

108TH CONGRESS  
1ST SESSION

# H. R. 3420

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

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 30, 2003

Ms. ROYBAL-ALLARD (for herself, Mrs. MALONEY, Mr. ABERCROMBIE, Mr. DAVIS of Illinois, Mr. FARR, Mr. GREEN of Texas, Mr. GUTIERREZ, Mr. HINOJOSA, Mrs. JONES of Ohio, Ms. KAPTUR, Mr. KIND, Mrs. MCCARTHY of New York, Mr. MCGOVERN, Mr. McNULTY, Mr. MOORE, Mrs. NAPOLITANO, Ms. NORTON, Mr. OWENS, Mr. PALLONE, Mr. REYES, Mr. SANDLIN, Ms. SCHAKOWSKY, Mr. SERRANO, Mr. STARK, Mrs. TAUSCHER, Ms. WATSON, Mr. WEINER, Mr. WU, Ms. BALDWIN, Ms. MCCOLLUM, Ms. WATERS, Ms. BERKLEY, and Mr. KUCINICH) 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 Financial Services, 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

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## 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 “Security and Financial Empowerment Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 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 a recent National Institutes of  
11 Health—Centers for Disease Control and Prevention  
12 study, each year there are 5,300,000 non-fatal vio-  
13 lent victimizations committed by intimate partners  
14 against women. Female murder victims were sub-  
15 stantially more likely than male murder victims to  
16 have been killed by an intimate partner. About  $\frac{1}{3}$  of  
17 female murder victims, and about 4 percent of male  
18 murder victims, were killed by an intimate partner.

19 (4) According to recent government estimates,  
20 approximately 987,400 rapes occur annually in the  
21 United States, 89 percent of the rapes perpetrated  
22 against female victims. Since 2001, rapes have actu-  
23 ally increased by 4 percent.

1           (5) Approximately 10,200,000 people have been  
2 stalked at some time in their lives. Four out of every  
3 5 stalking victims are women. Stalkers harass and  
4 terrorize their victims by spying on the victims,  
5 standing outside their places of work or homes, mak-  
6 ing unwanted phone calls, sending or leaving un-  
7 wanted letters or items, or vandalizing property.

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

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

18           (8) The prevalence of domestic violence, dating  
19 violence, sexual assault, stalking, and other violence  
20 against women at work is dramatic. About 36,500  
21 individuals, 80 percent of whom are women, were  
22 raped or sexually assaulted in the workplace each  
23 year from 1993 through 1999. Half of all female  
24 victims of violent workplace crimes know their  
25 attackers. Nearly 1 out of 10 violent workplace inci-

1 dents are committed by partners or spouses. Women  
2 who work for State and local governments suffer a  
3 higher incidence of workplace assaults, including  
4 rapes, than women who work in the private sector.

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

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

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

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

23 (13) Abusers frequently seek to control their  
24 partners by actively interfering with their ability to  
25 work, including preventing their partners from going

1 to work, harassing their partners at work, limiting  
2 the access of their partners to cash or transpor-  
3 tation, and sabotaging the child care arrangements  
4 of their partners.

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

9 (15) Victims of intimate partner violence lose  
10 8,000,000 days of paid work each year—the equiva-  
11 lent of over 32,000 full-time jobs and 5,600,000  
12 days of household productivity.

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

20 (17) More than 35 percent of stalking victims  
21 report losing time from work due to the stalking and  
22 7 percent never return to work.

23 (18)(A) According to the National Institute of  
24 Justice, crime costs an estimated \$450,000,000,000  
25 annually in medical expenses, lost earnings, social

1 service costs, pain, suffering, and reduced quality of  
2 life for victims, which harms the Nation's produc-  
3 tivity and drains the Nation's resources.

4 (B) Violent crime accounts for  
5 \$426,000,000,000 per year of this amount.

6 (C) Rape exacts the highest costs per victim of  
7 any criminal offense, and accounts for  
8 \$127,000,000,000 per year of the amount described  
9 in subparagraph (A).

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

15 (20) The Bureau of National Affairs has esti-  
16 mated that domestic violence costs United States  
17 employers between \$3,000,000,000 and  
18 \$5,000,000,000 annually in lost time and produc-  
19 tivity, while other reports have estimated the cost at  
20 between \$5,800,000,000 and \$13,000,000,000 annu-  
21 ally.

22 (21) United States medical costs for domestic  
23 violence have been estimated to be \$31,000,000,000  
24 per year.

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

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

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

15          (25) Only 25 States have laws that explicitly  
16          provide unemployment insurance to domestic vio-  
17          lence victims in certain circumstances, and none of  
18          the laws explicitly cover victims of sexual assault or  
19          stalking.

