

107TH CONGRESS
1ST SESSION

H. R. 2670

To promote the economic security and safety of victims of domestic and sexual violence, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2001

Ms. ROYBAL-ALLARD (for herself, Mrs. MALONEY of New York, Mr. STARK, Mrs. THURMAN, Mr. GEORGE MILLER of California, Mr. MCGOVERN, Mr. CUMMINGS, Mr. FROST, Ms. NORTON, Mr. PETERSON of Minnesota, Mr. JACKSON of Illinois, Ms. BALDWIN, Mr. SANDERS, Mr. KILDEE, Mr. LANTOS, Mr. PALLONE, Mrs. MINK of Hawaii, Ms. LEE, Mr. SANDLIN, Mr. GUTIERREZ, Ms. ESHOO, Mr. McNULTY, Mr. KUCINICH, Mr. OWENS, Mr. BONIOR, Mr. NADLER, Ms. CARSON of Indiana, Mr. HONDA, Mr. FRANK, Ms. MILLENDER-McDONALD, Ms. HARMAN, Mr. ENGEL, Mr. CONYERS, Mr. BOUCHER, Ms. SOLIS, Mr. HOLDEN, Mr. DAVIS of Illinois, Mr. HINCHEY, Mr. RUSH, Mr. DEFazio, Ms. WATERS, Ms. WOOLSEY, Ms. JACKSON-LEE of Texas, Mrs. CLAYTON, Mr. ABERCROMBIE, Mrs. CAPPS, Ms. DEGETTE, Mr. SHAYS, Mr. WAXMAN, Mr. BECERRA, Mr. LAMPSON, Ms. MCCOLLUM, Mr. HALL of Texas, Mr. FORD, Mr. SHERMAN, Mr. REYES, Mr. RODRIGUEZ, Mr. ORTIZ, Mr. PASTOR, Mr. SERRANO, Ms. VELÁZQUEZ, Mr. HINOJOSA, Ms. SANCHEZ, Mr. GONZALEZ, Mrs. NAPOLITANO, Mr. BACA, Ms. PELOSI, Mr. CLYBURN, Mrs. MEEK of Florida, Ms. KAPTUR, Mr. FARR of California, Mr. MORAN of Virginia, Mr. LAFALCE, Ms. HOOLEY of Oregon, Mr. GILMAN, Mr. CROWLEY, Mrs. TAUSCHER, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. WATSON of California, Mr. MATSUI, Ms. DELAURO, Ms. SLAUGHTER, Ms. BERKLEY, Ms. BROWN of Florida, Mrs. CHRISTENSEN, Ms. LOFGREN, Mrs. MCCARTHY of New York, Mrs. JONES of Ohio, Ms. RIVERS, Ms. SCHAKOWSKY, Mr. WU, Mr. BERMAN, Ms. MCCARTHY of Missouri, Ms. KILPATRICK, Ms. MCKINNEY, Mrs. DAVIS of California, Mrs. LOWEY, Mr. EVANS, Mr. GREEN of Texas, Mr. MOORE, Mr. RANGEL, Mr. SNYDER, Mr. THOMPSON of California, Mr. HASTINGS of Florida, Mr. ACEVEDO-VILÁ, Mr. UNDERWOOD, and Mr. SCOTT) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, and Energy and Commerce, 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 promote the economic security and safety of victims of domestic and sexual violence, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Victims’ Economic Security and Safety Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.

TITLE I—ENTITLEMENT TO EMERGENCY LEAVE FOR
 ADDRESSING DOMESTIC OR SEXUAL VIOLENCE

- Sec. 101. Purposes.
- Sec. 102. Entitlement to emergency leave for addressing domestic or sexual violence.
- Sec. 103. Existing leave usable for addressing domestic or sexual violence.
- Sec. 104. Emergency benefits.
- Sec. 105. Effect on other laws and employment benefits.
- Sec. 106. Conforming amendments.
- Sec. 107. Effective date.

TITLE II—ENTITLEMENT TO UNEMPLOYMENT COMPENSATION
 FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE,
 SEXUAL ASSAULT, OR STALKING

- Sec. 201. Purposes.
- Sec. 202. Unemployment compensation and training provisions.

TITLE III—VICTIMS’ EMPLOYMENT SUSTAINABILITY

- Sec. 301. Short title.
- Sec. 302. Purposes.
- Sec. 303. Prohibited discriminatory acts.
- Sec. 304. Enforcement.
- Sec. 305. Attorney’s fees.

TITLE IV—VICTIMS OF ABUSE INSURANCE PROTECTION

- Sec. 401. Short title.
- Sec. 402. Definitions.

- Sec. 403. Discriminatory acts prohibited.
- Sec. 404. Insurance protocols for subjects of abuse.
- Sec. 405. Reasons for adverse actions.
- Sec. 406. Life insurance.
- Sec. 407. Subrogation without consent prohibited.
- Sec. 408. Enforcement.
- Sec. 409. Effective date.

TITLE V—WORKPLACE SAFETY PROGRAM TAX CREDIT

- Sec. 501. Credit for costs to employers of implementing workplace safety programs.

TITLE VI—NATIONAL CLEARINGHOUSE ON DOMESTIC AND SEXUAL VIOLENCE IN THE WORKPLACE GRANT

- Sec. 601. National clearinghouse on domestic and sexual violence in the workplace grant.

TITLE VII—SEVERABILITY

- Sec. 701. Severability.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Domestic violence crimes account for ap-
 4 proximately 15 percent of total crime costs in the
 5 United States each year.

6 (2) Violence against women has been reported
 7 to be the leading cause of physical injury to women.
 8 Such violence has a devastating impact on women's
 9 physical and emotional health and financial security.

10 (3) According to recent government surveys,
 11 from 1993 through 1998 the average annual number
 12 of violent victimizations committed by intimate part-
 13 ners was 1,082,110, 87 percent of which were com-
 14 mitted against women. Female murder victims were
 15 substantially more likely than male murder victims
 16 to have been killed by an intimate partner. About $\frac{1}{3}$

1 of female murder victims, and about 4 percent of
2 male murder victims, were killed by an intimate
3 partner.

4 (4) According to recent government estimates,
5 approximately 987,400 rapes occur annually in the
6 United States, 89 percent of the rapes perpetrated
7 against female victims.

8 (5) Approximately 10,200,000 people have been
9 stalked at some time in their lives. Four out of every
10 5 stalking victims are women. Stalkers harass and
11 terrorize their victims by spying on the victims,
12 standing outside their places of work or homes, mak-
13 ing unwanted phone calls, sending or leaving un-
14 wanted letters or items, or vandalizing property.

15 (6) Employees in the United States who have
16 been victims of domestic violence, dating violence,
17 sexual assault, or stalking too often suffer adverse
18 consequences in the workplace as a result of their
19 victimization.

20 (7) Victims of domestic violence, dating vio-
21 lence, sexual assault, and stalking are particularly
22 vulnerable to changes in employment, pay, and bene-
23 fits as a result of their victimizations, and are,
24 therefore, in need of legal protection.

1 (8) The prevalence of domestic violence, dating
2 violence, sexual assault, stalking, and other violence
3 against women at work is dramatic. Approximately
4 11 percent of all rapes occur in the workplace.
5 About 50,500 individuals, 83 percent of whom are
6 women, were raped or sexually assaulted in the
7 workplace each year from 1992 through 1996. Half
8 of all female victims of violent workplace crimes
9 know their attackers. Nearly 1 out of 10 violent
10 workplace incidents are committed by partners or
11 spouses.

12 (9) Homicide is the leading cause of death for
13 women on the job. Husbands, boyfriends, and ex-
14 partners commit 15 percent of workplace homicides
15 against women.

16 (10) Studies indicate that between 35 and 56
17 percent of employed battered women surveyed were
18 harassed at work by their abusive partners.

19 (11) According to a 1998 report of the General
20 Accounting Office, between $\frac{1}{4}$ and $\frac{1}{2}$ of domestic
21 violence victims surveyed in 3 studies reported that
22 the victims lost a job due, at least in part, to domes-
23 tic violence.

24 (12) Women who have experienced domestic vi-
25 olence or dating violence are more likely than other

1 women to be unemployed, to suffer from health
2 problems that can affect employability and job per-
3 formance, to report lower personal income, and to
4 rely on welfare.

5 (13) Abusers frequently seek to control their
6 partners by actively interfering with their ability to
7 work, including preventing their partners from going
8 to work, harassing their partners at work, limiting
9 the access of their partners to cash or transpor-
10 tation, and sabotaging the child care arrangements
11 of their partners.

12 (14) More than $\frac{1}{2}$ of women receiving welfare
13 have been victims of domestic violence as adults and
14 between $\frac{1}{4}$ and $\frac{1}{3}$ reported being abused in the last
15 year.

16 (15) Sexual assault, whether occurring in or out
17 of the workplace, can impair an employee's work
18 performance, require time away from work, and un-
19 dermine the employee's ability to maintain a job. Al-
20 most 50 percent of sexual assault survivors lose their
21 jobs or are forced to quit in the aftermath of the as-
22 saults.

23 (16) More than $\frac{1}{4}$ of stalking victims report
24 losing time from work due to the stalking and 7 per-
25 cent never return to work.

1 (17)(A) According to the National Institute of
2 Justice, crime costs an estimated \$450,000,000,000
3 annually in medical expenses, lost earnings, social
4 service costs, pain, suffering, and reduced quality of
5 life for victims, which harms the Nation's produc-
6 tivity and drains the Nation's resources.

7 (B) Violent crime accounts for
8 \$426,000,000,000 per year of this amount.

9 (C) Rape exacts the highest costs per victim of
10 any criminal offense, and accounts for
11 \$127,000,000,000 per year of the amount described
12 in subparagraph (A).

13 (18) Violent crime results in wage losses equiv-
14 alent to 1 percent of all United States earnings, and
15 causes 3 percent of the Nation's medical spending
16 and 14 percent of the Nation's injury-related med-
17 ical spending.

18 (19) The Bureau of National Affairs has esti-
19 mated that domestic violence costs United States
20 employers between \$3,000,000,000 and
21 \$5,000,000,000 annually in lost time and produc-
22 tivity. Other reports have estimated that domestic
23 violence costs United States employers
24 \$13,000,000,000 annually.

1 (20) United States medical costs for domestic
2 violence have been estimated to be \$31,000,000,000
3 per year.

4 (21) Surveys of business executives and cor-
5 porate security directors also underscore the heavy
6 toll that workplace violence takes on women, busi-
7 nesses, and interstate commerce in the United
8 States.

9 (22) Ninety-four percent of corporate security
10 and safety directors at companies nationwide rank
11 domestic violence as a high security concern.

12 (23) Forty-nine percent of senior executives re-
13 cently surveyed said domestic violence has a harmful
14 effect on their company's productivity, 47 percent
15 said domestic violence negatively affects attendance,
16 and 44 percent said domestic violence increases
17 health care costs.

18 (24) Only 16 States have laws that explicitly
19 provide unemployment insurance to domestic vio-
20 lence victims in certain circumstances, and none of
21 the laws explicitly cover victims of sexual assault or
22 stalking.

