

VIOLENCE AGAINST WOMEN ACT II

TITLE I - Strengthening Law Enforcement to Reduce Violence Against Women

- Improve Full Faith and Credit Enforcement of Protection Orders
- Enhance the Role of Courts in Combating Violence Against Women
- Extend STOP Grants
- Strengthen Federal Controls on "Date-Rape" Drugs
- Extend Pro-Arrest Grants
- Reduce Violent Crime Against Women on Campus
- Strengthen Response to Violence Against Women in the Military
- Expand Rural Domestic Violence and Child Abuse Enforcement Grants
- Extend National Stalker and Domestic Violence Reduction Grant
- Clarify Enforcement to End Interstate Battery/Stalking

TITLE II - Strengthening Services to Victims of Violence

- Promote Legal Assistance and Attorney Volunteers
- Expand Shelters for Battered Women and Their Children
- Protect Victims of Abuse from Insurance Discrimination
- Extend National Domestic Violence Hotline
- Extend Federal Victims' Counselors
- Protect Battered Women's Employment
- Ensure Unemployment Compensation
- Restore Protections for Battered Immigrant Women

TITLE III - Limiting the Effects of Violence on Children

- Provide Safe Havens for Children
- Review Child Custody and Parental Kidnapping Laws
- Extend Grants to Reduce Sexual Abuse of Runaway, Homeless and Street Youth
- Extend Victims of Child Abuse Act Grants

TITLE IV - Strengthening Education & Training To Combat Violence Against Women

- Promote Education & Training of Health Professionals
- Provide Education & Training in Appropriate Responses to Violence Against Women
- Extend Rape Prevention & Education Program
- Violence Against Women Prevention Education Among Youth
- Renew Community Initiatives
- Establish National Commission on Standards of Practice & Training for Sexual Assault Examinations
- Establish National Workplace Clearinghouse on Violence Against Women
- Strengthen Prevention and Intervention Research to Combat Violence Against Women

TITLE V - Extending the Violent Crime Reduction Trust Fund

VAWA-2: FUNDING**TOTAL NEW FUNDING:****\$1.6 BILLION OVER 4 YEARS (FY 1999-2002)**

1999:	\$100 million <u>increase</u> over current \$450 authorization;
2000:	\$150 million <u>increase</u> over current \$450 authorization;
2001:	\$650 million authorized;
2002:	\$650 million authorized.

MAJOR NEW & EXPANDED PROGRAMS FUNDED IN VAWA-2:

\$450 million	Shelter space for 1.5 million battered women and their children over next 4 years
\$400 million	"STOP" grants for police, prosecutors, courts & victim services
\$260 million	"PRO-ARREST" grants to police
\$140 million	Enforcement grants in rural communities
\$120 million	Rape & family violence education programs
\$ 80 million	Attorneys for battered women
\$ 75 million	"Safe Havens" for supervised visitation of children
\$ 40 million	Combatting campus crime

**Statement of Senator Joseph R. Biden, Jr.
Introduction of
VIOLENCE AGAINST WOMEN ACT -- TWO**

May __, 1998

**MR. PRESIDENT, I RISE TO INTRODUCE THE "VIOLENCE
AGAINST WOMEN ACT - II." I AM PLEASED TO BE JOINED BY
SEVERAL SENATORS WHO ARE CO-SPONSORING THIS
LEGISLATION -- INCLUDING SENATORS _____**

**MR. PRESIDENT, WHEN I INTRODUCED THE VIOLENCE
AGAINST WOMEN ACT EIGHT YEARS AGO -- IN JUNE, 1990 -- IT
WAS NOT CLEAR THAT THE SENATE WOULD EVER EVEN
CONSIDER THIS LEGISLATION. THE FUNDAMENTAL REASON --
JUST EIGHT YEARS AGO, FEW THOUGHT IT EITHER APPROPRIATE
OR NECESSARY FOR NATIONAL LEGISLATION TO CONFRONT THE
PROBLEM OF DOMESTIC VIOLENCE.**

**FROM 1990 TO 1993, AS CHAIRMAN OF THE JUDICIARY
COMMITTEE, I CONVENED SIX HEARING ON THE BILL, RELEASED
SIX REPORTS ON THE PROBLEMS OF VIOLENCE AGAINST
WOMEN, CONVINCED THE JUDICIARY COMMITTEE TO FAVORABLY
REPORT THE BILL TO THE FULL SENATE ON THREE TIMES AND
HAD TO RE-INTRODUCE THE BILL TWICE.**

BUT, IT WAS NOT UNTIL NOVEMBER, 1993 -- NEARLY 3 AND ½ YEARS AFTER INTRODUCTION -- THAT THE FULL SENATE EVEN CONSIDERED THE VIOLENCE AGAINST WOMEN ACT. IN SEPTEMBER, 1994, THE VIOLENCE AGAINST WOMEN ACT BECAME LAW.

BUT, EVEN PASSAGE OF THE ACT INTO LAW DID NOT END THE SIGNIFICANT DEBATE ON THE ISSUE OF WHETHER THE PROBLEM OF VIOLENCE AGAINST WOMEN MERITED A NATIONAL RESPONSE. AS MY COLLEAGUES WILL RECALL, THROUGHOUT THE SUMMER OF 1995, THE CONGRESS DEBATED WHETHER OR NOT WE SHOULD ACTUALLY FUND THE VIOLENCE AGAINST WOMEN ACT.

FORTUNATELY, BY THE FALL OF 1995, THE CONGRESS FINALLY REACHED A CONSENSUS -- THE FEDERAL GOVERNMENT CAN AND SHOULD PROVIDE RESOURCES AND LEADERSHIP IN A NATIONAL EFFORT TO END THE VIOLENCE WOMEN SUFFER AT THE HANDS OF MEN WHO PROFESS TO LOVE THEM.

THAT CONSENSUS HAS HELD TO THIS DAY.

AND, AT THE MOST PRACTICAL LEVELS, THAT CONSENSUS HAS BEEN REWARDED:

- ** The murder rate for wives, ex-wives and girlfriends at the hands of their "intimates" fell to an 19-year low in 1995.**
- ** Thousands of trained police officers are on the streets arresting abusers before they can victimize again**
- ** Police officers are working as never before to guide victims toward help;**
- ** Prosecutors have been added to the front-lines to put these abusers where they belong -- behind bars;**
- ** Tens of thousands of women have been provided the shelters necessary to protect themselves and their children;**
- * Battered women are being provided a whole range of support services -- counseling, legal help for such matters as getting a "protection from abuse" orders; and**
- * A new national domestic violence hotline has already answered nearly 200,000 calls for help.**

MR. PRESIDENT, OUR CONSENSUS IN THE CONGRESS REFLECTS A FUNDAMENTAL CONSENSUS IN OUR NATION -- THE TIME WHEN A WOMAN HAS TO SUFFER IN SILENCE BECAUSE THE CRIMINAL WHO IS VICTIMIZING HER HAPPENS TO BE HER HUSBAND OR BOYFRIEND IS OVER.

TODAY, WE MUST BUILD ON THIS CONSENSUS AND DELIVER ON ITS PROMISE -- BECAUSE FOR ALL THE STRIDES WE HAVE MADE, THERE REMAIN FAR TOO MANY WOMEN WHO WILL GO HOME THIS EVENING KNOWING IN THE NERVOUS PIT OF THEIR STOMACH THAT THERE IS A BETTER THAN EVEN CHANCE THAT THEY WILL GET THE HELL BEAT OUT OF THEM.

I DON'T KNOW THAT ANY OF US WHO HAVE NOT BEEN IN THIS SITUATION CAN TRULY UNDERSTAND WHAT IT MUST BE LIKE -- AN UNDERSTANDING WHICH WOULD, IN TURN, ALSO HELP US RECOGNIZE THE TREMENDOUS NEED TO TAKE ACTION.

PERHAPS WE CAN GAIN A GLIMMER OF SUCH AN UNDERSTANDING IF WE RECALL OUR SCHOOL-BOY MEMORY -- AND EVERY MAN I KNOW HAS AT LEAST ONE OF THESE -- A MEMORY OF SITTING IN CLASS, DREADING THE TIME WHEN THE RECESS BELL WOULD RING, BECAUSE THE SCHOOL BULLY TOLD YOU THAT HE WAS GOING TO BEAT THE DAYLIGHTS OUT OF YOU ON THE PLAYGROUND. IMAGINE FEELING THAT DREAD EVERY DAY. IMAGINE FEELING THAT TWIST IN YOUR GUTS AS AN ADULT.

THAT IS WHAT EVERY MAN IN THIS SENATE, THIS CONGRESS AND THIS NATION MUST REMEMBER AS WE CONTINUE TO DEBATE WHAT WE CAN -- AND WHAT WE SHOULD -- DO TO COMBAT VIOLENCE AGAINST WOMEN.

MR. PRESIDENT, THE LEGISLATION I AM INTRODUCING TODAY -- THE VIOLENCE AGAINST WOMEN ACT-TWO -- HAS ONE SIMPLE GOAL: MAKE MORE WOMEN SAFE.

THIS LEGISLATION SEEKS THIS GOAL BY BUILDING ON THE ORIGINAL VIOLENCE AGAINST WOMEN ACT --

- * CONTINUING WHAT IS WORKING;**
- * SEEKING IMPROVEMENTS TO FIX THOSE EFFORTS WHICH COULD WORK BETTER; AND**
- * EXPANDING THE NATIONAL FIGHT INTO THOSE AREAS WHERE THE NEED IS CLEAR, BUT OUR EFFORTS HAVE NEGLECTED.**

BEYOND DESCRIBING SOME OF THE SPECIFICS OF THE LEGISLATION BEING INTRODUCED, I WANT TO MAKE IT CLEAR, THERE ARE MANY OTHER IDEAS AND PROPOSALS THAT SHOULD BE CONSIDERED BEFORE THE FULL SENATE DEBATES THIS LEGISLATION. ALSO, I AM SURE THERE ARE SEVERAL REFINEMENTS TO IMPROVE WHAT IS CURRENTLY IN THIS BILL.

THERE ARE SEVERAL SENATORS WHO ARE DEVELOPING THESE OTHER PROPOSALS AND REFINEMENTS -- FOR THERE ARE MANY SENATORS WHO ARE DEEPLY COMMITTED TO COMBATING VIOLENCE AGAINST WOMEN. AND, I HOPE THAT MY COLLEAGUES WILL REVIEW THIS LEGISLATION, OFFER THEIR INSIGHTS AND LEND THEIR NAMES AS CO-SPONSORS AND LEADERS IN THE FIGHT AGAINST DOMESTIC VIOLENCE.

STILL, AS MY COLLEAGUES REVIEW THIS LEGISLATION, I BELIEVE THEY WILL FIND THAT IT OFFERS COMPREHENSIVE AND SENSIBLE RESPONSES TO VIOLENCE AGAINST WOMEN.

TO HIGHLIGHT JUST SOME OF THE SPECIFIC ASPECTS OF THIS LEGISLATION, LET ME START WITH WHAT I BELIEVE TO BE THE CENTRAL COMPONENT OF THE VIOLENCE AGAINST WOMEN-TWO -- THE MONEY, CONTINUING THE DOLLARS FOR COPS, PROSECUTORS, JUDGES, SHELTERS, AND ALL THE ELEMENTS WHICH ARE WORKING.

THIS REQUIRES ONE SIMPLE STEP -- CONTINUE THE VIOLENT CRIME REDUCTION TRUST FUND TO 2002. THE TRUST FUND IS DUE TO EXPIRE IN 2000. I DO NOT SUGGEST THAT WE RE-LITIGATE THE BALANCED BUDGET AGREEMENT REACHED LAST YEAR -- ONLY THAT WE CONTINUE THE TRUST FUND AT THE LEVELS AGREED TO IN THE BALANCED BUDGET LAW.

BEYOND THIS FUNDAMENTAL STEP, THERE ARE FOUR KEY POLICY AREAS ADDRESSED BY THE VIOLENCE AGAINST WOMEN ACT-TWO:

- * STRENGTHENING LAW ENFORCEMENT's TOOLS;**
- * IMPROVING THE SERVICES FOR THE VICTIMS OF VIOLENCE;**
- * REDUCING VIOLENCE AGAINST CHILDREN -- NOT ONLY THE FREQUENT AND HORRIBLE SIDE-EFFECT OF VIOLENCE AGAINST WOMEN, BUT ALSO THE WELLSPRING OF FUTURE GENERATIONS OF VIOLENCE; AND**
- * BOLSTERING THE ANTI-DOMESTIC VIOLENCE TRAINING AND EDUCATION TO ENLIST MANY MORE PROFESSIONALS IN OUR SHARED FIGHT.**

Strengthening Law Enforcement

ON THE LAW ENFORCEMENT FRONT, THE BILL INTRODUCED TODAY, STARTS WITH NEEDED IMPROVEMENTS TO BOLSTER THE INTER-STATE ENFORCEMENT OF "STAY-AWAY" OR PROTECTION ORDERS.

TO GIVE A PRACTICAL EXAMPLE, LET'S SAY A WOMAN FROM MY HOME STATE OF DELAWARE GETS ONE OF THESE PROTECTION ORDERS AGAINST AN OLD BOYFRIEND WHO HAS BEEN STALKING AND BEATING THE HECK OUT OF HER. LET'S ALSO SAY SHE WORKS IN PENNSYLVANIA.

