

107TH CONGRESS
1ST SESSION

S. 1249

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

IN THE SENATE OF THE UNITED STATES

JULY 25, 2001

Mr. WELLSTONE (for himself, Mrs. MURRAY, Mr. SCHUMER, Mr. DODD, Mr. DAYTON, Mrs. CLINTON, and Mr. INOUE) introduced the following bill; which was read twice and referred to the Committee on Finance

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:

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

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

8 (3) According to recent government surveys,
9 from 1993 through 1998 the average annual number
10 of violent victimizations committed by intimate part-
11 ners was 1,082,110, 87 percent of which were com-
12 mitted against women. Female murder victims were
13 substantially more likely than male murder victims
14 to have been killed by an intimate partner. About $\frac{1}{3}$
15 of female murder victims, and about 4 percent of
16 male murder victims, were killed by an intimate
17 partner.

18 (4) According to recent government estimates,
19 approximately 987,400 rapes occur annually in the
20 United States, 89 percent of the rapes perpetrated
21 against female victims.

22 (5) Approximately 10,200,000 people have been
23 stalked at some time in their lives. Four out of every
24 5 stalking victims are women. Stalkers harass and
25 terrorize their victims by spying on the victims,

1 standing outside their places of work or homes, mak-
2 ing unwanted phone calls, sending or leaving un-
3 wanted letters or items, or vandalizing property.

4 (6) Employees in the United States who have
5 been victims of domestic violence, dating violence,
6 sexual assault, or stalking too often suffer adverse
7 consequences in the workplace as a result of their
8 victimization.

9 (7) Victims of domestic violence, dating vio-
10 lence, sexual assault, and stalking are particularly
11 vulnerable to changes in employment, pay, and bene-
12 fits as a result of their victimizations, and are,
13 therefore, in need of legal protection.

14 (8) The prevalence of domestic violence, dating
15 violence, sexual assault, stalking, and other violence
16 against women at work is dramatic. Approximately
17 11 percent of all rapes occur in the workplace.
18 About 50,500 individuals, 83 percent of whom are
19 women, were raped or sexually assaulted in the
20 workplace each year from 1992 through 1996. Half
21 of all female victims of violent workplace crimes
22 know their attackers. Nearly 1 out of 10 violent
23 workplace incidents are committed by partners or
24 spouses.

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

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

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

13 (12) Women who have experienced domestic vi-
14 olence or dating violence are more likely than other
15 women to be unemployed, to suffer from health
16 problems that can affect employability and job per-
17 formance, to report lower personal income, and to
18 rely on welfare.

19 (13) Abusers frequently seek to control their
20 partners by actively interfering with their ability to
21 work, including preventing their partners from going
22 to work, harassing their partners at work, limiting
23 the access of their partners to cash or transpor-
24 tation, and sabotaging the child care arrangements
25 of their partners.

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

5 (15) Sexual assault, whether occurring in or out
6 of the workplace, can impair an employee's work
7 performance, require time away from work, and un-
8 dermine the employee's ability to maintain a job. Al-
9 most 50 percent of sexual assault survivors lose their
10 jobs or are forced to quit in the aftermath of the as-
11 saults.

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

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

21 (B) Violent crime accounts for
22 \$426,000,000,000 per year of this amount.

23 (C) Rape exacts the highest costs per victim of
24 any criminal offense, and accounts for

1 \$127,000,000,000 per year of the amount described
2 in subparagraph (A).

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

8 (19) The Bureau of National Affairs has esti-
9 mated that domestic violence costs United States
10 employers between \$3,000,000,000 and
11 \$5,000,000,000 annually in lost time and produc-
12 tivity. Other reports have estimated that domestic
13 violence costs United States employers
14 \$13,000,000,000 annually.

15 (20) United States medical costs for domestic
16 violence have been estimated to be \$31,000,000,000
17 per year.

18 (21) Surveys of business executives and cor-
19 porate security directors also underscore the heavy
20 toll that workplace violence takes on women, busi-
21 nesses, and interstate commerce in the United
22 States.

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

1 (23) Forty-nine percent of senior executives re-
2 cently surveyed said domestic violence has a harmful
3 effect on their company’s productivity, 47 percent
4 said domestic violence negatively affects attendance,
5 and 44 percent said domestic violence increases
6 health care costs.

7 (24) Only 16 States have laws that explicitly
8 provide unemployment insurance to domestic vio-
9 lence victims in certain circumstances, and none of
10 the laws explicitly cover victims of sexual assault or
11 stalking.

12 (25) Only 2 States provide domestic violence
13 victims with leave from work to go to court, to the
14 doctor, or to take other steps to address the domes-
15 tic violence in their lives, and only Maine provides
16 such leave to victims of sexual assault and stalking.

17 (26) No States prohibit employment discrimina-
18 tion against victims of domestic violence, sexual as-
19 sault, or stalking. New York City is the only juris-
20 diction with a law prohibiting employment discrimi-
21 nation against actual or perceived victims of domes-
22 tic violence.

23 (27) Employees, including individuals partici-
24 pating in welfare to work programs, may need to
25 take time during business hours to—

1 (A) obtain orders of protection;

2 (B) seek medical or legal assistance, coun-
3 seling, or other services; or

4 (C) look for housing in order to escape
5 from domestic violence.

6 (28) Existing Federal law does not explicitly—

7 (A) authorize victims of domestic violence,
8 dating violence, sexual assault, or stalking to
9 take leave from work to seek legal assistance
10 and redress, counseling, or assistance with safe-
11 ty planning activities;

12 (B) address the eligibility of victims of do-
13 mestic violence, dating violence, sexual assault,
14 or stalking for unemployment compensation; or

15 (C) prohibit employment discrimination
16 against actual or perceived victims of domestic
17 violence, dating violence, sexual assault, or
18 stalking.

19 **SEC. 3. DEFINITIONS.**

20 In this Act, except as otherwise expressly provided:

21 (1) **COMMERCE.**—The terms “commerce” and
22 “industry or activity affecting commerce” have the
23 meanings given the terms in section 101 of the
24 Family and Medical Leave Act of 1993 (29 U.S.C.
25 2611).

1 (2) COURSE OF CONDUCT.—The term “course
2 of conduct” means a course of repeatedly maintain-
3 ing a visual or physical proximity to a person or con-
4 veying verbal or written threats, including threats
5 conveyed through electronic communications, or
6 threats implied by conduct.

7 (3) DATING VIOLENCE.—The term “dating vio-
8 lence” has the meaning given the term in section
9 826 of the Higher Education Amendments of 1998
10 (20 U.S.C. 1152).

11 (4) DOMESTIC OR SEXUAL VIOLENCE.—The
12 term “domestic or sexual violence” means domestic
13 violence, dating violence, sexual assault, or stalking.

14 (5) DOMESTIC VIOLENCE.—The term “domestic
15 violence” has the meaning given the term in section
16 826 of the Higher Education Amendments of 1998
17 (20 U.S.C. 1152).

18 (6) DOMESTIC VIOLENCE COALITION.—The
19 term “domestic violence coalition” means a non-
20 profit, nongovernmental membership organization
21 that—

22 (A) consists of the entities carrying out a
23 majority of the domestic violence programs car-
24 ried out within a State;

1 (B) collaborates and coordinates activities
2 with Federal, State, and local entities to further
3 the purposes of domestic violence intervention
4 and prevention; and

5 (C) among other activities, provides train-
6 ing and technical assistance to entities carrying
7 out domestic violence programs within a State,
8 territory, political subdivision, or area under
9 Federal authority.

