

(3) **MINORITY HEALTH DISPARITIES RESEARCH.**—The term “minority health disparities research” means basic, clinical, behavioral and health services research on minority health conditions (as defined in paragraph (2)), including research to prevent, diagnose, and treat such conditions.

(4) **MINORITY.**—The terms “minority” and “minorities” refer to individuals from a minority group.

(5) **MINORITY GROUP.**—The term “minority group” has the meaning given the term “racial and ethnic minority group” in section 1707 of the Public Health Service Act (42 U.S.C. 300u-6).

(b) **HEALTH DISPARITY POPULATIONS.**—In this Act, including the amendments made by this Act:

(1) **HEALTH DISPARITY POPULATION.**—The term “health disparity population” has the meaning given such term in section 903(d)(1) of the Public Health Service Act (42 U.S.C. 299a-1(d)(1)).

(2) **HEALTH DISPARITIES RESEARCH.**—The term “health disparities research” shall include basic, clinical, behavioral, and health services research on health disparity populations (including individual members and communities of such populations) that relates to health disparities as defined under paragraph (1), including the causes of such disparities and methods to prevent, diagnose, and treat such disparities.

#### SUBMITTED RESOLUTIONS

**SENATE RESOLUTION 321—RECOGNIZING THE LOYAL SERVICE AND OUTSTANDING CONTRIBUTIONS OF J. ROBERT OPPENHEIMER TO THE UNITED STATES AND CALLING ON THE SECRETARY OF ENERGY TO OBSERVE THE 100TH ANNIVERSARY OF DR. OPPENHEIMER'S BIRTH WITH APPROPRIATE PROGRAMS AT THE DEPARTMENT OF ENERGY AND THE LOS ALAMOS NATIONAL LABORATORY**

Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

##### S. RES. 321

Whereas, from March 1943 to October 1945, J. Robert Oppenheimer was the first director of the Los Alamos Laboratory, New Mexico, which was used to design and build the nuclear weapons that ended the Second World War;

Whereas, following the end of the Second World War, Dr. Oppenheimer served as a science adviser and consultant to each of the 3 principal committees planning for the postwar control of nuclear energy, including the Secretary of War's Interim Committee on Atomic Energy, the Secretary of State's Committee on Atomic Energy, and the United Nations Atomic Energy Committee;

Whereas, from 1947 to 1952, Dr. Oppenheimer was the first chairman of the General Advisory Committee, which advised the Atomic Energy Commission on scientific and technical matters;

Whereas, from 1947 to 1954, Dr. Oppenheimer also served on defense policy committees, including the Committee on Atomic Energy of the Joint Research and Development Board, the Science Advisory Committee of the Office of Defense Mobilization, and the Panel on Disarmament of the Department of State;

Whereas, in addition to his service to the United States Government, Dr. Oppenheimer was the director of the Institute for Advanced Study at Princeton University from 1947 to 1965;

Whereas, in 1946, President Truman conferred on Dr. Oppenheimer the Medal for Merit “for exceptionally meritorious conduct in the performance of outstanding service” as director of the Los Alamos Laboratory and for development of the atomic bomb;

Whereas, in 1963, President Lyndon Johnson conferred on Dr. Oppenheimer the Enrico Fermi Award “for contributions to theoretical physics as a teacher and originator of ideas and for leadership of the Los Alamos Laboratory and the atomic energy program during critical years”; and

Whereas April 22, 2004, is the 100th anniversary of Dr. Oppenheimer's birth: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the loyal service of J. Robert Oppenheimer to the United States and the outstanding contributions he made to theoretical physics, the Los Alamos National Laboratory, the development of nuclear energy, and the common defense and security of the United States; and

(2) calls on the Secretary of Energy to observe the 100th anniversary of the birth of J. Robert Oppenheimer with appropriate ceremonies, activities, or programs at the Department of Energy and the Los Alamos National Laboratory.

**SENATE RESOLUTION 320—DESIGNATING THE WEEK OF MARCH 7 THROUGH MARCH 13, 2004, AS “NATIONAL PATIENT SAFETY AWARENESS WEEK”**

Mr. GRAHAM of Florida (for himself, Ms. SNOWE, Mr. GREGG, Mr. DODD, Mr. JEFFORDS, Mr. BREAU, Mr. FRIST, and Mr. ENZI) submitted the following resolution; which was considered and agreed to:

##### S. RES. 320

Whereas patient safety is an issue of significant importance to the United States;

Whereas 1 in every 5 citizens of the United States has experienced a medical error or has a family member who has experienced a medical error;

Whereas medical errors often have serious and profound consequences;

Whereas it is estimated that injuries from preventable medical errors cost the United States economy between \$17,000,000,000 and \$29,000,000,000 each year;

Whereas more people die annually from medical errors than from automobile accidents, breast cancer, and AIDS;

Whereas increased patient and provider education and collaboration can help avoid medical errors;

Whereas the Institute of Medicine has stated that a “critical component of a comprehensive strategy to improve patient safety is to create an environment that encourages organizations to identify errors, evaluate causes and take appropriate actions to improve performance in the future,” and further, that “a more conducive environment is needed to encourage health care professionals and organizations to identify, analyze, and report errors without threat of litigation and without compromising patients' legal rights”;

Whereas better systems can be implemented to reduce the factors that lead to medical errors;

Whereas innovative educational and research programs are being conducted by the

National Patient Safety Foundation as well as by other public and private entities to develop methods for avoiding preventable injuries and to assess the effectiveness of new techniques to increase patient safety; and

Whereas education of the public on medical errors and the factors that typically lead to medical errors empowers patients to be more effective partners with health care providers in the battle against preventable injuries from medical errors: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the week of March 7 through March 13, 2004, as “National Patient Safety Awareness Week”; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the week with appropriate programs and activities.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 2856. Mr. FRIST (for Mrs. HUTCHISON) proposed an amendment to the bill H.R. 254, to authorize the President of the United States to agree to certain amendments to the Agreement between the Government of the United States of America and the Government of the United Mexican States concerning the establishment of a Border Environment Cooperation Commission and a North American Development Bank, and for other purposes.

SA 2857. Mr. FRIST (for Mr. EDWARDS (for himself and Mrs. DOLE)) proposed an amendment to the resolution S. Res. 307, honoring the county of Cumberland, North Carolina, its municipalities and community partners as they celebrate the 250th year of the existence of Cumberland County.

SA 2858. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1997, to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes; which was ordered to lie on the table.

SA 2859. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 1997, *supra*; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 2856.** Mr. FRIST (for Mrs. HUTCHISON) proposed an amendment to the bill H.R. 254, to authorize the President of the United States to agree to certain amendment to the Agreement between the Government of the United States of America and the Government of the United Mexican States concerning the establishment of a Border Environment Cooperation Commission and a North American Development Bank, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

**SECTION. 1. AUTHORITY TO AGREE TO CERTAIN AMENDMENTS TO THE BORDER ENVIRONMENT COOPERATION AGREEMENT; GRANT AUTHORITY.**

(a) **AMENDMENT AUTHORITY.**—Part 2 of subtitle D of title V of Public Law 103-182 (22 U.S.C. 290m-290m-3) is amended by adding at the end the following:

**“SEC. 545. AUTHORITY TO AGREE TO CERTAIN AMENDMENTS TO THE BORDER ENVIRONMENT COOPERATION AGREEMENT.**

“The President may agree to amendments to the Cooperation Agreement that—

“(1) enable the Bank to make grants and nonmarket rate loans out of its paid-in capital resources with the approval of its Board; and

“(2) amend the definition of ‘border region’ to include the area in the United States that is within 100 kilometers of the international boundary between the United States and Mexico, and the area in Mexico that is within 300 kilometers of the international boundary between the United States and Mexico.”.

(b) GRANT AUTHORITY.—Part 2 of subtitle D of title V of Public Law 103-182 (22 U.S.C. 290m-290m-3), as amended by subsection (a), is amended by adding at the end the following:

**“SEC. 546. GRANTS OUT OF PAID-IN CAPITAL RESOURCES.**

“(a) IN GENERAL.—The President shall instruct the United States Federal Government representatives on the Board of Directors of the North American Development Bank to oppose any proposal where grants out of the Bank’s paid-in capital resources, except for grants from paid-in capital authorized for the community adjustment and investment program under the Bank’s charter of 1993, would—

“(1) be made to a project that is not being financed, in part, by loans; or

“(2) account for more than 50 percent of the financing of any individual project.

“(b) EXCEPTION.—

“(1) GENERAL RULE.—The requirements of subsection (a) shall not apply in cases where—

“(A) the President determines there are exceptional economic circumstances for making the grant and consults with the Committee on Foreign Relations of the Senate and the Committee on Financial Services of the House of Representatives; or

“(B)(i) the grant is being made for a project that is so small that obtaining a loan is impractical; and

“(ii) the grant does not exceed \$250,000.

“(2) LIMITATION.—Not more than an aggregate of \$5,000,000 in grants may be made under this subsection.”.

(c) CLERICAL AMENDMENT.—Section 1(b) of such public law is amended in the table of contents by inserting after the item relating to section 544 the following:

“Sec. 545. Authority to agree to certain amendments to the Border Environment Cooperation Agreement.

“Sec. 546. Grants out of paid-in capital resources.”.

**SEC. 2. ANNUAL REPORT.**

The Secretary of the Treasury shall submit annually to the Committee on Financial Services of the House of Representatives and the Committee on Foreign Relations of the Senate a written report on the North American Development Bank, which addresses the following issues:

(1) The number and description of the projects that the North American Development Bank has approved. The description shall include the level of market-rate loans, non-market-rate loans, and grants used in an approved project, and a description of whether an approved project is located within 100 kilometers of the international boundary between the United States and Mexico or within 300 kilometers of the international boundary between the United States and Mexico.

(2) The number and description of the approved projects in which money has been dispersed.

(3) The number and description of the projects which have been certified by the Border Environment Cooperation Commission, but yet not financed by the North American Development Bank, and the reasons that the projects have not yet been financed.

(4) The total of the paid-in capital, callable capital, and retained earnings of the North American Development Bank, and the uses of such amounts.

(5) A description of any efforts and discussions between the United States and Mexican governments to expand the type of projects which the North American Development Bank finances beyond environmental projects.

(6) A description of any efforts and discussions between the United States and Mexican governments to improve the effectiveness of the North American Development Bank.

(7) The number and description of projects authorized under the Water Conservation Investment Fund of the North American Development Bank.

**SEC. 3. SENSE OF THE CONGRESS RELATING TO UNITED STATES SUPPORT FOR NADBANK PROJECTS WHICH FINANCE WATER CONSERVATION FOR TEXAS IRRIGATORS AND AGRICULTURAL PRODUCERS IN THE LOWER RIO GRANDE RIVER VALLEY.**

(a) FINDINGS.—The Congress finds that—

(1) Texas irrigators and agricultural producers are suffering enormous hardships in the lower Rio Grande River valley because of Mexico’s failure to abide by the 1944 Water Treaty entered into by the United States and Mexico;

(2) over the last 10 years, Mexico has accumulated a 1,500,000-acre fee water debt to the United States which has resulted in a very minimal and inadequate irrigation water supply in Texas;

(3) recent studies by Texas A&M University show that water savings of 30 percent or more can be achieved by improvements in irrigation system infrastructure such as canal lining and metering;

(4) on August 20, 2002, the Board of the North American Development Bank agreed to the creation in the Bank of a Water Conservation Investment Fund, as required by Minute 308 to the 1944 Water Treaty, which was an agreement signed by the United States and Mexico on June 28, 2002; and

(5) the Water Conservation Investment Fund of the North American Development Bank stated that up to \$80,000,000 would be available for grant financing of water conservation projects, which grant funds would be divided equally between the United States and Mexico.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) water conservation projects are eligible for funding from the North American Development Bank under the Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank; and

(2) the Board of the North American Development Bank should support qualified water conservation projects which can assist Texas irrigators and agricultural producers in the lower Rio Grande River Valley.

**SEC. 4. SENSE OF THE CONGRESS RELATING TO UNITED STATES SUPPORT FOR NADBANK PROJECTS WHICH FINANCE WATER CONSERVATION IN THE SOUTHERN CALIFORNIA AREA.**

It is the sense of the Congress that the Board of the North American Development Bank should support—

(1) the development of qualified water conservation projects in southern California and other eligible areas in the 4 United States border States, including the conjunctive use and storage of surface and ground water, delivery system conservation, the re-regulation of reservoirs, improved irrigation practices, wastewater reclamation, regional

water management modeling, operational and optimization studies to improve water conservation, and cross-border water exchanges consistent with treaties; and

(2) new water supply research and projects along the Mexico border in southern California and other eligible areas in the 4 United States border States to desalinate ocean seawater and brackish surface and groundwater, and dispose of or manage the brines resulting from desalination.

**SEC. 5. SENSE OF THE CONGRESS RELATING TO UNITED STATES SUPPORT FOR NADBANK PROJECTS FOR WHICH FINANCE WATER CONSERVATION FOR IRRIGATORS AND AGRICULTURAL PRODUCERS IN THE SOUTHWEST UNITED STATES.**

(a) FINDINGS.—The Congress finds as follows:

(1) Irrigators and agricultural producers are suffering enormous hardships in the southwest United States. The border States of California, Arizona, New Mexico, and Texas are suffering from one of the worst droughts in history. In Arizona, this is the second driest period in recorded history and the worst since 1904.

(2) In spite of decades of water conservation in the southwest United States, irrigated agriculture uses more than 60 percent of surface and ground water.

(3) The most inadequate water supplies in the United States are in the Southwest, including the lower Colorado River basin and the Great Plains River basins south of the Platte River. In these areas, 70 percent of the water taken from the stream is not returned.

(4) The amount of water being pumped out of groundwater sources in many areas is greater than the amount being replenished, thus depleting the groundwater supply.

(5) On August 20, 2002, the Board of the North American Development Bank agreed to the creation in the bank of a Water Conservation Investment Fund.

(6) The Water Conservation Investment Fund of the North American Development Bank stated that up to \$80,000,000 would be available for grant financing of water conservation projects, which grant funds would be divided equally between the United States and Mexico.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) water conservation projects are eligible for funding from the North American Development Bank under the Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank;

(2) the Board of the North American Development Bank should support qualified water conservation projects that can assist irrigators and agricultural producers; and

(3) the Board of the North American Development Bank should take into consideration the needs of all of the border states before approving funding for water projects, and strive to fund water conservation projects in each of the border states.

**SEC. 6. SENSE OF THE CONGRESS REGARDING FINANCING OF PROJECTS.**

(a) IN GENERAL.—It is the sense of the Congress that the Board of the North American Development Bank should support the financing of projects, on both sides of the international boundary between the United States and Mexico, that address coastal issues and the problem of pollution in both countries having an environmental impact along the Pacific Ocean and Gulf of Mexico shores of the United States and Mexico.

(b) AIR POLLUTION.—It is the sense of the Congress that the Board of the North American Development Bank should support the

financing of projects, on both sides of the international boundary between the United States and Mexico, which address air pollution.

**SA 2857.** Mr. FRIST (for Mr. EDWARDS (for himself and Mrs. DOLE)) proposed an amendment to the resolution S. Res. 307, honoring the county of Cumberland, North Carolina, its municipalities and community partners as they celebrate the 250th year of the existence of Cumberland County; as follows:

Strike all after the resolved clause and insert the following:

That the Senate commemorates the 250th Anniversary Celebration of the county of Cumberland, North Carolina, its municipalities, and other community partners.

**SA 2858.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1997, to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes; which was ordered to lie on the table; as follows:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Motherhood Protection Act".

#### SEC. 2. PROTECTION OF PREGNANT WOMEN.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 90 the following:

##### "CHAPTER 90A—PROTECTION OF PREGNANT WOMEN

##### "CHAPTER 90A—PROTECTION OF PREGNANT WOMEN

"Sec.

"1841. Causing termination of pregnancy or interruption of the normal course of pregnancy.

#### "§ 1841. Causing termination of pregnancy or interruption of the normal course of pregnancy

"(a)(1) Any person who engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the termination of a pregnancy or the interruption of the normal course of pregnancy, including termination of the pregnancy other than by live birth is guilty of a separate offense under this section.

"(2)(A) Except as otherwise provided in this paragraph, the punishment for that separate offense is the same as the punishment provided for that conduct under Federal law had that injury or death occurred to the pregnant woman.

"(B) An offense under this section does not require proof that—

"(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

"(ii) the defendant intended to cause the termination or interruption of the normal course of pregnancy.