THIS IS THE SCENARIO WHICH LED THE ORIGINAL VIOLENCE AGAINST WOMEN ACT TO CALL ON STATES TO HONOR THE PROTECTION ORDERS OF OTHER STATES. WE DID SO BECAUSE THE COPS RECOGNIZE THE SIMPLE REALITY -- THEY KNOW WHAT WILL HAPPEN SOONER OR LATER IF THE OLD BOYFRIEND KEEPS SHOWING UP AT THE WOMAN'S WORK. AND, THE COPS IN PENNSYLVANIA DON'T WANT TO WAIT FOR THE WORST TO HAPPEN -- THEY WANT TO NAIL THE GUY FOR VIOLATING THE PROTECTION ORDER, STOPPING VIOLENCE BEFORE IT HAPPENS -
- IN OTHER WORDS, COMMUNITY POLICING.

THE PROBLEM -- THE COPS IN PENNSYLVANIA MAY NOT KNOW ABOUT THAT THERE IS A VALID PROTECTION ORDER ISSUED BY THE STATE OF DELAWARE. WE PROPOSE TODAY A FEW SIMPLE FIXES:

- * PERMITTING STATE AND LOCAL COPS TO USE THEIR "PRO-ARREST" GRANTS FOR THIS INFORMATION SHARING;**
- * ENCOURAGING STATES TO ENTER INTO THE COOPERATIVE AGREEMENTS NECESSARY TO HELP INTERSTATE ENFORCEMENT; AND**
- * CALLING ON THE JUSTICE DEPARTMENT TO HELP DEVELOP NEW PROTOCOLS AND DISSEMINATE THE "BEST PRACTICES" OF STATE AND LOCAL COPS.**

PRETTY SIMPLE, BUT ALL ARE EXTREMELY NECESSARY -- AND I HOPE WE CAN ALL SUPPORT SUCH COMMON SENSE MEASURES.

I WON'T GO INTO NEARLY AS MUCH DETAIL IN DESCRIBING THE LAW ENFORCEMENT INITIATIVES PROPOSED IN THIS BILL, BUT JUST TO "TICK" SOME OF THESE OFF -- WE PROPOSE TO:

- * BOLSTER THE RESOURCES AVAILABLE FOR COURTS TO HANDLE DOMESTIC VIOLENCE AND SEXUAL ASSAULT CASES;**
- * TARGET THE "DATE-RAPE" DRUG WITH THE MAXIMUM FEDERAL PENALTIES;**
- * CONTINUE FUNDING FOR POLICE, PROSECUTORS, LAW ENFORCEMENT EFFORTS IN RURAL COMMUNITIES, AND FOR ANTI-STALKING INITIATIVES;**
- * EXTEND THE SUPPORT OF LOCAL POLICE "PRO-ARREST" EFFORTS -- A PROGRAM EXPIRING THIS YEAR; AND**
- * PROVIDE NEW LAWS TO PROTECT OUR MILITARY SUPPORT PERSONNEL STATIONED, AS WELL AS OUR FEMALE MILITARY PERSONNEL WHO MAY BE ASSAULTED OFF-BASE -- WHERE, TOO OFTEN, LAX FOREIGN LAWS GIVE A "FREE-PASS" TO THEIR VICTIMIZER.**

Assisting the Victims of Violence

OF COURSE, A COMPREHENSIVE EFFORT TO REDUCE VIOLENCE AGAINST WOMEN AND LESSEN ITS DAMAGES MUST DO MORE THAN JUST ARREST, CONVICT AND IMPRISON ABUSERS -- WE MUST ALSO HELP THE VICTIMS OF VIOLENCE. THIS LEGISLATION PROPOSES TO ASSIST THESE CRIME VICTIMS IN THREE FUNDAMENTAL WAYS:

- * IMMEDIATE PROTECTIONS FROM THEIR ABUSER -- SUCH AS BATTERED WOMEN'S SHELTERS;**
- * HELP SO THAT THEY CAN HAVE ACCESS TO THE COURTS AND LEGAL ASSISTANCE NECESSARY TO KEEP THEIR ABUSER AWAY FROM THEM; AND**
- * REMOVING THE "CATCH-22s" THAT MAY LITERALLY OFTEN FORCE WOMEN TO STAY WITH THEIR ABUSER -- SUCH AS THE DISCRIMINATORY INSURANCE POLICIES WHICH COULD FORCE A MOTHER TO CHOOSE: TURN-IN THE MAN WHO IS BEATING ME OR KEEP HEALTH INSURANCE FOR HER CHILDREN.**

THOSE OUR THE THREE GENERAL POLICY GOALS, BUT TO BE MORE SPECIFIC, LET ME OUTLINE JUST HOW OUR LEGISLATION PROPOSES TO BOOST THE PROTECTIONS FOR THE VICTIMS OF VIOLENCE:

FIRST AND FOREMOST, WE MUST BUILD ON OUR SUCCESSFUL EFFORT TO PROVIDE MORE SHELTER SPACE FOR BATTERED WOMEN AND THEIR CHILDREN. SENATOR SPECTER AND THE APPROPRIATIONS COMMITTEE HAS DONE TREMENDOUS WORK TO BOOST ANNUAL FUNDING FOR SHELTERS TO \$78 MILLION -- ENOUGH FOR ABOUT 200,000 BATTERED WOMEN AND THEIR CHILDREN.

UNFORTUNATELY, THE UNMET NEED FOR SHELTER REMAINS SIGNIFICANT. FOR EXAMPLE, DATA FROM SIX STATES, WHICH TOGETHER HAVE ABOUT 16% OF THE NATION'S POPULATION HAD TO TURN AWAY MORE THAN 45,000 BATTERED WOMEN WHO WERE SEEKING SHELTER BECAUSE THEY SIMPLY DID NOT HAVE THE SPACE. EXTRAPOLATING THESE FIGURES TO THE ENTIRE NATION SUGGESTS THAT ABOUT 300,000 BATTERED WOMEN AND THEIR CHILDREN ARE TURNED AWAY FROM SHELTERS EVERY YEAR.

AS I SAID, THE CURRENT APPROPRIATIONS FOR SHELTER SPACE STANDS AT ABOUT \$78 MILLION. THIS LEGISLATION BOOSTS THIS AMOUNT TO \$175 MILLION OVER THE NEXT FOUR YEARS. THE ADDITIONAL \$100 MILLION OVER CURRENT SERVICES WILL CLOSE THE "SHELTER-GAP" -- OF ROUGHLY 300,000 BATTERED WOMEN AND THEIR CHILDREN. THIS WILL BRING US CLOSER TO THE DAY WHEN ALL BATTERED WOMEN WILL HAVE A SAFE, SECURE PLACE WHEN THEY NEED IT MOST.

OF COURSE, WE PHASE IN THIS INCREASE -- BUT, IT IS CLEAR TO US THAT WE MUST TAKE THE BASIC, FUNDAMENTAL STEP IF WE ARE TO PROTECT THESE VICTIMS OF VIOLENCE.

AS I SAID, WE MUST ALSO PROVIDE WOMEN WITH THE ASSISTANCE NECESSARY SO THAT THEY CAN GET ACCESS TO HELP FROM OUR JUSTICE SYSTEM. WE DO SO, IN SOME CLEAR AND COMMON SENSE WAYS, SUCH AS:

- * RE-AUTHORIZING THE EXPIRING PROGRAM TO PROVIDE ABOUT \$1 MILLION PER YEAR FOR VICTIM/WITNESS COUNSELORS IN FEDERAL COURT;**
- * AS SENATORS WELLSTONE AND MOSELEY-BRAUN HAVE RECOGNIZED, WOMEN SHOULD NOT HAVE TO CHOSE BETWEEN SHOWING UP AT COURT TO MAKE SURE HER ABUSER IS PUNISHED AND LOSING HER JOB -- SO, THIS LEGISLATION INCLUDES THEIR PROPOSAL**

TO EXTEND THE PROTECTIONS OF THE FAMILY & MEDICAL LEAVE ACT TO THE VICTIMS OF DOMESTIC VIOLENCE;

- * CONTINUING THE NATIONAL DOMESTIC VIOLENCE HOTLINE (AT A COST OF ABOUT \$2 MILLION PER YEAR); AND**
- * DEVELOPING A NATIONAL NETWORK OF TRAINED, VOLUNTEER ATTORNEYS WHO WILL HELP EACH OF THE NEARLY 100,000 WOMEN WHO, EACH YEAR, CALL THE NATIONAL HOTLINE FOR HELP.**

THE OTHER COMPONENT OF OUR PLAN TO AID THE VICTIMS OF DOMESTIC VIOLENCE IS TO TARGET WHAT I REFER TO AS THE "CATCH-22" PROBLEMS.

SENATOR MURRAY HAS IDENTIFIED ONE SOURCE OF JUST SUCH A "CATCH-22" -- THE FACT THAT SOME INSURANCE COMPANIES AND PLANS DENY WOMEN HEALTH, DISABILITY, PROPERTY OR LIFE INSURANCE PROTECTIONS BECAUSE THE WOMAN IS A VICTIM OF DOMESTIC VIOLENCE.

**IN STARKEST TERMS, THIS FORCES A WOMAN TO CHOSE
BETWEEN --
REPORTING -- AND TRYING TO END -- THE VIOLENCE SHE IS
SUFFERING
OR
HER CHILDREN's HEALTH CARE.**

**THIS MUST END -- WE MUST PASS SENATOR MURRAY's
PROPOSAL, INCLUDED IN THIS LEGISLATION, TO PROTECT THE
VICTIMS FROM ABUSE FROM INSURANCE DISCRIMINATION.**

**LET ME ALSO REMIND MY COLLEAGUES THAT IN THE
ORIGINAL VIOLENCE AGAINST WOMEN ACT WE TOOK BI-
PARTISAN ACTION TO END ANOTHER SUCH INSIDIOUS "CHOICE."
IN 1994, WE WORKED OUT PROVISIONS SO BATTERED IMMIGRANT
WOMEN -- WHOSE ABILITY TO STAY IN THE COUNTRY WAS
DEPENDENT ON THEIR HUSBANDS -- WOULD NOT HAVE TO
CHOSE:**

**STAY IN AMERICA AND CONTINUE TO GET BEATEN
OR**

**LEAVE THEIR HUSBANDS, END THE ABUSE, BUT HAVE TO
LEAVE AMERICA (perhaps even without their children.)**

WHILE WE HAD FIXED SOME ASPECTS OF THIS PROBLEM IN 1994, THERE REMAIN OTHER ASPECTS OF IMMIGRATION LAW WHICH LEAVE A WOMAN WITH JUST SUCH A HORRIBLE, UNFAIR AND IMMORAL CHOICE. WITH SENATOR KENNEDY, WE HAVE WORKED TO INCLUDE IN THIS LEGISLATION SEVERAL OF THESE CORRECTIONS.

I URGE MY COLLEAGUES TO SUPPORT -- AND EVEN BUILD UPON -- OUR EFFORTS TO PUT AN END TO THESE REAL PROBLEMS.

Reducing Violence Against Children

A THIRD AREA WHERE THIS LEGISLATION SEEKS ACTION IS ON REDUCING VIOLENCE AGAINST CHILDREN. AS MY COLLEAGUES KNOW, HOUSEHOLDS WHERE THE WIFE IS BEATEN ARE MUCH MORE LIKELY TO ALSO BE HOME TO CHILD ABUSE AND NEGLECT. IN ADDITION, THE RESEARCH FINDINGS ARE CLEAR -- CHILDREN WHO WITNESS VIOLENCE ARE MUCH MORE LIKELY TO REPEAT THE CYCLE WHEN THEY ARE ADULTS AND THEY HAVE A WIFE AND CHILDREN.

HERE, OUR LEGISLATION PROPOSES TO CONTINUE TWO LONG-STANDING PROGRAMS --

- * RESOURCES TO SERVE RUNAWAY AND HOMELESS YOUTH WHO ARE VICTIMS OF SEXUAL ABUSE; AND

- * THE RESOURCES PROVIDED FOR COURT-APPOINTED SPECIAL ADVOCATES AND SPECIAL CHILD ABUSE TRAINING FOR COURT PERSONNEL THROUGH THE VICTIMS OF CHILD ABUSE ACT (ORIGINALLY CO-SPONSORED BY SENATOR THURMOND AND MYSELF IN 1990.)

THE CURRENT APPROPRIATIONS FOR ALL THESE PROGRAMS TOTAL ABOUT \$25 MILLION -- WE PROPOSE TO INCREASE THAT ANNUAL AMOUNT BY ABOUT \$10 MILLION.

Improving Research & Training

THE REMAINING AREA TARGETED BY THE VIOLENCE AGAINST WOMEN ACT- TWO INCLUDES SEVERAL EFFORTS TO HELP TRAIN AND EDUCATE THOSE ALREADY ON THE FRONT-LINES OF THE BATTLE AGAINST VIOLENCE AGAINST WOMEN.