20          (26) Only 6 States provide domestic violence  
21          victims with leave from work to go to court, to the  
22          doctor, or to take other steps to address the domes-  
23          tic violence in their lives, and only Maine provides  
24          such leave to victims of sexual assault and stalking.

1           (27) No States prohibit employment discrimina-  
2           tion against victims of domestic violence, sexual as-  
3           sault, or stalking. Five States provide limited protec-  
4           tion to some victims under certain circumstances.

5           (28) Employees, including individuals partici-  
6           pating in welfare to work programs, may need to  
7           take time during business hours to—

8                   (A) obtain orders of protection;

9                   (B) seek medical or legal assistance, coun-  
10           seling, or other services; or

11                   (C) look for housing in order to escape  
12           from domestic violence.

13           (29) Domestic and sexual violence victims have  
14           been subjected to discrimination by private and  
15           State employers, including discrimination motivated  
16           by sex and stereotypic notions about women.

17           (30) Domestic violence victims and third parties  
18           who help them have been subjected to discriminatory  
19           practices by health, life, disability, and property and  
20           casualty insurers and employers who self-insure em-  
21           ployee benefits who have denied or canceled cov-  
22           erage, rejected claims, and raised rates based on do-  
23           mestic violence. Although some State legislatures  
24           have tried to address these problems, the scope of  
25           protection afforded by the laws adopted varies from

1 State to State, with many failing to address the  
2 problem comprehensively. Moreover, Federal law  
3 prevents States from protecting the almost 40 per-  
4 cent of employees whose employers self-insure em-  
5 ployee benefits.

6 (31) 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;

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

19 (D) prohibit insurers and employers who  
20 self-insure employee benefits from discrimi-  
21 nating against domestic violence victims and  
22 those who help them in determining eligibility,  
23 rates charged, and standards for payment of  
24 claims; nor does it prohibit insurers from diselo-  
25 sure of information about abuse and the vic-

1           tim’s location through insurance databases and  
2           other means.

3 **SEC. 3. DEFINITIONS.**

4           In this Act, except as otherwise expressly provided:

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

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

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

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

23          (5) **DOMESTIC VIOLENCE.**—The term “domestic  
24          violence” has the meaning given the term in section

1 826 of the Higher Education Amendments of 1998  
2 (20 U.S.C. 1152).

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

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

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

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

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

23 (8) EMPLOY; STATE.—The terms “employ” and  
24 “State” have the meanings given the terms in sec-

1 tion 3 of the Fair Labor Standards Act of 1938 (29  
2 U.S.C. 203).

3 (9) EMPLOYEE.—

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

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

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

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

24 (B) includes any person acting directly or  
25 indirectly in the interest of an employer in rela-

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

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

17          (12) FAMILY OR HOUSEHOLD MEMBER.—The  
18          term “family or household member” means a  
19          spouse, former spouse, parent, son or daughter, or  
20          person residing or formerly residing in the same  
21          dwelling unit.

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

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

4           (15) PUBLIC AGENCY.—The term “public agen-  
5 cy” has the meaning given the term in section 3 of  
6 the Fair Labor Standards Act of 1938 (29 U.S.C.  
7 203).

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

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

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

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

20           (20) SEXUAL ASSAULT.—The term “sexual as-  
21 sault” has the meaning given the term in section  
22 826 of the Higher Education Amendments of 1998  
23 (20 U.S.C. 1152).

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

4                   (A) consists of the entities carrying out a  
5                   majority of the sexual assault programs carried  
6                   out within a State;

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

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

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

1           (23) VICTIM OF DOMESTIC OR SEXUAL VIO-  
2           LENCE.—The term “victim of domestic or sexual vi-  
3           olence” includes a person who has been a victim of  
4           domestic or sexual violence and a person whose fam-  
5           ily or household member has been a victim of domes-  
6           tic or sexual violence.

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

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

21 **SEC. 101. PURPOSES.**

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

1 commerce among the several States, and under section 5  
2 of the 14th amendment to the Constitution—

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

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

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

23           (4) to promote the purposes of the 14th amend-  
24 ment by preventing sex-based discrimination and  
25 discrimination against victims of domestic and sex-

1 ual violence in employment leave, addressing the  
2 failure of existing laws to protect the employment  
3 rights of victims of domestic or sexual violence, by  
4 protecting their civil and economic rights, and by  
5 furthering the equal opportunity of women for eco-  
6 nomic self-sufficiency and employment free from dis-  
7 crimination;

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

15 (6) to further the goals of human rights and  
16 dignity reflected in instruments such as the United  
17 Nations Charter, the Universal Declaration of  
18 Human Rights, and the International Covenant on  
19 Civil and Political Rights; and

20 (7) to accomplish the purposes described in  
21 paragraphs (1) through (6) by—

22 (A) entitling employed victims of domestic  
23 or sexual violence to take leave to seek medical  
24 help, legal assistance, counseling, safety plan-

1           ning, and other assistance without penalty from  
2           their employers; and

3                   (B) prohibiting employers from discrimi-  
4           nating against actual or perceived victims of do-  
5           mestic or sexual violence, in a manner that ac-  
6           commodates the legitimate interests of employ-  
7           ers and protects the safety of all persons in the  
8           workplace.