23 (25) Only 2 States provide domestic violence
24 victims with leave from work to go to court, to the
25 doctor, or to take other steps to address the domes-

1 tic violence in their lives, and only Maine provides
2 such leave to victims of sexual assault and stalking.

3 (26) No States prohibit employment discrimina-
4 tion against victims of domestic violence, sexual as-
5 sault, or stalking. New York City is the only juris-
6 diction with a law prohibiting employment discrimi-
7 nation against actual or perceived victims of domes-
8 tic violence.

9 (27) Employees, including individuals partici-
10 pating in welfare to work programs, may need to
11 take time during business hours to—

12 (A) obtain orders of protection;

13 (B) seek medical or legal assistance, coun-
14 seling, or other services; or

15 (C) look for housing in order to escape
16 from domestic violence.

17 (28) Existing Federal law does not explicitly—

18 (A) authorize victims of domestic violence,
19 dating violence, sexual assault, or stalking to
20 take leave from work to seek legal assistance
21 and redress, counseling, or assistance with safe-
22 ty planning activities;

23 (B) address the eligibility of victims of do-
24 mestic violence, dating violence, sexual assault,
25 or stalking for unemployment compensation; or

1 (C) prohibit employment discrimination
2 against actual or perceived victims of domestic
3 violence, dating violence, sexual assault, or
4 stalking.

5 **SEC. 3. DEFINITIONS.**

6 In this Act, except as otherwise expressly provided:

7 (1) **COMMERCE.**—The terms “commerce” and
8 “industry or activity affecting commerce” have the
9 meanings given the terms in section 101 of the
10 Family and Medical Leave Act of 1993 (29 U.S.C.
11 2611).

12 (2) **COURSE OF CONDUCT.**—The term “course
13 of conduct” means a course of repeatedly maintain-
14 ing a visual or physical proximity to a person or con-
15 veying verbal or written threats, including threats
16 conveyed through electronic communications, or
17 threats implied by conduct.

18 (3) **DATING VIOLENCE.**—The term “dating vio-
19 lence” has the meaning given the term in section
20 826 of the Higher Education Amendments of 1998
21 (20 U.S.C. 1152).

22 (4) **DOMESTIC OR SEXUAL VIOLENCE.**—The
23 term “domestic or sexual violence” means domestic
24 violence, dating violence, sexual assault, or stalking.

1 (5) DOMESTIC VIOLENCE.—The term “domestic
2 violence” has the meaning given the term in section
3 826 of the Higher Education Amendments of 1998
4 (20 U.S.C. 1152).

5 (6) DOMESTIC VIOLENCE COALITION.—The
6 term “domestic violence coalition” means a non-
7 profit, nongovernmental membership organization
8 that—

9 (A) consists of the entities carrying out a
10 majority of the domestic violence programs car-
11 ried out within a State;

12 (B) collaborates and coordinates activities
13 with Federal, State, and local entities to further
14 the purposes of domestic violence intervention
15 and prevention; and

16 (C) among other activities, provides train-
17 ing and technical assistance to entities carrying
18 out domestic violence programs within a State,
19 territory, political subdivision, or area under
20 Federal authority.

21 (7) ELECTRONIC COMMUNICATIONS.—The term
22 “electronic communications” includes communica-
23 tions via telephone, mobile phone, computer, e-mail,
24 video recorder, fax machine, telex, or pager.

1 (8) EMPLOY; STATE.—The terms “employ” and
2 “State” have the meanings given the terms in sec-
3 tion 3 of the Fair Labor Standards Act of 1938 (29
4 U.S.C. 203).

5 (9) EMPLOYEE.—

6 (A) IN GENERAL.—The term “employee”
7 means any person employed by an employer. In
8 the case of an individual employed by a public
9 agency, such term means an individual em-
10 ployed as described in section 3(e) of the Fair
11 Labor Standards Act of 1938 (29 U.S.C.
12 203(e)).

13 (B) BASIS.—The term includes a person
14 employed as described in subparagraph (A) on
15 a full- or part-time basis, for a fixed time pe-
16 riod, on a temporary basis, pursuant to a detail,
17 as an independent contractor, or as a partici-
18 pant in a work assignment as a condition of re-
19 ceipt of Federal or State income-based public
20 assistance.

21 (10) EMPLOYER.—The term “employer”—

22 (A) means any person engaged in com-
23 merce or in any industry or activity affecting
24 commerce who employs 15 or more individuals;
25 and

1 (B) includes any person acting directly or
2 indirectly in the interest of an employer in rela-
3 tion to an employee, and includes a public agen-
4 cy, but does not include any labor organization
5 (other than when acting as an employer) or
6 anyone acting in the capacity of officer or agent
7 of such labor organization.

8 (11) EMPLOYMENT BENEFITS.—The term “em-
9 ployment benefits” means all benefits provided or
10 made available to employees by an employer, includ-
11 ing group life insurance, health insurance, disability
12 insurance, sick leave, annual leave, educational bene-
13 fits, and pensions, regardless of whether such bene-
14 fits are provided by a practice or written policy of
15 an employer or through an “employee benefit plan”,
16 as defined in section 3(3) of the Employee Retirement
17 Income Security Act of 1974 (29 U.S.C.
18 1002(3)).

19 (12) PARENT; SON OR DAUGHTER.—The terms
20 “parent” and “son or daughter” have the meanings
21 given the terms in section 101 of the Family and
22 Medical Leave Act of 1993 (29 U.S.C. 2611).

23 (13) PERSON.—The term “person” has the
24 meaning given the term in section 3 of the Fair
25 Labor Standards Act of 1938 (29 U.S.C. 203).

1 (14) PUBLIC AGENCY.—The term “public agen-
2 cy” has the meaning given the term in section 3 of
3 the Fair Labor Standards Act of 1938 (29 U.S.C.
4 203).

5 (15) PUBLIC ASSISTANCE.—The term “public
6 assistance” includes cash, food stamps, medical as-
7 sistance, housing assistance, and other benefits pro-
8 vided on the basis of income by a public agency.

9 (16) REDUCED LEAVE SCHEDULE.—The term
10 “reduced leave schedule” means a leave schedule
11 that reduces the usual number of hours per work-
12 week, or hours per workday, of an employee.

13 (17) REPEATEDLY.—The term “repeatedly”
14 means on 2 or more occasions.

15 (18) SECRETARY.—The term “Secretary”
16 means the Secretary of Labor.

17 (19) SEXUAL ASSAULT.—The term “sexual as-
18 sault” has the meaning given the term in section
19 826 of the Higher Education Amendments of 1998
20 (20 U.S.C. 1152).

21 (20) SEXUAL ASSAULT COALITION.—The term
22 “sexual assault coalition” means a nonprofit, non-
23 governmental membership organization that—

1 (A) consists of the entities carrying out a
2 majority of the sexual assault programs carried
3 out within a State;

4 (B) collaborates and coordinates activities
5 with Federal, State, and local entities to further
6 the purposes of sexual assault intervention and
7 prevention; and

8 (C) among other activities, provides train-
9 ing and technical assistance to entities carrying
10 out sexual assault programs within a State, ter-
11 ritory, political subdivision, or area under Fed-
12 eral authority.

13 (21) STALKING.—The term “stalking” means
14 engaging in a course of conduct directed at a spe-
15 cific person that would cause a reasonable person to
16 suffer substantial emotional distress or to fear bodily
17 injury, sexual assault, or death to the person, or the
18 person’s spouse, parent, or son or daughter, or any
19 other person who regularly resides in the person’s
20 household, if the conduct causes the specific person
21 to have such distress or fear.

22 (22) VICTIM SERVICES ORGANIZATION.—The
23 term “victim services organization” means a non-
24 profit, nongovernmental organization that provides
25 assistance to victims of domestic or sexual violence

1 or to advocates for such victims, including a rape
2 crisis center, an organization carrying out a domes-
3 tic violence program, an organization operating a
4 shelter or providing counseling services, or an orga-
5 nization providing assistance through the legal proc-
6 ess.

7 **TITLE I—ENTITLEMENT TO**
8 **EMERGENCY LEAVE FOR AD-**
9 **DRESSING DOMESTIC OR SEX-**
10 **UAL VIOLENCE**

11 **SEC. 101. PURPOSES.**

12 The purposes of this title are, pursuant to the affirm-
13 ative power of Congress to enact legislation under the por-
14 tions of section 8 of article I of the Constitution relating
15 to providing for the general welfare and to regulation of
16 commerce among the several States, and under section 5
17 of the 14th amendment to the Constitution—

18 (1) to promote the national interest in reducing
19 domestic violence, dating violence, sexual assault,
20 and stalking by enabling victims of domestic or sex-
21 ual violence to maintain the financial independence
22 necessary to leave abusive situations, achieve safety,
23 and minimize the physical and emotional injuries
24 from domestic or sexual violence, and to reduce the

1 devastating economic consequences of domestic or
2 sexual violence to employers and employees;

3 (2) to promote the national interest in ensuring
4 that victims of domestic or sexual violence can re-
5 cover from and cope with the effects of such vio-
6 lence, and participate in criminal and civil justice
7 processes, without fear of adverse economic con-
8 sequences from their employers;

9 (3) to ensure that victims of domestic or sexual
10 violence can recover from and cope with the effects
11 of such violence, and participate in criminal and civil
12 justice processes, without fear of adverse economic
13 consequences with respect to public benefits;

14 (4) to promote the purposes of the 14th amend-
15 ment by addressing the failure of existing laws to
16 protect the employment rights of victims of domestic
17 or sexual violence, by protecting the civil and eco-
18 nomic rights of victims of domestic or sexual vio-
19 lence, and by furthering the equal opportunity of
20 women for economic self-sufficiency and employment
21 free from discrimination;

22 (5) to minimize the negative impact on inter-
23 state commerce from dislocations of employees and
24 harmful effects on productivity, employment, health
25 care costs, and employer costs, caused by domestic

1 or sexual violence, including intentional efforts to
2 frustrate women’s ability to participate in employ-
3 ment and interstate commerce; and

4 (6) to accomplish the purposes described in
5 paragraphs (1) through (5) by—

6 (A) entitling employed victims of domestic
7 or sexual violence to take leave to seek medical
8 help, legal assistance, counseling, safety plan-
9 ning, and other assistance without penalty from
10 their employers; and

11 (B) prohibiting employers from discrimi-
12 nating against actual or perceived victims of do-
13 mestic or sexual violence, in a manner that ac-
14 commodates the legitimate interests of employ-
15 ers and protects the safety of all persons in the
16 workplace.

17 **SEC. 102. ENTITLEMENT TO EMERGENCY LEAVE FOR AD-**
18 **DRESSING DOMESTIC OR SEXUAL VIOLENCE.**

19 (a) LEAVE REQUIREMENT.—

20 (1) BASIS.—An employee who is a victim of do-
21 mestic or sexual violence may take leave from work
22 to address domestic or sexual violence, by—

23 (A) seeking medical attention for, or recov-
24 ering from, physical or psychological injuries
25 caused by domestic or sexual violence;

1 (B) obtaining services from a victim serv-
2 ices organization;

3 (C) obtaining psychological or other coun-
4 seling for the employee or the employee's parent
5 or son or daughter;

6 (D) participating in safety planning, tem-
7 porarily or permanently relocating, or taking
8 other actions to increase the safety of the em-
9 ployee or the employee's parent or son or
10 daughter from future domestic or sexual vio-
11 lence or ensure economic security; or

12 (E) seeking legal assistance or remedies to
13 ensure the health and safety of the employee or
14 the employee's parent or son or daughter, in-
15 cluding preparing for or participating in any
16 civil or criminal legal proceeding related to or
17 derived from domestic or sexual violence.

