

105TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mrs. LOWEY introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Family Violence Prevention and Services Act
to increase the authorization of appropriations for fiscal
years 1998 through 2000 and to authorize appropriations
for fiscal years 2001 and 2002.

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 "Battered Women's
5 Shelters Act".

1 **SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR FAMILY**
2 **VIOLENCE PREVENTION AND SERVICES.**

3 Section 310(a) of the Family Violence Prevention and
4 Services Act (42 U.S.C. 10409(a)) is amended to read as
5 follows:

6 “(a) IN GENERAL.—There are authorized to be ap-
7 propriated to carry out this title—

8 “(1) \$50,000,000 for fiscal year 1996;

9 “(2) \$60,000,000 for fiscal year 1997;

10 “(3) \$120,000,000 for fiscal year 1998;

11 “(4) \$160,000,000 for fiscal year 1999;

12 “(5) \$200,000,000 for fiscal year 2000;

13 “(6) \$260,000,000 for fiscal year 2001; and

14 “(7) \$260,000,000 for fiscal year 2002.”.

[DISCUSSION DRAFT]

JULY 14, 1997

105TH CONGRESS
1ST SESSION**H. R. _____**

IN THE HOUSE OF REPRESENTATIVES

Mrs. MORELLA (for herself and Mr. SCHUMER) introduced the following bill;
which was referred to the Committee on _____

A BILL

To [TO BE SUPPLIED].

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 "Family Safety Act of
5 1997".

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

7 (a) FINDINGS.—Section 7(a) of the Parental Kidnap-
8 ing Prevention Act of 1980 (94 Stat. 3568; 42 U.S.C.
9 1305 note) is amended—

1 (1) in paragraph (1), by inserting “or Tribes,
2 where not inconsistent with the Indian Child Welfare
3 Act” after “different States”;

4 (2) in paragraph (2), by striking “and conflict-
5 ing” and inserting “, conflicting, and inadequate to
6 protect parents or children from domestic or family
7 violence or parental abduction nor punish them when
8 they seek to protect themselves”;

9 (3) in paragraph (3)—

10 (A) by inserting “perpetration of domestic
11 and family violence, and the threat to kidnap a
12 child,” after “resort to the”; and

13 (B) by inserting before the semicolon the
14 following: “and results in inadequate protection
15 and further endangerment of victims of domes-
16 tic and family violence”; and

17 (4) in paragraph (4), by inserting after “due
18 process of law,” the following: “the inappropriate
19 placement of children in the custody of abusive par-
20 ents or punishment of nonabusing parents who at-
21 tempt to protect themselves or their children,”.

22 (b) CONCLUSION.—Section 7(b) of such Act is
23 amended by inserting after “it is necessary” the following:
24 “to establish a national system for recording all custody
25 and family or domestic violence orders of protection, to

1 establish defenses of any civil or criminal parental custo-
2 dial interference or abduction charge or claim, to establish
3 standards to prevent children from being returned to abu-
4 sive parents in cases of parental abduction.”.

5 (c) PURPOSES.—Section 7(c) of such Act is amend-
6 ed—

7 (1) redesignating paragraphs (3) through (6) as
8 paragraphs (5) through (8), respectively;

9 (2) by inserting after paragraph (2) the follow-
10 ing:

11 “(3) promote cooperation between State and
12 tribal courts to protect parents and children from an
13 incidence or pattern of domestic or family violence;

14 “(4) promote realistic and protection standards
15 for interstate relocation when parents dispute cus-
16 tody, particularly in cases where there is domestic or
17 family violence;”;

18 (3) in paragraph (7) (as so redesignated), by
19 inserting before the semicolon at the end the follow-
20 ing: “, consistent with not endangering or inappro-
21 priately punishing children or parents who are vic-
22 tims of domestic or family violence”; and

23 (4) in paragraph (8) (as so redesignated), by
24 inserting before the period at the end the following:
25 “or to abuse the child or exert coercive control over

1 the other parent, except when the abduction or
2 wrongful removal is done in an attempt to protect
3 the parent or any child in the parent's care".

4 SEC. 3. DEFENSE TO CIVIL OR CRIMINAL CUSTODIAL IN-
5 TERFERENCE OR PARENTAL ABDUCTION
6 CHARGE OR CLAIM.

7 Section 1073 of title 18, United States Code, is
8 amended by striking "Whoever moves" and inserting "(a)
9 Whoever moves" and by adding at the end the following
10 new subsection:

11 "(b) It shall be an affirmative defense to a civil or
12 criminal custodial interference or parental abduction
13 charge or claim, including any civil or criminal contempt
14 of court, that—

15 "(1) the defendant acted within the provisions
16 of a valid court order granting the defendant legal
17 custody or visitation rights and that such order was
18 obtained pursuant to section 1738A of title 28, and
19 where not inconsistent with such section, with the
20 Uniform Child Custody Jurisdiction Act and was in
21 effect at the time of the offense;

22 "(2) the defendant was fleeing an incidence or
23 pattern of domestic or family violence; or

24 "(3) the defendant had physical custody of the
25 child pursuant to a court order granting legal cus-

1 today or visitation rights and failed to return the
2 child as a result of circumstances beyond the defend-
3 ant's control, and the defendant notified or made
4 reasonable attempts to notify the other parent or
5 lawful custodian of the child of such circumstances
6 within 24 hours after the visitation period had ex-
7 pired and returned the child as soon as possible.”.

8 SEC. 4. FULL FAITH AND CREDIT GIVEN TO CHILD CUS-

9 TODAY DETERMINATIONS

10 (a) SECTION INTENT.—Section 1738A(a) of title 28,
11 United States Code, is amended by adding at the end the
12 following: “This section is intended to preempt any incon-
13 sistent State law and to apply to every proceeding in the
14 United States or its territories that is not governed by
15 inconsistent aspects of any treaty to which the United
16 States Government is a signatory or has ratified that in-
17 volves custody and visitation concerning a minor child.
18 Any protection order, whether consensual or not, issued
19 consistent with section 2265 of title 18 shall be res judi-
20 cata and be given full faith and credit.”.

21 (b) DEFINITIONS.—Section 1738A(b) of such title is
22 amended—

23 (1) by redesignating paragraphs (1) through
24 (3) as paragraphs (2) through (4), respectively; by
25 redesignating paragraphs (4) through (6) as para-

1 graphs (7) through (9), respectively; and by redesignig-
2 nating paragraphs (7) and (8) as paragraphs (11)
3 and (12), respectively;

4 (2) by inserting before paragraph (2) (as so re-
5 designated) the following:

6 “(1) ‘abuse’ includes any act not done acciden-
7 tally or in an attempt to protect oneself or another,
8 that is more probable than not to realistically con-
9 stitute, cause, attempt, or threaten—

10 “(A) any bodily or serious physical illness,
11 including placing, by physical menace, another
12 in fear of imminent serious bodily injury;

13 “(B) any rape, sexual assault, or involun-
14 tary deviate sexual intercourse, or any sexual
15 activity with a dependent child;

16 “(C) the infliction of false imprisonment or
17 other nonconsensual restraints on liberty of
18 movement;

19 “(D) deprivation of medical care, housing,
20 food, or other necessities of life; or

21 “(E) mental or psychological abuse, includ-
22 ing stalking, repeated or severe humiliation, in-
23 timidation, coercive control, isolation, criticism,
24 acts designed to induce terror, or verbal
25 abuse;”;

1 (3) by inserting after paragraph (4) (as so re-
2 designated) the following:

3 “(5) ‘domestic or family violence’ means abuse
4 that is committed directly or indirectly against an
5 individual by—

6 “(A) a spouse or former spouse of the indi-
7 vidual;

8 “(B) an individual who is the biological
9 parent or stepparent of a child of the individual
10 subject to the abuse, who adopted such child, or
11 who is a legal guardian to such child;

12 “(C) an individual with whom the individ-
13 ual subject to the abuse is or was cohabiting;

14 “(D) a current or former romantic, inti-
15 mate, or sexual partner of the individual; or

16 “(E) an individual from whom the individ-
17 ual subject to the abuse would be eligible for
18 protection under the domestic violence, protec-
19 tion order or family laws of the applicable juris-
20 diction;

21 “(6) ‘family victimized by domestic or family vi-
22 olence’ means a family or household that includes
23 one or more individuals subject to domestic or family
24 violence, but does not include any individual who
25 committed the domestic violence;” and

1 (3) by inserting after paragraph (9) (as so re-
2 designated) the following:

3 “(10) ‘primary aggressor’ means, in cases
4 where there are or have been mutual allegations of
5 abuse, the person who—

6 “(A) has more power within the relation-
7 ship;

8 “(B) has acted with more deliberate intent
9 to control, isolate, intimidate, emotionally de-
10 mean, or physically cause severe pain or injury;

11 “(C) is in less danger of being injured if
12 the parties are kept apart;

13 “(D) is less afraid of the other person; or

14 “(E) acted in an attempt to protect him-
15 self or herself or another, to flee, or to avert an
16 event worse confrontation;”.