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

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

18 (9) EMPLOYEE.—

19 (A) IN GENERAL.—The term “employee”
20 means any person employed by an employer. In
21 the case of an individual employed by a public
22 agency, such term means an individual em-
23 ployed as described in section 3(e) of the Fair
24 Labor Standards Act of 1938 (29 U.S.C.
25 203(e)).

1 (B) BASIS.—The term includes a person
2 employed as described in subparagraph (A) on
3 a full- or part-time basis, for a fixed time pe-
4 riod, on a temporary basis, pursuant to a detail,
5 as an independent contractor, or as a partici-
6 pant in a work assignment as a condition of re-
7 ceipt of Federal or State income-based public
8 assistance.

9 (10) EMPLOYER.—The term “employer”—

10 (A) means any person engaged in com-
11 merce or in any industry or activity affecting
12 commerce who employs 15 or more individuals;
13 and

14 (B) includes any person acting directly or
15 indirectly in the interest of an employer in rela-
16 tion to an employee, and includes a public agen-
17 cy, but does not include any labor organization
18 (other than when acting as an employer) or
19 anyone acting in the capacity of officer or agent
20 of such labor organization.

21 (11) EMPLOYMENT BENEFITS.—The term “em-
22 ployment benefits” means all benefits provided or
23 made available to employees by an employer, includ-
24 ing group life insurance, health insurance, disability
25 insurance, sick leave, annual leave, educational bene-

1 fits, and pensions, regardless of whether such bene-
2 fits are provided by a practice or written policy of
3 an employer or through an “employee benefit plan”,
4 as defined in section 3(3) of the Employee Retirement
5 Income Security Act of 1974 (29 U.S.C.
6 1002(3)).

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

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

14 (14) PUBLIC AGENCY.—The term “public agen-
15 cy” has the meaning given the term in section 3 of
16 the Fair Labor Standards Act of 1938 (29 U.S.C.
17 203).

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

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

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

3 (18) SECRETARY.—The term “Secretary”
4 means the Secretary of Labor.

5 (19) SEXUAL ASSAULT.—The term “sexual as-
6 sault” has the meaning given the term in section
7 826 of the Higher Education Amendments of 1998
8 (20 U.S.C. 1152).

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

12 (A) consists of the entities carrying out a
13 majority of the sexual assault programs carried
14 out within a State;

15 (B) collaborates and coordinates activities
16 with Federal, State, and local entities to further
17 the purposes of sexual assault intervention and
18 prevention; and

19 (C) among other activities, provides train-
20 ing and technical assistance to entities carrying
21 out sexual assault programs within a State, ter-
22 ritory, political subdivision, or area under Fed-
23 eral authority.

24 (21) STALKING.—The term “stalking” means
25 engaging in a course of conduct directed at a spe-

1 cific person that would cause a reasonable person to
 2 suffer substantial emotional distress or to fear bodily
 3 injury, sexual assault, or death to the person, or the
 4 person’s spouse, parent, or son or daughter, or any
 5 other person who regularly resides in the person’s
 6 household, if the conduct causes the specific person
 7 to have such distress or fear.

8 (22) VICTIM SERVICES ORGANIZATION.—The
 9 term “victim services organization” means a non-
 10 profit, nongovernmental organization that provides
 11 assistance to victims of domestic or sexual violence
 12 or to advocates for such victims, including a rape
 13 crisis center, an organization carrying out a domes-
 14 tic violence program, an organization operating a
 15 shelter or providing counseling services, or an orga-
 16 nization providing assistance through the legal proc-
 17 ess.

18 **TITLE I—ENTITLEMENT TO**
 19 **EMERGENCY LEAVE FOR AD-**
 20 **DRESSING DOMESTIC OR SEX-**
 21 **UAL VIOLENCE**

22 **SEC. 101. PURPOSES.**

23 The purposes of this title are, pursuant to the affirm-
 24 ative power of Congress to enact legislation under the por-
 25 tions of section 8 of article I of the Constitution relating

1 to providing for the general welfare and to regulation of
2 commerce among the several States, and under section 5
3 of the 14th amendment to the Constitution—

4 (1) to promote the national interest in reducing
5 domestic violence, dating violence, sexual assault,
6 and stalking by enabling victims of domestic or sex-
7 ual violence to maintain the financial independence
8 necessary to leave abusive situations, achieve safety,
9 and minimize the physical and emotional injuries
10 from domestic or sexual violence, and to reduce the
11 devastating economic consequences of domestic or
12 sexual violence to employers and employees;

13 (2) to promote the national interest in ensuring
14 that victims of domestic or sexual violence can re-
15 cover from and cope with the effects of such vio-
16 lence, and participate in criminal and civil justice
17 processes, without fear of adverse economic con-
18 sequences from their employers;

19 (3) to ensure that victims of domestic or sexual
20 violence can recover from and cope with the effects
21 of such violence, and participate in criminal and civil
22 justice processes, without fear of adverse economic
23 consequences with respect to public benefits;

24 (4) to promote the purposes of the 14th amend-
25 ment by addressing the failure of existing laws to

1 protect the employment rights of victims of domestic
2 or sexual violence, by protecting the civil and eco-
3 nomic rights of victims of domestic or sexual vio-
4 lence, and by furthering the equal opportunity of
5 women for economic self-sufficiency and employment
6 free from discrimination;

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

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

16 (A) entitling employed victims of domestic
17 or sexual violence to take leave to seek medical
18 help, legal assistance, counseling, safety plan-
19 ning, and other assistance without penalty from
20 their employers; and

21 (B) prohibiting employers from discrimi-
22 nating against actual or perceived victims of do-
23 mestic or sexual violence, in a manner that ac-
24 commodates the legitimate interests of employ-

1 ers and protects the safety of all persons in the
2 workplace.

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

5 (a) LEAVE REQUIREMENT.—

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

9 (A) seeking medical attention for, or recov-
10 ering from, physical or psychological injuries
11 caused by domestic or sexual violence;

12 (B) obtaining services from a victim serv-
13 ices organization;

14 (C) obtaining psychological or other coun-
15 seling for the employee or the employee's parent
16 or son or daughter;

17 (D) participating in safety planning, tem-
18 porarily or permanently relocating, or taking
19 other actions to increase the safety of the em-
20 ployee or the employee's parent or son or
21 daughter from future domestic or sexual vio-
22 lence or ensure economic security; or

23 (E) seeking legal assistance or remedies to
24 ensure the health and safety of the employee or
25 the employee's parent or son or daughter, in-

1 including preparing for or participating in any
2 civil or criminal legal proceeding related to or
3 derived from domestic or sexual violence.

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

7 (3) SCHEDULE.—Leave described in paragraph
8 (1) may be taken intermittently or on a reduced
9 leave schedule.

10 (b) NOTICE.—The employee shall provide the em-
11 ployer with reasonable notice of the employee’s intention
12 to take the leave, unless providing such notice is not prac-
13 ticable.

14 (c) CERTIFICATION.—

15 (1) IN GENERAL.—The employer may require
16 the employee to provide certification to the employer,
17 within a reasonable period after the employer re-
18 quires the certification, that—

19 (A) the employee is a victim of domestic or
20 sexual violence; and

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

23 (2) CONTENTS.—An employee may satisfy the
24 certification requirement of paragraph (1) by pro-
25 viding to the employer—

1 (A) a sworn statement of the employee;

2 (B) documentation from an employee,
3 agent, or volunteer of a victim services organi-
4 zation, an attorney, a member of the clergy, or
5 a medical or other professional, from whom the
6 employee has sought assistance in addressing
7 domestic or sexual violence and the effects of
8 the violence;

9 (C) a police or court record; or

10 (D) other corroborating evidence.