18 (2) PERIOD.—An employee may take not more
19 than 30 days of leave, as described in paragraph (1),
20 in any 12-month period.

21 (3) SCHEDULE.—Leave described in paragraph
22 (1) may be taken intermittently or on a reduced
23 leave schedule.

24 (b) NOTICE.—The employee shall provide the em-
25 ployer with reasonable notice of the employee's intention

1 to take the leave, unless providing such notice is not prac-
2 ticable.

3 (c) CERTIFICATION.—

4 (1) IN GENERAL.—The employer may require
5 the employee to provide certification to the employer,
6 within a reasonable period after the employer re-
7 quires the certification, that—

8 (A) the employee is a victim of domestic or
9 sexual violence; and

10 (B) the leave is for 1 of the purposes enu-
11 merated in subsection (a)(1).

12 (2) CONTENTS.—An employee may satisfy the
13 certification requirement of paragraph (1) by pro-
14 viding to the employer—

15 (A) a sworn statement of the employee;

16 (B) documentation from an employee,
17 agent, or volunteer of a victim services organi-
18 zation, an attorney, a member of the clergy, or
19 a medical or other professional, from whom the
20 employee has sought assistance in addressing
21 domestic or sexual violence and the effects of
22 the violence;

23 (C) a police or court record; or

24 (D) other corroborating evidence.

1 (d) CONFIDENTIALITY.—All information provided to
2 the employer pursuant to subsection (b) or (c), including
3 a statement of the employee or any other documentation,
4 record, or corroborating evidence, and the fact that the
5 employee has requested or obtained leave pursuant to this
6 section, shall be retained in the strictest confidence by the
7 employer, except to the extent that disclosure is—

8 (1) requested or consented to by the employee;

9 or

10 (2) otherwise required by applicable Federal or
11 State law.

12 (e) EMPLOYMENT AND BENEFITS.—

13 (1) RESTORATION TO POSITION.—

14 (A) IN GENERAL.—Except as provided in
15 paragraph (2), any employee who takes leave
16 under this section for the intended purpose of
17 the leave shall be entitled, on return from such
18 leave—

19 (i) to be restored by the employer to
20 the position of employment held by the em-
21 ployee when the leave commenced; or

22 (ii) to be restored to an equivalent po-
23 sition with equivalent employment benefits,
24 pay, and other terms and conditions of em-
25 ployment.

1 (B) LOSS OF BENEFITS.—The taking of
2 leave under this section shall not result in the
3 loss of any employment benefit accrued prior to
4 the date on which the leave commenced.

5 (C) LIMITATIONS.—Nothing in this sub-
6 section shall be construed to entitle any re-
7 stored employee to—

8 (i) the accrual of any seniority or em-
9 ployment benefits during any period of
10 leave; or

11 (ii) any right, benefit, or position of
12 employment other than any right, benefit,
13 or position to which the employee would
14 have been entitled had the employee not
15 taken the leave.

16 (D) CONSTRUCTION.—Nothing in this
17 paragraph shall be construed to prohibit an em-
18 ployer from requiring an employee on leave
19 under this section to report periodically to the
20 employer on the status and intention of the em-
21 ployee to return to work.

22 (2) EXEMPTION CONCERNING CERTAIN HIGHLY
23 COMPENSATED EMPLOYEES.—

24 (A) DENIAL OF RESTORATION.—An em-
25 ployer may deny restoration under paragraph

1 (1) to any employee described in subparagraph
2 (B) if—

3 (i) such denial is necessary to prevent
4 substantial and grievous economic injury to
5 the operations of the employer;

6 (ii) the employer notifies the employee
7 of the intent of the employer to deny res-
8 toration on such basis at the time the em-
9 ployer determines that such injury would
10 occur; and

11 (iii) in any case in which the leave has
12 commenced, the employee elects not to re-
13 turn to employment after receiving such
14 notice.

15 (B) AFFECTED EMPLOYEES.—An employee
16 referred to in subparagraph (A) is a salaried
17 employee who is among the highest paid 10 per-
18 cent of the employees employed by the employer
19 within 75 miles of the facility at which the em-
20 ployee is employed.

21 (3) MAINTENANCE OF HEALTH BENEFITS.—

22 (A) COVERAGE.—Except as provided in
23 subparagraph (B), during any period that an
24 employee takes leave under this section, the em-
25 ployer shall maintain coverage under any group

1 health plan (as defined in section 5000(b)(1) of
2 the Internal Revenue Code of 1986) for the du-
3 ration of such leave at the level and under the
4 conditions coverage would have been provided if
5 the employee had continued in employment con-
6 tinuously for the duration of such leave.

7 (B) FAILURE TO RETURN FROM LEAVE.—

8 The employer may recover the premium that
9 the employer paid for maintaining coverage for
10 the employee under such group health plan dur-
11 ing any period of leave under this section if—

12 (i) the employee fails to return from
13 leave under this section after the period of
14 leave to which the employee is entitled has
15 expired; and

16 (ii) the employee fails to return to
17 work for a reason other than—

18 (I) the continuation, recurrence,
19 or onset of domestic or sexual vio-
20 lence, that entitles the employee to
21 leave pursuant to this section; or

22 (II) other circumstances beyond
23 the control of the employee.

24 (C) CERTIFICATION.—

1 (i) ISSUANCE.—An employer may re-
2 quire an employee who claims that the em-
3 ployee is unable to return to work because
4 of a reason described in subclause (I) or
5 (II) of subparagraph (B)(ii) to provide,
6 within a reasonable period after making
7 the claim, certification to the employer
8 that the employee is unable to return to
9 work because of that reason.

10 (ii) CONTENTS.—An employee may
11 satisfy the certification requirement of
12 clause (i) by providing to the employer—

13 (I) a sworn statement of the em-
14 ployee;

15 (II) documentation from an em-
16 ployee, agent, or volunteer of a victim
17 services organization, an attorney, a
18 member of the clergy, or a medical or
19 other professional, from whom the
20 employee has sought assistance in ad-
21 dressing domestic or sexual violence
22 and the effects of that violence;

23 (III) a police or court record; or

24 (IV) other corroborating evi-
25 dence.

1 (D) CONFIDENTIALITY.—All information
2 provided to the employer pursuant to subpara-
3 graph (C), including a statement of the em-
4 ployee or any other documentation, record, or
5 corroborating evidence, and the fact that the
6 employee is not returning to work because of a
7 reason described in subclause (I) or (II) of sub-
8 paragraph (B)(ii) shall be retained in the strict-
9 est confidence by the employer, except to the
10 extent that disclosure is—

11 (i) requested or consented to by the
12 employee; or

13 (ii) otherwise required by applicable
14 Federal or State law.

15 (f) PROHIBITED ACTS.—

16 (1) INTERFERENCE WITH RIGHTS.—

17 (A) EXERCISE OF RIGHTS.—It shall be un-
18 lawful for any employer to interfere with, re-
19 strain, or deny the exercise of or the attempt to
20 exercise, any right provided under this section.

21 (B) EMPLOYER DISCRIMINATION.—It shall
22 be unlawful for any employer to discharge or
23 harass any individual, or otherwise discriminate
24 against any individual with respect to com-
25 pensation, terms, conditions, or privileges of

1 employment of the individual (including retalia-
2 tion in any form or manner) because the
3 individual—

4 (i) exercised any right provided under
5 this section; or

6 (ii) opposed any practice made unlaw-
7 ful by this section.

8 (C) PUBLIC AGENCY SANCTIONS.—It shall
9 be unlawful for any public agency to deny, re-
10 duce, or terminate the benefits of, otherwise
11 sanction, or harass any individual, or otherwise
12 discriminate against any individual with respect
13 to the amount, terms, or conditions of public
14 assistance of the individual (including retalia-
15 tion in any form or manner) because the
16 individual—

17 (i) exercised any right provided under
18 this section; or

19 (ii) opposed any practice made unlaw-
20 ful by this section.

21 (2) INTERFERENCE WITH PROCEEDINGS OR IN-
22 QUIRIES.—It shall be unlawful for any person to dis-
23 charge or in any other manner discriminate (as de-
24 scribed in subparagraph (B) or (C) of paragraph

1 (1)) against any individual because such
2 individual—

3 (A) has filed any charge, or has instituted
4 or caused to be instituted any proceeding,
5 under or related to this section;

6 (B) has given, or is about to give, any in-
7 formation in connection with any inquiry or
8 proceeding relating to any right provided under
9 this section; or

10 (C) has testified, or is about to testify, in
11 any inquiry or proceeding relating to any right
12 provided under this section.

13 (g) ENFORCEMENT.—

14 (1) CIVIL ACTION BY AFFECTED INDIVID-
15 UALS.—

16 (A) LIABILITY.—Any employer or public
17 agency that violates subsection (f) shall be lia-
18 ble to any individual affected—

19 (i) for damages equal to—

20 (I) the amount of—

21 (aa) any wages, salary, em-
22 ployment benefits, public assist-
23 ance, or other compensation de-
24 nied or lost to such individual by
25 reason of the violation; or

1 (bb) in a case in which
2 wages, salary, employment bene-
3 fits, public assistance, or other
4 compensation has not been de-
5 nied or lost to the individual, any
6 actual monetary losses sustained
7 by the individual as a direct re-
8 sult of the violation;

9 (II) the interest on the amount
10 described in subclause (I) calculated
11 at the prevailing rate; and

12 (III) an additional amount as liq-
13 uidated damages equal to the sum of
14 the amount described in subclause (I)
15 and the interest described in sub-
16 clause (II), except that if an employer
17 or public agency that has violated
18 subsection (f) proves to the satisfac-
19 tion of the court that the act or omis-
20 sion that violated subsection (f) was
21 in good faith and that the employer or
22 public agency had reasonable grounds
23 for believing that the act or omission
24 was not a violation of subsection (f),
25 such court may, in the discretion of

1 the court, reduce the amount of the li-
2 ability to the amount and interest de-
3 termined under subclauses (I) and
4 (II), respectively; and

5 (ii) for such equitable relief as may be
6 appropriate, including employment, rein-
7 statement, and promotion.

8 (B) RIGHT OF ACTION.—An action to re-
9 cover the damages or equitable relief prescribed
10 in subparagraph (A) may be maintained against
11 any employer or public agency in any Federal
12 or State court of competent jurisdiction by any
13 1 or more affected individuals for and on behalf
14 of—

15 (i) the individuals; or

16 (ii) the individuals and other individ-
17 uals similarly situated.

18 (C) FEES AND COSTS.—The court in such
19 an action shall, in addition to any judgment
20 awarded to the plaintiff, allow a reasonable at-
21 torney’s fee, reasonable expert witness fees, and
22 other costs of the action to be paid by the de-
23 fendant.