"(C) If the person engaging in the conduct thereby intentionally causes or attempts to cause the termination of or the interruption of the pregnancy, that person shall be punished as provided under section 1111, 1112, or 1113, as applicable, for intentionally terminating or interrupting the pregnancy or attempting to do so, instead of the penalties that would otherwise apply under subparagraph (A).

"(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

"(b) The provisions referred to in subsection (a) are the following:

"(1) Sections 36, 37, 43, 111, 112, 113, 114, 115, 229, 242, 245, 247, 248, 351, 831, 844(d), 844(f), 844(h)(1), 844(i), 924(j), 930, 1111, 1112, 1113, 1114, 1116, 1118, 1119, 1120, 1121, 1153(a), 1201(a), 1203, 1365(a), 1501, 1503, 1505, 1512, 1513, 1751, 1864, 1951, 1952(a)(1)(B), 1952(a)(2)(B), 1952(a)(3)(B), 1958, 1959, 1992, 2113, 2114, 2116, 2118, 2119, 2191, 2231, 2241(a), 2245, 2261, 2261A, 2280, 2281, 2332, 2332a, 2332b, 2340A, and 2441 of this title.

"(2) Section 408(e) of the Controlled Substances Act of 1970 (21 U.S.C. 848(e)).

"(3) Section 202 of the Atomic Energy Act of 1954 (42 U.S.C. 2283).

"(c) Subsection (a) does not permit prosecution—

"(1) for conduct relating to an abortion for which the consent of the pregnant woman has been obtained or for which such consent is implied by law in a medical emergency;

"(2) for conduct relating to any medical treatment of the pregnant woman, or matters related to the pregnancy; or

"(3) of any woman with respect to her pregnancy."

(b) CLERICAL AMENDMENT.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item relating to chapter 90 the following:

#### "90A. Protection of pregnant women 1841".

#### SEC. 3. MILITARY JUSTICE SYSTEM.

(a) PROTECTION OF PREGNANT WOMEN.—Subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 919 (article 119) the following:

#### "§ Sec. 919a. Art. 119a. Causing termination of pregnancy or interruption of normal course of pregnancy

"(a)(1) Any person subject to this chapter who engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the termination of a pregnancy or the interruption of the normal course of pregnancy, including termination of the pregnancy other than by live birth, is guilty of a separate offense under this section.

"(2)(A) Except as otherwise provided in this paragraph, the punishment for that separate offense is the same as the punishment for that conduct under this chapter had that injury or death occurred to the pregnant woman.

"(B) An offense under this section does not require proof that—

"(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

"(ii) the defendant intended to cause the termination or interruption of the normal course of pregnancy.

"(C) If the person engaging in the conduct thereby intentionally causes or attempts to cause the termination of or the interruption of the pregnancy, that persons shall be punished as provided under section 918, 919, or 880 of this title (article 118, 119, or 80), as applicable, for intentionally causing the termination of or interruption of the pregnancy or attempting to do so, instead of the penalties that would otherwise apply under subparagraph (A).

"(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

"(b) The provisions referred to in subsection (a) are sections 918, 919(a), 919(b)(2), 920(a), 922, 924, 926, and 928 of this title (articles 111, 118, 119(a), 119(b)(2), 120(a), 122, 124, 126, and 128).

"(c) Subsection (a) does not permit prosecution—

"(1) for conduct relating to an abortion for which the consent of the pregnant woman

has been obtained or for which such consent is implied by law in a medical emergency;

"(2) for conduct relating to any medical treatment of the pregnant woman or matters relating to her pregnancy; or

"(3) of any woman with respect to her pregnancy."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after the item relating to section 919 the following:

"919a. Causing termination of pregnancy and termination of normal course of pregnancy."

**SA 2859.** Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 1997, to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, strike line 8 and all that follows and insert the following:

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after the item relating to section 919 the following:

"919a. 119a. Causing death of or bodily injury to unborn child."

#### DIVISION II—DOMESTIC VIOLENCE PREVENTION

#### SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the "Paul and Sheila Wellstone Domestic Violence Prevention Act".

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

Sec. 1. Short title; table of contents.

#### TITLE I—VICTIMS' ECONOMIC SECURITY AND SAFETY

Sec. 101. Short title.

Sec. 102. Findings.

Sec. 103. Definitions.

Subtitle A—Entitlement to Emergency Leave for Addressing Domestic or Sexual Violence

Sec. 111. Purposes.

Sec. 112. Entitlement to emergency leave for addressing domestic or sexual violence.

Sec. 113. Existing leave usable for addressing domestic or sexual violence.

Sec. 114. Emergency benefits.

Sec. 115. Effect on other laws and employment benefits.

Sec. 116. Conforming amendment.

Sec. 117. Effective date.

Subtitle B—Entitlement to Unemployment Compensation for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Sec. 121. Purposes.

Sec. 122. Unemployment compensation and training provisions.

#### Subtitle C—Victims' Employment Sustainability

Sec. 131. Short title.

Sec. 132. Purposes.

Sec. 133. Prohibited discriminatory acts.

Sec. 134. Enforcement.

Sec. 135. Attorney's fees.

#### Subtitle D—Victims of Abuse Insurance Protection

Sec. 141. Short title.

Sec. 142. Definitions.

Sec. 143. Discriminatory acts prohibited.

- Sec. 144. Insurance protocols for subjects of abuse.  
 Sec. 145. Reasons for adverse actions.  
 Sec. 146. Life insurance.  
 Sec. 147. Subrogation without consent prohibited.  
 Sec. 148. Enforcement.  
 Sec. 149. Effective date.

Subtitle E—Workplace Safety Program Tax Credit

- Sec. 151. Credit for costs to employers of implementing workplace safety programs.

Subtitle F—National Clearinghouse on Domestic and Sexual Violence in the Workplace Grant

- Sec. 161. National clearinghouse on domestic and sexual violence in the workplace grant.

Subtitle G—Severability

- Sec. 171. Severability.

TITLE II—CHILDREN WHO WITNESS DOMESTIC VIOLENCE

- Sec. 201. Short title.  
 Sec. 202. Findings.  
 Sec. 203. Purpose.  
 Sec. 204. Definitions.  
 Sec. 205. Services for children exposed to domestic violence.  
 Sec. 206. Grants to combat the impact of experiencing or witnessing domestic violence on elementary and secondary school children.  
 Sec. 207. Grants for training and collaboration among child welfare agencies, domestic violence and sexual assault service providers, the courts and law enforcement agencies.  
 Sec. 208. Multisystem interventions for children who have been exposed to domestic violence.  
 Sec. 209. Crisis nursery demonstration grants program.  
 Sec. 210. Research and data collection on the impact of domestic violence on children.

TITLE III—DOMESTIC VIOLENCE SCREENING, TREATMENT, AND PREVENTION

- Sec. 301. Short title.  
 Sec. 302. Findings.  
 Subtitle A—Research on Health and Family Violence  
 Sec. 311. Health research on family violence.  
 Subtitle B—Health Professional Education Programs  
 Sec. 321. Health professional education grants.  
 Subtitle C—Grants to Foster Public Health Responses to Domestic Violence  
 Sec. 331. Grants.  
 Subtitle D—Provision of Services Under Federal Health Programs  
 Sec. 341. Optional coverage of domestic violence identification and treatment under the medicaid program.  
 Sec. 342. Federal Employees Health Benefits Program.  
 Sec. 343. Training grants under the Maternal and Child Health Services Block Grant.  
 Sec. 344. Domestic violence identification and treatment services at community health centers.

TITLE I—VICTIMS' ECONOMIC SECURITY AND SAFETY

SEC. 101. SHORT TITLE.

This title may be cited as the "Victims' Economic Security and Safety Act".

SEC. 102. FINDINGS.

Congress makes the following findings:

(1) Domestic violence crimes account for approximately 15 percent of total crime costs in the United States each year.

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

(3) According to recent government surveys, from 1993 through 1998 the average annual number of violent victimizations committed by intimate partners was 1,082,110, 87 percent of which were committed against women. Female murder victims were substantially more likely than male murder victims to have been killed by an intimate partner. About 1/4 of female murder victims, and about 4 percent of male murder victims, were killed by an intimate partner.

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

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

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

(7) Victims of domestic violence, dating violence, sexual assault, and stalking are particularly vulnerable to changes in employment, pay, and benefits as a result of their victimizations, and are, therefore, in need of legal protection.

(8) The prevalence of domestic violence, dating violence, sexual assault, stalking, and other violence against women at work is dramatic. Approximately 11 percent of all rapes occur in the workplace. About 50,500 individuals, 83 percent of whom are women, were raped or sexually assaulted in the workplace each year from 1992 through 1996. Half of all female victims of violent workplace crimes know their attackers. Nearly 1 out of 10 violent workplace incidents are committed by partners or spouses. Women who work for State or local governments suffer a higher incidence of workplace assaults, including rapes, than women who work in the private sector.

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

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

(11) According to a 1998 report of the General Accounting Office, between 1/4 and 1/2 of domestic violence victims surveyed in 3 studies reported that the victims lost a job due, at least in part, to domestic violence.

(12) Women who have experienced domestic violence or dating violence are more likely than other women to be unemployed, to suffer from health problems that can affect employability and job performance, to report lower personal income, and to rely on welfare.

(13) Abusers frequently seek to control their partners by actively interfering with their ability to work, including preventing their partners from going to work, harassing their partners at work, limiting the access of their partners to cash or transportation, and sabotaging the child care arrangements of their partners.

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

(15) Sexual assault, whether occurring in or out of the workplace, can impair an employee's work performance, require time away from work, and undermine the employee's ability to maintain a job. Almost 50 percent of sexual assault survivors lose their jobs or are forced to quit in the aftermath of the assaults.

(16) More than 1/4 of stalking victims report losing time from work due to the stalking and 7 percent never return to work.

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

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

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

(18) Violent crime results in wage losses equivalent to 1 percent of all United States earnings, and causes 3 percent of the Nation's medical spending and 14 percent of the Nation's injury-related medical spending.

(19) The Bureau of National Affairs has estimated that domestic violence costs United States employers between \$3,000,000,000 and \$5,000,000,000 annually in lost time and productivity. Other reports have estimated that domestic violence costs United States employers \$13,000,000,000 annually.

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

(21) Surveys of business executives and corporate security directors also underscore the heavy toll that workplace violence takes on women, businesses, and interstate commerce in the United States.

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

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

(24) Only 16 States have laws that explicitly provide unemployment insurance to domestic violence victims in certain circumstances, and none of the laws explicitly cover victims of sexual assault or stalking.

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

(26) No States prohibit employment discrimination against victims of domestic violence, sexual assault, or stalking. New York City is the only jurisdiction with a law prohibiting employment discrimination against actual or perceived victims of domestic violence.

(27) Employees, including individuals participating in welfare to work programs, may need to take time during business hours to—

(A) obtain orders of protection;

(B) seek medical or legal assistance, counseling, or other services; or

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

(28) Domestic and sexual violence victims have been subjected to discrimination by private and State employers, including discrimination motivated by sex and stereotypical notions about women.

(29) Existing Federal law does not explicitly—

(A) authorize victims of domestic violence, dating violence, sexual assault, or stalking to take leave from work to seek legal assistance and redress, counseling, or assistance with safety planning activities;

(B) address the eligibility of victims of domestic violence, dating violence, sexual assault, or stalking for unemployment compensation; or

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

#### SEC. 103. DEFINITIONS.

In this title, except as otherwise expressly provided:

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

(2) **COURSE OF CONDUCT.**—The term “course of conduct” means a course of repeatedly maintaining a visual or physical proximity to a person or conveying verbal or written threats, including threats conveyed through electronic communications, or threats implied by conduct.

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

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

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

(6) **DOMESTIC VIOLENCE COALITION.**—The term “domestic violence coalition” means a nonprofit, nongovernmental membership organization that—

(A) consists of the entities carrying out a majority of the domestic violence programs carried out within a State;

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

(C) among other activities, provides training and technical assistance to entities carrying out domestic violence programs within a State, territory, political subdivision, or area under Federal authority.

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

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

(9) **EMPLOYEE.**—

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

(B) **BASIS.**—The term includes a person employed as described in subparagraph (A) on a full- or part-time basis, for a fixed time period, on a temporary basis, pursuant to a detail, as an independent contractor, or as a participant in a work assignment as a condition of receipt of Federal or State income-based public assistance.

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

(A) means any person engaged in commerce or in any industry or activity affecting commerce who employs 15 or more individuals; and

(B) includes any person acting directly or indirectly in the interest of an employer in relation to an employee, and includes a public agency, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization.

(11) **EMPLOYMENT BENEFITS.**—The term “employment benefits” means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an “employee benefit plan”, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

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

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

(14) **PUBLIC AGENCY.**—The term “public agency” has the meaning given the term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(15) **PUBLIC ASSISTANCE.**—The term “public assistance” includes cash, food stamps, medical assistance, housing assistance, and other benefits provided on the basis of income by a public agency.

(16) **REDUCED LEAVE SCHEDULE.**—The term “reduced leave schedule” means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

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

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

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

(20) **SEXUAL ASSAULT COALITION.**—The term “sexual assault coalition” means a nonprofit, nongovernmental membership organization that—

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

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

(C) among other activities, provides training and technical assistance to entities carrying out sexual assault programs within a State, territory, political subdivision, or area under Federal authority.

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

(22) **VICTIM OF DOMESTIC OR SEXUAL VIOLENCE.**—The term “victim of domestic or sexual violence” includes an individual who has been a victim of domestic or sexual violence and an individual whose family or

household member has been a victim of domestic or sexual violence.

(23) **VICTIM SERVICES ORGANIZATION.**—The term “victim services organization” means a nonprofit, nongovernmental organization that provides assistance to victims of domestic or sexual violence or to advocates for such victims, including a rape crisis center, an organization carrying out a domestic violence program, an organization operating a shelter or providing counseling services, or an organization providing assistance through the legal process.

#### Subtitle A—Entitlement to Emergency Leave for Addressing Domestic or Sexual Violence SEC. 111. PURPOSES.

The purposes of this subtitle are, pursuant to the affirmative power of Congress to enact legislation under the portions of section 8 of article I of the Constitution relating to providing for the general welfare and to regulation of commerce among the several States, and under section 5 of the 14th amendment to the Constitution—

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

(2) to promote the national interest in ensuring that victims of domestic or sexual violence can recover from and cope with the effects of such violence, and participate in criminal and civil justice processes, without fear of adverse economic consequences from their employers;

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

(4) to promote the purposes of the 14th amendment by preventing sex-based discrimination and discrimination against victims of domestic and sexual violence in employment leave, by addressing the failure of existing laws to protect the employment rights of victims of domestic or sexual violence, by protecting their civil and economic rights, and by furthering the equal opportunity of women for economic self-sufficiency and employment free from discrimination;

(5) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, employment, health care costs, and employer costs, caused by domestic or sexual violence, including intentional efforts to frustrate women’s ability to participate in employment and interstate commerce; and

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

(A) entitling employed victims of domestic or sexual violence to take leave to seek medical help, legal assistance, counseling, safety planning, and other assistance without penalty from their employers; and

(B) prohibiting employers from discriminating against actual or perceived victims of domestic or sexual violence, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

#### SEC. 112. ENTITLEMENT TO EMERGENCY LEAVE FOR ADDRESSING DOMESTIC OR SEXUAL VIOLENCE.

(a) **LEAVE REQUIREMENT.**—

(1) **BASIS.**—An employee who is a victim of domestic or sexual violence may take leave

from work to address domestic or sexual violence, by—

(A) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence;

(B) obtaining services from a victim services organization;

(C) obtaining psychological or other counseling for the employee or the employee's parent or son or daughter;

(D) participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or the employee's parent or son or daughter from future domestic or sexual violence or ensure economic security; or

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

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

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

(b) NOTICE.—The employee shall provide the employer with reasonable notice of the employee's intention to take the leave, unless providing such notice is not practicable.

(c) CERTIFICATION.—

(1) IN GENERAL.—The employer may require the employee to provide certification to the employer, within a reasonable period after the employer requires the certification, that—

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

(B) the leave is for 1 of the purposes enumerated in subsection (a)(1).

(2) CONTENTS.—An employee may satisfy the certification requirement of paragraph (1) by providing to the employer—

(A) a sworn statement of the employee;

(B) documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional, from whom the employee has sought assistance in addressing domestic or sexual violence and the effects of the violence;

(C) a police or court record; or

(D) other corroborating evidence.

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

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

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

(e) EMPLOYMENT AND BENEFITS.—

(1) RESTORATION TO POSITION.—

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

(i) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(ii) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

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

(C) LIMITATIONS.—Nothing in this subsection shall be construed to entitle any restored employee to—

(i) the accrual of any seniority or employment benefits during any period of leave; or

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

(D) CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit an employer from requiring an employee on leave under this section to report periodically to the employer on the status and intention of the employee to return to work.

