

Statutory Notes and Related Subsidiaries

SHORT TITLE

For short title of subtitle D of title IV of Pub. L. 103-322, which is classified to this part, as the "Equal Justice for Women in the Courts Act of 1994", see section 40401 of Pub. L. 103-322, set out as a Short Title of 1994 Act note under section 10101 of this title.

§ 12372. Training provided by grants

Training provided pursuant to grants made under this part may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence and dating violence (as defined in section 10447¹ of this title);

(11) the physical, psychological, and economic impact of domestic violence and dating violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence and dating violence, myths about presence or absence of domestic violence and dating violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or dating violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence or dating violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence and dating violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims;

(20) the issues raised by domestic violence in determining custody and visitation, including how to protect the safety of the child and of a parent who is not a predominant aggressor of domestic violence, the legitimate reasons parents may report domestic violence, the ways domestic violence may relate to an abuser's desire to seek custody, and evaluating expert testimony in custody and visitation determinations involving domestic violence;

(21) the issues raised by child sexual assault in determining custody and visitation, including how to protect the safety of the child, the legitimate reasons parents may report child sexual assault, and evaluating expert testimony in custody and visitation determinations involving child sexual assault, including the current scientifically-accepted and empirically valid research on child sexual assault;²

(22) the extent to which addressing domestic violence and victim safety contributes to the efficient administration of justice;³

(Pub. L. 103-322, title IV, §40412, Sept. 13, 1994, 108 Stat. 1943; Pub. L. 106-386, div. B, title IV, §1406(a)(1), (d)(2), Oct. 28, 2000, 114 Stat. 1515, 1517.)

Editorial Notes

REFERENCES IN TEXT

Section 10447 of this title, referred to in par. (10), was subsequently repealed and a new section 10447 enacted which does not define the terms "domestic violence" or "dating violence". However, such terms are defined in section 12291 of this title.

CODIFICATION

Section was formerly classified to section 13992 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section. Some section numbers or references in amendment notes below reflect the classification of such sections or references prior to editorial reclassification.

² So in original. Probably should be followed by "and".

³ So in original. The semicolon probably should be a period.

¹ See References in Text note below.

AMENDMENTS

2000—Par. (10). Pub. L. 106-386, §1406(d)(2)(A), inserted “and dating violence (as defined in section 3796gg-2 of this title)” before the semicolon.

Par. (11). Pub. L. 106-386, §1406(d)(2)(B), inserted “and dating violence” after “domestic violence”.

Par. (13). Pub. L. 106-386, §1406(d)(2)(C), inserted “and dating violence” after “domestic violence” in two places.

Par. (17). Pub. L. 106-386, §1406(d)(2)(D), inserted “or dating violence” after “domestic violence” in two places.

Par. (18). Pub. L. 106-386, §1406(d)(2)(E), inserted “and dating violence” after “domestic violence”.

Pars. (20) to (22). Pub. L. 106-386, §1406(a)(1), added pars. (20) to (22).

§ 12373. Cooperation in developing programs in making grants under this part

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this part are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, including national, State, tribal, and local domestic violence and sexual assault programs and coalitions, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

(Pub. L. 103-322, title IV, §40413, Sept. 13, 1994, 108 Stat. 1944; Pub. L. 106-386, div. B, title IV, §1406(c)(1), Oct. 28, 2000, 114 Stat. 1516.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 13993 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2000—Pub. L. 106-386 inserted “, including national, State, tribal, and local domestic violence and sexual assault programs and coalitions” after “victim advocates”.

SUBPART 2—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN FEDERAL COURTS

§ 12381. Authorization of circuit studies; education and training grants

(a) Studies

In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances, if any, of gender bias in their respective circuits and to implement recommended reforms.

(b) Matters for examination

The studies under subsection (a) may include an examination of the effects of gender on—

- (1) the treatment of litigants, witnesses, attorneys, jurors, and judges in the courts, including before magistrate and bankruptcy judges;
- (2) the interpretation and application of the law, both civil and criminal;
- (3) treatment of defendants in criminal cases;
- (4) treatment of victims of violent crimes in judicial proceedings;

(5) sentencing;

(6) sentencing alternatives and the nature of supervision of probation and parole;

(7) appointments to committees of the Judicial Conference and the courts;

(8) case management and court sponsored alternative dispute resolution programs;

(9) the selection, retention, promotion, and treatment of employees;

(10) appointment of arbitrators, experts, and special masters;

(11) the admissibility of the victim’s past sexual history in civil and criminal cases; and

(12) the aspects of the topics listed in section 12372 of this title that pertain to issues within the jurisdiction of the Federal courts.

(c) Clearinghouse

The Administrative Office of the United States Courts shall act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials. The gender bias task forces shall provide the Administrative Office of the Courts of the United States¹ with their reports and related material.

(d) Continuing education and training programs

The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, shall include in the educational programs it prepares, including the training programs for newly appointed judges, information on the aspects of the topics listed in section 12372 of this title that pertain to issues within the jurisdiction of the Federal courts, and shall prepare materials necessary to implement this subsection.

(Pub. L. 103-322, title IV, §40421, Sept. 13, 1994, 108 Stat. 1944; Pub. L. 106-386, div. B, title IV, §1406(b)(1), Oct. 28, 2000, 114 Stat. 1516.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 14001 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2000—Subsec. (d). Pub. L. 106-386 amended heading and text of subsec. (d) generally, substituting provisions relating to continuing education and training programs for provisions relating to model programs.

PART E—VIOLENCE AGAINST WOMEN ACT
IMPROVEMENTS

§ 12391. Payment of cost of testing for sexually transmitted diseases

(a) Omitted

(b) Limited testing of defendants

(1) Court order

The victim of an offense of the type referred to in subsection (a)¹ may obtain an order in the district court of the United States for the district in which charges are brought against

¹So in original. Probably should be “Administrative Office of the United States Courts”.

¹See Codification note below.