SENATOR BOXER HAS RECOGNIZED THAT ONE OF THE LEADING REASONS WHY WOMEN ENTER HOSPITAL EMERGENCY ROOMS IS BECAUSE THEY WERE BEATEN AT THE HANDS OF A MAN. SO, THIS BILL, INCLUDES HER PROPOSAL TO INCREASE THE NUMBER OF HEALTH PROFESSIONALS WHO ARE TRAINED IN THE IDENTIFICATION, TREATMENT AND REFERRAL OF VICTIMS OF DOMESTIC VIOLENCE AND SEXUAL ASSAULT.

OVER THE PAST FEW YEARS, I HAVE WORKED WITH SEVERAL CORPORATIONS (including, DuPont, Polaroid, Liz Claiborne, and The Body Shop) WHO HAVE BEGUN THEIR OWN WORKPLACE INITIATIVES -- EVERYTHING FROM 24-HOUR ASSISTANCE HOTLINES FOR THEIR EMPLOYEES, TRAINING TO HELP MANAGERS BETTER RECOGNIZE DOMESTIC VIOLENCE, AND EVEN COMPREHENSIVE EMPLOYEE ASSISTANCE EFFORTS.

HELPING OTHER COMPANIES START OR IMPROVE -- AGAIN, ON THEIR OWN INITIATIVE -- SUCH ANTI-VIOLENCE EFFORTS IS THE REASON THIS LEGISLATION INCLUDES A NATIONAL WORKPLACE CLEARINGHOUSE ON VIOLENCE AGAINST WOMEN.

THE CLEARINGHOUSE WILL PROVIDE TECHNICAL ASSISTANCE AND HELP CIRCULATE "BEST PRACTICES" TO COMPANIES INTERESTED IN COMBATING VIOLENCE AGAINST WOMEN.

ANOTHER PRACTICAL PROBLEM OUT IN THE FIELD RELATES TO THE COMPLEX NATURE OF CRIMINAL INVESTIGATIONS INTO SEXUAL ASSAULT CASES. TO ASSIST THE COPS IN THE FIELD WHO FACE THESE INVESTIGATIONS, THIS LEGISLATION CALLS ON THE ATTORNEY GENERAL TO EVALUATE AND RECOMMEND STANDARDS OF TRAINING AND PRACTICE OF FORENSIC EXAMINATIONS FOLLOWING SEXUAL ASSAULTS.

I WANT TO MAKE CLEAR, THIS LEGISLATION DOES NOT ALLOW ANY FEDERAL DICTATES -- BUT ONLY SOME ASSISTANCE TO THOSE IN THE FIELD.

FINALLY, THIS LEGISLATION CONTINUES THE AUTHORIZATION FOR RAPE PREVENTION AND EDUCATION PROGRAMS. THESE PROGRAMS PROVIDE PUBLIC AWARENESS AND EDUCATION EFFORTS TO BOTH TEACH YOUNG WOMEN HOW TO PROTECT THEMSELVES FROM RAPE AND ATTACK, AS WELL AS TO HELP BUILD THEIR SELF-ESTEEM.

MR. PRESIDENT, I HAVE JUST OFFERED THE MOST GENERAL OUTLINE OF THE CONTENTS OF THE VIOLENCE AGAINST WOMEN ACT - TWO. I URGE MY COLLEAGUES TO REVIEW THIS LEGISLATION. I AM CONFIDENT THEY WILL FIND THIS BILL A COMPREHENSIVE AND PRACTICAL RESPONSE WHICH WILL HELP US MEET A GOAL I BELIEVE IS SHARED BY EVERY MEMBER OF THIS SENATE -- MAKING MORE WOMEN SAFER.

BUDGET Qs & As

Q. WHAT DOES \$250 MILLION INCREASE IN FIRST TWO YEARS PAY FOR?

A. 1999-2000: The \$250 million increase over current authorization provides:

- ** \$90 more million for shelters (enough for about 300,000 battered women and their children);**
- ** \$40 more million for legal assistance to battered women;**
- ** \$45 more million for runaway youth;**
- ** \$30 more million for cops, prosecutors and victim services;**
- ** \$20 more million for rape education/prevention; and**
- ** \$20 more million to attack campus crime.**

HOT-BUTTON #1 -- Insurance Discrimination

Senator Specter's staff raised concerns with our general idea of not letting insurance companies deny (or charge more for) health, life, property or other coverage to victims of domestic violence.

As you know, this is a key element of the bill for Senator Murray. And, you promised to work with her on including insurance provisions in VAWA-2. Not changing the laws in effect punishes those women (and their children) who leave their abusers -- a policy position that is untenable and a political position we do not believe insurance companies could sustain.

Still, Matthew believes that, as drafted, the current section is not the best way to meet the goal. Matthew believes:

- 1) The health insurance provision should be structured the same way as the Kassebaum-Kennedy Health Insurance law; and
- 2) States should have first opportunity to prohibit these acts -- with federal enforcement only if states fail to take action. When Matthew proposed these changes several months ago, Senator Murray agreed, but the advocates bitterly disagreed.

If making these re-drafts would make an important difference to Senator Specter -- we do not think they will -- it might be worth another discussion to see if Senator Murray can convince the advocates to change their minds.

BUT, MORE LIKELY, SENATOR SPECTER IS JUST GOING TO HAVE TO DECIDE WHETHER HE CAN ENGAGE A FIGHT WITH THESE COMPANIES.

HOT-BUTTON -- Family & Medical Leave Act provisions

VAWA-2 proposes to extend these protections to cover time-off for the court appearances and other things the victims of domestic violence may need. (As you know, we dropped several other "employer pieces" called for by the advocates.)

Senator Specter's staff did not think these provisions by themselves were so troublesome that he could not co-sponsor -- but, they did raise concerns about the "additive effect" of including anything addressing the Family & Medical Leave Act.

HOT-BUTTON -- Definition of "Underserved Population"

In a variety of ways, VAWA-1 funding programs called on states to "recognize needs of" underserved populations. VAWA-1 did not establish any specific funding percentages for such populations. VAWA-2 also stays away from earmarking dollars for these populations -- though there is one \$2 million "model grant" program exclusively for underserved populations.

The key issue concerns the definition.

Under VAWA-1: "includes populations underserved because of rural isolation, underserved racial or ethnic populations and populations underserved because of special needs, such as language barriers or physical disabilities"

Under VAWA-2, House-proposes: "includes populations because of race, ethnicity, age, disability [**adding "mental" disability, not just physical**], sexual orientation, religion, alienage status [i.e., **illegals**], rural isolation, language barriers, and any others determined by the state."

In reality, these changes merely broaden the definition of who might be considered "underserved" (as opposed to prohibiting discrimination against these populations, which this measure does NOT attempt) -- and, so, does not have much practical effect. But, of course, making these changes is a huge deal for the advocates.

We think that you should offer to Senator Specter that we will drop "alienage status" language, or possibly drop the entire provision.

HOT-BUTTON -- Immigration

Our proposed VAWA-2 includes about 10 immigration items (out of 15) requested by Senator Kennedy. All relate to fixing a series of "catch-22s" in immigration law -- i.e., the variety of situations in which a battered woman may have to choose between staying in the U.S. or leaving her abuser.

As you know, this was the principle established in original VAWA -- though there are a variety of problems raised by the passage of 1996 Immigration Law.

In general, we have selected those elements which -- though they will probably be opposed in the House -- would not be subject to intense opposition in the Senate: SO, AFTER SENATOR SPECTER'S STAFF HAS FURTHER REVIEWED THESE PROVISIONS WITH SENATOR ABRAHAM, THIS MAY NOT BE A PROBLEM. WE ARE PREPARING A MORE DETAILED MEMO ON THE IMMIGRATION ISSUES.

HOT BUTTON -- Hate Crimes

Even though Senator Specter is the lead co-sponsor of this Kennedy legislation, we got the sense that he might prefer to keep this particular "hot button" out of the bill.

If Senator Specter wants to drop this provision, it would make it easier for you if he spoke to Senator Kennedy (who wants it included.)

HOT-BUTTON -- Republican "poison pill" amendments

We have not included:

- * Death Penalty for Interstate Batterers who murder;
- * Mandatory HIV testing for federal sex offenders; nor
- * Making religious entities eligible for VAWA funding.

We have indicated to Senator Specter's staff that these would likely have to be included as part of a final package before going to the floor -- but that, for now, the VAWA groups are opposed to including and we should hold out some items for Republicans to add to the bill.

HOT-BUTTON – funding

The proposed VAWA-2 continues the Trust Fund and raises the annual authorization from about \$400 million this year to about \$650 million in 2001 and 2002. We also boost existing authorizations in 1999 and 2000 by about \$100 million – with virtually all the increase for more shelters.

WE RAISE THIS ONLY AS AN “FYI.” Based on staff conversations, these seemed to be generally acceptable -- though we may have to re-visit the issue if Senator Specter has a different view than his staff.

Background -- Catch-22 fixed by VAWA-1

To remain in the U.S. permanently and legally, a temporary immigrant (e.g., visa holder) must obtain a "green card" (which identifies her as a "lawful permanent resident"). One way for an immigrant to obtain a green card is to enter into a valid marriage, including co-habitation, with a U.S. citizen or another green card holder.

Before VAWA-1, an immigrant who separated from or divorced her U.S. citizen- or green card holder-spouse for any reason – including abuse – could not use the marriage as a basis to obtain her own green card. Battered women were therefore faced with a no-win choice between staying in abusive marriages and being deported. VAWA-1 addressed this problem by allowing a battered woman to leave her abusive marriage and "self-petition," – i.e., apply for a green card on the basis of the abuse, not the husband's status as a U.S. citizen or green card holder.

VAWA-1 also allowed battered immigrant women against whom INS had already begun deportation proceedings to have their deportation proceedings permanently suspended because of the abuse.

But, the 1996 Immigration Act cut back on VAWA-1, by reducing battered women's access to VAWA-based immigration relief. **Our proposed VAWA-2 immigration provisions would restore relief in some of these cases, and provide relief in some cases not addressed by VAWA-1.**

Key Points to Remember

- 1) VAWA-based immigration represents a small percentage of legal immigration to the United States each year – Only about 200 petitions are filed each month (of which only about 100 are approved).
- 2) The standard for VAWA-based immigration is very high. To be eligible, a immigrant woman must prove both :
 - (a) battery or extreme cruelty against the immigrant or her child by a spouse during the marriage, and
 - (b) that deportation would cause extreme hardship to the immigrant or her child.

New Catch-22s Created by the 1996 Immigration Law

- * **Attorney General Discretionary Waiver for Criminal Convictions** – The 1996 Immigration Act provided that most immigrants can be deported for just one criminal conviction, including domestic violence, and took away the Attorney General's discretion to grant waivers to battered women who are arrested as a result of being abused.

VAWA-2 would allow the Attorney General to grant battered women a humanitarian waiver from deportation – for convictions based on antiquated “dual arrest” laws, violating their own protection orders, or committing a crime under duress of the battery (e.g, forced prostitution).

- * Changes in Abuser's Immigration Status -- The 1996 Immigration Act made domestic violence a deportable crime -- however, an unintended effect is that the battered wife's VAWA petition for a green card becomes void when her husband is deported, which creates a perverse incentive for the wife to tolerate the abuse rather than report it.

VAWA-2 would provide that abused spouses are treated like spouses in non-abusive relationships -- changes in the spouses' immigration status can only help the petitioner: if the husband's immigration status is upgraded, the wife gets in the shorter line reserved for wives of citizens (as opposed to the longer line for spouses of green card holder). But, if the husband is deported, the wife's petition remains valid.

- * Exemption of Vawa Cases from Suspension of Deportation Cap and from *In re N-J-B* -- Under VAWA-1, a battered women immigrant who does not file a VAWA petition before INS learns she is illegal and begins deportation proceedings (e.g., because the battering husband reports her), had a VAWA-based defense to the deportation known as "suspension of deportation," provided that she can meet the additional requirement of having been in the U.S. "continuously" for three years. But, the 1996 Immigration Act

- * capped the number of suspensions of deportation a judge could grant at 4,000 per fiscal year for both VAWA and non-VAWA cases (the cap for FY97 was reached in February 1997) -- so that no matter how deserving the claim a battered immigrant has after the cap is reached, a judge must deport her, and
- * codified an immigration judge's decision that for purposes of the three years presence requirement the clock stops when INS begins deportation proceedings -- even if INS never follows through and actually deports the battered woman.
- * provided that a judge could not find a battered woman presence "continuous" if she had left the country for any 90-day period or a total of 180 days, even if the absence was "innocent" (e.g., forced by the battering husband).

VAWA-2 would --

- * exempt VAWA-based suspension of deportation from the 4,000 cap,
- * allow battered immigrants to count time after INS begins deportation proceedings toward the continuous presence requirement, and
- * allow the Attorney General to excuse understandable absences from the continuous presence requirement.

- * Adjustment of Battered Immigrants' Status from Within the United States -- Last year CJS Appropriations Act deleted a provision that allowed an immigrant to remain within the U.S. as she waits for her petition to be approved and INS to issue her green card by paying a \$1,000 fine, rather than returning home and waiting to receive the green card from the U.S. embassy or consulate in her home country (current wait is six months to four and one half years). This applies to all immigrants, even battered women immigrants who as a requirement of the VAWA petition have already shown that leaving the country would produce extreme hardship.