17 (c) CONDITION FOR CUSTODY DETERMINATION.—
18 Section 1738A(c)(2)C) of such title is amended by insert-
19 ing after “abandoned,” the following: “or because the par-
20 ent, the child, or another child in the parent’s care or cus-
21 tody is the victim of domestic violence by the other par-
22 ent,”.

23 (d) JURISDICTION.—Section 1738A(d) of such title
24 is amended by inserting before the period at the end the
25 following: “, except that after 2 years have passed while

1 a child is legally living in another State, the court of the
2 original State shall decline jurisdiction”.

3 (e) CHILD CUSTODY DETERMINATIONS.—Section
4 1738A of such title is amended—

5 (1) by redesignating subsection (g) as sub-
6 section (h) and by inserting after subsection (f) the
7 following:

8 “(g) A court should decline to exercise jurisdiction
9 on behalf of the parent who has engaged in domestic or
10 family violence, has wrongfully taken the child from an-
11 other State without justification, or engaged in similar
12 reprehensible conduct.”; and

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

14 “(i) A court should decline to exercise jurisdiction on
15 behalf of a parent who has engaged in domestic or family
16 violence, has wrongfully taken the child from another
17 State without justification, or engaged in similar reprehen-
18 sible conduct.

19 “(j) It shall be an affirmative defense to a civil or
20 criminal custodial interference or parental abduction
21 charge or claim, including any civil or criminal contempt
22 of court, that—

23 “(1) the defendant acted within the provisions
24 of a valid court order granting the defendant legal
25 custody or visitation rights and that such order was

1 obtained pursuant to this section and is not incon-
2 sistent with the Uniform Child Custody Jurisdiction
3 Act and was in effect at the time of the offense;

4 “(2) the defendant was fleeing an incident or
5 pattern of domestic violence; or

6 “(3) the defendant had physical custody of the
7 child pursuant to a court order granting legal cus-
8 tody or visitation rights and failed to return the
9 child as a result of circumstances beyond the defend-
10 ant’s control, and the defendant notified or made
11 reasonable attempts to notify the other parent or
12 lawful custodian of the child of such circumstances
13 within 24 hours after the visitation period had ex-
14 pired and returned the child as soon as possible.

15 “(k) No custodial parent may be prevented from per-
16 manently removing a minor child from the State except
17 upon opposition from the child’s other parent upon a
18 showing that it is not in the child’s best interest, taking
19 into account the effect of restricting the travel on the cus-
20 todial parent and after considering alternate visitation ar-
21 rangements, and where the noncustodial parent—

22 “(1) has been visiting regularly, except for cir-
23 cumstances beyond his or her control;

24 “(2) has not exacerbated the custodial parent’s
25 financial difficulties, including as a result of not

1 making child support or spousal payments, unless
2 such noncustodial parent is unable to pay through
3 circumstances beyond such parent's control;

4 "(3) has not perpetrated domestic or family vio-
5 lence as a primary aggressor; and

6 "(4) has not removed or failed to return, or
7 threatened to remove or not return, the child from
8 the jurisdiction without justification.

9 "(l) Absent a finding that the nonviolent parent is
10 unfit or unavailable, there shall be a presumption that sole
11 or shared physical or legal custody shall not be transferred
12 over the objection of the nonviolent parent to any parent
13 who has perpetrated domestic or family violence against
14 the other parent or another adult. In cases where both
15 parents have been found by a preponderance of the evi-
16 dence to have perpetrated domestic or family violence
17 against the other parent or an adult, the court shall make
18 findings as to which parent was the primary aggressor,
19 and if only one parent acted as the primary aggressor,
20 only that parent shall be treated as the perpetrator of do-
21 mestic or family violence under this section.

22 "(m) Every party shall have an ongoing duty to dis-
23 close at the time of their first appearance or their filing
24 a first pleading in any case, whichever is first, and during
25 the pendency of any proceeding any information that they

1 may have regarding any other domestic violence or custody
2 case involving themselves, the other parties or involving
3 any child whose custody is at issue. Any party who is a
4 victim of domestic violence or has in the party's care or
5 custody a child who has reason to fear disclosure of the
6 child's whereabouts and has removed themselves to a con-
7 fidential address, shall be exempt from disclosing such ad-
8 dress, school, or workplace, including such telephone num-
9 bers and any other identifying information that might
10 compromise such person's safety, except disclosing ex
11 parte, in camera, the name of any State where the child
12 lived within the 6 months prior to the filing of the pending
13 custody action. Courts shall permit such parties to use
14 post office addresses, addresses of attorneys, or other
15 court authorized procedure so that this confidential infor-
16 mation will not be disclosed. Intentional disclosure of such
17 information shall be a crime punishable by a fine under
18 title 18 and imposition of such penalty shall not preclude
19 other foreseeable remedies, including restitution. Neg-
20 ligent disclosure of such information shall be punishable
21 by a fine under title 18."

22 **SEC. 5. STUDY OF DIVORCE AND CHILD CUSTODY CASES IN**
23 **WHICH DOMESTIC VIOLENCE IS A FACTOR.**

24 (a) **STUDY.**—The Attorney General, in consultation
25 with the State Justice Institute, shall conduct a nation-

1 wide study of divorce and child custody cases in which do-
2 mestic violence is a factor, to determine the following:

3 (1) The effect of mediation on the level of do-
4 mestic abuse in the relationship.

5 (2) In States that require mediation of divorce
6 cases, a comparison of the outcome (distribution of
7 property and assets, child custody orders, and child
8 support awards) of cases involving domestic violence
9 to those in which domestic violence is not an issue.

10 (3) The effect of joint custody on the level of
11 abuse of both the battered adult and the children,
12 including the likelihood of abuse during visitation ex-
13 changes.

14 (4) In States that have joint custody presump-
15 tions, a comparison of the outcome (child custody
16 and child support awards) of cases involving domes-
17 tic violence to those in which domestic violence is not
18 an issue.

19 (5) In States that consider domestic violence as
20 a factor in making custody determinations, a com-
21 parison of the outcome (child custody and child sup-
22 port awards) of cases involving domestic violence to
23 those in which domestic violence is not an issue.

24 (6) A comparison of the outcome (distribution
25 of property and assets, child custody orders, and

1 child support awards) of cases involving domestic vi-
2 olence in States that require consideration of domes-
3 tic violence as a factor in such decisions to States
4 that do not require consideration of domestic vio-
5 lence.

6 (7) In States where Child Protective Services
7 has a policy to screen and identify for domestic vio-
8 lence the outcomes of cases involving domestic vio-
9 lence, including when children are removed and
10 placed in foster care or when neglect charges are
11 brought, under what circumstances the agency may
12 seek termination of parental rights.

13 (b) REPORT.—Based on the study under subsection
14 (a), the Attorney General shall issue a report to each State
15 attorney general's office and to the Chief Justice of each
16 State, detailing the findings and recommendations under
17 the study regarding the appropriate use of mediation and
18 joint custody presumptions and consideration of domestic
19 violence as a factor in divorce and child custody cases in-
20 volving domestic violence.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to carry out the study
23 required by this section \$500,000.

1 SEC. 6. SUPERVISED VISITATION.

2 (a) GRANTS TO STATES TO PROVIDE FOR SUPER-
3 VISED VISITATION CENTERS.—The Secretary of Health
4 and Human Services (hereafter in this section referred to
5 as the “Secretary”) is authorized to award grants to
6 States to enable States to enter into contracts and cooper-
7 ative agreements with public or private nonprofit entities
8 to assist such entities in establishing and operating super-
9 vised visitation centers for the purposes of facilitating su-
10 pervised visitation and visitation exchange.

11 (b) CONSIDERATIONS.—In awarding such grants,
12 contracts, and cooperative agreements under paragraph
13 (1), the Secretary shall take into account—

14 (1) the number of families to be served by the
15 proposed visitation center to be established under
16 the grant, contract, or agreement;

17 (2) the extent to which supervised visitation
18 centers serve underserved populations; and

19 (3) the extent to which the applicant dem-
20 onstrates cooperation and collaboration with advo-
21 cates in the local community served, including the
22 State domestic violence coalition, State sexual as-
23 sault coalition, local shelters, and programs for do-
24 mestic violence and sexual assault victims.