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

11           (a) LEAVE REQUIREMENT.—

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

15                           (A) seeking medical attention for, or recov-  
16           ering from, physical or psychological injuries  
17           caused by domestic or sexual violence to the  
18           employee or the employee’s family or household  
19           member;

20                           (B) obtaining services from a victim serv-  
21           ices organization for the employee or the em-  
22           ployee’s family or household member;

23                           (C) obtaining psychological or other coun-  
24           seling for the employee or the employee’s family  
25           or household member;

1 (D) participating in safety planning, tem-  
2 porarily or permanently relocating, or taking  
3 other actions to increase the safety of the em-  
4 ployee or the employee's family or household  
5 member from future domestic or sexual violence  
6 or ensure economic security; or

7 (E) seeking legal assistance or remedies to  
8 ensure the health and safety of the employee or  
9 the employee's family or household member, in-  
10 cluding preparing for or participating in any  
11 civil or criminal legal proceeding related to or  
12 derived from domestic or sexual violence.

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

16 (3) SCHEDULE.—Leave described in paragraph  
17 (1) may be taken intermittently or on a reduced  
18 leave schedule.

19 (b) NOTICE.—The employee shall provide the em-  
20 ployer with reasonable notice of the employee's intention  
21 to take the leave, unless providing such notice is not prac-  
22 ticable.

23 (c) CERTIFICATION.—

1           (1) IN GENERAL.—The employer may require  
2 the employee to provide certification to the employer  
3 that—

4           (A) the employee or the employee’s family  
5 or household member is a victim of domestic or  
6 sexual violence; and

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

9 The employee shall provide a copy of such certifi-  
10 cation to the employer within a reasonable period  
11 after the employer requests certification.

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 or the employee’s family or household  
21 member has sought assistance in addressing do-  
22 mestic or sexual violence and the effects of the  
23 violence;

24           (C) a police or court record; or

25           (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 in writing; 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 indi-  
3 vidual—

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 indi-  
16 vidual—

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 indi-  
2 vidual—

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 termi-  
2           nate—

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 Security and Financial Empowerment 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 Security and Financial Em-  
26 powerment 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, and under section 5 of the 14th amendment to  
17 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  
25 devastating economic consequences of domestic or  
26 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;

14           (4) to promote the purposes of the 14th amend-  
15 ment to the Constitution by preventing sex-based  
16 discrimination and discrimination against victims of  
17 domestic and sexual violence in unemployment insur-  
18 ance, by addressing the failure of existing laws to  
19 protect the employment rights of victims of domestic  
20 or sexual violence, by protecting their civil and eco-  
21 nomic rights, and by furthering the equal oppor-  
22 tunity of women for economic self-sufficiency and  
23 employment free from discrimination; and

24           (5) to accomplish the purposes described in  
25 paragraphs (1) through (4) by providing unemploy-

1       ment insurance to those who are separated from  
2       their employment as a result of domestic or sexual  
3       violence, in a manner that accommodates the legiti-  
4       mate interests of employers and protects the safety  
5       of all persons in the workplace.

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

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

11           (1) in subsection (a)—

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

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

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

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

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

24           “(g) CONSTRUCTION.—

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

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

9           “(B) the individual’s wish to relocate in  
10 order to avoid future domestic or sexual vio-  
11 lence against the individual or the individual’s  
12 family or household member (as such term is  
13 defined in section 3 of the Security and Finan-  
14 cial Empowerment Act);

15           “(C) the individual’s need to obtain treat-  
16 ment to address the physical, psychological, or  
17 legal effects of domestic or sexual violence on  
18 the individual or the individual’s family or  
19 household member (as such term is defined in  
20 section 3 of the Security and Financial Em-  
21 powerment Act);

22           “(D) the employer’s denial of the individ-  
23 ual’s request for leave from employment to ad-  
24 dress domestic or sexual violence and its effects  
25 on the individual or the individual’s family or

