

MEMORANDUM

TO: JOSE CERDA, LEANNE SHIMABUKURO

FROM: TOM FREEDMAN, MARY L. SMITH

RE: VIOLENCE AGAINST WOMEN ACT II

DATE: AUGUST 27, 1997

Below is a brief summary of the bills included in the proposed VAWA II legislation expected to be introduced as a packet by Rep. John Conyers (D-Mich). Rep. Conyers has collected many disparate bills in order to assemble this Violence Against Women omnibus bill.

The first part of this memo highlights those bills that might be proposed as a possible Administration packet. Following this listing of the bills that seem the most promising is a summary of the entire Conyers packet.

I. Sexual Assault

Law Enforcement and Campus Grants to Reduce Violent Crimes Against Women on Campus

Grants to help campus administration and law enforcement officials to develop strategies to combat violence against women (such as increasing campus security and developing and enhancing victim services). Grants are \$500,000 per state and encourage cooperation with other federal agencies.

II. Domestic Violence

Full Faith and Credit of Protection Orders and Grant Program (Conyers)

- Reduces funds allocated under the 1968 crime bill to states that do not give full faith/credit to protection orders.
- Provides \$1 million per year for three years for grants to provide technical assistance to states in recognizing protection orders.

Domestic Violence Victims Housing Act (Frank)

Expands Section 8 housing assistance by \$50 million for people who have left or are leaving a

residence as a result of domestic violence.

Domestic Violence Legal Services Eligibility Act (Pelosi)

Mandates that the LSC prescribe an “income rule” for determining if a client who is a victim of domestic violence is eligible for assistance (i.e. only the income of the client will be the consideration).

Domestic Violence Insurance Protection Act (Sanders)

Prohibits providers of health insurance, workers’ compensation, auto medical insurance from using the fact that someone was a victim of domestic violence as a grounds for denying coverage, restricting coverage, refusing to renew coverage, increasing premiums, terminating coverage that was in a partner’s name after divorce or separation or after the partner terminates the policy. Enforced by FTC oversight and/or by private action against the insurer.

Community Initiatives Act (Furse)

Reauthorization of \$12 million in grants through 2002 for community initiatives regarding domestic violence.

Battered Women’s Shelter Act (Lowey)

Grants for battered women’s shelters, starting from \$50 million for FY ‘96 and increasing to \$260 million for FY 2002.

III. Limiting the Effects of Violence on Children

Family Safety Act of 1997 (Morella)

- Provides protection for children in cases of so-called parental kidnaping and potential return of children to abusive parents. Aims to set up protection standards for interstate relocation when parents dispute custody. Makes it an affirmative defense to a charge of parental kidnaping that the defendant acted within visitation rights, was fleeing a domestic violence situation, and could not return the child because of circumstances beyond the defendant’s control.
- Funds a study of divorce and child custody cases in which domestic violence is a factor.
- Provides grants to states to enable them to enter into agreements to establish supervised visitation centers.

Concurrent Resolution Regarding Domestic Violence and Children (Morella)

Resolution that:

- It is not in the best interest of children to not have a presumption with prime custodial parent, to force parents to share custody in a domestic violence situation, to punish abused parents who protect themselves, to presume that allegations of domestic violence in custody and divorce proceedings are false, and to make 'friendly parent' provisions a factor when abuse is involved.
- Child abuse/child sexual abuse cases should be fully investigated regardless of when they are raised or whether the child has recanted the allegation.
- States should be far more protective of victims of domestic/family violence in custody and visitation determinations and not order inappropriate mediation, counseling, etc.

Creation of Supervised Child Visitation Centers (Morella)

Provides grants to states to establish supervised visitation centers. Grants are \$75 million in FY 1998 and rise to \$95 million by FY 2000.

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

- Requires states to provide training in domestic violence, sexual assault, and child abuse to staff responsible for investigation of reports of abuse and neglect to receive a grant under the Child Abuse Prevention and Treatment Act.
- Makes domestic violence a major consideration in foster care placement decisions.
- Requires states to provide training in domestic violence, sexual assault, and child abuse for anyone appointed to represent a child during judicial proceedings where abuse is an issue.
- Requires states to train judges and court personnel in the ways that domestic violence affects custody decisions, including the debunking of "parental alienation syndrome."
- Makes protection of children from potential abuse an affirmative defense to kidnaping or custodial interference charges.