11 (d) CONFIDENTIALITY.—All information provided to
12 the employer pursuant to subsection (b) or (c), including
13 a statement of the employee or any other documentation,
14 record, or corroborating evidence, and the fact that the
15 employee has requested or obtained leave pursuant to this
16 section, shall be retained in the strictest confidence by the
17 employer, except to the extent that disclosure is—

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

19 or

20 (2) otherwise required by applicable Federal or
21 State law.

22 (e) EMPLOYMENT AND BENEFITS.—

23 (1) RESTORATION TO POSITION.—

24 (A) IN GENERAL.—Except as provided in
25 paragraph (2), any employee who takes leave

1 under this section for the intended purpose of
2 the leave shall be entitled, on return from such
3 leave—

4 (i) to be restored by the employer to
5 the position of employment held by the em-
6 ployee when the leave commenced; or

7 (ii) to be restored to an equivalent po-
8 sition with equivalent employment benefits,
9 pay, and other terms and conditions of em-
10 ployment.

11 (B) LOSS OF BENEFITS.—The taking of
12 leave under this section shall not result in the
13 loss of any employment benefit accrued prior to
14 the date on which the leave commenced.

15 (C) LIMITATIONS.—Nothing in this sub-
16 section shall be construed to entitle any re-
17 stored employee to—

18 (i) the accrual of any seniority or em-
19 ployment benefits during any period of
20 leave; or

21 (ii) any right, benefit, or position of
22 employment other than any right, benefit,
23 or position to which the employee would
24 have been entitled had the employee not
25 taken the leave.

1 (D) CONSTRUCTION.—Nothing in this
2 paragraph shall be construed to prohibit an em-
3 ployer from requiring an employee on leave
4 under this section to report periodically to the
5 employer on the status and intention of the em-
6 ployee to return to work.

7 (2) EXEMPTION CONCERNING CERTAIN HIGHLY
8 COMPENSATED EMPLOYEES.—

9 (A) DENIAL OF RESTORATION.—An em-
10 ployer may deny restoration under paragraph
11 (1) to any employee described in subparagraph
12 (B) if—

13 (i) such denial is necessary to prevent
14 substantial and grievous economic injury to
15 the operations of the employer;

16 (ii) the employer notifies the employee
17 of the intent of the employer to deny res-
18 toration on such basis at the time the em-
19 ployer determines that such injury would
20 occur; and

21 (iii) in any case in which the leave has
22 commenced, the employee elects not to re-
23 turn to employment after receiving such
24 notice.

1 (B) AFFECTED EMPLOYEES.—An employee
2 referred to in subparagraph (A) is a salaried
3 employee who is among the highest paid 10 per-
4 cent of the employees employed by the employer
5 within 75 miles of the facility at which the em-
6 ployee is employed.

7 (3) MAINTENANCE OF HEALTH BENEFITS.—

8 (A) COVERAGE.—Except as provided in
9 subparagraph (B), during any period that an
10 employee takes leave under this section, the em-
11 ployer shall maintain coverage under any group
12 health plan (as defined in section 5000(b)(1) of
13 the Internal Revenue Code of 1986) for the du-
14 ration of such leave at the level and under the
15 conditions coverage would have been provided if
16 the employee had continued in employment con-
17 tinuously for the duration of such leave.

18 (B) FAILURE TO RETURN FROM LEAVE.—
19 The employer may recover the premium that
20 the employer paid for maintaining coverage for
21 the employee under such group health plan dur-
22 ing any period of leave under this section if—

23 (i) the employee fails to return from
24 leave under this section after the period of

1 leave to which the employee is entitled has
2 expired; and

3 (ii) the employee fails to return to
4 work for a reason other than—

5 (I) the continuation, recurrence,
6 or onset of domestic or sexual vio-
7 lence, that entitles the employee to
8 leave pursuant to this section; or

9 (II) other circumstances beyond
10 the control of the employee.

11 (C) CERTIFICATION.—

12 (i) ISSUANCE.—An employer may re-
13 quire an employee who claims that the em-
14 ployee is unable to return to work because
15 of a reason described in subclause (I) or
16 (II) of subparagraph (B)(ii) to provide,
17 within a reasonable period after making
18 the claim, certification to the employer
19 that the employee is unable to return to
20 work because of that reason.

21 (ii) CONTENTS.—An employee may
22 satisfy the certification requirement of
23 clause (i) by providing to the employer—

24 (I) a sworn statement of the em-
25 ployee;

1 (II) documentation from an em-
2 ployee, agent, or volunteer of a victim
3 services organization, an attorney, a
4 member of the clergy, or a medical or
5 other professional, from whom the
6 employee has sought assistance in ad-
7 dressing domestic or sexual violence
8 and the effects of that violence;

9 (III) a police or court record; or
10 (IV) other corroborating evi-
11 dence.

12 (D) CONFIDENTIALITY.—All information
13 provided to the employer pursuant to subpara-
14 graph (C), including a statement of the em-
15 ployee or any other documentation, record, or
16 corroborating evidence, and the fact that the
17 employee is not returning to work because of a
18 reason described in subclause (I) or (II) of sub-
19 paragraph (B)(ii) shall be retained in the strict-
20 est confidence by the employer, except to the
21 extent that disclosure is—

22 (i) requested or consented to by the
23 employee; or

24 (ii) otherwise required by applicable
25 Federal or State law.

1 (f) PROHIBITED ACTS.—

2 (1) INTERFERENCE WITH RIGHTS.—

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

7 (B) EMPLOYER DISCRIMINATION.—It shall
8 be unlawful for any employer to discharge or
9 harass any individual, or otherwise discriminate
10 against any individual with respect to com-
11 pensation, terms, conditions, or privileges of
12 employment of the individual (including retalia-
13 tion in any form or manner) because the
14 individual—

15 (i) exercised any right provided under
16 this section; or

17 (ii) opposed any practice made unlaw-
18 ful by this section.

19 (C) PUBLIC AGENCY SANCTIONS.—It shall
20 be unlawful for any public agency to deny, re-
21 duce, or terminate the benefits of, otherwise
22 sanction, or harass any individual, or otherwise
23 discriminate against any individual with respect
24 to the amount, terms, or conditions of public
25 assistance of the individual (including retalia-

1 tion in any form or manner) because the
2 individual—

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

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

7 (2) INTERFERENCE WITH PROCEEDINGS OR IN-
8 QUIRIES.—It shall be unlawful for any person to dis-
9 charge or in any other manner discriminate (as de-
10 scribed in subparagraph (B) or (C) of paragraph
11 (1)) against any individual because such
12 individual—

13 (A) has filed any charge, or has instituted
14 or caused to be instituted any proceeding,
15 under or related to this section;

16 (B) has given, or is about to give, any in-
17 formation in connection with any inquiry or
18 proceeding relating to any right provided under
19 this section; or

20 (C) has testified, or is about to testify, in
21 any inquiry or proceeding relating to any right
22 provided under this section.