25 (c) USE OF FUNDS.—

1 (1) IN GENERAL.—Amounts provided under a
2 grant, contract, or cooperative agreement awarded
3 under this subsection shall be used to establish su-
4 pervised visitation centers and for the purposes de-
5 scribed in subsection (a). In using such amounts,
6 grantees shall target the economically disadvantaged
7 and those individuals who could not otherwise afford
8 such visitation services. Other individuals shall be
9 permitted to use the services provided by the center
10 on a sliding fee basis.

11 (2) REGULATIONS AND APPLICANT REQUIRE-
12 MENTS.—The Secretary shall award grants, con-
13 tracts, and cooperative agreements under this sec-
14 tion in accordance with such regulations as the Sec-
15 retary may promulgate. The applicant shall—

16 (A) demonstrate recognized expertise in
17 the area of family violence and a record of high
18 quality service to victims of domestic violence
19 and sexual assault;

20 (B) be an entity located in the State or lo-
21 cality where State law requires the court to con-
22 sider evidence of domestic violence, whether or
23 not there is a conviction of any offense of do-
24 mestic violence or child abuse or the existence

1 of an order of protection against domestic vio-
2 lence, in making a custody decision; and

3 (C) demonstrate collaboration with and
4 support of the State domestic violence coalition,
5 sexual assault coalition, and local domestic vio-
6 lence and sexual assault shelter or program in
7 the locality in which the supervised visitation
8 center will be operated.

9 (d) REPORTING.—Not later than 60 days after the
10 end of each fiscal year, the Secretary shall report to Con-
11 gress information concerning—

12 (1) the number of persons served and the num-
13 ber of persons turned away from services categorized
14 by State and type of presenting problem that
15 underlies the need for supervised visitation or visita-
16 tion exchange (e.g. domestic violence, child abuse,
17 sexual assault, emotional assault, emotional or other
18 physical abuse, or a combination of factors);

19 (2) supervised visitation or visitation exchange
20 ordered by custody determination under a separation
21 or divorce decree or protection order, through child
22 protection services, or social services;

23 (3) other appropriate information designated in
24 regulations promulgated by the Secretary; and

1 (4) safety and security problems occurring dur-
2 ing the reporting period.

3 (e) AUTHORIZATION OF APPROPRIATIONS.—

4 (1) IN GENERAL.—For the purpose of awarding
5 grants, contracts, and cooperative agreements under
6 this section, there are authorized to be appropriated
7 \$75,000,000 for fiscal year 1998, \$85,000,000 for
8 fiscal year 1999, and \$95,000,000 for fiscal year
9 2000.

10 (2) DISTRIBUTION.—Of the amounts appro-
11 priated under subparagraph (A) for each fiscal year,
12 not less than 90 percent shall be used to award
13 grants, contracts, or cooperative agreements.

14 (3) DISBURSEMENT.—Amounts appropriated
15 under this section shall be disbursed as categorical
16 grants through the 10 regional offices of the Depart-
17 ment of Health and Human Services.

[DISCUSSION DRAFT]

JULY 14, 1997

105TH CONGRESS
1ST SESSION

H. CON. RES. _____

IN THE HOUSE OF REPRESENTATIVES

(for himself & Mr. Schumer)

Mrs. MORELLA submitted the following concurrent resolution; which was
referred to the Committee on _____

CONCURRENT RESOLUTION

Expressing the sense of Congress with respect to child custody, child abuse, and victims of domestic and family violence.

Whereas spousal violence has serious detrimental effects on children, even when they do not directly witness such violence;

Whereas courts still hold women to higher standards of conduct than they do men;

Whereas gender bias still exists within the courts, particularly those making and affecting child custody determinations;

Whereas gender bias has long existed and still exists within the mental health system;

Whereas, as a result of this gender bias, many myths are that women make false allegations of domestic violence or child abuse, and most particularly of child sexual abuse, during divorce and custody proceedings;

Whereas false accusations by women are in fact rare, occurring no more often than do other false reports of crimes, such as bank robbery;

Whereas the myth that women make false accusations is so widely believed that many child protective service agents have policies of not bothering to investigate such allegations when made during the pendency of divorce or custody proceedings or only superficially investigate such allegations;

Whereas there are many myths that fathers are discriminated against in custody proceedings, even though fathers fighting for custody actually win sole custody or joint custody in 70 percent of these disputes;

Whereas the American Psychological Association's Presidential Task Force on violence and the Family has found that—

(1) many therapists lack training to identify or assess family violence;

(2) fathers who abuse their children's mothers are more likely to dispute custody and visitation than are fathers who are not violent;

(3) those who batter their partners deny, lie about, or minimize their abusiveness and manipulate the courts and even their therapists, often by making false accusations that their victim is abusing them or the children;

(4) mutual violence between spouses is rare;

(5) witnessing one parent abuse the other is a form of psychological maltreatment of the child;

(6) children often become the secondary victims of batterers;

(7) physical separation often increases a man's need to control his partner and his children;

(9) mediation is generally inappropriate when there is domestic or family violence and may increase the violence;

(10) couples counseling is controversial in families where there is domestic or family violence because it may increase the violence;

(11) joint legal or physical custody arrangements forced on one or both parents are often detrimental to the well-being of the child and lead to worse outcomes for the child than when only one parent remains present and active in the child's life;

(12) women seldom make false reports of child abuse or battering;

(13) child sexual abuse allegations do not increase during divorce, but occur in only two to three percent of divorce cases and less than 10 percent of contested custody cases, and that child sexual abuse allegations are confirmed as often in custody cases as at other times when objective investigations are performed;

(14) it is common for children to recant child sexual abuse allegations, but that this does not mean that their earlier report was false;

(15) there is no data to support the phenomenon of parent alienation syndrome, although courts and custody evaluators frequently use the term to discount the children's fear in hostile and psychologically abusive situations;

(16) psychological evaluators not trained in domestic violence ignore or minimize the violence and give inappro-

priate pathological labels to women's responses to chronic victimization, including "parental alienation" to blame mothers for their children's reasonable fear or anger toward their violent fathers;

(17) because of the intergenerational cycle of abuse, a child is often at risk of abuse from grandparents who have raised an abusive child;

(18) removing children from their homes is not always safe or helpful as children in foster homes are at high risk for abuse by other adults or other children in foster care; and

(19) children who have a strong relationship with their mothers are most able to heal from abuse;

Whereas many courts and professionals use the baseless parental alienation syndrome to force mothers into joint or shared parenting arrangements or to give custody to fathers, especially when mothers try to protect themselves or their children from men who abuse them or their children;

Whereas parental alienation syndrome thinking has largely influenced legislation and judicial preference for "friendly parent" provisions, which favor giving custody to the parent who better fosters a good relationship between the child and the other parent;

Whereas almost every custody evaluator or judge recognizes how important it is for a child to have its comfort object particularly in times of stress, but often fails to recognize the importance for the child of maintaining its living arrangement with the child's fit prime custodial parent;

Whereas Congress never intended that the Parental Kidnapping Prevention Act be used—

(1) to encourage forcing shared parenting arrangements when it is not in the child's best interest;

(2) to prohibit an abused or protective parent from protecting themselves or their child;

(3) as a tool to punish a child for the parent's behavior by removing physical custody from a fit abused or protective parent; or

(4) as a tool to punish abused or protective parents who act to protect themselves or their children;

Whereas when there is domestic or family violence or major discord between the parents, shared parenting arrangements, couples counseling, or mediation arrangements only exacerbate the difficulties of the children and give the abusive parent more tools with which to victimize the other members of the family;

Whereas children who grow up not seeing abusive parents clearly held accountable for their abuse are reinforced in believing that domestic and family violence are socially acceptable and effective means of behavior; and

Whereas every State has legislation or judicial decisions that base its custody determinations on what is in the best interests of the child, but that only West Virginia recognizes the importance of the child maintaining its primary residence with a fit custodial parent: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
2 *concurring)*, That it is the sense of Congress that—

3 (1) for purposes of determining child custody, it
4 is not in the best interest of children to—

5 (A) not have a presumption that children
6 should have their main physical residence with

1 their prime custodial parent unless that parent
2 is unfit;

3 (B) force parents to share custody over the
4 objection of one or both parents or when there
5 is a history of domestic or family violence;

6 (C) punish abused or protective parents
7 who protect themselves or their children;

8 (D) presume that allegations of domestic
9 and family violence are likely to be made falsely
10 or for tactical advantage during custody and di-
11 vorce proceedings; and

12 (E) make "friendly parent" provisions a
13 factor when there is abuse by one parent
14 against the other or a child;

15 (2) child abuse and child sexual abuse allega-
16 tions should be fully and impartially investigated re-
17 gardless of when they are raised or whether the child
18 has recanted the allegation; and

19 (3) States should be far more protective of vic-
20 tims of domestic and family violence in custody and
21 visitation determinations and not order inappropri-
22 ate mediation, couples counseling, shared custody,
23 mutual orders of protection, unsupervised visitation,
24 or other measures than endanger true victims of do-
25 mestic and family violence.