VAWA-2 would reinstate the provision that allowed a battered woman immigrant to remain in the U.S. and wait to receive her green card by paying a \$1,000 fine. The key reason to treat battered women differently is that battered women lose the protections of the U.S. courts and leave themselves open to retaliation when they are returned to their home countries.

- * Delete Time Limit on Motions to Reopen VAWA Case -- Under current law, battered women often fail to find out INS has initiated deportation proceedings against them -- even after a court has considered the case in their absence and found them deportable (a "final order" is issued) -- because the battering husband hides the mail. When this happens the battered wife may file to reopen her case IF she finds out within 90 days of the final order. The problem: battered women often fail to find out within 90 days -- because INS never seeks to actually deport them and batterers tend to keep the mail from the battered spouse.

VAWA-2 would delete the 90 day time limit, so that battered women with

valid VAWA claims can have their cases reopened when they find out they are deportable, even if it is more than 90 days after the final order.

Expand VAWA-1 to Fix Catch-22s Not Fixed by VAWA-1

- * **Legal Services for Battered Immigrants** -- Under current law agencies that receive federal funds from the Legal Service Corporation can use their non-federal funds to represent battered women and children in actions relating to their abuse by a spouse, but cannot represent immigrants battered by other partners, including common law spouses and live-in boyfriends.

VAWA-2 would allow the agencies to use their non-federal funds to represent women and children abused within the marital relationship or any other relationship covered by state domestic violence laws, including in some states common law spouses and live-in boyfriends.

- * **Training** -- VAWA-2 would expand training of asylum officers, the INS, immigration judges, and justice system personnel on how to interpret and apply VAWA's immigration provisions.
- * **Spouses of Military Members Stationed Abroad** -- VAWA-1 immigration relief does not apply to battered spouses located on U.S. military bases overseas, despite the fact that domestic violence is higher in military marriages than civilian marriages and that a battered spouse who remains married could file for a green card.

VAWA-2 would allow a battered spouse located on a U.S. military base overseas to petition for a green card whether or not she leaves the battering spouse.

- * **Derivative Status for Children of Battered Women** -- Under current law, women

who remain in their marriages can include their foreign-born children in their suspension of deportation claims. But, battered women who leave their battering husbands and petition under VAWA cannot petition on behalf of their foreign-born children, which means that a battered woman must remain with her battering husband -- or face the possibility that her children are deported while she is allowed to stay in the U.S.

VAWA-2 would allow battered women who leave their battering husbands and petition under VAWA to petition on behalf of their foreign-born children, just like women who remain married.

- * Spouses of Bigamists – Petitions under VAWA-1 are available only to battered spouses of a valid marriage – a battered immigrant (e.g. mail order bride) who finds herself married to a bigamist cannot file a VAWA petition.

VAWA-2 would allow battered women who marry bigamists to file VAWA petitions.



U.S. Department of Justice



Washington, D.C. 20530

PATRICIA BRODERICK
Violence Against Women
Office
Special Counsel
(202) 305-0058 (OFFICE)
(202) 307-3904 (FAX)

DATE: 6-19-97TO: Mary SmithFAX #: 456-7431 PHONE #: 456-5571# OF PAGES: 28 (INCLUDING COVER)COMMENTS: Here is the draft proposal - hope
it is useful.

JLB

Pat

U.S. DEPARTMENT OF JUSTICE
Washington, D.C. 20530

doj logo

DOMESTIC VIOLENCE POLICY AND GUIDANCE:

THE DOJ WORKPLACE RESPONSE

STOP THE CYCLE OF VIOLENCE
(graphic)

WHAT YOU CAN DO

Domestic Violence Prevention Policy and Guidance:**The DOJ Workplace Response**

Contents	Page
Message from the Attorney General	
Workplace Domestic Violence Policy and Guidance Overview	
Critical Incident Response Team	
Threats	
Workplace Safety Plans	
Responsibilities	
Managers	
Employees	
Employee Assistance Program	
Human Resources	
Security	
Critical Incident Response Teams	

Contents**Page**

Domestic Violence Prevention Resources

Appendix A

Critical Incident Response Team Representatives

Appendix B

Workplace Safety Plans

Appendix C

Policy and Guidance Definitions

Appendix D

Message to Managers

Much has been written and discussed in the media about loss of life, physical and psychological injury, and damage to property occurring as a result of domestic violence. However, little attention has been given to the serious and detrimental effects that domestic violence has on the workplace. As the incidence of domestic violence increases, so can we expect for the numbers associated specifically with workplace domestic violence to rise. Victims of domestic violence are typically trying desperately to maintain their on-the-job productivity and dignity, but, often feel alone and without resources. Without help, the victim's inaction may lead to lower job productivity, and acts of violence in the workplace perpetrated by the abuser against the primary victim, his or her coworkers, and/or Government property. The Department has developed this comprehensive plan to ensure that employees and managers will provide available support and assistance to employees who are experiencing domestic violence whether the abuse is occurring inside or outside the workplace or perpetrated by Departmental or non-Departmental persons. This support may include confidential means for coming forward for help, resource and referral information, additional security at the workplace, and other assistance base on individual need.

Violence, threats, harassment, intimidation, and other disruptive behavior associated with domestic violence will not be tolerated in our workplace; that is, all reports of incidents will be taken seriously and will be dealt with appropriately. Such behavior can include oral or written statements, gestures, or expressions that communicate a direct or indirect threat of physical harm. Individuals who commit such acts may be removed from premises and may be subject to disciplinary action and/or criminal penalties.

In light of the above, and in the Department's never ending quest to stay ahead of the curve on societal matters that spill over into the workplace, this comprehensive plan is aimed at maintaining a safe and healthful workplace for victims of domestic abuse and for providing support to employees who are being subjected to domestic violence outside the workplace. Please, carefully read the policy and guidance that follow.

Remember. Domestic violence is not just a family matter.

Janet Reno

WORKPLACE DOMESTIC VIOLENCE POLICY AND GUIDANCE OVERVIEW

The Department has a continuing commitment to promoting a safe and healthful work environment for our employees. Incidents associated with domestic violence that spill over into the workplace are no exception to this Departmental concern and commitment. Domestic violence includes stalking or other forms of coercive behavior used by one person to gain power and control over another by means of physical acts of aggression, psychological intimidation, verbal abuse and/or economic control. It may occur between persons married or unmarried, living together or separately, and in heterosexual or same sex relationships. Further, domestic violence occurs between people of all racial, economic, social, educational and religious backgrounds, and is a major cause of injury to women. Although we typically think of women as victims of such violence, we must be mindful that men can be victims of domestic violence as well.

This policy and guidance is specifically designed to respond to workplace domestic violence which includes assistance and support for employees who are abused off the job as well as those victimized while in the workplace. A definition of workplace domestic violence is included in Appendix D. Individual employees, supervisors and managers, and human resource, security and employee assistance program representatives (See Appendix D.) must all be integrally involved in the Department's response to incidents of workplace domestic violence involving our employees. The specific responsibilities of employees, supervisors and managers, and each of these representative is addressed later in this policy and guidance.

Employees Subjected to Domestic Violence Outside of the Workplace

Domestic violence occurring outside the workplace is the most common type of domestic violence but nevertheless has a major impact in the workplace. The domestic abuse an employee receives at home can lead to lost productivity, increased absenteeism, higher health care cost and increased stress for the victim and his or her coworkers, and thus, is a source of concern to Department employees and to the Department. Therefore, employees who identify themselves as victims of domestic abuse occurring outside of the workplace may expect the support of the Department in their attempts to resolve these often difficult problems.

Employees Subjected to Domestic Violence in the Workplace

The Department has a continuing commitment to protect its employees from acts of aggression including those associated with domestic violence while in the workplace. Employees who are victims of domestic abuse in the workplace may expect the full support of the Department aimed at ensuring that they are able to perform their job duties in an atmosphere free of the threats and stressors associated with domestic abuse.

Prevention and Early Intervention

graphic
(Two people angrily pulling on a rope)

Strategies the Department will use to deter or minimize the occurrence and effects of domestic violence in the workplace include prevention and early intervention techniques. Employees who are victims of domestic violence will be provided support and assistance by the Department regardless whether the violence occurred on or off the job. This support may include providing resource and referral information, additional security at the work site, work schedule adjustments, workplace relocation or appropriate leave to obtain medical, counseling or legal assistance. Other appropriate support and assistance should be provided based on the unique needs of an employee. Options that employees who are victims of domestic violence have in coming forward for help from the Department are outlined in Employee Responsibilities (page X). The privacy interests of an employee who comes forward should be protected to the extent practicable.

The Department will publish and post in locations of high visibility, such as bulletin boards, break rooms, phone directories and on-line data systems, a list of resources for both victims and perpetrators of domestic violence. A list of these resources is also included in this booklet at Appendix A. In addition, the Department will provide resource information to employees on the prevention of workplace domestic violence.

Administrative Response to Acts or Threats of Workplace Domestic Violence

The Department will ensure that mechanisms are in place to help employees who are victims of domestic violence no matter whether the abuse occurs on or off the job. These mechanisms will include having appropriate policies under which victims and perpetrators of domestic violence are able to receive assistance, Critical Incident Response Teams are formulated, and the responsibilities of supervisors, human resources, security and employee assistance representatives are made clear. Under this policy, the Department will not tolerate workplace domestic violence by a Department employee which includes but is not limited to harassment of any employee, client or contractor by a spouse, significant other or family member while in the Department offices, facilities, work sites, vehicles, or anywhere that an employee is conducting business on behalf of the Department. Discipline, including removal from the Federal Service will be considered for any employee who engages in workplace domestic violence. Engaging in any violent, aggressive, or threatening behavior, whether physical or verbal, that results in physical or emotional injury or otherwise

places a person's safety or productivity at risk, is considered an act of workplace domestic violence when the off-the-job relationship between the victim and perpetrator is a factor.

Performance and/or Conduct Issues Related to Domestic Violence

It is the responsibility of each employee to perform in an acceptable manner and to maintain proper conduct; however, the Department recognizes that a victim of domestic abuse may experience on-the-job problems such as chronic absenteeism or inability to concentrate as a result of the violence. When an employee subject to a performance based or conduct based action confides that domestic violence has caused the problem, a referral for appropriate assistance should be made.

The manager, in collaboration with the employee, employee assistance program and human resource professionals should allow a reasonable amount of time for the employee to get help for the domestic violence. Managers should be mindful that the effects of domestic violence may be severe and take extended periods of time to be fully addressed. Approved leave, as appropriate, should be granted to victims and perpetrators of workplace domestic violence for purposes of seeking assistance. Such leave must be requested and granted in accordance with the procedures of an employee's work unit, Department policy, and Federal leave statutes and regulations.

Critical Incident Response Team

Graphic

(concerned employees sitting
at table)

The Department recognizes the necessity of quick decisive responses on behalf of those affected by an incident of workplace domestic violence. In this regard, each of the Department's bureaus should establish one or more Critical Incident Response Teams (CIRT) that will respond as quickly as possible when an **emergency situation** arises as a result of an incident of workplace domestic violence. Methods of distinguishing between emergency and non-emergency situations are discussed below.

The manner in which a potentially violent act or crisis involving workplace domestic violence is handled is important to the resolution of trauma for affected employees. The short-term response involves guarding against a possible immediate threat until a long-term solution can be developed. The long-term solution should address the root causes of the problem and minimize the chances of a recurrence of the threatening situation. In order to adequately address emergency incidents of workplace domestic violence, it is important to receive input from a number of Department resources. These resources may include representatives from security and human resources staffs, an employee assistance program professional and a bureau senior management official with line authority over the CIRT members. In addition, and when appropriate, it is important to include the manager of the work unit in which the emergency situation occurred as an important resource in developing short and long-term solutions. Accordingly, the Department bureaus should appoint four standing members and an appropriate number of alternates to their respective CIRTs, from the resources mentioned above, who will respond to all **emergency situations** involving incidents of workplace domestic violence. In addition, the Department will provide training to CIRT members on their functions and roles. A CIRT membership chart is located at Appendix B.

A workplace domestic violence **emergency situation** is defined as one which involves an act or threat against life or Government property. Other acts or threats may be handled as **non-emergencies**. When an **emergency situation** arises, the manager in the work unit in which the critical incident occurred should contact the CIRT. When contacted, the CIRT should meet as soon as possible (sometimes via a telephone conference call) to plan a course of action to resolve the problem.

Threats

(Graphic)
(Danger with universal "no -
bar/circle across it)

Victims of domestic violence are often threatened by their abusers while the victim is at work (many times by telephone) and may report such threats to their supervisors or to co-workers. Concerned co-workers may then alert the supervisor. Either way, the supervisor is responsible for evaluating the situation to determine its seriousness.

Not all abusers who threaten, however, actually intend to carry out the threat. To distinguish serious threats from mere attention seeking or grandstanding, supervisors should seek the services of employee assistance program and human resources representatives. If after discussing the facts, the parties believe that someone has threatened domestic violence or has a genuine fear of it, or if the parties are unable to reach a consensus on whether a threat is real, appropriate action must be taken. The employee assistance program representative or human resources representative may decide to convene the CIRT in such situations.