23 (g) ENFORCEMENT.—

24 (1) CIVIL ACTION BY AFFECTED INDIVID-
25 UALS.—

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

4 (i) for damages equal to—

5 (I) the amount of—

6 (aa) any wages, salary, em-
7 ployment benefits, public assist-
8 ance, or other compensation de-
9 nied or lost to such individual by
10 reason of the violation; or

11 (bb) in a case in which
12 wages, salary, employment bene-
13 fits, public assistance, or other
14 compensation has not been de-
15 nied or lost to the individual, any
16 actual monetary losses sustained
17 by the individual as a direct re-
18 sult of the violation;

19 (II) the interest on the amount
20 described in subclause (I) calculated
21 at the prevailing rate; and

22 (III) an additional amount as liq-
23 uidated damages equal to the sum of
24 the amount described in subclause (I)
25 and the interest described in sub-

1 clause (II), except that if an employer
2 or public agency that has violated
3 subsection (f) proves to the satisfac-
4 tion of the court that the act or omis-
5 sion that violated subsection (f) was
6 in good faith and that the employer or
7 public agency had reasonable grounds
8 for believing that the act or omission
9 was not a violation of subsection (f),
10 such court may, in the discretion of
11 the court, reduce the amount of the li-
12 ability to the amount and interest de-
13 termined under subclauses (I) and
14 (II), respectively; and

15 (ii) for such equitable relief as may be
16 appropriate, including employment, rein-
17 statement, and promotion.

18 (B) RIGHT OF ACTION.—An action to re-
19 cover the damages or equitable relief prescribed
20 in subparagraph (A) may be maintained against
21 any employer or public agency in any Federal
22 or State court of competent jurisdiction by any
23 1 or more affected individuals for and on behalf
24 of—

25 (i) the individuals; or

1 (ii) the individuals and other individ-
2 uals similarly situated.

3 (C) FEES AND COSTS.—The court in such
4 an action shall, in addition to any judgment
5 awarded to the plaintiff, allow a reasonable at-
6 torney’s fee, reasonable expert witness fees, and
7 other costs of the action to be paid by the de-
8 fendant.

9 (D) LIMITATIONS.—The right provided by
10 subparagraph (B) to bring an action by or on
11 behalf of any affected individual shall
12 terminate—

13 (i) on the filing of a complaint by the
14 Secretary in an action under paragraph (4)
15 in which restraint is sought of any further
16 delay in the payment of the amount de-
17 scribed in subparagraph (A)(i) to such in-
18 dividual by an employer or public agency
19 responsible under subparagraph (A) for
20 the payment; or

21 (ii) on the filing of a complaint by the
22 Secretary in an action under paragraph (2)
23 in which a recovery is sought of the dam-
24 ages described in subparagraph (A)(i)
25 owing to an affected individual by an em-

1 ployer or public agency liable under sub-
2 paragraph (A),
3 unless the action described in clause (i) or (ii)
4 is dismissed without prejudice on motion of the
5 Secretary.

6 (2) ACTION BY THE SECRETARY.—

7 (A) ADMINISTRATIVE ACTION.—The Sec-
8 retary shall receive, investigate, and attempt to
9 resolve complaints of violations of subsection (f)
10 in the same manner as the Secretary receives,
11 investigates, and attempts to resolve complaints
12 of violations of sections 6 and 7 of the Fair
13 Labor Standards Act of 1938 (29 U.S.C. 206
14 and 207).

15 (B) CIVIL ACTION.—The Secretary may
16 bring an action in any court of competent juris-
17 diction to recover the damages described in
18 paragraph (1)(A)(i).

19 (C) SUMS RECOVERED.—Any sums recov-
20 ered by the Secretary pursuant to subparagraph
21 (B) shall be held in a special deposit account
22 and shall be paid, on order of the Secretary, di-
23 rectly to each individual affected. Any such
24 sums not paid to such an individual because of
25 inability to do so within a period of 3 years

1 shall be deposited into the Treasury of the
2 United States as miscellaneous receipts.

3 (3) LIMITATION.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (B), an action may be brought
6 under this subsection not later than 2 years
7 after the date of the last event constituting the
8 alleged violation for which the action is brought.

9 (B) WILLFUL VIOLATION.—In the case of
10 such action brought for a willful violation of
11 subsection (f), such action may be brought
12 within 3 years after the date of the last event
13 constituting the alleged violation for which such
14 action is brought.

15 (C) COMMENCEMENT.—In determining
16 when an action is commenced by the Secretary
17 under this subsection for the purposes of this
18 paragraph, it shall be considered to be com-
19 menced on the date when the complaint is filed.

20 (4) ACTION FOR INJUNCTION BY SECRETARY.—

21 The district courts of the United States shall have
22 jurisdiction, for cause shown, in an action brought
23 by the Secretary—

24 (A) to restrain violations of subsection (f),
25 including the restraint of any withholding of

1 payment of wages, salary, employment benefits,
 2 public assistance, or other compensation, plus
 3 interest, found by the court to be due to af-
 4 fected individuals; or

5 (B) to award such other equitable relief as
 6 may be appropriate, including employment, re-
 7 instatement, and promotion.

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

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

18 **SEC. 103. EXISTING LEAVE USABLE FOR ADDRESSING DO-**
 19 **MESTIC OR SEXUAL VIOLENCE.**

20 An employee who is entitled to take paid or unpaid
 21 leave (including family, medical, sick, annual, personal, or
 22 similar leave) from employment, pursuant to State or local
 23 law, a collective bargaining agreement, or an employment
 24 benefits program or plan, may elect to substitute any pe-

1 riod of such leave for an equivalent period of leave pro-
2 vided under section 102.

3 **SEC. 104. EMERGENCY BENEFITS.**

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

9 (b) ELIGIBILITY.—In calculating the eligibility of an
10 individual for such emergency benefits, the State shall
11 count only the cash available or accessible to the indi-
12 vidual.

13 (c) TIMING.—

14 (1) APPLICATIONS.—An individual seeking
15 emergency benefits under subsection (a) from a
16 State shall submit an application to the State.

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

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

1 of domestic or sexual violence under this title shall not
 2 be diminished by any State or local law, collective bar-
 3 gaining agreement, or employment benefits program or
 4 plan.

5 **SEC. 106. CONFORMING AMENDMENT.**

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

10 **SEC. 107. EFFECTIVE DATE.**

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

13 **TITLE II—ENTITLEMENT TO UN-**
 14 **EMPLOYMENT COMPENSA-**
 15 **TION FOR VICTIMS OF DO-**
 16 **MESTIC VIOLENCE, DATING**
 17 **VIOLENCE, SEXUAL ASSAULT,**
 18 **OR STALKING**

19 **SEC. 201. PURPOSES.**

20 The purposes of this title are, pursuant to the affirm-
 21 ative power of Congress to enact legislation under the por-
 22 tions of section 8 of article I of the Constitution relating
 23 to laying and collecting taxes, providing for the general
 24 welfare, and regulation of commerce among the several
 25 States—

1 (1) to promote the national interest in reducing
2 domestic violence, dating violence, sexual assault,
3 and stalking by enabling victims of domestic or sex-
4 ual violence to maintain the financial independence
5 necessary to leave abusive situations, achieve safety,
6 and minimize the physical and emotional injuries
7 from domestic or sexual violence, and to reduce the
8 devastating economic consequences of domestic or
9 sexual violence to employers and employees;

10 (2) to promote the national interest in ensuring
11 that victims of domestic or sexual violence can re-
12 cover from and cope with the effects of such victim-
13 ization and participate in the criminal and civil jus-
14 tice processes without fear of adverse economic con-
15 sequences;

16 (3) to minimize the negative impact on inter-
17 state commerce from dislocations of employees and
18 harmful effects on productivity, loss of employment,
19 health care costs, and employer costs, caused by do-
20 mestic or sexual violence including intentional efforts
21 to frustrate the ability of women to participate in
22 employment and interstate commerce; and

23 (4) to accomplish the purposes described in
24 paragraphs (1), (2), and (3) by providing unemploy-
25 ment insurance to those who are separated from

1 their employment as a result of domestic or sexual
 2 violence, in a manner that accommodates the legiti-
 3 mate interests of employers and protects the safety
 4 of all persons in the workplace.

