

condition, or experience as a victim of crime; or

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

105TH CONGRESS
1ST SESSION

H. R. 851

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 1997

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

A BILL

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

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

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

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

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

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

7 (a) FINDINGS.—Congress finds that—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 “(b) CONSTRUCTION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 “(A) experiencing domestic violence,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 “(A) experiencing domestic violence,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (b) UNEMPLOYMENT COMPENSATION.—

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

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

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

○

105TH CONGRESS
1ST SESSION

H. R. 1071

To amend the Internal Revenue Code of 1986 to provide a credit for employers for certain costs incurred to combat violence against women.

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 1997

Mrs. LOWEY introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide a credit for employers for certain costs incurred to combat violence against women.

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 "Workplace Violence
5 Prevention Tax Credit Act of 1997".

6 **SEC. 2. CONGRESSIONAL FINDINGS.**

7 The Congress finds that—

8 (1) there is an increasing awareness by the
9 business community and the country as a whole re-

1 garding the serious problem of workplace violence
2 against women;

3 (2) there is an increased recognition that work-
4 place violence against women has severe implications
5 for the health, safety, and economic well-being of
6 women, as well as the efficiency and profitability of
7 American companies;

8 (3) recent crime statistics clearly show the seri-
9 ous threat of workplace violence against women;

10 (4) homicide is the leading cause of death for
11 women on the job, and husbands, boyfriends, and
12 ex-partners commit 15 percent of all workplace
13 homicides against women;

14 (5) an estimated 8 percent of all rapes occur
15 while victims are working or on duty, at an average
16 annual number of 13,000 workplace rapes each year;

17 (6) husbands and boyfriends commit 13,000
18 acts of violence against women in the workplace
19 every year;

20 (7) women are more likely than men to be at-
21 tacked at work by someone known to them, and 5
22 percent of women victimized at work are attacked by
23 a husband, boyfriend, or ex-partner;

24 (8) surveys of business executives and corporate
25 security directors also underscore the heavy toll that

1 workplace violence takes on American women and
2 American businesses;

3 (9) 49 percent of senior executives recently sur-
4 veyed said domestic violence has a harmful effect on
5 their company's productivity, 47 percent said spous-
6 al abuse negatively impacts attendance, and 44 per-
7 cent said domestic violence increases health care
8 costs;

9 (10) 94 percent of corporate security and safety
10 directors at companies nationwide rank domestic vio-
11 lence as a high-risk security problem;

12 (11) the public and private sectors—including
13 the legal, medical, social services, business, and reli-
14 gious communities—must come together to combat
15 violence against women in the workplace; and

16 (12) the Congress, too, must play a role in en-
17 couraging companies to promulgate workplace edu-
18 cation and safety programs to combat violence
19 against women.

20 **SEC. 3. CREDIT FOR COSTS TO EMPLOYERS OF IMPE-**
21 **MENTING WORKPLACE SAFETY PROGRAMS**
22 **TO COMBAT VIOLENCE AGAINST WOMEN.**

23 (a) IN GENERAL.—Subpart D of part IV of sub-
24 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding at the end the following new
2 section:

3 **"SEC. 45D. WORKPLACE SAFETY PROGRAM CREDIT.**

4 “(a) IN GENERAL.—For purposes of section 38, the
5 workplace safety program credit determined under this
6 section for the taxable year is, for any employer, an
7 amount equal to 40 percent of the violence against women
8 safety and education costs paid or incurred by such em-
9 ployer during the taxable year.

10 “(b) DEFINITIONS.—For purposes of this section—

11 “(1) VIOLENCE AGAINST WOMEN SAFETY AND
12 EDUCATION COST.—

13 “(A) IN GENERAL.—The term ‘violence
14 against women safety and education cost’
15 means any cost certified by the Attorney Gen-
16 eral to the Secretary as being for the purpose
17 of—

18 “(i) ensuring the safety of employees
19 from violent crimes against women,

20 “(ii) providing counseling to employ-
21 ees with respect to violent crimes against
22 women,

23 “(iii) providing legal or medical serv-
24 ices to employees subjected to, or at risk
25 from, violent crimes against women,

1 “(iv) educating employees about the
2 issue of violent crimes against women, or

3 “(v) implementing human resource or
4 personnel policies initiated to protect em-
5 ployees from violent crimes against women.