Workplace domestic violence threats may come from several sources or categories of individuals and may require an immediate response. The following guidance applies.

Anyone witnessing a workplace domestic violence threat from a non DOJ employee should contact a security representative, the Federal Protective Service (FPS), the local police, and the CIRT, as appropriate. Managers of each work location covered by this policy should know their security coverages, i.e., whether it is appropriate to contact the FPS, local police, or another law enforcement entity when a domestic violence situation occurs in the workplace.

If one employee threatens another employee in a domestic violence situation, the supervisor should contact a security representative, if deemed advisable, to remove the employee/perpetrator from the work site. Approved leave, consistent with work unit procedures, Department policy and Federal leave statutes and regulations, may be granted to the perpetrator and/or the victim of the workplace domestic violence threat if he or she requests it. Approved leave is also appropriate if the perpetrator does not request leave, and circumstances warrant removing him or her from the work site. In addition, the supervisor must alert the CIRT when such threats occur.

Anyone who receives a workplace domestic violence threat from a contractor should promptly report the situation to his or her supervisor or manager who should contact a security representative to arrange for the immediate removal of the contractor from the work site. In addition, the contracting officer's representative must contact the appropriate CIRT.

Workplace Safety Plans

(Graphic)
(Security Officer or security
desk)

A workplace safety plan is designed for each incident of domestic violence to protect a particular employee from a specific threat. The CIRT, with appropriate input, designs the plan based on the employee's particular circumstances. The purpose of a workplace safety plan is guard against acts of domestic violence taking place in the workplace and to provide assistance and a supportive atmosphere to employees who are abused outside of the workplace. Elements that are commonly included in a workplace safety plan are located at Appendix C and each should be considered in the developing a plan for a victim based upon his or her individual needs.

A victim of workplace domestic violence should be a critical participant in the development of any workplace safety plan and with the assistance of Departmental resources, should decide what elements to include in the plan. However, if it is determined that other employees or customers are at risk because of the domestic violence situation, the Department will take the steps necessary to ensure their safety.

The Manager's/Supervisor's Responsibilities

(graphic)

(Group around a table)

- Immediately contact the CIRT when a workplace domestic violence emergency situation arises with an employee.
- Be aware of performance-related, physical or behavioral changes in employees and consult with human resources, employee assistance, security, and the chain of command, as appropriate. While supervisors should monitor employees for such changes, they should not attempt to diagnose the problem. In addition to possible bruises, symptoms associated with domestic violence include declining job performance, chronic absenteeism, repeated physical injuries, excessive clothing, obsession with time, emotional distress, excessive personal telephone calls, depression and isolation.
- If a supervisor observes symptoms of domestic violence, it is important for him or her to convey the concerns regarding those signs and symptoms to appropriate officials for advice and guidance. It is critical that supervisors respect the privacy interests of employees to the extent practicable. In short, the privacy interests of the employee must be balanced against the likelihood of an emergency workplace violence situation occurring.
- Work with the employee and other Department resources to develop a workplace safety plan. The elements of the plan may include relocating the employee, monitoring the employee's telephone calls, arranging a new telephone number for the employee, adjusting the employee's work schedule and granting approved leave, as appropriate, for medical assistance, legal assistance, therapeutic counseling, court appearances, relocation, or to make other arrangements to enhance the safety and well-being of the employee.
- Be responsive when an employee who is either a victim or perpetrator of domestic violence asks for help. Immediately contact human resources, employee assistance and security representatives, and the chain of command, as appropriate.
- Comply with all civil protection orders. If both the plaintiff and defendant in a civil protection order are employees of the Department, the supervisor must work with the CIRT to ensure that the defendant is relocated to a work location in which the defendant

will have no contact with the plaintiff. A supervisor who observes a violation of a civil protection order, must contact the CIRT immediately.

- The employee's boundaries and privacy must be respected, even if a supervisor thinks the employee is backsliding into the abusive relationship. A victim of domestic violence may make several attempts to leave the abusive situation before being able to leave the perpetrator. Leaving abusive relationships is often difficult for victims of domestic violence because of financial concerns, welfare of children and threats of violence.
- Consult with a human resources representative before taking disciplinary action against employees who violate workplace domestic violence policy.
- Inform subordinates periodically of the Department's policy and guidance on maintaining a work environment free from acts of workplace domestic violence.

Employee Responsibilities (Victims)

- Talk with a trusted co-worker, friend or manager about your situation.
- Contact the Employee Assistance Program at 202-514-8236, 1-800-626-0385, or the National Domestic Violence Hotline at 1-800-799-SAFE (Voice) and 1-800-787-3224 (TDD)
- Call the local police if you are in immediate danger.
- Coordinate approved absences from duty with your supervisor. Provide acceptable supporting documentation, be clear about your intention to return to work, and be sure to maintain contact with your supervisor during your absence.
- If your safety is a concern, submit a recent photograph of the perpetrator and a copy of your protection order to your supervisor, security and the police department. This will assist in identifying the perpetrator by allowing the Department to develop and implement precautions to tighten security should he or she attempt to enter the workplace.
- Work with your CIRT to develop or modify a workplace safety plan for each incident.

Employee Responsibilities (Perpetrators)

- If you want need/ want help, contact the Employee Assistance Program at 202-514-8236 or 1-800-626-0385 for confidential consultation and resources available to assist you.
- Contact a batterer's intervention program. (See Appendix A.)

Employee Responsibilities (Witnesses to Domestic Violence)

- Report any workplace domestic violence or threats that you experience, as an unintended victim, or witness, to your supervisor, human resources, security and/or an employee assistance program representative. Failure to do so may place a co-worker or you at greater risk of harm.

Employee Assistance Program Responsibilities

- Train Employee Assistance Program staff on identifying the warning signs of potential violence in both the perpetrator and the subject of domestic violence.
- Train Employee Assistance Program staff on effective means of intervening in cases of real or suspected domestic violence.
- Maintain up-to-date referral resources on domestic violence hotlines, advocacy groups, shelters, counseling services and legal services. Referral listings should include resources for perpetrators such as batterer's intervention programs.
- Conduct periodic site visits to referral resources to ensure that the quality of assistance provided by the resource is being maintained.
- Provide education on domestic violence through existing or new channels such as lunchtime seminars, newsletters, posters, pamphlets, and employee and management training sessions.
- Educate the Department about the Employee Assistance Program's ability to intervene in workplace domestic violence situations. Inform managers and supervisors of the need to contact an employee assistance program representative immediately with any concerns regarding workplace domestic violence victims or perpetrators.
- Work with victims of workplace domestic violence and the appropriate CIRT to formulate workplace safety plans.
- Maintain the confidentiality of clients experiencing domestic violence in accordance with law and Departmental procedures.
- With the victim's or perpetrator's permission, provide advice and consultation to supervisors to seek workplace cooperation concerning leaves of absence, correction of performance or conduct deficiencies, and safety needs.
- Participate as needed in assessing workplace domestic violence threats.
- Arrange for or conduct critical incident stress debriefings, as appropriate.
- Convene CIRTs, as appropriate.

Human Resources Responsibilities

- Maintain a list of services available to victims and perpetrators of domestic violence.
- Work with victims, supervisors and managers, employee assistance program and security representatives to develop workplace safety plans for victims of workplace domestic violence. Ensure that victims are integrally involved in the development of the workplace safety plan.
- Provide advice and assistance to supervisors and managers in assessing any domestic violence threat to harm Department employees or Government property through the CIRTs.
- Advise supervisors and managers on granting leave, adjusting work schedules, and attempting to find continued employment for victims of domestic violence.
- Protect the privacy interests of victims in any actions taken under the Department workplace domestic violence policy.
- Assist supervisors and managers in taking corrective action against employees who use Department resources such as telephones, mail, or faxes, etc. to perpetrate workplace domestic violence. Aid managers and supervisors in assessing the connection between employees convicted of a domestic violence crime and its impact on the efficient operation of the Department.
- Convene CIRTs, as appropriate.

Security Responsibilities

- Immediately respond to any incident of domestic violence in any Department of Justice workplace. Intervene to neutralize the situation, document the incident and contact the appropriate law enforcement agency for investigation.
- Provide security advice, consultation and reasonable assistance to employees who experience workplace domestic violence.
- Keep a certified copy of any civil protection orders provided by employee/victim on file.
- Document violations of the protection order at the workplace.
- Accept transferred, harassing telephone calls from the employee's abuser and document such calls.
- Work closely with the local police to ensure workplace safety.
- Convene the CIRT, as appropriate.
- Participate in the development of security portions of workplace safety plans.

Critical Incident Response Team Responsibilities

- Convene (can be telephonically) as quickly as possible when contacted and informed of an emergency situation that has arisen as a result of workplace domestic violence. When appropriate, include the manager of the work unit in which a workplace domestic violence situation has occurred in CIRT discussions and planning.
- Participate in the development of workplace safety plans, as appropriate.
- Aid supervisors and managers in the assessment of threats related to workplace domestic violence.
- Plan courses of action to resolve problems associated with workplace domestic violence.

Appendix A

DOMESTIC VIOLENCE PREVENTION RESOURCES

U.S. Department of Justice Employee Assistance Program

202-514-8236
1-800-626-0385
Business hours202-514-5000
Non-Business hours

U.S. Department of Justice Protective Security Office

202-514-3271

National Domestic Violence Hotline

1-800-799-SAFE (Voice)
1-800-787-3224 (TDD)

National Coalition Against Domestic Violence

303-839-1852

National Battered Women's Law Project

212-741-9480

National Resource Center on Domestic Violence

1-800-537-2238

Health Resource Center on Domestic Violence

1-800-313-1310

Center for the Prevention of Sexual and Domestic Violence

206-634-1903

National Network to End Domestic Violence

202-434-7405

D.C. Coalition Against Domestic Violence

202-783-5332

Appendix B

(Graphic note: make a pentagon, add
boxes and center)

CRITICAL INCIDENT RESPONSE TEAM REPRESENTATIVES

Bureau Senior Management
Official with Line Authority Over CIRT Members

Human Resources
Representative

Employee Assistance Program
Representative

Security Representative

Graphic: Blank box with "***" inside

****Manager Where Critical Incident
Occurred-- at the Discretion of the Chair**

Appendix C

WORKPLACE SAFETY PLANS

The following human resources, security and employee assistance program issues should be considered in developing a workplace safety plan:

- The nature and seriousness of the threat.
- The vulnerabilities of the employee/victim while commuting to/from work, and while in his or her work space.
- The vulnerability of other employees and government equipment to injury or damage.
- Install additional security measures and devices for the victim and co-worker. These may include locking doors, installing cameras, silent alarms, cellular phones, posting security closer to the work area, and/or relocating the victim's work station.
- Obtain a copy of the victim's civil protection order and make certain that the order is current and available at all times.
- Provide a photograph of the perpetrator to reception areas and to security.
- Identify an emergency contact person in case the victim is unable to contact the Department.
- Provide guidance to the victim on how to enhance his or her personal safety during the commute to and from work.
- Have a security representative arrange for the local police or U.S. Marshall Service to escort the victim to and from parking areas or public transportation.
- Change the work schedule or work site of the victim if such changes are practicable and would enhance workplace safety.
- When possible and as requested, screen the victim's telephone calls at the workplace.
- Change the victim's work telephone number.
- Consult with the employee assistance program and human resources representatives, as appropriate.

Appendix D

DEFINITIONS

Employee assistance program representative: a DOJ or contract employee who provides EAP services to Department personnel. These services include intake, assessment, referral and follow-up on the full range of personal and family problems for Department employees and their immediate families including those problems associated with domestic violence.

Human resources representative: a DOJ employee in the program functions of employee relations and/or labor relations.

Security representative: a DOJ employee in the GS-080 series trained in various aspects of the security field, e.g., physical security, information security, personnel security, ect.

Workplace domestic violence: domestic violence that affects a Department employee on the job whether the abuse is occurring inside or outside of the workplace or perpetrated by Departmental or non-Departmental persons.

Workplace safety plan: a written plan specifically designed to provide against acts of domestic violence taking place in the workplace and to provide assistance and a supportive atmosphere to employees who are abused outside of the workplace.

(Poster)

(Department of
Justice Logo)

STOP THE CYCLE OF VIOLENCE GRAPHIC

What You Can Do

For more information contact:

The Employee Assistance Program

202-514-8236 or
1-800-626-0385 (Business Hours)
202-514-5000 (Non-Business Hours)

The National Domestic Violence Hotline

1-800-799-SAFE (Voice)
1-800-787-3224 (TDD)

Or talk to a trusted co-worker, supervisor, or friend.