[DISCUSSION DRAFT]

JULY 14, 1997

105TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

(for herself + Mr. Schumer)

Mrs. MORELLA introduced the following bill; which was referred to the
Committee on _____

A BILL

To provide grants to establish and operate supervised visitation centers for the purposes of facilitating supervised visitation of children and visitation exchange

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. FINDINGS AND PURPOSES.**

4 (a) **FINDINGS.**—Congress finds the following:

5 (1) Family violence does not necessarily cease
6 when family victims are legally separated by divorce
7 or otherwise not sharing a household.

1 (2) During separation and divorce, family vio-
2 lence often escalates, and child custody and visita-
3 tion become the new forum for the continuation of
4 abuse.

5 (3) Current child custody and visitation laws
6 are based on incorrect assumptions that divorcing or
7 separating parents share equal positions of power
8 and control. These assumptions are particularly
9 faulty when there is a history of domestic violence.
10 The abused spouse or intimate partners divorcing
11 and separating under such circumstances may con-
12 tinue to experience violence which is exacerbated by
13 and often escalates during child visitation and/or vis-
14 itation exchanges.

15 (4) Some perpetrators of violence use the chil-
16 dren as pawns to control the abused party and to
17 commit more violence during separation and/or di-
18 vorce.

19 (5) Approximately 90 percent of children in
20 homes in which their mothers are abused witness the
21 abuse.

22 (6) Women and children are at an elevated risk
23 of violence during the process of separation and/or
24 divorce.

1 (7) 50 to 70 percent of men who abuse their
2 spouses or partners also abuse their children.

3 (8) Up to 75 percent of all domestic assaults
4 reported to law enforcement agencies were inflicted
5 after separation of the couple.

6 (9) In one study of spousal homicide, over half
7 of the male defendants were separated from their
8 victims.

9 (10) 73 percent of battered women seeking
10 emergency medical services do so after separation.

11 (b) PURPOSES.—The purposes of section 2 are—

12 (1) to protect children from the trauma of wit-
13 nessing or experiencing violence, sexual abuse, ne-
14 glect, abduction, rape, or death during parent and
15 child visitation and/or visitation exchanges;

16 (2) to protect victims of domestic violence from
17 experiencing further violence during child visitation
18 and/or visitation exchanges; and

19 (3) to provide an ongoing safe haven for par-
20 ents and children during visitation or visitation ex-
21 changes.

22 **SEC. 2. GRANTS TO STATES TO PROVIDE FOR SUPERVISED**
23 **VISITATION CENTERS.**

24 (a) GRANTS TO STATES.—The Secretary of Health
25 and Human Services (hereafter in this section referred to

1 as the "Secretary") is authorized to award grants to
2 States to enable States to enter into contracts and cooper-
3 ative agreements with public or private nonprofit entities
4 to assist such entities in establishing and operating super-
5 vised visitation centers for the purposes of facilitating su-
6 pervised visitation and visitation exchange.

7 (b) CONSIDERATIONS.—In awarding such grants,
8 contracts, and cooperative agreements under paragraph
9 (1), the Secretary shall take into account—

10 (1) the number of families to be served by the
11 proposed visitation center to be established under
12 the grant, contract, or agreement;

13 (2) the extent to which supervised visitation
14 centers serve underserved populations; and

15 (3) the extent to which the applicant dem-
16 onstrates cooperation and collaboration with advo-
17 cates in the local community served, including the
18 State domestic violence coalition, State sexual as-
19 sault coalition, local shelters, and programs for do-
20 mestic violence and sexual assault victims.

21 (c) USE OF FUNDS.—

22 (1) IN GENERAL.—Amounts provided under a
23 grant, contract, or cooperative agreement awarded
24 under this subsection shall be used to establish su-
25 pervised visitation centers and for the purposes de-

1 scribed in subsection (a). In using such amounts,
2 grantees shall target the economically disadvantaged
3 and those individuals who could not otherwise afford
4 such visitation services. Other individuals shall be
5 permitted to use the services provided by the center
6 on a sliding fee basis.

7 (2) REGULATIONS AND APPLICANT REQUIRE-
8 MENTS.—The Secretary shall award grants, con-
9 tracts, and cooperative agreements under this sec-
10 tion in accordance with such regulations as the Sec-
11 retary may promulgate. The applicant shall—

12 (A) demonstrate recognized expertise in
13 the area of family violence and a record of high
14 quality service to victims of domestic violence
15 and sexual assault;

16 (B) be an entity located in the State or lo-
17 cality where State law requires the court to con-
18 sider evidence of domestic violence, whether or
19 not there is a conviction of any offense of do-
20 mestic violence or child abuse or the existence
21 of an order of protection against domestic vio-
22 lence, in making a custody decision; and

23 (C) demonstrate collaboration with and
24 support of the State domestic violence coalition,
25 sexual assault coalition, and local domestic vio-

1 lence and sexual assault shelter or program in
2 the locality in which the supervised visitation
3 center will be operated.

4 (d) REPORTING.—Not later than 60 days after the
5 end of each fiscal year, the Secretary shall report to Con-
6 gress information concerning—

7 (1) the number of persons served and the num-
8 ber of persons turned away from services categorized
9 by State and type of presenting problem that
10 underlies the need for supervised visitation or visita-
11 tion exchange (e.g. domestic violence, child abuse,
12 sexual assault, emotional assault, emotional or other
13 physical abuse, or a combination of factors);

14 (2) supervised visitation or visitation exchange
15 ordered by custody determination under a separation
16 or divorce decree or protection order, through child
17 protection services, or social services;

18 (3) other appropriate information designated in
19 regulations promulgated by the Secretary; and

20 (4) safety and security problems occurring dur-
21 ing the reporting period.

22 (e) AUTHORIZATION OF APPROPRIATIONS.—

23 (1) IN GENERAL.—For the purpose of awarding
24 grants, contracts, and cooperative agreements under
25 this section, there are authorized to be appropriated

1 \$75,000,000 for fiscal year 1998, \$85,000,000 for
2 fiscal year 1999, and \$95,000,000 for fiscal year
3 2000.

4 (2) DISTRIBUTION.—Of the amounts appro-
5 priated under subparagraph (A) for each fiscal year,
6 not less than 90 percent shall be used to award
7 grants, contracts, or cooperative agreements.

8 (3) DISBURSEMENT.—Amounts appropriated
9 under this section shall be disbursed as categorical
10 grants through the 10 regional offices of the Depart-
11 ment of Health and Human Services.

[DISCUSSION DRAFT]

105TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mrs. MORELLA introduced the following bill; which was referred to the
Committee on _____

A BILL

To address domestic violence and child custody and child
protection interventions.

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,
5 Child Custody, and Child Protection Act of 1997".

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) In passing the Violence Against Women Act
2 of 1994, the Congress correctly identified domestic
3 violence, sexual assault, and child abuse as pressing
4 national problems.

5 (2) Witnessing domestic violence has a dev-
6 astating impact on children, placing them at a high
7 risk for anxiety, depression, substance abuse, and
8 suicide.

9 (3) Domestic violence is strongly correlated
10 with child abuse. Studies have found that between
11 50 and and 70 percent of men who abuse their fe-
12 male partners also abuse their children. A 1997
13 study documented that in 30 to 40 percent of cases
14 of child abuse and child fatalities, the child's mother
15 was also being abused. One study reported that girls
16 in violent homes are at a higher risk for sexual
17 abuse than girls in nonviolent homes.

18 (4) Discovery that domestic violence in their
19 home is affecting their children, or that a batterer
20 is also physically or sexually abusing a child, is fre-
21 quently a motivation for a protective parent to seek
22 divorce or custody of their children.

23 (5) Domestic violence often escalates during
24 marital separation and divorce, and abuse of a

1 batterer's children also escalates when their mother
2 is no longer available.

3 (6) According to the American Psychological
4 Association, individuals who batter their partner are
5 twice as likely to seek sole custody of their children
6 than nonviolent individuals, and they may misuse
7 the legal system as a forum for continuing abuse
8 through harassing and retaliatory legal actions. Cus-
9 tody and visitation disputes are more frequent when
10 there is a history of domestic violence.