1 household member (as such term is defined in  
2 section 3 of the Security and Financial Em-  
3 powerment Act), including leave authorized by  
4 section 102 of the Family and Medical Leave  
5 Act of 1993 or by title I of the Security and Fi-  
6 nancial Empowerment Act;

7 “(E) the employer’s termination of the in-  
8 dividual’s employment due to actions, including  
9 absences, taken by the individual that were nec-  
10 essary to protect the individual or the individ-  
11 ual’s family or household member (as such term  
12 is defined in section 3 of the Security and Fi-  
13 nancial Empowerment Act) from domestic or  
14 sexual violence;

15 “(F) the employer’s termination of the in-  
16 dividual due to circumstances resulting from  
17 the individual’s being, or being perceived to be,  
18 a victim of domestic or sexual violence; or

19 “(G) any other circumstance in which do-  
20 mestic or sexual violence causes the individual  
21 to reasonably believe that separation from em-  
22 ployment is necessary for the future safety of  
23 the individual or the individual’s family or  
24 household member (as such term is defined in

1 section 3 of the Security and Financial Em-  
2 powerment Act).

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

9 “(A) sought protection from, or assistance  
10 in responding to, domestic or sexual violence,  
11 including calling the police, obtaining services  
12 from a victim services organization (as defined  
13 in section 3 of the Security and Financial Em-  
14 powerment Act), or seeking legal, social work,  
15 medical, clerical, or other assistance;

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

20 “(C) reasonably believed that options such  
21 as taking a leave of absence, transferring jobs,  
22 or receiving an alternative work schedule would  
23 not be sufficient to guarantee the safety of the  
24 individual or the individual’s family or house-  
25 hold member (as such term is defined in section

1           3 of the Security and Financial Empowerment  
2           Act).

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, or the individual's family  
4 or household member's (as such term is defined  
5 in section 3 of the Security and Financial Em-  
6 powerment Act), experience of domestic or sex-  
7 ual violence.

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

12 “(i) a sworn statement of the indi-  
13 vidual;

14 “(ii) documentation from an em-  
15 ployee, agent, or volunteer of a victim serv-  
16 ices organization (as defined in section 3 of  
17 the Security and Financial Empowerment  
18 Act), an attorney, a member of the clergy,  
19 or a medical or other professional, from  
20 whom the individual or the individual's  
21 family or household member (as such term  
22 is defined in section 3 of the Security and  
23 Financial Empowerment Act) has sought  
24 assistance in addressing domestic or sexual  
25 violence and the effects of that violence;

1 “(iii) a police or court record; or

2 “(iv) other corroborating evidence.

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

15 “(i) requested or consented to by the  
16 individual in writing; or

17 “(ii) otherwise required by applicable  
18 Federal or State law.”.

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

22 (1) by redesignating paragraphs (4) through  
23 (10) as paragraphs (5) through (11), respectively;  
24 and

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

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

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

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

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

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

23                                  “(I) requests for unemployment  
24                                  compensation based on separations  
25                                  stemming from such violence are reli-

1 ably screened, identified, and adju-  
2 dicated; and

3 “(II) full confidentiality is pro-  
4 vided for the individual’s claim and  
5 submitted evidence; and”.

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

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

15 “(A) ensure that applicants for assistance  
16 under the program and individuals inquiring  
17 about such assistance are adequately notified  
18 of—

19 “(i) the provisions of subsections  
20 (a)(19) and (g) of section 3304 of the In-  
21 ternal Revenue Code of 1986 (relating to  
22 the availability of unemployment com-  
23 pensation for victims of domestic or sexual  
24 violence); and

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

4                   “(B) ensure that case workers and other  
5                   agency personnel responsible for administering  
6                   the State program funded under this part are  
7                   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);

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

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

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

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

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

13          “(D) ensure that the training required  
14          under subparagraphs (B) and, if applicable,  
15          (C)(ii) is provided through a training program  
16          operated by an eligible entity (as defined in sec-  
17          tion 202(d)(2) of the Security and Financial  
18          Empowerment Act).”.

19          (d) DOMESTIC AND SEXUAL VIOLENCE TRAINING  
20          GRANT PROGRAM.—

21                 (1) GRANTS AUTHORIZED.—The Secretary of  
22          Health and Human Services (in this subsection re-  
23          ferred to as the “Secretary”) is authorized to  
24          award—

1 (A) a grant to a national victim services  
2 organization in order for such organization to—

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

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

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

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

4           (A) that is—

5           (i) a State or tribal domestic violence  
6 coalition or sexual assault coalition;

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

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

22           (B) that—

23           (i) has demonstrated expertise in both  
24 domestic and sexual assault, such as a

1 joint domestic violence and sexual assault  
2 coalition; or

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

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

14 (4) REPORTS.—

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

19 (B) REPORTS AVAILABLE TO PUBLIC.—  
20 The Secretary shall establish procedures for the  
21 dissemination to the public of each report sub-  
22 mitted under subparagraph (A). Such proce-  
23 dures shall include the use of the Internet to  
24 disseminate such reports.