Domestic
Violence

VAWA II OUTLINE

Title I -- Sexual Assault

- Prevention of Sexual Misconduct in Prisons (Conyers) — Good
- Protection from Sexual Predators Act (Slaughter)
- Accuracy in Campus Crime Reporting (Duncan)
- Law Enforcement And Campus Grants to Reduce Violent Crimes Against Women on Campus
- National Commission on Standards of Practice and Training for Sexual Assault Examination Act
- Rape Prevention Education Amendments
- Mandatory Notification of Options for Colleges and Universities
- *Expansion of Hate Crimes Statute to Include Gender* (in progress)

Title II -- Domestic Violence

- Full Faith and Credit of Protection Orders And Grant Program (Conyers) — NO
- Prohibition on Transfer of Firearms to Intoxicated Individuals (Conyers)
- Domestic Violence Identification and Referral Act of 1997 (Boxer/Morella)
- Domestic Violence Victims Housing Act (Frank)
- Domestic Violence Legal Services Eligibility Act (Pelosi) — Good
- Victims of Abuse Insurance Protection Act (Sanders) — Good
- National Summit on Sports and Violence (H.Con. Res. Sanders)
- Battered Women's Shelters Act (Lowey)
- Community Initiatives Act (Furse)

Title III -- Limiting the Effects of Violence on Children

- Family Safety Act of 1997 (Morella)

five
Sullivan
— public

Concurrent Resolution regarding Domestic Violence and Children (Morella)

Creation of Supervised Child Visitation Centers (Morella)

Domestic Violence, Child Custody and Child Protection Act (Morella)

ERISA Child Abuse Accountability Act (Maloney)

Rape and Child Custody

Title IV -- Domestic Violence in the Military

Civilian Jurisdiction for Crimes of Sexual Assault and Domestic Violence (DeWine)

Commission on Military Justice and Fairness Act (Maloney)

Technical Amendments

Title V -- Crime Victims Assistance Act

Title VI -- Protections for Women at High Risk

Older Women's Protection from Violence Act (Maloney)

Protections Against Disabled Women

Battered Immigrant Women

Title VII -- Workplace Safety

National Workplace Clearinghouse Domestic and Sexual Violence Grant

Victims' Employment Nondiscrimination Act

Battered Women's Employment Protection Act (Wellstone/Roybal-Allard)

Workplace Violence Prevention Tax Credit Act (Lowey)

Education and Training Grants to Promote Responses to Violence Against Women

Sense of Congress regarding Workers' Compensation

Employer Liability for Gender Related Violence (Maloney)

(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 reduce certain funds to States that fail to establish programs that prevent custodial sexual misconduct in prisons, and for certain 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.**

4 This Act may be cited as the "Prevention of Custodial Sexual Misconduct in Prisons Act of 1997".

6 **SEC. 2. ESTABLISHMENT OF PREVENTION PROGRAM.**

7 (a) PROGRAM GUIDELINES.—

8 (1) IN GENERAL.—The Attorney General shall
9 establish guidelines for States and disseminate such

1 information to the States regarding the prevention
2 of custodial sexual misconduct in prisons.

3 (2) REQUIREMENTS.—Such guidelines shall in-
4 clude requirements that—

5 (A) prohibit a State department of correc-
6 tions from hiring staff who have been convicted
7 on criminal charges, or found liable in civil
8 suits, for custodial sexual misconduct; and

9 (B) each State department of corrections
10 maintain databases, including the names and
11 identifying information of individuals who have
12 been convicted on criminal charges or found lia-
13 ble in civil suits for custodial sexual misconduct
14 and to check these databases prior to hiring
15 any correctional staff.

16 (3) NATIONAL DATABASE.—This information
17 shall also be submitted to the Department of Justice
18 where it will be kept on a national database.

19 (b) RELEASE OF INFORMATION.—The information
20 collected under subsection (a)(2) shall be treated as pri-
21 vate data except that—

22 (1) such information may be disclosed to law
23 enforcement agencies for law enforcement purposes;

1 (2) such information may be disclosed to gov-
2 ernment agencies conducting confidential back-
3 ground checks; and

4 (3) the designated State law enforcement agen-
5 cy and any local law enforcement agency authorized
6 by the State agency may release relevant informa-
7 tion that is necessary to protect prisoners concerning
8 a specific person whose name is included in the
9 database, except that the identity of a victim of an
10 offense that requires information to be maintained
11 under this section shall not be released.

12 (c) IMMUNITY FOR GOOD FAITH CONDUCT.—Law
13 enforcement agencies, employees of law enforcement agen-
14 cies, and State officials shall be immune from liability for
15 good faith conduct in releasing information under this sec-
16 tion.

17 (d) INELIGIBILITY FOR FUNDS.—

18 (1) IN GENERAL.—A State that fails to imple-
19 ment the program as described under this section
20 shall not receive 10 percent of the funds that would
21 otherwise be allocated to the State under subtitle A
22 of title II of the Violent Crime Control and Law En-
23 forcement Act of 1994 (42 U.S.C. 13701).

24 (2) REALLOCATION.—Any funds that are not
25 allocated for failure to comply with this section shall

1 be reallocated to States that comply with this sec-
2 tion.

3 (3) COMPLIANCE DATE.—Each State shall have
4 not more than 3 years from the date of enactment
5 of this Act in which to implement this section, ex-
6 cept that the Attorney General may grant an addi-
7 tional 2 years to a State that is making good faith
8 efforts to implement this section.

9 SEC. 3. CRIMINALIZATION OF SEXUAL CONDUCT BETWEEN
10 CORRECTIONAL STAFF AND PRISONERS.

11 (a) REDUCTION OF FUNDS.—In addition to the re-
12 duction of funds under section 2(d), a State that does not
13 have criminal penalties or a State that fails to implement
14 criminal penalties explicitly prohibiting custodial sexual
15 misconduct by correctional staff against prisoners shall
16 not receive 10 percent of the funds that would otherwise
17 be allocated to the State under part A of title II of the
18 Violent Crime Control and Law Enforcement Act of 1994
19 (42 U.S.C. 13701).

20 (b) REALLOCATION.—Any funds that are not allo-
21 cated for failure to comply with this section shall be reallo-
22 cated to States that comply with this section.

23 (c) COMPLIANCE DATE.—Each State shall have not
24 more than 3 years from the date of enactment of this Act
25 in which to implement this section, except that the Attor-

1 ney General may grant an additional 2 years to a State
2 that is making good faith efforts to implement this sec-
3 tion.

4 SEC. 4. NATIONAL SEXUAL CONTACT HOTLINE FOR PRIS-
5 ONERS.

6 (a) IN GENERAL.—Not later than 1 year after the
7 date of the enactment of this Act, the Attorney General
8 shall create a national, confidential, toll-free telephone
9 hotline to collect data^{2, 3, 4} to provide information and assist-
10 ance to prisoners who have experienced custodial sexual
11 misconduct by corrections staff.

12 (b) ACTIVITIES.—Funds authorized under this sec-
13 tion shall be utilized to establish and operate a national,
14 confidential, toll-free sexual contact hotline. Such funds
15 shall be used for activities, including—

16 (1) contracting with a carrier for the use of a
17 toll-free telephone line;

18 (2) employing, training, and supervising person-
19 nel to answer incoming calls and provide counseling
20 and referral services to callers;

21 (3) assembling, maintaining, and continually
22 updating a database of information and resources to
23 which callers may be referred throughout the United
24 States;

1 (4) publicizing the hotline to prisoners through-
2 out the United States; and

3 (5) tracking of the number of complaints, in-
4 cluding the name and location of the complainant,
5 the offender, and the incident.

6 (c) REPORTING OF INFORMATION.—Information re-
7 garding the number of complaints and the status of those
8 complaints shall be included in the Attorney General's an-
9 nual report.

10 (d) PROCESSING COMPLAINTS.—Complaints may be
11 referred to the criminal section of the Civil Rights Division
12 of the Department of Justice for investigation or for refer-
13 ral to the appropriate State agency for investigation.

14 (e) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to carry out this section
16 \$300,000 for fiscal year 1997 and \$100,000 for each of
17 the fiscal years 1998, 1999, and 2000.

18 SEC. 5. DEFINITIONS.

19 For purposes of this Act—

20 (1) the term "corrections staff" means any em-
21 ployee, contractual employee, volunteer, or agent of
22 a correctional department who is working in any
23 contact position with any prisoners under the juris-
24 diction of that department; and

1 (2) the term "custodial sexual misconduct"
2 means any physical contact, directly or through the
3 clothing, with the sexual or intimate parts of a per-
4 son for the purpose of sexual gratification of either
5 party, when the parties involved are a person in cus-
6 tody of a correctional department and a member of
7 the corrections staff.

105TH CONGRESS
1ST SESSION

H. R. 305

To provide protection from sexual predators.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Ms. SLAUGHTER (for herself, Mr. ACKERMAN, Mr. FAZIO of California, Mr. Frost, Mr. GREEN, Mr. HINCHEY, Mr. HOLDEN, Ms. NORTON, Ms. JACKSON-LEE of Texas, Mrs. LOWEY, Mr. MCINTYRE, Ms. MCKINNEY, Mrs. MALONEY of New York, Mr. MANTON, Mrs. MEEK of Florida, Mr. MENENDEZ, Mrs. MINK of Hawaii, Mr. MORAN of Virginia, Mrs. MYRICK, Mr. OWENS, Ms. PELOSI, Mr. PORTER, and Mr. SCHUMER) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide protection from sexual predators.

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 “Protection from Sexual
5 Predators Act of 1997”.

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

7 (a) **FINDINGS.**—Congress finds that—

1 (1) rape and sexual assaults continue to be seri-
2 ous threats to the safety of communities across
3 America;

4 (2) sexual offenders are much more likely than
5 any other category of criminals to repeat their
6 crimes again and again, even after serving time in
7 prison;

8 (3) the average rape sentence is just 10½
9 years, and the average time served is half of that,
10 approximately 5 years; and

11 (4) repeat sexual offenders frequently strike in
12 more than one State and, while States have primary
13 responsibility for the prosecution of sexual offenders,
14 the option of Federal prosecution provides a needed
15 additional tool to safeguard communities victimized
16 by these individuals.

17 (b) SENSE OF CONGRESS.—It is the sense of Con-
18 gress that—

19 (1) States should more seriously consider the
20 relatively high recidivism rate of sexual offenders
21 when deciding whether to plea bargain with a first-
22 time sexual offender and whether to grant parole to
23 sexual offenders; and

24 (2) States should review their treatment and
25 parole supervision programs for sexual offenders to

1 assure that these programs are fulfilling their goals,
2 and, if they are not, these programs should be im-
3 mediately replaced or abandoned.

4 **SEC. 3. FEDERAL JURISDICTION OVER RAPE AND SEXUAL**
5 **ASSAULT CASES.**

6 Section 2241 of title 18, United States Code, is
7 amended by adding at the end the following:

8 “(e) PUNISHMENT FOR SEXUAL PREDATORS.—(1)
9 Whoever, in a circumstance described in paragraph (2) of
10 this subsection—

11 “(A) violates this section; or

12 “(B) engages in conduct that would violate this
13 section, if the conduct had occurred in the special
14 maritime and territorial jurisdiction of the United
15 States, and—

16 “(i) that conduct is in interstate or foreign
17 commerce;

18 “(ii) the person engaging in that conduct
19 crossed a State line with intent to engage in the
20 conduct; or

21 “(iii) the person engaging in that conduct
22 thereafter engages in conduct that is a violation
23 of section 1073(1) with respect to an offense
24 that consists of the conduct so engaged in;

25 shall be imprisoned for life.

1 “(2) The circumstance referred to in paragraph (1)
2 of this subsection is that the defendant has previously
3 been convicted of another State or Federal offense for con-
4 duct which—

5 “(A) is an offense under this section or section
6 2242 of this title; or

7 “(B) would have been an offense under either
8 of such sections if the offense had occurred in the
9 special maritime or territorial jurisdiction of the
10 United States.”.

11 **SEC. 4. ADDITIONAL CONDITION FOR TRUTH IN SENTENC-**
12 **ING GRANTS.**

13 Section 20104 of the Violent Crime Control and Law
14 Enforcement Act of 1994 is amended by adding at the
15 end the following:

16 “(c) ADDITIONAL REQUIREMENT.—A State is not eli-
17 gible for a grant under this section unless such State has
18 provided assurances to the Attorney General that such
19 State has in effect laws which allow the court to impose
20 a sentence of life in prison without parole on a defendant
21 in a criminal case who is convicted of a State offense for
22 conduct that—

23 “(1) is an offense under section 2241 or 2242
24 of title 18, United States Code; or

1 “(2) would have been an offense under either of
2 such sections if the offense had occurred in the spe-
3 cial maritime or territorial jurisdiction of the United
4 States;
5 after having previously been convicted of another State or
6 Federal offense for conduct that was an offense described
7 in paragraph (1) or (2).”.

8 **SEC. 5. STUDY OF PERSISTENT SEXUAL PREDATORS.**

9 The National Institute of Justice, either directly or
10 through grant, shall carry out a study of persistent sexual
11 predators. Not later than one year after the date of the
12 enactment of this Act, such Institute shall report to Con-
13 gress and the President the results of such study. Such
14 report shall include—

15 (1) a synthesis of current research in psychol-
16 ogy, sociology, law, criminal justice, and other fields
17 regarding persistent sexual offenders, including—

18 (A) common characteristics of such offend-
19 ers;

20 (B) recidivism rates for such offenders;

21 (C) treatment techniques and their effec-
22 tiveness;

23 (D) responses of offenders to treatment
24 and deterrence; and

- 1 (E) the possibility of early intervention to
- 2 prevent people from becoming sexual predators;
- 3 and
- 4 (2) an agenda for future research in this area.