11 (7) Batterers often take advantage of court-or-
12 dered visitation to threaten or harm their partner.

13 (8) A batterer's threats to take custody of chil-
14 dren are a reason adult victims of abuse frequently
15 cite for staying in abusive relationships. More than
16 50 percent of abductions result from domestic vio-
17 lence.

18 (9) Although courts should diligently protect
19 the interests of both parents in frequent and con-
20 tinuing contact with their children, in the case where
21 one parent has committed domestic violence or child
22 abuse, protection of the other parent and the chil-
23 dren is a vital consideration that should take prece-
24 dence.

1 (10) To respond to the problems of domestic vi-
2 olence in determining child custody, in 1990 the
3 Congress passed a concurrent resolution expressing
4 the sense of the Congress that there should be a pre-
5 sumption against granting custody to an abusive
6 spouse.

7 (11) Approximately 40 States require persons
8 making child custody and visitation determinations
9 to consider domestic violence when evaluating the
10 best interests of the child, and the model code devel-
11 oped by the National Council of Juvenile and Family
12 Court Judges recommends a rebuttable presumption
13 against giving custody to an abusive parent.

14 (12) Despite this trend in law against granting
15 custody to abusive parents, parents across the coun-
16 try have reported losing custody to abusive parents,
17 despite evidence of domestice violence against the
18 protective parent or sexual or physical abuse of the
19 child.

20 (13) According to the American Judges Foun-
21 dation, batterers are able to convince authorities
22 that the victim is unfit or undeserving of custody in
23 approximately 70 percent of contested cases and, ac-
24 cording to one study, in cases where abuse is re-
25 ported, the batterer is more likely to win custody

1 from a non-abusive parent than in cases where no
2 abuse is reported.

3 (14) Although the documented rate of any child
4 abuse allegations in custody cases is approximately
5 2 percent, and the rate of false accusations is the
6 same in the presence or absence of custody litigation,
7 there is a widespread myth that parents frequently
8 make up allegations of domestic violence or
9 child abuse to gain an advantage in custody or divorce
10 proceedings.

11 (15) In some jurisdictions, in direct violation of
12 Federal statutory mandates to investigate all allegations
13 of child abuse, child welfare officials have an
14 unwritten, illegal policy of refusing to investigate
15 charges of child abuse if there is a pending custody
16 or divorce action.

17 (16) Child welfare officials too often wrongly
18 charge protective parents who report domestic violence
19 or child abuse with failure to protect, with neglect,
20 or with criminal violations for false reporting,
21 resulting in the wrongful removal of the child from
22 the home, a temporary or permanent loss of custody,
23 visitation, or even termination of parental rights.

24 (17) Parents who report domestic violence or
25 child abuse may face unjust retaliation in the State

1 justice systems, including loss of custody, visitation,
2 termination of parental rights and, in some cases,
3 incarceration.

4 (18) Many of these cases feature the use of
5 spurious psychological "psyndromes", such as paren-
6 tal alienation syndrome, which has no scientific sup-
7 port according to the American Psychological Asso-
8 ciation, or malicious mother syndrome, which simi-
9 larly lacks well-documented supporting data in peer-
10 reviewed literature, to shift blame away from the
11 abusive parent and to punish the parent reporting
12 the abuse. These so-called syndromes are overwhelm-
13 ingly used against women seeking custody.

14 (19) Many of these cases include egregious
15 abuses of due process of State judicial officers,
16 guardians ad litem, and child welfare officials, such
17 as extensive ex parte communications with counsel
18 for the abusive parent, refusing to permit the protec-
19 tive parent to present evidence of domestic violence
20 or child abuse even when State law requires it to be
21 considered, or changing custody or visitation rights
22 without proper notice and opportunity to be heard.

23 (20) Too often guardians ad litem and custody
24 evaluators lack basic knowledge about the dynamics
25 and indicia of domestic violence and child abuse,

1 leading to erroneous decisions about what is in the
2 best interests of the child.

3 (21) Although the Federal courts do not handle
4 divorce or custody cases, the failure of the State jus-
5 tice systems to properly address domestic violence
6 and child abuse in custody, visitation, and termi-
7 nation of parental rights proceedings, where fun-
8 damental rights of parents to the care of their chil-
9 dren are at stake, in view of documented instances
10 of due process violations, may in some circumstances
11 invoke the civil rights jurisdiction of the Federal
12 courts.

13 **SEC. 3. DOMESTIC VIOLENCE TRAINING AND STANDARDS**
14 **FOR CHILD PROTECTIVE WORKERS.**

15 (a) **AMENDMENTS TO CAPTA FOR DOMESTIC VIO-**
16 **LENCE TRAINING.**—Section 106(b) of the Child Abuse
17 Prevention and Treatment Act (42 U.S.C. 5106a(b)) is
18 amended—

19 (1) by redesignating paragraph (4) as para-
20 graph (5); and

21 (2) by inserting after paragraph (3) the follow-
22 ing:

23 “(4) **DOMESTIC VIOLENCE TRAINING.**—To be
24 eligible to receive a grant under this section, a State
25 shall provide training in domestic violence, sexual as-

1 sault, and child abuse to all staff responsible for the
2 screening, intake, assessment, investigation, and re-
3 view of [reports of abuse and neglect] through the
4 development and implementation of training pro-
5 grams in cooperation and collaboration with advo-
6 cates in the [local community served,] [Note that
7 the grant money goes to the State to assist in im-
8 proving the "child protective services system of the
9 State"] including State domestic violence and sexual
10 assault coalitions, and local shelters, programs, and
11 crisis centers that serve domestic violence, sexual as-
12 sault, and child abuse victims."

13 (b) STANDARDS FOR EVALUATING FOSTER CARE
14 PLACEMENT WHERE A PARENT HAS COMMITTED DO-
15 MESTIC VIOLENCE.—

16 (1) IN GENERAL.—Section 475(5) of the Social
17 Security Act (42 U.S.C. 675(5)) is amended—

18 (A) by striking "and" at the end of sub-
19 paragraph (C);

20 (B) by striking the period at the end of
21 subparagraph (D) and inserting "; and"; and

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

23 "(E)(i) in any case in which any individual
24 residing in the home of the child has committed
25 domestic violence, any review or determination

1 of the child's status (including any evaluation of
2 the child's health and safety or a determination
3 of reasonable efforts) shall give strong consider-
4 ation to keeping the child in the care of a non-
5 abusive parent, or returning the child to the
6 care of a nonabusive parent, and if, as a result
7 of such a review or evaluation, it is determined
8 that assistance (including assistance in enforc-
9 ing any court orders or otherwise assisting in
10 removing the abusive individual from the
11 home), support services, or referrals to domestic
12 violence programs are needed to accomplish
13 that goal, the State shall provide such assist-
14 ance, services or referrals;

15 "(ii) in any case in which an individual
16 who has abused the child is a victim of domestic
17 violence, the State shall consider whether pro-
18 viding assistance to the individual to address
19 domestic violence can prevent further abuse of
20 the child; and

21 "(iii) in any case in which there are allega-
22 tions of domestic violence by both parents of
23 the child, the State shall take into consideration
24 which parent is the primary aggressor."

1 (2) DOMESTIC VIOLENCE DEFINED.—Section
2 475 of such Act (42 U.S.C. 675(5)) is amended by
3 adding at the end the following:

4 “(7) The term ‘domestic violence’ means a sex-
5 ual or physical assault or a threat of death or seri-
6 ous bodily injury against the child, a parent of the
7 child, or another individual as covered by the domes-
8 tic violence laws of the State.”.

9 (c) AMENDMENTS TO THE SOCIAL SECURITY ACT
10 FOR DOMESTIC VIOLENCE TRAINING.—

11 (1) Section 474(a)(3) of the Social Security Act
12 (42 U.S.C. 674(a)(3)) is amended by inserting “, in-
13 cluding domestic violence training” after “training”
14 the 1st place such term appears in each of subpara-
15 graphs (A) and (B).