25 (5) AUTHORIZATION OF APPROPRIATIONS.—

1 (A) AUTHORIZATION.—There are author-  
2 ized to be appropriated—

3 (i) \$1,000,000 for fiscal year 2004 to  
4 carry out the provisions of paragraph  
5 (1)(A); and

6 (ii) \$12,000,000 for each of fiscal  
7 years 2005 through 2007 to carry out the  
8 provisions of paragraph (1)(B).

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

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

22 (e) DEFINITION OF DOMESTIC OR SEXUAL VIO-  
23 LENCE.—Section 3306 of the Internal Revenue Code of  
24 1986 (relating to definitions) is amended by adding at the  
25 end the following:

1       “(u) DOMESTIC OR SEXUAL VIOLENCE.—For pur-  
2 poses of this chapter, the term ‘domestic or sexual vio-  
3 lence’ means domestic violence, dating violence, sexual as-  
4 sault, or stalking, as those terms are defined in section  
5 3 of the Security and Financial Empowerment Act.”.

6       (f) EFFECTIVE DATE.—

7           (1) UNEMPLOYMENT AMENDMENTS.—

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

14               (B) EXTENSION OF EFFECTIVE DATE FOR  
15 STATE LAW AMENDMENT.—

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

1 (I) the date the State changes its  
2 statutes or regulations in order to  
3 comply with such amendments; or

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

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

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

18 (2) TANF AMENDMENT.—

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

23 (B) EXTENSION OF EFFECTIVE DATE FOR  
24 STATE LAW AMENDMENT.—In the case of a  
25 State plan under part A of title IV of the Social

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

17 **TITLE III—VICTIMS’**  
18 **EMPLOYMENT SUSTAINABILITY**

19 **SEC. 301. SHORT TITLE.**

20 This title may be cited as the “Victims’ Employment  
21 Sustainability Act”.

22 **SEC. 302. 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 to the Constitution by preventing sex-based

1 discrimination and discrimination against victims of  
2 domestic and sexual violence in employment, by ad-  
3 dressing the failure of existing laws to protect the  
4 employment rights of victims of domestic or sexual  
5 violence, by protecting the civil and economic rights  
6 of victims of domestic or sexual violence, and by fur-  
7 thering the equal opportunity of women for economic  
8 self-sufficiency and employment free from discrimi-  
9 nation;

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

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

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; and employers who provide or make avail-  
9 able employment benefits through an employee ben-  
10 efit plan, as defined in section 3(3) of the Employee  
11 Retirement Income Security Act of 1974 (29 U.S.C.  
12 102(3)). The term also includes health carriers,  
13 health benefit plans, and life, disability, and prop-  
14 erty and casualty insurers.

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

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

22 (A) a person against whom an act of abuse  
23 has been directed;

1 (B) a person who has prior or current in-  
2 juries, illnesses, or disorders that resulted from  
3 abuse; or

4 (C) a person who seeks, may have sought,  
5 or had reason to seek medical or psychological  
6 treatment for abuse, protection, court-ordered  
7 protection, or shelter from abuse.

8 **SEC. 403. DISCRIMINATORY ACTS PROHIBITED.**

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

16 (1) Denying, refusing to issue, renew or reissue,  
17 or canceling or otherwise terminating an insurance  
18 policy or health benefit plan.

19 (2) Restricting, excluding, or limiting insurance  
20 coverage for losses or denying a claim, except as oth-  
21 erwise permitted or required by State laws relating  
22 to life insurance beneficiaries.

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

1 (b) PROHIBITION ON LIMITATION OF CLAIMS.—No  
2 insurer may, directly or indirectly, deny or limit payment  
3 of a claim incurred by an innocent insured as a result of  
4 abuse.

5 (c) PROHIBITION ON TERMINATION.—

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

17 (2) PAYMENT OF PREMIUMS.—Nothing in para-  
18 graph (1) shall be construed to prohibit the insurer  
19 from requiring that the subject of abuse pay the full  
20 premium for the subject's coverage under the health  
21 plan if the requirements are applied to all insured of  
22 the health carrier.

23 (3) EXCEPTION.—An insurer may terminate  
24 group coverage to which this subsection applies after  
25 the continuation coverage period required by this

1 subsection has been in force for 18 months if it of-  
2 fers conversion to an equivalent individual plan.