○

105TH CONGRESS
1ST SESSION

H. R. 715

To amend the Higher Education Act of 1965 to revise the campus security reporting provisions to provide for a more complete, timely, and accurate disclosure of crime reports and statistics, and to provide for specific methods of enforcement of the campus security provisions of such Act.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 1997

Mr. DUNCAN (for himself, Mr. SCHUMER, Mr. SHAYS, Mr. MEEHAN, Mr. QUINN, Mr. GREENWOOD, Mr. HILLEARY, Mr. FOLEY, Mr. FATTAH, Mr. KLUG, Mr. MARKEY, Mr. FOX of Pennsylvania, Mr. MCHALE, Mr. LIPINSKI, Mr. HASTINGS of Florida, Mr. MATSUI, Mr. PAYNE, and Mr. ANDREWS) introduced the following bill; which was referred to the Committee on Education and Workforce

A BILL

To amend the Higher Education Act of 1965 to revise the campus security reporting provisions to provide for a more complete, timely, and accurate disclosure of crime reports and statistics, and to provide for specific methods of enforcement of the campus security provisions of such Act.

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; REFERENCES.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Accuracy in Campus Crime Reporting Act of 1997”.

4 (b) **REFERENCES.**—Except as otherwise provided
5 therein, whenever in this Act an amendment or repeal is
6 expressed in terms of a section or other provision, such
7 amendment or repeal shall be considered to be made to
8 a section or other provision of the Higher Education Act
9 of 1965 (20 U.S.C. 1001 et seq.).

10 **SEC. 2. DISCLOSURE OF CRIMES REPORTED AND DAILY**
11 **CRIME LOG.**

12 (a) **ANNUAL STATISTICS.**—Section 485(f)(1)(F) (20
13 U.S.C. 1092(f)(1)(F)) is amended—

14 (1) by striking “campus security authorities or
15 local police agencies” and inserting “campus security
16 or law enforcement; other campus officials (including
17 administrators, deans, disciplinary officers, athletic
18 department officials, housing officials, and coun-
19 selors) to whom crimes are reported; or local law en-
20 forcement”;

21 (2) by striking clauses (i) through (vi) and in-
22 serting the following:

23 “(i) homicide, including—

24 “(I) murder or nonnegligent man-
25 slaughter; or

26 “(II) negligent manslaughter;

- 1 “(ii) sex offenses, forcible or nonforcible;
- 2 “(iii) robbery;
- 3 “(iv) aggravated assault;
- 4 “(v) burglary;
- 5 “(vi) larceny;
- 6 “(vii) motor vehicle theft;
- 7 “(viii) arson;
- 8 “(ix) simple assault; and
- 9 “(x) vandalism.”.

10 (b) ANNUAL STATISTICS.—Section 485(f)(1)(H) (20
11 U.S.C. 1092(f)(1)(H)) is amended by striking “arrests
12 for” and inserting “incidents of”.

13 (c) ANNUAL SUBMISSION.—Paragraph (4) of section
14 485(f) (20 U.S.C. 1092(f)(4)) is amended to read as fol-
15 lows:

16 “(4)(A) Each institution participating in any pro-
17 gram under this title shall annually submit to the Sec-
18 retary a copy of the statistics required to be made avail-
19 able pursuant to paragraphs (1)(F) and (1)(H).

20 “(B) The Secretary shall collect such statistics and
21 report each set in its entirety, with each institution and
22 campus clearly identified, to the Committee on Education
23 and the Workforce of the House of Representatives, the
24 Committee on Labor and Human Resources of the Senate,
25 each participating institution, and the public via printed

1 and electronic means as the Secretary shall determine.
2 This report shall be issued on or before February 1 of
3 each year.”.

4 (d) COMPILATION METHOD.—Paragraph (6) of sec-
5 tion 485(f) (20 U.S.C. 1092(f)(6)) is amended to read as
6 follows:

7 “(6)(A) The statistics described in paragraphs (1)(F)
8 and (1)(H) shall be compiled in accordance with the stand-
9 ards and definitions used in the uniform crime reporting
10 system of the Department of Justice, Federal Bureau of
11 Investigation, and the modifications in such standards and
12 definitions as implemented pursuant to the Hate Crime
13 Statistics Act (28 U.S.C. 534, note).

14 “(B) The accuracy of the statistics described in para-
15 graphs (1)(F) and (1)(H) shall be certified by each official
16 charged with compiling statistics for inclusion.”.

17 (e) CRIME LOGS.—Section 485(f) is further amend-
18 ed—

19 (1) by redesignating paragraphs (4) through
20 (7) as paragraphs (5) through (8), respectively; and
21 (2) by inserting after paragraph (3) the follow-
22 ing new paragraph:

23 “(4)(A) Each institution participating in any pro-
24 gram under this title which maintains either a police or
25 security department of any kind shall make, keep, and

1 maintain a daily log, written in a form that can be easily
2 understood, recording in chronological order all crimes re-
3 ported to such police or security department, including—

4 “(i) the nature, date, time, and general location
5 of each crime;

6 “(ii) the disposition of the complaint, if known;

7 “(iii) if citations have been issued or charges
8 made, the names and addresses of all persons cited
9 or charged, and the charges against them; and

10 “(iv) if an arrest has been made, the names and
11 addresses of all persons arrested and the charges
12 against such persons arrested.

13 “(B) Unless otherwise required by law, each institu-
14 tion may, but is not required to, identify in its log the
15 alleged victim or victims, witnesses, or suspects who have
16 not been arrested or cited, relating to any investigation
17 of a crime.

18 “(C)(i) All entries which are required pursuant to
19 this paragraph shall, except where disclosure of such infor-
20 mation is prohibited by law, be open to public inspection
21 within 24 hours of the initial report being made to the
22 department, a campus security authority, or other campus
23 official.

24 “(ii) Where there is clear and convincing evidence
25 that the release of such information would jeopardize an

1 ongoing criminal investigation or the safety of an individ-
2 ual, cause a suspect to flee or evade detection, or result
3 in the destruction of evidence, such information may be
4 withheld until that damage is no longer likely to occur
5 from the release of such information. Under no cir-
6 cumstances, however, shall this exception permit the non-
7 reporting of the nature, date, time, and general location
8 of a reported crime.

9 “(iii) All exceptions to the reporting provisions of this
10 paragraph are to be construed as narrowly as possible.
11 Only that information which is protected from release by
12 law shall remain confidential. All other information relat-
13 ing to each report shall be public.

14 “(D) Reports may be disseminated by electronic
15 media, including computer networks, where it is reason-
16 ably assured the information will reach most of the cam-
17 pus population in a timely fashion.”.

18 (f) VICTIMS’ RIGHTS.—Paragraph (8) of section
19 485(f) (as redesignated by subsection (e) of this section)
20 is amended by striking subparagraph (C).

21 (g) DISCIPLINARY PROCEEDINGS.—Section 485(f) is
22 further amended by adding at the end the following new
23 paragraph:

24 “(9)(A) Each institution of higher education partici-
25 pating in any program under this title shall develop and

1 distribute as part of the report described in paragraph (1)
2 a statement of policy regarding—

3 “(i) such institution’s on-campus disciplinary
4 practices in cases of alleged infractions of the insti-
5 tution’s code of conduct, or other policies, resulting
6 from an act or series of acts that would constitute
7 a crime or crimes within the meaning of local, State,
8 or Federal law, whether or not those acts have actu-
9 ally resulted in criminal charges, prosecution, or
10 conviction; and

11 “(ii) the procedures followed once a crime has
12 occurred.

13 “(B) The policy described in subparagraph (A) shall
14 include a clear statement that—

15 “(i) all students reporting an offense shall be
16 informed of their options to notify proper law en-
17 forcement, including on-campus and local police;

18 “(ii) the accuser and the accused are entitled to
19 the same opportunities to have others present during
20 a campus disciplinary proceeding;

21 “(iii) both the accuser and the accused shall be
22 informed of the outcome of any campus disciplinary
23 proceeding brought alleging criminal misconduct;

1 “(iv) any campus disciplinary proceeding
2 brought alleging criminal misconduct shall be open;
3 and

4 “(v) all records of any such campus disciplinary
5 proceeding brought alleging criminal misconduct
6 shall be open to public inspection during the regular
7 business hours of the custodian of such records, ex-
8 cept for previously created education records not re-
9 lated to criminal allegations which are used during
10 the course of the proceeding.”.

11 (h) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on January 1, 1998.

13 **SEC. 3. EXEMPTION OF ALLEGATIONS OF CRIMINAL ACTIV-**
14 **ITY FROM EDUCATION RECORDS DEFINITION.**

15 (a) AMENDMENT.—Section 444(a)(4)(B) of the Gen-
16 eral Education Provisions Act (20 U.S.C. 1232g(a)(4)(B))
17 is amended—

18 (1) by redesignating clauses (iii) and (iv) as
19 clauses (iv) and (v), respectively; and

20 (2) by inserting after clause (ii) the following
21 new clause:

22 “(iii) records which are made or maintained by
23 any officer, office, department, or individual em-
24 ployee of an educational agency or institution
25 about—

1 “(I) individuals accused of committing or
2 participating in any criminal activity as defined
3 in local, State, or Federal law alleged to have
4 occurred while the individual was a student in
5 attendance, including audit or noncredit, at an
6 educational agency or institution, whether or
7 not those acts have actually resulted in criminal
8 charges, prosecution, or conviction which are
9 relative to the alleged misconduct;

10 “(II) the accused in subsequent internal
11 disciplinary proceedings of any kind resulting
12 from, or related to, the alleged activity, regard-
13 less of the terminology or nature of the institu-
14 tional infraction or policy violation alleged;

15 “(III) the time, duration, attendance pol-
16 icy, and location or locations of any such dis-
17 ciplinary proceedings;

18 “(IV) the findings relative to the accused
19 of any such disciplinary proceedings;

20 “(V) the current disposition or status of
21 the case, the sanctions incurred (if any), and
22 any subsequent findings or amendments to such
23 sanctions;

1 “(VI) accusations of criminal misconduct
2 and related sanctions from any previously at-
3 tended educational agencies or institutions
4 where such records were created on or after
5 September 1, 1998, and which are maintained
6 by the institution currently or most recently at-
7 tended by the individual; and

8 “(VII) any criminal acts required to be re-
9 ported under paragraph (1)(F), (1)(H), or (4)
10 of section 485(f) of the Higher Education Act
11 of 1965 (20 U.S.C. 1092(f)).”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect on September 1, 1998.

14 **SEC. 4. ENFORCEMENT.**

15 (a) ENFORCEMENT.—Section 485(f) (20 U.S.C.
16 1092(f)) (as amended by section 2) is further amended
17 by adding at the end the following new paragraph:

18 “(10)(A) If any participating institution of higher
19 education fails or refuses to comply with any provision of
20 this subsection, the Secretary shall forthwith terminate all
21 assistance to the institution under the applicable program
22 affected, or issue such other orders as specified below as
23 the Secretary may deem appropriate to achieve such com-
24 pliance.

1 “(B) For each separate count of noncompliance
2 found, the Secretary shall suspend not less than 1 percent
3 of the financial assistance provided by the Department to
4 such institution.”.

5 (b) RETALIATION.—Section 485(f) (as amended by
6 subsection (a)) is further amended by adding at the end
7 the following new paragraph:

8 “(11) No participating institution or other person
9 shall intimidate, threaten, coerce, or otherwise discrimi-
10 nate against any individual for the purpose of interfering
11 with the implementation of any provision of this sub-
12 section, or any rights or privileges accorded under this
13 subsection, or because the individual has complained, tes-
14 tified, assisted, or otherwise participated in any aspect of
15 an investigation, proceeding, or hearing.”.

16 (c) PROGRAM PARTICIPATION AGREEMENT RE-
17 QUIREMENTS.—Section 487(a)(12) (20 U.S.C.
18 1094(a)(12)) is amended—

19 (1) by striking “and” at the end of subpara-
20 graph (A);

21 (2) by striking the period at the end of sub-
22 paragraph (B) and inserting “; and”; and

23 (3) by adding at the end the following new sub-
24 paragraph:

1 “(C) the policies and crime statistics dis-
2 closed under section 485(f) are comprehensive
3 and accurate.”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on September 1, 1998.

○

******DRAFT****DRAFT ****DRAFT****DRAFT ****DRAFT****DRAFT******

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 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 _____.

**PROPOSED AMENDMENTS FOR REAUTHORIZATION OF THE VIOLENCE
AGAINST WOMEN ACT**

Viz. At the appropriate place insert the following:

SEC. _____ TRANSFER OF RAPE PREVENTION AND EDUCATION PROGRAM.

Part J of Title III of the Public Health Service Act is amended by inserting after section 393A the following new section—

“Sec. 393B. USE OF ALLOTMENTS FOR RAPE PREVENTION EDUCATION.