Rape and Child Custody

Protects rape victims from child custody disputes brought by the rapist: prohibits states from compelling victims of rape that resulted in birth of a child to comply with any order of parental/visitation rights, allows victims to seek redress in federal court.

VII. Workplace Safety

Crime Victims' Employment Non-Discrimination Act

Prohibits employers from taking or threatening adverse job action against an employee who has been a victim of crime based on that employee's status, experience, or condition as a victim of crime.

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

Extends the Family and Medical leave Act to allow leave to address domestic violence and its effects.

REMAINING CONYERS PACKET

I. Sexual Assault

Preventing Sexual Misconduct in Prisons (Conyers)

- Prohibits State Departments of Corrections from hiring persons guilty of custodial sexual misconduct; requires the creation and maintenance of databases to make sure that this does not happen.
- Requires criminal penalties for custodial sexual misconduct.
- Enforcement for the above provided by reduction of '94 crime law funds by 10%.
- Creates a National Sexual Contact Hotline (800 #) for prisons.

Protection from Sexual Predators (Slaughter)

- Mandates life imprisonment for interstate sexual crimes for persons convicted of a previous state or federal sex crime, and ensures that such life imprisonment sentences are without the possibility of parole.

- Commissions a NIJ study of persistent sexual predators.

Accuracy of Campus Crime Reporting (Duncan)

Makes it easier for university officials to submit sexual incident (not only arrest) statistics and makes such information public. Noncompliance leads to reduction in federal funding.

Law Enforcement and Campus Grants to Reduce Violent Crimes Against Women on Campus

- description above under proposed DPC packet

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

Creates a national commission to evaluate standards and create new standards for sexual assault forensic examinations.

Rape Prevention Education Amendments

Gives grants of \$45-50 million to rape crisis centers and nonprofit/non-governmental state sexual assault coalitions to develop educational seminars, hotlines, professional training, information, and public education activities regarding rape. 25% of such grants must go to middle schools, junior highs, and high schools. (This follows the provision in the '94 crime bill that 15% of certain funds must go to rape prevention activities).

Mandatory Notification of Options for College and University Students

Requires university officials who receive reports of sexual assault to notify the victim of the following options and to make the policy widely known:

- To contact the local police instead of or in addition to campus police.
- To contact a local rape crisis center instead of or in addition to university services.
- To contact a national sexual assault hotline.

II. Domestic Violence

Full Faith and Credit of Protection Orders and Grant Program (Conyers)

- description above under proposed DPC packet

Prohibition on Transfer of Firearms to Intoxicated Individuals (Conyers)

Prohibits the transfer of firearms to intoxicated individuals.

Domestic Violence Identification and Referral Act of 1997 (Boxer/Morella)

Establishes preferred grant treatment for persons who have training in identifying, treating, and referring domestic violence victims.

Domestic Violence Victims Housing Act (Frank)

- description above under proposed DPC packet

Domestic Violence Legal Services Eligibility Act (Pelosi)

- description above under proposed DPC packet

Domestic Violence Insurance Protection Act (Sanders)

- description above under proposed DPC packet

National Summit on Sports and Violence (H.Con.Res. Sanders)

Should convene a national summit among persons related to sports (teams, media, community leaders, etc.) to develop a multifaceted action plan to deter acts of violence, especially domestic violence and sexual assault.

Community Initiatives Act (Furse)

- description above under proposed DPC packet

Battered Women's Shelter Act (Lowey)

- description above under proposed DPC packet

III. Limiting the Effects of Violence on Children

Family Safety Act of 1997 (Morella)

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Concurrent Resolution Regarding Domestic Violence and Children (Morella)

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Creation of Supervised Child Visitation Centers (Morella)

- description above under proposed DPC packet

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

- description above under proposed DPC packet

ERISA Child Abuse Accountability Act (Maloney)

Permits the creation or assignment of rights to employee pension benefits if necessary to satisfy a judgment against a plan participant or beneficiary for physically, sexually, or emotionally abusing a child.