6 “(B) TYPES OF COSTS.—Such term in-
7 cludes costs certified by the Attorney General to
8 the Secretary as being for the purpose of—

9 “(i) the hiring of new security person-
10 nel in order to address violent crimes
11 against women,

12 “(ii) the creation of buddy systems or
13 escort systems for walking employees to
14 parking lots, parked cars, subway stations,
15 or bus stops, in order to address violent
16 crimes against women,

17 “(iii) the purchase or installation of
18 new security equipment, including surveil-
19 lance equipment, lighting fixtures, cardkey
20 access systems, and identification systems,
21 in order to address violent crimes against
22 women,

23 “(iv) the establishment of a hotline or
24 a counseling service about violent crimes

1 against women, for the use of individual
2 employees,

3 “(v) the retention of an attorney to
4 provide legal services to employees seeking
5 restraining orders or other legal recourse
6 from violent crimes against women,

7 “(vi) the establishment of medical
8 services addressing the medical needs of
9 employees who are victims of violent crimes
10 against women,

11 “(vii) the retention of a financial ex-
12 pert or an accountant to provide financial
13 counseling to employees seeking to escape
14 from violent crimes against women,

15 “(viii) the establishment of an edu-
16 cation program for employees, consisting of
17 seminars or training sessions about violent
18 crimes against women,

19 “(ix) studies of the cost, impact, or
20 extent of violent crimes against women at
21 the employer’s place of business, if such
22 studies are made available to the public
23 and protect the identity of employees in-
24 cluded in the study,

1 “(x) the publication of a regularly dis-
2 seminated newsletter or other regularly
3 disseminated educational materials about
4 violent crimes against women,

5 “(xi) the implementation of leave poli-
6 cies for the purpose of allowing victims of
7 violent crimes against women to pursue
8 legal redress against assailants, including
9 leave from work to attend meetings with
10 attorneys, to give evidentiary statements or
11 depositions, and to attend hearings or
12 trials in court,

13 “(xii) the implementation of flexible
14 work policies for the purpose of allowing
15 employees who are victims of violent crimes
16 against women, or employees at risk with
17 respect to such crimes, to avoid assailants,
18 or

19 “(xiii) the implementation of transfer
20 policies for the purpose of allowing employ-
21 ees subjected to violent crimes against
22 women to change office locations within
23 the company in order to avoid assailants,
24 including payment of costs for the transfer
25 and relocation of an employee to another

1 city, county, State, or country for the pur-
2 pose of maintaining the employee's safety
3 from violent crimes against women.

4 “(C) NOTIFICATION OF POSSIBLE TAX
5 CONSEQUENCES.—In no event shall any cost for
6 goods or services which may be included in the
7 income of any employee receiving or benefiting
8 from such goods or services be treated as a vio-
9 lence against women safety and education cost
10 unless the employer notifies the employee in
11 writing of the possibility of such inclusion.

12 “(2) VIOLENT CRIMES AGAINST WOMEN.—

13 “(A) IN GENERAL.—The term ‘violent
14 crimes against women’ includes sexual assault
15 and domestic violence.

16 “(B) DOMESTIC VIOLENCE.—The term
17 ‘domestic violence’ includes felony or mis-
18 demeanor crimes of violence committed by—

19 “(i) a current or former spouse of the
20 victim,

21 “(ii) a person with whom the victim
22 shares a child in common,

23 “(iii) a person who is cohabitating
24 with or has cohabitated with the victim as
25 a spouse,

1 “(iv) a person similarly situated to a
2 spouse of the victim under the domestic vi-
3 olence or family laws of the jurisdiction in
4 which the employee resides or the employer
5 is located, or

6 “(v) any other adult person against a
7 victim who is protected from the person’s
8 acts under the domestic or family violence
9 laws of the jurisdiction in which the em-
10 ployee resides or the employer is located.

11 “(3) EMPLOYEE AND EMPLOYER.—

12 “(A) IN GENERAL.—The term ‘employee’
13 includes any employee of the employer or of any
14 related person, and any spouse or dependent of
15 such an employee.

16 “(B) PARTNERS AND PARTNERSHIPS.—
17 The term ‘employee’ includes a partner and the
18 term ‘employer’ includes a partnership.