16 (2) Section 475 of such Act (42 U.S.C. 675) is
17 further amended by adding at the end the following:

18 “(8) The term ‘domestic violence training’
19 means training and educational programs on domes-
20 tic violence, sexual assault, and child abuse, which
21 programs are developed and implemented in coopera-
22 tion and collaboration with advocates in the local
23 community served by such programs (including the
24 State domestic violence and sexual assault coalitions,
25 and local shelters, programs, and crisis centers that

1 serve victims of domestic violence, sexual assault, or
2 child abuse).”.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—[TO BE
4 SUPPLIED]

5 SEC. 4. DOMESTIC VIOLENCE TRAINING AND STANDARDS
6 FOR GUARDIANS AD LITEM.

7 (a) TRAINING REQUIREMENTS AND STANDARDS FOR
8 GUARDIANS AD LITEM.—Section 106(b) of the Child
9 Abuse Prevention and Treatment Act (42 U.S.C.
10 5106a(b)), as amended by section 3, is further amended—

11 (1) by redesignating paragraph (5) as para-
12 graph (6); and

13 (2) by inserting after paragraph (4) the follow-
14 ing:

15 “(5) GUARDIAN AD LITEM DOMESTIC VIOLENCE
16 TRAINING.—To be eligible to receive a grant under
17 this section, a State—

18 “(A) shall provide training in domestic vio-
19 lence, sexual assault, and child abuse for any
20 individual appointed to represent a child during
21 judicial proceedings where allegations of abuse
22 or neglect are raised through the development
23 and implementation of training programs in co-
24 operation and collaboration with advocates in
25 the [local community served,] [Note that the

1 grant money goes to the State to assist in im-
2 proving the "child protective services system of
3 the State"] including State domestic violence
4 and sexual assault coalitions, and local shelters,
5 programs, and crisis centers that serve domestic
6 violence, sexual assault, and child abuse victims;
7 and

8 "(B) shall establish mandatory guide-
9 lines—

10 "(i) to ensure that any individual ap-
11 pointed to represent a child during a judi-
12 cial proceeding where allegations of abuse
13 or neglect are raised—

14 "(I) must consider how abuse
15 and domestic violence impact the best
16 interest of the child; and

17 "(II) cannot represent the inter-
18 ests of or be retained or compensated
19 by another party accused of abuse;
20 and

21 "(ii) to place a priority on protecting
22 the safety of the child or any other family
23 member at risk of domestic violence or
24 child abuse."

1 (b) AUTHORIZATION OF APPROPRIATIONS.—[TO BE
2 SUPPLIED]

3 SEC. 5. EDUCATION AND TRAINING FOR JUDGES AND
4 COURT PERSONNEL.

5 (a) STATE COURTS.—Section 40412 of the Violent
6 Crime Control and Law Enforcement act of 1994 is
7 amended—

8 (1) in paragraph 18, by striking “and” after
9 the semicolon;

10 (2) in paragraph (19), by striking the period
11 and inserting “; and”; and

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

13 “(20) the issues raised by domestic violence and
14 child abuse in the determination of custody and visi-
15 tation, including the legitimate reasons parents may
16 report domestic violence and child abuse, the ways
17 domestic violence may relate to an abuser’s desire to
18 seek custody, the importance of relying on sound,
19 well-documented psychological evidence and well-
20 qualified experts in custody and visitation deter-
21 minations if abuse allegations are raised, the indicia,
22 dynamics and treatment of child sexual abuse, and
23 the current scientifically accepted and peer-reviewed
24 research on domestic violence and child abuse.”.

1 (b) FEDERAL COURTS.—~~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.

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, intimid-
20 ation, 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.

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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 (c), 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.—

Privileged and Confidential

National Commission on Standards of Practice and Training for Sexual Assault Examination Act of 1997

Sec. 1: Short Title

This bill may be cited as [] Act of 1997.

Sec. 2: National Commission

(a) In General.---The Attorney General shall appoint a multi-disciplinary/multi-agency National Commission that shall---

(1) evaluate existing standards of training and practice for licensed health care professionals performing sexual assault forensic examinations and develop a national recommended standard for training;

(2) recommend minimum sexual assault forensic examination training for all healthcare students to improve the recognition of injuries suggestive of rape and sexual assault and baseline knowledge of appropriate referrals in victim treatment and evidence collection;

(3) review existing national, state and local protocols on sexual assault for forensic examinations, and based on this review, develop a recommended national protocol and establish a mechanism for its nationwide dissemination, and;

(4) study and evaluate state procedures for payment of forensic exams for victims of sexual assault and establish a recommended federal protocol for the payment of forensic exams.

(b) Consultation.---The National Commission shall be comprised of experts in the area of rape and sexual assault, including but not limited to, victim services, criminal justice, forensic nursing, forensic science, emergency room medicine, law, social services, sex crimes in ethnic, social, and language minority communities, as well as rural, disabled and other underserved communities.

(c) Report.---The Attorney General shall ensure that no later than [] after the date of enactment of this Act, that a report of the directives in subsection (a) is submitted to [].

(d) Authorization of Appropriations.---There are authorized to be appropriated to carry out this section---(\$) for fiscal year _____.

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.



(Original signature of Member)

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 prohibit the transfer of a firearm to, and the possession
of a firearm by, a person who is intoxicated.

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. PROHIBITION AGAINST TRANSFER OF A FIRE-**
4 **ARM TO, AND POSSESSION OF A FIREARM BY,**
5 **A PERSON WHO IS INTOXICATED.**

6 (a) **TRANSFER PROHIBITION.**—Section 922(d) of
7 title 18, United States Code, is amended—

8 (1) by striking “or” at the end of paragraph
9 (8);

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. BALDACCI, 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. Faleomavaega, 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. Faleomavaega, Mr. FILNER, Mr. FLAKE, Mr. GEJD-ENSON, Mr. GREEN, Mr. HINCHEY, 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. CON. RES. 29

Expressing the sense of the Congress that a national summit of sports, political, community, and media leaders should be promptly convened to develop a multifaceted action plan to deter acts of violence, especially domestic violence and sexual assault.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 1997

Mr. SANDERS (for himself and Mrs. MORELLA) submitted the following concurrent resolution; which was referred to the Committee on Education and the Workforce

CONCURRENT RESOLUTION

Expressing the sense of the Congress that a national summit of sports, political, community, and media leaders should be promptly convened to develop a multifaceted action plan to deter acts of violence, especially domestic violence and sexual assault.

Whereas involvement in sports commonly places individuals in a unique context of competition that provides an opportunity to teach, learn, and hone qualities of responsible citizenship, including values that promote self-respect and respect for others, and deter acts of violence, especially domestic violence and sexual assault;

Whereas professional and amateur athletes and sports coaches are role models with great national influence and have

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.”.

105TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mrs. LOWEY introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Family Violence Prevention and Services Act
to increase the authorization of appropriations for fiscal
years 1998 through 2000 and to authorize appropriations
for fiscal years 2001 and 2002.

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 "Battered Women's
5 Shelters Act".

1 **SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR FAMILY**
2 **VIOLENCE PREVENTION AND SERVICES.**

3 Section 310(a) of the Family Violence Prevention and
4 Services Act (42 U.S.C. 10409(a)) is amended to read as
5 follows:

6 “(a) IN GENERAL.—There are authorized to be ap-
7 propriated to carry out this title—

8 “(1) \$50,000,000 for fiscal year 1996;

9 “(2) \$60,000,000 for fiscal year 1997;

10 “(3) \$120,000,000 for fiscal year 1998;

11 “(4) \$160,000,000 for fiscal year 1999;

12 “(5) \$200,000,000 for fiscal year 2000;

13 “(6) \$260,000,000 for fiscal year 2001; and

14 “(7) \$260,000,000 for fiscal year 2002.”.

[DISCUSSION DRAFT]

JULY 14, 1997

105TH CONGRESS
1ST SESSION**H. R. _____**

IN THE HOUSE OF REPRESENTATIVES

Mrs. MORELLA (for herself and Mr. SCHUMER) introduced the following bill;
which was referred to the Committee on _____

A BILL

To [TO BE SUPPLIED].

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 "Family Safety Act of
5 1997".

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

7 (a) FINDINGS.—Section 7(a) of the Parental Kidnap-
8 ing Prevention Act of 1980 (94 Stat. 3568; 42 U.S.C.
9 1305 note) is amended—

1 (1) in paragraph (1), by inserting “or Tribes,
2 where not inconsistent with the Indian Child Welfare
3 Act” after “different States”;

4 (2) in paragraph (2), by striking “and conflict-
5 ing” and inserting “, conflicting, and inadequate to
6 protect parents or children from domestic or family
7 violence or parental abduction nor punish them when
8 they seek to protect themselves”;

9 (3) in paragraph (3)—

10 (A) by inserting “perpetration of domestic
11 and family violence, and the threat to kidnap a
12 child,” after “resort to the”; and

13 (B) by inserting before the semicolon the
14 following: “and results in inadequate protection
15 and further endangerment of victims of domes-
16 tic and family violence”; and

17 (4) in paragraph (4), by inserting after “due
18 process of law,” the following: “the inappropriate
19 placement of children in the custody of abusive par-
20 ents or punishment of nonabusing parents who at-
21 tempt to protect themselves or their children,”.