24 (D) LIMITATIONS.—The right provided by
25 subparagraph (B) to bring an action by or on

1 behalf of any affected individual shall
2 terminate—

3 (i) on the filing of a complaint by the
4 Secretary in an action under paragraph (4)
5 in which restraint is sought of any further
6 delay in the payment of the amount de-
7 scribed in subparagraph (A)(i) to such in-
8 dividual by an employer or public agency
9 responsible under subparagraph (A) for
10 the payment; or

11 (ii) on the filing of a complaint by the
12 Secretary in an action under paragraph (2)
13 in which a recovery is sought of the dam-
14 ages described in subparagraph (A)(i)
15 owing to an affected individual by an em-
16 ployer or public agency liable under sub-
17 paragraph (A),

18 unless the action described in clause (i) or (ii)
19 is dismissed without prejudice on motion of the
20 Secretary.

21 (2) ACTION BY THE SECRETARY.—

22 (A) ADMINISTRATIVE ACTION.—The Sec-
23 retary shall receive, investigate, and attempt to
24 resolve complaints of violations of subsection (f)
25 in the same manner as the Secretary receives,

1 investigates, and attempts to resolve complaints
2 of violations of sections 6 and 7 of the Fair
3 Labor Standards Act of 1938 (29 U.S.C. 206
4 and 207).

5 (B) CIVIL ACTION.—The Secretary may
6 bring an action in any court of competent juris-
7 diction to recover the damages described in
8 paragraph (1)(A)(i).

9 (C) SUMS RECOVERED.—Any sums recov-
10 ered by the Secretary pursuant to subparagraph
11 (B) shall be held in a special deposit account
12 and shall be paid, on order of the Secretary, di-
13 rectly to each individual affected. Any such
14 sums not paid to such an individual because of
15 inability to do so within a period of 3 years
16 shall be deposited into the Treasury of the
17 United States as miscellaneous receipts.

18 (3) LIMITATION.—

19 (A) IN GENERAL.—Except as provided in
20 subparagraph (B), an action may be brought
21 under this subsection not later than 2 years
22 after the date of the last event constituting the
23 alleged violation for which the action is brought.

24 (B) WILLFUL VIOLATION.—In the case of
25 such action brought for a willful violation of

1 subsection (f), such action may be brought
2 within 3 years after the date of the last event
3 constituting the alleged violation for which such
4 action is brought.

5 (C) COMMENCEMENT.—In determining
6 when an action is commenced by the Secretary
7 under this subsection for the purposes of this
8 paragraph, it shall be considered to be com-
9 menced on the date when the complaint is filed.

10 (4) ACTION FOR INJUNCTION BY SECRETARY.—

11 The district courts of the United States shall have
12 jurisdiction, for cause shown, in an action brought
13 by the Secretary—

14 (A) to restrain violations of subsection (f),
15 including the restraint of any withholding of
16 payment of wages, salary, employment benefits,
17 public assistance, or other compensation, plus
18 interest, found by the court to be due to af-
19 fected individuals; or

20 (B) to award such other equitable relief as
21 may be appropriate, including employment, re-
22 instatement, and promotion.

23 (5) SOLICITOR OF LABOR.—The Solicitor of
24 Labor may appear for and represent the Secretary
25 on any litigation brought under this subsection.

1 (6) EMPLOYER LIABILITY UNDER OTHER
2 LAWS.—Nothing in this section shall be construed to
3 limit the liability of an employer or public agency to
4 an individual, for harm suffered relating to the indi-
5 vidual’s experience of domestic or sexual violence,
6 pursuant to any other Federal or State law, includ-
7 ing a law providing for a legal remedy.

8 **SEC. 103. EXISTING LEAVE USABLE FOR ADDRESSING DO-**
9 **MESTIC OR SEXUAL VIOLENCE.**

10 An employee who is entitled to take paid or unpaid
11 leave (including family, medical, sick, annual, personal, or
12 similar leave) from employment, pursuant to State or local
13 law, a collective bargaining agreement, or an employment
14 benefits program or plan, may elect to substitute any pe-
15 riod of such leave for an equivalent period of leave pro-
16 vided under section 102.

17 **SEC. 104. EMERGENCY BENEFITS.**

18 (a) IN GENERAL.—A State may use funds provided
19 to the State under part A of title IV of the Social Security
20 Act (42 U.S.C. 601 et seq.) to provide nonrecurrent short-
21 term emergency benefits to an individual for any period
22 of leave the individual takes pursuant to section 102.

23 (b) ELIGIBILITY.—In calculating the eligibility of an
24 individual for such emergency benefits, the State shall

1 count only the cash available or accessible to the indi-
2 vidual.

3 (c) TIMING.—

4 (1) APPLICATIONS.—An individual seeking
5 emergency benefits under subsection (a) from a
6 State shall submit an application to the State.

7 (2) BENEFITS.—The State shall provide bene-
8 fits to an eligible applicant under paragraph (1) on
9 an expedited basis, and not later than 7 days after
10 the applicant submits an application under para-
11 graph (1).

12 (d) CONFORMING AMENDMENT.—Section 404 of the
13 Social Security Act (42 U.S.C. 604) is amended by adding
14 at the end the following:

15 “(l) AUTHORITY TO PROVIDE EMERGENCY BENE-
16 FITS.—A State that receives a grant under section 403
17 may use the grant to provide nonrecurrent short-term
18 emergency benefits, in accordance with section 104 of the
19 Victims’ Economic Security and Safety Act, to individuals
20 who take leave pursuant to section 102 of that Act, with-
21 out regard to whether the individuals receive assistance
22 under the State program funded under this part.”.

1 **SEC. 105. EFFECT ON OTHER LAWS AND EMPLOYMENT BEN-**
2 **EFITS.**

3 (a) MORE PROTECTIVE LAWS, AGREEMENTS, PRO-
4 GRAMS, AND PLANS.—Nothing in this title shall be con-
5 strued to supersede any provision of any Federal, State,
6 or local law, collective bargaining agreement, or employ-
7 ment benefits program or plan that provides—

8 (1) greater leave benefits for victims of domes-
9 tic or sexual violence than the rights established
10 under this title; or

11 (2) leave benefits for a larger population of vic-
12 tims of domestic or sexual violence (as defined in
13 such law, agreement, program, or plan) than the vic-
14 tims of domestic or sexual violence covered under
15 this title.

16 (b) LESS PROTECTIVE LAWS, AGREEMENTS, PRO-
17 GRAMS, AND PLANS.—The rights established for victims
18 of domestic or sexual violence under this title shall not
19 be diminished by any State or local law, collective bar-
20 gaining agreement, or employment benefits program or
21 plan.

22 **SEC. 106. CONFORMING AMENDMENT.**

23 Section 1003(a)(1) of the Rehabilitation Act Amend-
24 ments of 1986 (42 U.S.C. 2000d–7(a)(1)) is amended by
25 inserting “title I or III of the Victims’ Economic Security
26 and Safety Act,” before “or the provisions”.

1 **SEC. 107. EFFECTIVE DATE.**

2 This title and the amendment made by this title take
3 effect 180 days after the date of enactment of this Act.

4 **TITLE II—ENTITLEMENT TO UN-**
5 **EMPLOYMENT COMPENSA-**
6 **TION FOR VICTIMS OF DO-**
7 **MESTIC VIOLENCE, DATING**
8 **VIOLENCE, SEXUAL ASSAULT,**
9 **OR STALKING**

10 **SEC. 201. PURPOSES.**

11 The purposes of this title are, pursuant to the affirm-
12 ative power of Congress to enact legislation under the por-
13 tions of section 8 of article I of the Constitution relating
14 to laying and collecting taxes, providing for the general
15 welfare, and regulation of commerce among the several
16 States—

17 (1) to promote the national interest in reducing
18 domestic violence, dating violence, sexual assault,
19 and stalking by enabling victims of domestic or sex-
20 ual violence to maintain the financial independence
21 necessary to leave abusive situations, achieve safety,
22 and minimize the physical and emotional injuries
23 from domestic or sexual violence, and to reduce the
24 devastating economic consequences of domestic or
25 sexual violence to employers and employees;

1 (2) to promote the national interest in ensuring
2 that victims of domestic or sexual violence can re-
3 cover from and cope with the effects of such victim-
4 ization and participate in the criminal and civil jus-
5 tice processes without fear of adverse economic con-
6 sequences;

7 (3) to minimize the negative impact on inter-
8 state commerce from dislocations of employees and
9 harmful effects on productivity, loss of employment,
10 health care costs, and employer costs, caused by do-
11 mestic or sexual violence including intentional efforts
12 to frustrate the ability of women to participate in
13 employment and interstate commerce; and

14 (4) to accomplish the purposes described in
15 paragraphs (1), (2), and (3) by providing unemploy-
16 ment insurance to those who are separated from
17 their employment as a result of domestic or sexual
18 violence, in a manner that accommodates the legiti-
19 mate interests of employers and protects the safety
20 of all persons in the workplace.

21 **SEC. 202. UNEMPLOYMENT COMPENSATION AND TRAINING**
22 **PROVISIONS.**

23 (a) UNEMPLOYMENT COMPENSATION.—Section 3304
24 of the Internal Revenue Code of 1986 (relating to approval
25 of State unemployment compensation laws) is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (18), by striking “and”
3 at the end;

4 (B) by redesignating paragraph (19) as
5 paragraph (20); and

6 (C) by inserting after paragraph (18) the
7 following new paragraph:

8 “(19) compensation shall not be denied where
9 an individual is separated from employment due to
10 circumstances resulting from the individual’s experi-
11 ence of domestic or sexual violence; and”;

12 (2) by adding at the end the following new sub-
13 section:

14 “(g) CONSTRUCTION.—

15 “(1) IN GENERAL.—For purposes of subsection
16 (a)(19), an individual’s separation from employment
17 shall be treated as due to circumstances resulting
18 from the individual’s experience of domestic or sex-
19 ual violence if the separation resulted from—

20 “(A) the individual’s reasonable fear of fu-
21 ture domestic or sexual violence at or en route
22 to or from the individual’s place of employment;

23 “(B) the individual’s wish to relocate in
24 order to avoid future domestic or sexual vio-
25 lence against the individual or the individual’s

1 parent, son, or daughter (as such terms are de-
2 fined in section 3 of the Victims' Economic Se-
3 curity and Safety Act);

4 “(C) the individual’s need to obtain treat-
5 ment to address the physical or psychological
6 effects of domestic or sexual violence;

7 “(D) the employer’s denial of the individ-
8 ual’s request for leave from employment to ad-
9 dress domestic or sexual violence and its effects
10 on the individual or the individual’s parent, son,
11 or daughter (as such terms are so defined), in-
12 cluding leave authorized by section 102 of the
13 Family and Medical Leave Act of 1993 or by
14 title I of the Victims' Economic Security and
15 Safety Act;

16 “(E) the employer’s termination of the in-
17 dividual’s employment due to actions, including
18 absences, taken by the individual that were nec-
19 essary to protect the individual or the individ-
20 ual’s family from domestic or sexual violence;

21 “(F) the employer’s termination of the in-
22 dividual due to circumstances resulting from
23 the individual’s being, or being perceived to be,
24 a victim of domestic or sexual violence; or

1 “(G) any other circumstance in which do-
2 mestic or sexual violence causes the individual
3 to reasonably believe that separation from em-
4 ployment is necessary for the future safety of
5 the individual or the individual’s family.