3 (4) CONTINUATION COVERAGE.—The continu-  
4 ation of health coverage required by this subsection  
5 shall be satisfied by any extension of coverage under  
6 part 6 of subtitle B of title I of the Employee Re-  
7 tirement Income Security Act of 1974 (29 U.S.C.  
8 1161 et seq.) or section 4980B of the Internal Rev-  
9 enue Code of 1986 provided to a subject of abuse  
10 and is not intended to be in addition to any exten-  
11 sion of coverage otherwise provided for under such  
12 part 6 or section 4980B.

13 (d) USE OF INFORMATION.—

14 (1) LIMITATION.—

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

19 (i) use, disclose, or transfer informa-  
20 tion relating to abuse status, acts of abuse,  
21 abuse-related medical conditions or the ap-  
22 plicant's or insured's status as a family  
23 member, employer, associate, or person in  
24 a relationship with a subject of abuse for  
25 any purpose unrelated to the direct provi-

1           sion of health care services unless such  
2           use, disclosure, or transfer is required by  
3           an order of an entity with authority to reg-  
4           ulate insurance or an order of a court of  
5           competent jurisdiction; or

6           (ii) disclose or transfer information  
7           relating to an applicant's or insured's mail-  
8           ing address or telephone number or the  
9           mailing address and telephone number of a  
10          shelter for subjects of abuse, unless such  
11          disclosure or transfer—

12                   (I) is required in order to provide  
13                   insurance coverage; and

14                   (II) does not have the potential  
15                   to endanger the safety of a subject of  
16                   abuse.

17           (B) RULE OF CONSTRUCTION.—Nothing in  
18           this paragraph may be construed to limit or  
19           preclude a subject of abuse from obtaining the  
20           subject's own insurance records from an in-  
21           surer.

22           (2) AUTHORITY OF SUBJECT OF ABUSE.—A  
23           subject of abuse, at the absolute discretion of the  
24           subject of abuse, may provide evidence of abuse to  
25           an insurer for the limited purpose of facilitating

1 treatment of an abuse-related condition or dem-  
2 onstrating that a condition is abuse-related. Nothing  
3 in this paragraph shall be construed as authorizing  
4 an insurer or health carrier to disregard such pro-  
5 vided evidence.

6 **SEC. 404. INSURANCE PROTOCOLS FOR SUBJECTS OF**  
7 **ABUSE.**

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

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

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

22 **SEC. 406. LIFE INSURANCE.**

23 Nothing in this title shall be construed to prohibit  
24 a life insurer from declining to issue a life insurance policy  
25 if the applicant or prospective owner of the policy is or

1 would be designated as a beneficiary of the policy, and  
2 if—

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

5 (2) the applicant or prospective owner of the  
6 policy is known, on the basis of police or court  
7 records, to have committed an act of abuse against  
8 the proposed insured.

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

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

12 **SEC. 408. ENFORCEMENT.**

13 (a) FEDERAL TRADE COMMISSION.—

14 (1) IN GENERAL.—The Federal Trade Commis-  
15 sion shall have the power to examine and investigate  
16 any insurer to determine whether such insurer has  
17 been or is engaged in any act or practice prohibited  
18 by this title.

19 (2) CEASE AND DESIST ORDERS.—If the Fed-  
20 eral Trade Commission determines an insurer has  
21 been or is engaged in any act or practice prohibited  
22 by this title, the Commission may take action  
23 against such insurer by the issuance of a cease and  
24 desist order as if the insurer was in violation of sec-  
25 tion 5 of the Federal Trade Commission Act. Such

1 cease and desist order may include any individual re-  
2 lief warranted under the circumstances, including  
3 temporary, preliminary, and permanent injunctive  
4 and compensatory relief.

5 (b) PRIVATE CAUSE OF ACTION.—

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

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

20 (3) STATUTORY DAMAGES.—With respect to  
21 compensatory damages in an action described in  
22 paragraph (1), the aggrieved individual may elect, at  
23 any time prior to the rendering of final judgment, to  
24 recover in lieu of actual damages, an award of statu-

1 tory damages in the amount of \$5,000 for each vio-  
2 lation.