5 **SEC. 202. UNEMPLOYMENT COMPENSATION AND TRAINING**
 6 **PROVISIONS.**

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

10 (1) in subsection (a)—

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

13 (B) by redesignating paragraph (19) as
 14 paragraph (20); and

15 (C) by inserting after paragraph (18) the
 16 following new paragraph:

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

21 (2) by adding at the end the following new sub-
 22 section:

23 “(g) CONSTRUCTION.—

24 “(1) IN GENERAL.—For purposes of subsection
 25 (a)(19), an individual’s separation from employment

1 shall be treated as due to circumstances resulting
2 from the individual's experience of domestic or sex-
3 ual violence if the separation resulted from—

4 “(A) the individual's reasonable fear of fu-
5 ture domestic or sexual violence at or en route
6 to or from the individual's place of employment;

7 “(B) the individual's wish to relocate in
8 order to avoid future domestic or sexual vio-
9 lence against the individual or the individual's
10 parent, son, or daughter (as such terms are de-
11 fined in section 3 of the Victims' Economic Se-
12 curity and Safety Act);

13 “(C) the individual's need to obtain treat-
14 ment to address the physical or psychological
15 effects of domestic or sexual violence;

16 “(D) the employer's denial of the individ-
17 ual's request for leave from employment to ad-
18 dress domestic or sexual violence and its effects
19 on the individual or the individual's parent, son,
20 or daughter (as such terms are so defined), in-
21 cluding leave authorized by section 102 of the
22 Family and Medical Leave Act of 1993 or by
23 title I of the Victims' Economic Security and
24 Safety Act;

1 “(E) the employer’s termination of the in-
2 dividual’s employment due to actions, including
3 absences, taken by the individual that were nec-
4 essary to protect the individual or the individ-
5 ual’s family from domestic or sexual violence;

6 “(F) the employer’s termination of the in-
7 dividual due to circumstances resulting from
8 the individual’s being, or being perceived to be,
9 a victim of domestic or sexual violence; or

10 “(G) any other circumstance in which do-
11 mestic or sexual violence causes the individual
12 to reasonably believe that separation from em-
13 ployment is necessary for the future safety of
14 the individual or the individual’s family.

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

21 “(A) sought protection from, or assistance
22 in responding to, domestic or sexual violence,
23 including calling the police, obtaining services
24 from a victim services organization (as defined
25 in section 3 of the Victims’ Economic Security

1 and Safety Act), or seeking legal, social work,
2 medical, clerical, or other assistance;

3 “(B) sought safety, including refuge in a
4 shelter or temporary or permanent relocation,
5 whether or not the individual actually obtained
6 such refuge or accomplished such relocation; or

7 “(C) reasonably believed that options such
8 as taking a leave of absence, transferring jobs,
9 or receiving an alternative work schedule would
10 not be sufficient to guarantee the safety of the
11 individual or the individual’s family.

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

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

21 “(B) such law may not categorize an em-
22 ployment opportunity as suitable work for the
23 individual unless such employment opportunity
24 reasonably accommodates the individual’s need

1 to address the physical, psychological, legal, and
2 other effects of domestic or sexual violence.

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

5 “(A) IN GENERAL.—In determining if an
6 individual meets the requirements of para-
7 graphs (1), (2), and (3), the unemployment
8 agency of the State in which an individual is re-
9 questing unemployment compensation by reason
10 of subsection (a)(19) may require the individual
11 to provide certification that the separation from
12 employment was due to circumstances resulting
13 from the individual’s experience of domestic or
14 sexual violence.

15 “(B) SATISFACTION OF CERTIFICATION
16 REQUIREMENT.—An individual may satisfy the
17 certification requirement of subparagraph (A)
18 by providing to the unemployment agency—

19 “(i) a sworn statement of the indi-
20 vidual;

21 “(ii) documentation from an em-
22 ployee, agent, or volunteer of a victim serv-
23 ices organization (as defined in section 3 of
24 the Victims’ Economic Security and Safety
25 Act), an attorney, a member of the clergy,

1 or a medical or other professional, from
2 whom the individual has sought assistance
3 in addressing domestic or sexual violence
4 and the effects of that violence;

5 “(iii) a police or court record; or

6 “(iv) other corroborating evidence.

7 “(C) CONFIDENTIALITY.—All information
8 provided to the unemployment agency pursuant
9 to this paragraph, including a statement of an
10 individual or any other documentation, record,
11 or corroborating evidence, and the fact that an
12 individual has applied for, inquired about, or
13 obtained unemployment compensation available
14 by reason of subsection (a)(19) shall be re-
15 tained in the strictest confidence by the individ-
16 ual’s former or current employer and the unem-
17 ployment agency, except to the extent that dis-
18 closure is—

19 “(i) requested or consented to by the
20 individual; or

21 “(ii) otherwise required by applicable
22 Federal or State law.”.

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

1 (1) by redesignating paragraphs (4) through
2 (10) as paragraphs (5) through (11), respectively;
3 and

4 (2) by inserting after paragraph (3) the fol-
5 lowing new paragraph:

6 “(4) Such methods of administration as will en-
7 sure that—

8 “(A) applicants for unemployment com-
9 pensation and individuals inquiring about such
10 compensation are adequately notified of the
11 provisions of subsections (a)(19) and (g) of sec-
12 tion 3304 of the Internal Revenue Code of 1986
13 (relating to the availability of unemployment
14 compensation for victims of domestic or sexual
15 violence); and

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

18 “(i) the nature and dynamics of do-
19 mestic or sexual violence (as defined in
20 section 3306(u) of the Internal Revenue
21 Code of 1986); and

22 “(ii) methods of ascertaining and
23 keeping confidential information about pos-
24 sible experiences of domestic or sexual vio-
25 lence (as so defined) to ensure that—

1 “(I) requests for unemployment
2 compensation based on separations
3 stemming from such violence are reli-
4 ably screened, identified, and adju-
5 dicated; and

6 “(II) full confidentiality is pro-
7 vided for the individual’s claim and
8 submitted evidence; and”.

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

12 “(8) CERTIFICATION THAT THE STATE WILL
13 PROVIDE INFORMATION TO VICTIMS OF DOMESTIC
14 AND SEXUAL VIOLENCE.—A certification by the
15 chief officer of the State that the State has estab-
16 lished and is enforcing standards and procedures
17 to—

18 “(A) ensure that applicants for assistance
19 under the program and individuals inquiring
20 about such assistance are adequately notified
21 of—

22 “(i) the provisions of subsections
23 (a)(19) and (g) of section 3304 of the In-
24 ternal Revenue Code of 1986 (relating to
25 the availability of unemployment com-

1 pensation for victims of domestic or sexual
2 violence); and

3 “(ii) assistance made available by the
4 State to victims of domestic or sexual vio-
5 lence;

6 “(B) ensure that case workers and other
7 agency personnel responsible for administering
8 the State program funded under this part are
9 adequately trained in—

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

14 “(ii) State standards and procedures
15 relating to the prevention of, and assist-
16 ance for individuals who experience, do-
17 mestic or sexual violence (as so defined);
18 and

19 “(iii) methods of ascertaining and
20 keeping confidential information about pos-
21 sible experiences of domestic or sexual vio-
22 lence (as so defined);

23 “(C) if a State has elected to establish and
24 enforce standards and procedures regarding the

1 screening for and identification of domestic vio-
2 lence pursuant to paragraph (7), ensure that—

3 “(i) applicants for assistance under
4 the program and individuals inquiring
5 about such assistance are adequately noti-
6 fied of options available under such stand-
7 ards and procedures; and

8 “(ii) case workers and other agency
9 personnel responsible for administering the
10 State program funded under this part are
11 provided with adequate training regarding
12 such standards and procedures and options
13 available under such standards and proce-
14 dures; and

15 “(D) ensure that the training required
16 under subparagraphs (B) and, if applicable,
17 (C)(ii) is provided through a training program
18 operated by an eligible entity (as defined in sec-
19 tion 202(d)(2) of the Victims’ Economic Secu-
20 rity and Safety Act).”.