6 “(2) REASONABLE EFFORTS TO RETAIN EM-
7 PLOYMENT.—For purposes of subsection (a)(19), if
8 State law requires the individual to have made rea-
9 sonable efforts to retain employment as a condition
10 for receiving unemployment compensation, such re-
11 quirement shall be met if the individual—

12 “(A) sought protection from, or assistance
13 in responding to, domestic or sexual violence,
14 including calling the police, obtaining services
15 from a victim services organization (as defined
16 in section 3 of the Victims’ Economic Security
17 and Safety Act), or seeking legal, social work,
18 medical, clerical, or other assistance;

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

23 “(C) reasonably believed that options such
24 as taking a leave of absence, transferring jobs,
25 or receiving an alternative work schedule would

1 not be sufficient to guarantee the safety of the
2 individual or the individual’s family.

3 “(3) ACTIVE SEARCH FOR EMPLOYMENT.—For
4 purposes of subsection (a)(19), if State law requires
5 the individual to actively search for employment
6 after separation from employment as a condition for
7 receiving unemployment compensation—

8 “(A) such requirement shall be treated as
9 met where the individual registers for work (the
10 individual is not otherwise required to seek em-
11 ployment on a weekly basis); and

12 “(B) such law may not categorize an em-
13 ployment opportunity as suitable work for the
14 individual unless such employment opportunity
15 reasonably accommodates the individual’s need
16 to address the physical, psychological, legal, and
17 other effects of domestic or sexual violence.

18 “(4) PROVISION OF INFORMATION TO MEET
19 CERTAIN REQUIREMENTS.—

20 “(A) IN GENERAL.—In determining if an
21 individual meets the requirements of para-
22 graphs (1), (2), and (3), the unemployment
23 agency of the State in which an individual is re-
24 questing unemployment compensation by reason
25 of subsection (a)(19) may require the individual

1 to provide certification that the separation from
2 employment was due to circumstances resulting
3 from the individual's experience of domestic or
4 sexual violence.

5 “(B) SATISFACTION OF CERTIFICATION
6 REQUIREMENT.—An individual may satisfy the
7 certification requirement of subparagraph (A)
8 by providing to the unemployment agency—

9 “(i) a sworn statement of the indi-
10 vidual;

11 “(ii) documentation from an em-
12 ployee, agent, or volunteer of a victim serv-
13 ices organization (as defined in section 3 of
14 the Victims' Economic Security and Safety
15 Act), an attorney, a member of the clergy,
16 or a medical or other professional, from
17 whom the individual has sought assistance
18 in addressing domestic or sexual violence
19 and the effects of that violence;

20 “(iii) a police or court record; or

21 “(iv) other corroborating evidence.

22 “(C) CONFIDENTIALITY.—All information
23 provided to the unemployment agency pursuant
24 to this paragraph, including a statement of an
25 individual or any other documentation, record,

1 or corroborating evidence, and the fact that an
2 individual has applied for, inquired about, or
3 obtained unemployment compensation available
4 by reason of subsection (a)(19) shall be re-
5 tained in the strictest confidence by the individ-
6 ual's former or current employer and the unem-
7 ployment agency, except to the extent that dis-
8 closure is—

9 “(i) requested or consented to by the
10 individual; or

11 “(ii) otherwise required by applicable
12 Federal or State law.”.

13 (b) UNEMPLOYMENT COMPENSATION PERSONNEL
14 TRAINING.—Section 303(a) of the Social Security Act (42
15 U.S.C. 503(a)) is amended—

16 (1) by redesignating paragraphs (4) through
17 (10) as paragraphs (5) through (11), respectively;
18 and

19 (2) by inserting after paragraph (3) the fol-
20 lowing new paragraph:

21 “(4) Such methods of administration as will en-
22 sure that—

23 “(A) applicants for unemployment com-
24 pensation and individuals inquiring about such
25 compensation are adequately notified of the

1 provisions of subsections (a)(19) and (g) of sec-
2 tion 3304 of the Internal Revenue Code of 1986
3 (relating to the availability of unemployment
4 compensation for victims of domestic or sexual
5 violence); and

6 “(B) claims reviewers and hearing per-
7 sonnel are adequately trained in—

8 “(i) the nature and dynamics of do-
9 mestic or sexual violence (as defined in
10 section 3306(u) of the Internal Revenue
11 Code of 1986); and

12 “(ii) methods of ascertaining and
13 keeping confidential information about pos-
14 sible experiences of domestic or sexual vio-
15 lence (as so defined) to ensure that—

16 “(I) requests for unemployment
17 compensation based on separations
18 stemming from such violence are reli-
19 ably screened, identified, and adju-
20 dicated; and

21 “(II) full confidentiality is pro-
22 vided for the individual’s claim and
23 submitted evidence; and”.

1 (c) TANF PERSONNEL TRAINING.—Section 402(a)
2 of the Social Security Act (42 U.S.C. 602(a)) is amended
3 by adding at the end the following new paragraph:

4 “(8) CERTIFICATION THAT THE STATE WILL
5 PROVIDE INFORMATION TO VICTIMS OF DOMESTIC
6 AND SEXUAL VIOLENCE.—A certification by the
7 chief officer of the State that the State has estab-
8 lished and is enforcing standards and procedures
9 to—

10 “(A) ensure that applicants for assistance
11 under the program and individuals inquiring
12 about such assistance are adequately notified
13 of—

14 “(i) the provisions of subsections
15 (a)(19) and (g) of section 3304 of the In-
16 ternal Revenue Code of 1986 (relating to
17 the availability of unemployment com-
18 pensation for victims of domestic or sexual
19 violence); and

20 “(ii) assistance made available by the
21 State to victims of domestic or sexual vio-
22 lence;

23 “(B) ensure that case workers and other
24 agency personnel responsible for administering

1 the State program funded under this part are
2 adequately trained in—

3 “(i) the nature and dynamics of do-
4 mestic or sexual violence (as defined in
5 section 3306(u) of the Internal Revenue
6 Code of 1986);

7 “(ii) State standards and procedures
8 relating to the prevention of, and assist-
9 ance for individuals who experience, do-
10 mestic or sexual violence (as so defined);
11 and

12 “(iii) methods of ascertaining and
13 keeping confidential information about pos-
14 sible experiences of domestic or sexual vio-
15 lence (as so defined);

16 “(C) if a State has elected to establish and
17 enforce standards and procedures regarding the
18 screening for and identification of domestic vio-
19 lence pursuant to paragraph (7), ensure that—

20 “(i) applicants for assistance under
21 the program and individuals inquiring
22 about such assistance are adequately noti-
23 fied of options available under such stand-
24 ards and procedures; and

1 “(ii) case workers and other agency
2 personnel responsible for administering the
3 State program funded under this part are
4 provided with adequate training regarding
5 such standards and procedures and options
6 available under such standards and proce-
7 dures; and

8 “(D) ensure that the training required
9 under subparagraphs (B) and, if applicable,
10 (C)(ii) is provided through a training program
11 operated by an eligible entity (as defined in sec-
12 tion 202(d)(2) of the Victims’ Economic Secu-
13 rity and Safety Act).”.

14 (d) DOMESTIC AND SEXUAL VIOLENCE TRAINING
15 GRANT PROGRAM.—

16 (1) GRANTS AUTHORIZED.—The Secretary of
17 Health and Human Services (in this subsection re-
18 ferred to as the “Secretary”) is authorized to
19 award—

20 (A) a grant to a national victim services
21 organization in order for such organization to—

22 (i) develop and disseminate a model
23 training program (and related materials)
24 for the training required under section
25 303(a)(4)(B) of the Social Security Act

1 (42 U.S.C. 503(a)(4)(B)), as added by
2 subsection (b), and under subparagraphs
3 (B) and, if applicable, (C)(ii) of section
4 402(a)(8) of the such Act (42 U.S.C.
5 602(a)(8)), as added by subsection (c); and

6 (ii) provide technical assistance with
7 respect to such model training program;
8 and

9 (B) grants to State, tribal, or local agen-
10 cies in order for such agencies to contract with
11 eligible entities to provide State, tribal, or local
12 case workers and other State, tribal, or local
13 agency personnel responsible for administering
14 the temporary assistance to needy families pro-
15 gram established under part A of title IV of the
16 Social Security Act in a State or Indian res-
17 ervation with the training required under sub-
18 paragraphs (B) and, if applicable, (C)(ii) of
19 such section 402(a)(8).

20 (2) ELIGIBLE ENTITY DEFINED.—For purposes
21 of paragraph (1)(B), the term “eligible entity”
22 means an entity—

23 (A) that is—

24 (i) a State or tribal domestic violence
25 coalition or sexual assault coalition;

1 (ii) a State or local victim services or-
2 organization with recognized expertise in the
3 dynamics of domestic or sexual violence
4 whose primary mission is to provide serv-
5 ices to victims of domestic or sexual vio-
6 lence, such as a rape crisis center or do-
7 mestic violence program; or

8 (iii) an organization with dem-
9 onstrated expertise in State or county wel-
10 fare laws and implementation of such laws
11 and experience with disseminating informa-
12 tion on such laws and implementation, but
13 only if such organization will provide the
14 required training in partnership with an
15 entity described in clause (i) or (ii); and

16 (B) that—

17 (i) has demonstrated expertise in both
18 domestic and sexual assault, such as a
19 joint domestic violence and sexual assault
20 coalition; or

21 (ii) will provide the required training
22 in partnership with an entity described in
23 clause (i) or (ii) of subparagraph (A) in
24 order to comply with the dual domestic vio-

1 lence and sexual assault expertise require-
2 ment under clause (i).

3 (3) APPLICATION.—An entity seeking a grant
4 under this subsection shall submit an application to
5 the Secretary at such time, in such form and man-
6 ner, and containing such information as the Sec-
7 retary specifies.

8 (4) REPORTS.—

9 (A) REPORTS TO CONGRESS.—The Sec-
10 retary shall annually submit a report to Con-
11 gress on the grant program established under
12 this subsection.

13 (B) REPORTS AVAILABLE TO PUBLIC.—
14 The Secretary shall establish procedures for the
15 dissemination to the public of each report sub-
16 mitted under subparagraph (A). Such proce-
17 dures shall include the use of the Internet to
18 disseminate such reports.

19 (5) AUTHORIZATION OF APPROPRIATIONS.—

20 (A) AUTHORIZATION.—There are author-
21 ized to be appropriated—

22 (i) \$1,000,000 for fiscal year 2002 to
23 carry out the provisions of paragraph
24 (1)(A); and

1 (ii) \$12,000,000 for each of fiscal
2 years 2002 through 2004 to carry out the
3 provisions of paragraph (1)(B).

4 (B) THREE-YEAR AVAILABILITY OF GRANT
5 FUNDS.—Each recipient of a grant under this
6 subsection shall return to the Secretary of
7 Health and Human Services any unused por-
8 tion of such grant not later than 3 years after
9 the date the grant was awarded, together with
10 any earnings on such unused portion.