19 “(C) RELATED PERSONS.—Persons shall
20 be treated as related to each other if such per-
21 sons are treated as a single employer under
22 subsection (a) or (b) of section 52.

23 “(e) COORDINATION WITH OTHER PROVISIONS.—No
24 credit or deduction shall be allowed under any other provi-

1 sion of this title for any amount for which a credit is al-
2 lowed under this section.”

3 (b) CARRYFORWARD, CARRYBACK, AND DEDUCTION
4 FOR UNUSED CREDITS.—

5 (1) CARRYFORWARD AND CARRYBACK.—Sub-
6 section (b) of section 38 of such Code (relating to
7 general business credit) is amended by striking
8 “plus” at the end of paragraph (11), by striking the
9 period at the end of paragraph (12) and inserting “,
10 plus”, and by adding at the end the following new
11 paragraph:

12 “(13) the workplace safety program credit de-
13 termined under section 45D.”

14 (2) TRANSITIONAL RULE FOR CARRYBACKS.—
15 Subsection (d) of section 39 of such Code (relating
16 to transitional rules) is amended by adding at the
17 end the following new paragraph:

18 “(8) NO CARRYBACK OF SECTION 45D CREDIT
19 BEFORE EFFECTIVE DATE.—No portion of the un-
20 used business credit for any taxable year which is
21 attributable to the workplace safety program credit
22 determined under section 45D may be carried back
23 to a taxable year beginning on or before the date of
24 the enactment of section 45D.”

1 (3) DEDUCTION FOR UNUSED CREDITS.—Sub-
 2 section (c) of section 196 of such Code (relating to
 3 deduction for certain unused business credits) is
 4 amended by striking “and” at the end of paragraph
 5 (6), by striking the period at the end of paragraph
 6 (7) and inserting “, and”, and by adding at the end
 7 the following new paragraph:

8 “(8) the workplace safety program credit deter-
 9 mined under section 45D.”

10 (c) CREDIT NOT A DEFENSE IN LEGAL ACTIONS.—
 11 The allowance of a credit under section 45D of the Inter-
 12 nal Revenue Code of 1986 (as added by this Act) shall
 13 not absolve employers of their responsibilities under any
 14 other law and shall not be construed as a defense to any
 15 legal action (other than legal action by the Secretary of
 16 the Treasury under such Code).

17 (d) CLERICAL AMENDMENT.—The table of sections
 18 for subpart D of part IV of subchapter A of chapter 1
 19 of such Code is amended by adding at the end the follow-
 20 ing new item:

 “Sec. 45D. Workplace safety program credit.”

21 (e) EFFECTIVE DATE.—The amendments made by
 22 this section shall apply to taxable years beginning after
 23 the date of the enactment of this Act.

○

105TH CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. BIDEN introduced the following bill; which was read twice and referred
to the Committee on _____

A BILL

To authorize the Attorney General to provide education and
training grants to promote appropriate responses to vio-
lence against women.

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. EDUCATION AND TRAINING GRANTS TO PRO-**
4 **MOTE APPROPRIATE RESPONSES TO VIO-**
5 **LENCE AGAINST WOMEN.**

6 (a) DEFINITION OF DOMESTIC VIOLENCE.—In this
7 section, the term “domestic violence” has the same mean-
8 ing as in section 2003 of title I of the Omnibus Crime
9 Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-
10 2).

(new(6))

(c)
 1 ~~(b)~~ AUTHORITY.—The Attorney General may make
 2 grants in accordance with this section to public and pri-
 3 vate nonprofit entities that, in the determination of the
 4 Attorney General, have—

5 (1) nationally recognized expertise in the area
 6 of domestic ~~violence~~ ^{and sexual} violence; and

7 (2) a record of commitment and quality re-
 8 sponses to reduce domestic ~~violence~~ ^{and sexual} violence.

9 ~~(d)~~ ~~(c)~~ PURPOSE.—Grants under this section shall be
 10 used for purposes of developing, testing, presenting, and
 11 disseminating model programs to provide education and
 12 training to individuals (other than law enforcement offi-
 13 cers and prosecutors) who are likely to come into contact
 14 with victims of domestic ~~violence~~ ^{and sexual} violence during the course of their
 15 employment (including welfare caseworkers, child protec-
 16 tion workers, campus security and resident assistants, at-
 17 torneys, clergy, and court personnel).