(2) EXEMPTION CONCERNING CERTAIN HIGHLY COMPENSATED EMPLOYEES.—

(A) DENIAL OF RESTORATION.—An employer may deny restoration under paragraph (1) to any employee described in subparagraph (B) if—

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

(ii) the employer notifies the employee of the intent of the employer to deny restoration on such basis at the time the employer determines that such injury would occur; and

(iii) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.

(B) AFFECTED EMPLOYEES.—An employee referred to in subparagraph (A) is a salaried employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed.

(3) MAINTENANCE OF HEALTH BENEFITS.—

(A) COVERAGE.—Except as provided in subparagraph (B), during any period that an employee takes leave under this section, the employer shall maintain coverage under any group health plan (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.

(B) FAILURE TO RETURN FROM LEAVE.—The employer may recover the premium that the employer paid for maintaining coverage for the employee under such group health plan during any period of leave under this section if—

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

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

(I) the continuation, recurrence, or onset of domestic or sexual violence, that entitles the employee to leave pursuant to this section; or

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

(C) CERTIFICATION.—

(i) ISSUANCE.—An employer may require an employee who claims that the employee is unable to return to work because of a reason described in subclause (I) or (II) of subparagraph (B)(ii) to provide, within a reasonable period after making the claim, certification to the employer that the employee is unable to return to work because of that reason.

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

(I) a sworn statement of the employee;

(II) documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional, from whom the employee has sought assistance in

addressing domestic or sexual violence and the effects of that violence;

(III) a police or court record; or

(IV) other corroborating evidence.

(D) CONFIDENTIALITY.—All information provided to the employer pursuant to subparagraph (C), including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee is not returning to work because of a reason described in subclause (I) or (II) of subparagraph (B)(ii) shall be retained in the strictest confidence by the employer, except to the extent that disclosure is—

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

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

(f) PROHIBITED ACTS.—

(1) INTERFERENCE WITH RIGHTS.—

(A) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this section.

(B) EMPLOYER DISCRIMINATION.—It shall be unlawful for any employer to discharge or harass any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment of the individual (including retaliation in any form or manner) because the individual—

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

(ii) opposed any practice made unlawful by this section.

(C) PUBLIC AGENCY SANCTIONS.—It shall be unlawful for any public agency to deny, reduce, or terminate the benefits of, otherwise sanction, or harass any individual, or otherwise discriminate against any individual with respect to the amount, terms, or conditions of public assistance of the individual (including retaliation in any form or manner) because the individual—

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

(ii) opposed any practice made unlawful by this section.

(2) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate (as described in subparagraph (B) or (C) of paragraph (1)) against any individual because such individual—

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

(B) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this section; or

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

(g) ENFORCEMENT.—

(1) CIVIL ACTION BY AFFECTED INDIVIDUALS.—

(A) LIABILITY.—Any employer or public agency that violates subsection (f) shall be liable to any individual affected—

(i) for damages equal to—

(I) the amount of—

(aa) any wages, salary, employment benefits, public assistance, or other compensation denied or lost to such individual by reason of the violation; or

(bb) in a case in which wages, salary, employment benefits, public assistance, or other compensation has not been denied or lost to the individual, any actual monetary losses sustained by the individual as a direct result of the violation;

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



(III) an additional amount as liquidated damages equal to the sum of the amount described in subclause (I) and the interest described in subclause (II), except that if an employer or public agency that has violated subsection (f) proves to the satisfaction of the court that the act or omission that violated subsection (f) was in good faith and that the employer or public agency had reasonable grounds for believing that the act or omission was not a violation of subsection (f), such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under subclauses (I) and (II), respectively; and

(ii) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(B) **RIGHT OF ACTION.**—An action to recover the damages or equitable relief prescribed in subparagraph (A) may be maintained against any employer or public agency in any Federal or State court of competent jurisdiction by any 1 or more affected individuals for and on behalf of—

(i) the individuals; or

(ii) the individuals and other individuals similarly situated.

(C) **FEES AND COSTS.**—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

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

(i) on the filing of a complaint by the Secretary in an action under paragraph (4) in which restraint is sought of any further delay in the payment of the amount described in subparagraph (A)(i) to such individual by an employer or public agency responsible under subparagraph (A) for the payment; or

(ii) on the filing of a complaint by the Secretary in an action under paragraph (2) in which a recovery is sought of the damages described in subparagraph (A)(i) owing to an affected individual by an employer or public agency liable under subparagraph (A),

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

(2) **ACTION BY THE SECRETARY.**—

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

(B) **CIVIL ACTION.**—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in paragraph (1)(A)(i).

(C) **SUMS RECOVERED.**—Any sums recovered by the Secretary pursuant to subparagraph (B) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each individual affected. Any such sums not paid to such an individual because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(3) **LIMITATION.**—

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

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

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

(C) **COMMENCEMENT.**—In determining when an action is commenced by the Secretary under this subsection for the purposes of this paragraph, it shall be considered to be commenced on the date when the complaint is filed.

(4) **ACTION FOR INJUNCTION BY SECRETARY.**—The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Secretary—

(A) to restrain violations of subsection (f), including the restraint of any withholding of payment of wages, salary, employment benefits, public assistance, or other compensation, plus interest, found by the court to be due to affected individuals; or

(B) to award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.

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

(6) **EMPLOYER LIABILITY UNDER OTHER LAWS.**—Nothing in this section shall be construed to limit the liability of an employer or public agency to an individual, for harm suffered relating to the individual's experience of domestic or sexual violence, pursuant to any other Federal or State law, including a law providing for a legal remedy.

#### **SEC. 113. EXISTING LEAVE USABLE FOR ADDRESSING DOMESTIC OR SEXUAL VIOLENCE.**

An employee who is entitled to take paid or unpaid leave (including family, medical, sick, annual, personal, or similar leave) from employment, pursuant to State or local law, a collective bargaining agreement, or an employment benefits program or plan, may elect to substitute any period of such leave for an equivalent period of leave provided under section 112.

#### **SEC. 114. EMERGENCY BENEFITS.**

(a) **IN GENERAL.**—A State may use funds provided to the State under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) to provide nonrecurrent short-term emergency benefits to an individual for any period of leave the individual takes pursuant to section 112.

(b) **ELIGIBILITY.**—In calculating the eligibility of an individual for such emergency benefits, the State shall count only the cash available or accessible to the individual.

(c) **TIMING.**—

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

(2) **BENEFITS.**—The State shall provide benefits to an eligible applicant under paragraph (1) on an expedited basis, and not later than 7 days after the applicant submits an application under paragraph (1).

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

“(1) **AUTHORITY TO PROVIDE EMERGENCY BENEFITS.**—A State that receives a grant under section 403 may use the grant to provide nonrecurrent short-term emergency benefits, in accordance with section 114 of the Victims' Economic Security and Safety Act, to individuals who take leave pursuant to section 112 of that Act, without regard to whether the individuals receive assistance under the State program funded under this part.”.

#### **SEC. 115. EFFECT ON OTHER LAWS AND EMPLOYMENT BENEFITS.**

(a) **MORE PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.**—Nothing in this sub-

title shall be construed to supersede any provision of any Federal, State, or local law, collective bargaining agreement, or employment benefits program or plan that provides—

(1) greater leave benefits for victims of domestic or sexual violence than the rights established under this subtitle; or

(2) leave benefits for a larger population of victims of domestic or sexual violence (as defined in such law, agreement, program, or plan) than the victims of domestic or sexual violence covered under this subtitle.

(b) **LESS PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.**—The rights established for victims of domestic or sexual violence under this subtitle shall not be diminished by any State or local law, collective bargaining agreement, or employment benefits program or plan.

#### **SEC. 116. CONFORMING AMENDMENT.**

Section 1003(a)(1) of the Rehabilitation Act Amendments of 1986 (42 U.S.C. 2000d-7(a)(1)) is amended by inserting “subtitle A or C of the Victims' Economic Security and Safety Act,” before “or the provisions”.

#### **SEC. 117. EFFECTIVE DATE.**

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

#### **Subtitle B—Entitlement to Unemployment Compensation for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

#### **SEC. 121. PURPOSES.**

The purposes of this subtitle are, pursuant to the affirmative power of Congress to enact legislation under the portions of section 8 of article I of the Constitution relating to laying and collecting taxes, providing for the general welfare, and regulation of commerce among the several States and under section 5 of the 14th amendment to the Constitution—

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

(2) to promote the national interest in ensuring that victims of domestic or sexual violence can recover from and cope with the effects of such victimization and participate in the criminal and civil justice processes without fear of adverse economic consequences;

(3) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, loss of employment, health care costs, and employer costs, caused by domestic or sexual violence including intentional efforts to frustrate the ability of women to participate in employment and interstate commerce; and

(4) to accomplish the purposes described in paragraphs (1), (2), and (3) by providing unemployment insurance to those who are separated from their employment as a result of domestic or sexual violence, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

#### **SEC. 122. UNEMPLOYMENT COMPENSATION AND TRAINING PROVISIONS.**

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

(1) in subsection (a)—

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

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

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

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

(2) by adding at the end the following new subsection:

“(g) CONSTRUCTION.—

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

“(A) the individual’s reasonable fear of future domestic or sexual violence at or en route to or from the individual’s place of employment;

“(B) the individual’s wish to relocate in order to avoid future domestic or sexual violence against the individual or the individual’s parent, son, or daughter (as such terms are defined in section 103 of the Victims’ Economic Security and Safety Act);

“(C) the individual’s need to obtain treatment to address the physical or psychological effects of domestic or sexual violence;

“(D) the employer’s denial of the individual’s request for leave from employment to address domestic or sexual violence and its effects on the individual or the individual’s parent, son, or daughter (as such terms are so defined), including leave authorized by section 102 of the Family and Medical Leave Act of 1993 or by subtitle A of the Victims’ Economic Security and Safety Act;

“(E) the employer’s termination of the individual’s employment due to actions, including absences, taken by the individual that were necessary to protect the individual or the individual’s family from domestic or sexual violence;

“(F) the employer’s termination of the individual due to circumstances resulting from the individual’s being, or being perceived to be, a victim of domestic or sexual violence; or

“(G) any other circumstance in which domestic or sexual violence causes the individual to reasonably believe that separation from employment is necessary for the future safety of the individual or the individual’s family.

“(2) REASONABLE EFFORTS TO RETAIN EMPLOYMENT.—For purposes of subsection (a)(19), if State law requires the individual to have made reasonable efforts to retain employment as a condition for receiving unemployment compensation, such requirement shall be met if the individual—

“(A) sought protection from, or assistance in responding to, domestic or sexual violence, including calling the police, obtaining services from a victim services organization (as defined in section 103 of the Victims’ Economic Security and Safety Act), or seeking legal, social work, medical, clerical, or other assistance;

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

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

“(3) ACTIVE SEARCH FOR EMPLOYMENT.—For purposes of subsection (a)(19), if State law requires the individual to actively search for employment after separation from employ-

ment as a condition for receiving unemployment compensation—

“(A) such requirement shall be treated as met where the individual registers for work (the individual is not otherwise required to seek employment on a weekly basis); and

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

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

“(A) IN GENERAL.—In determining if an individual meets the requirements of paragraphs (1), (2), and (3), the unemployment agency of the State in which an individual is requesting unemployment compensation by reason of subsection (a)(19) may require the individual to provide certification that the separation from employment was due to circumstances resulting from the individual’s experience of domestic or sexual violence.

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

“(i) a sworn statement of the individual;

“(ii) documentation from an employee, agent, or volunteer of a victim services organization (as defined in section 103 of the Victims’ Economic Security and Safety Act), an attorney, a member of the clergy, or a medical or other professional, from whom the individual has sought assistance in addressing domestic or sexual violence and the effects of that violence;

“(iii) a police or court record; or

“(iv) other corroborating evidence.

“(C) CONFIDENTIALITY.—All information provided to the unemployment agency pursuant to this paragraph, including a statement of an individual or any other documentation, record, or corroborating evidence, and the fact that an individual has applied for, inquired about, or obtained unemployment compensation available by reason of subsection (a)(19) shall be retained in the strictest confidence by the individual’s former or current employer and the unemployment agency, except to the extent that disclosure is—

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

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

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

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

(2) by inserting after paragraph (3) the following new paragraph:

“(4) Such methods of administration as will ensure that—

“(A) applicants for unemployment compensation and individuals inquiring about such compensation are adequately notified of the provisions of subsections (a)(19) and (g) of section 3304 of the Internal Revenue Code of 1986 (relating to the availability of unemployment compensation for victims of domestic or sexual violence); and

“(B) claims reviewers and hearing personnel are adequately trained in—

“(i) the nature and dynamics of domestic or sexual violence (as defined in section 3306(v) of the Internal Revenue Code of 1986); and

“(ii) methods of ascertaining and keeping confidential information about possible experiences of domestic or sexual violence (as so defined) to ensure that—

“(I) requests for unemployment compensation based on separations stemming from such violence are reliably screened, identified, and adjudicated; and

“(II) full confidentiality is provided for the individual’s claim and submitted evidence; and”.

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

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

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

“(i) the provisions of subsections (a)(19) and (g) of section 3304 of the Internal Revenue Code of 1986 (relating to the availability of unemployment compensation for victims of domestic or sexual violence); and

“(ii) assistance made available by the State to victims of domestic or sexual violence;

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

“(i) the nature and dynamics of domestic or sexual violence (as defined in section 3306(v) of the Internal Revenue Code of 1986);

“(ii) State standards and procedures relating to the prevention of, and assistance for individuals who experience, domestic or sexual violence (as so defined); and

“(iii) methods of ascertaining and keeping confidential information about possible experiences of domestic or sexual violence (as so defined);

“(C) if a State has elected to establish and enforce standards and procedures regarding the screening for and identification of domestic violence pursuant to paragraph (7), ensure that—

“(i) applicants for assistance under the program and individuals inquiring about such assistance are adequately notified of options available under such standards and procedures; and

“(ii) case workers and other agency personnel responsible for administering the State program funded under this part are provided with adequate training regarding such standards and procedures and options available under such standards and procedures; and

“(D) ensure that the training required under subparagraphs (B) and, if applicable, (C)(ii) is provided through a training program operated by an eligible entity (as defined in section 122(d)(2) of the Victims’ Economic Security and Safety Act).”.

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

(1) GRANTS AUTHORIZED.—The Secretary of Health and Human Services (in this subsection referred to as the “Secretary”) is authorized to award—

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

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

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



(B) grants to State, tribal, or local agencies in order for such agencies to contract with eligible entities to provide State, tribal, or local case workers and other State, tribal, or local agency personnel responsible for administering the temporary assistance to needy families program established under part A of title IV of the Social Security Act in a State or Indian reservation with the training required under subparagraphs (B) and, if applicable, (C)(ii) of such section 402(a)(8).

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

(A) that is—

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

(ii) a State or local victim services organization with recognized expertise in the dynamics of domestic or sexual violence whose primary mission is to provide services to victims of domestic or sexual violence, such as a rape crisis center or domestic violence program; or

(iii) an organization with demonstrated expertise in State or county welfare laws and implementation of such laws and experience with disseminating information on such laws and implementation, but only if such organization will provide the required training in partnership with an entity described in clause (i) or (ii); and

(B) that—

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

(ii) will provide the required training in partnership with an entity described in clause (i) or (ii) of subparagraph (A) in order to comply with the dual domestic violence and sexual assault expertise requirement under clause (i).

(3) **APPLICATION.**—An entity seeking a grant under this subsection shall submit an application to the Secretary at such time, in such form and manner, and containing such information as the Secretary specifies.

(4) **REPORTS.**—

(A) **REPORTS TO CONGRESS.**—The Secretary shall annually submit a report to Congress on the grant program established under this subsection.

(B) **REPORTS AVAILABLE TO PUBLIC.**—The Secretary shall establish procedures for the dissemination to the public of each report submitted under subparagraph (A). Such procedures shall include the use of the Internet to disseminate such reports.

(5) **AUTHORIZATION OF APPROPRIATIONS.**—

(A) **AUTHORIZATION.**—There are authorized to be appropriated—

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

(ii) \$12,000,000 for each of fiscal years 2004 through 2006 to carry out the provisions of paragraph (1)(B).

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

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

(e) **DEFINITION OF DOMESTIC OR SEXUAL VIOLENCE.**—Section 3306 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following:

“(v) **DOMESTIC OR SEXUAL VIOLENCE.**—For purposes of this chapter, the term ‘domestic

or sexual violence’ means domestic violence, dating violence, sexual assault, or stalking, as those terms are defined in section 103 of the Victims’ Economic Security and Safety Act.”.