3 **SEC. 409. EFFECTIVE DATE.**

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

6 **TITLE V—WORKPLACE SAFETY**  
7 **PROGRAM TAX CREDIT**

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

10 (a) IN GENERAL.—Subpart D of part IV of sub-  
11 chapter A of chapter 1 of the Internal Revenue Code of  
12 1986 (relating to business related credits) is amended by  
13 adding at the end the following:

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

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

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

22 “(1) DOMESTIC AND SEXUAL VIOLENCE SAFETY  
23 AND EDUCATION COST.—

24 “(A) IN GENERAL.—The term ‘domestic  
25 and sexual violence safety and education cost’

1 means any cost certified by the Secretary of  
2 Labor to the Secretary as being for the purpose  
3 of—

4 “(i) ensuring the safety of employees  
5 from domestic or sexual violence,

6 “(ii) providing assistance to employees  
7 and the spouses and dependents of employ-  
8 ees with respect to domestic or sexual vio-  
9 lence,

10 “(iii) providing legal or medical serv-  
11 ices to employees and the spouses and de-  
12 pendents of employees subjected to, or at  
13 risk from, domestic or sexual violence,

14 “(iv) educating employees about the  
15 issue of domestic or sexual violence, or

16 “(v) implementing human resource or  
17 personnel policies initiated to protect em-  
18 ployees from domestic or sexual violence or  
19 to support employees who have been vic-  
20 tims of domestic or sexual violence.

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

1           “(i) the hiring of new security per-  
2           sonnel in order to address domestic or sex-  
3           ual violence,

4           “(ii) the creation of buddy systems or  
5           escort systems for walking employees to  
6           parking lots, parked cars, subway stations,  
7           or bus stops, in order to address domestic  
8           or sexual violence,

9           “(iii) the purchase or installation of  
10          new security equipment, including surveil-  
11          lance equipment, lighting fixtures, cardkey  
12          access systems, and identification systems,  
13          in order to address domestic or sexual vio-  
14          lence,

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

1           “(v) the retention of an attorney to  
2 provide legal services to employees seeking  
3 restraining orders or other legal recourse  
4 from domestic or sexual violence,

5           “(vi) the establishment of medical  
6 services addressing the medical needs of  
7 employees who are victims of domestic or  
8 sexual violence,

9           “(vii) the retention of a financial ex-  
10 pert or an accountant to provide financial  
11 counseling to employees seeking to escape  
12 from domestic or sexual violence,

13           “(viii) the establishment of an edu-  
14 cation program for employees, consisting of  
15 seminars or training sessions about domes-  
16 tic or sexual violence undertaken in con-  
17 sultation and coordination with national,  
18 State, or local domestic violence coalitions,  
19 sexual assault coalitions, domestic violence  
20 programs, or sexual assault programs,

21           “(ix) studies of the cost, impact, or  
22 extent of domestic or sexual violence at the  
23 employer’s place of business, if such stud-  
24 ies are made available to the public and

1 protect the identity of employees included  
2 in the study,

3 “(x) the publication of a regularly dis-  
4 seminated newsletter or other regularly  
5 disseminated educational materials about  
6 domestic or sexual violence,

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

16 “(xii) the implementation of flexible  
17 work policies for the purpose of allowing or  
18 accommodating the needs of employees  
19 who are victims of domestic or sexual vio-  
20 lence, or employees at risk with respect to  
21 such crimes, to avoid assailants,

22 “(xiii) the implementation of transfer  
23 policies for the purpose of allowing or ac-  
24 commodating the needs of employees sub-  
25 jected to domestic or sexual violence to

1 change office locations within the company  
2 in order to avoid assailants or to allow the  
3 transfer of an employee who has per-  
4 petrated domestic or sexual violence in  
5 order to protect the victim, including pay-  
6 ment of costs for the transfer and reloca-  
7 tion of an employee to another city, coun-  
8 ty, State, or country for the purpose of  
9 maintaining an employee’s safety from do-  
10 mestic or sexual violence, or

11 “(xiv) the provision of any of the serv-  
12 ices described in clauses (iv) through (viii)  
13 to the spouses or dependents of employees.

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

22 “(2) DOMESTIC OR SEXUAL VIOLENCE.—The  
23 term ‘domestic or sexual violence’ means domestic  
24 violence, dating violence, sexual assault, or stalking,

1 as those terms are defined in section 3 of the Secu-  
2 rity and Financial Empowerment Act.

3 “(3) DOMESTIC VIOLENCE COALITION; SEXUAL  
4 ASSAULT COALITION.—The terms ‘domestic violence  
5 coalition’ and ‘sexual assault coalition’ have the  
6 meanings given the terms in section 3 of the Secu-  
7 rity and Financial Empowerment Act.

8 “(4) EMPLOYEE.—The term ‘employee’ means  
9 a person who is an employee, as defined in section  
10 3(9) of the Security and Financial Empowerment  
11 Act, except that the person may be employed by any  
12 employer described in paragraph (5).

13 “(5) EMPLOYER.—The term ‘employer’ means  
14 a person who is an employer, as defined in section  
15 3(10) of such Act, determined without regard to the  
16 number of individuals employed.