18 ~~(e)~~ ~~(d)~~ AUTHORIZATION OF APPROPRIATIONS.—There is
 19 authorized to be appropriated to carry out this section
 20 \$1,000,000 for each of fiscal years 1998 through 2002.

^{each for domestic violence and sexual violence program}

new (b) DEFINITION OF SEXUAL VIOLENCE.— In this section,
 the term "sexual violence" has the same meaning as
 the term "sexual assault" in section 2003 of title I
 of the Omnibus Crime Control and Safe Streets Act of
 1968 (42 U.S.C. 3796 gg-2).

SENSE OF CONGRESS REGARDING WORKPLACE VIOLENCE AGAINST WOMEN AND WORKERS' COMPENSATION

A. Congress finds that:

- 1. Workplace violence against women seriously threatens the safety and productivity of our country's workplaces;**
- 2. This violence includes sexual and other assaults committed by managers, supervisors, co-workers, clients, individuals with whom employees have had intimate relationships and others;**
- 3. The prevalence of violence against women at work is dramatic: homicide is the leading cause of death for women on the job; eight percent of all rapes occur in the workplace; women who are victims of violent workplace crimes are twice as likely as men to know their attackers; husbands, boyfriends and ex-partners commit fifteen percent of workplace homicides against women; and studies have shown that three-quarters of battered women who work were harassed by their abuser at work either by phone or in person;**
- 4. These acts of workplace violence have a devastating impact on women's physical and emotional health and financial security, resulting in increased health care and other associated costs;**
- 5. Women frequently are denied legal redress to recover for losses that have resulted from the workplace violence:**
 - a. In some instances, women are denied workers' compensation recovery, for example, if they are deemed not to have suffered a physical injury after they are raped;**
 - b. In addition, in approximately half the states, interpretations of state workers' compensation laws may preclude women from pursuing legal claims, for example, for an employers' negligence that resulted in the violence, and may limit their recovery to the amount permitted by workers' compensation statutes;**
- 6. Other states recognize that workplace violence against women, including rapes and sexual assaults, may fall within various exceptions to state workers' compensation laws; and**
- 7. Affording victims of workplace violence against women access to legal redress outside the workers' compensation system will assist women in recovering from these violent crimes, will encourage employers to take all reasonable preventive measures,**

and will help improve the productivity and safety of American workplaces.

B. Consequently, it is the sense of Congress that:

1. State workers' compensation laws should provide benefits to women who are victims of workplace violence who are eligible for such benefits, including full compensation for physical and non-physical injuries;
2. State workers' compensation laws should also permit the employee to pursue an action at law against an employer, other than statutory workers' compensation benefits, based on the employer's role in the act of workplace violence.

105TH CONGRESS
1ST SESSION

H. R. 1332

To protect the civil rights of victims of gender-motivated violence and to promote public safety, health, and regulate activities affecting interstate commerce by creating employer liability for negligent conduct that results in an individual's committing a gender-motivated crime of violence against another individual on premises controlled by the employer.

IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 1997

Mrs. MALONEY of New York (for herself, Mr. CONYERS, Mrs. MINK of Hawaii, and Ms. CHRISTIAN-GREEN) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, 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 protect the civil rights of victims of gender-motivated violence and to promote public safety, health, and regulate activities affecting interstate commerce by creating employer liability for negligent conduct that results in an individual's committing a gender-motivated crime of violence against another individual on premises controlled by the employer.

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 "Employer Liability for
3 Gender-Related Violence Act of 1997".

4 **SEC. 2. NEGLIGENTLY ALLOWING GENDER-MOTIVATED**
5 **VIOLENCE.**

6 (a) **CAUSE OF ACTION.**—An employer—

7 (1) whose business is in or affects interstate or
8 foreign commerce; and

9 (2) whose negligent conduct results in a per-
10 son's (including a person who acts under color of
11 statute, ordinance, regulation, custom, or usage of
12 any State) committing a crime of violence motivated
13 by gender against another person on premises under
14 the control of the employer;

15 shall be liable to the party injured, in an action for the
16 recovery of compensatory and punitive damages, injunc-
17 tive and declaratory relief, and such other relief as a court
18 may deem appropriate.