(f) **EFFECTIVE DATE.**—

(1) **UNEMPLOYMENT AMENDMENTS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B) and paragraph (2), the amendments made by this section shall apply in the case of compensation paid for weeks beginning on or after the expiration of 180 days from the date of enactment of this Act.

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

(i) **IN GENERAL.**—If the Secretary of Labor identifies a State as requiring a change to its statutes or regulations in order to comply with the amendments made by this section (excluding the amendment made by subsection (c)), such amendments shall apply in the case of compensation paid for weeks beginning after the earlier of—

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

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

except that in no case shall such amendments apply before the date that is 180 days after the date of enactment of this Act.

(ii) **SESSION DEFINED.**—In this subparagraph, the term “session” means a regular, special, budget, or other session of a State legislature.

(2) **TANF AMENDMENT.**—

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

(B) **EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.**—In the case of a State plan under part A of title IV of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendment made by subsection (c), the State plan shall not be regarded as failing to comply with the requirements of such amendment on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

#### **Subtitle C—Victims’ Employment Sustainability**

##### **SEC. 131. SHORT TITLE.**

This subtitle may be cited as the “Victims’ Employment Sustainability Act”.

##### **SEC. 132. PURPOSES.**

The purposes of this subtitle are, pursuant to the affirmative power of Congress to enact legislation under the portions of section 8 of article I of the Constitution relating to providing for the general welfare and to regulation of commerce among the several States, and under section 5 of the 14th amendment to the Constitution—

(1) to promote the national interest in reducing domestic violence, dating violence, sexual assault, and stalking by enabling victims of domestic or sexual violence to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic or sexual violence, and to

reduce the devastating economic consequences of domestic or sexual violence to employers and employees;

(2) to promote the national interest in ensuring that victims of domestic or sexual violence can recover from and cope with the effects of such violence, and participate in criminal and civil justice processes, without fear of adverse economic consequences from their employers;

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

(4) to promote the purposes of the 14th amendment by addressing the failure of existing laws to protect the employment rights of victims of domestic or sexual violence, by protecting the civil and economic rights of victims of domestic or sexual violence, and by furthering the equal opportunity of women for economic self-sufficiency and employment free from discrimination;

(5) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, employment, health care costs, and employer costs, caused by domestic or sexual violence, including intentional efforts to frustrate women’s ability to participate in employment and interstate commerce; and

(6) to accomplish the purposes described in paragraphs (1) through (5) by prohibiting employers from discriminating against actual or perceived victims of domestic or sexual violence, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

##### **SEC. 133. PROHIBITED DISCRIMINATORY ACTS.**

(a) **IN GENERAL.**—An employer shall not fail to hire, refuse to hire, discharge, or harass any individual, or otherwise discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual (including retaliation in any form or manner), and a public agency shall not deny, reduce, or terminate the benefits of, otherwise sanction, or harass any individual, or otherwise discriminate against any individual with respect to the amount, terms, or conditions of public assistance of the individual (including retaliation in any form or manner), because—

(1) the individual involved—

(A) is or is perceived to be a victim of domestic or sexual violence;

(B) attended, participated in, prepared for, or requested leave to attend, participate in, or prepare for, a criminal or civil court proceeding relating to an incident of domestic or sexual violence of which the individual, or the son or daughter or parent of the individual, was a victim; or

(C) requested an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure, in response to actual or threatened domestic or sexual violence, regardless of whether the request was granted; or

(2) the workplace is disrupted or threatened by the action of a person whom the individual states has committed or threatened to commit domestic or sexual violence against the individual, or the individual’s son or daughter or parent.

(b) **DEFINITIONS.**—In this section:

(1) **DISCRIMINATE.**—The term “discriminate”, used with respect to the terms, conditions, or privileges of employment or with respect to the terms or conditions of public

assistance, includes not making a reasonable accommodation to the known limitations of an otherwise qualified individual—

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

(B) who is—

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

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

(C) whose limitations resulted from circumstances relating to being a victim of domestic or sexual violence;

unless the employer or public agency can demonstrate that the accommodation would impose an undue hardship on the operation of the employer or public agency.

(2) **QUALIFIED INDIVIDUAL.**—The term “qualified individual” means—

(A) in the case of an applicant or employee described in paragraph (1)(B)(i), an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires; or

(B) in the case of an applicant or recipient described in paragraph (1)(B)(ii), an individual who, with or without reasonable accommodation, can satisfy the essential requirements of the program providing the public assistance that the individual receives or desires.

(3) **REASONABLE ACCOMMODATION.**—The term “reasonable accommodation” may include an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure, in response to actual or threatened domestic or sexual violence.

(4) **UNDUE HARDSHIP.**—

(A) **IN GENERAL.**—The term “undue hardship” means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) **FACTORS TO BE CONSIDERED.**—In determining whether a reasonable accommodation would impose an undue hardship on the operation of an employer or public agency, factors to be considered include—

(i) the nature and cost of the reasonable accommodation needed under this section;

(ii) the overall financial resources of the facility involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such accommodation on the operation of the facility;

(iii) the overall financial resources of the employer or public agency, the overall size of the business of an employer or public agency with respect to the number of employees of the employer or public agency, and the number, type, and location of the facilities of an employer or public agency; and

(iv) the type of operation of the employer or public agency, including the composition, structure, and functions of the workforce of the employer or public agency, the geographic separateness of the facility from the employer or public agency, and the administrative or fiscal relationship of the facility to the employer or public agency.

#### **SEC. 134. ENFORCEMENT.**

(a) **CIVIL ACTION BY INDIVIDUALS.**—

(1) **LIABILITY.**—Any employer or public agency that violates section 133 shall be liable to any individual affected for—

(A) damages equal to the amount of wages, salary, employment benefits, public assistance, or other compensation denied or lost to such individual by reason of the violation, and the interest on that amount calculated at the prevailing rate;

(B) compensatory damages, including damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment or life, and other nonpecuniary losses;

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

(D) such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(2) **RIGHT OF ACTION.**—An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer or public agency in any Federal or State court of competent jurisdiction by any 1 or more individuals described in section 133.

(b) **ACTION BY DEPARTMENT OF JUSTICE.**—The Attorney General may bring a civil action in any Federal or State court of competent jurisdiction to recover the damages or equitable relief described in subsection (a)(1).

#### **SEC. 135. ATTORNEY'S FEES.**

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

### **Subtitle D—Victims of Abuse Insurance Protection**

#### **SEC. 141. SHORT TITLE.**

This subtitle may be cited as the “Victims of Abuse Insurance Protection Act”.

#### **SEC. 142. DEFINITIONS.**

In this subtitle:

(1) **ABUSE.**—The term “abuse” means the occurrence of 1 or more of the following acts by a current or former household or family member, intimate partner, or caretaker:

(A) Attempting to cause or causing another person bodily injury, physical harm, substantial emotional distress, psychological trauma, rape, sexual assault, or involuntary sexual intercourse.

(B) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority and under circumstances that place the person in reasonable fear of bodily injury or physical harm.

(C) Subjecting another person to false imprisonment or kidnapping.

(D) Attempting to cause or causing damage to property so as to intimidate or attempt to control the behavior of another person.

(2) **HEALTH CARRIER.**—The term “health carrier” means a person that contracts or offers to contract on a risk-assuming basis to provide, deliver, arrange for, pay for, or reimburse any of the cost of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation or any other entity providing a plan of health insurance, health benefits or health services.

(3) **INSURED.**—The term “insured” means a party named on a policy, certificate, or health benefit plan, including an individual, corporation, partnership, association, unincorporated organization, or any similar entity, as the person with legal rights to the benefits provided by the policy, certificate, or health benefit plan. For group insurance, such term includes a person who is a beneficiary covered by a group policy, certificate, or health benefit plan. For life insurance, the term refers to the person whose life is covered under an insurance policy.

(4) **INSURER.**—The term “insurer” means any person, reciprocal exchange, inter insurer, Lloyds insurer, fraternal benefit society, or other legal entity engaged in the business of insurance, including agents, brokers, adjusters, and third-party administra-

tors. The term also includes health carriers, health benefit plans, and life, disability, and property and casualty insurers.

(5) **POLICY.**—The term “policy” means a contract of insurance, certificate, indemnity, suretyship, or annuity issued, proposed for issuance or intended for issuance by an insurer, including endorsements or riders to an insurance policy or contract.

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

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

(B) a person who has prior or current injuries, illnesses, or disorders that resulted from abuse; or

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

#### **SEC. 143. DISCRIMINATORY ACTS PROHIBITED.**

(a) **IN GENERAL.**—No insurer may, directly or indirectly, engage in any of the following acts or practices on the basis that the applicant or insured, or any person employed by the applicant or insured or with whom the applicant or insured is known to have a relationship or association, is, has been, or may be the subject of abuse or has incurred or may incur abuse-related claims:

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

(2) Restricting, excluding, or limiting insurance coverage for losses or denying a claim, except as otherwise permitted or required by State laws relating to life insurance beneficiaries.

(3) Adding a premium differential to any insurance policy or health benefit plan.

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

(c) **PROHIBITION ON TERMINATION.**—

(1) **IN GENERAL.**—No insurer or health carrier may terminate health coverage for a subject of abuse because coverage was originally issued in the name of the abuser and the abuser has divorced, separated from, or lost custody of the subject of abuse or the abuser's coverage has terminated voluntarily or involuntarily and the subject of abuse does not qualify for an extension of coverage under part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or section 4980B of the Internal Revenue Code of 1986.

(2) **PAYMENT OF PREMIUMS.**—Nothing in paragraph (1) shall be construed to prohibit the insurer from requiring that the subject of abuse pay the full premium for the subject's coverage under the health plan if the requirements are applied to all insured of the health carrier.

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

(4) **CONTINUATION COVERAGE.**—The continuation of health coverage required by this subsection shall be satisfied by any extension of coverage under part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or section 4980B of the Internal Revenue Code of 1986 provided to a subject of abuse and is not intended to be in addition to any extension of coverage otherwise provided for under such part 6 or section 4980B.

(d) **USE OF INFORMATION.**—

(1) **LIMITATION.**—

(A) **IN GENERAL.**—In order to protect the safety and privacy of subjects of abuse, no

person employed by or contracting with an insurer or health benefit plan may—

(i) use, disclose, or transfer information relating to abuse status, acts of abuse, abuse-related medical conditions or the applicant's or insured's status as a family member, employer, associate, or person in a relationship with a subject of abuse for any purpose unrelated to the direct provision of health care services unless such use, disclosure, or transfer is required by an order of an entity with authority to regulate insurance or an order of a court of competent jurisdiction; or

(ii) disclose or transfer information relating to an applicant's or insured's mailing address or telephone number or the mailing address and telephone number of a shelter for subjects of abuse, unless such disclosure or transfer—

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

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

(B) **RULE OF CONSTRUCTION.**—Nothing in this paragraph may be construed to limit or preclude a subject of abuse from obtaining the subject's own insurance records from an insurer.

(2) **AUTHORITY OF SUBJECT OF ABUSE.**—A subject of abuse, at the absolute discretion of the subject of abuse, may provide evidence of abuse to an insurer for the limited purpose of facilitating treatment of an abuse-related condition or demonstrating that a condition is abuse-related. Nothing in this paragraph shall be construed as authorizing an insurer or health carrier to disregard such provided evidence.

#### **SEC. 144. INSURANCE PROTOCOLS FOR SUBJECTS OF ABUSE.**

Insurers shall develop and adhere to written policies specifying procedures to be followed by employees, contractors, producers, agents, and brokers for the purpose of protecting the safety and privacy of a subject of abuse and otherwise implementing this subtitle when taking an application, investigating a claim, or taking any other action relating to a policy or claim involving a subject of abuse.

#### **SEC. 145. REASONS FOR ADVERSE ACTIONS.**

An insurer that takes an action that adversely affects a subject of abuse, shall advise the subject of abuse applicant or insured of the specific reasons for the action in writing. For purposes of this section, reference to general underwriting practices or guidelines shall not constitute a specific reason.

#### **SEC. 146. LIFE INSURANCE.**

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

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

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

#### **SEC. 147. SUBROGATION WITHOUT CONSENT PROHIBITED.**

Subrogation of claims resulting from abuse is prohibited without the informed consent of the subject of abuse.

#### **SEC. 148. ENFORCEMENT.**

(a) **FEDERAL TRADE COMMISSION.**—

(1) **IN GENERAL.**—The Federal Trade Commission shall have the power to examine and investigate any insurer to determine whether such insurer has been or is engaged in any act or practice prohibited by this subtitle.

(2) **CEASE AND DESIST ORDERS.**—If the Federal Trade Commission determines an insurer has been or is engaged in any act or

practice prohibited by this subtitle, the Commission may take action against such insurer by the issuance of a cease and desist order as if the insurer was in violation of section 5 of the Federal Trade Commission Act. Such cease and desist order may include any individual relief warranted under the circumstances, including temporary, preliminary, and permanent injunctive and compensatory relief.

(b) **PRIVATE CAUSE OF ACTION.**—

(1) **IN GENERAL.**—An applicant or insured who believes that the applicant or insured has been adversely affected by an act or practice of an insurer in violation of this subtitle may maintain an action against the insurer in a Federal or State court of original jurisdiction.

(2) **RELIEF.**—Upon proof of such conduct by a preponderance of the evidence in an action described in paragraph (1), the court may award appropriate relief, including temporary, preliminary, and permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for the aggrieved individual's attorneys and expert witnesses.

(3) **STATUTORY DAMAGES.**—With respect to compensatory damages in an action described in paragraph (1), the aggrieved individual may elect, at any time prior to the rendering of final judgment, to recover in lieu of actual damages, an award of statutory damages in the amount of \$5,000 for each violation.

#### **SEC. 149. EFFECTIVE DATE.**

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

#### **Subtitle E—Workplace Safety Program Tax Credit**

#### **SEC. 151. CREDIT FOR COSTS TO EMPLOYERS OF IMPLEMENTING WORKPLACE SAFETY PROGRAMS.**

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

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

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

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

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

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

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

“(ii) providing assistance to employees and the spouses and dependents of employees with respect to domestic or sexual violence,

“(iii) providing legal or medical services to employees and the spouses and dependents of employees subjected to, or at risk from, domestic or sexual violence,

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

“(v) implementing human resource or personnel policies initiated to protect employees from domestic or sexual violence or to support employees who have been victims of domestic or sexual violence.

“(B) **TYPES OF COSTS.**—Such term includes costs certified by the Secretary of Labor to the Secretary as being for the purpose of—

“(i) the hiring of new security personnel in order to address domestic or sexual violence,

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

“(iii) the purchase or installation of new security equipment, including surveillance equipment, lighting fixtures, cardkey access systems, and identification systems, in order to address domestic or sexual violence,

“(iv) the establishment of an employee assistance line or other employee assistance services, in order to address domestic or sexual violence, for the use of individual employees, including counseling or referral services undertaken in consultation and coordination with national, State, or local domestic violence coalitions, sexual assault coalitions, domestic violence programs, or sexual assault programs,

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

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

“(vii) the retention of a financial expert or an accountant to provide financial counseling to employees seeking to escape from domestic or sexual violence,

“(viii) the establishment of an education program for employees, consisting of seminars or training sessions about domestic or sexual violence undertaken in consultation and coordination with national, State, or local domestic violence coalitions, sexual assault coalitions, domestic violence programs, or sexual assault programs,

“(ix) studies of the cost, impact, or extent of domestic or sexual violence at the employer's place of business, if such studies are made available to the public and protect the identity of employees included in the study,

“(x) the publication of a regularly disseminated newsletter or other regularly disseminated educational materials about domestic or sexual violence,

“(xi) the implementation of leave policies for the purpose of allowing or accommodating the needs of victims of domestic or sexual violence to pursue counseling, legal assistance, or safety planning, including leave from work to attend meetings with attorneys, to give evidentiary statements or depositions, and to attend hearings or trials in court,

“(xii) the implementation of flexible work policies for the purpose of allowing or accommodating the needs of employees who are victims of domestic or sexual violence, or employees at risk with respect to such crimes, to avoid assailants,

“(xiii) the implementation of transfer policies for the purpose of allowing or accommodating the needs of employees subjected to domestic or sexual violence to change office locations within the company in order to avoid assailants or to allow the transfer of an employee who has perpetrated domestic or sexual violence in order to protect the victim, including payment of costs for the transfer and relocation of an employee to another city, county, State, or country for the purpose of maintaining an employee's safety from domestic or sexual violence, or

“(xiv) the provision of any of the services described in clauses (iv) through (viii) to the spouses or dependents of employees.

