; provides for numerous waivers and exceptions to inadmissibility for VAWA eligible applicants; improves access to VAWA for battered immigrant women whose spouse is a member of the armed force; allows for discretionary waivers for good moral character determinations; removes public charge for VAWA applicants; gives VAWA applicants access to work authorization; allows VAWA applicants access to food stamps, housing and legal services; trains judges, immigration officials, armed forces supervisors and police on VAWA immigration provisions	yes (310)	yes	yes -more limited version	yes -very limited version	
Underserved Populations Definition		yes			
Title VII. Violence Against Women and the Workplace					
Clearinghouse -DV/SA/Workplace		yes	yes -only through 2002		
Victims' Employment Rights Act		yes			
Workplace Tax Credit		yes			

DRAFT 3-06-99

Provision	Administration Bill	Conyers - H.R. 357	Biden - S. 51	Hatch - S. 245
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Should try to add: Battered Women's Employment Protection: ensures eligibility for unemployment compensation to women separated from their jobs due to circumstances directly resulting from domestic violence; requires employers who already provide leave to employees to allow employees to use that leave for the purpose of dealing with domestic violence and its aftermath; allows women to use their family and medical leave or existing leave under State law or a private benefits program to deal with domestic abuse, including going to the doctor for domestic violence injuries, seeking legal remedies, including court appearances, seeking orders of protection or meeting with a lawyer; provides for training of personnel involved in assessing unemployment claims based on domestic violence		yes	yes; more limited version		
Education and Training Grants on VAW		yes	yes; lower funding; only through 2002		
Should try to add: Rape Prevention Education		yes	yes; more limited version; lower funding; only through 2002		
Standards/Training for SA Exams		yes	yes		
Should try to add: Hate Crimes Prevention		yes	yes		

DRAFT 3-06-99

Provision	Administration Bill	Conyers - H.R. 357	Biden - S. 51	Hatch - S. 245
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Should try to add: DV Victims' Housing: amends the McKinney Homeless Assistance Act to make funding available for transitional housing services for domestic violence victims, including rental assistance for battered women seeking to establish permanent housing (Section IV, Subtitle A)		yes			
Should try to add: Full Faith and Credit (tribal parts): clarifies VAWA's full faith and credit provisions to ensure meaningful enforcement by States and Tribes; provides grants to States and Tribes to improve enforcement and record keeping; reduces Byrne grants to law enforcement for failure to comply with the 1994 VAWA's full faith and credit provisions with significant safeguards to allow law enforcement to come into compliance before a penalty is assessed (Section IV, Subtitle B)		yes	yes; more limited version; no funding	yes; more limited version; no funding	
DV Insurance Protection		yes	yes; enforcement only if states fail to		

DRAFT 3-06-99

Provision	Administration Bill	Conyers - H.R. 357	Biden - S. 51	Hatch - S. 245
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Should try to add: Access to Safety and Advocacy for Victims of Domestic Violence; issues grants to provide legal assistance, lay advocacy and referral services to victims of domestic violence who have inadequate access to sufficient financial resources for appropriate legal assistance; includes set-aside for tribes (Section IV, Subtitle F)	SEE S305 above?	yes	yes; very limited version; only through 2002		
Amendments to Interstate Stalking	yes (S308)	yes	yes (S110)	yes	
Protections for Victims of Trafficking	yes (S309)				
Disclosure under Child Support Program		yes			
Older Women's Protection		yes	yes		
Protection for Disabled Women		yes	yes; more limited version; lower funding; only through 2002	yes; more limited version; lower funding	
Title V. Violence Against Women in the Military System					
Civilian Jurisdiction for Sexual Assault and Domestic Violence		yes	yes; more limited version		
Transitional Compensation		yes	yes; more limited version		