19 (b) **DEFINITIONS.**—For the purposes of this Act—

20 (1) the term "crime of violence motivated by
21 gender" means a crime of violence committed be-
22 cause of gender or on the basis of gender; and

23 (2) the term "crime of violence"—

24 (A) means an act or series of acts that
25 would constitute a crime, for which imprison-
26 ment of more than one year may be imposed,

1 against the person of another if that crime is
2 a crime of violence as defined in section 16 of
3 title 18, United States Code; and

4 (B) includes any conduct that would con-
5 stitute a felony described in subparagraph (A)
6 but for the relationship between the person en-
7 gaging in that conduct and the individual
8 against whom such conduct is directed.

9 (c) LIMITATION AND PROCEDURES.—

10 (1) LIMITATION.—Nothing in this section enti-
11 tles a person to a cause of action under subsection
12 (a) for random acts of violence unrelated to gender
13 or for acts that cannot be demonstrated, by a pre-
14 ponderance of the evidence, to be motivated by gen-
15 der.

16 (2) NO PRIOR CRIMINAL ACTION.—Nothing in
17 this section requires a prior criminal complaint,
18 prosecution, or conviction to establish the elements
19 of a cause of action under subsection (a).

20 (3) CONCURRENT JURISDICTION.—The Federal
21 and State courts shall have concurrent jurisdiction
22 over actions brought pursuant to this Act.

23 (d) MATERIALS TO ASSIST EMPLOYERS.—The Equal
24 Employment Opportunity Commission shall create and
25 provide materials to employers regarding personnel poli-

- 1 cics and safety standards to assist employers in avoiding
- 2 liability under this section.

○

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Fact Sheet

The Protection from Sexual Predators Act of 1997 (HR 305)

Authored by Rep. Louise Slaughter (D-NY)

Action during the 104th: The *Protection from Sexual Predators Act*, authored by Rep. Louise M. Slaughter, was included as an amendment to HR 2974, the Crimes Against Children and Elderly Persons Increased Punishment Act, which enhances jail sentences for crimes against our society's most vulnerable citizens. HR 2974 passed the House with overwhelming support (414-4) on May 7, 1996. Rep. Slaughter reintroduced the measure January 7, 1997 in the 105th Congress:

- ◆ Allows federal prosecution of rapes and serious sexual assaults committed by repeat offenders -- people who have prior convictions from either federal or state courts.
- ◆ Requires that Repeat offenders convicted under this section are automatically sentenced to life in prison without parole. In other words, two strikes, you're in.
- ◆ Would give local district attorneys the option of pursuing federal prosecution to ensure that these predators remain in jail, since many states have far less severe punishment available under their laws.
- ◆ Adds a condition to the Truth in Sentencing Incentive Grants for Prison Construction-- states must allow courts to sentence repeat sex offenders to life in prison without parole.
- ◆ Authorizes a study of persistent sexual predators by the National Institute of Justice.

The Protection From Sexual Predators Act is currently in the House Judiciary Committee.

This bill puts a jailhouse between law abiding Americans and society's most reprehensible criminals: the repeat sexual predator. Here's what we know about them:

- ◆ A small number of hardened felons make up this group;
- ◆ Their crimes are vicious and their sentences short. The average rape sentence is just 10.5 years, and the average time served is only half of that-- five years in jail.
- ◆ Frequently, habitual rapists attack victims in a number of different states, and courts often give inadequate consideration to convictions in other jurisdictions;
- ◆ Some psychologists conclude that the sociopathic behavior of these predators can never be cured. These criminals attack over and over again and many of them admit that if they are released from jail, they will strike again.

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July 9, 1997

Stop Sexual Predators

Dear Colleague:

Last month's decision by the U.S. Supreme Court affirming the right of the State of Kansas to keep five-time convicted sex offender Leroy Hendricks in jail should be wake-up call for Congress. A patchwork of weak state laws had allowed this sexual predator to spend a lifetime drifting from Washington State to Kansas, preying on children in local communities.

We cannot sufficiently protect our children and families with widely differing state laws. A federal law should have been in place that stopped Hendricks in his tracks long ago.

The **Protection from Sexual Predators Act**, HR 305, is a measure that would do just that. During the last Congress this legislation passed the House of Representatives overwhelmingly by a vote of 411-4. This bill allows for the federal prosecution of rapes and serious sexual assaults committed by *repeat* offenders. It requires that repeat offenders, convicted under this section, automatically be sentenced to life in prison without parole. In other words, two strikes, and you're in.