22 (b) CONCLUSION.—Section 7(b) of such Act is
23 amended by inserting after “it is necessary” the following:
24 “to establish a national system for recording all custody
25 and family or domestic violence orders of protection, to

1 establish defenses of any civil or criminal parental custo-
2 dial interference or abduction charge or claim, to establish
3 standards to prevent children from being returned to abu-
4 sive parents in cases of parental abduction.”.

5 (c) PURPOSES.—Section 7(c) of such Act is amend-
6 ed—

7 (1) redesignating paragraphs (3) through (6) as
8 paragraphs (5) through (8), respectively;

9 (2) by inserting after paragraph (2) the follow-
10 ing:

11 “(3) promote cooperation between State and
12 tribal courts to protect parents and children from an
13 incidence or pattern of domestic or family violence;

14 “(4) promote realistic and protection standards
15 for interstate relocation when parents dispute cus-
16 tody, particularly in cases where there is domestic or
17 family violence;”;

18 (3) in paragraph (7) (as so redesignated), by
19 inserting before the semicolon at the end the follow-
20 ing: “, consistent with not endangering or inappro-
21 priately punishing children or parents who are vic-
22 tims of domestic or family violence”; and

23 (4) in paragraph (8) (as so redesignated), by
24 inserting before the period at the end the following:
25 “or to abuse the child or exert coercive control over

1 the other parent, except when the abduction or
2 wrongful removal is done in an attempt to protect
3 the parent or any child in the parent's care".

4 SEC. 3. DEFENSE TO CIVIL OR CRIMINAL CUSTODIAL IN-
5 TERFERENCE OR PARENTAL ABDUCTION
6 CHARGE OR CLAIM.

7 Section 1073 of title 18, United States Code, is
8 amended by striking "Whoever moves" and inserting "(a)
9 Whoever moves" and by adding at the end the following
10 new subsection:

11 "(b) It shall be an affirmative defense to a civil or
12 criminal custodial interference or parental abduction
13 charge or claim, including any civil or criminal contempt
14 of court, that—

15 "(1) the defendant acted within the provisions
16 of a valid court order granting the defendant legal
17 custody or visitation rights and that such order was
18 obtained pursuant to section 1738A of title 28, and
19 where not inconsistent with such section, with the
20 Uniform Child Custody Jurisdiction Act and was in
21 effect at the time of the offense;

22 "(2) the defendant was fleeing an incidence or
23 pattern of domestic or family violence; or

24 "(3) the defendant had physical custody of the
25 child pursuant to a court order granting legal cus-

10 (a) SECTION INTENT.—Section 1738A(a) of title 28,
11 United States Code, is amended by adding at the end the
12 following: “This section is intended to preempt any incon-
13 sistent State law and to apply to every proceeding in the
14 United States or its territories that is not governed by
15 inconsistent aspects of any treaty to which the United
16 States Government is a signatory or has ratified that in-
17 volves custody and visitation concerning a minor child.
18 Any protection order, whether consensual or not, issued
19 consistent with section 2265 of title 18 shall be res judi-
20 cata and be given full faith and credit.”.

(1) by redesignating paragraphs (1) through
(3) as paragraphs (2) through (4), respectively; by
redesignating paragraphs (4) through (6) as para-

1 graphs (7) through (9), respectively; and by redesignig-
2 nating paragraphs (7) and (8) as paragraphs (11)
3 and (12), respectively;

4 (2) by inserting before paragraph (2) (as so re-
5 designated) the following:

6 “(1) ‘abuse’ includes any act not done acciden-
7 tally or in an attempt to protect oneself or another,
8 that is more probable than not to realistically con-
9 stitute, cause, attempt, or threaten—

10 “(A) any bodily or serious physical illness,
11 including placing, by physical menace, another
12 in fear of imminent serious bodily injury;

13 “(B) any rape, sexual assault, or involun-
14 tary deviate sexual intercourse, or any sexual
15 activity with a dependent child;

16 “(C) the infliction of false imprisonment or
17 other nonconsensual restraints on liberty of
18 movement;

19 “(D) deprivation of medical care, housing,
20 food, or other necessities of life; or

21 “(E) mental or psychological abuse, includ-
22 ing stalking, repeated or severe humiliation, in-
23 timidation, coercive control, isolation, criticism,
24 acts designed to induce terror, or verbal
25 abuse;”;

1 (3) by inserting after paragraph (4) (as so re-
2 designated) the following:

3 “(5) ‘domestic or family violence’ means abuse
4 that is committed directly or indirectly against an
5 individual by—

6 “(A) a spouse or former spouse of the indi-
7 vidual;

8 “(B) an individual who is the biological
9 parent or stepparent of a child of the individual
10 subject to the abuse, who adopted such child, or
11 who is a legal guardian to such child;

12 “(C) an individual with whom the individ-
13 ual subject to the abuse is or was cohabiting;

14 “(D) a current or former romantic, inti-
15 mate, or sexual partner of the individual; or

16 “(E) an individual from whom the individ-
17 ual subject to the abuse would be eligible for
18 protection under the domestic violence, protec-
19 tion order or family laws of the applicable juris-
20 diction;

21 “(6) ‘family victimized by domestic or family vi-
22 olence’ means a family or household that includes
23 one or more individuals subject to domestic or family
24 violence, but does not include any individual who
25 committed the domestic violence;”; and

1 (3) by inserting after paragraph (9) (as so re-
2 designated) the following:

3 “(10) ‘primary aggressor’ means, in cases
4 where there are or have been mutual allegations of
5 abuse, the person who—

6 “(A) has more power within the relation-
7 ship;

8 “(B) has acted with more deliberate intent
9 to control, isolate, intimidate, emotionally de-
10 mean, or physically cause severe pain or injury;

11 “(C) is in less danger of being injured if
12 the parties are kept apart;

13 “(D) is less afraid of the other person; or

14 “(E) acted in an attempt to protect him-
15 self or herself or another, to flee, or to avert an
16 event worse confrontation;”.

17 (c) CONDITION FOR CUSTODY DETERMINATION.—
18 Section 1738A(c)(2)C) of such title is amended by insert-
19 ing after “abandoned,” the following: “or because the par-
20 ent, the child, or another child in the parent’s care or cus-
21 tody is the victim of domestic violence by the other par-
22 ent,”.

23 (d) JURISDICTION.—Section 1738A(d) of such title
24 is amended by inserting before the period at the end the
25 following: “, except that after 2 years have passed while

1 a child is legally living in another State, the court of the
2 original State shall decline jurisdiction”.

3 (e) CHILD CUSTODY DETERMINATIONS.—Section
4 1738A of such title is amended—

5 (1) by redesignating subsection (g) as sub-
6 section (h) and by inserting after subsection (f) the
7 following:

8 “(g) A court should decline to exercise jurisdiction
9 on behalf of the parent who has engaged in domestic or
10 family violence, has wrongfully taken the child from an-
11 other State without justification, or engaged in similar
12 reprehensible conduct.”; and

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

14 “(i) A court should decline to exercise jurisdiction on
15 behalf of a parent who has engaged in domestic or family
16 violence, has wrongfully taken the child from another
17 State without justification, or engaged in similar reprehen-
18 sible conduct.

19 “(j) It shall be an affirmative defense to a civil or
20 criminal custodial interference or parental abduction
21 charge or claim, including any civil or criminal contempt
22 of court, that—

23 “(1) the defendant acted within the provisions
24 of a valid court order granting the defendant legal
25 custody or visitation rights and that such order was

1 obtained pursuant to this section and is not incon-
2 sistent with the Uniform Child Custody Jurisdiction
3 Act and was in effect at the time of the offense;

4 “(2) the defendant was fleeing an incident or
5 pattern of domestic violence; or

6 “(3) the defendant had physical custody of the
7 child pursuant to a court order granting legal cus-
8 tody or visitation rights and failed to return the
9 child as a result of circumstances beyond the defend-
10 ant’s control, and the defendant notified or made
11 reasonable attempts to notify the other parent or
12 lawful custodian of the child of such circumstances
13 within 24 hours after the visitation period had ex-
14 pired and returned the child as soon as possible.