11 (C) AMOUNTS RETURNED.—Any amounts
12 returned pursuant to subparagraph (B) shall be
13 available without further appropriation to the
14 Secretary of Health and Human Services for
15 the purpose of carrying out the provisions of
16 paragraph (1)(B).

17 (e) DEFINITION OF DOMESTIC OR SEXUAL VIO-
18 LENCE.—Section 3306 of the Internal Revenue Code of
19 1986 (relating to definitions) is amended by adding at the
20 end the following:

21 “(u) DOMESTIC OR SEXUAL VIOLENCE.—For pur-
22 poses of this chapter, the term ‘domestic or sexual vio-
23 lence’ means domestic violence, dating violence, sexual as-
24 sault, or stalking, as those terms are defined in section
25 3 of the Victims’ Economic Security and Safety Act.”.

1 (f) EFFECTIVE DATE.—

2 (1) UNEMPLOYMENT AMENDMENTS.—

3 (A) IN GENERAL.—Except as provided in
4 subparagraph (B) and paragraph (2), the
5 amendments made by this section shall apply in
6 the case of compensation paid for weeks begin-
7 ning on or after the expiration of 180 days
8 from the date of enactment of this Act.

9 (B) EXTENSION OF EFFECTIVE DATE FOR
10 STATE LAW AMENDMENT.—

11 (i) IN GENERAL.—If the Secretary of
12 Labor identifies a State as requiring a
13 change to its statutes or regulations in
14 order to comply with the amendments
15 made by this section (excluding the amend-
16 ment made by subsection (c)), such
17 amendments shall apply in the case of
18 compensation paid for weeks beginning
19 after the earlier of—

20 (I) the date the State changes its
21 statutes or regulations in order to
22 comply with such amendments; or

23 (II) the end of the first session of
24 the State legislature which begins
25 after the date of enactment of this

1 Act or which began prior to such date
2 and remained in session for at least
3 25 calendar days after such date;
4 except that in no case shall such amend-
5 ments apply before the date that is 180
6 days after the date of enactment of this
7 Act.

8 (ii) SESSION DEFINED.—In this sub-
9 paragraph, the term “session” means a
10 regular, special, budget, or other session of
11 a State legislature.

12 (2) TANF AMENDMENT.—

13 (A) IN GENERAL.—Except as provided in
14 subparagraph (B), the amendment made by
15 subsection (c) shall take effect on the date of
16 enactment of this Act.

17 (B) EXTENSION OF EFFECTIVE DATE FOR
18 STATE LAW AMENDMENT.—In the case of a
19 State plan under part A of title IV of the Social
20 Security Act which the Secretary of Health and
21 Human Services determines requires State leg-
22 islation in order for the plan to meet the addi-
23 tional requirements imposed by the amendment
24 made by subsection (c), the State plan shall not
25 be regarded as failing to comply with the re-

1 requirements of such amendment on the basis of
2 its failure to meet these additional requirements
3 before the first day of the first calendar quarter
4 beginning after the close of the first regular
5 session of the State legislature that begins after
6 the date of enactment of this Act. For purposes
7 of the previous sentence, in the case of a State
8 that has a 2-year legislative session, each year
9 of the session is considered to be a separate
10 regular session of the State legislature.

11 **TITLE III—VICTIMS’**
12 **EMPLOYMENT SUSTAINABILITY**

13 **SEC. 301. SHORT TITLE.**

14 This title may be cited as the “Victims’ Employment
15 Sustainability Act”.

16 **SEC. 302. PURPOSES.**

17 The purposes of this title are, pursuant to the affirm-
18 ative power of Congress to enact legislation under the por-
19 tions of section 8 of article I of the Constitution relating
20 to providing for the general welfare and to regulation of
21 commerce among the several States, and under section 5
22 of the 14th amendment to the Constitution—

23 (1) to promote the national interest in reducing
24 domestic violence, dating violence, sexual assault,
25 and stalking by enabling victims of domestic or sex-

1 ual violence to maintain the financial independence
2 necessary to leave abusive situations, achieve safety,
3 and minimize the physical and emotional injuries
4 from domestic or sexual violence, and to reduce the
5 devastating economic consequences of domestic or
6 sexual violence to employers and employees;

7 (2) to promote the national interest in ensuring
8 that victims of domestic or sexual violence can re-
9 cover from and cope with the effects of such vio-
10 lence, and participate in criminal and civil justice
11 processes, without fear of adverse economic con-
12 sequences from their employers;

13 (3) to ensure that victims of domestic or sexual
14 violence can recover from and cope with the effects
15 of such violence, and participate in criminal and civil
16 justice processes, without fear of adverse economic
17 consequences with respect to public benefits;

18 (4) to promote the purposes of the 14th amend-
19 ment by addressing the failure of existing laws to
20 protect the employment rights of victims of domestic
21 or sexual violence, by protecting the civil and eco-
22 nomic rights of victims of domestic or sexual vio-
23 lence, and by furthering the equal opportunity of
24 women for economic self-sufficiency and employment
25 free from discrimination;

1 (5) to minimize the negative impact on inter-
2 state commerce from dislocations of employees and
3 harmful effects on productivity, employment, health
4 care costs, and employer costs, caused by domestic
5 or sexual violence, including intentional efforts to
6 frustrate women’s ability to participate in employ-
7 ment and interstate commerce; and

8 (6) to accomplish the purposes described in
9 paragraphs (1) through (5) by prohibiting employers
10 from discriminating against actual or perceived vic-
11 tims of domestic or sexual violence, in a manner that
12 accommodates the legitimate interests of employers
13 and protects the safety of all persons in the work-
14 place.

15 **SEC. 303. PROHIBITED DISCRIMINATORY ACTS.**

16 (a) IN GENERAL.—An employer shall not fail to hire,
17 refuse to hire, discharge, or harass any individual, or oth-
18 erwise discriminate against any individual with respect to
19 the compensation, terms, conditions, or privileges of em-
20 ployment of the individual (including retaliation in any
21 form or manner), and a public agency shall not deny, re-
22 duce, or terminate the benefits of, otherwise sanction, or
23 harass any individual, or otherwise discriminate against
24 any individual with respect to the amount, terms, or condi-

1 tions of public assistance of the individual (including retal-
2 iation in any form or manner), because—

3 (1) the individual involved—

4 (A) is or is perceived to be a victim of do-
5 mestic or sexual violence;

6 (B) attended, participated in, prepared for,
7 or requested leave to attend, participate in, or
8 prepare for, a criminal or civil court proceeding
9 relating to an incident of domestic or sexual vi-
10 olence of which the individual, or the son or
11 daughter or parent of the individual, was a vic-
12 tim; or

13 (C) requested an adjustment to a job
14 structure, workplace facility, or work require-
15 ment, including a transfer, reassignment, or
16 modified schedule, leave, a changed telephone
17 number or seating assignment, installation of a
18 lock, or implementation of a safety procedure,
19 in response to actual or threatened domestic or
20 sexual violence, regardless of whether the re-
21 quest was granted; or

22 (2) the workplace is disrupted or threatened by
23 the action of a person whom the individual states
24 has committed or threatened to commit domestic or

1 sexual violence against the individual, or the individ-
2 ual's son or daughter or parent.

3 (b) DEFINITIONS.—In this section:

4 (1) DISCRIMINATE.—The term “discriminate”,
5 used with respect to the terms, conditions, or privi-
6 leges of employment or with respect to the terms or
7 conditions of public assistance, includes not making
8 a reasonable accommodation to the known limita-
9 tions of an otherwise qualified individual—

10 (A) who is a victim of domestic or sexual
11 violence;

12 (B) who is—

13 (i) an applicant or employee of the
14 employer (including a public agency); or

15 (ii) an applicant for or recipient of
16 public assistance from the public agency;

17 and

18 (C) whose limitations resulted from cir-
19 cumstances relating to being a victim of domes-
20 tic or sexual violence;

21 unless the employer or public agency can dem-
22 onstrate that the accommodation would impose an
23 undue hardship on the operation of the employer or
24 public agency.

1 (2) QUALIFIED INDIVIDUAL.—The term “quali-
2 fied individual” means—

3 (A) in the case of an applicant or employee
4 described in paragraph (1)(B)(i), an individual
5 who, with or without reasonable accommoda-
6 tion, can perform the essential functions of the
7 employment position that such individual holds
8 or desires; or

9 (B) in the case of an applicant or recipient
10 described in paragraph (1)(B)(ii), an individual
11 who, with or without reasonable accommoda-
12 tion, can satisfy the essential requirements of
13 the program providing the public assistance
14 that the individual receives or desires.

15 (3) REASONABLE ACCOMMODATION.—The term
16 “reasonable accommodation” may include an adjust-
17 ment to a job structure, workplace facility, or work
18 requirement, including a transfer, reassignment, or
19 modified schedule, leave, a changed telephone num-
20 ber or seating assignment, installation of a lock, or
21 implementation of a safety procedure, in response to
22 actual or threatened domestic or sexual violence.

23 (4) UNDUE HARDSHIP.—

24 (A) IN GENERAL.—The term “undue hard-
25 ship” means an action requiring significant dif-

1 facility or expense, when considered in light of
2 the factors set forth in subparagraph (B).

3 (B) FACTORS TO BE CONSIDERED.—In de-
4 termining whether a reasonable accommodation
5 would impose an undue hardship on the oper-
6 ation of an employer or public agency, factors
7 to be considered include—

8 (i) the nature and cost of the reason-
9 able accommodation needed under this sec-
10 tion;

11 (ii) the overall financial resources of
12 the facility involved in the provision of the
13 reasonable accommodation, the number of
14 persons employed at such facility, the ef-
15 fect on expenses and resources, or the im-
16 pact otherwise of such accommodation on
17 the operation of the facility;

18 (iii) the overall financial resources of
19 the employer or public agency, the overall
20 size of the business of an employer or pub-
21 lic agency with respect to the number of
22 employees of the employer or public agen-
23 cy, and the number, type, and location of
24 the facilities of an employer or public agen-
25 cy; and

1 (iv) the type of operation of the em-
2 ployer or public agency, including the com-
3 position, structure, and functions of the
4 workforce of the employer or public agen-
5 cy, the geographic separateness of the fa-
6 cility from the employer or public agency,
7 and the administrative or fiscal relation-
8 ship of the facility to the employer or pub-
9 lic agency.

10 **SEC. 304. ENFORCEMENT.**

11 (a) CIVIL ACTION BY INDIVIDUALS.—

12 (1) LIABILITY.—Any employer or public agency
13 that violates section 303 shall be liable to any indi-
14 vidual affected for—

15 (A) damages equal to the amount of
16 wages, salary, employment benefits, public as-
17 sistance, or other compensation denied or lost
18 to such individual by reason of the violation,
19 and the interest on that amount calculated at
20 the prevailing rate;

21 (B) compensatory damages, including dam-
22 ages for future pecuniary losses, emotional
23 pain, suffering, inconvenience, mental anguish,
24 loss of enjoyment or life, and other nonpecu-
25 niary losses;

1 (C) such punitive damages, up to 3 times
2 the amount of actual damages sustained, as the
3 court described in paragraph (2) shall deter-
4 mine to be appropriate; and

5 (D) such equitable relief as may be appro-
6 priate, including employment, reinstatement,
7 and promotion.