The U.S. Department of Justice released chilling statistics showing that 60 percent of convicted sex offenders are on parole or probation. The study suggested showed that recidivism rates of sex offenders are astonishingly high -- released rapists are 10.5 times more likely to repeat their crime than other criminals.

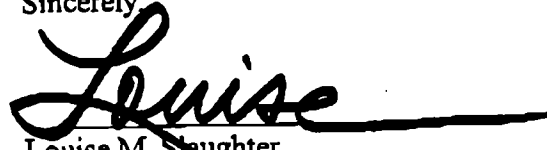
Support for the **Protection from Sexual Predators Act** is growing, with over 57 bipartisan cosponsors and the following organizations endorsing the bill:

National Center for Missing & Exploited Children
Jacob Wetterling Foundation
Vanished Children's Alliance
National Federation of Republican Women
LOCK (Lock Out Child Krime)
National Coalition Against Sexual Assault
Women's National Democratic Club
National Federation of Democratic Women
National Women's Political Caucus
Klaas Foundation for Children
National Association of Chiefs of Police
International Union of Police Associations AFL-CIO
Jimmy Ryce Center for Victims of Predatory Abduction
PAR (People Against Rape)

Instead of letting sexual predators revolve in and out of the judicial system, repeating their

crimes on new and innocent victims, tough and certain punishment is required at the national level. America's children and women need your support. Please contact me or Stuart Spencer in my office (5-3615) to join as a cosponsor.

Sincerely,

A handwritten signature in black ink, appearing to read "Louise", with a long horizontal flourish extending to the right.

Louise M. Slaughter
Member of Congress

I

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.

○

8th Congressional District

San Francisco, California

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Action Required:

105TH CONGRESS
1ST SESSION

H. R. 1076

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 1997

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

A BILL

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

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

1 **SECTION 1. SHORT TITLE.**

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

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

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

○

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**FAX FROM THE WASHINGTON OFFICE OF
CONGRESSMAN BARNEY FRANK**

TODAY'S DATE: 7/23

TO: Anitha Vaith (?)

FROM: Marcia Kurtz

FAX NUMBER: 307-3911

NUMBER OF PAGES [INCLUDING THIS ONE]: _____

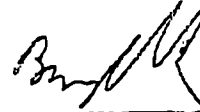
If this fax does not transmit properly, please call 202-225-5931.

COMMENTS:

hope this is what you were expecting...

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H.L.C.



(Original signature of Member)

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

IN THE HOUSE OF REPRESENTATIVES

Mr. FRANK of Massachusetts introduced the following bill; which was referred
to the Committee on _____

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 Unit-
8 ed States Housing Act of 1937 for assistance under sub-
9 sections (b) and (o) of section 8 of such Act is authorized

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1 to be increased by \$50,000,000 on or after October 1,
2 1997 and by such sums as may be necessary on or after
3 October 1, 1998.

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

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

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

24 (c) **ALLOCATION.**—Amounts made available pursuant
25 to section 2 shall be allocated by the Secretary on the basis

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1 of a national competition to the public housing agencies
2 and qualified nonprofit organizations that submit applica-
3 tions to the Secretary that best demonstrate a need for
4 such assistance and the ability to undertake and carry out
5 a program under this Act, as the Secretary shall deter-
6 mine.

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

8 For purposes of this Act, the following definitions
9 shall apply:

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

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

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

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

22 (D) deprivation of medical care, housing,
23 food, or other necessities of life; or

24 (E) mental or psychological abuse, includ-
25 ing repeated or severe humiliation, intimidation,

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1 criticism, acts designed to induce terror, or
2 verbal abuse.

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

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

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

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

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

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

21 (3) FAMILY VICTIMIZED BY DOMESTIC VIO-
22 LENCE.—

23 (A) IN GENERAL.—The term “family vic-
24 timized by domestic violence” means a family or
25 household that includes an individual who has

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

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

21 (i) information provided by any medi-
22 cal, legal, counseling, or other clinic, shel-
23 ter, or other program or entity licensed,
24 recognized, or authorized by the State or

1 unit of general local government to provide
2 services to victims of domestic violence;

3 (ii) information provided by any agen-
4 cy of the State or unit of general local gov-
5 ernment that provides or administrates the
6 provision of social, medical, legal, or health
7 services;

8 (iii) information provided by any cler-
9 gy;

10 (iv) information provided by any hos-
11 pital, clinic, medical facility, or doctor li-
12 censed or authorized by the State or unit
13 of general local government to provide
14 medical services;

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

22 (vi) any other reliable evidence that
23 domestic violence has occurred.