“(C) **NOTIFICATION OF POSSIBLE TAX CONSEQUENCES.**—In no event shall any cost for goods or services which may be included in the income of any employee receiving or benefiting from such goods or services be treated as a domestic and sexual violence

safety and education cost unless the employer notifies the employee in writing of the possibility of such inclusion.

“(2) DOMESTIC OR SEXUAL VIOLENCE.—The term ‘domestic or sexual violence’ means domestic violence, dating violence, sexual assault, or stalking, as those terms are defined in section 103 of the Victims’ Economic Security and Safety Act.

“(3) DOMESTIC VIOLENCE COALITION; SEXUAL ASSAULT COALITION.—The terms ‘domestic violence coalition’ and ‘sexual assault coalition’ have the meanings given the terms in section 103 of the Victims’ Economic Security and Safety Act.

“(4) EMPLOYEE.—The term ‘employee’ means a person who is an employee, as defined in section 103(9) of the Victims’ Economic Security and Safety Act, except that the person may be employed by any employer described in paragraph (5).

“(5) EMPLOYER.—The term ‘employer’ means a person who is an employer, as defined in section 103(10) of such Act, determined without regard to the number of individuals employed.

“(c) COORDINATION WITH OTHER PROVISIONS.—No credit or deduction shall be allowed under any other provision of this title for any amount for which a credit is allowed under this section.”.

(b) TREATMENT AS GENERAL BUSINESS CREDIT.—

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

“(16) the workplace safety program credit determined under section 45G.”.

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

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

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

“(11) the workplace safety program credit determined under section 45G.”.

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

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

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

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

## Subtitle F—National Clearinghouse on Domestic and Sexual Violence in the Workplace Grant

### SEC. 161. NATIONAL CLEARINGHOUSE ON DOMESTIC AND SEXUAL VIOLENCE IN THE WORKPLACE GRANT.

(a) AUTHORITY.—The Attorney General may award a grant in accordance with this section to a private, nonprofit entity or tribal organization that meets the requirements of subsection (b), in order to provide for the establishment and operation of a national clearinghouse and resource center to provide information and assistance to employers, labor organizations, and advocates on behalf of victims of domestic or sexual violence, in their efforts to develop and implement appropriate responses to assist those victims.

(b) GRANTEES.—Each applicant for a grant under this section shall submit to the Attorney General an application, which shall—

(1) demonstrate that the applicant—  
(A) has a nationally recognized expertise in the area of domestic violence, dating violence, sexual assault, and stalking, and a record of commitment and quality responses to reduce domestic violence, dating violence, sexual assault, and stalking; and  
(B) will provide matching funds from non-Federal sources in an amount equal to not less than 10 percent of the total amount of the grant awarded under this section; and

(2) include a plan to maximize, to the extent practicable, outreach to employers (including private companies, as well as public entities such as universities, and State and local governments) in developing and implementing appropriate responses to assist employees who are victims of domestic or sexual violence.

(c) USE OF GRANT AMOUNT.—A grant under this section may be used for staff salaries, travel expenses, equipment, printing, and other reasonable expenses necessary to assemble, maintain, and disseminate to employers, labor organizations, and advocates described in subsection (a), information on and appropriate responses to domestic violence, dating violence, sexual assault, and stalking, including—

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

(2) conferences and other educational opportunities;

(3) development of protocols and model workplace policies;

(4) employer- and union-sponsored victim services and outreach counseling; and

(5) assessments of the workplace costs of domestic violence, dating violence, sexual assault, and stalking.

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

## Subtitle G—Severability

### SEC. 171. SEVERABILITY.

If any provision of this title, any amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of the provisions of this title, the amendments made by this title, and the application of such provisions or amendments to any person or circumstance shall not be affected.

## TITLE II—CHILDREN WHO WITNESS DOMESTIC VIOLENCE

### SEC. 201. SHORT TITLE.

This title may be cited as the “Children Who Witness Domestic Violence Act”.

### SEC. 202. FINDINGS.

Congress makes the following findings:

(1) Domestic violence and sexual assault occur frequently in the United States.

1,500,000 women are raped or physically assaulted by an intimate partner annually in the United States, and 1 in 4 women in the United States will experience domestic violence or sexual assault in her lifetime.

(2) At least 3,300,000 children in the United States are exposed to parental violence every year.

(3) Child abuse and domestic violence often occur within the same families. Because of this overlap, cross-training for child welfare workers, courts, law enforcement, prosecutors, and domestic violence and sexual assault victim service providers is essential.

(4) Forty to 60 percent of men who abuse women also abuse children.

(5) In 43 percent of households where intimate violence occurs, at least 1 child under the age of 12 lives in the home. Domestic violence has been shown to occur disproportionately in homes with children under age 5.

(6) In most States, more than 50 percent of the residents in battered women’s shelters are children.

(7) As many as 500,000 children may be encountered by police during domestic violence arrests each year.

(8) Children who live in homes where domestic violence occurs are at a higher risk of anxiety and depression, and exhibit more aggressive, antisocial, inhibited, and fearful behaviors than other children.

(9) Children’s experiences vary widely as the result of their exposure to domestic violence depending on their family situations, community environment, and the child’s own personality. Children need comprehensive services that serve the continuum of their individual needs.

(10) Adolescents who have grown up in violent homes are at risk for recreating the abusive relationships they have observed. Forty percent of violent juvenile offenders come from homes where there is domestic violence, and 50 percent of children who come before delinquency court have been exposed to violence in the home.

(11) Men who as children witnessed their parent’s domestic violence are twice as likely to abuse their own wives as are sons of nonviolent parents. One-third of women who are physically abused by a husband or boyfriend grew up in a household where their mother was also abused.

(12) The most successful strategies for dealing with the overlap between domestic violence and child abuse are those that provide for the safety of both the children and the nonabusing parent.

(13) Recent studies show that battered women parent effectively and attend to their children’s needs.

(14) In a major metropolitan area, 80 percent of surveyed battered women with children reported that they and their children were safe and together as a family after receiving domestic violence advocacy services. In contrast, the rate of substantiated cases of sexual abuse in foster care is more than 4 times higher than the rate in the general population.

### SEC. 203. PURPOSE.

The purpose of this title is to—

(1) reduce the impact of domestic violence, sexual assault, and stalking in the lives of youth and children;

(2) provide appropriate services for children and youth experiencing or exposed to domestic violence, sexual assault, and stalking;

(3) develop and implement education programs to prevent children and youth from becoming victims or perpetrators of domestic violence, sexual assault, or stalking;

(4) encourage cross training and collaboration among child welfare agencies, domestic violence and sexual assault service providers, courts, law enforcement entities,

health care professionals, crisis nurseries, and other social services to recognize and responsibly address domestic violence and sexual assault and the effects of domestic violence on children and youth;

(5) promote the safety of children and youth by increasing the safety, autonomy, capacity, and financial security of the non-abusing parents who are also victims of domestic violence and sexual assault so that they may remain safely together, thereby preventing the unnecessary and harmful removal of the child or youth from the non-abusing parent; and

(6) ensure the effective handling of cases where domestic violence or sexual assault and child abuse and neglect intersect in such a way that—

(A) holds the adult perpetrator of violence accountable;

(B) assures the safety and well-being of both the child and the child's nonabusing parent; and

(C) prevents the unnecessary and harmful removal of the child from the nonabusing parent thereby increasing the child's chance to heal.

#### SEC. 204. DEFINITIONS.

Section 320 of the Family Violence Prevention and Services Act (42 U.S.C. 10408) is amended by adding at the end the following:

“(7) The term ‘dating violence’ means violence committed by a person—

“(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

“(B) where the existence of such a relationship shall be determined based on a consideration of—

“(i) the length of the relationship;

“(ii) the type of relationship; and

“(iii) the frequency of interaction between the persons involved in the relationship.

“(8) The term ‘domestic violence’ includes acts or threats of violence, not including acts of self-defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

“(9) The term ‘sexual assault’ means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known to the victim or related by blood or marriage to the victim.

“(10) The term ‘stalking’ means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear death, sexual assault, or bodily injury to such person or a member of such person's immediate family, when the person engaging in such conduct has knowledge or should have knowledge that the specific person will be placed in reasonable fear of death, sexual assault, or bodily injury to such person or a member of such person's immediate family and when the conduct induces fear in the specific person of death, sexual assault, or bodily injury to such person or a member of such person's immediate family.”.

#### SEC. 205. SERVICES FOR CHILDREN EXPOSED TO DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following:

##### “SEC. 321. SERVICES FOR CHILDREN EXPOSED TO DOMESTIC VIOLENCE.

“(a) GRANTS AUTHORIZED.—The Secretary may award competitive grants to eligible entities to enable such entities to conduct programs to serve children who have been exposed to domestic violence.

“(b) ELIGIBLE GRANTEEES.—To be eligible to receive a grant under this section, an entity shall—

“(1) meet the requirements of section 303(a)(2)(A) or section 303(b)(1); and

“(2) have in place, and describe in its application, policies and procedures that—

“(A) enhance or ensure the safety and security of a battered parent or caregiver, and as a result, the child of the parent; and

“(B) ensure that all services are provided in a developmentally appropriate and culturally competent manner.

“(c) USE OF FUNDS.—

“(1) IN GENERAL.—An entity that receives a grant under this section shall use amounts provided under the grant to design or replicate, and implement, programs and services using domestic violence intervention models to respond to the needs of children who are exposed to domestic violence and whose parent or caregiver is a victim of domestic violence and who is receiving services from such entity. Such a program—

“(A) shall be a new program or service, or new component of an existing program or service not currently offered by the entity;

“(B) shall provide direct counseling and advocacy for children who have been exposed to domestic violence;

“(C) may include early childhood and mental health services;

“(D) may assist in legal advocacy efforts on behalf of children with respect to issues related directly to services the children are receiving from the program;

“(E) may include respite care, supervised visitation, and specialized services for children; and

“(F) may use not more than 25 percent of the grant funds to contract with others to provide additional services and resources for children including child care, transportation, educational support, respite care, supervised visitation, and access to specialized services for children.

“(2) CONFIDENTIALITY.—Programs developed and implemented under paragraph (1) shall ensure the safety and confidentiality of child and adult victims in a manner that is consistent with applicable Federal and State laws.

“(d) APPLICATION.—To be eligible to receive a grant under subsection (a), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(e) TERM AND AMOUNT.—

“(1) TERM.—The Secretary shall make the grants under this section for a period of not more than 3 fiscal years.

“(2) AMOUNT.—Each grant awarded under this section shall be in an amount of not less than \$50,000 per year and not more than \$300,000 per year.

“(f) EVALUATION, MONITORING, ADMINISTRATION, AND TECHNICAL ASSISTANCE.—Of the amount appropriated under subsection (j) for each fiscal year, not more than 4 percent shall be used by the Secretary for evaluation, monitoring, administrative, and technical assistance costs under this section.

“(g) EQUITABLE DISTRIBUTION.—In awarding grants under subsection (a), the Secretary shall ensure an equitable geographic dis-

tribution to State, local, and tribal programs working in throughout the United States in rural, urban, and suburban areas.

“(h) UNDERSERVED POPULATIONS.—In awarding grants under subsection (a), the Secretary shall—

“(1) consider the needs of underserved populations as defined by section 2003(7) of part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2); and

“(2) from the amounts made available under subsection (j), award not less than 10 percent of such amounts for the funding of tribal programs as defined in section 303(b)(1).

“(i) ANNUAL REPORTS.—An entity receiving a grant under this section shall annually submit to the Secretary a report that describes, at a minimum—

“(1) how the funds under the grant were used;

“(2) the extent to which underserved populations were reached;

“(3) the adequacy of staff training and agency services to ensure that children's needs are addressed properly;

“(4) the adequacy of the physical arrangements for meeting children's needs; and

“(5) the existence of continuing barriers the entity faces to more fully addressing children's needs.

“(j) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, \$15,000,000 for each of fiscal years 2004 through 2008.

“(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until expended.”.

#### SEC. 206. GRANTS TO COMBAT THE IMPACT OF EXPERIENCING OR WITNESSING DOMESTIC VIOLENCE ON ELEMENTARY AND SECONDARY SCHOOL CHILDREN.

Subpart 2 of part A of title IV of the Elementary and Secondary Act of 1965 (20 U.S.C. 7131 et seq.) is amended by adding at the end the following:

##### “SEC. 4125. GRANTS TO COMBAT THE IMPACT OF EXPERIENCING OR WITNESSING DOMESTIC VIOLENCE ON ELEMENTARY AND SECONDARY SCHOOL CHILDREN.

“(a) GRANTS AUTHORIZED.—

“(1) AUTHORITY.—The Secretary is authorized to award grants and contracts to elementary schools and secondary schools that work with experts to enable the elementary schools and secondary schools—

“(A) to provide training to school administrators, faculty, and staff, with respect to issues concerning children experiencing domestic violence in dating relationships and witnessing domestic violence, and the impact of the violence described in this subparagraph on children;

“(B) to provide educational programming to students regarding domestic violence and the impact of experiencing or witnessing domestic violence on children;

“(C) to provide support services for students and school personnel for the purpose of developing and strengthening effective prevention and intervention strategies with respect to issues concerning children experiencing domestic violence in dating relationships and witnessing domestic violence, and the impact of the violence described in this subparagraph on children; and

“(D) to develop and implement school system policies regarding appropriate, safe responses identification and referral procedures for students who are experiencing or witnessing domestic violence.

“(2) AWARD BASIS.—The Secretary shall award grants and contracts under this section—

“(A) on a competitive basis; and

“(B) in a manner that ensures that such grants and contracts are equitably distributed throughout a State among elementary schools and secondary schools located in rural, urban, and suburban areas in the State.

“(3) **POLICY DISSEMINATION.**—The Secretary shall disseminate to elementary schools and secondary schools any Department of Education policy guidance regarding the prevention of domestic violence and the impact of experiencing or witnessing domestic violence on children.

“(b) **USES OF FUNDS.**—Funds provided under this section may be used for the following purposes:

“(1) To provide training for elementary school and secondary school administrators, faculty, and staff that addresses issues concerning elementary school and secondary school students who experience domestic violence in dating relationships or witness domestic violence, and the impact of such violence on the students.

“(2) To provide education programs for elementary school and secondary school students that are developmentally appropriate for the students’ grade levels and are designed to meet any unique cultural and language needs of the particular student populations.

“(3) To develop and implement elementary school and secondary school system policies regarding appropriate, safe responses identification and referral procedures for students who are experiencing or witnessing domestic violence.

“(4) To provide the necessary human resources to respond to the needs of elementary school and secondary school students and personnel who are faced with the issue of domestic violence, such as a resource person who is either on-site or on-call, and who is an expert.

“(5) To provide media center materials and educational materials to elementary schools and secondary schools that address issues concerning children who experience domestic violence in dating relationships and witness domestic violence, and the impact of the violence described in this paragraph on the children.

“(6) To conduct evaluations to assess the impact of programs and policies assisted under this section in order to enhance the development of the programs.

“(c) **CONFIDENTIALITY.**—Policies, programs, training materials, and evaluations developed and implemented under subsection (b) shall address issues of safety and confidentiality for the victim and the victim’s family in a manner consistent with applicable Federal and State laws.

“(d) **APPLICATION.**—

“(1) **IN GENERAL.**—To be eligible to be awarded a grant or contract under this section for any fiscal year, an elementary school or secondary school, in consultation with an expert, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

“(2) **CONTENTS.**—Each application submitted under paragraph (1) shall—

“(A) describe the need for funds provided under the grant or contract and the plan for implementation of any of the activities described in subsection (b);

“(B) describe how the experts shall work in consultation and collaboration with the elementary school or secondary school; and

“(C) provide measurable goals for and expected results from the use of the funds provided under the grant or contract.