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

21 (b) TREATMENT AS GENERAL BUSINESS CREDIT.—

22 (1) IN GENERAL.—Subsection (b) of section 38  
23 of the Internal Revenue Code of 1986 (relating to  
24 general business credit) is amended by striking  
25 “plus” at the end of paragraph (14), by striking the

1 period at the end of paragraph (15) and inserting “,  
2 plus”, and by adding at the end the following:

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

5 (2) TRANSITIONAL RULE FOR CARRYBACKS.—  
6 Subsection (d) of section 39 of such Code (relating  
7 to transitional rules) is amended by adding at the  
8 end the following:

9 “(11) NO CARRYBACK OF SECTION 45G CREDIT  
10 BEFORE EFFECTIVE DATE.—No portion of the un-  
11 used business credit for any taxable year which is  
12 attributable to the workplace safety program credit  
13 determined under section 45G may be carried back  
14 to a taxable year beginning before January 1,  
15 2004.”.

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

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

1 (c) CREDIT NOT A DEFENSE IN LEGAL ACTIONS.—  
 2 The allowance of a credit under section 45G of the Inter-  
 3 nal Revenue Code of 1986 (as added by this section) shall  
 4 not absolve employers of their responsibilities under any  
 5 other law and shall not be construed as a defense to any  
 6 legal action (other than legal action by the Secretary of  
 7 the Treasury under such Code).

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

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

12 (e) EFFECTIVE DATE.—The amendments made by  
 13 this section shall apply to taxable years beginning after  
 14 December 31, 2003.

15 **TITLE VI—NATIONAL CLEARING-**  
 16 **HOUSE ON DOMESTIC AND**  
 17 **SEXUAL VIOLENCE IN THE**  
 18 **WORKPLACE GRANT**

19 **SEC. 601. NATIONAL CLEARINGHOUSE ON DOMESTIC AND**  
 20 **SEXUAL VIOLENCE IN THE WORKPLACE**  
 21 **GRANT.**

22 (a) AUTHORITY.—The Attorney General may award  
 23 a grant in accordance with this section to a private, non-  
 24 profit entity or tribal organization that meets the require-  
 25 ments of subsection (b), in order to provide for the estab-

1 lishment and operation of a national clearinghouse and re-  
2 source center to provide information and assistance to em-  
3 ployers, labor organizations, and advocates on behalf of  
4 victims of domestic or sexual violence, in their efforts to  
5 develop and implement appropriate responses to assist  
6 those victims.

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

10 (1) demonstrate that the applicant—

11 (A) has a nationally recognized expertise in  
12 the area of domestic violence, dating violence,  
13 sexual assault, and stalking, and a record of  
14 commitment and quality responses to reduce  
15 domestic violence, dating violence, sexual as-  
16 sault, and stalking; and

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

21 (2) include a plan to maximize, to the extent  
22 practicable, outreach to employers (including private  
23 companies, as well as public entities such as univer-  
24 sities, and State and local governments) in devel-  
25 oping and implementing appropriate responses to as-

1       sist employees who are victims of domestic or sexual  
2       violence.

3       (c) USE OF GRANT AMOUNT.—A grant under this  
4       section may be used for staff salaries, travel expenses,  
5       equipment, printing, and other reasonable expenses nec-  
6       essary to assemble, maintain, and disseminate to employ-  
7       ers, labor organizations, and advocates described in sub-  
8       section (a), information on and appropriate responses to  
9       domestic violence, dating violence, sexual assault, and  
10      stalking, including—

11           (1) training to promote a better understanding  
12           of appropriate assistance to employee victims;

13           (2) conferences and other educational opportu-  
14           nities;

15           (3) development of protocols and model work-  
16           place policies;

17           (4) employer- and union-sponsored victim serv-  
18           ices and outreach counseling; and

19           (5) assessments of the workplace costs of do-  
20           mestic violence, dating violence, sexual assault, and  
21           stalking.

22      (d) AUTHORIZATION OF APPROPRIATIONS.—There  
23      are authorized to be appropriated to carry out this section  
24      \$500,000 for each of fiscal years 2004 through 2008.

1           **TITLE VII—SEVERABILITY**

2   **SEC. 701. SEVERABILITY.**

3           If any provision of this Act, any amendment made  
4 by this Act, or the application of such provision or amend-  
5 ment to any person or circumstance is held to be unconsti-  
6 tutional, the remainder of the provisions of this Act, the  
7 amendments made by this Act, and the application of such  
8 provisions or amendments to any person or circumstance  
9 shall not be affected.

○