1 SEC. 5. OTHER DEFINITIONS.

2 For purposes of this Act, the following definitions
3 shall apply:

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

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

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

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

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

18 (D) is approved by the Secretary as to fi-
19 nancial responsibility.

20 (3) SECRETARY.—The term “Secretary” means
21 the Secretary of Housing and Urban Development.

22 (4) STATE.—The term “State” means the
23 States of the United States, the District of Colum-
24 bia, the Commonwealth of Puerto Rico, the Com-
25 monwealth of the Northern Mariana Islands, Guam,

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1 the Virgin Islands, American Samoa, and any other
2 territory or possession of the United States.

3 (5) UNIT OF GENERAL LOCAL GOVERNMENT.—

4 The term "unit of general local government" has the
5 meaning given the term in section 102(a) of the
6 Housing and Community Development Act of 1974
7 (42 U.S.C. 5302(a)).



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July 10, 1998

The Honorable Janet Reno
U.S. Attorney General
Main Justice Building
950 Pennsylvania Ave., N.W., Room. 5111
Washington, D.C. 20530

Dear Madam Attorney General:

On behalf of the 1.3 million members of the American Federation of State, County and Municipal Employees (AFSCME), I am writing regarding a harmful provision in the House approved version of the Violence Against Women Act II (VAWA). The provision, known as the "Prevention of Custodial Sexual Assault by Correctional Staff," presents a major problem to the thousands of correctional officers we represent across the country. While we strongly support the other major provisions of VAWA II, we believe that this particular provision unfairly singles-out correctional employees by subjecting them to an unfair law not applicable to other employees.

The custodial sexual assault provision of VAWA II would require the U.S. Attorney General to issue guidelines for states regarding the prevention of sexual misconduct in prisons. A state department of corrections would be prohibited from hiring correctional staff who have been convicted of criminal charges, or found liable in civil suits in custodial sexual misconduct. Finally, each state department of corrections would be required to maintain a database which includes the names and identifying information of individuals who have been convicted of criminal sexual misconduct or found liable for civil charges. States would be required to provide this information to the federal government who will maintain a national database.

AFSCME proudly represents 100,000 correctional employees in states across the country. We believe that the provision in question unfairly suggests that sexual abuse of female inmates by correctional employees is widespread. We dispute the findings of the report by the Women's Rights Project that makes this assertion. Based on our many years of experience working with our members who are correctional employees, we believe sexual misconduct occurs infrequently. If one of our members is charged with such an offense, the union representative would be notified. In addition, less than five percent of male correctional officers actually guard female inmates.

F.Y.I.

cc: Rahm Emanuel
Jose Celeda
Leanne Shumaker
Karen Tramentano
Mignon Moore
Maureen Shea
Theresa Marshall
Jon Jernig

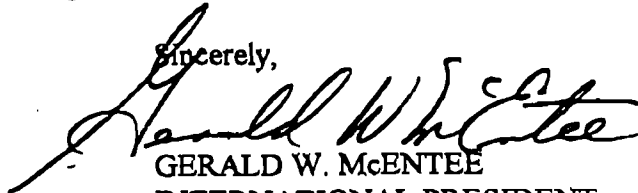
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The custodial sexual assault provision relies heavily on information from a report by the Women's Rights Project. It should be noted that the Women's Rights Project "study" is based on various anecdotes; it does not contain any statistical findings showing how often sexual misconduct occurs in correctional facilities.

Moreover, the proposed database of correctional employees who are found guilty of sexual misconduct is unnecessary. It has been our experience that correctional facilities will not hire anyone who has been convicted of sexual misconduct. State correctional facilities typically perform a thorough background check of their prospective employees. Also, correctional employees who are found guilty of such behavior are routinely dismissed.

VAWA II has already passed in the House and is now being considered by the Senate. We would request your opposition to this misguided provision. With your assistance, we can prevent this provision from being part of the conference report.

Sincerely,



GERALD W. McENTEE
INTERNATIONAL PRESIDENT

GWMcE:cbb