**SEC. 207. GRANTS FOR TRAINING AND COLLABORATION AMONG CHILD WELFARE AGENCIES, DOMESTIC VIOLENCE AND SEXUAL ASSAULT SERVICE PROVIDERS, THE COURTS AND LAW ENFORCEMENT AGENCIES.**

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 205, is further amended by adding at the end the following:

**“SEC. 322. GRANTS FOR TRAINING AND COLLABORATION AMONG CHILD WELFARE AGENCIES, DOMESTIC VIOLENCE AND SEXUAL ASSAULT SERVICE PROVIDERS, THE COURTS, AND LAW ENFORCEMENT AGENCIES.**

“(a) **PURPOSE.**—It is the purpose of this section to—

“(1) encourage cross training and collaboration between child welfare agencies and domestic violence and sexual assault service providers and, where applicable, the courts and law enforcement agencies to identify, assess, and respond appropriately to domestic violence or sexual assault in homes where children are present and may be exposed to the violence, to domestic violence or sexual assault in child protection cases, and to the needs of both child and adult victims of domestic violence and sexual assault;

“(2) establish and implement policies, procedures, and practices in child welfare agencies, domestic violence or sexual assault service programs and, where applicable, juvenile, family or other trial courts with jurisdiction over child maltreatment and domestic violence cases (referred to in this section as the ‘courts’), and law enforcement agencies that are consistent with the principles of—

“(A) protecting children;

“(B) increasing the safety and well-being of children, by—

“(i) tending to their immediate and longer term needs for treatment and support;

“(ii) increasing the safety of parents of children who are not the perpetrators of domestic violence and sexual assault (referred to in this section as the ‘nonabusing parent’);

“(iii) supporting the autonomy, capacity, and financial security of the nonabusing parents of children who are also the victims of domestic violence or sexual assault (referred to in this section as ‘adult victims’);

“(iv) protecting the safety, security and well being of the child by preventing the unnecessary removal of the child from the nonabusing parent; and

“(v) in cases where removal of the child is necessary to protect the child’s safety, taking the necessary steps to provide appropriate services to the child and the nonabusing parent to promote the safe and appropriately prompt reunification of the child with the nonabusing parent;

“(C) recognizing—

“(i) the relationship between child abuse and neglect, including child sexual abuse, and domestic violence and sexual assault in families;

“(ii) the impact of the perpetrator’s behavior on child and adult victims of domestic violence and sexual assault;

“(iii) the dangers posed to both child and adult victims of domestic violence and sexual assault;

“(iv) the physical, emotional, and developmental impact of domestic violence and sexual assault on child and adult victims;

“(v) the physical, emotional, and financial needs of adult victims of domestic violence and sexual assault; and

“(vi) the need to hold adult perpetrators of domestic violence and sexual assault accountable for their abusive behaviors to provide appropriate services to reduce risks to child and adult victims of domestic violence or sexual assault;

“(D) in the case of training for court personnel and law enforcement, holding adult perpetrators of domestic violence, sexual assault, and child abuse and neglect, not the child and adult victims of domestic violence, sexual assault, and child abuse and neglect, accountable for stopping abusive behaviors; and

“(3) increase cooperation and enhance linkages between child welfare agencies, domestic violence and sexual assault service providers, juvenile, family or other trial courts with jurisdiction over child maltreatment and domestic violence cases, and law enforcement agencies to protect and more comprehensively and effectively serve both child and adult victims of domestic violence and sexual assault, and to engage where necessary other entities addressing the safety, health, mental health, social service, housing and economic needs of child and adult victims of domestic violence and sexual assault, including community-based supports such as schools, local health centers, community action groups, and neighborhood coalitions.

“(b) **GRANT AUTHORITY.**—

“(1) **IN GENERAL.**—The Secretary shall make grants to eligible entities to enable the entities to jointly carry out cross training and other initiatives to promote collaboration that seeks to carry out the purposes of this section.

“(2) **GRANT PERIODS.**—Grants shall be awarded under paragraph (1) for a period of 3 years.

“(3) **ELIGIBLE ENTITIES.**—To be eligible to receive a grant under this section, a grant applicant shall establish a partnership that—

“(A) shall include—

“(i) a State child welfare agency, an Indian tribal organization that serves as a child welfare agency, or a local child welfare agency; and

“(ii) a domestic violence or sexual assault service provider, such as—

“(I) a State, local, or tribal domestic violence or sexual assault coalition; or

“(II) another private non-profit organization such as a community-based domestic violence or sexual assault program that is concerned with domestic violence or sexual assault and has a documented history of effective work concerning domestic violence or sexual assault and the impact domestic violence or sexual assault has on children; and

“(B) may include—

“(i) a State or local juvenile, family, or other trial court with jurisdiction over child maltreatment and domestic violence cases; or

“(ii) a State or local law enforcement agency with responsibility for responding to reports of domestic violence or sexual assault or child abuse and neglect.

“(c) **USES OF FUNDS.**—An entity that receives a grant under this section shall use the funds made available through the grant for cross-training and collaborative efforts, consistent with the principles described in subsection (a)(2), including—

“(1) to educate the staff of child welfare agencies and domestic violence and sexual assault service providers, and, as applicable, the staff of courts and law enforcement agencies to responsibly address domestic violence and sexual assault (recognizing it as a serious problem that threatens both its child and adult victims), and to understand—

“(A) domestic violence and sexual assault and their effects on children and adults;

“(B) child abuse and neglect and its effects on children; and

“(C) child welfare policies that affect child and adult victims of domestic violence and sexual assault;



“(2) to ensure the effective handling of cases where domestic violence or sexual assault and child abuse and neglect intersect so as to—

“(A) assure the safety and well-being of both the child and the nonabusing parent;

“(B) prevent the unnecessary removal of the child from the nonabusing parent, and, when removal is necessary to protect the child's safety;

“(C) promote the delivery of appropriate services to the child and to the nonabusing parent; and

“(D) facilitate the safe and appropriately prompt reunification of the child with the nonabusing parent through the development and implementation of policies, procedures, and programs that are consistent with the purposes of this section;

“(3) to identify and assess, and respond appropriately to, domestic violence or sexual assault in child protection cases and the needs of child victims of abuse and neglect in domestic violence or sexual assault cases;

“(4) to ensure that child welfare agencies and domestic violence and sexual assault service providers will not be required to share confidential information with one another about families receiving services except as required by law or with the informed, written consent of the adult victim being served;

“(5) to provide appropriate resources in child abuse and neglect cases to respond to domestic violence and sexual assault, including developing a service plan and providing other appropriate services and interventions that ensure the safety of both the child and adult victims of the domestic violence and sexual assault;

“(6) to establish and enhance linkages and collaboration between child welfare agencies, domestic violence or sexual assault service providers and, where applicable, State or local juvenile, family, or other trial courts with jurisdiction over child maltreatment and domestic violence cases, law enforcement agencies, and other entities addressing the safety, health, mental health, social service, housing, and economic needs of child and adult victims of domestic violence and sexual assault, including community-based supports such as schools, local health centers, community action groups, and neighborhood coalitions to—

“(i) respond effectively and comprehensively to the varying needs of child and adult victims of domestic violence and sexual assault to prevent child and adult victims from having to turn to child welfare agencies for assistance;

“(ii) include linguistically and culturally appropriate services and linkages to existing services; and

“(iii) include at least the following services where appropriate:

“(I) Appropriate referrals to community-based domestic violence programs and sexual assault victim service providers with the capacities to support adult victims of domestic violence or sexual assault who are parents of children who have been abused or neglected or are at risk of being abused or neglected.

“(II) Emergency shelter and transitional housing for adult victims of domestic violence or sexual assault and their children.

“(III) Legal assistance and advocacy for victims of domestic violence or sexual assault including, when appropriate, assistance in obtaining and entering orders of protection.

“(IV) Support and training to assist parents to help their children cope with the impact of domestic violence or sexual assault.

“(V) Programs to help children who have been exposed to domestic violence or sexual assault.

“(VI) Intervention and treatment for adult perpetrators of domestic violence or sexual assault whose children are the subjects of child protection cases to promote the safety and well-being of the children, and appropriate coordination of such treatment with the juvenile, family, and criminal courts, and law enforcement agencies with which the perpetrators are involved.

“(VII) Health, mental health, and other necessary supportive services.

“(VIII) Assistance to obtain housing and necessary economic supports.

“(d) APPLICATION.—To be eligible to receive a grant under this section, the entities that are members of the applicant partnership described in subsection (b)(3), shall jointly submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The application shall—

“(1) outline the specific training and other activities that will be undertaken under the grant to promote collaboration;

“(2) describe how the training and other activities described in subsection (c) will help achieve the purposes of this section;

“(3) identify the agencies and providers that will be responsible for carrying out the initiatives for which the entities seek the grant;

“(4) include documentation from child welfare agencies and domestic violence and sexual assault victims service providers, and where applicable, State or local juvenile, family, or other trial courts with jurisdiction over child maltreatment and domestic violence cases, and law enforcement agencies that have been involved in the development of the application;

“(5) describe the ongoing involvement of child welfare and domestic violence and sexual assault victims service providers (including a description of their roles as subcontractors, and documentation of appropriate compensation, if relevant) and, where applicable, courts and law enforcement agencies, in the development of the training policies, procedures, programs, and practices described in subsection (c)(1); and

“(6) provide assurances that activities described in subsection (c) will—

“(A) be provided to child welfare staff, including line staff, supervisors, and administrators, and be provided first to staff responsible for investigation, follow-up, screening, intake, assessment, and provision of services; and

“(B) be conducted jointly with child welfare agency staff, staff from community-based domestic violence programs and sexual assault crisis centers and where applicable, courts and law enforcement agencies;

“(C) comply with the principles described in subsection (a)(2); and

“(D) address—

“(i) the dynamics and lethality of domestic violence and sexual assault, the impact of domestic violence and sexual assault on children exposed to domestic violence and sexual assault, the impact of domestic violence and sexual assault on adult victims, and the relationship of domestic violence and sexual assault to child abuse and neglect;

“(ii) screening for domestic violence and sexual assault and assessing danger to the child and adult victims of domestic violence and sexual assault;

“(iii) applicable Federal, State, and local laws pertaining to child abuse and neglect and domestic violence and sexual assault;

“(iv) the safety needs of child and adult victims of child abuse and neglect or domestic violence, or sexual assault and appropriate interventions for the child and adult victims that protect their the safety, including appropriate services and treatment for children and the nonabusing parent to pre-

vent the unnecessary removal of children from the nonabusing parent, and to promote prompt reunification if removal becomes necessary of both types of victims and give appropriate consideration to preserving the safety of family members not responsible for the child abuse or neglect;

“(v) appropriate interventions for adult perpetrators of domestic violence to reduce the risk of further violence toward child and adult victims of domestic violence and sexual assault which emphasize perpetrator accountability;

“(vi) appropriate supervision of child welfare staff working with families in which there has been domestic violence and sexual assault, including supervision relating to issues involving the safety of the child and adult victims and of the staff;

“(vii) the confidentiality needs of the child and adult victims, consistent with laws requiring mandatory reporting of child abuse and neglect; and

“(viii) develop child protection case plans that recognize the need to protect the safety of the child and of the adult victim and to hold adult perpetrators, not victims, responsible for stopping domestic violence and sexual assault.

“(f) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to entities that have submitted applications in partnership with State or local juvenile, family, or other trial courts with jurisdiction over child maltreatment and domestic violence cases, and law enforcement agencies.

“(g) REPORTING, AND DISSEMINATION OF INFORMATION.—

“(1) REPORTS.—Each of the entities that are members of the applicant partnership described in subsection (b)(3), that receive a grant under this section shall jointly annually prepare and submit to the Secretary a report detailing the activities that the entities have undertaken under the grant and such additional information as the Secretary shall require. At a minimum, such report shall address the nature of the cross-training and other activities to promote collaboration among child welfare agencies, domestic violence or sexual assault service providers, and where applicable, State or local juvenile, family, or other trial courts with jurisdiction over child maltreatment and domestic violence cases and law enforcement agencies that were undertaken with such grants and examples of enhanced collaboration that has occurred to better protect both child and adult victims of child abuse and domestic violence or sexual assault.

“(2) DISSEMINATION OF INFORMATION.—Not later than 9 months after the end of the grant period under this section, the Secretary shall distribute to all State child welfare agencies, domestic violence or sexual assault victim service providers, and where applicable, State or local juvenile, family, or other trial courts with jurisdiction over child maltreatment and domestic violence cases, law enforcement agencies, and Congress summaries that contain information on—

“(A) the activities implemented by the recipients of the grants; and

“(B) related initiatives undertaken by the Secretary to promote attention by the staff of child welfare agencies, domestic violence or sexual assault service providers and where applicable, courts and law enforcement agencies to domestic violence and sexual assault and their impact on both child and adult victims.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$15,000,000 in each of fiscal years 2004 through 2006, and \$25,000,000 in each of fiscal years 2007 and 2008.”

**SEC. 208. MULTISYSTEM INTERVENTIONS FOR CHILDREN WHO HAVE BEEN EXPOSED TO DOMESTIC VIOLENCE.**

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 206, is further amended by adding at the end the following:

**“SEC. 323. MULTISYSTEM INTERVENTIONS FOR CHILDREN WHO HAVE BEEN EXPOSED TO DOMESTIC VIOLENCE.**

“(a) **GRANTS AUTHORIZED.**—The Secretary may award grants to eligible entities to enable such entities to conduct programs to encourage the development and use of multisystem intervention models that respond to the needs of children who have been exposed to domestic violence.

“(b) **ELIGIBLE ENTITIES.**—To be eligible to receive a grant under this section, an entity shall—

“(1) be a nonprofit private organization;

“(2)(A) demonstrate recognized expertise in the area of domestic violence and the impact of domestic violence on children; or

“(B) have entered into a memorandum of understanding regarding the intervention program to be established under the grant and the role of the entity in the program with—

“(i) the appropriate State or tribal domestic violence coalition; and

“(ii) entities carrying out domestic violence programs that provide shelter or related assistance in the locality in which the intervention program will be operated and that have an understanding of its effects on children;

“(3)(A) demonstrate a recognized expertise in child mental health services; or

“(B) have entered into a memorandum of understanding regarding the intervention program to be established under the grant with providers that have expertise in child mental health to ensure that children of all ages have access to appropriate mental health services; and

“(4) demonstrate a history of providing advocacy, health care, mental health, or other crisis-related services to children.

“(c) **USE OF FUNDS.**—An entity that receives a grant under this section shall use amounts provided under the grant to design or replicate, and implement, multisystem intervention models to respond to the needs of children exposed to domestic violence. Such activities shall—

“(1)(A) involve collaborative partnerships with—

“(i) local entities carrying out domestic violence programs that provide shelter or related assistance or have expertise in the field of providing services to victims of domestic violence and an understanding of its effects on children; and

“(ii) other partners including courts, schools, social service providers, health care providers, police, early childhood agencies, entities carrying out Head Start programs under the Head Start Act (42 U.S.C. 9831 et seq.), or entities carrying out child protection, welfare, job training, housing, battered women's service, or children's mental health programs; and

“(B) be carried out to design and implement protocols and systems to identify, and appropriately respond to the needs of children who have been exposed to domestic violence and who participate in programs administered by the partners;

“(2) establish or implement guidelines to evaluate the needs of a child and make appropriate intervention recommendations;

“(3) include the development or replication of a mental health treatment model to meet the needs of children for whom such treatment has been identified as appropriate;

“(4) establish or implement institutionalized procedures to enhance or ensure the

safety and security of a battered parent, and as a result, the child of the parent;

“(5) provide direct counseling and advocacy for adult victims of domestic violence and their children who have been exposed to domestic violence;

“(6) establish or implement policies and protocols for maintaining the confidentiality of the battered parent and child;

“(7) provide community outreach and training to enhance the capacity of professionals who work with children to appropriately identify and respond to the needs of children who have been exposed to domestic violence;

“(8) establish procedures for documenting interventions used for each child and family;

“(9) establish plans to perform a systematic outcome evaluation to evaluate the effectiveness of the interventions;

“(10) ensure that all services are provided in a culturally competent manner; and

“(11) provide remuneration to local domestic violence services organizations who are asked to join collaborations.

“(d) **APPLICATION.**—To be eligible to receive a grant under this section, an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(e) **TERM AND AMOUNT.**—A grant awarded under this section shall be awarded for a term of 3 years and in an amount of not more than \$500,000 for each such year.

“(f) **TECHNICAL ASSISTANCE.**—Not later than 90 days after the date of enactment of this section, the Secretary shall identify successful programs that provide multisystem and mental health interventions to address the needs of children who have been exposed to domestic violence. Not later than 60 days before the Secretary solicits applications for grants under this section, the Secretary shall enter into an agreement with 1 or more entities carrying out the identified programs to provide technical assistance to applicants and recipients of such grants. The Secretary may use not more than 5 percent of the amount appropriated for a fiscal year under subsection (g) to provide such technical assistance.

“(g) **AUTHORIZATION OF APPROPRIATIONS.**—

“(1) **IN GENERAL.**—There is authorized to be appropriated to carry out this section, \$15,000,000 for each of fiscal years 2004 through 2008.

“(2) **AVAILABILITY.**—Amounts appropriated under paragraph (1) shall remain available until expended.”.