“(a) PERMITTED USE.—Notwithstanding section 1904(a)(1), amounts transferred by the State for use under this part shall be used for rape prevention and education programs conducted by rape crisis centers and nongovernmental nonprofit State sexual assault coalitions for—

- “(1) educational seminars;**
- “(2) the operation of hotlines;**
- “(3) training programs for professionals;**
- “(4) the preparation of informational material;**
- “(5) the establishment of a National Resource Center on Sexual Assault; and**
- “(6) other efforts to increase awareness of the facts about, or to help prevent, sexual assault, including efforts to increase awareness in undeserved racial, ethnic, and language minority communities.**

“(b) TARGETING OF EDUCATION PROGRAMS.—States providing grant monies must ensure that at least 25 percent of the monies are devoted to educational programs targeted for middle school, junior high, and high school students. **The programs targeted under this subsection shall be conducted by rape crisis centers and State sexual assault coalitions.”**

“(c) AUTHORIZATION OF APPROPRIATIONS.

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

- “(A) \$45,000,000 for fiscal year 1998;**
- “(B) \$50,000,000 for fiscal year 1999;**
- “(C) \$50,000,000 for fiscal year 2000.**
- “(D) \$50,000,000 for fiscal year 2001; and**
- “(E) \$50,000,000 for fiscal year 2002.**

Funds authorized to be appropriated under this section are appropriated from the Violent Crime Reduction Fund pursuant to section 31001(c) and section 310004 (d) (16), the third time it appears, of the Violent Crime and Law Enforcement Act of 1994 (42 U.S.C. 14211 and 42 U.S.C. 14214).

“(2) Of the amount appropriated for any fiscal year under this section, at least 15 percent of the total amount appropriated shall be used for making grants to State sexual assault coalitions to address public health issues associated with sexual assault through training, resource development, or similar research.

“(3) Of the amount appropriated for any fiscal year under this section, at least \$700,000 shall be made available for allotment under subsection (a)(5).

“(d) LIMITATIONS.--

“(1) Funds authorized under this section shall only be used for providing rape prevention and education programs.

“(2) A State may use funds under this section only so as to supplement, and, to the extent practicable, increase the level of funds that would be available from non-Federal sources for the activities described in subsection (a), and in no case may such funds be used to supplant funds from other sources.

“(3) A State may not use more than 2 percent of the funds received in each fiscal year under this section for surveillance studies or prevalence studies.

“(4) A State may not use more than 10 percent of funds received in each fiscal year under this section for administrative expenses.

“(e) DEFINITION.--For purposes of this section, the term ‘rape prevention and education’ includes education and prevention efforts directed at offenses committed by the offenders who are not known to the victim as well as offenders who are known to the victim.

“(f) TERMS.--

“(1) The Secretary shall make allotments to each State on the basis of the population of the State.

“(2) No State may use funds made available by reason of this subsection in any fiscal year for administration of any prevention program other than the rape prevention and education program for which allotments are made under this section.”.

“(3) Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.”

SEC. ____ TECHNICAL AMENDMENT TO PUBLIC LAW 103-322.

(a) REPEAL.--Section 1910A of the Public Health and Human Services Act is repealed.

(b) EFFECTIVE DATE.--The repeal made by subsection (a) of this section shall take effect the day after the date of enactment of this Act.

DEPARTMENT OF EDUCATION TRAINING PROGRAMS

(a) **IN GENERAL**-- The Department of Education, after consultation with individuals and organizations who have expertise in conducting outreach on college and university campuses, shall establish criteria to distribute and promote existing outreach programs on and around college and university campuses and among college and university populations in the areas of --

1. Promoting the services to student populations provided locally by rape crisis centers.
2. Opening a dialogue between local rape crisis centers and university and campus officials.
3. Increasing communication between local rape crisis centers and college and university student populations.
4. Working to prevent rapes on or around university and college campuses by publicly addressing the issues of date or acquaintance rape.
5. Raising awareness of the national sexual assault hotline.

(b) The Department of Education shall attempt, to the extent, practicable, to make training programs developed available in geographically diverse locations throughout the country.

MANDATORY NOTIFICATION OF OPTIONS FOR COLLEGE AND UNIVERSITY STUDENTS

(a) IN GENERAL -- The Department of Education shall require all colleges and universities receiving federal monies to notify anyone reporting a sexual assault to university and college authorities of--

1. The option to dial call local community police or law enforcement agencies instead of or in addition to campus police.
2. The option to call a local rape crisis center instead of or in addition to counseling services provide by college and university agencies.
3. The option to call the national sexual assault hotline.

(b) The Department of Education shall require all colleges and universities receiving federal monies to widely post, publish and distribute information listing the phone numbers of--

1. Local police departments serving areas around or near college and university populations.
2. Local rape crisis centers providing services around or near college and university campuses.
3. National sexual assault hotline.

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);

1 (2) by striking the period at the end of para-
2 graph (9) and inserting “; or”; and

3 (3) by inserting after paragraph (9) the follow-
4 ing:

5 “(10) is intoxicated.”.

6 (b) POSSESSION PROHIBITION.—Section 922(g) of
7 such title is amended—

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

10 (2) by inserting “or” at the end of paragraph
11 (9); and

12 (3) by inserting after paragraph (9) the follow-
13 ing:

14 “(10) who is intoxicated,”.

15 (c) STATEMENT REQUIRED BY THE BRADY LAW.—
16 Section 922(s)(3)(B) of such title is amended—

17 (1) by striking “and” at the end of clause (vii);

18 (2) by inserting “and” at the end of clause
19 (viii); and

20 (3) by inserting after clause (viii) the following:

21 “(ix) is not intoxicated;”.

22 (d) INTOXICATED DEFINED.—Section 921(a) of such
23 title is amended by adding at the end the following:

24 “(34) The term ‘intoxicated’ means, with respect to
25 a person, that the mental or physcial condition of the per-

1 son is sufficently impaired, as a result of the presence in
2 the person's body of alcohol, a drug, or another substance,
3 to be prohibited by the law of the State in which the per-
4 son is located from operating a motor vehicle in the
5 State.".

105TH CONGRESS
1ST SESSION

H. R. 884

To amend the Public Health Service Act to provide for the training of health professions students with respect to the identification and referral of victims of domestic violence.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 1997

Mrs. MORELLA (for herself, Mr. SERRANO, and Mr. GANSKE) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To amend the Public Health Service Act to provide for the training of health professions students with respect to the identification and referral of victims of domestic violence.

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 Identification and Referral Act of 1997”.

1 **SEC. 2. ESTABLISHMENT, FOR CERTAIN HEALTH PROFES-**
2 **SIONS PROGRAMS, OF PROVISIONS REGARD-**
3 **ING DOMESTIC VIOLENCE.**

4 (a) TITLE VII PROGRAMS; PREFERENCES IN FINAN-
5 CIAL AWARDS.—Section 791 of the Public Health Service
6 Act (42 U.S.C. 295j) is amended by redesignating sub-
7 section (e) as subsection (d), and by inserting after sub-
8 section (b) the following subsection:

9 “(c) PREFERENCES REGARDING TRAINING IN IDEN-
10 TIFICATION AND REFERRAL OF VICTIMS OF DOMESTIC
11 VIOLENCE.—

12 “(1) IN GENERAL.—In the case of a health pro-
13 fessions entity specified in paragraph (2), the Sec-
14 retary shall, in making awards of grants or contracts
15 under this title, give preference to any such entity
16 (if otherwise a qualified applicant for the award in-
17 volved) that has in effect the requirement that, as a
18 condition of receiving a degree or certificate (as ap-
19 plicable) from the entity, each student have had sig-
20 nificant training in carrying out the following func-
21 tions as a provider of health care:

22 “(A) Identifying victims of domestic vio-
23 lence, and maintaining complete medical
24 records that include documentation of the ex-
25 amination, treatment given, and referrals made,

1 and recording the location and nature of the
2 victim's injuries.

3 “(B) Examining and treating such victims,
4 within the scope of the health professional's dis-
5 cipline, training, and practice, including, at a
6 minimum, providing medical advice regarding
7 the dynamics and nature of domestic violence.

8 “(C) Referring the victims to public and
9 nonprofit private entities that provide services
10 for such victims.

11 “(2) RELEVANT HEALTH PROFESSIONS ENTI-
12 TIES.—For purposes of paragraph (1), a health pro-
13 fessions entity specified in this paragraph is any en-
14 tity that is a school of medicine, a school of osteo-
15 pathic medicine, a graduate program in mental
16 health practice, a school of nursing (as defined in
17 section 853), a program for the training of physician
18 assistants, or a program for the training of allied
19 health professionals.

20 “(3) REPORT TO CONGRESS.—Not later than 2
21 years after the date of the enactment of the Domes-
22 tic Violence Identification and Referral Act of 1997,
23 the Secretary shall submit to the Committee on
24 Commerce of the House of Representatives, and the
25 Committee on Labor and Human Resources of the

1 Senate, a report specifying the health professions en-
2 tities that are receiving preference under paragraph
3 (1); the number of hours of training required by the
4 entities for purposes of such paragraph; the extent
5 of clinical experience so required; and the types of
6 courses through which the training is being pro-
7 vided.

8 “(4) DEFINITIONS.—For purposes of this sub-
9 section, the term ‘domestic violence’ includes behav-
10 ior commonly referred to as domestic violence, sexual
11 assault, spousal abuse, woman battering, partner
12 abuse, child abuse, elder abuse, and acquaintance
13 rape.”.

14 (b) TITLE VIII PROGRAMS; PREFERENCES IN FI-
15 NANCIAL AWARDS.—Section 860 of the Public Health
16 Service Act (42 U.S.C. 298b-7) is amended by adding at
17 the end the following subsection:

18 “(f) PREFERENCES REGARDING TRAINING IN IDEN-
19 TIFICATION AND REFERRAL OF VICTIMS OF DOMESTIC
20 VIOLENCE.—

21 “(1) IN GENERAL.—In the case of a health pro-
22 fessions entity specified in paragraph (2), the Sec-
23 retary shall, in making awards of grants or contracts
24 under this title, give preference to any such entity

1 (if otherwise a qualified applicant for the award in-
2 volved) that has in effect the requirement that, as a
3 condition of receiving a degree or certificate (as ap-
4 plicable) from the entity, each student have had sig-
5 nificant training in carrying out the following func-
6 tions as a provider of health care:

7 “(A) Identifying victims of domestic vio-
8 lence, and maintaining complete medical
9 records that include documentation of the ex-
10 amination, treatment given, and referrals made,
11 and recording the location and nature of the
12 victim’s injuries.

13 “(B) Examining and treating such victims,
14 within the scope of the health professional’s dis-
15 cipline, training, and practice, including, at a
16 minimum, providing medical advice regarding
17 the dynamics and nature of domestic violence.

18 “(C) Referring the victims to public and
19 nonprofit private entities that provide services
20 for such victims.

21 “(2) RELEVANT HEALTH PROFESSIONS ENTI-
22 TIES.—For purposes of paragraph (1), a health pro-
23 fessions entity specified in this paragraph is any en-
24 tity that is a school of nursing or other public or

1 nonprofit private entity that is eligible to receive an
2 award described in such paragraph.

3 “(3) REPORT TO CONGRESS.—Not later than 2
4 years after the date of the enactment of the Domes-
5 tic Violence Identification and Referral Act of 1997,
6 the Secretary shall submit to the Committee on
7 Commerce of the House of Representatives, and the
8 Committee on Labor and Human Resources of the
9 Senate, a report specifying the health professions en-
10 tities that are receiving preference under paragraph
11 (1); the number of hours of training required by the
12 entities for purposes of such paragraph; the extent
13 of clinical experience so required; and the types of
14 courses through which the training is being pro-
15 vided.

16 “(4) DEFINITIONS.—For purposes of this sub-
17 section, the term ‘domestic violence’ includes behav-
18 ior commonly referred to as domestic violence, sexual
19 assault, spousal abuse, woman battering, partner
20 abuse, child abuse, elder abuse, and acquaintance
21 rape.”.

○

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. FALCONE, and Mrs. LOWEY) introduced the following bill; which was referred to the Committee on Judiciary.

A BILL

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

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

1 **SECTION 1. SHORT TITLE.**

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

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

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

○

105TH CONGRESS
1ST SESSION

H. R. 1117

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 1997

Mr. SANDERS (for himself, Mrs. MORELLA, Mr. DEFazio, Mr. SCHUMER, Mr. ACKERMAN, Mr. BALDACC, Mr. BARRETT of Wisconsin, Mr. BISHOP, Mr. BLUMENAUER, Mr. DAVIS of Illinois, Ms. DEGETTE, Mr. DELLUMS, Mr. EVANS, Mr. FALCONER, 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-

mium for the subject's coverage under the health plan if the requirements are applied to all insureds of the health carrier. The insurer may terminate group coverage after the continuation coverage required by this paragraph has been in force for 18 months if it offers conversion to an equivalent individual plan. The continuation of health coverage required by this paragraph shall be satisfied by any extension of coverage under part 6 of subtitle B of title I or the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or 4980B of the Internal Revenue Code of 1986 provided to a subject of abuse and is not intended to be in addition to any extension of coverage provided under part 6 of subtitle B of title I or the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or 4980B of the Internal Revenue Code of 1986.

(b) USE OF INFORMATION.—

(1) IN GENERAL.—No person employed by or contracting with an insurer or health benefit plan may use, disclose, or transfer information relating to an applicant's or insured's abuse status or abuse-related medical condition or the applicant's or 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