15 “(k) No custodial parent may be prevented from per-
16 manently removing a minor child from the State except
17 upon opposition from the child’s other parent upon a
18 showing that it is not in the child’s best interest, taking
19 into account the effect of restricting the travel on the cus-
20 todial parent and after considering alternate visitation ar-
21 rangements, and where the noncustodial parent—

22 “(1) has been visiting regularly, except for cir-
23 cumstances beyond his or her control;

24 “(2) has not exacerbated the custodial parent’s
25 financial difficulties, including as a result of not

1 making child support or spousal payments, unless
2 such noncustodial parent is unable to pay through
3 circumstances beyond such parent's control;

4 "(3) has not perpetrated domestic or family vio-
5 lence as a primary aggressor; and

6 "(4) has not removed or failed to return, or
7 threatened to remove or not return, the child from
8 the jurisdiction without justification.

9 "(1) Absent a finding that the nonviolent parent is
10 unfit or unavailable, there shall be a presumption that sole
11 or shared physical or legal custody shall not be transferred
12 over the objection of the nonviolent parent to any parent
13 who has perpetrated domestic or family violence against
14 the other parent or another adult. In cases where both
15 parents have been found by a preponderance of the evi-
16 dence to have perpetrated domestic or family violence
17 against the other parent or an adult, the court shall make
18 findings as to which parent was the primary aggressor,
19 and if only one parent acted as the primary aggressor,
20 only that parent shall be treated as the perpetrator of do-
21 mestic or family violence under this section.

22 "(m) Every party shall have an ongoing duty to dis-
23 close at the time of their first appearance or their filing
24 a first pleading in any case, whichever is first, and during
25 the pendency of any proceeding any information that they

1 may have regarding any other domestic violence or custody
2 case involving themselves, the other parties or involving
3 any child whose custody is at issue. Any party who is a
4 victim of domestic violence or has in the party's care or
5 custody a child who has reason to fear disclosure of the
6 child's whereabouts and has removed themselves to a con-
7 fidential address, shall be exempt from disclosing such ad-
8 dress, school, or workplace, including such telephone num-
9 bers and any other identifying information that might
10 compromise such person's safety, except disclosing ex
11 parte, in camera, the name of any State where the child
12 lived within the 6 months prior to the filing of the pending
13 custody action. Courts shall permit such parties to use
14 post office addresses, addresses of attorneys, or other
15 court authorized procedure so that this confidential infor-
16 mation will not be disclosed. Intentional disclosure of such
17 information shall be a crime punishable by a fine under
18 title 18 and imposition of such penalty shall not preclude
19 other foreseeable remedies, including restitution. Neg-
20 ligent disclosure of such information shall be punishable
21 by a fine under title 18."

22 **SEC. 5. STUDY OF DIVORCE AND CHILD CUSTODY CASES IN**
23 **WHICH DOMESTIC VIOLENCE IS A FACTOR.**

24 (a) **STUDY.**—The Attorney General, in consultation
25 with the State Justice Institute, shall conduct a nation-

1 wide study of divorce and child custody cases in which do-
2 mestic violence is a factor, to determine the following:

3 (1) The effect of mediation on the level of do-
4 mestic abuse in the relationship.

5 (2) In States that require mediation of divorce
6 cases, a comparison of the outcome (distribution of
7 property and assets, child custody orders, and child
8 support awards) of cases involving domestic violence
9 to those in which domestic violence is not an issue.

10 (3) The effect of joint custody on the level of
11 abuse of both the battered adult and the children,
12 including the likelihood of abuse during visitation ex-
13 changes.

14 (4) In States that have joint custody presump-
15 tions, a comparison of the outcome (child custody
16 and child support awards) of cases involving domes-
17 tic violence to those in which domestic violence is not
18 an issue.

19 (5) In States that consider domestic violence as
20 a factor in making custody determinations, a com-
21 parison of the outcome (child custody and child sup-
22 port awards) of cases involving domestic violence to
23 those in which domestic violence is not an issue.

24 (6) A comparison of the outcome (distribution
25 of property and assets, child custody orders, and

1 child support awards) of cases involving domestic vi-
2 olence in States that require consideration of domes-
3 tic violence as a factor in such decisions to States
4 that do not require consideration of domestic vio-
5 lence.

6 (7) In States where Child Protective Services
7 has a policy to screen and identify for domestic vio-
8 lence the outcomes of cases involving domestic vio-
9 lence, including when children are removed and
10 placed in foster care or when neglect charges are
11 brought, under what circumstances the agency may
12 seek termination of parental rights.

13 (b) REPORT.—Based on the study under subsection
14 (a), the Attorney General shall issue a report to each State
15 attorney general's office and to the Chief Justice of each
16 State, detailing the findings and recommendations under
17 the study regarding the appropriate use of mediation and
18 joint custody presumptions and consideration of domestic
19 violence as a factor in divorce and child custody cases in-
20 volving domestic violence.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to carry out the study
23 required by this section \$500,000.

1 SEC. 6. SUPERVISED VISITATION.

2 (a) GRANTS TO STATES TO PROVIDE FOR SUPER-
3 VISED VISITATION CENTERS.—The Secretary of Health
4 and Human Services (hereafter in this section referred to
5 as the “Secretary”) is authorized to award grants to
6 States to enable States to enter into contracts and cooper-
7 ative agreements with public or private nonprofit entities
8 to assist such entities in establishing and operating super-
9 vised visitation centers for the purposes of facilitating su-
10 pervised visitation and visitation exchange.

11 (b) CONSIDERATIONS.—In awarding such grants,
12 contracts, and cooperative agreements under paragraph
13 (1), the Secretary shall take into account—

14 (1) the number of families to be served by the
15 proposed visitation center to be established under
16 the grant, contract, or agreement;

17 (2) the extent to which supervised visitation
18 centers serve underserved populations; and

19 (3) the extent to which the applicant dem-
20 onstrates cooperation and collaboration with advo-
21 cates in the local community served, including the
22 State domestic violence coalition, State sexual as-
23 sault coalition, local shelters, and programs for do-
24 mestic violence and sexual assault victims.

25 (c) USE OF FUNDS.—

1 (1) IN GENERAL.—Amounts provided under a
2 grant, contract, or cooperative agreement awarded
3 under this subsection shall be used to establish su-
4 pervised visitation centers and for the purposes de-
5 scribed in subsection (a). In using such amounts,
6 grantees shall target the economically disadvantaged
7 and those individuals who could not otherwise afford
8 such visitation services. Other individuals shall be
9 permitted to use the services provided by the center
10 on a sliding fee basis.

11 (2) REGULATIONS AND APPLICANT REQUIRE-
12 MENTS.—The Secretary shall award grants, con-
13 tracts, and cooperative agreements under this sec-
14 tion in accordance with such regulations as the Sec-
15 retary may promulgate. The applicant shall—

16 (A) demonstrate recognized expertise in
17 the area of family violence and a record of high
18 quality service to victims of domestic violence
19 and sexual assault;

20 (B) be an entity located in the State or lo-
21 cality where State law requires the court to con-
22 sider evidence of domestic violence, whether or
23 not there is a conviction of any offense of do-
24 mestic violence or child abuse or the existence

1 of an order of protection against domestic vio-
2 lence, in making a custody decision; and

3 (C) demonstrate collaboration with and
4 support of the State domestic violence coalition,
5 sexual assault coalition, and local domestic vio-
6 lence and sexual assault shelter or program in
7 the locality in which the supervised visitation
8 center will be operated.

9 (d) REPORTING.—Not later than 60 days after the
10 end of each fiscal year, the Secretary shall report to Con-
11 gress information concerning—

12 (1) the number of persons served and the num-
13 ber of persons turned away from services categorized
14 by State and type of presenting problem that
15 underlies the need for supervised visitation or visita-
16 tion exchange (e.g. domestic violence, child abuse,
17 sexual assault, emotional assault, emotional or other
18 physical abuse, or a combination of factors);

19 (2) supervised visitation or visitation exchange
20 ordered by custody determination under a separation
21 or divorce decree or protection order, through child
22 protection services, or social services;

23 (3) other appropriate information designated in
24 regulations promulgated by the Secretary; and

1 (4) safety and security problems occurring dur-
2 ing the reporting period.

3 (e) AUTHORIZATION OF APPROPRIATIONS.—

4 (1) IN GENERAL.—For the purpose of awarding
5 grants, contracts, and cooperative agreements under
6 this section, there are authorized to be appropriated
7 \$75,000,000 for fiscal year 1998, \$85,000,000 for
8 fiscal year 1999, and \$95,000,000 for fiscal year
9 2000.

10 (2) DISTRIBUTION.—Of the amounts appro-
11 priated under subparagraph (A) for each fiscal year,
12 not less than 90 percent shall be used to award
13 grants, contracts, or cooperative agreements.

14 (3) DISBURSEMENT.—Amounts appropriated
15 under this section shall be disbursed as categorical
16 grants through the 10 regional offices of the Depart-
17 ment of Health and Human Services.