Rape and Child Custody

- description above under proposed DPC packet

IV. Domestic Violence in the Military

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

Provides for civilian law enforcement proceedings against armed forces personnel who commit crimes of sexual assault and domestic violence.

Commission on Military Justice and Fairness Act (Maloney)

Establishes a Commission on Military Justice and Fairness to investigate certain aspects of the military justice system, including investigation of reports of sexual misconduct, sexual harassment, and unlawful gender discrimination.

Technical Amendments

Inserts new provisions regarding domestic violence into military justice regulations and provides for compensation with medical and dental care for victims who were dependents of armed forces members.

V. Crime Victims Assistance Act (Leahy)

A series of protections for victims of crime.

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

VI. Protections for Women at High Risk

Older Women's Protection from Violence Act (Maloney)

- Creates long-term care ombudsman program and law school clinical programs on elder abuse.
- Creates training programs for law enforcement offices and social and health providers regarding elder abuse.
- Provides for grants to fund community initiatives, outreach programs, and other services to combat domestic violence against older women.

Protections Against Disabled Women

- Requires U.S. Attorney General to establish a disabled women's project within the office of Violence Against Women.
- Requires recipients of federal crime victim funds to comply with ADA. Programs should hire qualified disabled women to serve victims of crime.
- Requires DOJ to establish data collection services regarding disabled women and domestic violence.

- Requires AG to request studies on disabled women and domestic violence designed and conducted by disabled women who are qualified researchers.
- Requires AG to establish the authority to receive and perform criminal background checks on persons applying to be personal assistants.
- Funds a project in which disabled women develop training on sexual assault.
- Requires AG to fund a national education campaign by and for disabled women.
- These strategies should be implemented by a.) set-asides of a percentage of VAWA funds, and 2.) prioritization of grant applications that include plans to meet the needs of women with disabilities.

Protections for Battered Immigrant Women

An array of protections for battered immigrant women.

- The AG may cancel removal of an alien if removal would cause extreme hardship to the alien's parent.
- Provides other anti-removal protections for immigrants.
- Allows the AG to waive the "good moral character" requirement for stopping deportation proceedings in cases of certain crimes committed under the influence of domestic violence.
- Makes it easier for abused spouses to stay in the country when their abuser is deported because of abuse.
- Adds protections for victims of domestic violence who are married to bigamists who are U.S. citizens and for victims of domestic violence who are in the United States because of derivative visas (i.e. visas depending on someone in the United States).
- Improves protections for non-citizen spouses of U.S. military personnel.
- Improves protections for elder abuse victims who are immigrants.
- Removes barriers to gaining lawful permanent resident status for immigrant VAWA applicants (including the barrier on drug use if such drug use was resorted to as a result of domestic violence).
- Improves access to VAWA suspension of deportation/cancellation of removal and suggests additional provisions for children.

- Makes it easier for battered immigrant women to receive work authorization.
- Preserves battered women's ability to naturalize.
- Gives access to files which are ordinarily protected by the Privacy Act so that battered women immigrant can make a case for relief.
- Expands access to Legal Services, SSI, and Food Stamps for battered immigrant women.
- Provides for training for relevant personnel.

VII. Workplace Safety

National Workplace Clearinghouse Domestic and Sexual Violence Grant

Authorizes the AG to make a grant to establish a national clearinghouse on domestic and sexual violence in the workplace.

Crime Victims' Employment Non-Discrimination Act

- description above under proposed DPC packet

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

- description above under proposed DPC packet

Workplace Violence Prevention Tax Credit Act (Lowey)

Provides a credit for employers for certain costs incurred to combat violence against women (i.e. costs of implementing workplace safety programs such as hiring new security personnel to address violent crimes against women, establishment of leave policies, etc.)

Education and Training Grants to Promote Responses to Violence Against Women (Biden)

Creates education and training grants to promote appropriate responses to violence against women.

Sense of Congress Regarding Workers' Compensation

Defines the sense of Congress regarding state workers' compensation laws as assuming that such laws should provide benefits to women who are victims of workplace violence and should permit the employee to pursue an action at law against the employer.

Employer Liability for Gender Related Violence (Maloney)

Creates employer liability for negligent conduct that results in an individual committing a gender-motivated crime of violence against another individual on premises controlled by the employer.