21 (d) DOMESTIC AND SEXUAL VIOLENCE TRAINING
22 GRANT PROGRAM.—

23 (1) GRANTS AUTHORIZED.—The Secretary of
24 Health and Human Services (in this subsection re-

1 ferred to as the “Secretary”) is authorized to
2 award—

3 (A) a grant to a national victim services
4 organization in order for such organization to—

5 (i) develop and disseminate a model
6 training program (and related materials)
7 for the training required under section
8 303(a)(4)(B) of the Social Security Act
9 (42 U.S.C. 503(a)(4)(B)), as added by
10 subsection (b), and under subparagraphs
11 (B) and, if applicable, (C)(ii) of section
12 402(a)(8) of the such Act (42 U.S.C.
13 602(a)(8)), as added by subsection (c); and

14 (ii) provide technical assistance with
15 respect to such model training program;
16 and

17 (B) grants to State, tribal, or local agen-
18 cies in order for such agencies to contract with
19 eligible entities to provide State, tribal, or local
20 case workers and other State, tribal, or local
21 agency personnel responsible for administering
22 the temporary assistance to needy families pro-
23 gram established under part A of title IV of the
24 Social Security Act in a State or Indian res-
25 ervation with the training required under sub-

1 paragraphs (B) and, if applicable, (C)(ii) of
2 such section 402(a)(8).

3 (2) ELIGIBLE ENTITY DEFINED.—For purposes
4 of paragraph (1)(B), the term “eligible entity”
5 means an entity—

6 (A) that is—

7 (i) a State or tribal domestic violence
8 coalition or sexual assault coalition;

9 (ii) a State or local victim services or-
10 ganization with recognized expertise in the
11 dynamics of domestic or sexual violence
12 whose primary mission is to provide serv-
13 ices to victims of domestic or sexual vio-
14 lence, such as a rape crisis center or do-
15 mestic violence program; or

16 (iii) an organization with dem-
17 onstrated expertise in State or county wel-
18 fare laws and implementation of such laws
19 and experience with disseminating informa-
20 tion on such laws and implementation, but
21 only if such organization will provide the
22 required training in partnership with an
23 entity described in clause (i) or (ii); and

24 (B) that—

1 (i) has demonstrated expertise in both
2 domestic and sexual assault, such as a
3 joint domestic violence and sexual assault
4 coalition; or

5 (ii) will provide the required training
6 in partnership with an entity described in
7 clause (i) or (ii) of subparagraph (A) in
8 order to comply with the dual domestic vio-
9 lence and sexual assault expertise require-
10 ment under clause (i).

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

16 (4) REPORTS.—

17 (A) REPORTS TO CONGRESS.—The Sec-
18 retary shall annually submit a report to Con-
19 gress on the grant program established under
20 this subsection.

21 (B) REPORTS AVAILABLE TO PUBLIC.—
22 The Secretary shall establish procedures for the
23 dissemination to the public of each report sub-
24 mitted under subparagraph (A). Such proce-

1 dures shall include the use of the Internet to
2 disseminate such reports.

3 (5) AUTHORIZATION OF APPROPRIATIONS.—

4 (A) AUTHORIZATION.—There are author-
5 ized to be appropriated—

6 (i) \$1,000,000 for fiscal year 2002 to
7 carry out the provisions of paragraph
8 (1)(A); and

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

12 (B) THREE-YEAR AVAILABILITY OF GRANT
13 FUNDS.—Each recipient of a grant under this
14 subsection shall return to the Secretary of
15 Health and Human Services any unused por-
16 tion of such grant not later than 3 years after
17 the date the grant was awarded, together with
18 any earnings on such unused portion.

19 (C) AMOUNTS RETURNED.—Any amounts
20 returned pursuant to subparagraph (B) shall be
21 available without further appropriation to the
22 Secretary of Health and Human Services for
23 the purpose of carrying out the provisions of
24 paragraph (1)(B).

1 (e) DEFINITION OF DOMESTIC OR SEXUAL VIO-
 2 LENCE.—Section 3306 of the Internal Revenue Code of
 3 1986 (relating to definitions) is amended by adding at the
 4 end the following:

5 “(u) DOMESTIC OR SEXUAL VIOLENCE.—For pur-
 6 poses of this chapter, the term ‘domestic or sexual vio-
 7 lence’ means domestic violence, dating violence, sexual as-
 8 sault, or stalking, as those terms are defined in section
 9 3 of the Victims’ Economic Security and Safety Act.”.

10 (f) EFFECTIVE DATE.—

11 (1) UNEMPLOYMENT AMENDMENTS.—

12 (A) IN GENERAL.—Except as provided in
 13 subparagraph (B) and paragraph (2), the
 14 amendments made by this section shall apply in
 15 the case of compensation paid for weeks begin-
 16 ning on or after the expiration of 180 days
 17 from the date of enactment of this Act.

18 (B) EXTENSION OF EFFECTIVE DATE FOR
 19 STATE LAW AMENDMENT.—

20 (i) IN GENERAL.—If the Secretary of
 21 Labor identifies a State as requiring a
 22 change to its statutes or regulations in
 23 order to comply with the amendments
 24 made by this section (excluding the amend-
 25 ment made by subsection (c)), such

1 amendments shall apply in the case of
2 compensation paid for weeks beginning
3 after the earlier of—

4 (I) the date the State changes its
5 statutes or regulations in order to
6 comply with such amendments; or

7 (II) the end of the first session of
8 the State legislature which begins
9 after the date of enactment of this
10 Act or which began prior to such date
11 and remained in session for at least
12 25 calendar days after such date;

13 except that in no case shall such amend-
14 ments apply before the date that is 180
15 days after the date of enactment of this
16 Act.

17 (ii) SESSION DEFINED.—In this sub-
18 paragraph, the term “session” means a
19 regular, special, budget, or other session of
20 a State legislature.

21 (2) TANF AMENDMENT.—

22 (A) IN GENERAL.—Except as provided in
23 subparagraph (B), the amendment made by
24 subsection (c) shall take effect on the date of
25 enactment of this Act.

1 (B) EXTENSION OF EFFECTIVE DATE FOR
2 STATE LAW AMENDMENT.—In the case of a
3 State plan under part A of title IV of the Social
4 Security Act which the Secretary of Health and
5 Human Services determines requires State leg-
6 islation in order for the plan to meet the addi-
7 tional requirements imposed by the amendment
8 made by subsection (c), the State plan shall not
9 be regarded as failing to comply with the re-
10 quirements of such amendment on the basis of
11 its failure to meet these additional requirements
12 before the first day of the first calendar quarter
13 beginning after the close of the first regular
14 session of the State legislature that begins after
15 the date of enactment of this Act. For purposes
16 of the previous sentence, in the case of a State
17 that has a 2-year legislative session, each year
18 of the session is considered to be a separate
19 regular session of the State legislature.