8 (2) RIGHT OF ACTION.—An action to recover
9 the damages or equitable relief prescribed in para-
10 graph (1) may be maintained against any employer
11 or public agency in any Federal or State court of
12 competent jurisdiction by any 1 or more individuals
13 described in section 303.

14 (b) ACTION BY DEPARTMENT OF JUSTICE.—The At-
15 torney General may bring a civil action in any Federal
16 or State court of competent jurisdiction to recover the
17 damages or equitable relief described in subsection (a)(1).

18 **SEC. 305. ATTORNEY'S FEES.**

19 Section 722(b) of the Revised Statutes (42 U.S.C.
20 1988(b)) is amended by inserting “the Victims’ Employ-
21 ment Sustainability Act,” after “title VI of the Civil
22 Rights Act of 1964,”.

1 **TITLE IV—VICTIMS OF ABUSE**
2 **INSURANCE PROTECTION**

3 **SEC. 401. SHORT TITLE.**

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

6 **SEC. 402. DEFINITIONS.**

7 In this title:

8 (1) ABUSE.—The term “abuse” means the oc-
9 currence of 1 or more of the following acts by a cur-
10 rent or former household or family member, intimate
11 partner, or caretaker:

12 (A) Attempting to cause or causing an-
13 other person bodily injury, physical harm, sub-
14 stantial emotional distress, psychological trau-
15 ma, rape, sexual assault, or involuntary sexual
16 intercourse.

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

23 (C) Subjecting another person to false im-
24 prisonment or kidnapping.

1 (D) Attempting to cause or causing dam-
2 age to property so as to intimidate or attempt
3 to control the behavior of another person.

4 (2) HEALTH CARRIER.—The term “health car-
5 rier” means a person that contracts or offers to con-
6 tract on a risk-assuming basis to provide, deliver, ar-
7 range for, pay for, or reimburse any of the cost of
8 health care services, including a sickness and acci-
9 dent insurance company, a health maintenance orga-
10 nization, a nonprofit hospital and health service cor-
11 poration or any other entity providing a plan of
12 health insurance, health benefits or health services.

13 (3) INSURED.—The term “insured” means a
14 party named on a policy, certificate, or health ben-
15 efit plan, including an individual, corporation, part-
16 nership, association, unincorporated organization, or
17 any similar entity, as the person with legal rights to
18 the benefits provided by the policy, certificate, or
19 health benefit plan. For group insurance, such term
20 includes a person who is a beneficiary covered by a
21 group policy, certificate, or health benefit plan. For
22 life insurance, the term refers to the person whose
23 life is covered under an insurance policy.

24 (4) INSURER.—The term “insurer” means any
25 person, reciprocal exchange, inter insurer, Lloyds in-

1 surer, fraternal benefit society, or other legal entity
2 engaged in the business of insurance, including
3 agents, brokers, adjusters, and third-party adminis-
4 trators. The term also includes health carriers,
5 health benefit plans, and life, disability, and prop-
6 erty and casualty insurers.

7 (5) POLICY.—The term “policy” means a con-
8 tract of insurance, certificate, indemnity, suretyship,
9 or annuity issued, proposed for issuance or intended
10 for issuance by an insurer, including endorsements
11 or riders to an insurance policy or contract.

12 (6) SUBJECT OF ABUSE.—The term “subject of
13 abuse” means—

14 (A) a person against whom an act of abuse
15 has been directed;

16 (B) a person who has prior or current in-
17 juries, illnesses, or disorders that resulted from
18 abuse; or

19 (C) a person who seeks, may have sought,
20 or had reason to seek medical or psychological
21 treatment for abuse, protection, court-ordered
22 protection, or shelter from abuse.

23 **SEC. 403. DISCRIMINATORY ACTS PROHIBITED.**

24 (a) IN GENERAL.—No insurer may, directly or indi-
25 rectly, engage in any of the following acts or practices on

1 the basis that the applicant or insured, or any person em-
2 ployed by the applicant or insured or with whom the appli-
3 cant or insured is known to have a relationship or associa-
4 tion, is, has been, or may be the subject of abuse or has
5 incurred or may incur abuse-related claims:

6 (1) Denying, refusing to issue, renew or reissue,
7 or canceling or otherwise terminating an insurance
8 policy or health benefit plan.

9 (2) Restricting, excluding, or limiting insurance
10 coverage for losses or denying a claim, except as oth-
11 erwise permitted or required by State laws relating
12 to life insurance beneficiaries.

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

15 (b) PROHIBITION ON LIMITATION OF CLAIMS.—No
16 insurer may, directly or indirectly, deny or limit payment
17 of a claim incurred by an innocent insured as a result of
18 abuse.

19 (c) PROHIBITION ON TERMINATION.—

20 (1) IN GENERAL.—No insurer or health carrier
21 may terminate health coverage for a subject of abuse
22 because coverage was originally issued in the name
23 of the abuser and the abuser has divorced, separated
24 from, or lost custody of the subject of abuse or the
25 abuser's coverage has terminated voluntarily or in-

1 voluntarily and the subject of abuse does not qualify
2 for an extension of coverage under part 6 of subtitle
3 B of title I of the Employee Retirement Income Se-
4 curity Act of 1974 (29 U.S.C. 1161 et seq.) or sec-
5 tion 4980B of the Internal Revenue Code of 1986.

6 (2) PAYMENT OF PREMIUMS.—Nothing in para-
7 graph (1) shall be construed to prohibit the insurer
8 from requiring that the subject of abuse pay the full
9 premium for the subject’s coverage under the health
10 plan if the requirements are applied to all insured of
11 the health carrier.

12 (3) EXCEPTION.—An insurer may terminate
13 group coverage to which this subsection applies after
14 the continuation coverage period required by this
15 subsection has been in force for 18 months if it of-
16 fers conversion to an equivalent individual plan.

17 (4) CONTINUATION COVERAGE.—The continu-
18 ation of health coverage required by this subsection
19 shall be satisfied by any extension of coverage under
20 part 6 of subtitle B of title I of the Employee Re-
21 tirement Income Security Act of 1974 (29 U.S.C.
22 1161 et seq.) or section 4980B of the Internal Rev-
23 enue Code of 1986 provided to a subject of abuse
24 and is not intended to be in addition to any exten-

1 sion of coverage otherwise provided for under such
2 part 6 or section 4980B.

3 (d) USE OF INFORMATION.—

4 (1) LIMITATION.—

5 (A) IN GENERAL.—In order to protect the
6 safety and privacy of subjects of abuse, no per-
7 son employed by or contracting with an insurer
8 or health benefit plan may—

9 (i) use, disclose, or transfer informa-
10 tion relating to abuse status, acts of abuse,
11 abuse-related medical conditions or the ap-
12 plicant's or insured's status as a family
13 member, employer, associate, or person in
14 a relationship with a subject of abuse for
15 any purpose unrelated to the direct provi-
16 sion of health care services unless such
17 use, disclosure, or transfer is required by
18 an order of an entity with authority to reg-
19 ulate insurance or an order of a court of
20 competent jurisdiction; or

21 (ii) disclose or transfer information
22 relating to an applicant's or insured's mail-
23 ing address or telephone number or the
24 mailing address and telephone number of a

1 shelter for subjects of abuse, unless such
2 disclosure or transfer—

3 (I) is required in order to provide
4 insurance coverage; and

5 (II) does not have the potential
6 to endanger the safety of a subject of
7 abuse.

8 (B) RULE OF CONSTRUCTION.—Nothing in
9 this paragraph may be construed to limit or
10 preclude a subject of abuse from obtaining the
11 subject’s own insurance records from an in-
12 surer.

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. 404. INSURANCE PROTOCOLS FOR SUBJECTS OF**
23 **ABUSE.**

24 Insurers shall develop and adhere to written policies
25 specifying procedures to be followed by employees, con-

1 tractors, producers, agents, and brokers for the purpose
2 of protecting the safety and privacy of a subject of abuse
3 and otherwise implementing this title when taking an ap-
4 plication, investigating a claim, or taking any other action
5 relating to a policy or claim involving a subject of abuse.

6 **SEC. 405. 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. For purposes of this section, reference to general
11 underwriting practices or guidelines shall not constitute
12 a specific reason.

13 **SEC. 406. LIFE INSURANCE.**

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

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

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

1 **SEC. 407. 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. 408. ENFORCEMENT.**

5 (a) FEDERAL TRADE COMMISSION.—

6 (1) IN GENERAL.—The Federal Trade Commis-
7 sion shall have the power to examine and investigate
8 any insurer to determine whether such insurer has
9 been or is engaged in any act or practice prohibited
10 by this title.

11 (2) CEASE AND DESIST ORDERS.—If the Fed-
12 eral Trade Commission determines an insurer has
13 been or is engaged in any act or practice prohibited
14 by this title, the Commission may take action
15 against such insurer by the issuance of a cease and
16 desist order as if the insurer was in violation of sec-
17 tion 5 of the Federal Trade Commission Act. Such
18 cease and desist order may include any individual re-
19 lief warranted under the circumstances, including
20 temporary, preliminary, and permanent injunctive
21 and compensatory relief.

22 (b) PRIVATE CAUSE OF ACTION.—

23 (1) IN GENERAL.—An applicant or insured who
24 believes that the applicant or insured has been ad-
25 versely affected by an act or practice of an insurer
26 in violation of this title may maintain an action

1 against the insurer in a Federal or State court of
2 original jurisdiction.

3 (2) RELIEF.—Upon proof of such conduct by a
4 preponderance of the evidence in an action described
5 in paragraph (1), the court may award appropriate
6 relief, including temporary, preliminary, and perma-
7 nent injunctive relief and compensatory and punitive
8 damages, as well as the costs of suit and reasonable
9 fees for the aggrieved individual’s attorneys and ex-
10 pert witnesses.

11 (3) STATUTORY DAMAGES.—With respect to
12 compensatory damages in an action described in
13 paragraph (1), the aggrieved individual may elect, at
14 any time prior to the rendering of final judgment, to
15 recover in lieu of actual damages, an award of statu-
16 tory damages in the amount of \$5,000 for each vio-
17 lation.

18 **SEC. 409. EFFECTIVE DATE.**

19 This title shall apply with respect to any action taken
20 on or after the date of enactment of this Act.

1 **TITLE V—WORKPLACE SAFETY**
2 **PROGRAM TAX CREDIT**

3 **SEC. 501. CREDIT FOR COSTS TO EMPLOYERS OF IMPLE-**
4 **MENTING WORKPLACE SAFETY PROGRAMS.**

5 (a) IN GENERAL.—Subpart D of part IV of sub-
6 chapter A of chapter 1 of the Internal Revenue Code of
7 1986 (relating to business related credits) is amended by
8 adding at the end the following:

9 **“SEC. 45G. WORKPLACE SAFETY PROGRAM CREDIT.**

10 “(a) IN GENERAL.—For purposes of section 38, the
11 workplace safety program credit determined under this
12 section for the taxable year is, for any employer, an
13 amount equal to 40 percent of the domestic and sexual
14 violence safety and education costs paid or incurred by
15 such employer during the taxable year.