**SEC. 209. CRISIS NURSERY DEMONSTRATION GRANTS PROGRAM.**

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 208, is further amended by adding at the end the following:

**“SEC. 324. CRISIS NURSERY DEMONSTRATION GRANT PROGRAMS.**

“(a) **AUTHORITY TO ESTABLISH DEMONSTRATION GRANT PROGRAMS.**—The Secretary may establish demonstration programs under which grants are awarded to States to assist private nonprofit and public agencies and organizations in providing crisis nurseries for children who are abused and neglected, are at risk of abuse and neglect, are in families experiencing domestic violence, or are in families receiving child protective services.

“(b) **ASSURANCES FOR TRAINING IN DOMESTIC VIOLENCE.**—

“(1) **IN GENERAL.**—Private nonprofit and public agencies and organizations who receive funds under this section shall provide assurances to the Secretary that personnel working with children and families in crisis nurseries receive or have received training in domestic violence, the impact of domestic

violence on children, appropriate procedures for maintaining the safety and security of victims of domestic violence and their children, and appropriate procedures for maintaining the confidentiality of both child and adult victims of domestic violence utilizing the services of crisis nurseries.

“(2) **TRAINING REQUIREMENT.**—Training required under paragraph (1) shall be conducted in consultation with State, local, or tribal domestic violence coalitions or other private nonprofit organizations such as a community-based domestic violence program that has a documented history of serving both child and adult victims of domestic violence.

“(c) **COORDINATION.**—An applicant for a grant under this section shall demonstrate how activities funded under this section will be coordinated with other crisis nursery activities funded under section 201 of the Child Abuse Prevention and Treatment Act.

“(d) **REPORTING.**—A recipient of a grant under this section shall annually report on the crisis nursery activities funded under this grant. At a minimum, such a report shall describe—

“(1) the number of children and families served through crisis nursery activities established under the grant;

“(2) the nature and extent of the crisis nursery activities;

“(3) the percentage of children served by the crisis nursery activities established under the grant who are from families experiencing domestic violence;

“(4) the type of domestic violence training provided to crisis nursery staff and the nature and extent of training coordination with local domestic violence service providers;

“(5) the nature and extent of other Federal and State funding sources used to support the services of the crisis nursery;

“(6) the gaps between the service needs of the crisis nursery and the current capacity of crisis nurseries to serve children and families; and

“(7) outcome evaluation data on the effectiveness of crisis nursery activities, if available.

“(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section, \$15,000,000 for each of fiscal years 2004 through 2008.”.

**SEC. 210. RESEARCH AND DATA COLLECTION ON THE IMPACT OF DOMESTIC VIOLENCE ON CHILDREN.**

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 209, is further amended by adding at the end the following:

**“SEC. 325. RESEARCH AND DATA COLLECTION ON THE IMPACT OF DOMESTIC VIOLENCE ON CHILDREN.**

“(a) **GRANTS.**—The Secretary may award competitive grants to eligible entities to enable such entities to conduct research and data collection activities concerning the impact of domestic violence on children.

“(b) **ELIGIBLE ENTITIES.**—To be eligible to receive a grant under this section, an entity shall be an institution of higher education or another nonprofit organization (such as a research entity, hospital, or mental health institution), with documented experience with research or data collection concerning the impact of domestic violence on children.

“(c) **USE OF FUNDS.**—An entity that receives a grant under this section shall use amounts provided under the grant to conduct new or expand current research or data collection—

“(1) on the prevalence of childhood exposure to domestic violence and the effects of the exposure in child and adult victims;

“(2) on the co-occurrence of domestic violence, and child abuse or neglect;

“(3) on linkages between children’s exposure to domestic violence and violent behavior in youth and adults;

“(4) that evaluates new or existing treatments aimed at children exposed to domestic violence;

“(5) on the prevalence of childhood exposure to domestic violence for Native American children;

“(6) on the effects and benefits of keeping children with their nonabusive parent and providing coordinated services to both;

“(7) on the role of children’s resilience and other factors that help mitigate the effects of exposure to domestic violence; and

“(8) on related matters, if the research or data collection directly addresses the impact of domestic violence on children.

“(d) **TERM AND AMOUNT.**—The Secretary shall award grants under this section for terms of 3 years and in amount of not more than \$500,000 for each such year.

“(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section, \$2,000,000 for each of fiscal years 2004 through 2006, and \$5,000,000 for each of fiscal years 2007 and 2008.”

### **TITLE III—DOMESTIC VIOLENCE SCREENING, TREATMENT, AND PREVENTION**

#### **SEC. 301. SHORT TITLE.**

This title may be cited as the “Domestic Violence Screening, Treatment, and Prevention Act of 2003”.

#### **SEC. 302. FINDINGS.**

Congress makes the following findings:

(1) Nearly one-third of American women (31 percent) report being physically or sexually abused by a husband or boyfriend at some point in their lives, and about 1200 women are murdered every year by their intimate partner, nearly 3 each day.

(2) 85 percent of violent victimizations are experienced by women.

(3) 37 percent of all women who sought care in hospital emergency rooms for violence-related injuries were injured by a current or former spouse, boyfriend, or girlfriend.

(4) In addition to injuries sustained during violent episodes, physical and psychological abuse are linked to a number of adverse physical and mental health effects. Women who have been abused are much more likely to suffer from chronic pain, gastrointestinal disorders, diabetes, depression, unintended pregnancies, substance abuse and sexually transmitted infections, including HIV/AIDS.

(5) Medical services for abused women cost an estimated \$857,300,000 every year and health plans spend an average of \$1,775 more a year on abused women than on general enrollees.

(6) Each year, at least six percent of all pregnant women, about 240,000 pregnant women, in this country are battered by the men in their lives. This battering leads to complications of pregnancy, including low weight gain, anemia, infections, and first and second trimester bleeding.

(7) Pregnant and recently pregnant women are more likely to be victims of homicide than to die of any other cause, and evidence exists that a significant proportion of all female homicide victims are killed by their intimate partners.

(8) Children who witness domestic violence are more likely to exhibit behavioral and physical health problems including depression, anxiety, and violence towards peers. They are also more likely to attempt suicide, abuse drugs and alcohol, run away from home, engage in teenage prostitution, and commit sexual assault crimes.

(9) Fifty percent of men who frequently assault their wives frequently assault their children. The U.S. Advisory Board on Child Abuse and Neglect suggests that domestic violence may be the single major precursor to

child abuse and neglect fatalities in this country.

(10) Currently, about 10 percent of primary care physicians routinely screen for intimate partner abuse during new patient visits and nine percent routinely screen during periodic checkups.

(11) Recent clinical studies have proven the effectiveness of a 2-minute screening for early detection of abuse of pregnant women. Additional longitudinal studies have tested a 10-minute intervention that was proven highly effective in increasing the safety of pregnant abused women. Comparable research does not yet exist to support the effectiveness of screening men.

(12) 70 to 81 percent of the patients studied reported that they would like their healthcare providers to ask them privately about intimate partner violence.

#### **Subtitle A—Research on Health and Family Violence**

#### **SEC. 311. HEALTH RESEARCH ON FAMILY VIOLENCE.**

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following part:

#### **“PART R—HEALTH RESEARCH ON FAMILY VIOLENCE; HEALTH PROFESSIONALS EDUCATION**

##### **“SEC. 399AA. DEFINITION.**

“In this part the term ‘family violence’ means any act or threatened act of violence, including any forceful detention of an individual, that—

“(1) results or threatens to result in physical injury and/or sexual assault; and

“(2) is committed by a person against another individual (including an elderly individual or a child)—

“(A) to whom such person is or was related by blood or marriage or is otherwise legally related;

“(B) with whom such person is or was lawfully residing; or

“(C) with whom such person is or has been in a social relationship of a romantic or intimate nature.

##### **“SEC. 399AA-1. FAMILY VIOLENCE RESEARCH CENTERS.**

“(a) **ESTABLISHMENT.**—The Secretary shall provide for the establishment of family violence research and education centers to conduct research and disseminate information, including professional and public education, concerning family violence.

“(b) **LINKAGES.**—In establishing centers under subsection (a), the Secretary shall ensure that at least—

“(1) one center is affiliated with the National Institutes of Health;

“(2) one center is affiliated with the Agency for Health Care Research and Quality; and

“(3) each center is linked to national, State, and local community resources, including domestic violence state coalitions and local shelter-based domestic violence programs, community health centers, health care delivery systems, and domestic and sexual assault hotlines, through which information may be distributed.

“(c) **GENERAL DUTIES.**—Each center established under subsection (a) may provide for the conduct of family violence research, including—

“(1) research concerning the prevalence and characteristics of different forms of family violence, including child abuse, domestic violence, and elder abuse;

“(2) research concerning the effects that family violence and childhood exposure to family violence have on health behaviors, health conditions and the health status of individuals, families, and populations, and the health care utilization and costs attributable to family violence;

“(3) research on effective interventions for adults and children exposed to family violence;

“(4) research concerning the development, implementation, evaluation, and dissemination of appropriate curricula for health professional training in the area of family violence;

“(5) research concerning the effectiveness of different educational methodologies that are used to present the curricula described in paragraph (4);

“(6) research concerning the effects of mandatory domestic violence reporting requirements, including the effects of such requirements on—

“(A) the prevalence and incidence of family violence;

“(B) victim and dependent safety and self-efficacy;

“(C) referral and treatment patterns; and

“(D) access to health care, legal, and advocacy services; and

“(7) research and testing of best messages and strategies to mobilize public action concerning the prevention of family violence.

##### **“(d) GRANTS AND CONTRACTS.—**

“(1) **IN GENERAL.**—In carrying out subsection (a), the Secretary may make grants to and enter into contracts with public and nonprofit private entities capable of conducting the research funded under this section.

“(2) **APPLICATION FOR AWARD.**—The Secretary may make an award of a grant or contract under paragraph (1) only if an application for the award is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out the purposes for which the award is to be made.

##### **“(e) ADVISORY BOARD.—**

“(1) **IN GENERAL.**—The Secretary shall establish an advisory board to make recommendations concerning the research agenda carried out by the research centers under this section.

##### **“(2) COMPOSITION.—**

“(A) **APPOINTED MEMBERS.**—The advisory board shall be composed of 19 members to be appointed by the Secretary as follows:

“(i) Twelve members shall be appointed from among individuals who are scientific or health care experts in the areas of elder abuse, domestic violence, child abuse, mental health, epidemiology, social work, or health education.

“(ii) Seven members shall be appointed from among nationally recognized experts in domestic violence, child abuse, and elder abuse who have a documented history of effective and respected work in their respective field, of which—

“(I) at least one member shall be an expert in domestic violence and dating violence;

“(II) at least one member shall be an expert in child abuse;

“(III) at least one member shall be an expert in elder abuse;

“(IV) at least one member shall be an expert in the impact of family violence on children and youth; and

“(V) at least one member shall be an expert in domestic violence against older or disabled women.

“(B) **EX OFFICIO MEMBERS.**—The following shall be ex-officio members of the advisory board:

“(i) The Assistant Secretary for Health.

“(ii) The Director of the National Institutes of Health.

“(iii) The Director of the Centers for Disease Control and Prevention.

“(iv) The Assistant Secretary for Children and Families.

“(v) The Assistant Secretary for Aging.

“(vi) The Administrator of the Health Resources and Services Administration.

“(vii) The Assistant Attorney General for the Office of Justice Programs.

“(viii) The Director of the Agency for Healthcare Research and Quality.

“(C) CHAIRPERSON.—The members of the advisory board appointed under subparagraph (A) shall elect a chairperson from among such members.

“(3) MEETINGS.—The advisory board shall meet at the call of the chairperson or upon the request of the Secretary, but not less often than 2 times each year.

“(4) DUTIES.—In order to ensure the most effective use and organization of Federal resources concerning family violence, the advisory board shall provide advice and make recommendations to Congress and the Secretary with respect to the implementation and revision of the research agenda of the research centers established under this section.

“(5) SUBCOMMITTEES.—In carrying out its functions under this subsection, the advisory board may establish subcommittees, convene workshops and conferences, and collect data. Such subcommittees may be composed of advisory board members and nonmember consultants with expertise in the particular area addressed by such subcommittees.

“(6) REPORTS.—The advisory board shall annually report to the appropriate authorizing and appropriations committees of Congress concerning the research agenda for the centers established under this section and the progress made in fulfilling that research agenda.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$15,000,000 for fiscal year 2004, and such sums as may be necessary for each of the fiscal years 2005 through 2008.”.

#### **Subtitle B—Health Professional Education Programs**

#### **SEC. 321. HEALTH PROFESSIONAL EDUCATION GRANTS.**

Part R of title III of the Public Health Service Act, as added by section 311, is amended by adding at the end the following:

#### **“SEC. 399AA-2. HEALTH PROFESSIONAL EDUCATION GRANTS.**

“(a) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to develop, implement, evaluate, and disseminate family violence education and training curricula, programs, and strategies.

“(b) ELIGIBILITY.—

“(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), an entity shall have a history of effective work in the field of family violence and health care and—

“(A) be a health care entity eligible for reimbursement under title XVIII of the Social Security Act or a local non-profit entity with expertise in family violence, a State coalition for domestic violence, a State coalition for sexual assault, or a State public health agency;

“(B) demonstrate an ability to maintain the training systems established with amounts received under the grant after the expiration of the grant funding and provide an assurance that such systems will be maintained if determined to be effective; and

“(C) prepare and submit to the Secretary at such time, in such manner, and containing such agreements, assurances, and information as the Secretary determines to be necessary to carry out the purposes for which the grant is to be made.

“(2) PRIORITY.—Applicants that can demonstrate that they represent a team of organizations and agencies working collaboratively to strengthen the health care sys-

tem response to family violence may receive priority in funding.

“(c) USE OF FUNDS.—An entity shall use amounts received under a grant under this section to—

“(1) conduct evaluations of existing family violence identification and treatment training programs; and

“(2) develop (or adapt) and implement innovative training models or programs to identify and appropriately treat and refer victims of family violence in health professional schools and for practicing, health, behavioral health and public health providers.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$5,000,000 for fiscal year 2004, and such sums as may be necessary for each of the fiscal years 2005 through 2008.”.

#### **Subtitle C—Grants to Foster Public Health Responses to Domestic Violence**

#### **SEC. 331. GRANTS.**

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

#### **“SEC. 3990. GRANTS TO FOSTER PUBLIC HEALTH RESPONSES TO DOMESTIC VIOLENCE.**

“(a) AUTHORITY TO AWARD GRANTS.—

“(1) IN GENERAL.—The Secretary shall award grants under this section to eligible State entities and eligible local entities in order to strengthen the response of State and local health care systems to domestic violence.

“(2) DEFINITIONS OF ELIGIBLE ENTITIES.—In this section:

“(A) ELIGIBLE STATE ENTITY.—The term eligible State entity means a State department (or other division) of health, a State domestic violence coalition or service-based program, or any other nonprofit, tribal, or State entity with a history of effective work in the field of domestic violence and health care, that demonstrates that the applicant is representing a team of organizations and agencies working collaboratively to strengthen the response of the health care system to domestic violence and that such team includes domestic violence and health care organizations.

“(B) ELIGIBLE LOCAL ENTITY.—The term eligible local entity means a nonprofit domestic violence service based program, a local department (or other division) of health, a local health clinic, hospital, or health system, or any other nonprofit, tribal, or local entity with a history of effective work in the field of domestic violence and health.

“(b) NUMBER AND DURATION OF PROGRAMS; MAXIMUM AMOUNT OF GRANTS.—

“(1) NUMBER OF PROGRAMS.—Not more than—

“(A) 10 programs shall be conducted by eligible State entities under a grant made under this section; or

“(B) 10 programs shall be conducted by eligible local entities under a grant made under this section.

“(2) DURATION.—A program conducted under a grant made under this section by an eligible State entity or an eligible local entity shall not exceed 4 years.

“(3) MAXIMUM AMOUNT OF GRANTS.—A grant awarded under this section shall not exceed—

“(A) \$350,000 per year, in the case of a program conducted by an eligible State entity; or

“(B) \$150,000 per year, in the case of a program conducted by an eligible local entity.

“(c) USE OF FUNDS.—

“(1) ELIGIBLE STATE ENTITIES.—An eligible State entity awarded a grant under this section shall use funds provided under the grant to design and implement comprehensive

statewide strategies to improve the response of the health care system to domestic violence in clinical and public health care settings and to promote education and awareness about domestic violence at a statewide level. Such strategies shall be in accordance with the following:

“(A) Such strategies shall include the following:

“(i) Collaboration with State departments (or other divisions) of health to integrate responses to domestic violence into existing policy, practice, and education efforts.