20 **TITLE III—VICTIMS’**
21 **EMPLOYMENT SUSTAINABILITY**

22 **SEC. 301. SHORT TITLE.**

23 This title may be cited as the “Victims’ Employment
24 Sustainability Act”.

1 **SEC. 302. PURPOSES.**

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

8 (1) to promote the national interest in reducing
9 domestic violence, dating violence, sexual assault,
10 and stalking by enabling victims of domestic or sex-
11 ual violence to maintain the financial independence
12 necessary to leave abusive situations, achieve safety,
13 and minimize the physical and emotional injuries
14 from domestic or sexual violence, and to reduce the
15 devastating economic consequences of domestic or
16 sexual violence to employers and employees;

17 (2) to promote the national interest in ensuring
18 that victims of domestic or sexual violence can re-
19 cover from and cope with the effects of such vio-
20 lence, and participate in criminal and civil justice
21 processes, without fear of adverse economic con-
22 sequences from their employers;

23 (3) to ensure that victims of domestic or sexual
24 violence can recover from and cope with the effects
25 of such violence, and participate in criminal and civil

1 justice processes, without fear of adverse economic
2 consequences with respect to public benefits;

3 (4) to promote the purposes of the 14th amend-
4 ment by addressing the failure of existing laws to
5 protect the employment rights of victims of domestic
6 or sexual violence, by protecting the civil and eco-
7 nomic rights of victims of domestic or sexual vio-
8 lence, and by furthering the equal opportunity of
9 women for economic self-sufficiency and employment
10 free from discrimination;

11 (5) to minimize the negative impact on inter-
12 state commerce from dislocations of employees and
13 harmful effects on productivity, employment, health
14 care costs, and employer costs, caused by domestic
15 or sexual violence, including intentional efforts to
16 frustrate women's ability to participate in employ-
17 ment and interstate commerce; and

18 (6) to accomplish the purposes described in
19 paragraphs (1) through (5) by prohibiting employers
20 from discriminating against actual or perceived vic-
21 tims of domestic or sexual violence, in a manner that
22 accommodates the legitimate interests of employers
23 and protects the safety of all persons in the work-
24 place.

1 **SEC. 303. PROHIBITED DISCRIMINATORY ACTS.**

2 (a) IN GENERAL.—An employer shall not fail to hire,
3 refuse to hire, discharge, or harass any individual, or oth-
4 erwise discriminate against any individual with respect to
5 the compensation, terms, conditions, or privileges of em-
6 ployment of the individual (including retaliation in any
7 form or manner), and a public agency shall not deny, re-
8 duce, or terminate the benefits of, otherwise sanction, or
9 harass any individual, or otherwise discriminate against
10 any individual with respect to the amount, terms, or condi-
11 tions of public assistance of the individual (including retal-
12 iation in any form or manner), because—

13 (1) the individual involved—

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

16 (B) attended, participated in, prepared for,
17 or requested leave to attend, participate in, or
18 prepare for, a criminal or civil court proceeding
19 relating to an incident of domestic or sexual vi-
20 olence of which the individual, or the son or
21 daughter or parent of the individual, was a vic-
22 tim; or

23 (C) requested an adjustment to a job
24 structure, workplace facility, or work require-
25 ment, including a transfer, reassignment, or
26 modified schedule, leave, a changed telephone

1 number or seating assignment, installation of a
2 lock, or implementation of a safety procedure,
3 in response to actual or threatened domestic or
4 sexual violence, regardless of whether the re-
5 quest was granted; or

6 (2) the workplace is disrupted or threatened by
7 the action of a person whom the individual states
8 has committed or threatened to commit domestic or
9 sexual violence against the individual, or the individ-
10 ual's son or daughter or parent.

11 (b) DEFINITIONS.—In this section:

12 (1) DISCRIMINATE.—The term “discriminate”,
13 used with respect to the terms, conditions, or privi-
14 leges of employment or with respect to the terms or
15 conditions of public assistance, includes not making
16 a reasonable accommodation to the known limita-
17 tions of an otherwise qualified individual—

18 (A) who is a victim of domestic or sexual
19 violence;

20 (B) who is—

21 (i) an applicant or employee of the
22 employer (including a public agency); or

23 (ii) an applicant for or recipient of
24 public assistance from the public agency;

25 and

1 (C) whose limitations resulted from cir-
2 cumstances relating to being a victim of domes-
3 tic or sexual violence;
4 unless the employer or public agency can dem-
5 onstrate that the accommodation would impose an
6 undue hardship on the operation of the employer or
7 public agency.

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

10 (A) in the case of an applicant or employee
11 described in paragraph (1)(B)(i), an individual
12 who, with or without reasonable accommoda-
13 tion, can perform the essential functions of the
14 employment position that such individual holds
15 or desires; or

16 (B) in the case of an applicant or recipient
17 described in paragraph (1)(B)(ii), an individual
18 who, with or without reasonable accommoda-
19 tion, can satisfy the essential requirements of
20 the program providing the public assistance
21 that the individual receives or desires.

22 (3) REASONABLE ACCOMMODATION.—The term
23 “reasonable accommodation” may include an adjust-
24 ment to a job structure, workplace facility, or work
25 requirement, including a transfer, reassignment, or

1 modified schedule, leave, a changed telephone num-
2 ber or seating assignment, installation of a lock, or
3 implementation of a safety procedure, in response to
4 actual or threatened domestic or sexual violence.

5 (4) UNDUE HARDSHIP.—

6 (A) IN GENERAL.—The term “undue hard-
7 ship” means an action requiring significant dif-
8 ficulty or expense, when considered in light of
9 the factors set forth in subparagraph (B).

10 (B) FACTORS TO BE CONSIDERED.—In de-
11 termining whether a reasonable accommodation
12 would impose an undue hardship on the oper-
13 ation of an employer or public agency, factors
14 to be considered include—

15 (i) the nature and cost of the reason-
16 able accommodation needed under this sec-
17 tion;

18 (ii) the overall financial resources of
19 the facility involved in the provision of the
20 reasonable accommodation, the number of
21 persons employed at such facility, the ef-
22 fect on expenses and resources, or the im-
23 pact otherwise of such accommodation on
24 the operation of the facility;

1 (iii) the overall financial resources of
2 the employer or public agency, the overall
3 size of the business of an employer or pub-
4 lic agency with respect to the number of
5 employees of the employer or public agen-
6 cy, and the number, type, and location of
7 the facilities of an employer or public agen-
8 cy; and

9 (iv) the type of operation of the em-
10 ployer or public agency, including the com-
11 position, structure, and functions of the
12 workforce of the employer or public agen-
13 cy, the geographic separateness of the fa-
14 cility from the employer or public agency,
15 and the administrative or fiscal relation-
16 ship of the facility to the employer or pub-
17 lic agency.

18 **SEC. 304. ENFORCEMENT.**

19 (a) CIVIL ACTION BY INDIVIDUALS.—

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

23 (A) damages equal to the amount of
24 wages, salary, employment benefits, public as-
25 sistance, or other compensation denied or lost

1 to such individual by reason of the violation,
2 and the interest on that amount calculated at
3 the prevailing rate;

4 (B) compensatory damages, including dam-
5 ages for future pecuniary losses, emotional
6 pain, suffering, inconvenience, mental anguish,
7 loss of enjoyment or life, and other nonpecu-
8 niary losses;

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

13 (D) such equitable relief as may be appro-
14 priate, including employment, reinstatement,
15 and promotion.