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

17 “(1) DOMESTIC AND SEXUAL VIOLENCE SAFETY
18 AND EDUCATION COST.—

19 “(A) IN GENERAL.—The term ‘domestic
20 and sexual violence safety and education cost’
21 means any cost certified by the Secretary of
22 Labor to the Secretary as being for the purpose
23 of—

24 “(i) ensuring the safety of employees
25 from domestic or sexual violence,

1 “(ii) providing assistance to employees
2 and the spouses and dependents of employ-
3 ees with respect to domestic or sexual vio-
4 lence,

5 “(iii) providing legal or medical serv-
6 ices to employees and the spouses and de-
7 pendents of employees subjected to, or at
8 risk from, domestic or sexual violence,

9 “(iv) educating employees about the
10 issue of domestic or sexual violence, or

11 “(v) implementing human resource or
12 personnel policies initiated to protect em-
13 ployees from domestic or sexual violence or
14 to support employees who have been vic-
15 tims of domestic or sexual violence.

16 “(B) TYPES OF COSTS.—Such term in-
17 cludes costs certified by the Secretary of Labor
18 to the Secretary as being for the purpose of—

19 “(i) the hiring of new security per-
20 sonnel in order to address domestic or sex-
21 ual violence,

22 “(ii) the creation of buddy systems or
23 escort systems for walking employees to
24 parking lots, parked cars, subway stations,

1 or bus stops, in order to address domestic
2 or sexual violence,

3 “(iii) the purchase or installation of
4 new security equipment, including surveil-
5 lance equipment, lighting fixtures, cardkey
6 access systems, and identification systems,
7 in order to address domestic or sexual vio-
8 lence,

9 “(iv) the establishment of an employee
10 assistance line or other employee assist-
11 ance services, in order to address domestic
12 or sexual violence, for the use of individual
13 employees, including counseling or referral
14 services undertaken in consultation and co-
15 ordination with national, State, or local do-
16 mestic violence coalitions, sexual assault
17 coalitions, domestic violence programs, or
18 sexual assault programs,

19 “(v) the retention of an attorney to
20 provide legal services to employees seeking
21 restraining orders or other legal recourse
22 from domestic or sexual violence,

23 “(vi) the establishment of medical
24 services addressing the medical needs of

1 employees who are victims of domestic or
2 sexual violence,

3 “(vii) the retention of a financial ex-
4 pert or an accountant to provide financial
5 counseling to employees seeking to escape
6 from domestic or sexual violence,

7 “(viii) the establishment of an edu-
8 cation program for employees, consisting of
9 seminars or training sessions about domes-
10 tic or sexual violence undertaken in con-
11 sultation and coordination with national,
12 State, or local domestic violence coalitions,
13 sexual assault coalitions, domestic violence
14 programs, or sexual assault programs,

15 “(ix) studies of the cost, impact, or
16 extent of domestic or sexual violence at the
17 employer’s place of business, if such stud-
18 ies are made available to the public and
19 protect the identity of employees included
20 in the study,

21 “(x) the publication of a regularly dis-
22 seminated newsletter or other regularly
23 disseminated educational materials about
24 domestic or sexual violence,

1 “(xi) the implementation of leave poli-
2 cies for the purpose of allowing or accom-
3 modating the needs of victims of domestic
4 or sexual violence to pursue counseling,
5 legal assistance, or safety planning, includ-
6 ing leave from work to attend meetings
7 with attorneys, to give evidentiary state-
8 ments or depositions, and to attend hear-
9 ings or trials in court,

10 “(xii) the implementation of flexible
11 work policies for the purpose of allowing or
12 accommodating the needs of employees
13 who are victims of domestic or sexual vio-
14 lence, or employees at risk with respect to
15 such crimes, to avoid assailants,

16 “(xiii) the implementation of transfer
17 policies for the purpose of allowing or ac-
18 commodating the needs of employees sub-
19 jected to domestic or sexual violence to
20 change office locations within the company
21 in order to avoid assailants or to allow the
22 transfer of an employee who has per-
23 petrated domestic or sexual violence in
24 order to protect the victim, including pay-
25 ment of costs for the transfer and reloca-

1 tion of an employee to another city, coun-
2 ty, State, or country for the purpose of
3 maintaining an employee’s safety from do-
4 mestic or sexual violence, or

5 “(xiv) the provision of any of the serv-
6 ices described in clauses (iv) through (viii)
7 to the spouses or dependents of employees.

8 “(C) NOTIFICATION OF POSSIBLE TAX
9 CONSEQUENCES.—In no event shall any cost for
10 goods or services which may be included in the
11 income of any employee receiving or benefiting
12 from such goods or services be treated as a do-
13 mestic and sexual violence safety and education
14 cost unless the employer notifies the employee
15 in writing of the possibility of such inclusion.

16 “(2) DOMESTIC OR SEXUAL VIOLENCE.—The
17 term ‘domestic or sexual violence’ means domestic
18 violence, dating violence, sexual assault, or stalking,
19 as those terms are defined in section 3 of the Vic-
20 tims’ Economic Security and Safety Act.

21 “(3) DOMESTIC VIOLENCE COALITION; SEXUAL
22 ASSAULT COALITION.—The terms ‘domestic violence
23 coalition’ and ‘sexual assault coalition’ have the
24 meanings given the terms in section 3 of the Vic-
25 tims’ Economic Security and Safety Act.

1 “(4) EMPLOYEE.—The term ‘employee’ means
2 a person who is an employee, as defined in section
3 3(9) of the Victims’ Economic Security and Safety
4 Act, except that the person may be employed by any
5 employer described in paragraph (5).

6 “(5) EMPLOYER.—The term ‘employer’ means
7 a person who is an employer, as defined in section
8 3(10) of such Act, determined without regard to the
9 number of individuals employed.

10 “(c) COORDINATION WITH OTHER PROVISIONS.—No
11 credit or deduction shall be allowed under any other provi-
12 sion of this title for any amount for which a credit is al-
13 lowed under this section.”.

14 (b) TREATMENT AS GENERAL BUSINESS CREDIT.—

15 (1) IN GENERAL.—Subsection (b) of section 38
16 of the Internal Revenue Code of 1986 (relating to
17 general business credit) is amended by striking
18 “plus” at the end of paragraph (14), by striking the
19 period at the end of paragraph (15) and inserting “,
20 plus”, and by adding at the end the following:

21 “(16) the workplace safety program credit de-
22 termined under section 45G.”.

23 (2) TRANSITIONAL RULE FOR CARRYBACKS.—

24 Subsection (d) of section 39 of such Code (relating

1 to transitional rules) is amended by adding at the
2 end the following:

3 “(11) NO CARRYBACK OF SECTION 45G CREDIT
4 BEFORE EFFECTIVE DATE.—No portion of the un-
5 used business credit for any taxable year which is
6 attributable to the workplace safety program credit
7 determined under section 45G may be carried back
8 to a taxable year beginning before January 1,
9 2002.”.

10 (3) DEDUCTION FOR UNUSED CREDITS.—Sub-
11 section (c) of section 196 of such Code (relating to
12 deduction for certain unused business credits) is
13 amended by striking “and” at the end of paragraph
14 (9), by striking the period at the end of paragraph
15 (10) and inserting “, and”, and by adding at the
16 end the following:

17 “(11) the workplace safety program credit de-
18 termined under section 45G.”.

19 (c) CREDIT NOT A DEFENSE IN LEGAL ACTIONS.—
20 The allowance of a credit under section 45G of the Inter-
21 nal Revenue Code of 1986 (as added by this section) shall
22 not absolve employers of their responsibilities under any
23 other law and shall not be construed as a defense to any
24 legal action (other than legal action by the Secretary of
25 the Treasury under such Code).

1 (d) CLERICAL AMENDMENT.—The table of sections
 2 for subpart D of part IV of subchapter A of chapter 1
 3 of the Internal Revenue Code of 1986 is amended by add-
 4 ing at the end the following:

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

5 (e) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to taxable years beginning after
 7 December 31, 2001.

8 **TITLE VI—NATIONAL CLEARING-**
 9 **HOUSE ON DOMESTIC AND**
 10 **SEXUAL VIOLENCE IN THE**
 11 **WORKPLACE GRANT**

12 **SEC. 601. NATIONAL CLEARINGHOUSE ON DOMESTIC AND**
 13 **SEXUAL VIOLENCE IN THE WORKPLACE**
 14 **GRANT.**

15 (a) AUTHORITY.—The Attorney General may award
 16 a grant in accordance with this section to a private, non-
 17 profit entity or tribal organization that meets the require-
 18 ments of subsection (b), in order to provide for the estab-
 19 lishment and operation of a national clearinghouse and re-
 20 source center to provide information and assistance to em-
 21 ployers, labor organizations, and advocates on behalf of
 22 victims of domestic or sexual violence, in their efforts to
 23 develop and implement appropriate responses to assist
 24 those victims.

1 (b) GRANTEES.—Each applicant for a grant under
2 this section shall submit to the Attorney General an appli-
3 cation, which shall—

4 (1) demonstrate that the applicant—

5 (A) has a nationally recognized expertise in
6 the area of domestic violence, dating violence,
7 sexual assault, and stalking, and a record of
8 commitment and quality responses to reduce
9 domestic violence, dating violence, sexual as-
10 sult, and stalking; and

11 (B) will provide matching funds from non-
12 Federal sources in an amount equal to not less
13 than 10 percent of the total amount of the
14 grant awarded under this section; and

15 (2) include a plan to maximize, to the extent
16 practicable, outreach to employers (including private
17 companies, as well as public entities such as univer-
18 sities, and State and local governments) in devel-
19 oping and implementing appropriate responses to as-
20 sist employees who are victims of domestic or sexual
21 violence.

22 (c) USE OF GRANT AMOUNT.—A grant under this
23 section may be used for staff salaries, travel expenses,
24 equipment, printing, and other reasonable expenses nec-
25 essary to assemble, maintain, and disseminate to employ-

1 ers, labor organizations, and advocates described in sub-
2 section (a), information on and appropriate responses to
3 domestic violence, dating violence, sexual assault, and
4 stalking, including—

5 (1) training to promote a better understanding
6 of appropriate assistance to employee victims;

7 (2) conferences and other educational opportu-
8 nities;

9 (3) development of protocols and model work-
10 place policies;

11 (4) employer- and union-sponsored victim serv-
12 ices and outreach counseling; and

13 (5) assessments of the workplace costs of do-
14 mestic violence, dating violence, sexual assault, and
15 stalking.

16 (d) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to carry out this section
18 \$500,000 for each of fiscal years 2002 through 2006.

19 **TITLE VII—SEVERABILITY**

20 **SEC. 701. SEVERABILITY.**

21 If any provision of this Act, any amendment made
22 by this Act, or the application of such provision or amend-
23 ment to any person or circumstance is held to be unconsti-
24 tutional, the remainder of the provisions of this Act, the
25 amendments made by this Act, and the application of such

- 1 provisions or amendments to any person or circumstance
- 2 shall not be affected.

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