“(ii) Promotion of policies and funding sources that advance domestic violence identification, training, and protocol development and that protect the confidentiality of patients and prohibit insurance discrimination.

“(iii) Promotion of policies and funding sources that advance on-site access to services to address the safety, medical, mental health, and economic needs of patients in multiple settings either by increasing the capacity of existing health care professionals and behavioral and public health staff to address domestic violence issues or by contracting with or hiring domestic violence advocates to provide the services, or by modeling other services appropriate to the geographic and cultural needs of a site.

“(iv) Training and follow-up technical assistance to health care professionals and behavioral and public health staff to screen for domestic violence, and then to appropriately assess, treat, and refer patients who are victims of domestic violence to domestic violence services.

“(B) Such strategies may also include the following:

“(i) Dissemination, implementation, and evaluation of practice guidelines on domestic violence that guide the response of health care professionals and behavioral and public health staff to domestic violence.

“(ii) Where appropriate, development of training modules and policies that address the overlap of child abuse, domestic violence and elder abuse as well as childhood exposure to domestic violence.

“(iii) Creation and implementation of public education campaigns for patients and health care professionals and behavioral and public health staff about domestic violence prevention.

“(iv) Development and dissemination of education materials to patients and health care professionals and behavioral and public health staff.

“(v) Promotion of the inclusion of domestic violence into medical and nursing school curriculum and integration of domestic violence into health care accreditation and professional licensing examinations, such as medical boards.

“(vi) Evaluation of the practice and institutionalization of identification, intervention, and documentation of domestic violence and promotion of the use of quality improvement measurements.

“(2) ELIGIBLE LOCAL ENTITIES.—An eligible local entity awarded a grant under this section shall use funds provided under the grant to design and implement comprehensive local strategies to improve the response of the health care system to domestic violence in hospitals, clinics, managed care settings, emergency medical services, and other health care settings. Such strategies shall include the following:

“(A) Implementation, dissemination, and evaluation of policies and procedures to guide health care professionals and behavioral and public health staff responding to domestic violence including identification, treatment, and documentation of domestic violence and strategies to ensure that health

information is held in a manner that protects the patient's privacy and safety.

“(B) Training and follow-up technical assistance to health care professionals and behavioral and public health staff to identify domestic violence, and then to appropriately assess, treat, and refer patients who are victims of domestic violence to domestic violence services.

“(C) Development of on-site access to services to address the safety, medical, mental health, and economic needs of patients either by increasing the capacity of existing health care professionals and behavioral and public health staff to address domestic violence issues, by contracting with or hiring domestic violence advocates to provide the services, or to model other services appropriate to the geographic and cultural needs of a site.

“(D) Development or adaptation and dissemination of education materials for patients and health care professionals and behavioral and public health staff.

“(E) Evaluation of practice and the institutionalization of identification, intervention, and documentation including quality improvement measurements such as patient satisfaction surveys, patient record reviews, case consultation, or other methods used to evaluate and enhance staff compliance with protocols.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the purpose of awarding grants under this section \$5,000,000 for each of the fiscal years 2004 through 2008.”

#### Subtitle D—Provision of Services Under Federal Health Programs

#### SEC. 341. OPTIONAL COVERAGE OF DOMESTIC VIOLENCE IDENTIFICATION AND TREATMENT UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (a)(26), by striking “and” at the end;

(2) by redesignating paragraph (27) of subsection (a) as paragraph (28); and

(3) by inserting after paragraph (26) of subsection (a) the following new paragraph:

“(27) domestic violence identification and treatment services (as defined in subsection (x));” and

(4) by adding at the end the following new subsection:

“(x) The term ‘domestic violence identification and treatment services’ means the following services (as specified under the State plan) furnished by an attending health care provider (or, in the case of services described in paragraph (3), under arrangements between the provider and domestic violence experts) to the patient:

“(1) Routine verbal inquiries of women aged 18 years or older for domestic violence by a provider if the provider has not previously screened the patient or if the patient has been screened but the patient indicates that he or she is in a new relationship regardless of whether there are any clinical indicators or suspicion of abuse.

“(2) Danger assessment for persons who positively identify for domestic violence, including an immediate safety assessment, an initial risk assessment, and follow-up risk assessments during subsequent visits.

“(3) Treatment relating to domestic violence, including the following:

“(A) Safety education to assist the patient in developing a plan to promote her safety and well-being, and appropriate follow up.

“(B) Health education which provides written and verbal information about domestic violence, its impact on health, options for services, and any necessary follow up.

“(C) Psycho-social and counseling services that include an initial assessment, develop-

ment of a plan of care, individual or group counseling (as needed), and follow-up assessment, treatment, or intervention.

“(D) Documentation of screening, assessment, treatment, referrals, injuries, and illnesses related to domestic violence and who perpetrated the abuse using appropriate diagnostic codes and confidentiality (except as required by applicable State law).

“(4) Referral and case coordination for additional services, including services from domestic violence programs, community agencies, and judicial and other systems.”

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to services furnished on or after such date.

#### SEC. 342. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—Section 8902 of title 5, United States Code, is amended by adding at the end the following:

“(p)(1) A contract may not be made or a plan approved which does not include coverage for domestic violence identification and treatment services.

“(2) For purposes of this subsection, the term ‘domestic violence identification and treatment services’ has the meaning given such term in section 1905(x) of the Social Security Act.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contracts made, and plans approved, after the end of the 6-month period beginning on the date of the enactment of this Act.

#### SEC. 343. TRAINING GRANTS UNDER THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT.

(a) PREFERENCE IN CERTAIN FUNDING.—Section 502(b)(2) of the Social Security Act (42 U.S.C. 702(b)(2)) is amended by adding at the end the following new subparagraph:

“(C) Of the amounts retained for projects described in subparagraphs (A) through (F) of section 501(a)(3), the Secretary shall provide preference to qualified applicants which demonstrate that the activities to be carried out with such amounts include training of service providers in how to identify and treat the effects of family violence, including children who have been exposed to family violence. This training should include—

“(i) identifying victims of family violence;

“(ii) assessing the immediate and short-term safety of the victim, the impact of the abuse on his or her health and assisting the victim in developing a plan to promote his or her safety;

“(iii) examining and treating such victims within the scope of the health professional's discipline, training, and practice (including providing medical advice regarding the dynamics and nature of family violence);

“(iv) maintaining complete medical records that include documentation of the examination, treatment given, and referrals made, and recording the location and nature of the victim's injuries, and establishing mechanisms to promote the privacy and confidentiality of those medical records; and

“(v) referring the victim to public and private nonprofit entities that provide services for such victims.”

(b) REQUIREMENT FOR PORTION OF EXPENDITURES ON DOMESTIC VIOLENCE IDENTIFICATION AND TREATMENT.—Section 505(a)(5) of the Social Security Act (42 U.S.C. 705(a)(5)) is amended—

(1) by striking “and” at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting “; and”; and

(3) by inserting after subparagraph (F) the following new subparagraph:

“(G) the State will set aside a reasonable portion (based upon the State's previous use

of funds under this title) of the funds provided for domestic violence identification and treatment services (as defined in section 1902(x)).”

(c) REPORTING DATA.—Section 506(a)(2) of the Social Security Act (42 U.S.C. 706(a)(2)) is amended by inserting after subparagraph (E) the following new subparagraph:

“(F) Information on how funds provided under this title are used to identify and treat domestic violence.”

(d) SEPARATE PROGRAM FOR DOMESTIC VIOLENCE IDENTIFICATION AND TREATMENT.—Title V of the Social Security Act is amended by adding at the end the following new section:

#### “SEPARATE PROGRAM FOR DOMESTIC VIOLENCE SCREENING AND TREATMENT

“SEC. 511. (a) For the purpose described in subsection (b), the Secretary shall, for fiscal year 2004 and each subsequent fiscal year, allot to each State which has transmitted an application for the fiscal year under section 505(a) an amount equal to the product of—

“(1) the amount appropriated in subsection (d) for the fiscal year; and

“(2) the percentage determined for the State under section 502(c)(1)(B)(ii).

“(b) The purpose of an allotment under subsection (a) to a State is to enable the State to provide for domestic violence identification and treatment, including the provision of domestic violence identification and treatment services (as defined in section 1905(x)), increasing the number of persons identified, assessed, treated, and referred and including training of health care professionals, and behavioral and public health staff, on how to identify and respond to victims of domestic violence.

“(c)(1) Sections 503, 507, and 508 apply to allotments under subsection (a) to the same extent and in the same manner as such sections apply to allotments under section 502(c).

“(2) Sections 505 and 506 apply to allotments under subsection (a) to the extent determined by the Secretary to be appropriate.

“(d) For the purpose of allotments under subsection (a), there are authorized to be appropriated for each fiscal year, beginning with fiscal year 2004, such sums as may be necessary.”

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to fiscal years beginning after the date of the enactment of this Act and the amendment made by subsection (c) shall apply to annual reports submitted for such fiscal years.

#### SEC. 344. DOMESTIC VIOLENCE IDENTIFICATION AND TREATMENT SERVICES AT COMMUNITY HEALTH CENTERS.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.), as amended by section 331, is amended by adding at the end the following:

#### “SEC. 399P. DOMESTIC VIOLENCE PREVENTION, IDENTIFICATION, AND TREATMENT AND PREVENTION GRANTS.

“(a) GRANTS AUTHORIZED.—The Secretary is authorized to award grants to eligible entities to improve the identification and treatment of domestic violence.

“(b) USE OF FUNDS.—Grants awarded pursuant to subsection (a) may be used for activities such as—

“(1) the implementation, dissemination, and evaluation of policies and procedures to guide health care and behavioral health care professionals and other staff responding to domestic violence;

“(2) the provision of training and follow-up technical assistance to health care professionals and staff to identify domestic violence, and then to appropriately assess, treat, and refer patients who are victims of domestic violence to domestic violence service providers; and

“(3) the development of on-site access to services to address the safety, medical, mental health, and economic needs of patients either by increasing the capacity of existing health care professionals and staff to address these issues or by contracting with or hiring domestic violence advocates to provide the services, or by developing other models appropriate to the geographic and cultural needs of a site.

“(c) ELIGIBLE ENTITY.—In this section, the term ‘eligible entity’ shall mean a federally qualified health center as defined in section 1861(aa)(4) of the Social Security Act (42 U.S.C. 1395x(aa)(4)).

“(d) APPLICATIONS.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$5,000,000 for each of the fiscal years 2004 through 2007.”

Mr. FRIST. Mr. President, I would like to turn to several unanimous consent requests.

#### UNANIMOUS CONSENT AGREEMENT—H.R. 1997

Mr. FRIST. Mr. President, I ask unanimous consent that, at a time to be determined by the majority leader, in consultation with the minority leader, the Senate proceed to consideration of H.R. 1997, a bill to protect unborn victims of violence, and that the bill be considered under the following limitations: that the following amendments be the only first-degree amendments in order, with the specified time limitations: Feinstein, Motherhood Protection Act, which is at the desk, 4 hours equally divided; Murray, domestic violence prevention, which is at the desk, 2 hours equally divided; and that there be an additional 30 minutes of debate equally divided on the underlying bill.

I further ask consent that no second-degree amendments be in order to the Feinstein and Murray amendments; and that upon disposition of all amendments, the bill, as amended, if amended, be read a third time, and the Senate proceed to a vote on passage, without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### AUTHORITY FOR COMMITTEES TO REPORT LEGISLATIVE AND EX- ECUTIVE MATTERS

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the Senate's adjournment, committees be authorized to report legislative and executive matters on Thursday, March 18, from 10 a.m. to 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MEASURE READ THE FIRST TIME—S. 2207

Mr. FRIST. Mr. President, I understand that S. 2207 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2207) to improve women's access to health care services, and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such services.

Mr. FRIST. I now ask for its second reading in order to place the bill on the Calendar under provisions of rule XIV and object to my own request.

The PRESIDING OFFICER. The bill will be read the second time on the next legislative day.

#### MEDICAL DEVICES TECHNICAL CORRECTIONS ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on (S. 1881) to amend the Federal Food, Drug, and Cosmetic Act to make technical corrections relating to the amendments by the Medical Device User Fee and Modernization Act of 2002, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 1881) entitled “An Act to amend the Federal Food, Drug, and Cosmetic Act to make technical corrections relating to the amendments made by the Medical Device User Fee and Modernization Act of 2002, and for other purposes”, do pass with the following amendment:

Strike out all after the enacting clause and insert:

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the “Medical Devices Technical Corrections Act”.*

#### SEC. 2. TECHNICAL CORRECTIONS REGARDING PUBLIC LAW 107-250.

(a) TITLE I; FEES RELATING TO MEDICAL DEVICES.—Part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379i et seq.), as added by section 102 of Public Law 107-250 (116 Stat. 1589), is amended—

(1) in section 737—

(A) in paragraph (4)(B), by striking “and for which clinical data are generally necessary to provide a reasonable assurance of safety and effectiveness” and inserting “and for which substantial clinical data are necessary to provide a reasonable assurance of safety and effectiveness”;

(B) in paragraph (4)(D), by striking “manufacturing”;

(C) in paragraph (5)(J), by striking “a premarket application” and all that follows and inserting “a premarket application or premarket report under section 515 or a premarket application under section 351 of the Public Health Service Act.”; and

(D) in paragraph (8), by striking “The term ‘affiliate’ means a business entity that has a relationship with a second business entity” and inserting “The term ‘affiliate’ means a business entity that has a relationship with a second business entity (whether domestic or international)”;

(2) in section 738—

(A) in subsection (a)(1)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i) by striking “subsection (d),” and inserting “subsections (d) and (e),”;

(II) in clause (iv), by striking “clause (i),” and all that follows and inserting “clause (i).”;

and

(III) in clause (vii), by striking “clause (i),” and all that follows and inserting “clause (i), subject to any adjustment under subsection (e)(2)(C)(ii).”;

(ii) in subparagraph (D), in each of clauses (i) and (ii), by striking “application” and inserting “application, report,”;

(B) in subsection (d)(2)(B), beginning in the second sentence, by striking “firms, which show” and inserting “firms, which show”;

(C) in subsection (e)—

(i) in paragraph (1), by striking “Where” and inserting “For fiscal year 2004 and each subsequent fiscal year, where”;

(ii) in paragraph (2)—

(I) in subparagraph (B), beginning in the second sentence, by striking “firms, which show” and inserting “firms, which show”;

(II) in subparagraph (C)(i), by striking “Where” and inserting “For fiscal year 2004 and each subsequent fiscal year, where”;

(D) in subsection (f), by striking “for filing”;

and

(E) in subsection (h)(2)(B)—

(i) in clause (ii), by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively;

(ii) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(iii) by striking “The Secretary” and inserting the following:

“(i) IN GENERAL.—The Secretary”;

(iv) by adding at the end the following:

“(ii) MORE THAN 5 PERCENT.—To the extent such costs are more than 5 percent below the specified level in subparagraph (A)(ii), fees may not be collected under this section for that fiscal year.”

(b) TITLE II; AMENDMENTS REGARDING REGULATION OF MEDICAL DEVICES.—

(1) INSPECTIONS BY ACCREDITED PERSONS.—Section 704(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(g)), as added by section 201 of Public Law 107-250 (116 Stat. 1602), is amended—

(A) in paragraph (1), in the first sentence, by striking “conducting inspections” and all that follows and inserting “conducting inspections of establishments that manufacture, prepare, propagate, compound, or process class II or class III devices, which inspections are required under section 510(h) or are inspections of such establishments required to register under section 510(i).”;

(B) in paragraph (5)(B), in the first sentence, by striking “or poses” and all that follows through the period and inserting “poses a threat to public health, fails to act in a manner that is consistent with the purposes of this subsection, or where the Secretary determines that there is a financial conflict of interest in the relationship between the accredited person and the owner or operator of a device establishment that the accredited person has inspected under this subsection.”;

(C) in paragraph (6)(A)—

(i) in clause (i), by striking “of the establishment pursuant to subsection (h) or (i) of section 510” and inserting “described in paragraph (1)”;

(ii) in clause (ii)—

(I) in the matter preceding subclause (I)—

(aa) by striking “each inspection” and inserting “inspections”;

(bb) by inserting “during a 2-year period” after “person”;

(II) in subclause (I), by striking “such a person” and inserting “an accredited person”;

(iii) in clause (iii)—

(I) in the matter preceding subclause (I), by striking “and the following additional conditions are met:” and inserting “and 1 or both of the following additional conditions are met:”;

(II) in subclause (I), by striking “accredited” and all that follows through the period and inserting “(accredited under paragraph (2) and