16 (2) RIGHT OF ACTION.—An action to recover
17 the damages or equitable relief prescribed in para-
18 graph (1) may be maintained against any employer
19 or public agency in any Federal or State court of
20 competent jurisdiction by any 1 or more individuals
21 described in section 303.

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

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

2 Section 722(b) of the Revised Statutes (42 U.S.C.
3 1988(b)) is amended by inserting “the Victims’ Employ-
4 ment Sustainability Act,” after “title VI of the Civil
5 Rights Act of 1964,”.

6 **TITLE IV—VICTIMS OF ABUSE**
7 **INSURANCE PROTECTION**

8 **SEC. 401. SHORT TITLE.**

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

11 **SEC. 402. DEFINITIONS.**

12 In this title:

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

17 (A) Attempting to cause or causing an-
18 other person bodily injury, physical harm, sub-
19 stantial emotional distress, psychological trau-
20 ma, rape, sexual assault, or involuntary sexual
21 intercourse.

22 (B) Engaging in a course of conduct or re-
23 peatedly committing acts toward another per-
24 son, including following the person without
25 proper authority and under circumstances that

1 place the person in reasonable fear of bodily in-
2 jury or physical harm.

3 (C) Subjecting another person to false im-
4 prisonment or kidnapping.

5 (D) Attempting to cause or causing dam-
6 age to property so as to intimidate or attempt
7 to control the behavior of another person.

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

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

1 life insurance, the term refers to the person whose
2 life is covered under an insurance policy.

3 (4) INSURER.—The term “insurer” means any
4 person, reciprocal exchange, inter insurer, Lloyds in-
5 surer, fraternal benefit society, or other legal entity
6 engaged in the business of insurance, including
7 agents, brokers, adjusters, and third-party adminis-
8 trators. The term also includes health carriers,
9 health benefit plans, and life, disability, and prop-
10 erty and casualty insurers.

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

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

18 (A) a person against whom an act of abuse
19 has been directed;

20 (B) a person who has prior or current in-
21 juries, illnesses, or disorders that resulted from
22 abuse; or

23 (C) a person who seeks, may have sought,
24 or had reason to seek medical or psychological

1 treatment for abuse, protection, court-ordered
2 protection, or shelter from abuse.

3 **SEC. 403. DISCRIMINATORY ACTS PROHIBITED.**

4 (a) IN GENERAL.—No insurer may, directly or indi-
5 rectly, engage in any of the following acts or practices on
6 the basis that the applicant or insured, or any person em-
7 ployed by the applicant or insured or with whom the appli-
8 cant or insured is known to have a relationship or associa-
9 tion, is, has been, or may be the subject of abuse or has
10 incurred or may incur abuse-related claims:

11 (1) Denying, refusing to issue, renew or reissue,
12 or canceling or otherwise terminating an insurance
13 policy or health benefit plan.

14 (2) Restricting, excluding, or limiting insurance
15 coverage for losses or denying a claim, except as oth-
16 erwise permitted or required by State laws relating
17 to life insurance beneficiaries.

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

20 (b) PROHIBITION ON LIMITATION OF CLAIMS.—No
21 insurer may, directly or indirectly, deny or limit payment
22 of a claim incurred by an innocent insured as a result of
23 abuse.

24 (c) PROHIBITION ON TERMINATION.—

1 (1) IN GENERAL.—No insurer or health carrier
2 may terminate health coverage for a subject of abuse
3 because coverage was originally issued in the name
4 of the abuser and the abuser has divorced, separated
5 from, or lost custody of the subject of abuse or the
6 abuser’s coverage has terminated voluntarily or in-
7 voluntarily and the subject of abuse does not qualify
8 for an extension of coverage under part 6 of subtitle
9 B of title I of the Employee Retirement Income Se-
10 curity Act of 1974 (29 U.S.C. 1161 et seq.) or sec-
11 tion 4980B of the Internal Revenue Code of 1986.

12 (2) PAYMENT OF PREMIUMS.—Nothing in para-
13 graph (1) shall be construed to prohibit the insurer
14 from requiring that the subject of abuse pay the full
15 premium for the subject’s coverage under the health
16 plan if the requirements are applied to all insured of
17 the health carrier.

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

23 (4) CONTINUATION COVERAGE.—The continu-
24 ation of health coverage required by this subsection
25 shall be satisfied by any extension of coverage under

1 part 6 of subtitle B of title I of the Employee Re-
2 tirement Income Security Act of 1974 (29 U.S.C.
3 1161 et seq.) or section 4980B of the Internal Rev-
4 enue Code of 1986 provided to a subject of abuse
5 and is not intended to be in addition to any exten-
6 sion of coverage otherwise provided for under such
7 part 6 or section 4980B.

8 (d) USE OF INFORMATION.—

9 (1) LIMITATION.—

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

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

1 (ii) disclose or transfer information
2 relating to an applicant's or insured's mail-
3 ing address or telephone number or the
4 mailing address and telephone number of a
5 shelter for subjects of abuse, unless such
6 disclosure or transfer—

7 (I) is required in order to provide
8 insurance coverage; and

9 (II) does not have the potential
10 to endanger the safety of a subject of
11 abuse.

12 (B) RULE OF CONSTRUCTION.—Nothing in
13 this paragraph may be construed to limit or
14 preclude a subject of abuse from obtaining the
15 subject's own insurance records from an in-
16 surer.

17 (2) AUTHORITY OF SUBJECT OF ABUSE.—A
18 subject of abuse, at the absolute discretion of the
19 subject of abuse, may provide evidence of abuse to
20 an insurer for the limited purpose of facilitating
21 treatment of an abuse-related condition or dem-
22 onstrating that a condition is abuse-related. Nothing
23 in this paragraph shall be construed as authorizing
24 an insurer or health carrier to disregard such pro-
25 vided evidence.

1 **SEC. 404. INSURANCE PROTOCOLS FOR SUBJECTS OF**
2 **ABUSE.**

3 Insurers shall develop and adhere to written policies
4 specifying procedures to be followed by employees, con-
5 tractors, producers, agents, and brokers for the purpose
6 of protecting the safety and privacy of a subject of abuse
7 and otherwise implementing this title when taking an ap-
8 plication, investigating a claim, or taking any other action
9 relating to a policy or claim involving a subject of abuse.

10 **SEC. 405. REASONS FOR ADVERSE ACTIONS.**

11 An insurer that takes an action that adversely affects
12 a subject of abuse, shall advise the subject of abuse appli-
13 cant or insured of the specific reasons for the action in
14 writing. For purposes of this section, reference to general
15 underwriting practices or guidelines shall not constitute
16 a specific reason.

17 **SEC. 406. LIFE INSURANCE.**

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

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

25 (2) the applicant or prospective owner of the
26 policy is known, on the basis of police or court

1 records, to have committed an act of abuse against
2 the proposed insured.

3 **SEC. 407. SUBROGATION WITHOUT CONSENT PROHIBITED.**

4 Subrogation of claims resulting from abuse is prohib-
5 ited without the informed consent of the subject of abuse.

6 **SEC. 408. ENFORCEMENT.**

7 (a) FEDERAL TRADE COMMISSION.—

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

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

24 (b) PRIVATE CAUSE OF ACTION.—

1 (1) IN GENERAL.—An applicant or insured who
2 believes that the applicant or insured has been ad-
3 versely affected by an act or practice of an insurer
4 in violation of this title may maintain an action
5 against the insurer in a Federal or State court of
6 original jurisdiction.

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

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

22 **SEC. 409. EFFECTIVE DATE.**

23 This title shall apply with respect to any action taken
24 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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